

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Application for 2461 Wisconsin Avenue, NW
(Square 1299, Lot 959)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by InSite Real Estate Investment Properties L.L.C. (the “Applicant”) on behalf of HF CHAMBERS TRUSTEES LOCAL 99 IUOE the owner of the property located at 2461 Wisconsin Avenue, NW (Square 1299, Lot 959) (the “Site”) in support of its application pursuant to 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g) for special exception approval to locate a daytime care use at the Site. The Site is located in the R-12 Zone District.

Pursuant to 11-Y DCMR § 300.15 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or the “Board”) no fewer than twenty one days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested special exception. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

I. Background

A. Description of Site and Surrounding Area

The Site consists of Lot 959 in Square 1299, which contains approximately 7,237 square feet of land area, and is zoned R-12. Square 1299 is bounded by Calvert Street to the north, Wisconsin Avenue to the west, S Street to the south, and the US Naval Observatory and Dumbarton Oaks Park to the east, all located in the northwest quadrant of the District of Columbia. The Site is located at the corner of Calvert Street and Wisconsin Avenue. Directly to the south of the Site is the Guy Mason Recreation Center.

The Site is presently improved with a building that previously served as the headquarters of the International Union of Operating Engineers. The existing building has a maximum height of 22 feet and contains approximately 12,000 square feet of gross floor area. An existing surface parking lot that contains six zoning compliant and one non-zoning compliant parking spaces is located on the eastern portion of the Site.

B. Project Description

The Applicant proposes to renovate the interior of the existing building to accommodate the proposed daytime care facility. The Applicant is not proposing to increase the existing building’s footprint, nor the existing building’s height. The only exterior changes proposed are to the building’s signage.

The operator of the daytime care facility will be the KinderCare Learning Center (“KinderCare”), which is an operator of child care and early childhood education facilities. KinderCare provides educational programs for children from six weeks to 12 years old. Approximately 200,000 children are enrolled in more than 1,600 early childhood education community centers, over 600 before-and-after school programs, and over 100 employer-sponsored centers in 39 states and the District of Columbia. The daytime care facility on the Site will be licensed through the Office of the State Superintendent of Education (“OSSE”), will serve a maximum of 128 students ages one to five, and will include a total of 26 staff members.

II. Special Exception Approval

The Applicant requests special exception approval pursuant to 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g) to locate a daytime care facility at the Site. Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

As is further discussed below, the project is in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, since the Applicant is not changing the footprint or height of the existing building. Moreover, the Applicant is providing adequate facilities for pick-up and drop-off of the day time care facility’s students.

Pursuant to 11-U DCMR § 203.1(g) of the Zoning Regulations, a daytime care use is permitted in the R-12 Zone District provided the requirements of 11-U DCMR § 203.1(g) *et. seq.* are met.

(a) Subsection 203.1(g)(1) - The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance;

Pursuant to 11-C DCMR § 701.2, the Applicant is required to provide six parking spaces for the daytime care facility on the Site. The Site includes a surface parking lot that has six zoning compliant and one non-zoning compliant parking spaces. The parking spaces will be reserved for the facility’s employees and will be used for pick-up and drop-off. If necessary, the pick-up and drop off of students may also occur in the parking lot of the adjacent Guy Mason Recreation Center. The Applicant is working with the District Department of Transportation (“DDOT”) to locate a minimum of two pick-up and drop-off spaces in front of the building on the Site, along

Calvert Street. As a result, the facility is located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance. The Applicant will provide a copy of its Traffic Report no later than 30 days prior to the date of the public hearing on the application in accordance with 11-Y DCMR § 300.14.

(b) Subsection 203.1(g)(2) - Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;

No off-site play area is proposed for the daytime care facility.

(c) Subsection 203.1(g)(3) - The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties;

The Site is located to the north of the Guy Mason Recreation Center, which includes large fields and open space. The Site is screened from the recreation center via large trees and thus the building and surface parking lot are marginally visible from the recreation center. In addition, the Applicant is not proposing to change the footprint or the height of the existing building. The only change to the exterior building is the proposed signage.

(d) Subsection 203.1(g)(4) - More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

There are no child/elderly development centers or adult treatment facilities located within Square 1299, nor within 1,000 feet of the Site.

Based on the foregoing, the Applicant's request is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception approval under 11-X DCMR § 901.2 and 11-U DCMR § 203.1(g).

III. Affected Advisory Neighborhood Commission

As required under Subtitle Y § 300.8(1), the Applicant has apprised Advisory Neighborhood Commission ("ANC") 3B and ANC 3C of the BZA application. On May 7, 2018, the Applicant met with representatives of ANC 3B, including the single member district representative for the Site, Jackie Blumenthal, to discuss the project. The Applicant is scheduled to present this application to ANC 3B at its June 14, 2018, public meeting. The Applicant is also scheduled to present this application to ANC 3C's Planning and Zoning Committee at its June 4, 2018 public meeting, and the full ANC at its June 18, 2018, public meeting. The Applicant will continue to coordinate with ANC 3B, ANC 3C, and the Office of Planning, and other interested stakeholders between the time of filing the subject application and the public hearing.