

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Prehearing Statement of HSMG Properties LLC
4401 16th Street, NW (Square 2701, Lot 809).

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of HSMG Properties, LLC (the “**Applicant**”), owner of the property located at 4401 16th Street, NW (Square 2701, Lot 809) (the “**Property**”). The Property is located in the R-1B zone. The Property is currently improved with a large church (the “**Building**”) recently purchased by the Applicant. The Applicant is proposing to adaptively reuse the church building and convert it to a Child Development Center—Soles Montessori Child Development Center (“**Soles Montessori**”) with 118 children and 25 staff members.

The Applicant is not proposing any changes to the building envelope, nor any substantial internal demolition and intends to use the structure as-is. A Child Development Center use requires special exception approval in the R-1B zone. Accordingly, the Applicant is requesting special exception approval for the center pursuant to U-203.1(h).

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2 and U-203.1(h).

III. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-1B zone district with 20,458 square feet of land area. It is a corner lot with only one adjoining property. The Property is improved with a large church building with approximately 18,000 square feet of GFA. The existing church Building fully conforms to the development standards of the R-1B zone. There is also ample parking available for use on the subject Property. There are 25 spaces total, with 15 of those spaces counting towards the parking requirement for zoning purposes. Originally, the Applicant noted it could, if needed, rent spaces from the church across Webster Street. However, as demonstrated in the Transportation Statement included with this submission, additional parking would be unnecessary at this stage.

The only adjoining property is a detached single-family home which abuts the subject Property to the north. Abutting the subject Property to the south is Webster Street, NW. Abutting the Property to the west is 16th Street, NW. Abutting the Property to the east is a public alley. The

area is primarily made up of low-to-moderate density residential uses and institutional uses. This area of 16th Street—extending from Taylor Street to the south to is characterized by institutional, educational, and diplomatic uses—with either a church, educational use, or embassy/chancery located on nearly every block.

The Property is located in Ward 4. According to the 2020 Census, the population in Ward 4 has increased 11.7% in the last 10 years. According to DC Health Matters, there are 19,348 families in Ward 4 and 25% of the households in Ward 4 have children.

B. Proposed Use.

The proposed school, called Soles Montessori Child Development Center (“**Soles Montessori**”) is owned and operated by Maribel Gutierrez-Shehab and Hussain Shehab, who currently own two Montessori Schools (also Soles Montessori). The existing school locations are within one-mile of the subject Property¹ and the majority of the families are local families from 16th Street Heights and the surrounding area. The existing locations are leased, not owned by the Applicants, and those leases are ending soon. Accordingly, the plan is to relocate and consolidate the school to a single location owned by the Soles Montessori.

The Applicant originally proposed to just use the southern portion of the Building for the school. After further discussions with the architect and positive support from the community, the Applicant is proposing to use the first floor of the church sanctuary for some classroom space as well. This also allows for more administrative space and more room for the children. The second floor of the church sanctuary will be kept as-is, as an open space, and can be used as an indoor play area if needed. Ideally, the plan is to have an outdoor fenced-in, on-site play area. However, some of the outdoor space is in public space, so the play area would be subject to public space approval. That has been clearly noted on the plans, that the on-site play area is contingent on public space approval. The Applicant is aware the BZA’s approval of such plans does not constitute approval of anything in public space without subsequent public space approval.

¹ Current School Locations: 1414 Delafield Place NW, Washington, DC 20011 (**0.4 mile from subject Property**) & 4101 9th Street NW, Washington DC 20011 (**0.8 mi. from subject Property**).

Soles Montessori intends to serve 118 children with up to 25 adult staff members and will operate 7am-7pm.² The primary daycare program hours of operation are Monday through Friday from 8:00am-5:30pm, but Soles provides parents flexibility by allowing drop-offs as early as 7am and pick-ups as late as 7pm, when needed. The primary daycare use would accommodate ages 6 weeks to 5 years, while a summer program would be available for older kids (up to age 13). Based on experience, not all enrolled students re-enroll for summer sessions. So this allows Soles Montessori to have room for siblings of existing students or local children to join for the summer program. These children would be up to age 13 years of age and would be enrolled within the 118 student cap requested. This summer program use is consistent with the definition of daytime care use, too, that is being requested.

The Transportation Statement provides more detail, but generally drop-off and pick-up would be staggered depending on parental needs—not all students need to be in by a certain time like a traditional school. Even though most families are local, if needed, there is ample parking which can accommodate staff parking, as well as parental pick-up and drop-off. The church parking lot has approximately 25 spaces when ‘stacked’ and 15 that meet the definition of a legal parking space for zoning purposes. As noted in the transportation statement, of the 25 stacked parking spaces, 11 would be used for staff parking (25 staff @ 43% auto mode split). Thus, the parking lot will have 14 spaces for short-term parking to support pick-up and drop-off operations. This is nearly double the required parking space for the proposed use. Further, the space is not even being ‘maximized’—meaning the Applicant is not requesting the full amount of children that could be accommodated in this space under the building code. Bike parking is also provided.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. Overview.

Pursuant to Subtitle X-901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in

² Originally, the Application stated 108 students with 20 staff members, but the school could comfortably hold more, and the community has been extremely supportive of the conversion to the daycare use. The ANC voted on the Application fully knowing the application was for 118 students and 25 staff members, and the transportation analysis was conducted based on 118 students and 25 staff members anticipated at this location.

harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle U-203.1(h) of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. General Special Exception Requirements of Subtitle X § 901.2.

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

In general, the Applicant's request meets the purpose and intent of the zoning regulations. This area is characterized by institutional, religious, educational, and diplomatic uses. While the previous church use was unsustainable in this location, resulting in this sale, the Applicant's proposal will provide a solution that includes an adaptive reuse, rather than new construction, and that fits a need within the community while still meeting the intent of the zoning regulations. This sentiment has been reflected in discussions with the nearby community. Further, the existing Building was most recently used as a church and is not set up as a single-family home, nor could be adaptively reused for multi-family housing without a use variance. The underlying FLUM designation remains 'low density residential' and could not be upzoned via Map Amendment. Therefore, the proposed use will not be removing any available housing stock or impeding new housing.

The Property is located on a corner lot, with an adjacent alley and therefore only one abutting property. While it appears that all neighbors in the square have alley access, the Applicant has more than enough parking on its lot to accommodate both staff parking and pick-up and drop-off on site, ensuring neighborhood parking is not impacted. There is an existing 18 ft. 2-1/4 in. side yard abutting the only adjoining neighbor, to the north, who also has a side yard which appears to be at least 8 feet. This results in a separation of over 25 feet between the subject Building and

only neighboring building. The neighbor to the north has been informed about the plan and has indicated continued support as of this filing. Additionally, no outdoor activity nor egress will occur in that side yard, maintaining the existing privacy and use of enjoyment of the neighboring property. The Applicant has met multiple times with stakeholders in the neighborhood and has received support letters from nearby neighbors, including a vote in support from ANC 4E. Accordingly, the proposal will not adversely affect the use of neighboring property.

C. Requirements of Subtitle U-203.1(h).

A Child Development Center is considered a “Daytime Care” use per Subtitle B. Subtitle U-203.1(h) permits a Daytime Care use in the R-1B Zone District via special exception, subject to certain requirements. The Application meets the requirements of U-203.1(h) as follows:

(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;

As described in more detail in the Transportation Statement, the facility is located and designed to create no objectionable traffic conditions and no unsafe conditions for picking up and dropping off children in attendance. The Applicant has ample parking and a parking lot for pick-up and drop-off. Therefore, pick up and drop off will occur entirely on-site. Pick-up and drop-off times will be staggered as this is a daycare and the pick-up and drop-off times are done according to parental need, not a strict time like a school.

(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;

The Applicant would ideally have an on-site play area, pending public space approval. But there are parks very close to the Property, including Upshur Park (0.2 mi.) that could be utilized, too. Children would be kept safe traveling between play areas and the center by using the same adult:child ratios used inside the school, as well as walk ropes (for older children) or wagons/strollers (for younger children).

(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; and

The Applicant will comply with any requirements. A neighbor requested the Applicant fence the garbage area to avoid illegal dumping. The ANC noted they would also suggest that in the resolution in support. Accordingly, that is shown on the site plan on the Updated Plans.

(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;

Based on a review of the area, there is a CDC within 1,000 ft—Amazing Life Games—located approximately 300 ft. at 4300 16th Street, within Grace Lutheran Church. It was approved and operates subject to BZA Approval in BZA Case No. 18336. It serves students ages 2.5 through 5 and has a total of 35 students and 5 staff. The subject proposal from Soles Montessori will serve children as young as 6 weeks, which will help serve the most underserved age group in terms of childcare.³ Further, as noted above, the Applicant operates two Soles Montessori locations within one mile of the Subject Property, and the goal is to consolidate the two existing schools into one. They would continue serving the existing families, many of which are local residents and be able to accommodate those on the wait list, or other local students, most of whom are also local. Accordingly, the existence of these schools in proximity to each other shall not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

V. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
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³ See page 31, noting a shortage of childcare, especially for those ages 0-2: https://bainumfdn.org/wp-content/uploads/2024/01/ChildCareAccessDC_Report_EN_FNL_Jan-2024.pdf