

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

Application of the Kingsbury Center, Building Hope Parkside Foundation, and Latin American Montessori Bilingual PCS  
ANC 4C

**STATEMENT OF THE APPLICANT**

This is the application of the Kingsbury Center (the owner), Building Hope Parkside Foundation (the contract purchaser), and the Latin American Montessori Bilingual Public Charter School (the prospective co-tenant and subsequently, the tenant) (collectively, the “**Applicant**”) for a special exception for the establishment of a public charter school and colocation of a public school with another permitted private school and for a modification of consequence for an existing private school at 5000 14<sup>th</sup> Street NW (Square 2711, Lot 802) (the “**Property**”). The Kingsbury Center is currently operating at the Property as a private school pursuant to BZA Order No. 16569. The Property is included in the R-16 Zone District.

**I. NATURE OF RELIEF SOUGHT**

The Applicant requests that the Board of Zoning Adjustment (the “**BZA**” or the “**Board**”) approve two areas of relief:

1. A special exception pursuant to Subtitle U § 205.1(a) of the Zoning Regulations (11-U DCMR § 205.1(a)) for the establishment of a public charter school and the colocation of a public charter school with another permitted school.<sup>1</sup>

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<sup>1</sup> The colocation of a public charter school with another school is proposed by a text amendment in Zoning Commission Case No. 17-02, on which the Zoning Commission is expected to take final action before a public hearing for this application. See Notice of Proposed Rulemaking on May 19, 2017, proposed Subtitle U § 202.1(n), DCR p. 4789. Accordingly, if this new regulation is adopted prior to the public hearing in this case, then the Applicant requests relief from that provision as well.

2. A modification of consequence, pursuant to Subtitle Y § 703 of the Zoning Regulations (11-Y DCMR § 703), to BZA Order No. 16569 to modify the conditions regarding the Kingsbury School's hours of operation and the permitted ages of its students.

## **II. JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 900.1 and Subtitle Y § 100.3 of the Zoning Regulations (11-X DCMR § 900.1 & 11-Y DCMR § 100.3).

## **III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

The Property is located in the 16<sup>th</sup> Street Heights neighborhood of Ward 4. The Property is bound to the north by Gallatin Street NW, to the south by a public alley, to the east by 14<sup>th</sup> Street NW, and to the west by Piney Branch Road NW. The Property contains approximately four (4) acres of land area.

The Property is improved with a three-story plus basement building that was originally constructed circa 1907 as a retirement home but has been occupied for the last 17 years by the Kingsbury Center. The majority of the building is located near the eastern side of the Property, with wings extending to the northwest and west. A large outdoor recreation area/field is located at the north end of the Property, and a smaller outdoor recreation area is located immediately southwest of the building. Surface parking spaces and driveways and additional substantial landscaped buffering are located around the entire perimeter of the building within the Property.

The main entrance to the building is located on the east side, but secondary entrances are located on the north, south, and west sides as well. Vehicular access to the Property for students is via the entrance at the northeast corner, and a secondary vehicular entrance is located on the

west side of the Property. Vehicular exits are located at the northwest and southeast corners of the Property. The primary pedestrian-only entrance to the Property is located at the center of the east side, and a secondary pedestrian entrance is located at the center west side.

The properties surrounding the Property are characterized primarily by residential uses and some institutional uses. Single-family houses are located primarily to the south and west of the Property, but they are located to the north and southeast as well. Religious institutions are located immediately to the north and southwest of the Property. West Elementary School is located immediately to the east across 14<sup>th</sup> Street NW.

#### **IV. SCHOOL BACKGROUND**

##### *A. Kingsbury Center*

The Property has been occupied by the Kingsbury Center (“**Kingsbury**”) since 2000. The Kingsbury Center is a private school for students with learning differences. Kingsbury was approved to operate at the Property and in the building by the BZA in 2000 pursuant to Order No. 16569, which permitted a maximum of 300 students and 138 staff. Kingsbury will move to another location once it finds a suitable property, for which it is actively looking, but it will continue to operate at the Property until then.

Currently, Kingsbury has a student enrollment of 108, of which 12 students are in the lower school, 14 students are in the middle school, and 82 students are in the upper school. There are currently 71 staff members working at Kingsbury. Over the next several years, Kingsbury plans to increase student enrollment to 175 and faculty/staff count to 80.

Kingsbury’s students arrive and depart by buses/shuttles, transit, or private automobile. All pick-up and drop-off activity occurs on school’s private property. Most lower school students (approximately 90%) arrive and depart by private automobile, and most upper school

students (approximately 90%) arrive and depart by bus/shuttle and transit. Buses/shuttles drop-off and pick-up students at the main entrance to the school building, on the east side via the upper driveway that is closest to the building. Automobiles drop off and pick up students at the main entrance to the school building via the lower driveway that is further east of the upper driveway in order to avoid conflicts with buses/shuttles. The site plan that accompanies this application illustrates those locations.

*B. Latin American Montessori Bilingual Public Charter School*

The Latin American Montessori Bilingual Public Charter School (“**LAMB**”) is a bilingual English/Spanish immersion public charter school serving students in pre-Kindergarten through 5<sup>th</sup> grades. LAMB was founded in 2001 by the Latin American Youth Center, an acclaimed non-profit organization in the District of Columbia that has a 30-year history and a dynamic reputation for providing services to D.C.’s children, youth, and families. LAMB currently enrolls 426 students at two different locations elsewhere in the District.

**V. PROPOSED PROGRAM**

The proposed program for the Property includes a transition between the operations of the two schools. Kingsbury will continue to operate at the Property until it moves to a new location. LAMB will begin to operate at the Property and in the building in autumn of 2018. From 2018 until Kingsbury departs (the “**Interim Period**”), LAMB and Kingsbury will both occupy the building but will operate independently other than where shared facilities and operations are necessary. After Kingsbury ceases operations at the Property and relocates, LAMB will be the only school operating at the Property and in the building. At that time, LAMB will expand into the entire building by consolidating their other campuses into a single

location. The specific proposal and programs as they relate to the establishment of LAMB are described below.

During the Interim Period, which will begin in autumn of 2018, LAMB will occupy approximately half of building, but some of the building's facilities will be shared by both schools. Each school will have separate classrooms for general instruction, and administrative spaces will be separate, and reception and lobby space will be separate as well. Shared spaces will include the cafeteria, kitchen, nurse, support services, some specialized classrooms (music, art, and the library). The attached plans show both the proposed space allocation between the schools during the Interim Period and the space utilization when LAMB occupies the entire building (the "**Plans**").

At its maximum, LAMB proposes to accommodate 600 students and 110 faculty/staff at the Property via a steady growth plan. In its first year, beginning in autumn of 2018, and until Kingsbury relocates (during the Interim Period), LAMB expects that it will have approximately 310 students and 36 faculty/staff. Thereafter, LAMB will relocate its students to the Property as it disposes of its other sites, culminating in a maximum student population of 600 and 110 faculty/staff once all of its operations have been consolidated at the Property. During the Interim Period, the maximum number of students that will be at the Property, for both Kingsbury and LAMB, will be 485, the maximum number of faculty/staff will be 116, and the hours of operation will be 7:00 am – 6:00 pm.

In addition, LAMB proposes to construct a small gymnasium, as shown on the Plans. The gymnasium will be located just to the southwest of the existing building between the south and the west wings. The gymnasium will contain approximately 5,528 square feet and will be

approximately 28 feet tall. It will have a design that will be compatible with the existing building.

## **VI. THIS APPLICATION SATISFIES THE STANDARDS FOR SPECIAL EXCEPTION APPROVAL OF A PUBLIC CHARTER SCHOOL**

In the R-16 zone, pursuant to Subtitle U § 205.1(a), any non-residential use permitted as a matter-of-right in Subtitle U § 202 must be approved as a special exception. Under Subtitle U § 202.1(m), a public education building is permitted as a matter-of-right. In addition, under the proposed Subtitle U § 202.1(n), the colocation of a public school is permitted as a matter-of-right, provided that all applicable requirements are met. Thus, a public charter school colocated with another school is permitted by special exception in the R-16 zone when the applicant satisfies the criteria set forth in Subtitle U § 205.2 and the general special exception criteria in Subtitle X, Chapter 9. As described in greater detail below, this application for a public charter school and for the colocation of a public school with another permitted school satisfies the criteria for special exception approval.

- A. *The non-residential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions (U § 205.2(a))*

First, with respect to traffic, the colocation of the Kingsbury School and the LAMB School on the Property during the Interim Period, and the subsequent operation of the LAMB School after Kingsbury leaves the Property, will not cause adverse impacts. With the operation of two schools on the Property for a limited period of time, the Applicant is aware of the important traffic considerations and will undertake appropriate measures to ensure that no adverse traffic impacts befall the neighborhood. Also, an important consideration is that 49% of

LAMB's families reside in Ward 4, so its relocation to the Property will allow more children the option of walking and biking than to LAMB's present locations.

In addition, the Applicant has engaged a traffic engineer who will produce a comprehensive transportation review ("CTR") in consultation with the District Department of Transportation (DDOT) that will be submitted to the Board in advance of the public hearing. The CTR will account for the maximum proposed number of students and faculty/staff at the Property when both LAMB and Kingsbury are present during the Interim Period, and then when only LAMB is present. The CTR will include a comprehensive transportation demand management ("TDM") program and a traffic operations plan that the Applicant will adopt to minimize the number of necessary automobile trips to and from the Property and to manage traffic to and from the Property. Accordingly, the proposed number of students and faculty/staff at the Property in conjunction with the TDM program will not cause adverse traffic impacts on the neighborhood.

Second, any noise that the Applicant will produce will have a negligible effect on the neighbors. While there will be more students on the Property during the Interim Period, the noise production will not be harmful to neighboring properties. Many of the current outdoor recreation activities will be brought indoors with the construction of the new recreation facilities, which should further reduce already subdued noise generation at the Property. Outdoor activity will be within normal school hours, so it will not disrupt nearby residential properties in the early morning or evening hours. Since it is an elementary school, LAMB will not have nighttime activities that would generate objectionable noise. Because of the Property's large size, the building will continue to be well-insulated from neighboring properties. Also, LAMB does not

expect to add any noise generating equipment to the building that could create adverse noise impacts.

Third, with respect to design, the building has existed on the Property since 1907, and LAMB proposes only a small expansion with the proposed gymnasium. The exterior of the existing building otherwise will not change with LAMB's use. The proposed gymnasium will not adversely affect neighboring properties because it will be within the zoning standards and contained well within the Property boundaries, so it will not be overly tall or bulky. Therefore, it will leave ample open space on the Property and will have a large separation from neighboring properties. Indeed, even with the construction of the gymnasium, the overall lot occupancy on the Property will be 14%, thereby ensuring adequate light and air will be available to neighboring properties. In addition, the design of the gymnasium will be subtle and compatible with the existing building, and LAMB plans to make it available for neighboring community use.

Finally, LAMB anticipates creating opportunities to work in collaboration with neighboring West Elementary School, opening its doors for community engagement, such as ANC meetings, and being a general asset to the neighborhood.

- B. *There shall be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who can use the facility at one (1) time; provided:*
  - i. *The number of parking spaces provided shall be not less than the number required by Subtitle C, Chapter 7 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic, or other objectionable condition (U § 205.2(b)(1))*

The provided number of parking spaces on the Property is 107, and that will remain once LAMB begins its operations. This is more than the required number of approximately 71 spaces



during the Interim Period for both schools in the building. After the Interim Period, when LAMB takes over the entire building, the required number of parking spaces will be approximately 21, which will be more than satisfied by the existing spaces. The existing parking spaces will not be changed with this application, so they will not create objectionable effects or conditions.

- ii. *Parking spaces and driveways providing access to them shall not be located in a required side setback, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot (U § 205.2(b)(2))*

LAMB will use the existing parking spaces and driveways on the Property and will not add or relocate any parking spaces. Some of these spaces and driveways are located in the required side yard and between the building and 14<sup>th</sup> Street, but they are all an existing condition identified on the certificate of occupancy for Kingsbury and that LAMB will not change. See the current certificate of occupancy attached. These spaces and driveways are currently used by Kingsbury, and LAMB (and Kingsbury during the Interim Period) will continue to use them in the same manner. To the extent that the Property contains a legal non-conformity, such legal non-conformity will be maintained and not altered or expanded.

- iii. *If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and sixty inches (60 in.) high, or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least sixty inches (60 in.) in height when planted (U § 205.2(b)(3))*

Since the Property is surrounded by only public alleys and streets, no residential properties are contiguous with the Property; thus, no screening is required.

- iv. *Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area*

*devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes (U § 205.2(b)(4))*

The lighting for the parking spaces is pointed downward on the parking area and is on a timer to minimize its duration. Further, LAMB will work with neighbors and the community to adjust the lighting to ensure that it does not cause any adverse spillover impacts.

*C. The Proposed Public Charter School is Harmony with the General Purpose and Intent of the Zoning Regulations and Will not Tend to Adversely Affect the use of Neighboring Property*

The requested special exception relief for a public charter school, and the proposed colocation with the Kingsbury School during the Interim Period, can be granted without impairing the general purpose and intent of the Zoning Regulations and will not tend to adversely affect neighboring properties. As described above, LAMB's use of the Property will not adversely affect neighboring property from noise, traffic, design, or other conditions, so the requested special exception will satisfy the standards stated in the Zoning Regulations. Therefore, the approval of a public charter school will be consistent with the general purpose and intent of the Zoning Regulations.

## **VII. MODIFICATION OF CONSEQUENCE FOR KINGSBURY SCHOOL**

The Kingsbury School proposes to modify two of the conditions of BZA Order No. 16569 regarding its hours of operation and the age range of its students. Kingsbury would like to amend its weekday hours of operation, currently 8:30 am to 6:15 pm, to be 7:00 am to 6:00 pm, which are the same hours proposed by LAMB. Among other factors, this change would allow for a recognition of important before-school and after-school services for some of the students at Kingsbury. In addition, given the nature of Kingsbury's mission, there are older students in

Kingsbury’s HOPE Program who do not attend regular classes, but instead work with tutors and counselors during the school day on an individually-scheduled basis, in order to earn their high school diplomas. These students are up through age 22.

**VIII. LIST OF PUBLICLY AVAILABLE DOCUMENTS**

1. Zoning Regulations and Zoning Map of the District of Columbia, available at [dcoz.dc.gov](http://dcoz.dc.gov).
2. Orders of the District of Columbia Zoning Commission and Board of Zoning Adjustment, available at [dcoz.dc.gov](http://dcoz.dc.gov).

**IX. CONCLUSION**

For all of the above reasons, this application satisfies the standards of approval for special exception relief and a modification of consequence in this case.

Respectfully submitted,  
GOULSTON & STORRS, PC

\_\_\_\_\_/s/\_\_\_\_\_  
Jeff Utz

\_\_\_\_\_/s/\_\_\_\_\_  
Cary Kadlecek