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VIA IZIS

Frederick Hill, Chairperson  
Board of Zoning Adjustment  
441 4<sup>th</sup> Street NW Suite 210S  
Washington, DC 20001

**Re: BZA Application for 2619-2623 Wisconsin Avenue NW  
Square 1935, Lots 44, 33, 34 – Application for Special Exception Relief**

Dear Chairperson Hill and Members of the Board:

Please accept for filing the enclosed application of MED Developers LLC (the “Applicant”). The Applicant requests special exception relief pursuant to 11 DCMR § X-901.2 from Subtitle U § 203.1(f) to permit Continuing Care Retirement Community use and from Subtitle C § 703.2 for vehicle parking in the R-1-B Zone.

The application package includes the following materials:

1. BZA Form 120, Application for Variance/Special Exception
2. BZA Form 126, Fee Calculator
3. BZA Form 135, Self-Certification
4. Agent Authorization Letter
5. Certificate of Proficiency
6. Plat showing the existing structure on the Property
7. Zoning Map
8. Photographs of the Property
9. Baist Atlas Map
10. Statement of Existing and Intended Use
11. Statement of the Applicant
12. Architectural Plans
13. Summary of Witness Testimony
14. Statement of Community Outreach
15. List of names and mailing addresses of owners of all property within 200 feet of the boundaries of the Property

Board of Zoning Adjustment  
District of Columbia  
CASE NO.19751  
EXHIBIT NO.15

16. Certificate of Service upon the Office of Planning and the affected Advisory Neighborhood Commission

We believe that the application is complete and acceptable for filing, and request that the Board scheduled a public hearing for the application as soon as possible. If you have any questions please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'M. Moldenhauer', is written over a thin horizontal line.

Meridith H. Moldenhauer

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

**APPLICATION OF  
MED DEVELOPERS LLC**

**2619-2623 WISCONSIN AVE NW  
ANC 3C**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Applicant, MED Developers LLC (the “Applicant”), the contract purchaser of the property located at 2619-2623 Wisconsin Avenue NW, (Square 1935; Lots 0044, 0034, 0033) (the “Property”) in support of their application for special exception relief pursuant to 11 DCMR Subtitle X § 901.2 from Subtitle U § 203.1(f) to permit construction of a new facility with Continuing Care Retirement Community use (“CCRC Use”) and from Subtitle C § 703.2 for vehicle parking in the R-1-B Zone (the “Project”).

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations.

**III. BACKGROUND**

**A. The Property and the Surrounding Neighborhood**

The Property is a large, rectangular assemblage of lots in the R-1-B Zone District. A copy of the Zone Map is attached at **Exhibit A**. The Property has 19,113 square feet of land area. Lots 33 and 34 are currently unimproved, and lot 44 is improved with a 2-story single-family dwelling plus 1-story accessory building used as a garage.<sup>1</sup>

The Property is located in the Naval Observatory District in the upper Wisconsin Avenue neighborhood. Square 1935 is bounded by Davis Street NW to the south, Edmunds Street NW to the north, 36<sup>th</sup> Street NW to the east, and Wisconsin Avenue NW to the west. The Property fronts on Wisconsin Avenue, a 105-foot wide right-of-way. The Property is directly across Wisconsin Avenue from the Russian Federation Embassy complex, which is zoned RA-4, as well as numerous large

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<sup>1</sup> Lots 33 and 34 are also known as lot 0812 for tax and assessment purposes. See Zone Map at **Exhibit A**.

apartment buildings. The surrounding area is otherwise comprised of other apartment buildings, detached dwellings, and a number of chancery and Federal Government uses.

Approximately two blocks south of the Property is the MU-27 zoned corridor of mixed-use development along Wisconsin Avenue NW. The Naval Observatory is approximately two blocks east and south of the Property. Finally, the National Cathedral is approximately 4 blocks north of the Property.

### **B. Traffic Conditions and Mass Transit**

The Property is well serviced by mass transit options. The Woodley Park Metro station, serving the red line, is approximately 1.1 miles away. Also, multiple Metrobus lines are within walking distance, including the 30N, 30S, 31, 33, D1, N2, N3, N4, N6 and 37 lines, all within 0.2 miles of the Property, or approximately less than 3 blocks away. Walkscore.com indicates that the area is “very walkable” and that most errands can be accomplished on foot. There are three Capital Bikeshare stations within 0.5 miles of the Property. Finally, there are four Zipcar vehicles located within 0.5 miles of the Property.

### **C. The Project**

The Applicant proposes to subdivide the lots into one, raze the existing structures on lot 44, and construct a thoughtfully-designed three-story assisted living facility with 38 residential units and 9 parking spaces. See Plans at **Exhibit B**. According to the definitions in Subtitle B of the Zoning Regulations, a Continuing Care Retirement Community is:

A building or group of buildings providing a continuity of residential occupancy and health care for elderly persons. This facility includes dwelling units for independent living, *assisted living facilities*, or a skilled nursing care facility of a suitable size to provide treatment or care of the residents; it may also include ancillary facilities for the further enjoyment, service, or care of the residents. The facility is restricted to persons sixty (60) years of age or older or married couples or domestic partners where either the spouse or domestic partner is sixty (60) years of age or older. Subtitle B § 100.2 (emphasis added).

The proposed use for the Project is therefore consistent with the definition of a Continuing Care Retirement Community. In addition, the Project is classified as “Residential” for purposes of the use categories of Subtitle U. Section U-200.2 defines “Residential” use as:

(1) A use offering habitation on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of one (1) month or property ownership;

(2) This use category also includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four hour (24 hr.) on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;

(3) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, rooming units, substance abusers' home, youth residential care home, *assisted living facility*, floating homes, or other residential uses; and

(4) Exceptions: This use category does not include uses which more typically would fall within the lodging, education, or community-based institutional facility use categories; Subtitle U § 200.2(bb) (emphasis added).

Consequently, the Project falls into the “Residential” use category, as defined in the Zoning Regulations.

In addition, the Board may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of meeting the conditions of Subtitle C § 703.2. Here, the Applicant proposes nine vehicle parking spots on the Property. See **Exhibit B**. For the reasons stated below, this number of spaces meets or exceeds the needs of the CCRC Use.

The facility will meet all other requirements for the R-1-B Zone (including height, side yard, lot occupancy, rear yard, and pervious surface). The Applicant meets the standard for special exceptions as outlined below.

**IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW**

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

(1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

(2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

(3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the 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 Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (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.*

**V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF**

**A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps**

*1. CCRC USE*

The CCRC Use relief will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The R-1-B Zone is intended to provide for areas predominantly developed with detached houses on moderately sized lots. The Project directly aligns with this intent because Residential use is permitted as a matter of right in the Zone, and the Project falls into the “Residential” use category as outlined above. The requested special exception relief will maintain and expand the residential use of the Property and will “provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development” and “reinforce the importance of neighborhood character . . . and the overall housing mix and health of the city.” D §§ 100.2(a),(b). The requested relief will allow the Applicant to construct a residential structure with CCRC Use, which is consistent with the permissions of the R-1-B Zone.

*2. VEHICLE PARKING*

Vehicle parking relief will not run afoul the purpose and intent of the Zoning Regulations and related maps. As outlined below, the relief meets the special exception conditions for vehicle parking, and the proposed nine spaces will be sufficient to satisfy the proposed use. The Applicant’s CCRC Use is a particular subset of residential use that does not create the typical need for parking in the R zones. The

nine proposed spaces will meet the intent of the Zoning Regulations and the Applicant will produce a transportation demand management plan for review by the District Department of Transportation in compliance with Subtitle C § 703.4.

**B. The Proposed Relief will not Adversely Affect the Use of Neighboring Property**

*1. CCRC USE*

The use of neighboring property will not be adversely impacted by the CCRC Use relief. The proposed Project is thoughtfully designed so as to provide adequate services for the use, care, and enjoyment of the residents, while at the same time maintaining the privacy of neighboring properties. Furthermore, the neighborhood use, which is residential in nature, will be undisturbed. Finally, permitting CCRC Use on the Property will allow residents to age close-by in their community, thus providing a benefit to the existing aging residents of the neighborhood.

*2. VEHICLE PARKING*

Given the proposed CCRC Use and transient-rich location, fewer residents of the Property will own cars, reducing the requirement for vehicle parking. This will also alleviate concerns related to increased traffic, as outlined in detail in Section D., below. Finally, the parking spaces provided will be located to the rear of the Property, with ample access from the existing alley. See Images at **Exhibit C**. This access point is specifically located to minimize disruption of access for surrounding properties from the alley. Thus, the requested relief will not adversely impact the accessibility or use of neighboring property.

**C. The Project Satisfies the Special Exception Requirements for Assisted Living Use**

Subtitle U § 203.1(f) permits CCRC Use subject to the requirement of that section, which the proposed Project meets at follows:

- (1) The use shall include one or more of the following services:  
(A) Dwelling units for independent living; (B) Assisted living facilities; or (C) A licensed skilled nursing care facility;*

The Project will provide assisted living facilities on the Property.

*(2) If the use does not include assisted living or skilled nursing facilities, the number of residents shall not exceed eight (8);*

The Project will provide assisted living facilities on the Property, and as such, will include more than eight residential units.

*(3) The use may include ancillary uses for the further enjoyment, service, or care of the residents;*

The Project may include medical uses for the service and care of the residents.

*(4) The use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors;*

The Project provides nine vehicle parking spaces, and the Applicant requests relief from the parking requirements of residential use of Subtitle C § 701.5. See Section D., below.

*(5) The use, including any outdoor spaces provided, shall be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions; and*

The residential use will not likely become objectionable to neighboring properties. As stated above, the Project is thoughtfully designed so as to provide adequate services for the use, care, and enjoyment of the residents, while at the same time maintaining the privacy of neighboring properties. Given the proposed CCRC Use and transit-friendly neighborhood, traffic will not be objectionable. Further, the majority of the community living space will be located below-grade, thus mitigating noise or other potentially objectionable conditions.

*(6) 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 Applicant will work to accommodate such requests should the Board recommend their inclusion. Accordingly, the Application satisfies the standard for special exception relief for CCRC Use pursuant to Subtitle U § 203.1(f).

#### **D. The Project Satisfies the Special Exception Requirements for Vehicle Parking**

Pursuant to Subtitle C § 703.2, the Board may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X and

demonstration of compliance with least one of the ten enumerated special conditions (§ C-703.2(a)-(f)). Accordingly, the Applicant complies with conditions (a)-(c), outlined below. The Applicant has not conducted a study of surrounding conditions pertaining to traffic or parking, but may do so in cooperation with a request from DDOT. As such, the Applicant may also demonstrate compliance with other conditions in this section at a later date. Currently the Applicant complies with Sections (a), (b), and (c) as described below.

*(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;*

Because the Project proposes “Residential” use with multiple dwelling units, as outlined above, Subtitle C § 701.5 requires 1 space for every 2 units in the R zones. The Project will consist of 38 assisted-living units, and so 19 parking spaces would be required. Given the depth of the lot along the alley, accommodating the required spaces would be impracticable. Furthermore, no additional parking is available within 600 feet. See Plans at **Exhibit B**.

*(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;*

As explained in Section III.B., above, the Property is very well served by mass transit options. There are numerous Metrobus, car sharing, and bicycle sharing options in close proximity. In fact, a bus stop enclosure is located directly in front of the Property.

*(c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;*

The proposed CCRC Use minimizes the need for required parking spaces. Most residents of assisted living facilities will not require vehicle parking. Moreover, the proximity to transit infrastructure would lessen the need for on-site parking. In addition, the Property is centrally-located in a neighborhood characterized by nearby grocery, retail, and other outlets which are within walking distance or a short bus ride away. Thus, the transit options previously detailed reduce the need for staff or residents to utilize parking spaces on the Property.

Finally, Subtitle C § 703.4 requires any request for a reduction in the minimum required parking to include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval. As such, the Applicant will prepare such a management plan and work with the Department of Transportation on this matter. Therefore, the Project meets the standard for special exception relief.

**VI. COMMUNITY OUTREACH**

Pursuant to Advisory Neighborhood Commission (ANC) 3C's procedures and guidelines, will contact ANC 3C shortly after the application is filed. The Applicant will present to ANC 3C at the next available public meeting.

**VI. CONCLUSION**

For the reasons stated above, the Project meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully Submitted,

COZEN O'CONNOR



Meridith H. Moldenhauer

**CERTIFICATE OF SERVICE**

I certify that on March 26, 2018, a copy of this Application was served via email on the Office of Planning and Advisory Neighborhood Commission 3C, as follows:

District of Columbia Office of Planning  
c/o Joel Lawson  
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Advisory Neighborhood Commission 3C  
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3c06@anc.dc.gov  
c/o Malia Brink, Single Member District Commissioner 3C08  
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Meridith H. Moldenhauer