


GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF TRANSPORTATION



**d.** Planning and Sustainability Division

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Anna Chamberlin  
Project Review Manager 

**DATE:** November 26, 2018

**SUBJECT:** Supplemental DDOT Report for BZA Case No. 19751 – 2619-2623 Wisconsin Ave. NW

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**INTRODUCTION**

This memorandum is intended to provide additional information that was requested by the Board of Zoning Adjustment (BZA) during its November 14, 2018 public hearing on the MED Developers LLC proposed 34-unit memory care facility. There were two specific areas the BZA requested further clarification, DDOT's position on the Applicant's TDM Plan and DDOT's responses to concerns raised in Councilmember Mary Cheh's September 17, 2018 letter.

**TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN**

During the November 14, 2018 BZA hearing, there appeared to be confusion as to whether the Applicant had received approval from DDOT for a TDM Plan, as required for all parking reduction requests (Subtitle C § 703.4). In DDOT's September 14, 2018 report, we initially requested a condition of approval that the Applicant provide a transit subsidy of no less than \$10 per week to each full-time and shift employees to meet the TDM Plan zoning requirement. The Applicant agreed to that condition.

Subsequently, in the October 14, 2018 Pre-hearing Statement, the Applicant voluntarily offered an additional set of TDM measures to further reduce the demand for automobile travel to the site and potential usage of on-street parking spaces. Since this occurred after DDOT's original report to the BZA was submitted, a written approval of the more robust October 14, 2018 TDM Plan was not provided on the record. DDOT has since reviewed this Plan and would like to take this opportunity to state that we are in concurrence with it so long as it is included as a condition in addition to the original transit subsidy.

**DDOT RESPONSE TO COUNCILMEMBER CHEH'S LETTER**

During the November 14, 2018 BZA hearing, there was a request for DDOT to provide a response to Councilmember Mary Cheh's September 17, 2018 letter that was submitted to the record as Exhibit #260 (see attached). DDOT Director Jeff Marootian responded to Councilmember Cheh in a letter dated September 24, 2018 and outlined DDOT's positions on a number of issues that were raised about the

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CASE NO. 19751  
EXHIBIT NO. 481

proposed memory care facility. On November 15, 2018, the day following the hearing, DDOT staff submitted Director Marootian's response letter to the record at the request of the BZA. It is attached to this memorandum and now available as Exhibit #476 for the BZA, Applicant, and public to review. The response letter reiterates DDOT's original recommendation of 'no objection' and further lays out the case for this recommendation.

## **RECOMMENDATION**

In conclusion, DDOT's evaluation of the application was thorough, comprehensive, and consistent with that of other similar parking relief and special exception use requests reviewed by the BZA. DDOT finds the site design, amount of traffic generated, quantity of on-site parking proposed, usage of on-street parking, usage of the adjacent public alley, and TDM Plan all appropriate for the proposed 34-unit memory care facility. We reiterate the recommendation of 'no objection' from the September 14, 2018 DDOT report, subject to our original recommended conditions as well as inclusion of the additional TDM Plan from the October 14, 2018 Pre-Hearing Statement.

Thank you for giving us the opportunity to provide additional information on this case. We hope this supplemental report is helpful to the BZA as they continue to deliberate the merits of the requested special exceptions. If the BZA has additional questions or requires further clarification from DDOT following the upcoming December 19, 2018 hearing, please do not hesitate to contact us.

## Attachments

- September 24, 2018 DDOT Letter Response to Councilmember Cheh (Exhibit #476)
- September 17, 2018 Letter from Councilmember Cheh to DDOT (Exhibit #260)

AC:az

**Government of the District of Columbia**  
**Department of Transportation**



**d.** Office of the Director

September 24, 2018

Honorable Mary M. Cheh  
Councilmember, Ward 3  
Council of the District of Columbia  
John A. Wilson Building, Suite 108  
1350 Pennsylvania Avenue NW  
Washington, DC 20004-3003

Re: BZA Case Parking Exception for Memory Care Facility

Dear Councilmember Cheh:

Thank you for your September 17, 2018 letter outlining your concerns with the MED Developers, LLC proposal to build a 34-unit memory care facility at 2619-2623 Wisconsin Avenue NW. Developers who are seeking relief from zoning requirements for their projects are referred to the District Department of Transportation (DDOT) for agency comment.

The development review team within the Planning and Sustainability Division (PSD) of DDOT, evaluates the impact of a developer's project actions on the District's multimodal transportation network. The review team gathers input from all stakeholders within the agency to assess any proposed projects. DDOT does not have approval authority of the zoning action it reviews. Instead, we manage the agency review process for relevant activities so that informed, well-reasoned recommendations, including the identification of impacts and potential mitigations, are made to the appropriate zoning, permitting, or reviewing bodies.

Per the District of Columbia Municipal Regulations, Zoning Regulations Chapter 11, Subtitle C § 700.3, the Zoning Administrator may, at his or her discretion, request that the District Department of Transportation review and make a recommendation regarding any item on the vehicle parking plan prior to approving the building permit application. In addition, § 703.2 states the Board of Zoning Adjustment 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 at least one (1) of the following: ... (c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces; and § 703.4 states any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of

Councilmember Cheh,  
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transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

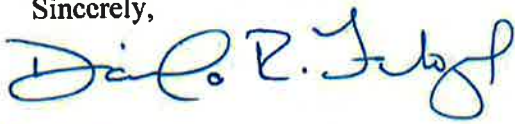
Accordingly, our September 14, 2018 report provides a recommendation to the Board of Zoning Adjustment (BZA) to consider our findings, balance them with those of other stakeholders, such as the Office of Planning, the Advisory Neighborhood Commission (ANC), and the community to make a legal decision. DDOT's interest in this project lies in its impacts to the transportation network, namely on-street parking, traffic operations, and usage of the public alley. As such, our review of the application reflected these areas of concern. This approach is consistent with the criteria for special exceptions from parking minimums, per Subtitle C §703.2. However, DDOT defers to the Zoning Administrator or the BZA to make an official determination on that matter. We also defer to the Office of Planning regarding concerns of the proposal's "compatibility" with the surrounding neighborhood, as well as any other non-transportation criteria outside of DDOT's purview. Based on our review, we concluded that:

- Due to the low amount of provided on-site vehicle parking spaces, as well as the property regulation that would prohibit residents from having vehicles on-site, the proposed 34-unit development located at 2619-2623 Wisconsin Avenue NW would not generate significant amounts of traffic at this location;
- The reduction from the required seventeen (17) parking spaces to the nine (9) proposed parking spaces on-site, in conjunction with the availability of on-street vehicle parking, off-street parking garages, staggered employee work schedules, and the developer's commitment to encouraging non-automotive travel for the employees, is adequate for this development; and
- The adjacent existing rear 15-foot public alley will serve the site's loading and vehicle parking access.

Based on those conclusions, our report to the BZA did not raise objection to the special exception use and relief from eight (8) parking spaces being sought by the developer. In reviewing the proposed request, DDOT used a methodology consistent with our evaluation of other applications for zoning relief. Our report does not preclude any other stakeholders from submitting comments or testimony to the BZA as part of the decision-making process.

We hope this additional information has clarified DDOT's position on the MED Developers, LLC proposal to build a 34-unit memory care facility at 2619-2623 Wisconsin Avenue NW. Thank you again for contacting DDOT and providing feedback on our September 14, 2018 report. Please do not hesitate to reach out to me or Anna Chamberlin, Neighborhood Planning Branch Manager at [anna.chamberlin@dc.gov](mailto:anna.chamberlin@dc.gov) or 202.671.2218 if you require further clarification.

Sincerely,

  
for Jeff Marootian  
Director

cc: Anna Chamberlin, Neighborhood Planning Branch Manager | DDOT



COUNCIL OF THE DISTRICT OF COLUMBIA  
1350 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20004

**Mary M. Cheh**

Councilmember, Ward 3  
Chair, Committee on Transportation & the Environment

Office: (202) 724-8062  
Fax: (202) 724-8118  
mcheh@dccouncil.us  
www.marycheh.com

September 17, 2018

Director Jeff Marootian  
District Department of Transportation  
55 M Street, SE Suite 400  
Washington, DC 20003

Dear Director,

On Friday, the agency submitted a report to the Board of Zoning Adjustment ("BZA") in Case No. 19751. In that case, MED Developers, LLC, seeks to build a memory care facility in an R-1-B single-family residential neighborhood. To do so, the developer is requesting two special exceptions: (a) a use exception under Subtitle U §203.1(f) for Continuing Care Retirement Community use and (b) a parking exception, to permit relief from the residential parking standard in Subtitle C §701.5, assertedly because the proposed use meets one of the criteria in Subtitle C §703.2. DDOT's analysis, however, seems to flow from an improper legal standard, and I would now ask that you withdraw the report until the correct standard can be applied.

As a general matter, minimum parking requirements are governed by Title 11 DCMR Subtitle C, chapter 701. Deviations from those minimums pursuant to a special exception occur pursuant to Title 11 DCMR Subtitle C, chapter 703, which provides in pertinent part that the BZA "may grant a full or partial reduction in number of required parking spaces, *subject to the general special exception requirements of Subtitle X...*" (emphasis added). In turn, that subtitle provides that the BZA may grant special exceptions where the exception "[w]ill meet such special conditions as may be specified in this title." 11-X DCMR § 901.2(c). And, the special conditions for Continuing Care Retirement Communities provides, among other things, that "[t]he use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors." 11-U DCMR § 203.1(f)(4). This means, then, that at a baseline, the facility must have off-street parking sufficient for employees, residents, and visitors. DDOT concludes in its report that, although the applicant "anticipates that the use will require approximately 18 daytime and three (3) overnight staff members" it proposes "to provide nine (9) spaces accessible via the site's rear 15-foot public alley." By the face of the requirements for the special exception, the applicant has not met the standard required under law, yet the agency "has no objection to the approval of the requested relief."

To reach this conclusion, the agency appears to rely heavily on the ability of the applicant to divert employees, residents, and visitors from using personal vehicles. Again, as a baseline matter, this is inconsistent with the requirements of the special exception, and that is not mentioned in the report. But, even assuming that such an approach were

consistent with the law, the analysis nonetheless takes for granted many facts that are either unclear, undocumented, or inapplicable.

First, the report references the number of employees expected at the facility, but that information is not established in the application or pre-hearing statement. Whatever information has been provided by the applicant to the agency should be appended to the report to document the number of employees, visitors (including all vendors), and other traffic to include proposed off-site group outings referenced in the pre-hearing statement and Office of Planning report.

Second, the report considers the number of on-street spaces available to accommodate the applicant's needs. The regulations allow consideration of the "[q]uantity of existing public, commercial, or private parking, *other than on-street parking*, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use." 11-C DCMR §703.2(g) (emphasis added). Nonetheless, the agency spends considerable time reviewing the implications on blocks with Residential Parking Permit zoning. And, the report concludes that "[o]n typical weekdays, the study suggests that there would not be enough Non-RPP or unrestricted spaces to accommodate all employees. However, employees could either locate curbside parking options further away from the site or choose alternate means to commute." Again, for this to serve as a basis for a positive recommendation seems at odds with the regulations.

Third, residents have raised substantial concerns that will need to be decided. For example, is the staffing model proposed sufficient? Will more staff be required such that more trips that are being suggested will be necessary? What is the timing of shift changes and has that been incorporated into the analysis? Why is the alley referenced in the report at all if dedicated loading facilities are not required by zoning? Has the applicant performed a traffic assessment or study? Has it been reviewed by the agency and, if it has, why is that not referenced?

Fundamentally, what concerns me is that the agency has produced a report that suggests that this project satisfies the required legal standards. Precisely which standards are being applied and why, however, is not at all clear. From my reading of the law, the incorrect standard is being used. Even if my reading is not correct, though, I do not see the factual predicate to satisfy another standard. The agency should withdraw the report and reissue it with a clear statement of the standard and the factual basis for meeting that standard. Where information is required, it should be provided and documented. Where information is not required or is expressly excepted from consideration, it should be left out. Doing otherwise provides a report on a contentious issue that engenders too little faith in the work product. And, as matters stand now, this report seems to have been a product of a rushed and ill-conceived analysis driven by the needs and desires of the applicant. Again, it should be withdrawn.

Regards,



Mary M. Cheh