

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
Case No. 19751**

**MAHCA'S RESPONSE TO INFORMATION SUBMITTED BY APPLICANT
AFTER THE NOVEMBER 14, 2018 HEARING**

MED Developers, LLC ("Applicant") submitted additional information after the November 14, 2018 Board of Zoning Adjustment ("BZA") hearing. The Massachusetts Avenue Heights Citizens Association ("MAHCA") hereby responds to the information submitted on November 26, 2018.

I. Applicant has made substantial changes to the project that materially alter the plan and create traffic impacts on neighboring properties, and such changes require review by DDOT, OP, MAHCA's traffic expert, and an architect to be identified by MAHCA

(a) As of November 26, 2018, Applicant is putting forward a new plan which includes another level in the form of a below-grade parking garage and which includes other changes to the proposed facility. Applicant's new plan is significantly different from its former plan, in particular with regard to traffic flow to and from the proposed facility. While MAHCA appreciates that Applicant has recognized the need to increase the number of off-street parking spaces for a CCRC facility, MAHCA's prior concerns, including about noise, congestion, pollution, and safety issues posed by the use of the alley for ingress, egress, loading, and deliveries are potentially exacerbated by the new plan. The District Department of Transportation's ("DDOT") report about Applicant's former plan is moot by virtue of Applicant's changed plan and is no longer relevant. The Office of Planning's ("OP") report is also rendered moot and irrelevant by Applicant's new plan because the OP report is based so extensively on both Applicant's application, including its former plan, and on the outdated DDOT report.

(b) MAHCA hereby requests that the following occur since Applicant has made a significant change in its plan very late in the process (See *Blagden Alley Ass'n v. Zoning Comm'n*, 590 A.2d 139, 148 (D.C. 1991) (the right to a contested case proceeding would be undermined where a proposed covenant is adopted without giving parties an opportunity to "comment on any perceived deficiencies")):

1. that DDOT evaluate the new plan and provide a new and accurate report;
2. that OP evaluate the new plan and provide a new and accurate report;
3. that MAHCA be given time for its traffic expert to review and opine on Applicant's new plan and testify about Applicant's new plan at the December 19, 2018 BZA hearing, which is to be a continuation of the November 14, 2018 hearing;
4. that MAHCA be given the time to have an architect review the new plans, including the Applicant's sun and shadow study, and either testify about Applicant's new plan at the hearing on December 19, 2018 or submit a written report; and
5. that MAHCA have the opportunity to cross-examine any witnesses testifying on Applicant's new plan at the December 19, 2018 hearing.

(c) MAHCA notes that while Applicant is proposing to provide additional off-street parking, Applicant has not provided any analysis as to why its number of proposed spaces is "sufficient," which is the standard set forth in the continuing care retirement community ("CCRC") special exception language (See Subtitle U §203.1(f)(4)).

II. **Applicant’s “Perspective Drawings” are misleading and attempt to disguise that the proposed facility is not in keeping with the character of the neighborhood – neither in terms of scale, low density, architectural character, etc.**

(a) On Applicant’s drawings where the facility is shown in contrast to the neighboring single family homes, Applicant distorts the proportions of the single family homes vis-à-vis the proposed facility and vice versa. In the new drawings Applicant submitted on November 26, 2018 in response to the Board’s request, Applicant hides the homes directly to the right of the proposed facility with trees. This is because the proposed facility *towers* over those neighboring homes and because the proposed facility looks nothing like those homes.




(See Exhibit 483E - Supplemental Information: Tab E (Perspective Renderings))

(b) Applicant seeks to characterize MAHCA’s R-1-B neighborhood as “transitional” and seeks to draw parallels with buildings zoned completely differently across Wisconsin Avenue. MAHCA’s neighborhood is not zoned for mixed use – it is zoned R-1-B and most of the single family homes in the neighborhood are built in the colonial revival architectural style, as shown in the below photo.



The DC Comprehensive Plan Generalized Policy Map designates the neighborhood at issue, including the plots at issue, a Neighborhood Conservation Area for which the DC Comprehensive Plan “anticipates some scattered infill development *if it is compatible in scale and architectural character with the neighborhood* [emphasis added]” (See ANC 3C Resolution). The proposed facility is not compatible with the neighborhood and Applicant’s proposal is really a request for a change in zoning under the guise of a special exception.

Dated December 3, 2018



Paul Cunningham, President of MAHCA

BZA Case No. 19751 (MED Developers, LLC)

AFFIDAVIT OF SERVICE

I hereby certify that on December 3, 2018 a copy of the foregoing MAHCA's Response to Applicant's November 26, 2018 Submission was served via e-mail to the following:

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