

Frances E. Francis
3625 Fulton St., NW
Washington, DC 20007
September 14, 2018

The District of Columbia Board of Zoning Adjustment

By e-mail: bzasubmissions@dc.gov

Subject: Comments and Letter in Opposition to Current Proposal in BZA Case No. 19751-MED Developers-2619-2623 Wisconsin Avenue, NW, (Initially filed as a Senior Assisted Living Facility, now proposed as a Memory Care Facility)

Dear Chairman Hill and Members of the BZA:

I am a resident of ANC 3-C, and request that these comments in opposition to the revised proposal of MED Developers to construct and operate a Memory Care Facility at 2619-2623 Wisconsin Avenue, NW, be considered by the Board prior to any decision regarding authorization to construct any proposed facility on this site and that these comments be made a part of the record in this proceeding.

I. PRINCIPAL OBJECTIONS

- A. Inadequate Compliance by Developer with Notice Requirements to Adjacent Property Owners and Further Failure to Comply with the Rules When It Substantially Revised Its Original Proposal
- B. Unwillingness to Respond to Community's Questions and to Provide Necessary Information for Assessment of Impacts of Proposal on the Neighborhood
- C. Failure to Meet Burden of Proof to Justify Requested Exceptions from Zoning Designation
- D. Lack of Viable Plan for Stated Purpose
- E. Proposal Is In Total Contravention of Existing Zoning on which Residents Have Relied and the District's Own Objective to Encourage Families to Remain in the District

Each of the above Principal Objections is discussed more fully below.

II. ITEM A: Inadequate Notice to Adjacent Property Holders and of New Revisions

As has been pointed out to the Board, MED Developers ("Developer") failed to provide adequate notice to those property owners adjoining its initially proposed Project, for a Senior Living Facility in the spring of this year in connection with its above-captioned filing. This omission should be sufficient cause for the Board to reject the currently revised proposal. BZA should require that the Developer provide adequate time and opportunity for the affected property owners to participate in meaningful meetings with the Developer, prior to any hearing on its application. Given the substantial and detrimental impacts on adjoining property owners of this humongous Facility, MED should, at a minimum, be required to comply with the District's notice requirement that all landowners within 200 feet of the perimeters of the property on which it intends to construct its project, must be provided with written notice and given adequate opportunities to meet with MED, and until such steps have been completed, MED's application should be rejected.

Furthermore, and in addition to the lack of notice with regard to its initial proposal to construct and operate a Senior Living Facility for up to 36-seniors noted above, MED failed to follow both the letter and the intent of the regulations when subsequent to that initial filing, it significantly changed the purpose of its proposal to a Memory Care Facility and revised some other features of its proposal, in August, 2018. This change in purpose changes the Facility from one in which its residents are mobile, probably able to drive their own vehicles, and generally able to care for themselves, with little assistance—to one that requires special features to assure each resident's safety, and to provide far more staff in order to assist each of the 36 residents in the basic needs of eating, bathing, entertainment, physical exercises and other daily services for 24 hours a day, seven days a week. Changing the purpose of the Facility means that additional features are necessary, for example, to ensure that the residents do not stray beyond the facility located right on Wisconsin Avenue (like a fence, with locks). Virtually all meals will be taken at the Facility, and the large quantity of linen and clothing will have to be washed and distributed either by vendors or within the facility. Where all the patients have memory care problems, there will undoubtedly be a need for additional security considerations for each floor (with up to 12 units per floor), as well as spacious common areas dispersed throughout the facility to encourage socialization and other physical and artistic activities among the residents, who will be spending most if not all of their days within the same facility. At a minimum, each resident should have access to fresh air and some open spaces. And all these additional considerations will change how the Facility interacts within an existing residential neighborhood that is characterized by single family homes, many with yards, many young families and a diverse mix of families of varying ages.

Since MED did not seek to refile its substantially revised project and chose instead to rely on its initial filing for public notice and compliance purposes, the community affected received very little public notice of the changed purpose. A recent meeting that was hastily called by the developer to meet its consultation with community requirement proved wholly inadequate, and any number of those who attended, including me, can share our experiences with the Board.

To conclude, there have been two failures by MED to provide adequate notice. The first is the technical but required written notice to adjoining property owners. The second is the failure to revise or re-file its current proposal for a Memory Care Facility, rather than to rely on its initially-proposed Senior Residence. Either failure is reason to dismiss the case and to order MED to follow the procedural rules, both in fact and in spirit, because the Board's rules are there for a good reason and because the community's residents rely on the Board's insistence to adherence on these rules. Where the developer seeks exceptions to the existing and long-standing residential zoning designation of this area, it is especially important that the Board require that its rules be strictly followed.

III. ITEM B: Disregard of Community's Relevant Questions and Interests

On Wednesday, August 29, residents within the ANC 3-C community affected by the proposed development by MED Developers were invited to a 6 pm meeting at the Cleveland Public Library regarding the above BZA Case No. 19751. This was the first time the community learned that there was an identified operator for the Facility. The general tenor of the meeting was rushed, and there was little to no time for citizens to review the drawings, absorb the new information that the proposal had been changed to a Memory Care Facility as well as other changes. MED conducted the meeting under circumstances that did not provide adequate opportunity to ask questions nor were they prepared with thorough answers to the questions, especially those related to the consequences of its changed

proposal. Pertinent questions were left unanswered or rudely set aside. There should be no assumption by anyone that the only public meeting on the current proposal provided a meaningful informational or discussion opportunity as to this transformed proposal. We were not given any time to inspect the revised drawings in advance. Most disappointingly, the public received unsatisfactory or misleading answers and information from the now selected operator, Guest Services, Inc. (GSI) as to the depth of experience by the organization in operating and planning a facility for senior citizens with dementia or related memory loss.

In addition, the parameters for the Developer's traffic study in support of its exceptions were inappropriate for assessing the actual conditions for parking in this affected area. The basis for the traffic study was extremely limited, and its inadequacy and purported results were dissimilar to the experience of residents in the impacted area. Apart from the question of the availability of additional parking spaces in the neighborhood, there were also other traffic issues relating to the adequacy of the alley to accommodate the number and kinds of vehicles that would be necessary to service the institutional facility proposed. The alley behind the facility provides the only vehicular access to the Facility, as the front of the Facility is on Wisconsin Avenue, which does not allow for deliveries or longer time parking. Safety issues like the number of children who use the alley for play and short cuts to their homes and other children's homes in the neighborhood during the course of a day colliding with a new and intense principal and exclusive delivery point on the alley for the Facility (which should have enough spaces for parking and turnabout spaces to service patients, visitors, outside service providers, employees, ambulances, and such) were swept aside.

The detrimental impacts of the alley use by this Facility are not trivial issues for our neighborhood, and its impacts are not minor. They involve child safety, convenience of deliveries to individual residences, potential odor and trash problems on a large scale (like the seemingly permanent dumpsters that can now be seen behind some assisted living facilities in the District). They affect matters of enjoying a pleasant neighborhood and sitting in one's garden, and whether one can comfortably stroll in front of, or in the alleys within the blocks that comprise the neighborhood. One other special feature of our neighborhood is the plentitude of religious facilities within our area. The weekends and festival days usually result in much strolling about and alley use, as attendees move themselves and their children between their cars and church services or church schools. It is a pleasant but somewhat unusual feature of our neighborhood. So, our concerns are limited not only to the enjoyment of individual residents but also the safety of those families and individuals attending the synagogue, the Greek Orthodox Cathedral, the Russian Orthodox Cathedral, and the National Cathedral, for example. Plainly, the operator's comments that deliveries to the site would occur only twice a week must not only be challenged but explored. How is it reasonable that a facility serving 36 residents on site on a 24/7 basis would require only two deliveries per week, including, presumably, food, laundry and cleaning supplies, maintenance of air conditioning and heating facilities, gardening services, at a minimum. Either the trucks are enormous and carefully packed with all the materials needed for 36 residents' needs twice a week, in which case there should be issues about the vibration and impacts on the alley and adjoining houses to the alley of using massive trucks, or alternatively, there will be a lot of truck and service vehicle traffic that will create safety problems, or to be fair, maybe there will be both large and small truck traffic. To date, there is no information from the developer that is credible, detailed, or even addresses these issues which can fester and become a real blight on the neighborhood. Nevertheless, diminution in the quality of life for the adjoining residents and upon their enjoyment of their gardens, the safety of their

children and neighbors, and the general ambience of their neighborhood are all threatened by this large scale facility's reliance on the alley for loading, garbage pick up, emergency vehicle parking, service entrance, and more. The only response to date is that there will only be two deliveries per week. There should be far more support for MED and Guest Service's claims that their construction and operation of this facility will not have these adverse impacts.

Other problems of concern to the neighborhood that are evident but were plainly ignored by the Developer include matters of the impact of the height of this facility, which would tower over the existing residential homes. This impacts privacy and also plays havoc with light and air quality. Another issue of concern is the drainage problems that would be created by a site this large that would essentially be paved over. It is now primarily a vacant lot that is largely grassed over. Replacing these areas with impervious concrete and asphalt would likely create potentially large movements of water that could flood basements and lawns of residences located alongside of and behind the facility, which is located on the higher side of Wisconsin Avenue. Also, the elevation drops either as one moves in the direction of Georgetown or Massachusetts Avenue, where the bulk of the single family residences are located. Nothing has been presented on this matter in the application, including whether the existing drainage facilities are capable of supporting such a large institution as proposed without adversely affecting the neighborhood. While some representations have been made that the Facility was designed to "fit into" the residential neighborhood, it is really difficult to make a 36-person facility of this type fit into a low density residential neighborhood, so the aesthetics are important. Suffice it to say, even putting lipstick on this overwhelming facility will not cure the many large problems it poses for the neighborhood, and yet, the approach taken by MED was to assert that its proposal would have little or no impact. Since MED has provided virtually nothing to support its assertion, its failure to provide or consider information of the above-noted adverse impacts on the neighborhood should not warrant a NO ADVERSE IMPACT conclusion by the Board. To the contrary, common sense strongly urges otherwise.

IV. ITEM C: Developer's Failure to Meet Burden of Proof for Requested Exceptions

At the heart of the Developer's plans is an assumption that its facility will harmoniously blend into an established and rather pleasant residential neighborhood. The exceptions it seeks require that the Facility not be "objectionable to neighboring properties because of noise, traffic or other objectionable conditions." As discussed above, it is difficult to even conceive of how this oversized facility that will contain its own laundry, and cooking facilities on site and within a few feet of other normally-sized residences could avoid the smells from the kitchens (at least three times a day, seven days a week), the steam from loads of laundry, and the fumes and noise from pick up and delivery trucks throughout the day. These effects don't exist now, but they will, if this building is constructed to properly care for 36 seniors with memory problems. This population often cannot help themselves. At least 18 employees will be needed to help them; and there are other services that will be required to provide adequate and necessary medical and other amenities. For this vast flow of increased car and large vehicle traffic, the Developer declares that 9 equally sized auto spaces are adequate, without indicating that any of the spaces would be anything other than ordinary sized. In a nutshell, it won't work physically and the residential neighborhood is concerned about the effects on them, and the insufficient planning and space to provide for these 36 seniors who will be residing in the Facility.

V. ITEM D: The Design of the Proposed Plan Is Patently Inadequate and Will Likely Prove to Be Non-Viable for Its Stated Purpose, Further Acerbating Detrimental Impacts

Even based on the scant information provided just recently to the ANC 3 Committee on Planning and Zoning at its August meeting and presumably provided to the Board, the following deficiencies of design for this Memory Loss Facility are evident.

- (a) The problem of the inadequacy of one elevator to serve the entire 3-stories above ground and one below street-level (cellar) has not been answered. (Presumably, the fourth floor service floor will be serviced by stairs or by the use of a crane, but this information has not been provided.) Adequate elevator services are critical for the day to day operations of this type of facility, as well as to assure safety concerns for a particularly vulnerable resident population. Many of these residents may well include those using wheel chairs and other kinds of assisted equipment for walking and moving about. For these individuals, walking down three flights of stairs for three meals per day, plus activities—in the absence of an operable elevator-- seems to require too much of them and the staff. Although this issue was raised in the earlier concept which assumed a healthier and more independent set of residents, no change has been made in the basic plan of one elevator to serve a potentially vastly different client base.

Nevertheless, let's imagine what life in the facility with only one elevator would look like. When asked about an emergency, MED's answer was that if there were a fire, then the one elevator would shut down anyway, so what was the problem? It expanded its response to note that the staff would move the residents to the stairwells in case of a fire, for example, and perhaps tell them to stay in place. But assume that these residents require wheel chairs and assistance to get out of bed and into a wheelchair. If there is only one attendant per floor at night (which was the number noted at the last meeting), it doesn't take much to imagine how impossible it would be for one attendant to gather 12 elderly residents, some of whom cannot walk unassisted, on a floor and direct them safely to either one of two stairwells in an emergency. Nor is it clear that the stairwells could safely and adequately hold all the residents plus possible wheel chairs and walkers, until they could be individually walked to safety. So, the consequences of a single elevator in a multiple story building could be devastating but these questions have continued to **not** be addressed. The only response from MED's representative was that everything would be built to code. At this point it is worthwhile to ask whether the "Code" prescribes special safety measures for this specific type of facility and residents, and if so, is this facility able to demonstrate that it has adequately dealt with the Code as well as considerations it believes should be used, apart from the Code compliance? The community and prospective seniors should not be forced to deal with a disaster, before questioning the exceptions being asked for by MED and their supporting proposals for how to deal with the care of those using a Memory Care Facility.

- (b) The Cellar is the basic facility living space for both the residents and the staff. Staff will be cooking three meals a deal, seven days a week, washing laundry on site for all the residents, providing and maintaining services for fitness, a salon for grooming, as well as three office spaces. It also includes the "Garden." (The garden is addressed separately below.) THERE IS ONE TOILET IN THIS BUSY, BUSY AREA. Presumably, staff, residents during meals and

activities, as well as outside individuals providing specialized services, will all be required to use one toilet. That does not seem adequate or workable. Also please keep in mind that there is no public toilet provided on the First Level either, at this time. So, this one cellar toilet serves two floors and all its users at the present time. This is patently unworkable.

Questions arise about the use of this level, as designed, to accommodate all the bulk deliveries at this location. Who will be available to unlock and open the alley entrance to the likely number of outside vendors seeking access to the Facility to make deliveries or for the picking up of patients, whether by ambulance or other means? Also, even if one parked in one of the facility parking spaces, is it likely that the visitor will walk around the building and half way the distance of the building, in order to enter from the front door? Or is it more likely that deliveries will use the back door? Yet, there is virtually no storage space for "clean" supplies on this floor, despite the Operator's assurance that only two deliveries per week were anticipated to the Facility for supplies. There is no obvious way in the drawings presented as to how security will be provided to make sure that residents do not stray from the dining/activities area, and outside, especially through doors propped open to enable deliveries when the design provides for doors that open to the stairwells and elevators. This does not reflect much thought about the very special nature of this facility and its residents, and the lack of details and basic design are worrisome.

- (c) The Dining Area seems to contain space for about 28 chairs. Individuals with memory impairment often need assistance in eating, but there appear to be no chairs to provide such additional seating. The 3-chaired larger table is or should be a serving area, but that is not clear.
- (d) The Garden. This is the only outdoor/outside focus provided, but the change in purpose requires a 6-foot fence to enclose the space, to prevent wandering by residents. That is not shown in the renderings made available to the public. Furthermore, given the enclosed nature of the garden, where and how will the gardening work be done on this space? There appears to be no simple way for a lawnmower, etc. to be pushed in, for example. This is the only outdoor, fresh air space available to all the residents and it is very, very small for 36 individuals, especially if it is to accommodate those in wheel chairs and walkers as well as those who are more mobile. The actual garden space provided in the Site Plan appears to be about equivalent to 4 parking spaces, once the trees are considered and before the required enclosing fencing is added. Since there is an anticipated sidewalk that appears to run along the entire back side between the parking spots and the garden, more space is likely to be shaved from the garden, leading to more questions of its adequacy. A clear site plan showing both the parking spaces and the garden should be provided in one drawing, so a better comparison can be made of the actual dimensions involved. Presently, the bifurcation of the presentation of the back side of the facility makes such an assessment difficult.
- (e) Floor Plan-Level 1. As noted above, there needs to be a public toilet planned on this floor, for the public, visitors, vendors, and residents using the activities space proposed for this floor. We were told at the August 29 meeting that a toilet would be included, but it isn't there yet

and it is unclear where such space would be carved out. Units 1-8 on this Floor Plan-Level 1 do not outline the bathrooms for each Unit. Since some of these units look very small, the plan should not be considered complete until the bathroom spaces are shown, and consideration given to the proper number of public toilets likely to be needed.

- (f) Floor Plan-Levels 2 and 3. What is the sitting capacity of the Sitting Room? It looks too small to provide the groupings for the 12 residents on each floor. Multiple concerns arise from the limited size of the communal areas, but these have not been discussed. These issues go directly to the attractiveness of the completed building, its ability to provide a high quality of service, and its economic viability. There is not much information to contribute to these necessary assessments.

- (g) The rendering showing the back side of the building is especially misleading. First, the garden is either paved over with stone or is a real garden with trees and grass. From the rendering, it looks as if there is no garden, just a paved area. So, is there a garden and if so, how much space does it have? Second, the parking area is misleading in the Rendering because it does not show the actual alley. If you compare the rendering and the Site Plan, the proposed parking space is right on the edge of the alley. By showing shadows from the existing houses, and failing to clearly mark or delineate the alley boundary in the rendering, it looks as if there is considerably more space behind the building than there is. In the same rendering, I think the buildings in the background have been heightened above their actual sizes, so the effect is to create the sense that the neighborhood is full of block-like high rise apartment houses, rather than the actual individual residential houses that are most directly impacted by the new, proposed facility. A focus on the buildings across Wisconsin Avenue, which has a different zoning classification, rather than on a more correct and detailed depiction of the considerably smaller, residential buildings that actually exist leads to misleading impressions. These renderings should either be supplemented or re-done, to provide a better way to assess the actual impacts on the community, which exists behind and around the facility.

VI. ITEM E: The Proposed Plan Contravenes Existing Zoning Classifications

The proposed plan clearly contravenes existing zoning classification, and would disrupt the neighborhood. Even the granting of the exceptions would not fit this out-sized facility into some harmonious blending with its neighborhood because it is not a family residence. Far from that, the facility proposed will necessarily generate new and additional traffic, noise, unwanted odors from 24-hour operations for commercial type operations, and necessarily, ambulances and other vehicles to assist the residents.

Apart from the direct impact on the adjoining neighborhood, the Board should consider the impact of permitting this facility on the area extending just beyond the immediate neighborhood. The area nearby and bounded by Massachusetts Avenue and Wisconsin Avenue supports a reasonably diverse and increasingly younger population. There are schools, churches and park-like grounds within the area. There are also some residences that have clearly been bought for speculation on Wisconsin Avenue; these owners would clearly appreciate the steps being taken by MED to persuade the Board to break the zoning classification in this viable residential neighborhood. The long-term (or maybe sooner)

detrimental effect of the exceptions sought by this Applicant will extend to the larger neighborhood. Not only is the proposal not permitted or provided for by the District's zoning, but if it fails economically, the larger neighborhood area will be adversely affected. Strangely enough, the facility bears a striking resemblance to a 36 unit facility proposed on this same site for homeless families not too long ago. Then the same plan was converted into a senior residence. And now, the same plan seems to show up as a facility for those with memory problems. We hesitate to speculate about its next iteration or purpose—perhaps a college dormitory or perhaps it will just remain vacant because of its sheer ugliness, for alternative purposes. In any event, while others can ignore the problem of an oversize building that is vacant, the immediate neighborhood would have to deal with all its downsides. Simply put, the regulations were put in place for a reason and nothing the Applicant has proposed or re-proposed warrants an exception when it presents so many short and long-term detrimental impacts on the neighborhood.

CONCLUSION

The Board should reject this now significantly revised and deficient proposal. Based on current information, the proposal will be the source of long-term and short-term significant detrimental impacts on the residential community now within the ANC 3-C area. These detrimental impacts cannot be remedied because of their very nature or the lack of information and assurances that the developer is willing to provide. For all these reasons, the Board should deny MED Developer's requests for exceptions.

Sincerely,



Frances E. Francis

*The attachments referred to herein may be found as attachments to the email from Eric J. DeBear , Cozen O'Connor, and submitted to all the ANC 3 commissioners on August 30, which he refers to as "Powerpoint presentation from community meeting."

Cc: ANC 3-C Members