

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19819-A of Southern Hills LP, pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance to the approved plans, to demolish the existing seven building apartment complex and to construct six apartment houses with a total of 349 residential units, and a new community service center in the RA-1 Zone at premises 4201, 4209, 4219, 4333, 4337, and 4347 4th Street S.E. and 304 Livingston Terrace S.E. (Square 6167, Lots 45, 46, 47, 48, 49, 50 and 51).

HEARING DATE (19819):	September 19, 2018
DECISION DATE (19819):	September 19, 2018
ORDER ISSUANCE DATE (19819):	September 24, 2018
MODIFICATION HEARING DATE:	January 15, 2020
MODIFICATION DECISION DATE:	January 15, 2020

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE

Original Application. In Application No. 19819, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Southern Hills LP (the “Applicant”) for special exceptions under the theoretical subdivision provisions of Subtitle C § 305, under the new residential development requirements of Subtitle U § 421, and the use provisions of Subtitle U § 320.1(b), and pursuant to Subtitle X, Chapter 10, for a variance from the height requirements of Subtitle F § 303.1, to demolish the existing apartment houses and construct five new apartment houses, 42 attached principal dwelling units, and a new community service center in the RA-1 Zone. The Board issued Order No. 19819 on September 24, 2018. (Exhibit 3A.)

Proposed Modification. On September 26, 2019, the Applicant submitted a request for modification of significance to Order No. 19819. (Exhibits 1-7.) The Applicant proposes to increase the number of residential units provided by 94, for a total of 349 units, based on feedback from the D.C. Department of Housing and Community Development. In order to accommodate the increase in units, the Applicant now proposes to revise the site plan and to construct six apartment houses, in addition to the approved community service center. Of the 349 residential units, 255 will be deeply affordable units and 94 will be mixed-income units, including some reserved for individuals earning 50% to 80% of Area Median Income and some market rate. The Applicant submitted revised plans reflecting these modifications. (Exhibit 3B1-3C3 (Original); Exhibits 28A1-28B3 (Updated).) The Applicant also submitted an updated tenant relocation and construction phasing plan, which aims to provide more units in earlier phases in order to minimize offsite relocation of existing tenants. (Exhibit 28C.)

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Based on the proposed modifications to the approved plans, the Applicant does not request any new areas of zoning relief, but instead, requests a modification of the areas of relief originally granted. Specifically, the Applicant requests area variance relief from the height and number of stories requirements of Subtitle F § 303.1, with regard to buildings F and H. The Applicant argues that it continues to meet the special exception standards with regard to the theoretical subdivision provisions of Subtitle C § 305, the new residential development requirements of Subtitle U § 421, and the Community Service Center use provisions of Subtitle U § 320.1(b). The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 8.)

Notice of the Request for Modification. Pursuant to Subtitle Y § 704.5, the Applicant served the request for modification of significance on the parties to the original application. (Exhibit 7.) The Board referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 8D.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 21, 2019, at which a quorum was present, the ANC voted to support the request. (Exhibit 26.)

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of significance. (Exhibit 31.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the proposed modification of significance, subject to the implementation of a Transportation Demand Management ("TDM") plan. (Exhibit 29.) The Board adopted the TDM measures as conditions of this approval.

Persons in Support. The Board heard testimony in support of the modification from Barbara Summers of the Southern Hills Condominium Association.

Request for Modification of Significance

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence¹ requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

¹ See, Subtitle Y §§ 703.3 and 703.4.

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Based upon the record, the Board concludes that in seeking a modification of significance, the Applicant has met its burden of proof under Subtitle Y § 704.

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variance from the maximum height and number of stories requirements of Subtitle F § 303.1.

Based upon the record, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under the theoretical subdivision provisions of Subtitle C § 305, under the new residential development requirements of Subtitle U § 421, and the use provisions of Subtitle U § 320.1(b).

Based upon the record, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

“Great Weight” to the Recommendations of OP

The Board is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Y § 405.8). The Board finds OP’s recommendation that the Board approve the modification persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANC

The Board must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Y § 406.2) The Board finds the ANC’s recommendation that the Board approve the modification persuasive and concurs in that judgment.

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Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of significance of BZA Order No. 19819 is hereby **GRANTED**, subject to the approved plans at Exhibits 11A1-11A5 of Application No. 19819, as modified by Exhibits 28A1-28B3 of Application No. 19819-A, and the following **CONDITION**:

1. The Applicant shall implement the following Transportation Demand Management (“TDM”) Plan for the life of the project, unless otherwise noted:
 - a. The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit and charge a minimum rate based on the average market rate within a quarter mile of the Site.
 - b. The Applicant shall identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators shall act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
 - c. The Applicant shall provide the Transportation Coordinators’ contact information to goDCgo, conduct an annual commuter survey of employees on site, and report TDM activities and data collection efforts to goDCgo once per year.
 - d. The Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e. Bike to Work Day, National Walking Day, Car Free Day) on the property’s website and in any internal building newsletters or communications.
 - e. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM plan.
 - f. The Applicant shall provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT’s goDCgo program by emailing info@godcgo.com.
 - g. The Applicant shall provide residents who wish to carpool with detailed carpooling information and shall refer residents to other carpool matching services sponsored by the Metropolitan Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future.
 - h. The Transportation Coordinator shall subscribe to goDCgo’s residential newsletter.

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- i. The Applicant shall post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised.
- j. The Applicant shall meet Zoning requirements by providing 126 long-term bicycle parking spaces in convenient areas around the project site.
- k. The project's long-term bicycle storage shall accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes.

In all other respects, Order No. 19819 remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Michael G. Turnbull to APPROVE; no other Board members participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: January 17, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.