

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: January 3, 2020

SUBJECT: BZA Case 19819A – Modification of Significance – (4201, 4209, 4219, 4333, 4337, and 4347 4th Street, S.E. and 304 Livingston Terrace, S.E.) to demolish seven existing apartment houses and construct a new residential development and community service center.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following variance relief:

- Maximum height and number of stories, Subtitle F § 303.1, pursuant to Subtitle X § 1000 (40 feet, 3 stories maximum; buildings C, D and E approved with heights between 44.4 feet and 49 feet and four stories; buildings C, D, E, F and H proposed to have heights between 40.5 and 48 feet and four stories).

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- New residential development in RA-1 zone, Subtitle U § 421, pursuant to Subtitle X § 900;
- Community Service Center, Subtitle U § 320.1(b), pursuant to Subtitle X § 900; and
- Allow multiple buildings on a single lot of record using theoretical lots, Subtitle C § 305, pursuant to Subtitle X § 900 (one building permitted; 14 buildings approved; 7 buildings proposed).

II. BACKGROUND

The Board approved the requested relief for Livingston Terrace on September 24, 2018. The approved project consisted of the demolition of the existing seven apartment buildings and redevelopment of the property with five apartment buildings, 42 row buildings and a community service center. The original proposal consisted of 255 affordable units, which is a one-to-one replacement of the number of units presently on the property, allowing all current residents the opportunity to return to the development upon its completion. The applicant has received feedback from the Department of Housing and Community Development (DHCD), which has recommended an increase in the number of units, the inclusion of market rate units, and an adjustment to the phasing plan for the project in order to qualify for funding.

III. LOCATION AND SITE DESCRIPTION

Address	4201, 4209, 4219, 4333, 4337, and 4347 4 th Street, S.E. and 304 Livingston Terrace, S.E.
Applicant	Goulston & Storrs for Southern Hills, LP

Legal Description	Square 6167, Lots 45, 46, 47, 48, 49, 50, and 51
Ward, ANC	Ward 8, ANC 8D
Zone	The RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments. New residential development is permitted with the approval of a special exception.
Historic District	None
Lot Characteristics	The site is composed of seven lots. Lots 47 through 50 are generally rectangular, while lot 51 is a semi-circle shape. Overall, the land area is 402,191 square feet (9.23 acres). The site has unique topography with a grade change across the site and a substantial drop in elevation to the street level along all street frontages.
Existing Development	The properties are currently developed with seven apartment houses providing a total of 255 units and associated parking.
Adjacent Properties	To the north are existing semi-detached and detached dwellings. To the south, across Livingston Terrace, is a development consisting of several apartment houses known as Worthington Woods Apartments. To the east, across 4 th Street, is a development consisting of several apartment houses known as Atlantic Gardens Apartments, as well as Hendley Elementary School. To the west, across 3 rd Street, is a development consisting of several apartment houses known as Atlantic Terrace.
Surrounding Neighborhood Character	The surrounding neighborhood character is predominantly moderate density residential, consisting of low-rise garden apartment complexes and semi-detached and detached dwellings.
Proposed Modifications	<p>The applicant proposes to revise the approved project in response to feedback provided by DHCD:</p> <ol style="list-style-type: none"> 1. Increase the number of units from 255 units to 349 units; 2. Provide 255 deeply affordable units reserved for households earning, on average, 15% MFI; 3. Provide 94 mixed-income units reserved for households earning 50% MFI to 80% MFI; and 4. Modify the phasing plan to increase the number of units provided in earlier phases to partially mitigate the need for relocations. <p>The following site plan modifications are proposed in order to accommodate the increase in number of units:</p> <ol style="list-style-type: none"> 1. The community service center building would be shifted south so that it directly fronts onto Livingston Terrace; 2. The row buildings would be converted into two-level duplexes in the wings of the multifamily buildings; and 3. The number of parking spaces would be reduced from 147 spaces to 143 spaces.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RA-1	Regulation	Approved	Proposed	Relief
Floor Area Ratio F§ 302	0.9 max. + 20% bonus for inclusionary developments = 1.08	0.78	1.05	None required
Height § 303	40 ft./3 stories max.	Bldg. A – 35.4 ft./3 stories Bldg. B – 35.9 ft./3 stories Bldg. C – 49 ft./4 stories Bldg. D – 44.4 ft./4 stories Bldg. E – 46.9 ft./4 stories Bldg. F – 30.3 ft./2 stories Bldg. G1 – 36.2 ft./3 stories Bldg. G2 – 36.2 ft./3 stories Bldg. G3 – 36.2 ft./3 stories Bldg. G4 – 35.45 ft./3 stories Bldg. G5 – 36.2 ft./3 stories Bldg. G6 – 36.2 ft./3 stories Bldg. G7 – 36.2 ft./3 stories Bldg. G8 – 36.2 ft./3 stories	Bldg. A – 34 ft./3 stories Bldg. B – 34 ft./3 stories Bldg. C – 44.5 ft./4 stories Bldg. D – 40.5 ft./4 stories Bldg. E – 45 ft./4 stories Bldg. F – 48 ft./3 stories Bldg. H – 45 ft./4 stories	Required for Buildings C, D, E, F and H
Lot Occupancy F§ 304	40% max.	25%	32%	None required
Rear Yard F§ 305	20 ft. min.	Bldg. A – 0 ft. Bldg. B – 28.51 ft. Bldg. C – 20.67 ft. Bldg. D – 68.62 ft. Bldg. E – 56.01 ft. Bldg. F – 20 ft. Bldg. G1 – 20-44.28 ft. Bldg. G2 – 20-43.06 ft. Bldg. G3 – 20-41.74 ft. Bldg. G4 – 20-27.62 ft. Bldg. G5 – 20-41.06 ft. Bldg. G6 – 20.5-37.83 ft. Bldg. G7 – 20-30.75 ft. Bldg. G8 – 20-28.81 ft.	Bldg. A – 0 ft. Bldg. B – 20 ft. Bldg. C – 20 ft. Bldg. D – 20 ft. Bldg. E – 20.1 ft. Bldg. F – 20 ft. Bldg. H – 32.1 ft.	None required

Zone – RA-1	Regulation	Approved	Proposed	Relief
Side Yard F§ 306	3 in. min. per foot of building height; 8 ft. min. both sides: Bldg. A – 8.5 ft. Bldg. B – 8.5 ft. Bldg. C – 11.13 ft. Bldg. D – 9.88 ft. Bldg. E – 11.25 ft. Bldg. F – 12 ft. Bldg. H – 11.25 ft.	Bldg. A – 11.2 ft. Bldg. B – 10.58 ft. Bldg. C – 15.18 ft. Bldg. D – 24.15 ft. Bldg. E – 11.73 ft. Bldg. F – 8 ft. Bldg. G1 – 0 ft., 8 ft. Bldg. G2 – 0 ft., 8 ft. Bldg. G3 – 0 ft., 8 ft. Bldg. G4 – 0 ft., 8 ft. Bldg. G5 – 0 ft., 8 ft. Bldg. G6 – 0 ft., 8 ft. Bldg. G7 – 0 ft., 8 ft. Bldg. G8 – 0 ft., 8 ft.	Bldg. A – 12.3 ft. Bldg. B – 11 ft. Bldg. C – 11.9 ft. Bldg. D – 23.9 ft. Bldg. E – 25.5 ft. Bldg. F – 12 ft. Bldg. H – 23.4 ft.	None required
Green Area Ratio F§307	0.4 min.	Not provided		None requested
Theoretical Subdivision C § 305	One building per lot	14 buildings on the lot	7 buildings on the lot	Required
Parking C § 701	Residential: 1 per 3 units/116 spaces Community Service Center: 0.5 per 1,000 sq. ft./17 spaces	147 spaces	143 spaces	None required
Community Service Center Use U § 320	Permitted with special exception	Community Service Center Use	No change	Approved in BZA 19819
Floor Area Ratio F§ 302	0.9 max. + 20% bonus density for IZ developments = 1.08 max.	0.78	1.05	None required

V. OFFICE OF PLANNING ANALYSIS

Modification of Significance, Subtitle Y § 704

Aside from the filing requirements of Y §§ 704.2 through 704.5, the public hearing on a request for a significant modification shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification (Y §704.6), and limited to impact of the modification on the subject of the original application, and shall not permit the Board to revisit its original decision (Y §704.7).

a. Variance Relief from Subtitle F § 303.1, Building Height and Number of Stories

i. Exceptional Situation Resulting in a Practical Difficulty

The revised proposal for the development would consist of seven buildings, and five of those buildings would exceed the maximum height of 40-feet and/or the maximum number of three stories. Building C would have a height of 44.5 feet and four stories; Building D would have a height of 40.5 feet and four stories; Building E would have a height of 45 feet and four stories; Building F would have a height of 48 feet with three stories; and Building H would have a height of 45 feet with four stories. The overall height of the modified proposal would be less than the maximum height of 49 feet that approved for the original proposal.

It was established during the original proposal that the property exhibits a substantial grade change from the interior of the site to the street, resulting in a range in height differences from ten to 30 feet. This condition creates a unique peninsula-like condition, making it difficult to relate the development to the public realm.

Building height for the entire building is measured from the finished grade at the middle of the building façade nearest the street, and the difference in height from the street to the grade makes it practically difficult to comply with maximum height allowances. Multifamily buildings cannot typically be designed to step down into the grade like row houses by nature of their design, or without adding significant construction costs to the project. The applicant has attempted to work with the grade as much as practical, and the deviation in building height relief ranges from 4.5 feet to 8 feet, which is within the ten to 30 feet height difference in grade.

ii. No Substantial Detriment to the Public Good

The requested relief from height and number of stories should not result in substantial detriment to the public good. The relief would allow the multifamily buildings to relate better to the street. Locating the apartment houses closer to the public realm allows for more functional open space within the development and contributes to the success of the community service center, which is intended to serve the larger neighborhood.

iii. No Substantial Harm to the Zoning Regulations

The requested relief would not result in harm to the Zoning Regulations. The requested relief for height and number of stories is within the range of the height difference between the street and property and is not excessive given the existing topographical condition. The relief would allow the proposed buildings to be clustered around the perimeter of the site, providing more meaningful open space within the development and resulting in a design that relates better to the public realm.

b. Special Exception Relief from Subtitle U § 421, New Residential Developments

421.1 In the RA-1 and RA-6 zones, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under Subtitle X, in accordance with the standards and requirements in this section.

The proposed development is located in the RA-1 zone, and would include six apartment buildings, consistent with this section.

421.2 *The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:*

(a) *Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and*

The property is currently developed with seven apartment houses consisting of a total of 255 units, and the proposal would provide 349 units in six buildings and a community center. The proposed modification would remove the previously approved attached and semi-detached dwellings. The community center would be shifted further south, giving it a more prominent location on Livingston Terrace. The project is in bounds for Hendley Elementary School, Hart Middle School, and Ballou High School. It is anticipated that the area schools will be able to accommodate the numbers of students that could result from the additional units.

(b) *Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.*

The applicant has provided a Transportation Statement at Exhibit 27, which indicates that vehicular trip generation will increase slightly as a result of the increase in total residential units and the community center. DDOT has indicated in its report at Exhibit 29 that it supports the proposal to provide slightly fewer spaces than what was included in the previous proposal in conjunction with the Transportation Demand Management Plan provided in the applicant's Transportation Statement (Exhibit 27) and summarized in DDOT's report. In addition, pedestrian connectivity through the site would be improved, including an eight-foot wide ADA-accessible route between 3rd Street and 4th Street that does not currently exist.

The proposed development is located approximately 1/3 mile from Mary Virginia Merrick Recreation Center and about 1/3 mile from the Ferebee Hope Recreation Center. It is not anticipated that the proposed development would significantly increase the use of these recreation centers. In addition, the proposal includes the construction of a 25,000-square foot community service center that would provide a variety of services to the greater community.

421.3 *The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.*

Similar to the approved plan, the proposed plan would site the buildings in a manner that maximizes light and air and creates a substantial amount of defensible open space. The building facades and row dwellings would continue to be oriented toward the street frontage, providing a better connection to the public realm. The proposal now includes a lot adjacent to the community center, which would be an asset to the community.

The proposed buildings would be of a modern design, punctuated by a contemporary color scheme. Multiple entrances would be provided into the multifamily buildings to increase movement through the site. The approved design included solar integrated on the roofs; however, it is unclear if the proposed design would include solar PV.

The proposed development continues to include a 25,000-square foot community service center, which would supplement existing nearby facilities. The community service center would provide services that include partnerships with higher learning institutions, job training, child daycare, arts

and music centers, and space for community-based start-ups, recreation, and community meetings. The community service center would extend its programs to residents of the area in general, a commitment made by the applicant during the initial review of the proposal.

The number of parking spaces provided on the site would be decreased from the approved plan from 147 spaces to 143 spaces, including parking for the community service center. All parking would be located interior to the site, in clusters adjacent to each building, and would be screened from the street by the proposed structures and topography.

421.4 *In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.*

The applicant has provided site plans, typical floor plans, elevations, grading plans, and landscape plans into the record (Exhibits 11A1 through 12A4).

c. Special Exception Relief from Subtitle U § 320.1(b), Community Service Center

(b) *A community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is proposed to be located which may include but not be limited to centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, subject to the following conditions:*

(1) *A community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions;*

The original approval also included a community center of a similar size. The modified community service center would be located along the Livingston Terrace street frontage, at the south end of the development. Parking for the center would be accessed from 3rd Street using existing curb cuts. The Transportation Statement (Exhibit 27) indicates that trip generation would slightly increase to and from the site but would be mitigated through the implementation of a robust Transportation Demand Management plan that would include the use of a Transportation Coordinator that would inform residents of alternative transportation options. The location of the community service center would minimize external impacts and should not result in noise or other objectionable conditions to the surrounding area.

(2) *The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located; and*

The proposed community service center would be convenient to the neighborhood in which it would be located. The proposed development would be located approximately 1/3 mile of two recreation centers; however, the proposed community service center would provide a variety of services outside the realm of recreation centers, including a learning center, job training, child daycare, an arts and music center, and space for community-based start-ups, recreation, and community meetings. Its location within the development ensures that the center would be accessible to the residents in the area, as well as to those in surrounding developments within the general neighborhood.

- (3) *A community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual;*

The proposed community service center would be operated as a non-profit and any income earned would not inure to the benefit of any private shareholder or individual.

d. Special Exception Relief from Subtitle C § 305, Theoretical Subdivision

305.2 *The number of buildings permitted by this section shall not be limited; provided, satisfactory evidence is submitted that all the requirements of this section are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.*

305.3 *The following development standards shall apply to theoretical lots:*

- (a) *Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;*

The Zoning Regulations require a minimum side yard of eight feet, and a rear yard of 20 feet. All of the proposed buildings would provide compliant side and rear yards.

- (b) *Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;*

The civil drawings provided by the applicant demonstrate that all vehicular ingress and egress will be equal to or greater than 24 feet in width.

- (c) *The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and*

The Zoning Regulations permit a maximum building height of 40 feet and three stories in the RA-1 zone. The applicant has requested height relief for buildings C, D, E, F and H to allow a maximum height of 48 feet and four stories. OP has provided separate analysis of this request under the relevant section above.

- (d) *The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.*

Height has been measured as required by the above section, and the applicant has provided that the proposed height would not be in conflict with the Height Act.

305.4 *For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:*

- (a) *Site plans including the following information:*
- (1) *A plat of the record lots proposed for subdivision;*
 - (2) *The location of proposed streets and designated fire apparatus roads;*
 - (3) *Location of proposed easements;*

- (4) *Lot lines of proposed theoretical lots, and the delineation of the lot lines shared by theoretical lots that will serve as private drives or easements;*
- (5) *Existing grading and proposed grading plans;*
- (6) *Existing landscaping and proposed landscaping plans, including the sizes and locations of all trees on or adjacent to the property on public or private lands;*
- (7) *Plans for the location of building footprints on theoretical lots; and*
- (8) *Required yards (rear, side and front) based on the regulations applicable to a zone or any modifications to regulations provided through this section;*

The applicant has provided dimensioned site plans providing the required details, including the proposed structures and setbacks (Exhibits 3B1 through 3C3).

- (b) *Typical or individual floor plans and elevations for the proposed buildings and structures; and*

Floor plans and color elevations of the proposed building have been provided (Exhibits 3B1 through 3B2).

- (c) *A table of zoning information including required and proposed development standards.*

A table of zoning information, including required and proposed development standards for each building, has been provided (Exhibit C32).

305.5 Before taking final action on an application under this section, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including:

- (a) *The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:*
 - (1) *Public safety relating to police and fire concerns including emergency vehicle access;*

The applicant has proposed a site plan intended to address police and fire concerns, and to provide better circulation through the site. The plan provides for the replacement of all of the units currently on site that would be set aside for households earning, on average, 15% MFI, as well as an additional 94 units that would be set aside for households earning 50% to 80% MFI. The proposed apartment houses would be oriented toward the street, providing more interaction with the public rights-of-ways. The site would also be more visually permeable, with significant open space and access provided throughout the site.

- (2) *The environment relating to water supply, water pollution, soil erosion, and solid waste management;*

The proposed development would be required to update environmental compliance to current standards, including stormwater. The landscape and open space would also be improved with the proposal as identified on the landscape plan. Additional information should be provided regarding

the two heritage trees on site and how these trees and others, in general, will be protected during construction. The applicant should verify if solar photovoltaic panels would be included in the development.

(3) *Public education;*

The proposed development would increase the number of units from 255 units to 349 units. Although it would increase density on the site, it is anticipated that neighborhood schools can accommodate the potential increase in students.

(4) *Recreation;*

The applicant would be providing a community service center within the development, increasing services to residents and the neighborhood in general.

(5) *Parking, loading, and traffic;*

The proposed development would provide parking that would exceed minimum requirements (133 spaces required, 143 spaces provided). Traffic would be accommodated on site with compliant drive aisles. The Transportation Statement provided to the record (Exhibit 27) indicates that vehicular trip generation would increase slightly as a result of the development.

(6) *Urban design; and*

The proposal is the product of substantial engagement with the Southern Hills Tenant Association, which represents the existing residents of the property. Through these discussions, the developer has incorporated tenant priorities into the development, including substantial open space, orientation toward the street, and the development of a new community center. The proposed development accommodates the challenging grade across the site and protects existing heritage trees.

(7) *As appropriate, historic preservation and visual impacts on adjacent parkland;*

The property is not located in a historic district and the existing buildings are not historic landmarks.

(b) *Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;*

The proposed development has incorporated preferred urban design principles, such as concentrating the development along the periphery of the site so that it is more engaged with the public realm, locating the surface parking on the interior of the site to reduce its visibility from the street, and adding interest to the architecture through building form, bay windows, patios, and color. The development would reduce the number of curb cuts, concentrating traffic access from 3rd Street. The rear and side yards would create a significant amount of open space and increase permeability through the site. Finally, pedestrian connections through the site would be provided, including an ADA accessible path between 3rd Street and 4th Street.

(c) *Considerations of traffic to be generated and parking spaces to be provided, and their impacts;*

The proposed development would provide a total of 143 parking spaces, where 133 are required. Parking spaces would be distributed through the site rather than in one consolidated area in order to provide greater accessibility to the apartment houses and community service center. The parking areas would generally be screened from the street by the proposed structures and with the assistance

of the grade changes on the site, which would position the parking spaces above the public rights-of-ways.

(d) The impact of the proposed development on neighboring properties; and

The proposed development should not significantly impact neighboring properties. The proposal would increase the number of units on the property by a total of 94 units, but would diversify income levels in the neighborhood. The community service center would potentially increase traffic in the area, as it would be an amenity intended to serve the greater neighborhood area. The number of curb cuts would be reduced so that the site would be accessible only from 3rd Street. The site would also establish better pedestrian connections between 3rd and 4th Streets, allowing access to the community service center and improving neighborhood connectivity.

(e) The findings, considerations, and recommendations of other District government agencies.

As of the date of this filing, comments from other District Agencies had not been provided.

305.6 The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood.

The proposal would allow for the redevelopment of aging garden apartments into new apartment houses with an improved unit and income mix. It would also include a new community service center providing a variety of services to the overall neighborhood. The development as proposed would improve the present character of the site by orienting the structures toward the public realm, providing porosity through the site, and improving pedestrian connections.

305.7 The Board of Zoning Adjustment may impose conditions with respect to the size and location of driveways; floor area ratio; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.

The Office of Planning does not recommend conditions for this proposal.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

As of the date of this writing, comments from other Agencies had not been received.

VII. COMMUNITY COMMENTS TO DATE

ANC 8D has provided a letter of support for the proposed modifications at Exhibit 26 in the record.

Attachment: Location Map

Location Map

