

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Stephen J. Mordfin, Project Manager
JL for Jennifer Steingasser, Deputy Director, Development Review and Historic Preservation

DATE: June 10, 2019

SUBJECT: OP Report for Zoning Commission Case No. 19-09, Voluntary Design Review and Special Exception for flexibility in building bulk control in the RA-1 Zone at Square 5113, Lot 806 and Parcel 185/38

I. BACKGROUND

The Residences at Kenilworth application, filed by Kenilworth Avenue Northbridge LLC, is for the construction of an all-affordable (LIHTC¹) senior assisted living community with approximately 155 residential units on this currently vacant site. The RA-1 zone permits this use by special exception, and the applicant has also requested voluntary design review by the Zoning Commission, a process which provides for additional flexibility.

The applicant is requesting relief from the maximum permitted building height and the maximum permitted number of floors, but no increase in floor area ratio, gross floor area or lot occupancy. Approximately eighty full-time employees are expected to staff the facility.

II. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of this Voluntary Design Review application and the special exception requests to:

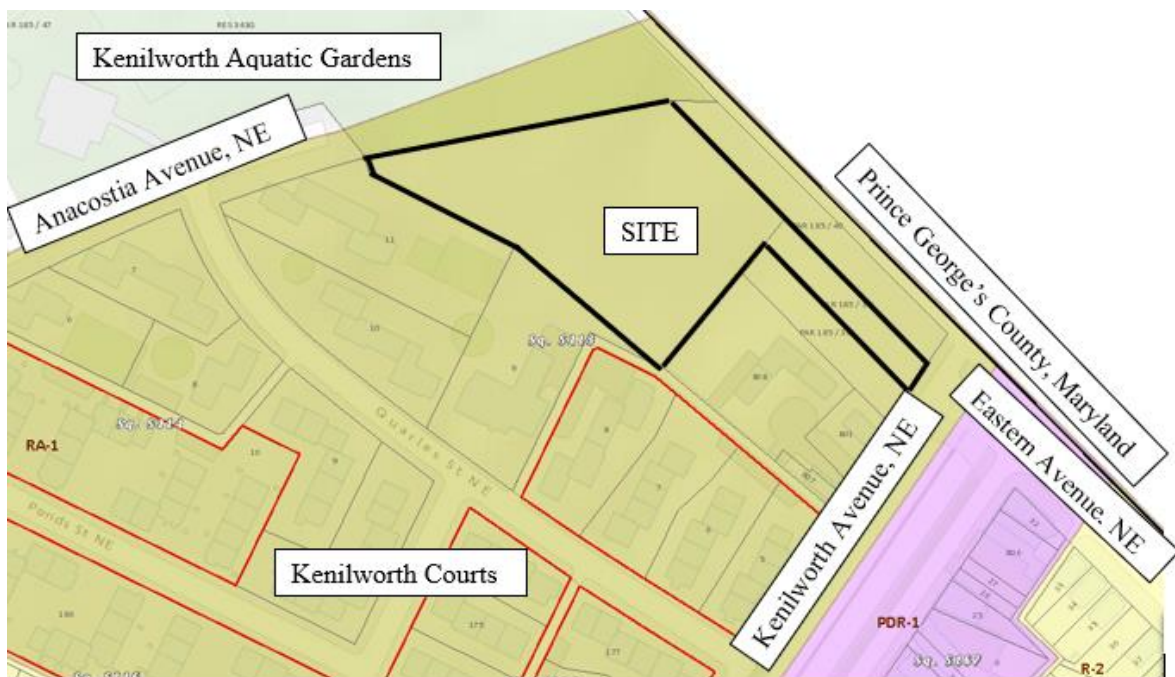
1. Increase building height and the number of stories;
2. Permit a senior's assisted living facility use within the RA-1 zone; and
3. Flexibility to the project's final design.

OP has recommended to the applicant that they provide screened-in outdoor spaces for residents, in addition to the other outdoors spaces proposed.

¹ Low-Income Housing Tax Credit program, an indirect federal subsidy to finance the construction of low-income rental housing.

III. SITE AND CONTEXT

- Legal Description:** Square 5113, Lot 806 and Parcel 185/38
- Property Size:** 122,975 square feet (2.82 acres)
- Zoning:** RA-1
- Ward, ANC:** Ward 7, ANC 7D
- Neighborhood Context:** Moderate-density public housing complex to the south and south east (subject of Zoning Commission Case 15-21), Kenilworth Aquatic Gardens to the northwest and industrial uses across Kenilworth Avenue to the east (Prince George’s County).
- Site Characteristics:** Vacant, partially clear-cut, partially wooded, partially asphalt-paved pipe stem-shaped property. The property has been used for illegal dumping. Much of the site is located within the 100-year floodplain. Access is from Kenilworth Avenue, N.E. southwest of Eastern Avenue, through the asphalt-paved portion of the site.



IV. PROJECT DESCRIPTION

The applicant proposes to construct a five-story, ‘U’-shaped, 155-unit affordable assisted-living facility (Exhibit 9A, Sheet 06, Perspective East & Sheet 08, Perspective North) on an undeveloped site on the northwest side Kenilworth Avenue, N.E., between Quarles Street and and unbuilt portion of Eastern Avenue (Exhibit 9A, Sheet 02, Location Map). Much of the site is located within the one-hundred year floodplain, and the building is proposed to be constructed in its entirety above the level of the five-hundred year floodplain level for the protection for the residents. A small area between the building and the principal access drive would be above the 100-year flood plain.

The base of the building is proposed to be a stacked stone veneer for the first floor, above which would be a variety of types of panels (Exhibit 9A, Sheets 25 and 26), including fibrous cement in colors ranging from off-white to black and orange, and a solid panel in a wood toned color. The building would be finished on the sides and rear in primarily grays and black with some yellow/orange accents, with the front consisting of the majority of the wood toned panels.

Beneath the west wing of the building would be twenty-six at-grade covered parking spaces. Adjacent to the east side of the building would be a gated area enclosed by a six-foot high fence for loading and refuse removal. When closed, the gates would screen views into the loading area from the access drive and Kenilworth Avenue and surrounding properties.

Access to the site would be via a 24-foot wide driveway with a 6-foot wide concrete sidewalk on the southwest side of the drive, connecting to the public sidewalk on Kenilworth Avenue (Exhibit 9A, Sheet 16, Post Devp. Plat). Future secondary vehicular access is proposed to be from a future Shaw Drive, currently a public alley, when the adjacent Kenilworth Courts public housing complex redevelops pursuant to approved ZC PUD Order 15-21 and 15-21A. A pedestrain boardwalk would connect the rear of the site with the public sidewalk on Anacostia Avenue, providing pedestrian access to Kenilworth Park and the Aquatic Gardens.

There would be no resident access to the roof of the building. Mechanical equipment would be located on the roof behind a mechanical screen set back a minimum of seven feet from the edge of the building. An emergency generator would be located on the roof, above the floodplain, in case of power outages to keep maintain lights, refrigeration, air conditioning, and essential services. Solar panels would be above the east and west wings, and a green roof would be provided above a portion of the covered porch at the main entrance of the building.

V. ZONING ANALYSIS

The subject property is zoned RA-1, permitting low to moderate-density residential development. The RA-1 zone permits a continuing care retirement community by special exception, pursuant to Subtitle U § 420.1(i). The applicant has also opted into the voluntary design review process of Subtitle X § 601.2, and the specific standards found in Subtitle X § 604, Design Review Standards.

The process allows concurrent Zoning Commission review of specific relief from the development standards for height, setbacks, lot occupancy, courts, and building transitions, but not from FAR, Inclusionary Zoning, or green area ratio. Pursuant to this provision, the applicant is requesting special exception relief to:

- a. To permit this use within the RA-1 zone; and
- b. Increase building height from forty to sixty feet, and number of stories from four to six (see table below).

To applicant has also requested limited design related flexibility, generally consistent with current flexibility requests.

The following table compares the proposal to the RA-1 zone:

	Zone: RA-1	Proposal	Relief
Lot Area	None Prescribed	122,975 square feet (2.82 acres)	None Required
Height F § 303.1	40 feet and 3 stories max.	60 feet and 5 stories	REQUIRED
Penthouse Height F § 303.2	12 feet and 1-story max.	7 feet and 1-story	None Required
Residential Units	None Prescribed	155	None Required
Floor Area Ratio F § 303.1 / C § 1002.6	1.08 max. ²	0.99	None Required
Lot Occupancy F § 304.1	40% max.	23%	None Required
Rear Yard F § 305.1	20-foot min.	>20 feet	None Required
Side Yard F § 306.1	3 inches/ foot of building height or 15-foot min.	>15 feet	None Required
Gross Floor Area	132,813 square-foot max.	121,174 square feet	None Required
Parking C § 701.5	1/3 units reduced by 50% for a site < 0.5 mile from a Metrorail station or 26 spaces min.	26 spaces	None Required
Green Area Ratio F § 307.1	0.4 min.	0.4	None Required

Flexibility from the following bulk regulations is requested as a part of the process.

Building Height and Number of Stories: The applicant requests flexibility to increase the building height by twenty feet, from forty to sixty feet, and to increase the number of floors from three to five. Although the height of the building is proposed to increase, the building would not exceed the maximum permitted floor area ratio (FAR).

The requested increase in height and stories, would allow the applicant to reduce the impact this building would have on the floodplain, while allowing the applicant to design a building the size of which would otherwise be permitted on the site. At the proposed height, it would not be incompatible with the approved multi-family buildings to the southeast across proposed Shaw Street and on the adjacent property to the southeast (Kenilworth Park Apartments), at four-stories and a maximum of 50 feet in height.

VI. OFFICE OF PLANNING ANALYSIS

1. 604 DESIGN REVIEW STANDARDS

604.1 The Zoning Commission will evaluate and approve or disapprove a design review application subject to this chapter according to the standards of this section and for Non-Voluntary Design Reviews subject to this chapter according to the standards stated in the provisions that require Zoning Commission review.

² The maximum permitted FAR in RA-1 is normally 0.9. The regulations allow an affordable project that is not subject to IZ to utilize the IZ 20% density bonus, pursuant to C § 1002.6.

604.2 *For non-voluntary design review, the application must also meet the requirements of the provisions that mandated Zoning Commission approval.*

Not applicable. The subject application is for Voluntary Design Review.

604.3 *The applicant shall have the burden of proof to justify the granting of the application according to these standards.*

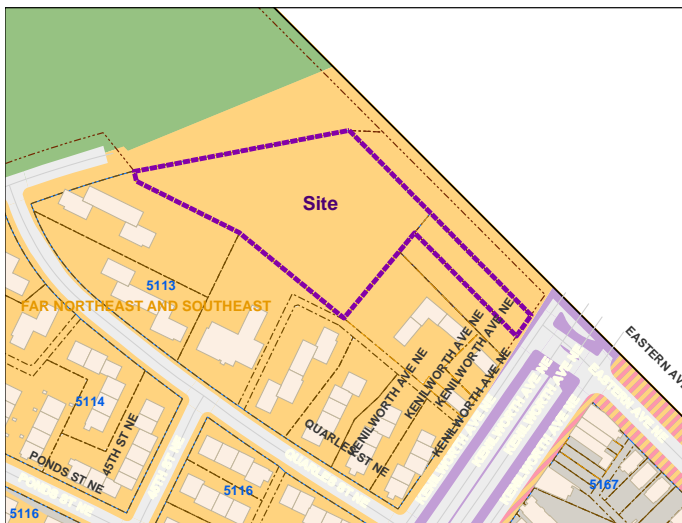
604.4 *The applicant shall not be relieved of the responsibility of proving the case by a preponderance of the evidence, even if no evidence or arguments are presented in opposition to the case.*

The Statement in Support (Exhibit 2) is the applicant’s submission of evidence to prove the case.

604.5 *The Zoning Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.*

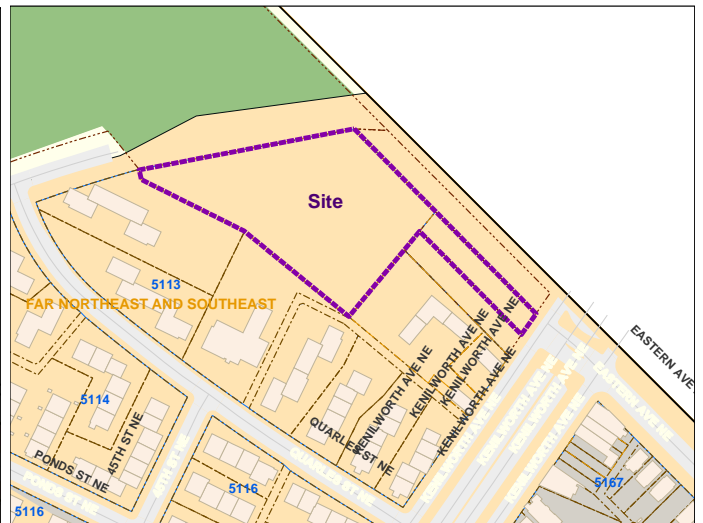
The proposed development is not inconsistent with the following policies of the Comprehensive Plan:

Maps:



Future Land Use Map (FLUM)

The existing zoning and the proposed development are not inconsistent with the FLUM, which designates the site for moderate density residential development.



Generalized Policy Map (GPM)

The proposed development is also not inconsistent with the GPM which designates the site a Neighborhood Enhancement Area, areas with substantial amount of vacant residential land where “new development “fits in” and responds to the existing character, natural facilities and existing/planned infrastructure capacity.” 223.6

Chapter 3, Land Use

Policy LU-1.3.3: Housing Around Metrorail Stations

Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations. 306.12

Policy LU-1.3.3: Housing Around Metrorail Stations

Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations. 306.12

Policy LU-1.4.1: Infill Development

Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern. 307.5

Policy LU-1.4.2: Long-Term Vacant Sites

Facilitate the reuse of vacant lots that have historically been difficult to develop due to infrastructure or access problems, inadequate lot dimensions, fragmented or absentee ownership, or other constraints. Explore lot consolidation, acquisition, and other measures which would address these constraints. 307.6

As a poorly maintained, long vacant pipe-stem infill site approximately 0.37 miles from the Deanwood Metrorail Station, the proposal to construct an all affordable assisted living facility for seniors would meet a need within this East of the River community. The proposed building would complement the existing and proposed multi-family buildings to the south and east, and put to use a site currently characterized by illegal dumping and tree clearing. The development would include vehicular and pedestrian access to Kenilworth Avenue and Shaw Drive (future street to the south within Kenilworth Courts), and provide pedestrian access to Anacostia Avenue.

Chapter 5, Housing Element

Policy H-1.1.3: Balanced Growth

Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. 503.4

Policy H-1.1.5: Housing Quality

Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance and should

address the need for open space, recreational amenities and respect the design integrity of adjacent properties and the surrounding neighborhood. 503.6

Policy H-1.2.1: Affordable Housing Production as a Civic Priority

Establish the production of housing for low- and moderate-income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city. 504.6

Policy H-1.2.2: Production Targets

Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in the city over the next 20 years should be affordable to persons earning 80 percent or less of the areawide median income (AMI). Newly produced affordable units should be targeted towards low-income households in proportions roughly equivalent to the proportions shown in Figure 5.2. 504.7

Policy H-1.3.3: Assisted Living and Skilled Nursing

Promote the development of assisted living and skilled nursing facilities. Zoning and health regulations should be designed to promote an increase in supply, security, and affordability of housing for the elderly. 505.8

Policy H-4.2.2: Housing Choice for Seniors

Provide a wide variety of affordable housing choices for the District's seniors, taking into account the income range and health-care needs of this population. Recognize the coming growth in the senior population so that the production and rehabilitation of publicly-assisted senior housing that meets universal design standards becomes a major governmental priority. Acknowledge and support the establishment of Senior Villages throughout the city that allow seniors to remain in their homes and age in-place. 516.8

Policy H-4.2.3: Neighborhood-Based Senior Housing

Encourage the production of multi-family senior housing in those neighborhoods characterized by large numbers of seniors living alone in single family homes. This will enable senior residents to remain in their neighborhoods and reduce their home maintenance costs and obligations. 516.9

The proposed building would be the second senior assisted-living facility within the District east of the Anacostia River. Utilizing LITHC as a source of funding, the applicant would be able to provide affordable senior housing to seniors living within the surrounding neighborhoods at 60 percent median family income (MFI), in support of the District's goal of providing neighborhood-based housing for senior citizens within a new building.

Environmental Protection Element

Policy E-1.2.3: Retention of Environmentally Sensitive Areas as Open Space

Retain environmentally fragile areas such as wetlands and riparian areas along the Anacostia and Potomac Rivers as open space or parkland. In areas under federal jurisdiction such as Rock

Creek Park, work with the National Park Service to conserve and carefully manage such areas, and to implement an effective “no net loss” policy. 604.5

Policy E-1.2.4: Identification, Protection, and Restoration of Wetlands

Identify and protect wetlands and riparian habitat on private and public land. Require official surveys when development is proposed in areas where wetlands are believed to be present to ensure that wetlands are preserved. Undertake wetlands restoration, enhancement, and creation projects to mitigate the impacts of stormwater runoff and improve plant and animal habitat. 604.7

Policy E-1.5.3: Habitat Management on Private Land

Encourage environmentally sound landscaping and gardening techniques by DC homeowners and institutional landowners to maximize the habitat value of privately owned land. Such techniques should include reduction of herbicide and pesticide use; the selection of disease, drought-resistant, and native species; the removal of invasive plants; the use of rain gardens to reduce urban runoff; and landscaping that provides food and cover for wildlife. 607.5

Policy E-3.1.1: Maximizing Permeable Surfaces

Encourage the use of permeable materials for parking lots, driveways, walkways, and other paved surfaces as a way to absorb stormwater and reduce urban runoff. 613.2

Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff

Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 613.3

Policy E-4.7.4: Flood Plains

Restrict development within FEMA-designated flood plain areas. Consistent with the Federal Elements of the Comprehensive Plan, prohibit activities within these areas that could pose public health or safety hazards in the event of a flood. Regulation of land uses in flood plains, waterfronts, and other low-lying areas should consider the long-term effects of global warming and sea-level rise on flood hazards. 624.7

Although the site is largely within the defined flood plain area, the building is design to exceed requirements for new buildings, and a large portion of the site would remain undeveloped, with improved wetlands and open space. A large portion of the site would be pervious surface, and the proposed structure would include green roof and solar panels over sections of the building. All off-street parking would be provided beneath the building, minimizing impervious surface.

Economic Development Element

Policy ED-2.4.1: Institutional Growth

Support growth in the higher education and health care sectors. Recognize the potential of these industries to provide employment and income opportunities for District residents, and to enhance the District’s array of cultural amenities and health care options. 710.3

Policy ED-2.4.2: Secondary Benefits

Promote the development of local businesses and enterprises that rely on the concentration of universities and health care institutions in the city, including both firms that provide supplies to these industries, and firms that benefit from their knowledge and research capacity. 710.4

The establishment of an assisted-living facility at this location would provide employment within the District for those skilled in health care services for the elderly. The applicant estimates that the facility would employ approximately 80 people.

Parks, Recreation and Open Space Element

Policy PROS-4.3.3: Common Open Space in New Development

Provide incentives for new and rehabilitated buildings to include “green roofs”, rain gardens, landscaped open areas, and other common open space areas that provide visual relief and aesthetic balance. 819.5

Policy PROS-4.3.5: Residential Yards

Recognize the value of residential yards as a component of the city’s open space system and discourage increased coverage of such areas by buildings and impervious surfaces. 819.7

Within the rear yard of this residential building, within the one-hundred-year floodplain and facing Kenilworth Aquatic Gardens, the site would include rehabilitated wetlands, including a wetland overlook with informational signage and picnic area, a bald cypress grove, and an elevated boardwalk for resident access through the area and to the Aquatic Gardens beyond.

At the front of the building the site would be landscaped with combination of ornamental, shade and evergreen trees shrubs, screening the subject property from the rear yard of the adjacent small apartment complex.

Community Services and Facilities Element

Policy CSF-2.3.1: Senior Care Facilities

Establish new senior centers in areas that have large elderly populations, particularly neighborhoods in Upper Northwest and Far Northeast. These centers could be co-located in community health facilities or near other public facilities such as libraries or elementary schools to increase the interaction and learning between senior citizens, youth, and others. 1108.3

The application proposes the establishment of a new senior assisted living facility for the elderly within the Far Northeast section of the city.

Far Northeast & Southeast Area Element

Policy FNS-1.1.2: Development of New Housing

Encourage new housing for area residents on vacant lots and around Metro stations within the community, and on underutilized commercial sites along the area’s major avenues. Strongly encourage the rehabilitation and renovation of existing housing in Far Northeast and Southeast, taking steps to ensure that the housing remains affordable for current and future residents. 1708.3

Policy FNS-2.2.4: Deanwood Metro Station

Provide for new moderate density housing in the vicinity of the Deanwood Metrorail Station, and expanded neighborhood-serving commercial uses along Kenilworth Avenue NE. Ensure that appropriate buffers are provided between new development and the adjacent residential areas.
1712.8

This proposal is for the establishment of new senior citizen housing that would be available to current and future residents of the community. Proposed to be affordable at sixty percent MFI, the development of this vacant underutilized site on Kenilworth Avenue would provide moderate-density housing within walking distance of the Deanwood Metrorail station.

A landscape buffer would be planted between the subject property and the existing Ken Park Apartments.

Comprehensive Plan Analysis Summary:

On balance, the proposal would be not inconsistent with the Comprehensive Plan, including the map and the policies of multiple individual elements. Potential concerns regarding the placement of a residential development within a floodplain have been mitigated through design and siting of the building, including the placement of all floors above the 500-year flood plain level, and the establishment of natural wetlands and other open space on much of the site. This potential concern is further offset by the benefit of the provision of a much needed subsidized seniors housing facility.

604.6 The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9.

The proposed development should not adversely affect the use of surrounding properties. As a five-story multi-family building, it would be similar and consistent with the surrounding existing and proposed multi-family apartment buildings to the south and east. The landscaping proposed for the rear yard of the building would be appropriate and would complement the adjoining Kenilworth Aquatic Gardens. To the northeast, across the proposed right-of-way for Eastern Avenue, is an industrial site within Prince George’s County, but the subject site is well separated and screened from it.

604.7 The Zoning Commission shall review the urban design of the site and the building for the following criteria:

(a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:

- (1) Multiple pedestrian entrances for large developments;***
- (2) Direct driveway or garage access to the street is discouraged;***
- (3) Commercial ground floors contain active uses with clear, inviting windows;***
- (4) Blank facades are prevented or minimized; and***
- (5) Wide sidewalks are provided;***

Three pedestrian access points are proposed; one from Kenilworth Avenue, one from the future Shaw Drive and a third to Anacostia Avenue through the rear of the site. Vehicular access would be either from Kenilworth Avenue or Shaw Drive, pending the reconstruction of that alley to a street. Garage access would be from the private drive within the site and not directly from any public street. Sidewalks would be six feet in width and windows would be provided on all sides of the building. Blank facades would be minimal, primarily proposed only along those portions of the building dedicated to stairwells. No commercial space is proposed.

(b) *Public gathering spaces and open spaces are encouraged, especially in the following situations:*

- (1) *Where neighborhood open space is lacking;***
- (2) *Near transit stations or hubs; and***
- (3) *When they can enhance existing parks and the waterfront;***

The rear yard of the property is proposed to be a landscaped area. An outdoor terrace would be provided in the rear yard, as would a terrace above the main entrance for use by residents. A boardwalk would be provided through the rear yard floodplain area, providing residents access to the park area beyond.

(c) *New development respects the historic character of Washington's neighborhoods, including:*

- (1) *Developments near the District's major boulevards and public spaces should reinforce the existing urban form;***
- (2) *Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and***
- (3) *Development should respect and protect key landscape vistas and axial views of landmarks and important places;***

The site is located close to, but not directly on, the Anacostia Freeway and Kenilworth Avenue NE. Development of this infill site would generally reflect without copying the existing and proposed urban form of the Kenilworth Courts housing complex and the Ken Park Apartments, each developed with surrounding green space. The rear of the property, facing Anacostia Aquatic Gardens, is proposed to be landscaped with plantings appropriate and conducive to wetlands and floodplain, protecting and enhancing the natural landscape.

(d) *Buildings strive for attractive and inspired façade design, including:*

- (1) *Reinforce the pedestrian realm with elevated detailing and design of first (1st) and second (2nd) stories; and***
- (2) *Incorporate contextual and quality building materials and fenestration;***

Although minimally visible from the street, the first floor would have an outdoor terrace for use of the residents and the front would have an outdoor terrace on the second floor, increasing the level of activity outside of and around the building.

The building incorporates fenestration on each façade. Large areas of blank walls are minimized, consisting only of areas occupied by stairwells, where the façade would be varied in both color and materials to create and maintain visual interest. Rooms without need for exterior windows, such as janitorial closets, are proposed to be located within interior areas of the building, preserving windows for other uses within the building, such as resident common areas and office space.

(e) Sites are designed with sustainable landscaping; and

Much of the site is located within the 100-year floodplain. The site and landscape plan includes reed canary grass and a wetland overlook on the southern portion of the site. An evergreen hedge along the southeast boundary of the site would serve to block headlight glare into the rear of the adjoining Ken Park Apartments property. The applicant continues to work closely with DOEE on stormwater management and floodplain issues.

(f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

(1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;

The development is proposed to be connected to the surrounding sidewalk system, with connections to Kenilworth Avenue, the future Shaw Drive and Anacostia Avenue via the boardwalk system at the rear of the site.

(2) The development incorporates transit and bicycle facilities and amenities;

The Deanwood Metrorail station is 0.37 miles from the site, so within easy access for employees, visitors, and residents. It is accessible via Metrobus Route U7, which provides bus service between the Deanwood Metrorail station and Kenilworth Avenue. A 6-foot wide sidewalk along the site's access drive would connect the property to transit service on Kenilworth Avenue and the Metrorail system. Long and short-term bicycle parking would be provided on-site as required by the Zoning Regulations.

(3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;

Six-foot wide sidewalks are proposed along the private within the property and a boardwalk is proposed to connect the rear of the property through the floodplain to Anacostia Avenue, raised for the protection of the pedestrians making use of it. Sidewalks would run along the internal private drive, providing visibility to pedestrians along the access road, and along the south side of the building, connecting with the boardwalk.

(4) Large sites are integrated into the surrounding community through street and pedestrian connections; and

The site is proposed to connect to Kenilworth Avenue and the future Shaw Drive into the to-be rebuilt Kenilworth Courts community, for both vehicles and pedestrians. Pedestrian access to Anacostia Avenue, including residences and parkland to the northwest, would connect via the proposed boardwalk.

- (5) ***Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.***

Not applicable.

604.8 *The Zoning Commission shall find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site.*

The proposal would allow the development of a long vacant site in poor condition with a use that would provide a source of affordable seniors housing and in a form that is consistent with existing and proposed surrounding development. In addition to providing needed housing for the elderly, the applicant would clean and restore the floodplain and wetlands on site. Although taller than otherwise permitted as a matter-of-right within the RA-1 zone, the increased height would permit the applicant to reduce the footprint of the building without losing density anticipated in the zone for affordable senior housing units, protecting the floodplain to the extent possible and increasing accessibility to natural features.

2. Special Exception Relief

420 SPECIAL EXCEPTION USES (RA)

420.1 *The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:*

- (i) ***In the RA-1 and RA-6 zones, a continuing care retirement community subject to the conditions of Subtitle U § 203.1(f), except for 203.1(f)(3)***

The application requests special exception approval for a continuing care retirement community, specifically an assisted living facility, within the RA-1 zone. A review of the application against the above listed criteria is listed below.

U § 203.1 SPECIAL EXCEPTION USES – R-USE GROUPS A, B, AND C

203.1 *The following uses shall be permitted as a special exception in R-Use Groups A, B, and C, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to applicable conditions of each section:*

- (f) ***Continuing care retirement community, subject to the provisions of this paragraph:***

- (1) ***The use shall include one or more of the following services:***

- (A) ***Dwelling units for independent living;***
- (B) ***Assisted living facilities; or***
- (C) ***A licensed skilled nursing care facility;***

The application is for an assisted living facility.

- (2) ***If the use does not include assisted living or skilled nursing facilities, the number of residents shall not exceed eight (8);***

Not applicable. The proposed use is an assisted living facility.

- (3) ***The use may include ancillary uses for the further enjoyment, service, or care of the residents;***

The plans indicate that the proposed building includes ancillary uses typical of a facility such as this, including staff areas, a dining room, small general store for residents, hair salon, activity rooms, library, gym, and communal seating areas. The plans also indicate walkways and outdoor seating areas. To make one outdoor area more year-round, OP has recommended to the applicant that they provide screened-in outdoor spaces for residents.

- (4) ***The use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors;***

The application proposes to provide 26 off-street parking spaces, as required by the Zoning Regulations and therefore sufficient to service the use. In addition, 51 long-term and 8 short-term bicycle parking spaces are proposed, as required.

- (5) ***The use, including any outdoor spaces provided, shall be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions; and***

The building and the outdoor recreation areas for the senior residents would not become objectionable to adjacent properties, and would be well screened. As a multi-family building dedicated as an assisted living facility, it will be similar to the existing and proposed multi-family buildings to the south. Designed with outdoor space appropriately landscaped for the one-hundred-year floodplain at the rear of the proposed building facing Kenilworth Aquatic Gardens, the use should not become objectionable to surrounding properties.

All loading and refuse storage would be located on the north side of the building, away from any adjacent residential uses and facing the possible future extension of Eastern Avenue and industrial uses within Prince George's County. On-site parking would be provided beneath the building on the ground level. Therefore, the use should be compatible with neighboring properties.

- (6) ***The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.***

OP recommends the applicant provide screen-in outdoor areas for residents for their comfort and protections during the warmer months of the year.

3. Standard Design Flexibility

The applicant requests design flexibility (Exhibit 9) reflecting the language contained in Zoning Commission Case 19-05, a text amendment that would establish standard design flexibility language. That case was set down by the Commission on March 25, 2019. As that text amendment is still under review, the applicant separately requests this design flexibility language be made a part of any approval of the subject application. The language allows for flexibility such as for the color of exterior materials but not flexibility on the materials themselves; and

flexibility to vary the number of residential units by up to ten percent but not the square footage of dedicated to residential units or to affordable units.

OP recommends the Commission grant the requested flexibility as it will allow the applicant to make minor changes to the plans as the applicant prepares the plans for permit review.

VII. AGENCY COMMENTS

OP requested comments from the following agencies:

District of Columbia Office on Aging (DCOA);

Department of Housing and Community Development (DHCD);

Department of Energy and Environment (DOEE);

District Department of Transportation (DDOT).

and the following divisions in the Office of Planning:

- Neighborhood Planning;
- Historic Preservation; and
- Urban Design.

The Historic Preservation and Neighborhood Planning had no comments.

The Urban Design Division provided the applicant with the following comments at the interagency meeting of April 15, 2019:

1. Include a walking loop around the property and contained within the property;
2. Include benches through the site and along the walking loop;
3. Include screened outdoor spaces;
4. No EIFS or hardy plank for exterior materials.

DOEE submitted an email with detailed and generally supportive comments to OP dated May 28, 2019, included in this report as Attachment 1.

OP hosted interagency meetings on April 15, 2019 and May 15, 2019, inviting representatives of the above-mentioned agencies to participate. Those discussions are reflected in this report.

No comments from other agencies were received by OP or filed to the record as of the date of the filing of this report.

VIII. COMMUNITY COMMENTS

ANC 7D, at its duly noticed special meeting of March 26, 2019, voted in support of the application (Exhibit 4).

ATTACHMENT I - DOEE COMMENTS

Stormwater and Erosion and Sediment Control:

- We commend the applicant for providing conceptual drawings to meet Stormwater, Erosion and Sediment Control, and Green Area Ratio permit requirements.
- DOEE also commends the developer for including solar PV and would encourage them to maximize the roof space available for both solar and stormwater management features. Solar mounted above green roof is allowed under both GAR and stormwater retention requirements given the appropriate spacing, and could be pursued here. With the site located in the Anacostia Waterfront Development Zone, we recommend that the project attempt to meet the 1.7” storm event. Any stormwater volume captured above the 1.2” storm can be registered as Stormwater Retention Credits and be sold to other sites in need of meeting their stormwater retention requirements.
- A more substantial, full regulatory compliance review by DOEE and other appropriate agencies, including the Environmental Impact Statement Form process, Stormwater Management Permit review, and Green Building Act and DC Green Construction Code compliance, will occur during the permit application process.

Wetlands and Streams:

The US Army Corps of Engineers (USACE) visited the site with the consultant, developer, and DOEE on May 15th, 2019 to begin the jurisdictional determination (JD) process. To date, USACE has not issued their JD letter, however the wetlands on-site will most likely be considered federally jurisdictional. DOEE will consider all wetland areas, including the small additional section of reed canary grass on the southern portion of the site, as District-jurisdictional waters. This project will require a Clean Water Act (CWA) Section 404 permit from the USACE and a CWA Section 401 Water Quality Certification (WQC) from DOEE.

All impacts to District-jurisdictional waters must be first avoided, then minimized to the greatest extent practicable. Impacts to wetlands and streams that are unavoidable will require compensatory mitigation.

To begin the 404/401 permitting process you will need to submit the attached joint state/federal permit application (even though it says MD, it is also for DC) and accompanying documents to Kathy Anderson (kathy.anderson@usace.army.mil) and Steve Harman (Steve.Harman@usace.army.mil) at the Corps Baltimore District and copy Jennifer Dietzen (Jennifer.dietzen@dc.gov). Suggested information to include in the permit application includes:

- A detailed description of the proposed project, location of the project site, and the amount of proposed impacts (in linear and square feet) to wetlands and or streams
- An analysis of practicable alternatives must be provided that describes the site selection process, including documentation of reasons why other sites were not selected, and alternatives that demonstrate avoidance and minimization to the greatest extent practicable
- A wetland and stream delineation report and map for the entire site, including all limits-of-disturbance

- Site plans and cross-sections that includes wetland and stream boundaries, and existing and proposed conditions
- Representative photos of the affected wetlands and streams
- A functional assessment of the wetlands
- Completed data sheets in accordance with the US Army Corps of Engineers Wetland Delineation Manual and Regional Supplements
- USACE and DOEE will ask for additional information, depending on the project and proposed impacts to wetlands and/or streams
- Proposed compensatory mitigation for wetland and stream impacts, including a description and documentation of the site selection process

Floodplain and Green Building

- Developer agreed, due to vulnerable population the facility is intended to house, to design to the 500-year standard by elevating the lowest floor of the facility to the 500-year flood elevation
- Designs should demonstrate that access to the building will be preserved in a 500-year flood event for emergency services to get in and out as needed
- Floodplain regulations are in the process of being revised. The revision will likely classify this facility as a critical facility which could have additional requirements and possibly need to relocate outside of flood hazard areas when substantial improvement is planned in the future.
- A Hydrologic and Hydraulic analysis will be needed to demonstrate there is no increase in base flood elevation or adverse impact to other properties
- Elevation and floodproofing certificates will be required, as applicable
- The project will need an approved Conditional Letter of Map Revision before floodplain approval of permit review.
- Given the at-risk nature of the intended residents, DOEE strongly encourages the developers to consider climate resilience in the designs. Most importantly, utilizing solar photovoltaic and battery storage with an islandable microgrid to allow a portion of the property to serve as a resilience hub in the face of power outages – keeping the lights on, providing a place to keep medication refrigerated, maintaining space conditioning, and providing essential services. Passive resiliency could also be designed to include operable windows and solar shading to allow the residents to shelter in place in the face of a utility outage or extreme weather event.