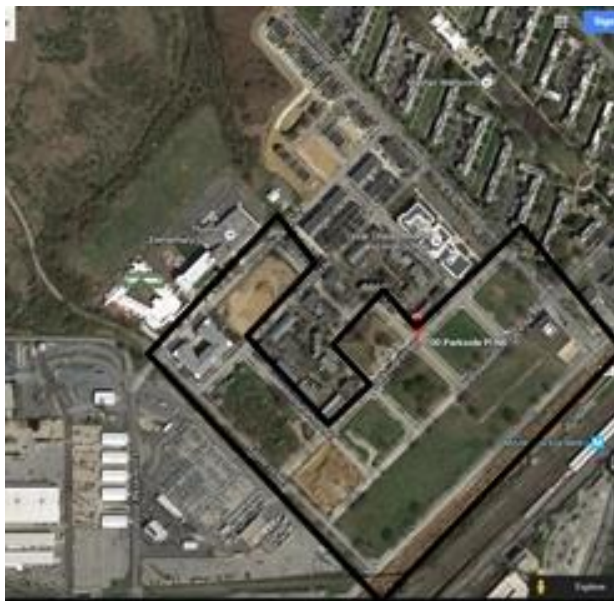


MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: November 17, 2017
SUBJECT: Fourth Extension Request: PUD Case 05-28U

Applicant	Lano Parcel 12, LLC
Legal Description	Approximately 15.5 acres of land in North East with frontage on Kenilworth Avenue, Foote Street, Anacostia Avenue, Barnes Street, Grant Place, Parkside Place, Roosevelt Place, Burnham Place, Kenilworth Terrace and Hayes Street.
Ward, ANC	Ward 7, ANC 7D
Project Summary	Mixed-use project including a variety of residential types, retail and office space. ZC 05-28 granted first-stage approval. Five second-stage applications were approved since the last extension.
Order Effective Date	April 13, 2007
1 st Extension Expiration	October 3, 2013 (05-28H)
2 nd Extension Expiration	October 3, 2015 (05-28L)
3 rd Extension Expiration	October 3, 2017 (05-28O)
Recommendation	Approval of a fourth two-year extension, subject to the requirement that all remaining second-stage applications be in conformance with all current regulations, including housing and environmental regulations.



Google 2015



Bing Maps 2017

EVALUATION OF THE EXTENSION REQUEST

Subtitle Z, § 705.1

The extension of a PUD is allowed for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Zoning Commission determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond.**

The application includes a certificate of service (Exhibit 3) dated October 23, 2017, indicating it was served on the ANC and Parkside Townhomes, the only parties to the first-stage approval, and were allowed thirty days to respond.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission’s justification for approving the original PUD.**

Zoning Regulations

The first-stage PUD was approved under the 1958 Zoning Regulations and this extension request is being procedurally reviewed under the 2016 Zoning Regulations. The criteria for which an extension request is reviewed are the same under both sets of regulations. However, the permitted number of time extension requests has changed. Under Subtitle Z § 705.5, no more than two extensions may be requested for a PUD and the second extension may be approved for no more than one year. The subject application is the fourth extension request and an extension of two years is requested. The applicant requests a waiver from Subtitle Z, § 705.5, Time Extensions (see page 4).

Changes to the Zoning Regulations since the adoption of the first-stage approval include Inclusionary Zoning (IZ) and Green Area Ratio (GAR). Subtitle U Sec. 407.3 requires a GAR of 0.2 for the MU-10, the PUD related zoning for the remaining vacant parcels for which there is no valid second-stage approval, bringing any future development in line with current regulations, minimizing its impact on the environment to the benefit of the neighborhood and the city as a whole. One of the vacant parcels, Block G, is designated for use as residential under the first-stage approval. As this PUD has been under development for more than a decade, the development of this site under current regulations would bring it in line with other residential developments throughout the city and ensure that it would better meet the needs of District residents.

Comprehensive Plan

The current Comprehensive Plan took effect on March 14, 2007, after the filing date of ZC Case 05-28 on August 31, 2005. Since then the Comprehensive Plan has been revised and amended, resulting in substantial changes to the material facts upon which the project was originally approved. An Environmental Protection Element was added, encouraging low impact development by retaining stormwater, promoting green building techniques and ensuring that the environmental impacts of a development are mitigated and monitored through the implementation of things such as green roofs, permeable surfaces, urban gardening and solar panels. Since the approval of the first-stage plan, the Sustainable DC Plan (07-2011) and the Green Building Act (12-2006) were adopted.

Projects are now required to meet fifty percent of the stormwater retention requirement on-site, with the remaining retention attained through buying or trading stormwater credits or an in-lieu fee. Solar panels can be installed above the mechanical penthouses of multi-family and office buildings, resulting in more resilient and economically progressive projects.

The Housing Element recommends the creation of affordable housing stock for low and moderate-income households and expansion of homeownership opportunities. Requiring the last residential building to conform to IZ would ensure that it would be consistent and on par with all other residential buildings constructed throughout the District.

Surrounding Development

Substantial new development has been constructed near the site since the project was approved. This development was anticipated at the time of the PUD's first-stage approval and does not affect the material facts upon which it was approved.

The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.2 (c)

One or more of the following criteria must be met:

- (1) An inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;*
- (2) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
- (3) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.*

The applicant secured approval and completed construction of second-stage applications for blocks A, B, C, D, E and I-1. Within the past year, the applicant obtained second-stage approval for blocks F (parcels 8, 9 and 10), J and H-1. Construction of the building proposed for Block J is expected to begin in 2018, and for the remainder of the recently approved second-stage applications prior to 2020. Second-stage approval is needed for the remaining three parcels (blocks G, H-2 and I-2). Construction of the pedestrian bridge is expected to commence in 2018, with completion in 2020.

OP concludes that, although the applicant demonstrated substantial evidence of good cause for the extension and recommends the Commission grant the request, the extension should be conditioned on the requirement that any new second-stage approvals be subject to all current environmental and housing regulations.

Subtitle Z Section 705.5

The size of the 15.5 acre Parkside planned unit development, as well as changed market conditions east of the river for residential, retail and office space since the development received first-stage approval, led to several extension requests. Improved market conditions led to the filing of five

second-stage applications within the past year, all approved by the Commission, demonstrate the applicant's commitment to the completion of the Parkside community. In June 2017, the applicant met with OP concerning the potential filing of a sixth application for Block H-2.

ZC Order 05-28, the first-stage approval granted by the Commission on June 12, 2006, stated "*the first-stage approval is valid for a period of one year, within which time a second-stage application shall be filed. If the second-stage application is for less than the entire development described in this Order, no subsequent second-stage may be filed after three (3) years from date of approval of the partial second-stage.*" Although the order indicated that it is within the Commission's discretion to extend these periods, the subject application is a fourth extension request over a span of more than eleven years.

An additional two years, for a total of thirteen, is now requested by the applicant to better phase the remaining retail, residential and office space into this submarket, avoid flooding the submarket with space it would be unable to absorb in the short term, and improve the ability to obtain the necessary financing for construction without exceeding market demand in the short term. In the interest of realizing the complete redevelopment of the Parkside community, OP recommends the Commission waive the provisions of this section to permit a fourth extension for a period of two years.

JS/sjm^{AICP}

Stephen J. Mordfin, AICP, Case Manager: