

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** October 30, 2015

**SUBJECT:** Third Extension Request – PUD Case 05-28 ‘O’

Applicant	Lano Parcel 12 LLC and Parkside Residential LLC
Location	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 that includes a variety of residential types, retail and office space. Case 05-28 provided first-stage approval.
Order Effective Date	April 13, 2007
1 <sup>st</sup> Extension Expiration	October 3, 2013
2 <sup>nd</sup> Extension Expiration	October 3, 2015

**PHOTOS OF SITE**



**2013 Google**



**2015 Google**

**EVALUATION OF THE EXTENSION REQUEST**

Section 2407.11 of the Zoning Regulations states that *“The rights granted under such an approval are conditional, and shall be exercised within the specified time limit. Unexercised rights shall lapse at the end of the specified time periods, and the zoning shall revert to pre-existing conditions, unless a request to extend the validity of the approval is granted by the Commission in accordance with the standard and process for second-stage PUD extensions set forth in §§ 2408.10 through 2408.12.”*

Section 2408.10 allows for the extension of a PUD for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided the Zoning Commission determines 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 was served on the ANC and the Parkside Townhomes, the only parties to the First Stage approval, and they 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.**

Two first-stage extensions were granted by the Commission (05-28H and 05-28L), extending the approval by a total of four years to October 3, 2015. To date five second-stage approval applications have been granted (05-28A, dated 10-03-08; 05-28B, dated June 27, 2011; 05-28C, dated July 25, 2011; 05-28F, dated November 28, 2011 (expired and not built); and 05-28J/K, dated December 9, 2013) and first-stage modifications (05-28A and 05-28E, dated June 27, 2011) have been approved by the Zoning Commission.

**(c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in § 2408.11.**

Section 2408.11 sets out the conditions of good cause as:

- (a) 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;
- (b) 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
- (c) 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 has secured approval of second-stage applications for blocks A, B, C, D, E and I, and has completed construction on the senior citizen apartment building, the health clinic and the public park. Construction has commenced on the affordable apartment building and the townhouses, the applicant anticipates filing for second-stage review for blocks F and J in the fall of 2016 and is searching for a provider to replace CCDC in Block I. The applicant has not been able to secure an office provider for Block H as the demand for office space east of the river has not rebounded. Although this is the third extension request for this application, the Office of Planning concludes that the applicant has demonstrated sufficient cause for the extension, and is not opposed to the Commission granting the request.