

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
**FROM:** *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation  
**DATE:** November 8, 2019  
**SUBJECT:** Fifth Extension Request: PUD Case 05-28V, Parkside

Applicant	Lano Parcel 12, LLC
Legal Description	Square 5055, Lot 26
Ward, ANC	Ward 7, ANC 7D
Project Summary	Mixed-use project, including a variety of residential types, retail and office space. Case 05-28 provided first-stage approval.
Order Effective Date	April 13, 2007
Order Expiration	October 3, 2011
1 <sup>st</sup> Extension Expiration	April 13, 2013 (05-28H)
2 <sup>nd</sup> Extension Expiration	October 3, 2015 (05-28L)
3 <sup>rd</sup> Extension Expiration	October 3, 2017 05-28 (05-28O)
4 <sup>th</sup> Extension Expiration	October 3, 2019 (05-28U)
Request	Two-year extension of the first-stage PUD approval to October 3, 2021

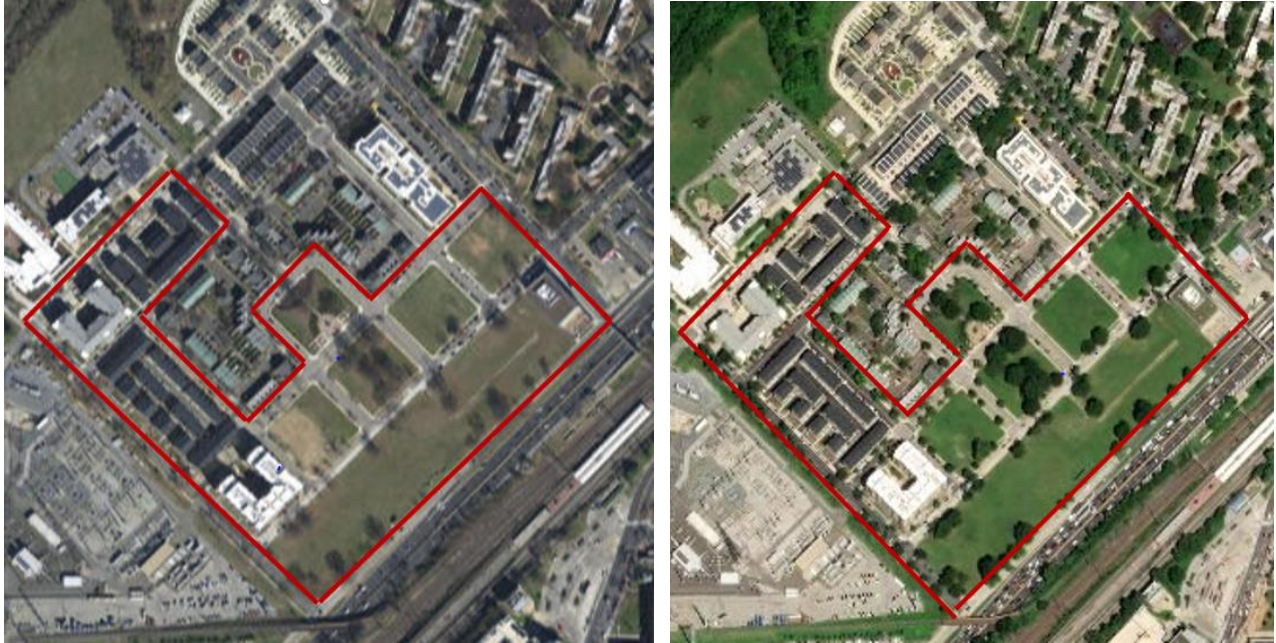
**I. RECOMMENDATION**

OP recommends **approval** of a fifth two-year extension, subject to the following requirements that were included in PUD Case 05-28U, the last PUD extension approved by the Commission in 2017.

1. All remaining second-stage applications shall comply with the environmental regulations in effect at the time of the filing;
2. The residential building proposed by the first-stage approval on Block G shall include a minimum of 480 units, including 311 market rate units (approximately 65%) and 169 workforce units. Units constructed on Block G1 in excess of 480 shall be required to be affordable for a period of thirty years, pursuant to the first-stage approval, after which eight percent of the additional units in excess of 480 units would shall be required to be reserved as affordable in perpetuity, pursuant to the Inclusionary Zoning (IZ) provisions.

These requirements were incorporated in PUD Order 05-28U, the previous extension request, and OP recommends they be made a part of the order approving this application for the reasons as described below under Section III (b) below. should the Commission grant the extension request.

## II. PHOTOS OF THE SITE



**Figure 1-** Source: Zoom Earth, Esri HERE, Garmin. February 2017 **Figure 2–** Source: Zoom Earth, Esri HERE, Garmin. July 2018

## III. 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 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 includes a Certificate of Service (last page of Exhibit 3), dated October 3, 2019, indicating it was served on the ANC and the Parkside Townhomes Condo Association Inc., the parties to the original application and allowing for 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 pursuant to the 1958 Zoning Regulations and this extension request is being reviewed under the 2016 Zoning Regulations. The criteria under which an extension request is reviewed are the same under both sets of regulations. However, the permitted number of time extensions requests has changed. Subtitle Z § 705.5 permits that no more than two extensions may be requested for a PUD and a second extension may be approved for no more than one year. The subject application is the fifth extension request and is

requested for a period of two years. Therefore, the applicant requests a waiver from Subtitle Z § 705.5.

No changes to the Zoning Regulations have been adopted since the last extension was approved in 2017. However, changes to the Zoning Regulations since the adoption of the first-stage approval include IZ and Green Area Ratio (GAR). Subtitle U § 407.3 requires a GAR of 0.2 for MU-10, the PUD-related zoning for the last remaining vacant parcels in the PUD for which there is no valid second-stage approval. Requiring these parcels to conform to GAR would bring future development in line with current regulations, minimizing the impact on the environment to the benefit of the neighborhood and the city as a whole.

One of the vacant parcels, Block G1 (see Attachment below), is designated for residential use under the first-stage approval and as modified by PUD Case 05-28C. That approval requires a minimum of 480 units, including 311 market rate units (approximately 65%) and 169 workforce units. Units constructed on Block G1 in excess of 480 are required to be affordable for a period of thirty years, after which eight percent of the additional units in excess of 480 units would be required to be reserved as affordable in perpetuity, pursuant to IZ provisions.

As a PUD under development for more than a decade, the development of this site under the current IZ regulations would bring it in line with other residential developments throughout the District. Therefore, should the Commission grant this extension request, OP recommends it be subject to the IZ requirements, as was the last extension (ZC 05-28U), ensuring it would continue to 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 measures such as green roofs, permeable surfaces, urban gardening and solar panels.

The Sustainable DC Plan (07-2011) and the Green Building Act (12-2006) were adopted after the first-stage approval. Development 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 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 on Block G 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;*
- (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.*

Since the last extension was granted by the Commission no new second-stage applications have been filed or granted. However, since then the applicant has accomplished the following:

1. Obtained building permits for the 191-unit market rate multi-family building on Block J;
2. Begun construction of the 25 townhouses on Block F, parcels 8 and 10, with delivery beginning in September 2019;
3. Proposed filing a Modification of Consequence in November 2019 for the two multi-family buildings on Block F, parcels 8 and 10 and filing for building permits by June 2020; and
4. Issued a Notice of Intent to File a Zoning Application for a second-stage application and first-stage modification for an office use on Block I.

The applicant also anticipates an increase in the marketability of undeveloped portions of the PUD as a result of the following:

- A solicitation for the relocation of the Department of Housing and Community Development and the Mayor's Housing Initiative Order to construct 36,000 new dwellings by 2025;
- Issuance of a Request for Space by the Mayor for District government office space in Wards 7 and Ward 8; and
- Relocation of utilities, necessary for the construction of the new pedestrian bridge connecting Parkside with the Minnesota Avenue Metrorail station, began in the summer of 2019, with bridge completion anticipated in 2021, improving pedestrian access to Parkside.

Subtitle Z Section 705.5

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 fifth extension request over a span of more than thirteen years. Two additional years, for a total of fifteen, 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 fifth extension for a period of two years.

JS/sjm  
Stephen J. Mordfin, Case Manager

Attachment



Source: ZC Case 05-28C, Exhibit 4B