

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 05-28D**  
**Z.C. Case No. 05-28D**  
**Lano Parcel 12 LLC**  
**(Time Extension – First Stage Planned United Development)**  
**July 12, 2010**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on July 12, 2010. At the meeting, the Commission denied a request from Lano Parcel 12 LLC, Parkside Homes, LLC, and Parkside Residential LLC (the “Applicant”) for a time extension for an approved planned unit development (“PUD”) for Square 5041, Lots 47, 806-809, 811, 812, 814, 815, 818, 820, 822, 824, and 827 and Square 5055, Lots 14-25 and 801-803; Square 5056, Lots 806, 809, 810-814, and 821 (“Property”) pursuant to the District of Columbia Zoning Regulations.

**FINDINGS OF FACT**

1. By Zoning Commission Order No. 05-28 (“Order No. 05-28”), effective April 13, 2007, the Commission approved a first-stage PUD and related map amendment for the Property. The approved PUD is for a mixed-use project that will ultimately include 1,500 to 2,000 residential units, 500,000 to 700,000 square feet of office space, and 30,000 to 50,000 square feet of retail uses. The project is located in the Parkside neighborhood of Ward 7. The project includes an approved density of 4.44 floor area ratio (“FAR”), a building height of up to 110 feet, a lot occupancy of 62.4%, and approximately 2,400 parking spaces. Advisory Neighborhood Commission (“ANC”) 7D, the ANC in which the Property is located, was automatically a party in the case. The Commission also granted party status to Parkside Townhomes Condominium, Inc. as part of the original proceedings.
2. Condition 13 of Order No. 05-28 provides, “[t]he 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 application may be filed after three (3) years from the date of approval of the partial second-stage. It is within the Zoning Commission’s direction to extend these periods.” Effective October 3, 2008, the Commission approved the first second-stage application for three of the ten building blocks of the Parkside PUD. Order No. 05-28 therefore expires as to the remaining portions of the project on October 3, 2011.

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3. On June 4, 2010, the Applicant filed a request for a two-year extension of the PUD (the "Application"). The Application stated that the extension was necessary because of the extensive scope of the project and depressed conditions in the District real estate market. The Application described the progress made toward the development of the project so far, namely second-stage approval for development of three of the ten building blocks with a 98-unit senior living facility and 112 townhomes, a pending application for second-stage approval of two additional building blocks, and future plans for a third building block in the near future.
4. The Applicant served the request on ANC 7D and a representative of Parkside Townhomes Condominium, Inc. ANC 7D and Parkside Townhomes Condominium, Inc. had at least 30 days to respond to the Application. Neither party commented on the Application.
5. By report dated July 2, 2010, the Office of Planning ("OP") recommended denial of the two-year extension request. The report stated that because the expiration of the remaining portion of the PUD was more than a year away, it was premature to grant the extension because the economic and financial environment could change in that time, and the Application did not adequately justify approval of the PUD extension so far in advance of the expiration date.

### **CONCLUSIONS OF LAW**

First-stage PUDs are valid for a period of one year, unless a longer period is specified by the Commission, or unless the Commission extends that period. (11 DCMR § 2407.10.) The regulations do not explicitly provide any standards for the Commission to apply when deciding whether to extend a first-stage PUD, or processes to follow when considering such a request.

The Commission concludes the Applicant provided appropriate notice to the interested parties by serving all parties with a copy of the Application and allowing them 30 days to respond. This is the same period of time required for requests to extend second-stage and consolidated PUDs.

The Commission need not decide what substantive standard to apply to this request because it considers it to be premature and denies it on that basis. Over a year remains before the first-stage PUD will expire as to those portions of the project for which second-stage applications have not yet been filed. Economic and financial conditions could change dramatically in that time.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission agrees with OP's recommendation to deny the Application as premature.

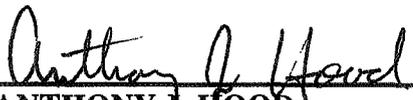
The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns expressed in the written report from the affected ANC. No report was submitted by ANC 7D.

**DECISION**

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS DENIAL** of the Application for a two-year time extension of the approved first-stage PUD in Zoning Commission Case No. 05-28, Order No. 05-28. This denial is without prejudice, and the Commission will consider future extension applications from the Applicant once the issue becomes ripe.

On July 12, 2010, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **DENIED** this Application at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to deny; Konrad W. Schlater, not present, not voting; the third Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register* on September 17, 2010.

  
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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
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JAMISON L. WEINBAUM  
DIRECTOR  
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



Z.C. CASE NO.: 05-28D

SEP 24 2010

As Secretary to the Commission, I hereby certify that on \_\_\_\_\_ copies of this Z.C. Order No.05-28D were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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|---|--|
| 1. D.C. Register  | 5. Councilmember Yvette Alexander  |
| 2. Phil Feola, Esq.<br>Christine Roddy, Esq.<br>Goulston & Storrs<br>2001 K Street, N.W., Suite 1100<br>Washington, D.C. 20006-1042 | 6. DDOT (Karina Ricks)   |
| 3. ANC 7D<br>Merritt School<br>5002 Hayes St., N.E.<br>Washington, DC 20019   | 7. Melinda Bolling, Acting General Counsel<br>DCRA<br>1100 4 <sup>th</sup> Street, S.W.<br>Washington, DC 20024  |
| 3. Commissioner Alisa A. Woods<br>ANC/SMD 7D07<br>3725 Cassell Place NE<br>Washington, DC 20019                                     | 8. Office of the Attorney General (Alan Bergstein)   |
| 4. Gottlieb Simon<br>ANC<br>1350 Pennsylvania Avenue, N.W.<br>Washington D.C. 20004   | 9. Parkside Townhomes Condominium, Inc.<br>c/o Richard Schmitt<br>Kass, Mitek & Kass PLLC<br>1050 17 <sup>th</sup> Street, N.W., Ste. 1100<br>Washington, D.C. 20036 |

ATTESTED BY:

Sharon S. Schellin  
Secretary to the Zoning Commission  
Office of Zoning