

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-28AI

Z.C. Case No. 05-28AI
Parkside Residential, LLC
(One-Year Time Extension for PUD @ Square 5056, Lots 868 & 869)
April 24, 2025

Pursuant to notice, at its April 24, 2025 public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered the application (“Application”) of Parkside Residential, LLC (“Applicant”) concerning Lots 868 and 869 in Square 5056 (“Parcel 9B”) for (i) a waiver from the Commission’s rules limiting applicants to requesting no more than two extensions of an approved PUD to allow a fourth time extension; and (ii) a one-year time extension to begin construction of the second-stage PUD (“Second-Stage PUD”) approved by Z.C. Order No. 05-28Q (“Second-Stage Order”), pursuant to the first-stage PUD (“First-Stage PUD”) approved by Z.C. Order No. 05-28 (“Original Order”). The Second-Stage PUD was previously extended by Z.C. Order No. 05-28W, Z.C. Order No. 05-28W(1), Z.C. Order No. 05-28AD, and Z.C. Order No. 05-28AG; and modified by Z.C. Order No. 05-28Z and Z.C. Order No. 05-28AC. The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedure, which are codified in Subtitle Z of Zoning Regulations (Zoning Regulations of 2016 [“Zoning Regulations”]), to which all subsequent regulatory citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to the Original Order, effective April 13, 2007 (“First-Stage Order Effective Date”), the Commission approved a first-stage PUD, together with a related Zoning Map amendment rezoning from the R-5-A and C-2-B to the C-3-A and CR zones, to construct approximately 3.1 million square feet of mixed-use development (“First-Stage PUD”) on 15 vacant acres in Ward 7 (“First-Stage PUD Site”).
2. Pursuant to Z.C. Order No. 05-28Q, effective March 23, 2018, the Commission approved the Second-Stage PUD for Parcel 9 authorizing Parcel 9 to be constructed with a multi-family residential building on Parcel 9B of a maximum height of 80 feet, and an office building on Parcel 9A of a maximum height of 85 feet, both with ground floor retail and approximately 151 below-grade parking spaces.

3. Pursuant to Z.C. Order No. 05-28Z, effective May 6, 2022, the Commission approved a modification of consequence to the Second-Stage PUD for Parcel 9.
4. Pursuant to Z.C. Order No. 05-28W, the Commission approved a two-year time extension to the Second-Stage PUD for Parcel 9 requiring a building permit application to be filed by March 23, 2022.
5. Pursuant to Z.C. Order No. 05-28W(1)¹, effective April 1, 2022, the time to file a building permit application for Parcel 9 was administratively extended to March 23, 2023, therefore, the time to start construction on Parcel 9 was extended to March 23, 2024.
6. Pursuant to Z.C. Order No. 05-28AC, effective October 6, 2023, the Commission approved a modification of significance to the Second-Stage PUD for Parcel 9, primarily to change the use for Parcel 9A from office to residential use.
7. Pursuant to Z.C. Order No. 05-28AD, effective October 6, 2023, the Commission approved a one-year time extension for Parcel 9A requiring a building permit application to be filed by March 23, 2024, and construction to commence by March 23, 2025. This application did not include Parcel 9B because the Applicant timely filed a building permit application for Parcel 9B within the March 23, 2023, deadline established in Z.C. Order No. 05-28W(1).
8. Pursuant to Z.C. Order No. 05-28AG, effective June 28, 2024, the Commission approved a one-year time extension of the deadline to start construction for Parcel 9B to March 23, 2025.

PARTIES AND NOTICE

9. In addition to the Applicant, the only parties to Z.C. Case No. 05-28 were Advisory Neighborhood Commissions (“ANC”) 7D and Parkside Townhomes Condo Association, Inc. ANC 7F, is now an “affected” ANCs pursuant to Subtitle Z § 101.8².
10. On March 21, 2025, the Applicant served the Application, on ANCs 7D and 7F, Parkside Townhomes Condo Association, Inc., the Office of Planning (“OP”), and the District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2.)

II. THE APPLICATION

11. On March 21, 2025, the Applicant filed the Application requesting (i) a waiver from Subtitle Z § 705.5, which limits applicants from requesting no more than two extensions of an approved PUD to allow a fourth time extension for the Second-Stage PUD; and (ii) a

¹ This administrative extension was granted by the Office of Zoning Director, under Subtitle Z § 705.9, due to complications from the COVID-19 pandemic. Therefore, it does not count toward the maximum two extension requests an applicant with an approved PUD is allowed under Subtitle Z § 705.5.

² ANC 7F was not a party to the Original Order when it was filed and approved but became an “affected ANC” with respect to the First-Stage PUD Site per Subtitle Z § 101.8 upon the adoption of the Zoning Regulations of 2016 as ANC 7F is located directly across the street from the First-Stage PUD Site.

one-year time extension of the March 23, 2025 deadline, established by Z.C. Order No. 05-28AG, to start construction for Parcel 9B by March 23, 2026.

12. The Application asserted that it met the requirements of Subtitle Z § 705.2 for the requested one-year time extension and the requirements of Subtitle X § 101.9 for a waiver from Subtitle Z § 705.5 to allow a fourth time extension because:
- The Application was served on all parties and all parties were allowed 30 days to respond;
 - There has been no substantial change in any material facts upon which the Commission based its approval of the Original Order; and
 - Good cause justifies the Commission's granting the time extension and the waiver because the Applicant has been unable to obtain Project financing, despite diligent good faith efforts to construct the project. Still, the Applicant is actively negotiating with several funding sources to finance construction and remains confident that there is demand for residential units at the Property. The Applicant was issued an invitation letter by HUD to submit a loan application for a 221(d)(4) new construction loan and is actively pursuing this loan. Notably, the Applicant has applicable permits and approvals to commence construction, so securing financing is the final step before commencing construction. Further, allowing Parcel 9B PUD to lapse would negatively impact the vision of the First-Stage PUD and threaten the future of the remaining blocks of the PUD located in the most prominent position fronting on Kenilworth Avenue, N.E. (Ex. 2, 2B).

III. RESPONSES TO THE APPLICATION

OP

13. On April 10, 2025, OP filed a report ("OP Report"), recommending approval of the one-year time extension and the waiver and concluding that good cause was shown for the Applicant's inability to obtain project financing (Ex.4).

ANCs

14. Neither ANC 7D nor ANC 7F filed a response to the Application.
15. Parkside Townhomes Condo Association, Inc. did not file a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.
2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.
3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the Application on all parties to the Original Order – ANC

7D and Parkside Townhomes Condo Association, Inc. – and ANC 7F, and all were given at least 30 days to respond from the March 21, 2025, date of service.

4. Subtitle Z § 705.5 limits applicants from requesting no more than two extensions of an approved PUD.
5. Subtitle Z § 101.9 authorizes the Commission to waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the Applicant demonstrates good cause for the waiver and the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
6. The Commission concludes that no party will be prejudiced by the granting of this waiver, as none of the parties, ANC 7D, ANC 7F, and Parkside Townhomes Condo Association, Inc., filed a response to the Application; and the waiver is not otherwise prohibited by law.
7. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission’s justification for approving the PUD.
8. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated there has been no substantial change in any of the material facts upon which the Commission based its original approval that would undermine justification for that approval.
9. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
 - (1) *An inability to obtain sufficient project financing for the 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 development by the expiration date of the PUD 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 that renders the applicant unable to comply with the time limits of the order.*
10. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) due to an inability to obtain sufficient project financing for the project 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. For this reason, the Commission agrees that these conditions constitute good causes for the requested one-year extension of the Second-Stage PUD.

“Great Weight” to the Recommendations of OP

11. The Commission must give “great weight” to the recommendation of OP pursuant to § 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 (2018 Repl.)) and Subtitle Z § 405.9. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.)).
12. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

“Great Weight” to the Written Report of the ANC

13. The Commission must give “great weight” to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 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) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978.)).
14. Because neither ANC 7D nor ANC 7F filed any response to the Application, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a one-year time extension of Z.C. Order No. 05-28Q, as extended by Z.C. Order Nos. 05-28W, 05-28W(1), 05-28AD, and 05-28AG; and as modified by Z.C. Order No. 05-28Z and Z.C. Order No. 05-28AC, until March 23, 2026, within which time the Applicant must start construction on Parcel 9B.


The Conditions in Z.C. Order No. 05-28, as modified by Z.C. Order No. 05-28Q, Z.C. Order No. 05-28Z, and Z.C. Order No. 05-28AC, remain unchanged and in effect.

Final Action


VOTE (April 25, 2024): 4-0-1

(Robert E. Miller, Gwen Marcus Wright, Anthony J. Hood, and Tammy Stidham to approve; Joseph Imamura, not present, not voting.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 05-28AI shall become final and effective upon publication in the *District of Columbia Register*; that is, on **September 19, 2025**.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.