

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



**ZONING COMMISSION ORDER NO. 05-28
Case No. 05-28
(First Stage Planned Unit Development &
Related Zoning Map Amendment - Parkside Residential LLC)
September 11, 2006**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on May 15, 2006 to consider an application from Parkside Residential LLC for first-stage review and approval of a planned unit development ("PUD") and related zoning map amendment for Square 5041, Lots 806-809, 811, 812, 814, 815, 817, 818, 820, and 822; Square 5055, Lots 14-25 and 801-813; Square 5056, Lots 806, 809, 810-814, and 821, pursuant to Chapter 24 and § 102, respectively, of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

1. The project site consists of Square 5041, Lots 806-809, 811, 812, 814, 815, 817, 818, 820, and 822; Square 5055, Lots 14-25 and 801-813; and Square 5056, Lots 806, 809, 810-814, and 821 (the "Property" or "PUD Site"). The Property is located in the Parkside neighborhood of Ward 7 and consists of approximately 15.5 acres of land area with frontage along Kenilworth Avenue, Foote Street, Anacostia Avenue, Barnes Street, Grant Place, Parkside Place, Roosevelt Place, Burnham Place, Kenilworth Terrace, and Hayes Street, all in the Northeast Quadrant. (Exhibit 2, Statement of the Applicant, Exhibit I)

2. The PUD Site is currently split-zoned R-5-A and C-2-B. The PUD application includes a PUD-related rezoning of the majority of the site to the C-3-A Zone District and a rezoning of a limited portion along Kenilworth Avenue to the CR Zone District to permit the construction of two office/retail buildings. (Exhibit 2, Statement of the Applicant, p. 17; Exhibit 21, Pre-hearing Statement, Exhibit A)

3. Parkside Residential LLC (the "Applicant"), which is a joint venture between Banc of America Community Development Corporation, Marshall Heights Community Development Organization, Lano International, Inc., and Building Hope, filed an application for

12. The Commission took final action to approve the application of Z.C. Case No. 05-28, subject to conditions, on September 11, 2006.

PUD SITE

13. The Property consists of approximately 15.5 acres of land area just north of the intersection of Minnesota Avenue and Benning Road and across Kenilworth Avenue from the Minnesota Avenue Metrorail Station. The PUD Site is located in Ward 7, east of the Anacostia River. The Property is within the area that has been targeted by the Anacostia Waterfront Corporation for revitalization, it is within the vicinity of three roadways included in the Mayor's Great Streets Initiative, and it is within both a Housing Opportunity Area and a Development Opportunity Area. (Exhibit 21, Pre-hearing Statement, p. 3)

14. The Trust for Public Land created a master development plan for the original 26-acre Parkside site. (Exhibit 21, Pre-hearing Statement, p. 1, Exhibit A)

15. Phase I was successfully developed in the early 1990s as 100 townhomes known as the Parkside Townhomes. The Parkside Townhomes development is roughly bounded by Barnes Street, Roosevelt Place, Parkside Place, and Cassell Place, N.E. (Exhibit 21, Pre-hearing Statement, p. 4)

16. The PUD Site is roughly bounded by Anacostia Avenue, Foote Street, Kenilworth Avenue, Hayes Street, Barnes Street, Roosevelt Place, Grant Place, Burnham Place, and Parkside Place.

17. Land uses in the vicinity of the site include a Pepco generating plant and the Benning Road solid waste transfer station to the southwest, Neval Thomas Elementary School and an assisted housing complex to the northwest, Kenilworth Avenue/Interstate 295 to the south, and residential developments known as Mayfair Mansions and Paradise at Parkside to the north. The Kenilworth Aquatic Gardens, Anacostia Park, the Anacostia River, and the National Arboretum are located to the west of the PUD Site.

18. The PUD Site is located in the residential medium-density/commercial moderate-density land use category as defined on the District of Columbia Generalized Land Use Map.

PUD APPLICATION AND PROJECT

19. The proposed PUD consists of a series of residential, mixed-use, commercial, and retail buildings that will contain approximately 3,003,000 gross square feet with accessory parking. There will be approximately 1,500–2,000 dwelling units; 500,000–750,000 square feet of office space; and 30,000–50,000 square feet of retail. The 15.5-acre project will complete the development of a 26-acre site that began in the early 1990s. The floor area ratio ("FAR") of the

have a lot occupancy of approximately 47 percent. It will include a range of 330-365 residential units, with a gross square floor area of 444,825 square feet and a density of 3.13 FAR. Approximately 485 parking spaces will be located on Block F. There will be six buildings in Block F. Building heights along Kenilworth Terrace will reach a maximum of 90 feet; heights along Parkside Place will range from 47 feet to 72 feet. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

26. Blocks G, H, and I are located along the southeastern portion of the PUD Site. They each have frontage on Kenilworth Avenue and Kenilworth Terrace. Block G is adjacent to the Pepco plant. These Blocks will have a combined lot occupancy of 80.6 percent, a gross floor area of 1,709,800 square feet, and a density of 7.05 FAR. A range of 785-875 residential units will be located in these Blocks, as well as approximately 1,400 parking spaces. The portions of the residential buildings fronting on Kenilworth Avenue will be 90 feet in height. Toward Kenilworth Terrace, the buildings will scale down to as low as 44 feet in height. The office buildings fronting Kenilworth Avenue will be 110 feet in height. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

27. Block H, which is located between Blocks G and I, will be developed with the office space component of the project. If the Applicant cannot secure a lead tenant for the office use, Block H will be used for an additional 500,000 – 750,000 square feet of residential space.

28. Block J is located in the northernmost corner of the site, bounded by Hayes Street, Kenilworth Terrace, Parkside Place, and Block F. It is adjacent to the Cesar Chavez Public Charter School to the northwest and the Mayfair Mansions to the north. The Block will be developed with one building with a lot occupancy of 63 percent, a gross floor area of approximately 183,000 square feet, and a density of 4.58 FAR. The building will contain 140-160 residential units and 96 parking spaces. The height of the portion of the building fronting on Kenilworth Terrace will rise to 90 feet, while the remainder of the building will scale down from 74 feet to 54 feet. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

29. The Applicant provided several views of the PUD in the Pre-hearing Statement. These views demonstrated that the PUD will not be highly visible from the Anacostia Waterfront or the National Arboretum. The PUD will largely not be visible from Minnesota Avenue once the new Government Center is constructed. Only a few floors of the PUD will be visible looking west from Interstate 295. (Exhibit 21, Pre-Hearing Statement, Exhibit C)

30. As shown in Exhibit 21 (the Statement of the Applicant, Exhibit G), vehicular ingress/egress to the PUD Site is possible from Kenilworth Avenue at Hayes Street and Foote Street, and from Kenilworth Terrace. The Applicant is working with the Anacostia Waterfront Corporation and the Deputy Mayor for Planning and Economic Development to open up an additional point of access via a public road that lies outside but adjacent to the northwest property line of Pepco's property on one side and the southwest property line of National Park

34. In addition to pledging \$3 million to the construction of the new pedestrian bridge, the Applicant is providing a number of additional benefits and amenities with the PUD:

a. **Affordable Housing:** The Applicant will dedicate 20 percent of the residential component of the PUD to individuals with incomes equal to or less than 80 percent of the Area Median Income ("affordable housing"). The rental portion of the affordable housing will be reserved for those with an income less than 60 percent of the Area Median Income. The rental affordable housing will remain affordable for a minimum of 30 years; the for-sale affordable housing will remain affordable for the same term required by the public subsidy used to provide the tenant's gap financing (Exhibit 21, Pre-Hearing Statement, p.14; Exhibit 56).

b. **Workforce Housing:** An additional 20 percent of the residential portion of the PUD will be dedicated to individuals making between 80 and 120 percent of the Area Median Income ("workforce housing"). There will be no control period for this housing component.

c. **Site Planning:** The PUD optimizes mixed-income, mixed-use, transit-oriented development on one of the largest remaining pieces of undeveloped land in the District, within a half-mile of a Metro Station. The PUD is consistent with the permitted density for the C-3-A and CR Zone Districts. The Applicant will preserve and improve an existing one acre park and will preserve mature trees at the PUD site. Nearly five acres of landscaped park, plaza, and pedestrian space are included in the PUD (Exhibit 34, May 5, 2006 OP Report, p. 4; Exhibit 21, Pre-Hearing Statement, Exhibit B).

d. **Urban Design:** The PUD provides a transit-oriented design that is compatible with the existing townhomes and improves linkages to the Anacostia Waterfront. Its interconnected street network will disperse traffic and ease the pedestrian experience. The buildings, residences, shops, and services will be close together for ease of walking to enable a more efficient use of land and resources. The PUD's heights and densities will buffer and shield the community from the Pepco plant and the trash transfer station. The site plan accommodates higher density, while the form and scale of individual buildings are intended to minimize visual and physical impacts on the existing houses in the Parkside neighborhood: the heights and densities of the buildings will gradually decrease as they get closer to the existing Parkside Townhomes. Finally, the landscaping plan will augment existing street trees and add many new plantings (Exhibit 2, Statement of the Applicant, p. 28).

e. **Effective and Safe Vehicular and Pedestrian Access:** The transit-oriented design elements of the PUD will enable greater transit ridership. Both the existing and the proposed pedestrian bridge tie the Applicant's site to the Metrorail. In addition, the Applicant will donate an easement for the public to access the proposed pedestrian

GOVERNMENT REPORTS

38. The Office of Planning ("OP"), in its report dated May 5, 2006 and its supplemental report dated May 11, 2006 and through its testimony at the public hearing, recommended approval of the PUD, provided that a revised and updated traffic impact analysis regarding the adequacy of pedestrian and vehicular access to the site would be undertaken prior to second-stage approval of each phase of the PUD. OP believed that resolution, with relevant District agencies, of vehicular and pedestrian access was necessary for the adequate functioning of new development, which would also be of benefit to existing area residents, schools, and businesses. OP was supportive of the redevelopment project and found it generally consistent with the Comprehensive Plan and with the zoning for the area. (Exhibit 34, May 5, 2006 OP Report, p. 8). OP was particularly supportive of the Applicant's proposal to meet, and serve as the prototype for, the new LEED-ND standards. (Exhibit 40, May 11, 2006 OP Report, p. 1)

39. The District Department of Transportation ("DDOT") submitted a report dated May 5, 2006 that supported the PUD. DDOT examined the proposal in terms of trip generation and level of service calculations at the critical intersections leading to and from the proposed project. DDOT agreed with the Applicant's capacity analysis and the level of service calculation at the pertinent intersections in the vicinity of the project. DDOT supported increased housing production, office, and retail uses at the site. It further noted that the amount of parking provided with the PUD would be adequate to meet the parking needs of the development and to minimize parking spillover into the neighborhood residential and business area. (Exhibit 40, pp. 2-3)

40. The District Department of Health noted in its report that a portion of the development was located in a flood hazard zone. At the hearing on May 15, 2006, the Commission heard testimony from the Applicant's civil engineer that their analysis did not indicate any flood plain problems at the PUD Site. The Applicant agreed to review this issue further.

41. In its May 1, 2006 report, the Department of Employment Services recommended that the Applicant enter into the First Source Agreement prior to Zoning Commission proposed action.

42. The DC Water and Sewer Authority ("DC WASA") submitted a report to the Office of Planning on May 3, 2006. DC WASA noted that the PUD would have a significant impact on water demands, existing sanitary sewers, and existing stormwater sewers in the area. DC WASA will review the project plans that the Applicant submits for permits.

43. The Anacostia Waterfront Corporation ("AWC") submitted a letter in support of the application dated April 20, 2006. AWC stated that the project "will bring much needed housing, employment opportunities, services and amenities to a long underserved part of the

49. Numerous members of the community wrote letters in support of the application, which were accepted into the record. (Exhibits 28-32, 35-39)

50. The Smart Growth Alliance submitted a letter, dated January 13, 2006, stating its support for the project. The Alliance stated that the PUD would add tremendously to Ward 7 generally and the Minnesota Avenue neighborhood specifically by adding market-rate and affordable housing units as well as much-needed retail opportunities. The Alliance found the affordable housing component of the project was "quite impressive and far beyond the industry standard, especially at Metro stations." (Exhibit 19)

51. A representative of the Neval Thomas Elementary School submitted a letter in support of the PUD dated October 11, 2005. The letter noted that the PUD would benefit the school by increasing the pool of students, by developing a vacant site and completing the neighborhood, and by increasing the possibility for upgrading the school. (Exhibit 17)

52. A representative of GreenHOME, an organization dedicated to making affordable housing green, submitted a letter in support of the PUD dated October 11, 2005. The GreenHOME letter stated that the PUD was critical to the revitalization of Ward 7 and appropriate for an underutilized site located in the vicinity of a Metro station. (Exhibit 16)

53. A representative of Paradise at Parkside Apartments submitted a letter, dated October 4, 2005, expressing its support for the PUD. The letter acknowledged the Applicant's effort to gain their support during the PUD process. The Apartments believed that it will benefit from affordable homeownership opportunities, the retail, access to the Anacostia River, and improved access to the Metro station. (Exhibit 13)

54. Mayfair Mansions 2005 Tenant Association, Inc. submitted a letter in support of the PUD, dated October 4, 2005. Mayfair believed that development of the vacant site would benefit the entire community. (Exhibit 14)

PARTY IN OPPOSITION

55. The president of Parkside Townhomes Condominium, Inc., a party in opposition to the application, presented a written statement and testimony at the May 15, 2006 public hearing, stating that the PUD would have an adverse impact on parking and traffic in the area. (Exhibit 33)

PERSONS IN OPPOSITION

56. Rita and Mary Jackson testified in opposition to the PUD. They shared concerns regarding the location of the PUD adjacent to the Pepco plant. (Exhibit 42)

character, preserving and ensuring community input, providing for diversity, and promoting enhanced public safety.

9. The Commission believes that the proposed PUD-related rezoning of the Property to the C-3-A and CR Districts is appropriate given the superior features of the PUD project, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.

10. The Commission agrees with the conclusions of the Applicant's traffic and parking expert, as well as the conclusions of DDOT, that the proposed project will not create adverse traffic or parking impacts on the surrounding community.

11. In accordance with D.C. Official Code §1-309.10(d)(2001), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission concurs with ANC 7D's letter expressing support of the application.

12. 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 (2001)), to give great weight to OP recommendations. The Commission concurs with OP's view that first-stage approval should be granted, conditioned upon a requirement that a revised and updated traffic impact analysis be submitted prior to second-stage approval of each phase of the PUD.

13. Notice of the public hearing was provided in accordance with the Zoning Regulations.

14. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for first-stage review of a planned unit development and related Zoning Map amendment from the R-5-A and C-2-B Zone Districts to the C-3-A and CR Zone Districts for the Property, as shall be stated with greater specificity in any order granting final PUD approval. This approval is subject to the following guidelines, conditions, and standards:

1. The Applicant shall submit, with the application for second-stage approval of the PUD, an application for rezoning the PUD site from R-5-A and C-2-B to C-3-A and CR that specifies the proposed rezoning by square and lot.

2. The first-stage PUD is approved in accordance with the plans and materials submitted by the Applicant marked as Exhibits 2, 21, and 52 of the record, as modified by the guidelines, conditions, and standards of this Order.

Kenilworth Avenue Corridor study; and (c) analyze the traffic impacts of the PUD in light of other new developments and uses in the vicinity, such as the Cesar Chavez Public Charter School.

11. The Applicant shall submit, as part of a second-stage application, materials addressing (a) the design and anticipated use of the pedestrian retail plaza at the center of the PUD Site, including whether it should be open to slow-speed vehicular traffic, and (b) potential cooperation with Pepco to provide adequate landscaping to buffer the Pepco site from the PUD Site.

12. The Applicant shall specify, in its second-stage application, the period of affordability applicable to the for-sale affordable units.

13. 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 application may be filed after three (3) years from date of approval of the partial second-stage. It is within the Zoning Commission's discretion to extend these periods.

14. Given the size of the PUD, the Applicant may file the second-stage application in phases for one or more of the buildings.

15. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 *et seq.* (the "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 that 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.

For the reasons stated above, the Commission concludes that the Applicant has met the burden, it is hereby **ORDERED** that the application be **GRANTED**.

The Zoning Commission at its public meeting held on June 12, 2006, **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve).

Washington, D.C., March 27, 2007

Scales: 1 inch = 80 feet.

Recorded in A & T Book Page 2757-44

Receipt No. 687295

Furnished to: PWSF

[Signature]
Sergeant, D.C.

By: AM 

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Explanations

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Transfer Only or Periodic review assessments with the records of this Department of Planning and Economic Development, and do not necessarily agree with other descriptions.

BARNES

STREET

FOOTE STREET, N.E.

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PARKSIDE

PLACE

KENILWORTH TERRACE, N.E.

Washington, D.C., March 27, 2007

Recorded in AET Book Page 3753-X

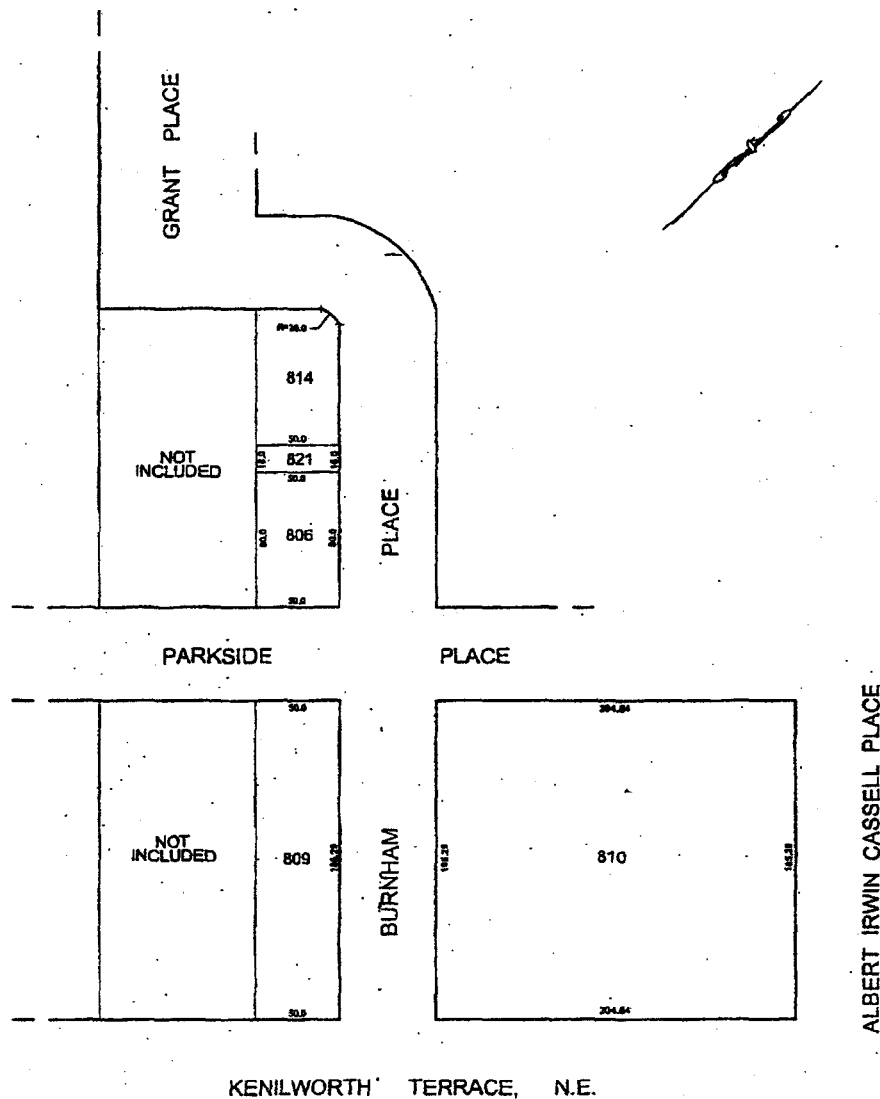
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Date:

(Signature of sender or his authorized agent)

NOTE: Data shown for Assessment and Variation L&D of Forests are in accordance with the records of the Department of Planning and Forestry, Assessment Administration, and do not necessarily agree with deed descriptions.



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