

D. OFFICE OF ZONING

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PARKSIDE HEALTH CENTER

DECEMBER 23, 2010



**BY DISTRICT OF COLUMBIA PRIMARY CARE ASSOCIATION
Z.C. Case No. 05-28B**

**PRE-HEARING STATEMENT TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION
FOR REVIEW AND APPROVAL OF A
SECOND STAGE PLANNED UNIT DEVELOPMENT,
ZONING MAP AMENDMENT AND
A MODIFICATION TO THE FIRST STAGE PUD**

**(For hearing purposes, the First-Stage PUD modification will be consolidated with
related application of Lano Parcel 12 LLC (Z.C. Case No. 05-28C))**

ZONING COMMISSION
District of Columbia

CASE NO.

EXHIBIT NO.

ZONING COMMISSION
District of Columbia
CASE NO. 05-28B
EXHIBIT NO. 23A1

DEVELOPMENT TEAM

APPLICANTS:

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PREFACE

This Pre-Hearing Statement of DC Primary Care Association (“**DCPCA**”, “**Applicant**”), is in support of the Second Stage review and approval of a Planned Unit Development (“**PUD**”) and corresponding map amendment to the District of Columbia Zoning Map for property located in Square 5055, Lots 25 and 801 and portions of Lots 24 and 802 (“**Project Site**”) in the Parkside neighborhood of Northeast, Ward 7. The Applicant also proposes to modify the approved First Stage PUD for the Project Site.¹ This Second Stage PUD proposes to develop the Project Site with the Parkside Health Center (“**Parkside Health Center**” or “**Health Center**”) which will include two below grade on-site parking levels. This project was endorsed by both the District of Columbia Department of Health and ANC 7D (Letters of Support, Exhibit A).

The Project Site was the subject of Zoning Commission Case No. 05-28, for the First Stage PUD, which defined the Parkside PUD area (“**PUD Site**”) and consists of approximately 15.5 acres of land. The First Stage PUD became effective on April 13, 2007 pursuant to Zoning Commission Order No. 05-28. (Exhibit B). The Project Site, which is currently zoned C-2-B, is located in the southeast corner of the PUD Site and is bounded by Kenilworth Terrace to the north, Hayes Street to the east, Kenilworth Avenue to the south and on the west to a depth ranging from 90 feet to 99 feet running west of Hayes Street. (Zoning Map, Exhibit C).²

The Applicant requests 1) Second Stage review and approval of the Parkside Health Center in the lower southeast corner of the PUD Site, 2) confirmation of previously approved map amendment from C-2-B to C-3-A and 3) modification of the First Stage PUD. This Project Site will consist of approximately 0.46 acre (20,029 sq. ft.) of the 15.5 acres PUD Site.

¹ For hearing purposes the modification will be consolidated with related application of Lano Parcel 12 LLC (Z.C. Case No. 05-28C).

² In Zoning Commission Case No. 05-28A, a Second Stage PUD and Amendment to the Zoning Map for Parkside Homes LLC and Parkside Senior Housing LLC was approved to develop a senior living facility and single-family townhomes in the northwest corner of the PUD Site pursuant to Zoning Commission Order No. 05-28A1, effective on October 3, 2008. (Exhibit C). This approved development consists of approximately 3.79 acres (165,000 sq. ft.) of the entire 15.5 acres PUD Site.

I. INTRODUCTION

A. Summary of Requested Action

1. Review and Approval of Second Stage PUD

This Second Stage PUD proposes to develop the Project Site with the Parkside Health Center, a three-story building with two below grade on-site parking levels and an accessible green roof on a portion of the second floor, specific areas for walk-in care services, family practice, dental services, women and infant health care, wellness and associated lab, reception and patient waiting areas.

2. Zoning Map Amendment

The Applicant requests confirmation of a map amendment from C-2-B to C-3-A which was previously approved as part of the First Stage PUD, but requires the Applicant to submit the application for rezoning as part of the Second Stage PUD approval.

3. Modification to Approved First Stage Approval

Since the First Stage PUD contemplated that the Project Site located in the southeast corner (referred to as Block I) would be developed for a residential use, the Applicant requests a modification to the approved First Stage PUD to allow for the Parkside Health Center, a non-residential use at the Project Site.

B. Current Owner and Applicant

1. Lano Parcel 12 LLC

Lano Parcel 12 LLC (“**Owner**” or “**Seller**”), a Delaware limited liability company owns the property which is the subject of this application, including the Project Site. The Owner and DC Primary Care Association (“**DCPCA**”, “**Applicant**” or “**Purchaser**”) entered into an Agreement of Purchase and Sale, as amended, for the Project Site with a closing contingent upon this Second Stage PUD Approval. In addition, the Applicant is currently

negotiating an agreement with Owner with regard to the Owner's possible shared access to the Health Center's parking garage entrance off of Kenilworth Terrace.

2. District of Columbia Primary Care Association

DCPCA intends to develop the Property as a new location for a community health center for Unity Health Care, Inc. (the "**Project**"). DCPCA is a District of Columbia nonprofit health care reform organization founded in 1998 to improve the health of DC's most vulnerable residents by ensuring that they receive high quality primary health care regardless of their ability to pay. DCPCA represents 14 primary care providers at 58 sites across the District, including Unity Health Care, Inc. ("**Unity**"). Unity will be the owner/operator of the Parkside Health Center. Since 2005, DCPCA has received \$70 Million in capital funds from DC's Department of Health to expand and improve access to primary health care services in Washington, DC, including in Ward 7. In conjunction with that effort, Unity was awarded \$14.5 Million through the American Recovery and Reinvestment Act which will pay for a portion of the costs associated with the construction of a new health center in Ward 8 and the renovation of an existing health center in Ward 1. DCPCA is developing the Ward 8 health center for Unity at 1500-1510 Galen Street, S.E, which received DC Board of Zoning Adjustment approval for the project in September 2009 (BZA Order No. 17954) and is currently under construction with completion scheduled for December 31, 2011 and an opening in January 2012.³

3. Unity Health Care, Inc.

Unity is a non-profit organization that since 1985 (then under the name of Health Care for the Homeless) has been dedicated to serving Washington, DC residents in need of a range of critical health care services. Unity offers a citywide network of quality health and

³ That matter-of-right project has a total gross floor area and cellar floor area of approximately 29,287 square feet and the applicant received a special exception to reduce the amount of required off-street parking to seventy-eight (78), a reduction of twenty-one (21) spaces as well as a rear yard variance.

human services to the medically underserved regardless of race, ethnic background or ability to pay. In 1996, the organization expanded when it became the Federal government's emergency grantee for the Community Health Center Program. In 1997, it adopted the name Unity Health Care, Inc. As a Federally Qualified Health Center ("FQHC"), Unity receives cost-based reimbursement from Medicare and other programs, drug discounts, and the ability to recruit health care providers from the National Health Service Corp., among other benefits. In June 2001, Unity joined the DC Healthcare Alliance, a collaborative of various local health care providers that provide wrap-around services to those most in need in the District of Columbia. Unity's mission is "to offer a citywide network of quality health and human services to the medically underserved, regardless of race, ethnic background, or ability to pay." Unity works to empower its clients to better their lives. They advocate for social change and resource allocation to help those in society who have become marginalized. To respond to the needs of the communities they serve, Unity offers homeless care and outreach, a network of community health centers, comprehensive health care services in District of Columbia correctional facilities, and specialized services for school-age children and their families, clients undergoing substance abuse treatment, persons with HIV/AIDS, and individuals recently released from jails and prisons.

Unity's target population is racially and ethnically diverse and largely minority and includes many recent immigrants and refugees who traditionally have difficulty communicating with health care providers. In response, Unity offers linguistically and culturally sensitive services through properly trained staff prepared to deal with problems that can impede access to health care services. While language continues to be a major factor, a translation service and clinical staff members fluent in Spanish, Vietnamese, Chinese, and Amharic help to bridge this barrier. To meet the language needs of other immigrants, all Unity providers can access the

medical language line from their exam room to provide for any interpretation needs of the clients.

Unity understands that its patients have needs that may act as barriers to care if patients are not assisted in addressing these concerns. Unity social workers and case managers work with patients regarding their medical problems, immigration concerns, lack of food, clothing, shelter, transportation and financial resources, unemployment, family emergencies and substance abuse. Unity's social services staff is trained to assess and address social and mental health needs, and monitor progress. Unity is Washington, DC's largest non profit health care and social service organization serving more than 81,000 patients annually. Unity operates medical homes in all eight wards of DC serving the most vulnerable residents of the District and currently operates fourteen health centers throughout the District.⁴

C. Project Goals and Objectives and Benefits of Using the PUD Process

This PUD will achieve the goals of the PUD process by providing high quality development on the Project Site with significant public benefits to the neighborhood and the District as a whole. The proposed Parkside Health Center will help the District's effort to ensure that high quality, affordable primary health centers are available and accessible to all District residents. The Project will infill currently vacant land which will further the District's goal of promoting transit oriented development as the site is proximately located to the Minnesota Avenue Metrorail Station. The Applicant requests a modification of the First Stage PUD since the approved plans for the Project Site anticipated a residential use and not a community health center, a non-residential use, at the corner of Kenilworth and Hayes Streets.

The PUD process is the appropriate means of making this happen in that it gives the community and District agencies the tools to ensure that the Project is well-designed and best

⁴ Anacostia, Brentwood Square, Columbia Road, Congress Heights, Unity @ DC General, East of the River, Good Hope, Hunt Place, Minnesota Avenue, Re-Entry, Southwest, Stanton Road, Upper Cardozo, and Walker-Jones.

meets the needs of the community while making sure the density is compatible with the surrounding neighborhood.

D. Development Timetable

The Applicant intends to start construction by December 2011 and expects the construction will be completed by April 2013.

II. THE PROJECT SITE

A. Site Location

The Project Site is composed of approximately 0.46 acres of vacant land (approximately 20,029 square feet) within the larger (approximately 15.5 acres) approved First Stage PUD Site. This area is north of the intersection of Minnesota Avenue and Benning Road and across Kenilworth Avenue from the Minnesota Avenue Metrorail Station. The Property is located in the Parkside neighborhood of Ward 7, east of the Anacostia River. The Project Site, which is currently zoned C-2-B, is located in the southeast corner of the PUD Site and is bounded by Kenilworth Terrace to the north, Hayes Street to the east, Kenilworth Avenue to the south and on the west to a depth of 90 feet running west of Hayes Street.

B. Project Description

The Applicant proposes to construct a three-story health center with specific areas for walk-in care services, family practice, dental services, women and infant health care, wellness phlebotomy lab, reception and patient waiting areas. (Plans, Exhibit D). The service areas are modeled to meet federal funding requirements. The main entrance to the Parkside Health Center will have a Kenilworth Terrace address and is located on the corner of Kenilworth Terrace and Hayes Street, NE. There is pedestrian access to the site by means of an existing pedestrian bridge which connects the neighborhood with the Minnesota Avenue Metrorail Station located directly across Interstate 295. The pedestrian bridge crosses I-295 and Kenilworth Avenue and

pedestrians exit the bridge along the north side of Kenilworth Avenue. Due to the ramp switchback configuration, the ramp deposits pedestrians facing Kenilworth Avenue at the south end of the project site instead of facing the proposed entrance of the Parkside Health Center at the corner of Kenilworth Terrace and Hayes Streets. (Photos, [Exhibit F](#)). To create a more inviting pedestrian experience, the building footprint along the Hayes Street side will be held back from the property line to allow for a more generous sidewalk leading from the existing pedestrian ramp to the main entrance of the Health Center at the corner of Kenilworth Terrace and Hayes Street. (Plans – ASK 055, [Exhibit D](#)).

The vehicular entrance will be from a single curb cut from Kenilworth Terrace from which vehicles can access two below grade levels of parking under the Health Center which will include a total of sixty-three (63) parking spaces. (Plans – ASK 040 and 040.1, [Exhibit D](#)). This access will be secured after Health Center hours by a parking garage roll down screen. Staff will be provided after-hours entry via a secured card reader that will access the entrance roll down screen. A parking booth, with entrance and exit arm gates will be provided on parking level P-1 during normal business hours. A break-out panel is proposed, located at the bottom of the access ramp on parking level P-1. The Applicant is currently negotiating an agreement with Owner with regard to the Owner's possible shared access to the Health Center's parking garage entrance off of Kenilworth Terrace and use of access ramp to future underground parking level on the adjacent property.

The First Stage PUD approved rezoning the location in which the Applicant proposes to develop the Parkside Health Center from C-2-B to C-3-A. The C-3-A Zone permits a maximum non-residential FAR of 2.5 and a maximum building height of 65 feet and unlimited stories. A PUD in the C-3-A Zone permits a maximum non-residential FAR of 3.0 and a maximum building height of 90 feet and unlimited stories. The Project Site contains approximately 20,029

square feet of land. The C-3-A Zone allows approximately 50,073 square feet of gross floor area of non-residential development rights available for the Project Site as a matter-of-right and 60,087 gross square feet with a PUD. The maximum lot occupancy for a non-residential building would be 20,029 square feet (100% of 20,029 square feet). The Applicant's proposal meets these requirements with a 2.13 FAR (42,644 gross square feet), height of 42 feet/three-stories and lot occupancy of 17,024 square feet (85%).

In the C-3-A Zone, a rear yard of 2.5 inches per foot of vertical height, but not less than 12 ft. is required. In this case of a through lot abutting three or more streets, the required 12 foot rear yard can be measured from the rear of the building to the centerline of Kenilworth Avenue. The width of Kenilworth Ave is 26 feet measured between the curbs. The curb is 10 feet from the property line. So the measurement from the center of the street to the property line is half of the street width (13 feet) plus the distance from the curb to the property line (10 feet) which is a total of 23 feet. The Health Center has been set back 10 feet from the south property line. Therefore, the total rear yard from the centerline of the street to the building is 33 feet which greatly exceeds the minimum rear yard required.

No side yard is required in the C-3-A Zone, however if one is provided it must be at least 2 inches wide for each foot in height of the building, but not less than 6 feet. The building height of approximately 42 feet would require a side yard setback of seven (7) feet. A side yard of less than seven feet is proposed (4 ft. 4 inches) along the Hayes Street façade in order to allow better circulation space between the Health Center and the existing pedestrian ramp. Therefore, zoning relief will be needed.

In the C-3-A Zone, the off-street parking requirement for a medical clinic use is based on twice the amount of spaces required for a general office building. Office buildings require one space per every 600 sq. ft. over 2,000 sq. ft. of gross floor area and cellar floor area. Based on

the total gross floor area and cellar floor area proposed of 42,644 square feet⁵, a total of one hundred and thirty-six (136) off-street parking spaces are required.

However, under Section 2104.1 of the D.C. Zoning Regulations, a matter-of-right health center at this site would be eligible for a parking reduction due to the proposed building's location of less than eight hundred feet (800 ft.) from a Metrorail Station entrance.⁶ The number of parking spaces required would be seventy-five percent (75%) of the one hundred and thirty-six (136) normally required, resulting in a reduction of thirty-four (34) spaces yielding a requirement of one hundred and two parking spaces (102). As part of the PUD application, the Applicant proposes sixty-three (63) spaces all within the two below grade parking levels on the Project Site and therefore will need to seek zoning relief.

The Applicant needs the proposed sixty-three (63) spaces in order to ensure the absolute minimum level of parking, not just for patients, but for the Health Center's doctors and staff. The Applicant has met several times with the District's Department of Transportation and Office of Planning about this issue. Even with the nearby Minnesota Avenue Metrorail Station, any further reduction in parking would fall below the minimum operational needs of the facility and increase demand for on-street parking. Significantly, the First Stage PUD, which approved residential and office use in Blocks G, H, and I (Block I is the subject of this Application), expected approximately 1,400 parking spaces to be provided for these uses. (Exhibit B, Findings of Fact No. 26).

The Applicant's paramount concern, about a further reduction in parking spaces, is safety for its staff and patients. This is a transitioning neighborhood and to attract the doctors and staff needed to work at this much needed Health Center, a minimum of sixty-three (63) parking spaces

⁵ This total gross floor area calculation excludes the parking gross floor area.

⁶ The distance between the Metrorail station entrance and the boundary of the Project Site along the pedestrian bridge is approximately 650 feet.

are needed. Many shifts for the employees will require arriving very early in the morning and leaving very late at night. For employee safety, the Applicant strongly believes that this minimum level is needed, regardless of its close proximity to the Minnesota Avenue Metrorail Station. Based on experience from its other health facilities, sick and injured patients are less likely to be able or willing to use public transportation and therefore these parking spaces are needed.

The Applicant acknowledges the importance and benefits of transit-oriented design and will offer employees incentives for taking public transportation, such as the WMATA SmartBenefits for transit, resulting in a pre-tax salary deductions for Metro rail/bus expenses as outlined in the Transportation Management Plan (“TMP”) in the attached Traffic Impact Study. (Exhibit G).

According to the Section 2119.2 of the Zoning Regulations, the number of bicycle spaces provided shall be at least equal to five percent (5%) of the number of automobile parking spaces required. Since the Applicant is required to have one hundred and two (102) parking spaces then five (5) bicycle parking spaces are needed. The Applicant proposes a total of twelve (12) bicycle parking spaces, eight (8) in the enclosed parking lot and four (4) located outside near the entrance of the Health Center. (See Plans, Exhibit D).

C. Tabulation of Development Data

Site Area: 20,029 gross square feet

Requirement	C-3-A Matter of Right Guidelines	C-3-A PUD Guidelines	Project Design	Variance
FAR	2.5 max (50,073 gsf) (Non-Residential)	3.0 max (60,087 gsf) (Non-Residential)	2.13 (42,644 gsf)	---
Building Height	65 feet max/unlimited stories	90 feet max/unlimited stories	3 stories (42 ft)	---
Lot Occupancy	100% (Non-Residential)	100% (Non-Residential)	85%	---

Requirement	C-3-A Matter of Right Guidelines	C-3-A PUD Guidelines	Project Design	Variance
Gross Floor Area	2.5x20,029= 50,073 gsf	3.0x20,029= 60,087 gsf	42,644 gsf	---
Rear Yard	2.5 inches per foot of vertical distance, but not less than 12 ft. Measured from centerline of the street abutting the rear yard (Kenilworth Avenue)	2.5 inches per foot of vertical distance, but not less than 12 ft. Measured from centerline of the street abutting the rear yard (Kenilworth Avenue)	33 ft	---
Side Yard	Not required, but if provided, shall be at least 2 inches per foot of height, but not less than 6 feet. 7 ft. required	Not required, but if provided, shall be at least 2 inches per foot of height, but not less than 6 feet. 7 ft required	East = 4 ft 4" West = 0	East = 2 ft 8" West = ---
Parking	<u>Office</u> In excess of 2,000 sq. ft. one for each additional 600 sq. ft. of gross floor area and cellar floor area. (excluding gfa for parking) $\frac{42,644-2,000}{600}=67.74$ (68) <u>Medical Office, Clinic</u> Twice the number of spaces required for since space devoted to medical use is 25% or more of the gross floor area and cellar floor area 68x2 = 136 Reduction of 25% of required parking if nonresidential building is within 800 ft of a Metrorail Entrance 102 required spaces	<u>Office</u> In excess of 2,000 sq. ft. one for each additional 600 sq. ft. of gross floor area and cellar floor area (excluding gfa for parking) $\frac{42,644-2,000}{600}=67.74$ (68) <u>Medical Office, Clinic</u> Twice the number of spaces required for since space devoted to medical use is 25% or more of the gross floor area and cellar floor area 68x2 = 136 Reduction of 25% of required parking if nonresidential building is within 800 ft of a Metrorail Entrance 102 required spaces	63 spaces	39 spaces
Bicycle	Number of bicycle spaces shall be at least equal to 5% of the number of auto parking spaces required 5% of 102=5	Number of bicycle spaces shall be at least equal to 5% of the number of auto parking spaces required 5% of 102=5	12	---

Requirement	C-3-A Matter of Right Guidelines	C-3-A PUD Guidelines	Project Design	Variance
Loading	Min loading berth: 1 @ 30 ft. deep Min platform: 1 @ 100 ft. ² Min service/delivery space: 1 @ 20 ft. deep	Min loading berth: 1 @ 30 ft. deep Min platform: 1 @ 100 ft. ² Min service/delivery space: 1 @ 20 ft. deep	1 delivery service/delivery space is located on Level P-1 for up to Van size vehicles. Large truck delivery area is located on Kenilworth Terrace near the main entrance.	Min loading berth: 1 @ 30 ft. deep Min platform: 1 @ 100 ft. ²

D. Conditions of First Stage PUD Approval

Approval of the First Stage PUD was conditioned on the following:

Condition No.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.

This Application: With this Second Stage PUD Application, the Applicant is simultaneously filing a Zoning Map Amendment to change the Project Site, approximately 0.46 acres (20,029 sq. ft.) located in Square 5055, Lots 25 and 801 and portions of Lots 24 and 802 from C-2-B to C-3-A.

Condition No. 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.

This Application: Since the approved First Stage PUD contemplated this Project Site would be developed for a residential use, the Applicant requests a modification to the First Stage PUD to allow for the Parkside Health Center, a non-residential use.

Condition No. 3: The Second-stage design of the PUD shall be based on further development and refinement of the plans marked as Exhibits 2, 21, and 52 of the record, as modified by the

guidelines, conditions, and standards of this Order and shall include all public benefits described in Findings of Fact 32 through 34.

This Application: The Applicant proposes its own set of public benefits and amenities as described in more detail herein.

Condition No. 4: In accordance with the plans and materials noted above, the approved PUD shall consist of approximately 1,500–2,000 dwelling units, 500,000–750,000 square feet of office space, 30,000–50,000 square feet of retail, with approximately 2,400 total parking spaces. The entire project will include approximately 3,003,000 square feet of gross floor area resulting in an overall density of approximately 4.44 FAR. The total lot occupancy of the PUD will be approximately 62.4 percent. The maximum height of the PUD will be 110 feet, which will be reserved solely for the buildings located in the center portion of Parcel 12 fronting Kenilworth Avenue. The heights for the remaining buildings shall not exceed 90 feet and must scale down to lesser heights around the existing townhomes, as depicted in the Applicant's plans.

This Application: Not Applicable to this Application.

Condition No. 5: If the Applicant cannot secure a lead tenant for the office use, it may use that portion of the development envelope for an additional 500,000–750,000 square feet of residential space.

This Application: Not Applicable to this Application.

Condition No. 6: The PUD will reserve 20 percent of the total residential component as units affordable to households having an income not exceeding 80 percent of Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for family size). Those reserved as affordable rental units will remain affordable for at least 30 years; the affordability restriction for the affordable for-sale housing shall be consistent with the terms required by the public subsidy the homebuyer uses to provide gap financing.

This Application: Not Applicable to this Application.

Condition No. 7: The PUD will reserve 20 percent of the total residential component for workforce housing targeted to households that have an income between 80 and 120 percent of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size).

This Application: Not Applicable to this Application.

Condition No. 8: The Applicant shall submit, as part of the Second-stage application, landscape plans, detailed architectural plans, and elevations indicating the design treatment of each building.

This Application: The landscape plan, detailed architectural plans and elevations are attached as Exhibit D.

Condition No. 9: The Applicant shall submit, as part of a Second-stage application, an analysis of the potential for providing access to the PUD Site from Benning Road.

This Application: Not Applicable to this Application. This information was submitted as part of Second Stage PUD for Zoning Case No. 05-28A.

Condition No. 10: The Applicant shall submit, as part of a Second-stage application, a detailed traffic study that will (a) address the adequacy of pedestrian and vehicular access to the PUD Site, including an analysis of the DDOT recommendation with respect to pedestrian access; (b) address traffic conditions pertaining to Kenilworth Avenue, particularly in light of the transportation initiatives identified by DDOT as planned or underway in the vicinity, such as the 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.

This Application: The Traffic Impact Study is attached as Exhibit G.

Condition No. 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.

This Application: Not Applicable to this Application.

Condition No. 12: The Applicant shall specify, in its Second-stage application, the period of affordability applicable to the for-sale affordable units.

This Application: Not Applicable to this Application.

Condition No. 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.

This Application: The First Stage PUD Zoning Order No. 05-28 became effective on April 13, 2007. Within a year from that date, on November 16, 2007, a Second Stage PUD Zoning Case No. 05-28A was filed for less than the entire development and became effective on October 3, 2008. This subsequent Second Stage PUD Application, the instant application, is being filed within three years from the partial Second stage approval. Therefore, the Applicant is in compliance with this condition.

Condition No.14: Given the size of the PUD, the Applicant may file the Second-stage application in phases for one or more of the buildings.

This Application: The Applicant is developing only one building on 0.46 acres (20,029 sq. ft.) of the entire 15.5 acre (675,180 sq. ft.) approved First Stage PUD.⁷

Condition No.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.

This Application: The Applicant will comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2038, as amended.

E. Flexibility under the PUD Guidelines

The PUD process was created to allow greater flexibility in planning and design than is possible under conventional zoning constraints. The PUD regulations specifically allow the Zoning Commission to approve any zoning relief that would otherwise require the approval of the Board of Zoning Adjustment (“BZA”). The Applicant is requesting relief from the strict application of the Zoning Regulations for: a) the number of off-street parking spaces, b) the number and size of loading berth and loading platform and c) the side yard requirement on the east side of the Property.

⁷ The Approved Second Stage PUD (Z.C. Case No. 05-28A) consisted of 3.79 acres (165,000 sq. ft. of land).