

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

first-stage review and approval of a planned unit development and a related amendment to the Zoning Map of the District of Columbia on August 31, 2005. (Exhibit 2, Statement of the Applicant, pp. 9-10)

4. The Applicant initially proposed to rezone the residential portions of the site to CR and the portion to be used as office space to C-3-C. The Applicant proposed a maximum height of 110 feet for some of the residential buildings and a height of 130 feet for the office buildings. (Exhibit 2, Statement of the Applicant, p. 9)

5. At a public meeting on November 14, 2005, the Office of Planning ("OP") stated its support for the project; however, OP proposed an alternative rezoning for the Property: the portion of the site of the proposed office buildings would be rezoned to CR, limiting the height of the buildings to 110 feet, and the remainder of the site would be rezoned to C-3-A, allowing a maximum height of 90 feet for the residential buildings. (Exhibit 18, November 4, 2005 OP Report)

6. The Commission set both the Applicant's proposal and OP's alternative proposal down on November 14, 2005 for a public hearing.

7. The Applicant subsequently amended the application to conform to the zoning classifications and heights proposed by OP. (Exhibit 21, Pre-hearing Statement, p. 7)

8. The Commission held a public hearing on the amended application on May 15, 2006.

9. At the public hearing, the Commission accepted Don Carter of Urban Design Associates as an expert in architecture and land-use planning; Dennis Carmichael was accepted as an expert in landscape architecture; and Robert Schiesel and Louis Slade were accepted as experts in traffic and parking. ANC 7D, the ANC in which the Property is located, was automatically a party to this application. The Commission granted party status in opposition to the application to the Parkside Townhomes Condominium, Inc.

10. The Commission took proposed action on June 12, 2006 to approve the amended application, subject to conditions.

11. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated June 29, 2006, found the proposed PUD would not affect the federal interests in the National Capital and would not be inconsistent with the Comprehensive Plan for the National Capital.

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

PUD project will be 4.4. The office buildings will be 110 feet in height along Kenilworth Avenue. The residential and mixed residential/retail buildings will have a maximum height of 90 feet, and will gradually scale down as they become more proximate to the existing Parkside Townhomes. Greater heights will be maintained along Foote Street to shield the interior units from the adjacent Pepco plant. (Exhibit 21, Pre-hearing Statement, p. 6)

20. The project is split into ten building "blocks." Block A is located in the eastern corner of the PUD Site, at the corner of Foote Street and Anacostia Avenue. It is adjacent to both the Pepco plant and the Neval Thomas Elementary School. Block A will have a lot occupancy of 62.6 percent and will contain a gross floor area of 134,400 square feet, with a density of 4.12 FAR. A range of 105-120 residential units will be located on Block A. The structure proposed for Block A will be constructed in a "U" shape. Heights will range from 54 feet to 84 feet. (Exhibit 21, Pre-hearing Statement, Exhibit B)

21. Block B is bounded by Anacostia Avenue, Grant Place, Barnes Street, and Block A. It is located adjacent to the Neval Thomas School and the existing Parkside Townhomes; it also acts as a gateway to the adjacent park land and the Anacostia River. Block B will contain five separate residential buildings, with a lot occupancy of 41 percent, a gross floor area of 69,940 square feet, and a density of 1.26 FAR. It will consist of 35-45 residential units and will provide approximately 77 parking spaces. Heights for the five buildings will range from 28 feet to 52 feet. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

22. Block C is bounded on the southwest side by Foote Street and by Roosevelt Place on the northeast side, adjacent to the Pepco plant and the Parkside Townhomes. It will contain four residential buildings, with a lot occupancy of 78.3 percent, a gross floor area of 277,920 square feet, and a density of 3.31 FAR. It will include 140-160 residential units and will provide approximately 336 parking spaces. Building heights for Block C will range from 43 feet along Roosevelt Place to 64 feet along Foote Street. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

23. Block D consists of a park that is nearly one acre in size. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

24. Block E is located in the western portion of the PUD site and is adjacent to the Pepco plant. A range of 140-160 residential units will be developed in a single building in Block E, with a lot occupancy of 63 percent, a gross floor area of 183,000 square feet, and a density of 4.6 FAR. Heights for this U-shaped building will range from 54 feet to 90 feet. (Exhibit 21, Pre-Hearing Statement, Exhibit B)

25. Block F is located in the central portion of the site and is bounded on the north by Parkside Place and on the south by Kenilworth Terrace. The Parkside Townhomes are located to the northwest of Block F. There are three portions of Block F: a retail portion will line a central pathway and will be flanked by residential components on both the east and west. Block F will

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

Service land on the other. The road is in existence, but it terminates before it connects the PUD Site with Benning Road. (Exhibit 21, Pre-Hearing Statement, p. 11)

31. The PUD will provide approximately 2,400 parking spaces. Each element of the PUD will have parking to accommodate demand and it will be arranged discreetly on the site. Parking will be provided below grade to the extent that it is economically feasible. The remainder of the parking will be arranged in independent parking garages between residential buildings. The Applicant proposed implementing green design ideas such as rooftop gardens to improve views of the garages. The details of the Applicant's parking plan will be more fully developed in later stages of the Applicant's application. The Applicant also requested flexibility to allow off-site parking within above-grade parking structures for some of the residential units, although revisions to the parking layout are anticipated as part of the more detailed second-stage review. (Exhibit 21, Pre-Hearing Statement, p. 18)

32. The PUD includes landscape improvements and will provide nearly five acres of open space, including a central plaza almost one acre in size. The central plaza will provide various pathways for pedestrians and will be shaded by trees. Additionally, each Block will be surrounded by trees and landscaping. The open area between the retail buildings will include of public seating, and the Applicant will make an effort to preserve an existing willow oak located at the site. Finally, a grand stairway stretching from Kenilworth Terrace to a plaza will be located between the two office buildings. The plaza will lead to a new pedestrian bridge that will span Interstate 295 and terminate at the Minnesota Avenue Metro Station. The plaza between the office buildings will have additional landscaping. The grand stairway will be flanked by pedestrian pathways that may be used for outdoor seating for cafes located in the ground floor retail areas. The PUD will encourage utilization of Kenilworth Park and will serve as a gateway to the Anacostia Waterfront Riverwalk and regional trail network. (Exhibit 2, Statement of the Applicant, Exhibit F; Exhibit 21, Pre-hearing Statement, Exhibit B)

33. There is an existing pedestrian bridge that abuts the PUD Site and connects directly to the Metro Station. The District Department of Transportation ("DDOT") is planning to spend \$500,000 to improve the existing bridge and make the bridge span safer and more convenient. In addition to the existing bridge, the Applicant is providing \$3 million toward the design and construction of another pedestrian bridge that will be a central component to the PUD. The Anacostia Waterfront Corporation and DDOT are discussing apportioning an additional \$10 million to the design and construction of the bridge. The Anacostia Waterfront Corporation is hosting a design competition to ensure a sophisticated bridge design. (Exhibit 21, Pre-Hearing Statement, p.12)

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

bridge. The PUD will also provide a link to the proposed Anacostia Riverwalk (Exhibit 2, Statement of the Applicant, p. 29).

f. Employment and Training: Provided the PUD can secure a lead tenant for the office space, the PUD will provide a substantial number of jobs with its extensive office and retail space. The PUD also presents numerous construction opportunities. The residential space will bring permanent property management positions. Additionally, Marshall Heights Community Development Organization will provide training to first-time homebuyers (Exhibit 21, Pre-hearing Statement, pp. 22, 29).

g. Environmental Benefits: The Applicant will pursue additional due diligence for various green implementation strategies. It has received the Enterprise Green Communities Initiative Grant and has been recognized by the Smart Growth Alliance as a Smart Growth project. As the PUD is proposed, it is eligible for LEED-ND certification. The master plan conserves open space and mature trees to a great extent (Exhibit 21, Pre-hearing Statement, p. 29).

h. Uses of Special Value: The project is transformational for Ward 7. It will be a visible indication of the revitalization of the Ward and will create a northern anchor for the existing downtown of Ward 7. The project will take advantage of its site along a major corridor heading into the District to create a landmark mixed-use, transit-oriented, mixed-income, environmentally-sensitive development. The Applicant also undertook a detailed community planning process and sought the input of a significant portion of the neighboring communities (Exhibit 21, Pre-hearing Statement, p. 30).

35. The PUD is consistent with and fosters numerous goals and policies stated in the elements of the Comprehensive Plan of the National Capital. The project is consistent with the following major themes of the Comprehensive Plan: stabilizing the District's neighborhoods; increasing the quantity and quality of employment opportunities in the District; preserving and promoting natural amenities; respecting and improving the physical character; preserving and ensuring community input; and providing for diversity. (Exhibit 2, Statement of the Applicant pp. 32-35; see also Exhibit 34, May 5, 2006 OP Report, p. 3)

36. The project is consistent with many Major Elements of the Comprehensive Plan (including the Economic Development, Housing, Environmental Protection, Transportation, Urban Design, and Land Use Elements) and fulfills numerous goals and policies of the Ward 7 Plan. (Exhibit 2, Statement of the Applicant, pp. 35 – 45)

37. In response to issues raised by the Commission during the May 15, 2006 public hearing, the Applicant provided more detailed information regarding the affordability control period of its affordable housing on May 22, 2006. (Exhibit 56)

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

city.” AWC supported the project, including important infrastructure improvements like the pedestrian bridge. (Exhibit 28)

44. Stanley Jackson, the Deputy Mayor for Planning Economic Development, submitted a letter in support of the project on February 14, 2006. Mr. Jackson stated that the Executive Office of the Mayor supported full funding of the design, construction, and operation of the pedestrian bridge. Mr. Jackson envisioned that the PUD would present an opportunity to reconnect the Parkside neighborhood and downtown Ward 7. (Exhibit 20)

45. Vincent Gray, Councilmember for Ward 7, submitted a letter dated October 2, 2005 in support of the PUD. Councilmember Gray stated that the PUD was consistent with established policies of encouraging development near Metro stations and in historically distressed areas. (Exhibit 12)

46. The District of Columbia Housing Authority submitted a letter in support of the PUD dated September 28, 2005. The Authority noted that the PUD was consistent with the Mayor’s New Communities Initiative to create large-scale mixed-income communities in distressed areas of the city. The Authority was impressed with the Applicant’s inclusive planning process to build consensus for the proposal within the community. (Exhibit 15)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

47. Advisory Neighborhood Commission (“ANC”) 7D unanimously adopted a resolution in support of the project at a regularly scheduled and publicly noticed meeting on April 11, 2006. The ANC, in its written resolution dated April 13, 2006, noted that the PUD presented a “great opportunity for the neighborhood.” It further acknowledged the Applicant presented to the ANC on three different occasions and made a “strong effort to conduct an inclusive community planning process.” The ANC “strongly supports the project because it represents a critical piece of the ongoing revitalization of Ward 7.” (Exhibit 35)

PERSONS IN SUPPORT

48. Numerous members of the community presented testimony in support of the application, including Greg Rhett, President, Eastland Gardens Civic Association; John Bailey, Smart Growth Alliance; Howard Ways, Anacostia Waterfront Corporation; Trelane Patrick, Parkside Townhome Owner/Resident; Cheryl Cort, Washington Regional Network for Livable Communities; Shirley Lawson, President, Mayfair Mansions 2005 Tenant Association, Inc.; and Irasema Salcido, Cesar Chavez School. (Exhibit 51)

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)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” 11 DCMR § 2400.2.

2. Under the PUD process, the Zoning Commission has the authority to consider this application as a two-stage PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.

5. The Commission agrees with the testimony of the project architect and the representatives of the Applicant and believes that this project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the large amount of affordable and workforce housing provided in this project is a significant amenity that will be available to District residents, including police officers and school teachers. The Commission believes that the design and site planning of the project promotes smart growth and encourages use of public transportation.

6. The Commission finds that the density of the PUD is appropriately dispersed on the PUD site as it shields obnoxious neighboring uses and appropriately relates to existing townhomes.

7. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

8. Approval of the first-stage PUD and the PUD-related Zoning Map amendment is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of the Office of Planning in this case and finds that the proposed project is consistent with and fosters numerous themes and elements of the Comprehensive Plan. Specifically, the Commission believes that the proposed project furthers the following themes: stabilizing the District’s neighborhoods, increasing the quantity and quality of employment opportunities in the District, preserving and promoting natural amenities, respecting and improving the physical

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.

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.

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.

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.

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.

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).

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.

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.

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.

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).

Z.C. ORDER NO. 05-28
Z.C. CASE NO. 05-28
PAGE 16

The Order was **ADOPTED** by the Zoning Commission at its public meeting on September 11, 2006 by a vote of 5-0-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on APR 13 2007.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., March 27, 2007

Plat for Building Permit of SQUARE 5049 LOT 808-809, 811, 812, 814, 815, 817, 818, 820 & 822

Scale: 1 inch = 50 feet

Recorded in A & T Book Page 2957-W

Receipt No. 06760

Furnished to: P W S P

[Signature]
Surveyor, D.C.

By: D.M. *[Signature]*

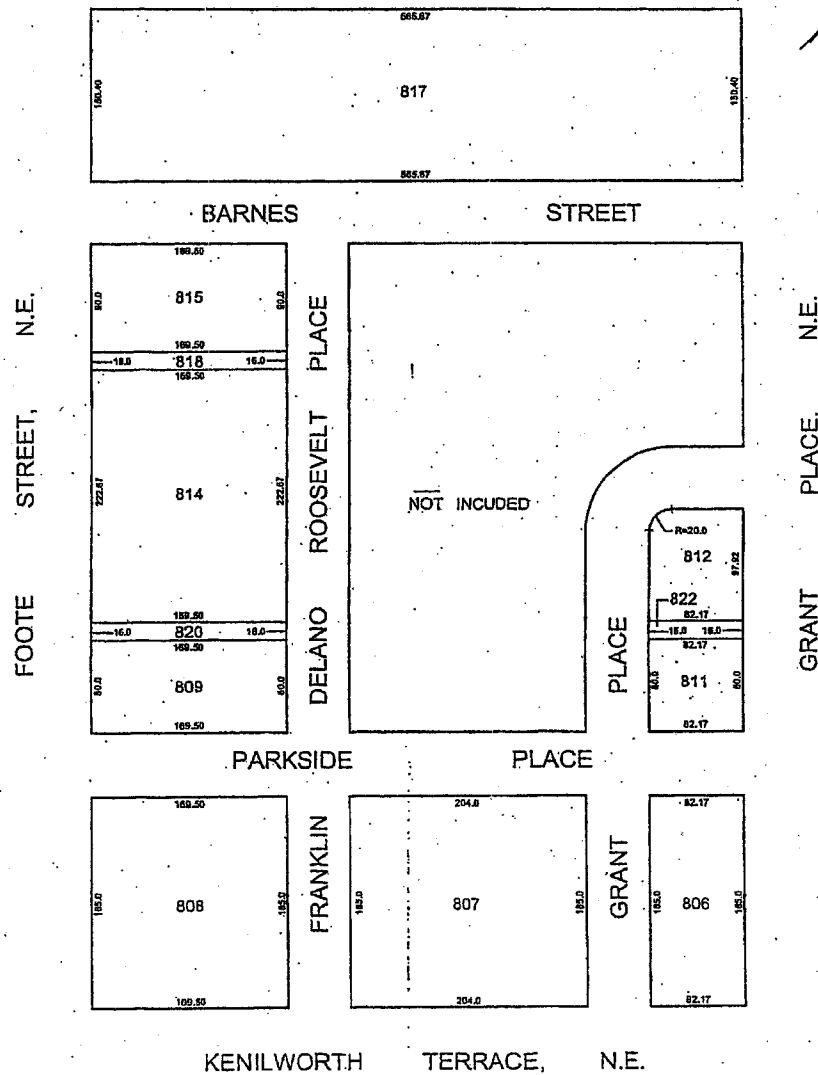
I hereby certify that of existing improvements shown hereon, an accurately determined, and are correctly placed, that all proposed buildings or improvements, or parts thereof, including covered porches, are correctly dimensioned and placed, and agree with plans accompanying this application, and the foundation plans as shown herein to insert, and dimensions necessary to the survey only as the property lines shown on this plat that by means of the proposed improvements to be erected to be shown between the site of any building to be proposed to be constructed to an area less than is required by the zoning regulations for height and ventilation, and I, the Surveyor, and agreed that acceptable parking was shown required by the zoning regulations will be reserved in accordance with the zoning regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the alteration of the acceptable parking area with respect to the Highway Department approved curb and alley grade will not result in a loss of grade along the center of the alley or any other public property in excess of 20% for any building or other use, or in excess of 10% of any public property hereon. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the public roadway property.)

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Transfer Tax or Permit are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

ANACOSTIA AVENUE, N.E.



Washington, D.C., March 27, 2007

Flat for Building Paved at SQUARE 5005 LOTS 14-23 & 001-013

Scale: 1 inch = 100 feet. Recorded in Book 117 Page 7 (LOTS 14-25).
Book A&T Page 3179-P (LOTS 201-212)

Memorandum for: SAC, New York
Date: 6/25/62

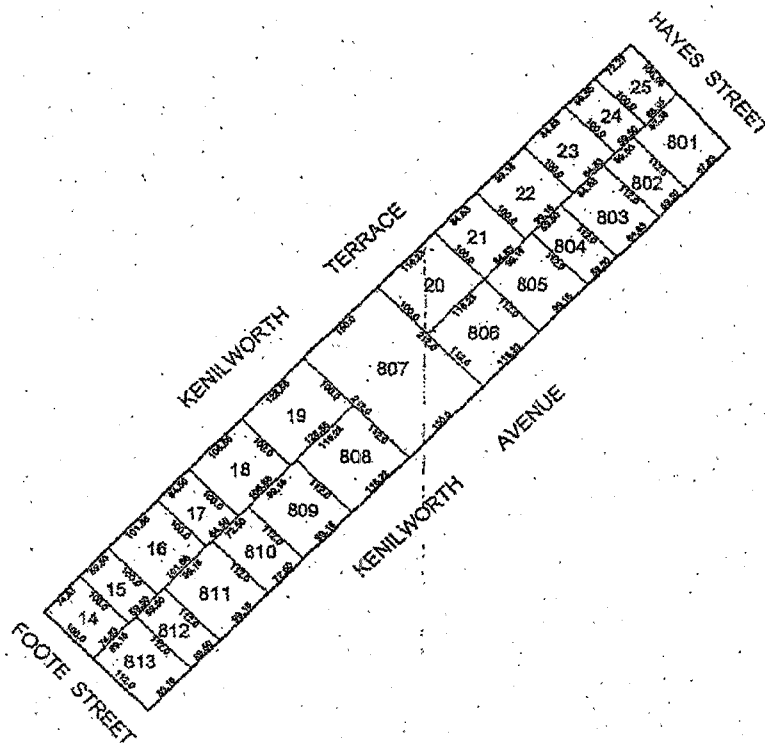
Furnished to: PHSA

[illegible]

Notes _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Resident and Temporary Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Department of Agriculture, and do not necessarily agree with other descriptions.



Washington, D.C., March 27, 2007

Scale: 1 inch = 40 feet

Recorded in A&T Book Page 3737-X

Receipt No. 08780

Furnished to: PWSP

Surveyor, D.C.

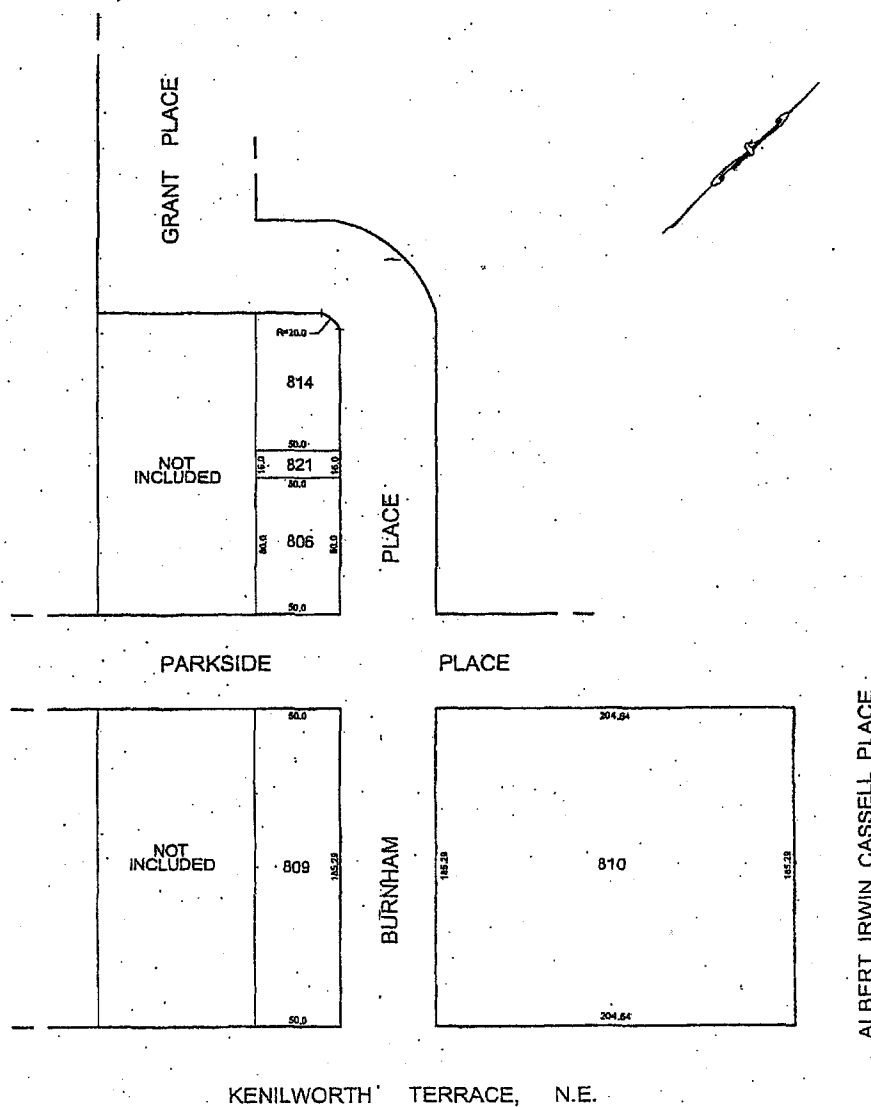
8y. D.M.

[illegible]

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lists of Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



ALBERT IRWIN CASSELL PLACE

KENILWORTH' TERRACE, N.E.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION CORRECTED¹ ORDER NO. 05-28A1

Z. C. Case No. 05-28A

**(Second-Stage Planned Unit Development ["PUD"] and Amendment to the Zoning
Map for Parkside Homes LLC and Parkside Senior Housing LLC)
September 8, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on June 16, 2008, to consider an application of Parkside Homes LLC and Parkside Senior Housing LLC, for the review and approval of the second stage of an approved PUD and the implementation of a related map amendment from the R-5-A Zone District to the C-3-A Zone District. The property that is the subject of the second stage approval is located in Square 5041, Lots 809, 814, 815, 818, 820, 823, and 824 ("Subject Property"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At its public meeting on July 14, 2008, the Commission took proposed action by a vote of 4-0-1 to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated August 29, 2008, found that the proposed PUD is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

The Commission took final action to approve the application on September 8, 2008, by a vote of 4-0-1.

FINDINGS OF FACT

1. In November 2007, Parkside Residential LLC submitted an application for second stage PUD approval for the first phase of development implementing a first stage PUD and related map amendment. The Applicant sought approval to develop

¹ The only correction being made hereto is to Condition No. 11 to correct a typographical error, i.e., Order No. 05-28 to Order No. 05-28A. No other corrections are made hereto. In addition, Condition No. 11 has been modified to indicate the actual date upon which the PUD's validity will end unless the action required by that condition is taken.

approximately 165,000 square feet of unimproved land in Ward 7 as a senior living facility and single-family townhomes. (Exhibit 3.)

2. Parkside Residential LLC subsequently transferred the Subject Property to Parkside Homes LLC and Parkside Senior Housing LLC (collectively, the "Applicant"). (Exhibit 15, p. 5.)
3. The application was set down for a public hearing at the Commission's January 14, 2008 public meeting.

First Stage PUD Approval

4. The Commission approved the first stage PUD and related Zoning Map amendment on April 13, 2007. The first stage PUD approved a mixed-use development 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 ("First Stage PUD Site"). (Z.C. Order No. 05-28.)
5. The First Stage PUD Site consisted of approximately 15.5 acres of land just north of the intersection of Minnesota Avenue and Benning Road and across Kenilworth Avenue from the Minnesota Avenue Metrorail Station. The First Stage PUD Site is in Ward 7, east of the Anacostia River. It is roughly bounded by Anacostia Avenue, Foote Street, Kenilworth Avenue, Hayes Street, Barnes Street, Roosevelt Place, Grant Place, Burnham Place, and Parkside Place. Id.
6. The First Stage PUD Site is located to the northeast of a PEPCO plant, to the southeast of Neval Thomas Elementary School and a District of Columbia Public and Assisted Housing complex, to the south of the Mayfair/Paradise multifamily rental communities and to the south of Eastland Gardens. The Kenilworth Aquatic Gardens, Anacostia Park, the Anacostia River, and the national Arboretum are located to the west of the First Stage PUD Site. Id.
7. The Commission approved a PUD-related Zoning Map amendment from the R-5-A and C-2-A Zone Districts to the C-3-A and CR Zone Districts and approximately 3,003,000 gross square feet of development during the first stage PUD application process. Specifically, it approved 1,500-2,000 dwelling units, 500,000-750,000 square feet of office space, and 30,000-50,000 square feet of retail. A maximum density of 4.4 floor area ratio ("FAR") was approved, as was a maximum building height of 110 feet for the office buildings along Kenilworth Avenue and a maximum height of 90 feet for the residential and retail buildings. Id.
8. The first stage PUD divided the PUD site into 10 blocks: Blocks A-J. Blocks A, B, and C are the subject of the instant application. Block A was approved for

residential use, a lot occupancy of 62.6%, a maximum density of 4.12 FAR, and a height range of 54 to 84 feet. Block B was approved for residential use, a lot occupancy of 41%, a maximum density of 1.26 FAR, and a maximum height of 52 feet. Block C was also approved for residential use, a lot occupancy of 78.3%, a maximum density of 3.31 FAR and a maximum height of 64 feet. Id.

9. The Commission approved Blocks A, B, and C for a PUD-related rezoning to the C-3-A Zone District. Id.

First Phase of Second Stage PUD Approval

10. The Subject Property is known as Blocks A, B, and C. Lot 817 of the Original PUD Application was subsequently subdivided to create Lots 823 and 824 (Exhibit 3, p. 1; Exhibit 15, p. 5.)
11. The Subject Property is bound by Anacostia Avenue to the north, Grant Place to the east, Foote Street to the west, and Barnes Street and Parkside Place to the south. Block A is located at the corner of Foote Street and Anacostia Avenue and is across the street from the Neval Thomas Elementary School. Block B is located immediately to the east of Block A and is bounded by Anacostia Avenue, Grant Place, Barnes Street, and Block A and is across the street from both the Neval Thomas Elementary School and the existing Parkside Townhomes. Block C is located to the south of Block A. It is bounded by Foote Street, Roosevelt Place, Barnes Street, and Parkside Place, and is adjacent to the Parkside Townhomes. (Exhibit 3, p. 1.)
12. The Applicant is constructing a 98-unit senior living facility and 112 single-family townhomes on the Subject Property. (Exhibit 3, p. 11; Exhibit 15, pp. 12-13.)
13. The senior living facility will be located on Block A, immediately adjacent to a sustainable linear park with natural stormwater management capabilities. The facility will consist of approximately 96,900 square feet of development. The building will have a density of 2.22 FAR, it will consist of 98 units, and it will have a maximum height of 54 feet and a lot occupancy of 51.6%. It will also provide 25 parking spaces ("Senior Living Facility"). (Exhibit 15, p. 12.)
14. The Senior Living Facility will incorporate sustainable elements such as Energy Star rated appliances, energy efficient lighting, low-VOC paints and adhesives, as well as a naturally landscaped bioswale that runs along the northern edge of the building adjacent to a linear park. (Exhibit 15, p. 13.)
15. Units in the senior living facility will be available to families with an annual income below 60% of the area median income ("AMI"). (Exhibit 15, p. 12.)

16. Blocks B and C will be dedicated to townhomes that will complement the existing Parkside Townhomes. The Applicant will construct 112 townhomes. The townhomes will each be approximately 2,000-3,000 square feet in size with a maximum height of 47 feet. The development will include two-bedroom, three-bedroom, and four-bedroom models and will be three stories with an optional roof deck and an optional penthouse. One hundred four of the townhomes will include a one- or a two-car garage. In all, 136 parking spaces will be provided with the townhomes. (Exhibit 15, pp. 13-15.)
17. Block B will consist of 108,912 square feet of development and a density of 2.1 FAR. It will include 46 townhomes with a maximum height of 47 feet. (Exhibit 15, p. 14.)
18. Block C will consist of 160,636 square feet of development and a density of 2.01 FAR. It will include 66 townhomes with a maximum height of 47 feet. (Exhibit 15, p. 14.)
19. Nearly half of the townhomes in Blocks B and C will be available to individuals with an income between 80% and 120% of the AMI. (Exhibit 15, p. 21.)
20. The facades will be constructed with hardy board and hardy plank with a masonry base and accenting bays in each string of townhomes. The facades will also include over-sized brick throughout. (Exhibit 33.)
21. The development is consistent with the standards for evaluating a PUD under Chapter 24 of the Zoning Regulations. This development will create a high-quality residential project with significant housing opportunities, both affordable and market-rate. (Exhibit 15, pp. 18-21.)
 - Urban Design, Architecture, Landscaping: the Subject Property is in close proximity to the Minnesota Avenue Metrorail Station. Locating residential uses near public transportation is good urban design. The development also supports housing needs in the community for market-rate for-sale housing, and affordable senior housing. The residential buildings will be constructed along the property line, emphasizing the urban nature of the project. They will utilize high-quality materials that compliment the existing Parkside Townhomes. The development will also include extensive landscaping of the grounds.
 - Site Planning: the development takes advantage of its location adjacent to parklands, the Anacostia River and natural grades and the major transportation corridor to the southeast. It will replace vacant land and connect the existing Parkside Townhomes with the fabric of the city.

- **Effective and Safe Vehicular and Pedestrian Access:** the development will not have an adverse impact on the transportation infrastructure in the area. The development will encourage transit ridership and enhance sidewalks. A bike trail along the Anacostia River will be easily accessible to the site and adequate automobile parking will be provided for each building.

The Applicant addressed concerns raised by the Office of Planning ("OP") regarding the need for access to the site via Benning Road. The Applicant testified that there were several issues with providing access between the Parkside PUD from Benning Road; namely: insufficient public right-of-way for road construction, physical barriers and natural barriers, and incompatible truck traffic. The Applicant's analysis, with which the District Department of Transportation ("DDOT") concurred, demonstrated that access to the site is sufficient with the existing road network.

- **Affordable Housing:** the development will provide 210 new housing units. Ninety-eight of the units will be affordable and 42 units will provide new opportunities for home ownership at workforce rates, as described in conditions of this Order.

- **Public Benefits:**

The development will bring affordable senior housing to an area that has a rapidly increasing senior population but has few options for housing for individuals on a fixed income.

It will also bring quality, market-rate options to a community that is comprised largely by subsidized housing projects.

The Applicant will also enter into a First Source Employment agreement with the Department of Employment Services to promote and encourage the hiring of District of Columbia residents.

The Senior Living Facility will be designed to meet the Green Communities criteria.

The Applicant has committed to contributing 25% of the cost of a new pedestrian bridge, not to exceed \$3 million. The bridge will improve site access as it will connect the entire PUD site to the Minnesota Avenue Metrorail Station. The Deputy Mayor's Office of Planning and Economic Development and DDOT have committed \$5 million to the project.

22. The development is fully consistent with and fosters goals and policies stated in the elements of the District of Columbia Comprehensive Plan. The development

significantly advances these goals and policies by furthering the social and economic development of the District through the construction of new residential units on underutilized land. The project serves the goals of several of the citywide elements of the Comprehensive Plan: (Exhibit 15, pp. 24-29.)

- Land Use Map: the Subject Property is designated as primarily Medium-Density Residential, with a slice of the Property fronting on Roosevelt Place as Moderate-Density Residential. The density of the proposed residential uses of the Subject Property complies with the proposed land use designation.
- Land Use Element: the Subject Property supports transit-oriented development. The Subject Property is a short walk to the Minnesota Avenue Metrorail station, which is one-third of a mile away from the Project Site. The development also enhances and stabilizes District neighborhoods by providing new residential opportunities for existing residents in the neighborhood.
- Transportation Element: the development will capitalize its proximity to the Minnesota Avenue Metrorail Station, promotes smart growth and supports transit-oriented development.
- Housing Element: the creation of a significant residential development on the Subject Property will further stabilize the community, build upon the existing neighborhood culture and will likely serve as a catalyst to the burgeoning Anacostia River waterfront.
- Environmental Protection Element: the Subject Property will be landscaped extensively to enhance streets and public spaces and reduce stormwater runoff. The development will include rain gardens to treat runoff from impervious surfaces and a vegetative swale to treat runoff from the Subject Property. It will also make use of permeable pavers in the alleys to reduce stormwater runoff from the Subject Property. The Senior Living Facility will satisfy the standards set forth by the Green Communities program. The overall PUD will also seek to achieve the equivalent of Silver level certification under the Leadership in Energy and Environmental Design Neighborhood Development program.
- Parks, Recreation, and Open Space Element: the development will include a linear park that will serve as public passive recreation space and will abut an open park that will be enhanced through future phases of development pursuant to Zoning Commission Order No. 05-28.

- Urban Design Element: the development will reflect the beneficial architectural qualities of the surrounding residential neighborhoods. It includes an appropriate density that allows for sufficient private and public open space.
- Area Element: the development allows for a variety of housing options for individuals with varying incomes. It will also transform a vacant piece of land into an inviting, accessible and active connection to the Anacostia waterfront.

Public Hearing

23. A public hearing was held for the application on June 16, 2008. The Commission accepted Jack McLaurin and Logan Schutz as experts in architecture; Rob Schiesel as an expert in traffic engineering; and Dennis Carmichael as an expert in landscape architecture.
24. At the close of the hearing, the Commission asked the Applicant to study the façades of the townhomes; specifically, to use different materials, simplify the façade and to modify the window design to provide a more residential appearance. It also asked for more information regarding the location, income levels and administration of the affordable housing component.
25. The Applicant filed its post-hearing submission addressing the Commission's comments on June 30, 2008.

GOVERNMENT REPORTS

26. On June 6, 2008, OP submitted its report in support of the application into the record. OP requested additional information regarding the townhomes reserved as market-rate housing. OP also asked for information regarding market-rate values in the area. OP suggested that the issue of vehicular access to the overall PUD from Benning Road should be addressed in future phases of the PUD. (Exhibit 21.)
27. OP stated that it was very supportive of the project and that the development will add new residential opportunities in the area, including affordable senior housing that will benefit the neighborhood residents and District as a whole. It further found that the application was not inconsistent with the policies of the 2006 Comprehensive Plan. (Exhibit 21.)
28. OP stated that the Applicant satisfied each of the conditions of Z.C. Order No. 05-28. (Exhibit 21.)

29. OP concluded that the development satisfied the Strategic Neighborhood Action Plan for Cluster 30 by supporting public safety through the development of vacant land and supporting the provision of improved access for new and existing residents to the Metrorail Station. It also stated that the development furthers the objectives of the Great Streets Initiative for the designed streets in the area. (Exhibit 21.)
30. DDOT filed a report on June 13, 2008, in support of the PUD. It supports the project and recommends the Applicant pursue, with the District, the construction of a new above-grade pedestrian bridge to the Metrorail Station and an access via Benning Road if, and when, the issue of right-of-way is resolved. DDOT also recommended that at least 10 bicycle parking spaces be provided and that approximately two parking spaces be set aside for car sharing vehicles. (Exhibit 25.)
31. DDOT found that the parking provided with the development would be more than adequate to meet the parking needs of the residents and minimize spillover into the neighborhood. (Exhibit 25.)
32. DDOT agreed with the Applicant's capacity analysis and found that most intersections leading to and from the development operate at a good level of service. (Exhibit 25.)

ANC 7D REPORT

33. ANC 7D submitted two letters of support into the record. In the letter dated June 4, 2008, the ANC indicated that at its May 13, 2008 meeting, the Commissioners voted unanimously, with a quorum present, in support of the application. In the letter dated June 6, 2008, the ANC indicated that the Applicant had presented the application to the ANC on four different occasions and that the ANC gave a "strong endorsement" of the project. (Exhibits 22, 23.)
34. Commissioner Dorothy Douglas testified on behalf of the ANC at the hearing on June 16, 2008.

PARTIES AND PERSONS IN SUPPORT

35. Councilmember Yvette Alexander submitted a letter in support of the application indicating that she was impressed with the Applicant's community outreach efforts and felt that the project was a "critical" component of the development of downtown Ward 7. (Exhibit 28.)

36. On June 3, 2008, the Watts Branch Alliance submitted a letter in support of the application into the record. It stated that the Parkside project was a "crucial opportunity for sustainable neighborhood development." (Exhibit 27.)
37. Green Communities for Enterprise Community Partners, Inc. submitted a letter in support of the application. They indicated that they were fully supportive of the project and its efforts the nation's only standard for green affordable housing. It provided the Applicant a grant to incorporate the Green Communities criteria into the project. (Exhibit 33)
38. No individual or entity was granted party status to testify in support of the application.

PARTIES AND PERSONS IN OPPOSITION

39. No individuals or parties testified or submitted evidence into the record in opposition to the application.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR §2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a second stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested flexibility from theoretical lot requirements and the side and rear yard requirements can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

5. The PUD is consistent with the first stage PUD, and Z.C. Order No. 05-28.
6. The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Subject Property would provide. The Commission finds that the large amount of affordable housing provided in this project is a significant public benefit.
7. The Commission concludes the impact of the project is acceptable given the quality of the public benefits of the project. The proposed massing and heights of the buildings are appropriate. The Commission agrees with the conclusions of the Applicant's traffic and parking expert that the proposed project will not create adverse traffic or parking impacts on the surrounding community. The Commission further agrees with the Applicant that access via Benning Road is neither feasible nor necessary for the development of the PUD as a whole.
8. Approval of the PUD and the PUD-related Zoning Map amendment is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP in this case and finds that the proposed project is consistent with and fosters numerous themes and elements of the Comprehensive Plan. Specifically, the Commission believes that the proposed project furthers the following themes: stabilizing the District's neighborhoods, increasing the quantity and quality of employment opportunities in the District, preserving and promoting natural amenities, respecting and improving their physical 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 Subject Property to the C-3-A Zone District 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 has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse affects, and concludes approval is warranted.
11. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission concurs with ANC 7D's letters of support.
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, to give great weight to OP recommendations. The Commission concurs with OP's view that second-stage approval should be granted.

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 second-stage review of the first phase of an approved planned unit development ("PUD") and Zoning Map amendment application from the R-5-A Zone District to the C-3-A Zone District for Lots 809, 814, 815, 818, 820, 823, and 824 in Square 5041. The approval of this PUD and Zoning Map amendment is subject to the following guidelines, conditions, and standards:

1. The second-stage PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 3, 14, 15, 33, and 36 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans and materials noted above, the approved PUD shall consist of 98 senior housing units and 112 townhomes. The senior housing facility on Block A shall consist of approximately 96,900 square feet of development, a 2.22 FAR, have a maximum height of 54 feet, and a lot occupancy of 51.6%.
3. In accordance with the plans and materials noted above, the approved PUD shall consist of 46 townhomes on Block B. The townhomes on Block B shall consist of 108,912 square feet of gross floor area, a 2.1 FAR, and have a maximum height of 47 feet.
4. In accordance with the plans and materials noted above, the approved PUD shall consist of 66 townhomes on Block C. The townhomes on Block C shall consist of 160,636 square feet of gross floor area, a 2.01 FAR, and a maximum height of 47 feet.
5. Twenty-five parking spaces shall be provided for the senior living facility and at least 136 parking spaces shall be provided for the townhomes.

6. The senior living facility will consist of at least 98 units that will be reserved for individuals with an income no greater than 60% of the area median income.
7. Forty-two townhouses will be reserved for buyers earning between 80% and 120% of the area median income.
8. The owner shall pay 25% of the cost of a new pedestrian bridge to connect the PUD site to the Minnesota Avenue Metrorail Station, with its payment not to exceed \$3 million. The payment shall be made within 60 days after DDOT notifies the owner that DDOT has the legal authority to proceed with advertising a contract for the construction of the bridge, or within 60 days after the issuance of a building permit that would result in the aggregate FAR of the PUD exceeding the matter of right limit for the property, whichever is the first to occur.
9. The PUD shall: meet the sustainable criteria for LEED-ND, and the Senior Living Facility shall meet the Green Committee criteria. The owner shall submit a certification from the project architect that these criteria have been met prior to the issuance of a Certificate of Occupancy.
10. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services prior to the issuance of a building permit for the PUD.
11. The PUD shall be valid until October 3, 2010, i.e. two years from the effective date of the order being corrected. Within such time, an application must be filed for a building permit for the construction of one of the buildings to be located on Blocks A, B, or C, and construction must start within three (3) years of the date of the effective date of this Order. The filing of the building permit application will vest this Order as to the building being constructed. An application for the final building permit completing the development of the PUD approved herein must be filed within three (3) years of the issuance of the final certificate of occupancy of the first building.
12. The owner shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and

- c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
13. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, which is satisfactory to the Office of the Attorney General ("OAG") and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct and use the Subject Property in accordance with this Order, or amendment thereof by the Commission. The applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
14. The change of zoning from the R-5-A Zone District to the C-3-A Zone District for the Subject Property shall be effective upon the recordation of the covenant discussed in Condition No. 10, pursuant to 11 DCMR §3028.9.
15. The owner is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. 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, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the owner to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

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

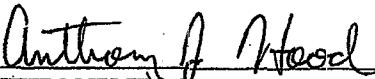
On July 14, 2008, the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Anthony J. Hood, Curtis L. Etherly, Jr., and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot; Gregory N. Jeffries, not having participated, not voting).

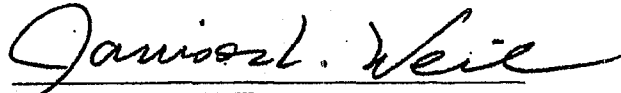
This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 8, 2008, by a vote of 4-0-1 (Anthony J. Hood, Michael G. Turnbull, Curtis, L.

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Etherly, Jr., and Peter G. May to adopt; Gregory N. Jeffries, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Corrected Order is deemed to have become final and effective *nunc pro tunc* as of October 3, 2008.


ANTHONY HOOD
CHAIRMAN
ZONING COMMISSION


JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



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

SEP 18 2009

SEP 18 2009

As Secretary to the Commission, I hereby certify that on SEP 18 2009 copies of this Z.C. Order No. 05-28A1 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|---|
| 1. D.C. Register | 5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
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| 2. Phil Feola
Christine Roddy.
Pillsbury, Winthrop, et al
2300 N Street, N.W.
Washington, D.C. 20037-1128 | 6. Councilmember Yvette M.
Alexander |
| 3. Willette Seaward, Chair
ANC 7D
3939 Benning Road, NE
Washington, DC 20019 | 7. DDOT (Karina Ricks) |
| 4. Commissioner Alisa A. Woods
ANC/SMD 7D07
3725 Cassell Place NE
Washington, DC 20019 | 8. General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| | 9. Office of the Attorney General
(Alan Bergstein) |

ATTESTED BY:


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