

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JL* Joel Lawson, Associate Director Development Review

**DATE:** April 15, 2024

**SUBJECT:** One Year Time Extension Request: Case 05-28AG, Parkside Parcel 9B, time extension to begin construction of this portion of PUD Order 05-28Q

**I. RECOMMENDATION**

- The Office of Planning (OP) recommends **approval** of the request for a one-year extension to begin construction of Parcel 9B by March 23, 2025.

**II. APPLICATION SUMMARY**

Address	The Property is bounded by Kenilworth Terrace, N.E. to the southeast, Grant Place, N.E. to the southwest, Parkside Place, N.E. to the northwest, and Burnham Place, N.E. to the northeast.
Applicant	Parkside Residential LLC
Legal Description	Square 5056, Lots 868 and 869
Ward, ANC	Ward 7, ANC 7D
Project Summary	In ZC 05-28 (2007), the Commission approved a multi-phase development of the large Parkside development. Three have since been numerous Stage 2, modification, and extension requests. In 05-28Q, the Commission approved construction of a mid-rise mixed-use residential and retail building on the subject property together with a similar structure proposed for Parcel 9B. A Modification of Significance application was approved for Parcel 9B in ZC 05-28AC, to revert previously approved office space back to residential.
Order Effective Date	March 23, 2018
Previous Extension	ZC 05-28W: Two-year time extension of ZC 05-28Q, extending the filing of a building permit from March 23, 2018, to March 23, 2022. ZC 05-28W(1): Administrative one-year time extension to March 23, 2023, with the deadline for construction to start by March 23, 2024.
Order Expiration Date	March 23, 2024.
Request	The applicant requests a one-year time extension of the approved second-stage PUD to March 23, 2025.

### III. EVALUATION OF THE EXTENSION REQUEST

#### Subtitle Z, § 705.1

The extension of a PUD is allowed for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Zoning Commission determines that the following requirements are met:

- (a) **The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond.**

The filing notes that ANC 7D would be served on the day the application was filed, which was March 22, 2024 which is more than 30 days before the date of the ZC public meeting..

- (b) **There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission’s justification for approving the original PUD.**

#### Zoning Regulations

The first-stage PUD was approved under the 1958 Zoning Regulations and the two earliest extensions were granted under the 2016 Zoning Regulations. The previous extension request was reviewed under the 2016 Zoning Regulations, as is the current one, although the criteria under which an extension request is reviewed are the same under both sets of regulations.

The permitted number of time extensions requests has changed. Under Subtitle Z, § 705.5, no more than two extensions may be requested for a PUD and the second extension may be approved for no more than one year. Not including the administrative extension in 2022, the subject application is the second extension request, for a period of one year, so is consistent with this provision.

#### Comprehensive Plan

There has been no substantial change to the Comprehensive Plan since the project’s most recent extension request. There has been no change to the Comp Plan since the original Stage 2 approval under the previous Comp Plan. No other new plans have been adopted affecting the subject property since the original approval of the PUD.

#### Surrounding Development

No substantial new development has occurred near the site since the first second-stage approval of this project was adopted by the Zoning Commission that was not anticipated at the time of that approval. Construction of the pedestrian bridge over Kenilworth Avenue, connecting the pedestrian promenade included as a part of this second-stage PUD application with the Minnesota Avenue Metrorail station on the east side of Kenilworth Avenue has been completed, improving pedestrian access to Parkside from Metro.

**The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.2 (c)**

One or more of the following criteria must be met:

- (1) An inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;*
- (2) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control;*
- (3) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.*

The applicant notes that this extension was filed under an abundance of caution and that development of this site is imminent. Currently the site is being used as a staging area for construction on adjacent Parcels 8 and 10, which are adjacent to Parcel 9B. While there are other undeveloped parcels that could be used for staging for Parcels 8 and 10, this would likely have greater impact on pedestrian and bike movement to the pedestrian bridge, and vehicular traffic on Kenilworth Terrace NE. The application notes that development of the subject site is imminent.