

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-29(3)**  
**Z.C. Case No. 15-29**  
**Jemal's Gateway DC, LLC**  
**(Consolidated PUD and Related Map Amendment @ Square 2960, Lot 17)**  
**ORDER DENYING MOTION FOR LEAVE TO FILE &**  
**MOTION TO RECONSIDER Z.C. ORDER NO. 15-29(2)**  
**June 25, 2018**

Pursuant to Z.C. Order No. 15-29, effective as of February 17, 2017, the Zoning Commission for the District of Columbia ("Commission") granted an application of Jemal's Gateway DC, LLC ("Applicant") for approval of a consolidated planned unit development ("PUD") and a related Zoning Map amendment from the C-2-A and R-1-B Zone Districts to the C-2-B District for Lot 17 and a portion of a public alley to be closed in Square 2960 ("PUD Site").<sup>1</sup>

Pursuant to Z.C. Order No. 15-29(2), effective as of June 8, 2018, the Commission granted a subsequent request filed by the Applicant to extinguish the approved PUD and Zoning Map amendment applicable to the PUD Site that was approved in Z.C. Order No. 15-29.

The parties to Z.C. Case Nos. 15-29 and 15-29(2) were the Applicant and Advisory Neighborhood Commission ("ANC") 4A.

Subtitle Z § 700.3 of the Zoning Regulations provides the following:

A motion for reconsideration, rehearing, or re-argument of a final order in a contested case under Subtitle Z § 201.2 **may be filed by a party** within ten (10) days of the order having become final. The motion shall be served upon all other parties. (Emphasis added.)

Subtitle Z § 101.9 of the Zoning Regulations provides that the Commission may, for good cause shown, waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

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<sup>1</sup> These zone districts were renamed as of September 6, 2016, but the re-designations did not impact the Commission's analysis of the motion that is the subject of this Order.

Pursuant to Subtitle Z § 101.9, on June 15, 2018, Reverend David L. Jefferson and Naima Jefferson (“Jeffersons”), who were not parties to the case, filed a “Motion for Leave to File & Motion to Reconsider Z.C. Order 15-29(2)” (“Motion”). (Exhibit [“Ex.”] 76.) On June 20, 2018, the Applicant filed a letter requesting that the Commission deny the Motion (“Request for Denial”). (Ex. 77.)

The Request for Denial argued that the Motion should be denied because the Jeffersons were not a party to the case, and that granting a waiver from Subtitle Z § 700.3 would prejudice the Applicant by reopening the record to a non-party to file documents and reargue the merits of the Commission’s decision to extinguish the PUD that the Applicant does not intend to build. Moreover, the Request for Denial stated that the Jeffersons appealed the issuance of Z.C. Order No. 15-29 to the D.C. Court of Appeals (17-AA-0255), which the Court dismissed as moot by order dated June 12, 2018, given that Z.C. Order No. 15-29 was extinguished.

The Motion is denied. In numerous orders, including in Z.C. Order No 15-29(1) denying the Jefferson’s Motion for Leave to File and Motion to Reconsider Z.C. Order No. 15-29, the Commission has repeatedly stated the importance of the party status requirement. (*See also* Z.C. Order No. 11-24, p. 3, denying a motion for reconsideration filed by a non-party and reiterating that “only the existence of ‘extraordinary circumstances’ would justify the waiver of the requirement that only a party may file a motion for reconsideration, such as when no notice of a hearing is given.”) In this case, the reopening of the Commission’s record to allow the Jeffersons to submit the Motion to reargue the Commission’s decision to extinguish the PUD would be prejudicial to the Applicant because (i) the Applicant no longer intends to or has the right to move forward with the PUD; and (ii) the Commission already extinguished the PUD, and as a result the D.C. Court of Appeals, has dismissed the Jeffersons’ appeal as moot.


Thus, the Commission concludes that the Jeffersons were not a party in the underlying Zoning Commission case and have not shown good cause for waiving the party status requirement of Subtitle Z § 700. Therefore, for the reasons stated above, the Motion is hereby **DENIED**.


On June 25, 2018, upon the motion of Chairman Hood, as seconded by Vice Chair Miller, the Zoning Commission **DENIED** the Motion for Leave to File & Motion to Reconsider Z.C. Order 15-29(2) at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to deny; Peter A. Shapiro, not having participated in the hearing, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on September 28, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
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**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**