

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-18C
Z.C. Case No. 07-18C
Jemal's Up Against the Wall, LLC
(Modification of Condition No. 4 in Z.C. Order 07-18)
May 14, 2012

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public meeting on May 14, 2012. At the meeting, the Commission approved a request from Jemal's Up Against the Wall, LLC ("Applicant") for a modification to Condition No. 4 of the approved consolidated planned unit development ("PUD") in Z.C. Order No. 07-18 for property consisting of Lots 18, 19, 818-821, 831 and 832 in Square 347, pursuant to chapters 1, and 24 of the District of Columbia Zoning Regulations (11 DCMR). The Commission determined that the Modification Application was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

1. By Z.C. Order No. 07-18 dated April 14, 2008, and effective on May 16, 2008, the Commission approved a PUD for Lots 18, 19, 818-821, and a portion of an alley to be closed (now Lots 831 and 832) in Square 347 ("Property"). The order approved the redevelopment of the Property as a new commercial office and retail building containing approximately 97,872 square feet of gross floor area and constructed to a height of 130 feet.
2. By Z.C. Order No. 07-18A, the Commission extended the validity of the PUD for a period of two years, such that an application for a building permit would need to be filed no later than May 16, 2012, and construction started no later than May 16, 2013.
3. By Z.C. Order No. 07-18B, the Commission extended the validity of the PUD for another two-year period, such that an application for a building permit must be filed no later than May 16, 2014, and construction must be started no later than May 16, 2015.
4. By letter dated April 20, 2012, the Applicant requested a modification to the approved PUD in order to extend the time by which Condition No. 4 would need to be completed. As part of the approved PUD project, the Applicant agreed to relocate the historic Waffle Shop building on the Property to a new location in Square 450, also controlled by the Applicant. Under Condition No. 4 of the order, the Applicant is required to move the

building within five years of the effective date of the order, or by May 16, 2013. The Applicant requested that the deadline for completing Condition No. 4 run concurrently with the second extension of the PUD validity, or until May 16, 2014. The letter also asserted that the modification was minor in nature, and, therefore, could be granted without a hearing, as permitted by 11 DCMR §§ 2409.9 and 3030.

5. The extension of time by which to complete Condition No. 4 is necessitated by the delayed development plans for the Applicant's site in Square 450, which was also affected by the recession. The Applicant is now ready to proceed with the entitlement process for the Square 450 site, and has filed conceptual design plans with the D.C. Historic Preservation Review Board. The Square 450 project is expected to complete the entitlement process and obtain building permits prior to May 16, 2013, the current deadline for relocating the Waffle Shop. However, out of an abundance of caution and to allow flexibility in the construction logistics of dismantling and relocating the building, the Applicant has requested an extension of Condition No. 4 to be co-terminus with the validity of the second PUD request, or until May 16, 2014.
6. The Applicant served a copy of the request for a modification to the PUD on Advisory Neighborhood Commission ("ANC") 2C, the only other party to the case. The ANC did not submit a response.
7. By report dated and received by the Commission on May 4, 2012, the Office of Planning ("OP") recommended approval of the modification, finding the request to be of little or no consequence.
8. The Commission similarly finds the request to be of little or no consequence. It does not change the underlying obligation of the Applicant and will not affect the basis on which the PUD was approved. The extension will, in fact, ensure that the Waffle Shop relocation is properly sequenced with the construction to take place on Square 450.
8. The Commission finds that approval of the modification is appropriate and not inconsistent with its approval of the original PUD.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modification is minor and consistent with the intent of the previously approved Z.C. Order No. 07-18, as extended by Z.C. Order Nos. 07-18A and 07-18B. (11 DCMR § 2409.9.) The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations, and is not inconsistent with the Comprehensive Plan.

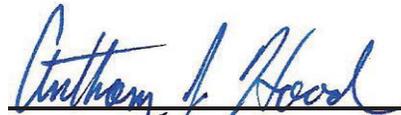
The Commission further concludes that the modification is of little or no consequence, and is therefore appropriate for consideration on the Consent Calendar, without a public hearing. (11 DCMR § 3030.2.)

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a modification of an approved PUD to extend the deadline for completion of Condition No. 4 of Z.C. Order No. 07-18 until May 16, 2014. All other provisions and conditions of Z.C. Order No. 07-18 shall remain in effect.

On May 14, 2012, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on October 5, 2012



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING