

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-17(3)**  
**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**  
**(Consolidated Planned Unit Development and Related Zoning Map Amendment for**  
**Square 2560, Lots 127, 872, and 875)**  
**April 18, 2013**

**Order**

At a public meeting held on April 18, 2013, the Zoning Commission for the District of Columbia ("Commission") considered whether to waive its procedural rules and accept Ronald Gluck's request for reconsideration of the Commission's final order in Z.C. Case No. 11-17. For the reasons discussed below, the Commission declined to waive its rules and refused to accept his reconsideration request.

By Z.C. Order No. 11-17 in Z.C. Case No. 11-17, Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875.

Z.C. Order No. 11-17 ("Order") was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 25, 2013. A non-party could not file such a motion at all.

On March 25, 2013, Mr. Gluck, who did not request party status, attempted to file a letter requesting reconsideration of the Order. The filing was rejected because Mr. Gluck was not a party. On March 27, 2013, Mr. Gluck filed a Motion for Leave to Accept a Motion/Letter for Reconsideration ("Motion"). The Motion indicated that it was being made pursuant to §§ 3008.8 and 3029.5.

Subsection § 3000.8 provides:

The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

Mr. Gluck sought a waiver the requirements of § 3029.5 that a motion for reconsideration be filed by a party and that the filing must occur within 10 days after the order became final.

In fact, Mr. Gluck attempted to file the motion within the time prescribed, so the only waiver the Commission needs to consider is the requirement that Mr. Gluck be a party.

The Applicant opposed the waiver request.

As noted by the Board of Zoning Adjustment, only the existence of “extraordinary circumstances” would justify the waiver of the requirement that only a party may file a motion for reconsideration. *See Application No. 18263-A of Stephanie and John Lester* (2001). The *Lester* order noted that one such extraordinary circumstance is when no notice of a hearing is given. *Id. citing Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972).

Here, Mr. Gluck’s claims that he was not given written notice by mail. This is correct. However, the reason Mr. Gluck did not receive mailed notice was because he was not entitled to any. Subsection § 3025.3 (a) only requires mailed notice to the owners of all property within two hundred feet of the property. Mr. Gluck’s property falls outside the 200 foot boundary according to the adjacent property list prepared by the District’s Office of Tax and Revenue filed as Exhibit 4 of the record. Notice of the hearing was given to Mr. Gluck as a member of the public through the publication and posting requirements of the regulations, and it is clear that he received such notice since he testified at the hearing as a witness of party opponent KCA and provided extensive written evidence into the record.

Mr. Gluck’s other basis for the waiver is the proximity of his property to the subject matter of this application. However, that would have furnished a motivation for him to have requested party status when it was the time to do so. It does not present a basis for waving the limitation that only those who did request and were granted party status may file motions for reconsideration.

For all the reasons stated above, Ronald Gluck’s Motion for Leave to Accept a Motion/Letter for Reconsideration is hereby **DENIED**, and Mr. Gluck’s Request was not accepted into the record of Z.C. Case No. 11-17.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

**VOTE:**           **5-0-0** (Marcie I. Cohen, Peter J. May, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to deny.)

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In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

  
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**ANTHONY J. HOOD**  
Chairman  
Zoning Commission

  
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**SARA A. BARDIN**  
Director  
Office of Zoning