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District of Columbia Zoning Commission
441 4th Street, N.W.
Washington, D.C. 20001

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RE: Application 03-09, Proposed Expansion of § 217

Members of the Commission:

After attending the public hearing on 29, 2003, I feel constrained to share some further observations and make some further recommendations with respect to the Office of Planning's (OP) proposals.

FIRST. I was struck with the paucity of information OP provided this legislative body in support of its petition to amend a long-standing zoning law. Any change in § 217 could have potential impacts in hundreds of residential neighborhoods throughout the city or practically none at all. We simply have no idea. This proposal is akin to changing a long-standing traffic law or the requirements for obtaining building permits and the cavalier attitude of OP to such a major amendment was disappointing.

Before any proposed amendment of § 217 is considered, the Commission should first require OP to justify its proposal on the basis of actual fact, actual data, and expert analysis of the ultimate consequences for each proposed change. At a minimum, OP should be required to obtain an inventory all single-family homes in the city which meet the basic prerequisites of § 217 in order to determine the scope of potential impact. I assume that the real property data bases maintained by the Tax Assessor and the Department of Consumer Affairs already contain the data necessary to obtain such an inventory. (Getting it out may be a different matter).

Next, OP should be required to submit a report evaluating all existing properties currently exempted from the requirements of residential zoning pursuant to § 217. While that data presumably should be quickly obtained with a computer run, some evaluation of each individual property should be made. The Commission presently has no basis upon which to judge the efficacy of the exception or, for that matter, whether it is still needed. After all, the best use of our large historic single-family homes is as single family homes.

ZONING COMMISSION
District of Columbia
Case 03-09
Exhibit 14

ZONING COMMISSION
District of Columbia
CASE NO.03-09
EXHIBIT NO.14

SECOND. It appears to me that OP is not concerned with protecting our historic residential neighborhoods, such as Georgetown, from the deleterious effects of uneconomic and dilapidated old historic homes. Instead, OP appears to be doing the bidding of unidentified bureaucratic interests in the city government who are looking for nicer digs in MORE upscale neighborhoods.

As I noted in my testimony, § 217 was enacted as a temporary palliative to preserve our large old land-marked homes as well as the historical residential neighborhoods that surround them. **That is its sole purpose**. *Monaco v. BZA,* 461 A.2d 1049, 1052 (D.C. 1983). In Georgetown we are now seeing a resurgence of wealthy people who can afford to restore and again live in these old historical treasures. Witness Herb Miller's renovation of the Sevier House and the $10 million renovation of the old Edes Retirement Home at 29th and N.

The only valid reason for making any change to § 217 would be to **further preserve and protect our historic residential neighborhoods – not to facilitate the intrusion of disruptive city government activities** . OP has made no case whatsoever, that any such action is required.

THIRD. Section 217 is not a suitable legislative vehicle for dealing with school buildings. School buildings present an entirely different set of problems and should be treated separately if any zoning regulation is, in fact, needed. I am aware of several school buildings that are not located in residential zones and, accordingly, they would not be covered by § 217 which applies only to residential neighborhoods.

Once again, OP should be required to submit an inventory and analysis of each school building in a residential zone which may be a potential problem. Until that is done, the Commission has no basis upon which to formulate any general zoning policy.

The best use for school buildings is as schools. As demographics change, some of our old schools may once again be renovated and used for their intended purpose. The next best use is conversion to residential condominiums. This has been successfully accomplished in Georgetown. The International School and the Phillips School, both near 28th and M, are good examples.

Georgetown University's acquisition of the Wormley School on Prospect Street, is a disaster waiting to happen for that neighborhood. Although the University contracted with the community in writing to use the building only for office purposes, it recently attempted to renege on that deal.

The very worst use for school buildings in residential neighborhoods would be as District Government facilities. Any and all functions of the city government should be located in non residential districts where they belong under any rational zoning scheme. [Except those functions that are already permitted by the Zoning Regulations such as Youth Care Homes and Community Centers].

FOURTH: The Chair posed a question as to whether the language of § 217 should be amended to clarify two subsections that are subject to differing interpretations. OP has made no recommendations in this regard and, accordingly, any such proposed changes should have a further round of public hearing and comment before the Commission takes any action.

I would recommend that § 217.1 be amended to read as follows:

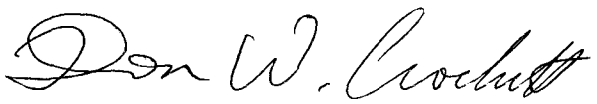
> The use of existing residential buildings and the land on which they are located by a nonprofit organization, **which is exempt from federal income tax, as offices or as historical sites for public tours,** shall be permitted as a special exception in the following instances if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section:

I would also recommend that § 217.4 be amended to read as follows:

> No goods, chattel, wares, or merchandise shall be commercially created, exchanged, or sold in the residential buildings or on the land by a nonprofit organization. Except for the sale of publications or materials related to the purposes of the non profit corporation. **Nor shall the buildings or land be rented, leased, or used by others for any purpose other than for historical tours of a Landmark property.**

Accordingly, the Zoning Commission should deny the District's pending application and readvertize any other amendments the Commission may deem advisable.

Respectfully,



Don W. Crockett

cc Citizens Association of Georgetown