GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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D.C. OFFICE OF PLANNING

MEMORANDUM

DATE: July 21, 2003

TO: District of Columbia Zoning Commission

FROM: Andrew Altman, Director
Office of Planning

CASE NO.: ZC 03-09

SUBJECT: **Supplemental** Report for a text amendment to expand §217, NON-PROFIT ORGANIZATIONS (R-1) to public school buildings and to include District Government Agencies as an eligible use.

At the public hearing of May 29, 2003, the Zoning Commission asked for additional language to address concerns that eligible properties not be occupied by uses that may be incompatible with surrounding neighborhoods. To further address Commission concerns OP proposes the following new §217.2:

PROPOSED TEXT AMENDMENT TO SECTION 217, 11DCMR:

217 NON-PROFIT ORGANIZATIONS (R-1)

217.1 The use of existing residential **and public school** buildings, and the land on which they are located by a nonprofit organization **or a District government agency** for the purposes of the nonprofit organization **or District government agency** shall be permitted as a special exception in an R-1 District in the following instances if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section:

(a) If the building is listed in the District of Columbia's Inventory of Historic Sites contained in the comprehensive statewide historic preservation survey and plan prepared pursuant to § 101(a) of the National Historic Preservation Act, approved October 15, 1966

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(80 Stat. 915, as amended; 16 U.S.C. § 470a), or, if the building is located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites; and

(b) If the gross floor area of the building in question, not including other buildings on the lot, is ten thousand square feet (10,000 ft.^{2}) or greater;

217.2 **District government agency use of existing residential and public school buildings and land shall be subject to the following limitations and standards:**

(a) The principal use shall not adversely affect the character of the neighboring properties;

(b) The principal use shall not be interior or exterior storage or vehicle parking;

(c) The following uses shall not be permitted:

i) Vehicle storage, vehicle maintenance, storage of impounded vehicles, or storage of seasonal vehicles or equipment;

ii) Any use first permitted in the CM zone district;

iii) Facilities for the mandatory incarceration of pre-trial or convicted criminals not otherwise regulated this chapter;

(d) Any exterior use shall be accessory and incidental to the principal interior use; and

(e) The hours of operation or noise shall not unduly compromise the privacy of use and enjoyment of neighboring properties

~~217.2~~ **217.3** Use of existing residential **and public school** buildings and land by a nonprofit organization **or a District government agency** shall not adversely affect the use of the neighboring properties.

~~217.3~~ **217.4** The amount and arrangement of parking spaces **and loading spaces** shall be adequate and located to minimize traffic impact on the adjacent neighborhood.

~~217.4~~ **217.5** No goods, chattel, wares, or merchandise shall be commercially created, exchanged, or sold in the residential **or public school** buildings or on the land by a nonprofit organization **or a District government agency**, except for the sale of publications, materials, or other items related to the purposes of the nonprofit organization **or the District government agency**.

~~217.5~~ **217.6** Any additions to the building or any major modifications to the exterior of the building or to the site shall require the prior approval of the Board. The Board shall refer any proposed additions or modifications to the State Historic Preservation Officer, who, acting with the advice of the D.C. Professional Review

Committee for nominations to the National Register of Historic Places, shall provide the Board with a report to determine possible detrimental consequences that the proposed addition or modification may have on the architectural or historical significance of the building or site or district in which the building is located.

~~217.6~~ **Any special exception application made pursuant to this section shall be**
217.7 **heard and decided together with any other special exception relief required. The Applicant shall have the burden of proving compliance with all applicable special exception requirements, whether stated in this section or elsewhere in this title. In the event of any inconsistency between the requirements, the most restrictive criteria shall apply.**

OP reviewed the comments made at the public hearing. Three city departments were mentioned as possibly having uses that could be adverse to the character of a residential neighborhood- Department of Public Works, Department of Motor Vehicles, and the Department of Corrections. OP believes that the concerns about onerous uses from these or other District department are addressed by the proposed new §217.2.

- Temporary correctional facilities are first permitted in the CM zone and therefore would not be eligible per the new §217.2 c) ii);
- Jails and prisons are prohibited by §217.2 c) iii);
- Other related facilities would be permitted only as a CBRF and subject to existing special exception review; §217.7 ensures that this text modification would not weaken those existing standards; and
- §217.2 c) i) and iii) are intended to prohibit onerous uses that are vehicle oriented or intensive, and solid waste or industrial uses.

Consideration of loading spaces was raised at the hearing and the suggestion has been included in the new **217.4**.

At the public hearing the issue of defining non-profit organization was raised by Mr. Bartel, who suggested that the phrase "tax exempt" be added to the definition. Section 199 of the Zoning Regulations currently includes a definition on non-profit organizations as follows:

> **Organization, nonprofit** - an organization organized and operated exclusively for religious, charitable, literary, scientific, community, or educational purposes, or for the prevention of cruelty to children or animals; provided that no part of its net income inures to the benefit of any private shareholder or individual.

OP does not propose a change to this definition. OP was unable to get any information from the Office of Tax and Revenue regarding the difference between non-profit and non-profit/tax exempt. Focusing on the land use implication, however, OP inquired of the

zoning and historic preservation inspection staffs if there was a history of any complaints about the non-profit status relative to the use of historic properties as permitted by this section of the Code. Neither knew of any problems with the definition or complaints of inappropriate use relative to the definition. OP also did a cursory review of approved Section 217 special exceptions over the past twelve years. There are six such approvals and there is no indication that the uses are not legitimately non-profits consistent with the intent of §217. There is one renewal of Tudor Place pending.