

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *HLS/ev*
Harriet Tregoning, Director

#07-04

DATE: February 2, 2007

SUBJECT: Setdown Report – Text Amendment to delete § 801.7(k) of the Zoning Regulations relating to Temporary Detention or Correctional Institutions in the C-M District.

RECOMMENDATION

The Office of Planning recommends § 801.7 of the Zoning Regulations be amended by the deletion of subsection (k):

- 1. Delete Section 801.7:
~~(k) — Temporary detention or correctional institution on leased property for a period not to exceed three (3) years; and~~

BACKGROUND

In the late 1960's and early 1970's, the District of Columbia Jail was under court order to relieve overcrowding at the jail. On April 11, 1972 the Zoning Commission adopted Zoning Commission Order No. 46, in relation to Case No. 71-33, which amended Section 6101.34 to of the Zoning Regulations by adding a new paragraph (k) which later became Subsection 801.7 (k). The amendment added temporary detention and correctional institutions to the list of permitted uses in the C-M (industrial) zones.

“(k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.”

ANALYSIS

The DC Jail was under court order to relieve overcrowding at its facility and it seems that, although not directly stated, this zoning text was one of the many measures or mechanisms that were made available to the government to relieve overcrowding. The

ZONING COMMISSION
District of Columbia

07-04

CASE NO.

1
EXHIBIT NO.

use of the term "temporary" in the regulations seems to denote that the regulation was enacted to relieve a crisis that was in existence at the time.

The public notice for the amendment states that its purpose was *"to provide for interim or temporary locations for persons confined by the Court until permanent facilities can be acquired and developed for such purposes."* Further, the final report of the Zoning Advisory Council stated that the effect of this use was to *"accommodate overflow populations from the established institutions."* In other words, these institutions would provide temporary accommodations while other measures were taken to accommodate persons confined by the court.

The Commission intended that these facilities would be "temporary" and so stated in the regulations. The text specifically states that institutions should be *"on leased property"* which seem to indicate that the facility would not be a permanent use at any location. Their intent is further emphasized at the end by a specific time period of *"not to exceed three (3) years."* It seems that the Commission envisioned a temporary use only to accommodate overflow populations when there is not sufficient space to accommodate them at the existing jail. Therefore, these facilities were only intended to address the pressures of overcrowding and enable the DC Jail to be in compliance with the court order. It should be noted that since the regulations were adopted thirty-five (35) years ago, the DC Jail has not operated any such institution in the District.

The Zoning Regulations do not define detention or correctional institutions. There have been cases in which it has been interpreted to be interchangeable or a subcategory of an adult rehabilitation home, also called a halfway house. However, an adult rehabilitation home is a subcategory of Community Based Residential Facility (CBRF) and is clearly defined in the Zoning Regulations as:

"A facility providing residential care for one (1) or more individuals sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense, or any individual twenty-one (21) years of age or older, under per-trial detention or sentenced court orders." Section 199.1

This facility is distinctively different from detention or correctional institutions because the persons that are housed in adult rehabilitation homes are either in a pre-trial situation or are near the end of their sentences and are granted certain privileges to integrate them back into the community. They therefore have minimal supervision and are allowed to leave the facility. In the case of the detention or correctional institution, persons housed would be those convicted, and are serving their terms. They are not allowed to leave the property to have any interaction with the community and are under twenty-four hour supervision. The only reason they would not be at the main DC Jail would be to relieve overcrowding. Therefore, using the terms interchangeably is not correct. Deleting Section 801.7(k) would help to alleviate any misinterpretation that has occurred in the past.

COMPREHENSIVE PLAN

Neither the District of Columbia Comprehensive Plan of 1995 and amended in 1999 nor the Draft Comprehensive Plan, 2006 addresses or identifies any need for temporary detention or correctional facilities.

RECOMMENDATION

Based on the above discussion, including the intent of the regulations and the fact that no facility of this type has existed since the adoption of the regulation thirty-five years ago, the Office of Planning recommends that the Zoning Commission:

Delete Section 801.7(k):

~~(k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years; and~~

ATTACHMENT:

1. Zoning Commission Order No. 46

Government of the District of Columbia
ZONING COMMISSION



Zoning Commission Order No. 46
April 11, 1972

ORDERED:

That after public notice and hearing as prescribed by law, the following text change established by the Zoning Commission of the District of Columbia, as shown in the Zoning Regulations, is hereby modified and amended:

Case No. 71-33

Amendment of Subsection 6101.34 to add a Paragraph (k) to list of permitted uses as follows:

(k) Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.

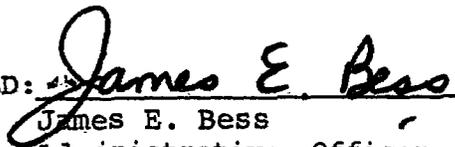

WALTER E. WASHINGTON


GILBERT HAHN, JR.


STERLING TUCKER


GEORGE A. WHITE

RICHARD L. STANTON

ATTESTED: 

James E. Bess
Administrative Officer