



MEMORANDUM

2009 OCT 30 PM 3: 56

TO: District of Columbia Zoning Commission
FROM: Jennifer Steingasser, Deputy Director for Development Review & Historic Preservation
DATE: October 30, 2009
SUBJECT: Supplemental Report for Zoning Commission Case Number 09-09, a Proposed Zoning Text Amendment to allow a trapeze school facility with the SEFC/R5E District

I. RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission, when taking final action on Commission Case Number 09-09, move the existing last sentence of § 3202.3 to the end of the definition of the term "structure" at 11 DCMR §199.1. As a result of this recodification, that definition would read:

Structure - anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. **Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.**

II. BASIS FOR RECOMMENDATION.

Section 3202.3 requires that building permits only be issued for properties on established lots of record, with noted exceptions. It also controls the number of structures on such lots. The last sentence of the rule allows multiple commercial occupancies that are separated by common division walls, such as strip malls, to be deemed a single structure, thus allowing such combined uses on a single record lot.

The proposed text amendment would create another exception to the record lot requirement for a trapeze school being relocated to a portion of the Southeast Federal Center that has yet to be subdivided. With the addition of the trapeze school exception, § 3202.3 has become unwieldy. OP and OAG have sought to simplify the section by making those exceptions into a list. However, doing so leaves the last sentence literally dangling. See below:

3202.3 Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Code, 2001 Ed. §9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or



conversion has been divided so that each structure will be on a separate lot of record. Notwithstanding the foregoing, a building permit may be issued for:

- (a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia:
- (b) A boathouse, yacht club, or marina to be constructed on a lot that is not a lot of record, provided that such lot fronts on a public body of water, is otherwise surrounded by public park land, and is zoned W-0; or
- (c) The trapeze school and aerial performing arts center to be constructed pursuant to § 1804.7.

Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

Both OAG and OP believe that this last sentence would now be better understood in the context the definition of the term “structure” rather than as part of a section that governs how structures relate to lots.

II. CONCLUSION

The Office of Planning **recommends that the Zoning Commission approve** the re-codification suggested above and reiterates its support for the text amendment before you.

JS/ayj
Arlova Jackson, Case Manager