

**Testimony of Robert Cane, Friends of Choice in Urban Schools
Proposed Amendments to Public School Zoning Regulations
May 11, 2006**

Good evening Commissioners and staff My name is Robert Cane, and I'm executive director of FOCUS, a non-profit organization that provides advocacy and other services to the District's public charter schools. I'm here to ask you not to add any more than absolutely necessary to the principal burden that those who start and run our charter schools must carry the extreme shortage of available space in which to put their schools.

Public Nature of Public Charter Schools

As you know, under D.C. law charter schools are public schools they are tuition free, publicly funded, publicly accountable, have open admissions, may not discriminate, and must provide special education services Starting from two schools with a combined enrollment of 160 students in 1996, today charter schools enroll 17,500 students on 63 campuses – 24% of all public school students in D.C.. In other words, charter schools are wildly popular with the citizens of the District, whose children attend these schools voluntarily and from which they may be withdrawn at any time but rarely are

The Charter School Facilities Crisis

The phenomenal growth of the District's charter schools has occurred in spite of an ongoing facilities crisis. Although D.C.'s hot commercial real estate market plays a role, this crisis has been created and sustained largely by the D.C. government

When the first charter schools opened in 1996 there were 60 surplus DCPS school buildings standing empty around the District, all under the jurisdiction of the mayor. At the same time, the school system was occupying, by its own estimates, approximately 3 million square feet of excess space. In the 10 years since then, charter schools, in spite of a legal preference to lease or buy this surplus and excess

space, have been able to gain access to only 13 of the surplus buildings and on the order of 25,000 square feet of unused DCPS space. Meanwhile, DCPS's underutilized space has grown to approximately six million square feet. Several DCPS schools stand empty, and 53 occupied schools have 200 or more empty seats. DCPS elementary schools average 251 empty seats, middle/junior high schools 421, and high schools 391. To round out this woeful picture, Council Member Orange has for many months been blocking the disposition of three surplus buildings that Mayor Williams actually wants the charter schools to be able to acquire.

Some of you may have heard that DCPS is now promising to give up a significant amount of excess square footage. But this is far from a done deal, and, furthermore, DCPS does not recognize the charter schools' legally-mandated right of first offer on this property. In fact, DCPS already has expressed its strong intent to use much of the space for non-charter school purposes. This means that charter schools are likely to get the short end of the stick once again.

Locked out of most public school buildings, the charter schools have been forced into the commercial market, often paying high rents for space that lacks normal school amenities like libraries, playgrounds, and gymnasiums. Many have found space in commercial zones, often on busy streets, and a few have located in residential areas, generally in churches or community centers. A number of new charter schools have had to postpone their openings by a year because they could find no suitable space at all.

The Zoning "Emergency"

As if all of this weren't bad enough, the zoning administrator, in response to complaints from a few neighbors of a small charter preschool seeking to locate in a commercial building on a residential block in Ward 6, somehow convinced the

children But protecting these neighbors' individual good must be balanced against the greater good of having public schools available to neighborhood children

You will be hearing specific testimony about the small school problem from a number of people tonight. I urge you to take this testimony seriously and to amend what has been proposed to you by OP by lowering the minimum lot areas and the minimum lot width areas If you do not do so, you will essentially be denying by-right location of charter schools in most residential zones and will be directly contributing to the longstanding charter school facilities crisis

Thank you

Mayor's Office of Planning to recommend to you that you adopt revised public charter school zoning regulations on an emergency basis. I say "public charter school regulations," not "public school regulations," because in practical terms they are unlikely ever to be applied to the school system DCPS is shrinking, not expanding, and it is hard to imagine a future in which DCPS will be hunting for sites for new buildings. Even if it were to do so, as a traditional school system DCPS would not seek to start a small school of the sort that would require a four, five, or 10,000 square foot lot. But charter schools often are small – some as small as 35 students – and some start small and need a small amount of temporary space in which to establish themselves before they begin to grow. So these are public charter school regulations, pure and simple.

These regulations, which you did adopt on an emergency basis after being told by OP that to do so would be in the best interests of the charter schools, have already had a negative effect on three charter schools. One was denied a building permit on the basis of the emergency regs; one that had put down earnest money on an R-5 property on Georgia Avenue with "only" 100 feet of street frontage dropped its purchase because it needed to occupy a new building before the BZA process would run its course; and a third whose proposed building met all the requirements was initially denied a C of O because staff in the administrator's office told them that all charter schools now had to go through the BZA process before getting one. This last problem was corrected, but only after several trips to the administrator's office by the school's founder.

If adopted on a permanent basis these regulations would have the effect of making it next to impossible for small schools like preschools to find space they can afford in residential zones. Yet these small schools for young children are just the schools that should be in quiet neighborhoods, not on busy commercial streets. We understand that some of the potential neighbors of these small schools may not want schools in their neighborhoods, not even small ones with very young