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District of Columbia**

9 June 2006

Ms. Carol Mitten, Chair
Zoning Commission
Government of the District of Columbia
One Judiciary Square
441 4th Street NW
Suite 210S
Washington, DC 20001

VIA FACSIMILE (202) 727-6072

CASE NO. 06-06 FAX
EXHIBIT NO. 42

RE: CASE 06-06: TEXT AMENDMENT FOR PUBLIC SCHOOLS

TESTIMONY BEFORE THE ZONING COMMISSION
11 May 2006SUBMITTED AS WRITTEN TESTIMONY AS REQUESTED BY THE CHAIR
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Members of the Commission and staff.

My name is Milton Shinberg, and I live at 2949 Upton Street, NW.

My testimony reflects concerns as a Washington native, a proud graduate of DC public school, and an architect with thirty-five years experience, including extensive work for public and private schools. I believe we have worked with more charter schools, and a broader range of charter schools, than most if not all firms in the area. I believe this provides some perspective on the issues before the Commission at this time.

The changes forwarded by OP include many significant and helpful elements for our schools. Their initiative contains some that are long overdue with respect to public charter schools, particularly in extending matter-of-right use to several previously blocked zones. Other provisions are less helpful, unfortunately.

I'll speak about public charter schools in residential zones, as I and many others don't believe these proposed text amendments will ever have much impact on traditional public schools.

For this testimony, I'll focus on matter-of-right and lot controls. The goal of my analysis is to consider whether it is likely, or even possible, to have neighborhood schools in the form of small public charter schools under the terms of the text amendment

A few thoughts:

1. A Defacto Taking of Matter-of-Right from Schools in Residential Zones

The text amendment purports to grant public charter schools parity. In fact, the minimum lot standards are a defacto taking of matter-of-right status from them. This turns the stated

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purpose of the text amendment on its head.

Previously, every zoning administrator granted this parity with traditional public schools. With the minimum residential lot standards, many public charter schools again have to struggle over their most basic right: existence.

2. The minimum lot standards are overly restrictive

in terms of the realities of land use and school design. While they wouldn't restrict the huge land standards of traditional DCPS public schools, they will greatly limit smaller public charter schools.

3. An example of Minimum Lot Area: the R-4 Zone

In R-4, as one example, the text amendment has a 9,000 sf minimum. According to the Office of Planning, *two-thirds* of the city's R-4 lots are less than 9,000 sf. Of those, the typical R-4 lot is 100' deep and 18' to 20' wide. It would take 4.5 to 5 typical R-4 lots to meet this standard. It would be extremely difficult to make an assemblage to accomplish that in an established neighborhood, and most are. That would doom most small schools. It's overkill, and really not productive.

Therefore, a minimum lot comprising two typical R-4 lots could be $18 \times 100 \times 2 = 3,600$. That's less than the current amount. At three lots, that would be $18 \times 100 \times 3 = 5,400$ sf.

The bottom line in my opinion is based on a connection between reasonably possible assemblage of lots in R-4, and a reasonable basis for drop-off (below). Assemblage of more than 3 lots would make small schools in R-4 zones highly unlikely, and therefore against the intended purpose of neighborhood schools.

Therefore, I would recommend the 3-lot basis, at 5,500 sf.

4. Neighborhood Schools Actually Decrease Dependence on Vehicle Drop-off.

One clear benefit of small public schools in lower-density neighborhoods is that there should be markedly fewer vehicle drop-offs. Parents traditionally walk their young students to school; others can walk if the distance is short, as it would be for a neighborhood school.

5. Minimum Lot Width Issues

Any realistic examination of zoning should go beyond the theoretical and consider what's really possible. In other words, will zoning constraints be productive? Here's my experience:

Realities of School Design

In terms of design, the narrowest school design we have ever contemplated is one classroom wide, plus the code minimum 6' corridor, with stairs and elevator, totaling roughly 40'. That would take two R-4 lots at 20' width, or 40'. That's the *current* minimum lot width. If accommodating realistic design, there's no need to change it as a minimum. More generous layouts, even more efficient ones, require more width, but that should fall to the user's own evaluation. That isn't a zoning issue.

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Based on this particular factor, 40' width is fine

Driving Minimum Lot Width: Based on Safe Drop-off

The argument in favor of the proposed minimum frontage requirements is traffic and safety for dropping students off. It would appear to be reasonable at face value. However, on closer inspection, the logic is not as compelling.

Based on my work with many public charter schools, I can generalize: those with young children that have curb-side drop-off have staff bringing young students inside. This is program-driven, and does not need zoning regulation to support it. The OP argument is oriented to the safety of young children.

There is no need or benefit for cars to linger, and I've observed them moving out quickly as a rule. Parents don't have to park. Strollers don't have to be opened. Further, a substantial component of students get to schools on foot or by public transportation.

Frontage beyond the existing minima are naturally program-driven, and basically come along on their own for larger lot assemblages. This means that larger schools, assembling more land, have more students, and automatically get more frontage. I believe this trumps the need for more strictures regarding minimum lot width.

How Much Frontage Is Reasonable as a Zoning *Minimum*?

Once again, examination of R-4 is instructive. Based at least in part on frontage for school-dedicated drop-off that DDOT commonly approves, I believe a 3-car *minimum* drop-off is sufficient for small schools, such as those likely in lower density zones such as R-4 and below.

Frontage for 3 cars would equal about 3 eighteen-foot lots. We're not talking about parking spaces. Real cars aren't 19' long. Three typical R-4 lots at 18' would provide 54'. That should easily be enough. It would exceed the current 40' R-4 width, and is a reasonable minimum for other low density zones.

6. The Minimum 120' Lot Width Is Onerous and Not Necessary.

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along on their own for larger lot assemblages. This means that larger schools, assembling more land, have more students, and automatically get more frontage. I believe this trumps the need for more strictures regarding minimum lot width.

7. Other Zones Below R-5

The minimum standards proposed for the other lots below R-5 are even more onerous and should be reduced.

8. Minimum Lot Control Standards for Zones R-5 and Above

These are more intense urban zones, typically having better public transportation access and typically having wider streets.

Further, land-use in these zones, including minimum lot size and frontage, will be naturally regulated by the configurations and availability of typical lots. The lot sizes start bigger, and will get bigger still by any assemblage. Additional lot controls are not productive.

9 Why should you be concerned with small schools?

The traditional neighborhood school is big in land area, big in number of students. Small public charter schools with small populations and small sites serve an important civic purpose. They support special programs for very young children, which is especially helpful in neighborhoods. They allow excellent charter schools to grow as charter schools almost always grow: a grade a year. When they have outgrown small facilities, they move on. Their facility can pass on to another small school, or converted to another matter-of-right use.

10. Small schools generally have programs that require a more intimate scale.

They don't mix well with other schools. It's argued that new charter school facilities really aren't needed in residential zones, because there will be lots of co-location with other schools in DCPS buildings. That will most often be inappropriate in terms of the scales and character of those buildings.

In my experience with co-location, it's not so easy to accomplish well as it may appear. It should not be assumed to be the magic bullet. It's not. Assuming it will work is the same as mandating it. Public policy should not be based on One-Size-Fits-All; rather, just the opposite.

11. The Metro Effect & Teenage Drivers

The text amendment, to be comprehensive in addressing school issues, should incorporate a change to the parking requirements.

Metro

Given the impact of Metro on school access, a reduction in parking requirements for proximity to stations should be granted for distances more on the order of 3 blocks. Metrorail, and great improvements in the design of feeder bus routes, has greatly reduced the need for student drivers and for parents to drop their children at school.

Teenage Drivers

Given the changes in DC rules that constrain younger drivers, the high school parking requirement should be greatly reduced or eliminated as an addition to teacher-generated

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parking loads. It blocks reasonable school development without a corresponding public benefit. While some students can drive while of high-school age, the number in practical terms has cascaded downward.

On a practical basis, the parking requirement has become disproportionate due to these steady improvements.

12. Upcoming Proposals: Taking Away Matter-of-Right School Use in Industrial Zones

While this is not a specific in the text amendment, it is under discussion and intimately connected to the overall intent of these hearings: creating a comprehensive revision for schools.

The contemplated blockade of schools in CM and M zones eliminates access to site options that have been particularly helpful to public charter schools. Warehouse buildings are extraordinarily flexible in plan, have high ceilings, and have been used very successfully. As they are not residential zones, this should particularly comfort those who fear schools those zones.

In my experience, public charter schools are very intelligent in finding good places, safe places for their students. If they are not, the Department of Health has a role in the Environmental Impact Survey Form process to address this, and parents would be loathe to entrust their children to such environments. Should a proposal to block schools in industrial zones become a serious proposal, it would simply be a way of showing broader acceptance of public schools in all the zones of the city in the context of these hearing, then taking it away afterward.

Regarding the future, I don't believe it is a reality in current development to convert or create buildings in warehouse districts to Dickensian industrial operations. It's hard to imagine school kids ending up next to smoke stacks billowing soot or heavy-metals because nobody changed the zoning regulations. Those districts should remain available to schools.

13. The Stress of Public and Private School Land Use

Last, but very much not least as I understand the text amendment, the process lumps public charter schools and private schools together in a number of respects. While both have impact and may create stress for neighborhoods and neighbors, the difference in the mission of each should be considered.

Private schools do not offer open admission. Public Charter Schools do.

Private schools in the District generally have large percentages of non-DC residents in their student bodies. Public Charter Schools serve DC residents.

In terms of the philosophy of public education, public schools of all kinds are granted appropriate benefits because of their civic mission, which is also reflected in their public

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funding. This is an appropriate entitlement, inherently distinct from private schools

By the same reasoning, the stress of land use by public schools should continue to be given more tolerance than private schools, both in regulation and in public acceptance of the stress inherent in them.

There is no land use devoid of stress. It is the task of regulation to balance the stress against public mission.

Stated simply, in land use, public schools deserve a better break. The current text amendments negate those in lower residential zones.

By this logic, public schools, whether traditional or charter, should not be subject to the same exposure to conditional approval, such as BZA, as private schools. They are already appropriately burdened in the public interest by regulation without this additional layer. In my experience, the development of public charter schools is much more vulnerable to delay in the approval process, and therefore more likely to be stopped completely by the addition of additional process requirements.

Small public schools should be encouraged, not blockaded by overly stringent regulation or an unavoidable, time consuming, expensive, and ultimately unproductive trip BZA. Regulations are intended to resolve unavoidable conflict between the broad public good and some level of impact on neighbors. Only a small change is needed to accomplish that.

The big ideas, and the big benefits of Public Charter Schools are best served by flexibility in support of their commitment, their creativity, and the range of solutions that serves our children. In our experience this applies to educational program *and* facility decisions, which are inseparable from zoning. Creating a lock-step structure will harm the children of our city by taking away the underlying strengths of their schools and their contribution to the real vitality of neighborhoods. That's not the purpose of zoning.

An Appendix follows with recommendations for lot controls for Residential Districts, paralleling the exhibit of proposed changes by the Office of Planning.

Thank you for the opportunity to offer this opinion.



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I propose that the Text Amendment be as per the Table Below:

3. Amend §§ 400, 401 and 403 as noted below as "Proposed" for Public Schools¹

Res Zone	Minimum Lot Area (§ 401) ²		Minimum Lot Width (§401)		Maximum FAR (§402)- no change proposed	Maximum Lot Occupancy (§403)		Maximum Height (§400.10-11) ³	
	Existing	Proposed	Existing	Proposed		Existing	Proposed	Existing (res max)	Proposed
R-1-A	7,500 sf	No Change	75'	No change'	0.9	60% *	60% *	60' (40')	60'
R-1-B	5,000 sf	5,500 sf	50'	55'	0.9	60%*	60%*	60' (40')	60'
R-2	4,000 sf	5,500 sf	40'	55'	0.9	60%*	70% max	60' (40')	60'
R-3	4,000 sf	5,500 sf	40'	55'	1.8	60%*	70% max	90' (40')	60'
R-4	4,000 sf	5,500 sf	40'	55'	1.8	60%*	70% max	90' (40')	60'
R-5-A	None	No Change	None	No change	1.8	60%*	60%*	90' (40')	90'
R-5-B	None	No Change	None	No change	1.8	60%*	60%*	90' (50')	90'
R-5-C	None	No Change	None	No Change	3.0	75% *	75% *	90' (60')	90'
R-5-D/E	None	No Change	None	No Change	3.0	75% *	75% *	90' (90')	90'

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From **Milton Shinberg**

Date **9 June 2006**

Project **Case 06-06. Text Amendment for Public Schools**

Re **Written Testimony**

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I have learned that the hearing to consider the proposed text amendment has been moved up to this Monday, the 12th of June, the same date as the deadline for written testimony.

It will be difficult for the ZC to consider comments such as these in time for the hearing. Therefore, I request that the Commission defer final consideration until a reasonable time beyond the date it set for receipt of written testimony.

Should the consideration date remain June 12th, I would appreciate being informed when the Commission members and staff will review this and other written testimony.

Thank you.

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