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September 19, 2006

Ms Sharon Schellin
Zoning Commission of the District of Columbia
One Judiciary Square
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ZONING COMMISSION
District of Columbia

CASE NO. 06-06
EXHIBIT NO. 97-73

Re. Charter Schools Text Amendment, Z.C. 06-06 – Proposed Addition of Section 401.11
Exempting School With 16 or Fewer Students From Lot Dimension Requirements

At our September 14, 2006 meeting, the Advisory Neighborhood Commission (ANC) 6A voted unanimously to recommend that the Zoning Commission delete, from the Charter Schools Text Amendments (Z.C. Case No 06-06), the new Section 410.11 which exempts public schools with 16 or fewer students from the lot dimensions requirements specified by the text amendment

This provision is unacceptable, as it allows the schools to locate without:

- Opportunity for public input
- Review by any entity accountable to residents/voters
- Criteria to define or evaluate the suitability of specific locations.
- Criteria to mitigate the adverse effects from noise, traffic and parking
- Consideration of the cumulative effect of multiple institutions in close proximity.

The original provisions of the text amendment, as set down by the Zoning Commission on February 13, 2006, were viewed by ANC 6A and a wide spectrum of community groups throughout the city as a positive change. It is our opinion that they set reasonable standards for the placement all public schools – both DCPS and charter schools. The text amendment required special exceptions for public schools of all sizes that do not meet certain lot area, lot width, FAR and lot occupancy requirements within a residentially zoned district. Our Commission strongly supported this original language¹ because it struck the proper balance between the need to facilitate emerging charter schools while protecting residential neighborhoods against the intrusion of noise, increased vehicular and pedestrian traffic, and increase parking demands that disrupt the generally accepted standards of calm and quiet atmosphere in residential zoned districts as outlined by the current comprehensive plan..

The Office of Planning's own testimony clearly shows that matter of right use for small schools circumvents the intent of the original rule making. In their testimony to the Zoning Commission

¹ See the April 24, 2006 letter from ANC 6A to the Zoning Commission regarding Z.C. 06-06



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on July 10, 2006 the Office of Planning states the following as regards the initial February 13 text amendment language: *“As stated in a previous report, the proposed regulations were specifically designed for small neighborhood oriented schools. Obviously, larger schools would need much more land area and loading than that required by the proposed text. These large schools will continue to be largely self-monitored and for practical reasons tend to locate in buildings designed as schools or multi-purpose buildings. It is the smaller schools otherwise able to locate in residential buildings and in close proximity to residential homes that are meant to be regulated by the new language”* (Note – underlined emphasis added)

Furthermore, the Office of Planning’s June 12, 2006 supplemental report states that: *“the proposed text amendment resolves the immediate concern of protecting established, small-lot neighborhoods from possible negative effects of school use, without putting severe burdens on the location of new schools”*. (Note – underlined emphasis added)

As the Office Planning points out, the purpose of the original rule making is to regulate small schools that are apt to insert themselves into residential neighborhoods. In our view, this is, arguably, the most important aspect of the original text amendment.

It is incorrect to assume that small schools which seek to “*locate in residential buildings and in close proximity to residential homes*” will not adversely impact residential neighborhoods and therefore should have matter of right placement. Schools of all sizes present heavy burdens on residential communities. Increased traffic and parking needs, congestion due to the drop off and pickup of students, increased noise and pedestrian traffic throughout the hours of operation which may extend to evening hours, and other adverse effects on the quality of life are all of significant concern. No other facilities that create similar burdens on the community, such as stores, offices, and private schools, are allowed to locate in a residential community as a matter of right. That a school is public rather than private in no way relieves the burden of its presence.

With regards the suggestion to exempt small schools from the lot dimension requirements, the Office of Planning recommends that *“the standard of 16 students currently used for matter of right childhood development centers in R-4 and higher districts be applied to all public schools”*. In doing so, they failed to recognize that charter schools in the District of Columbia include students of all ages from early childhood through high school to adult education as well as boarding schools and continuing. The recommendation does not address the degree to which the impact of these different types of schools will vary. Clearly, a facility for 16 pre-school children will not have the same impact as one for 16 teenagers or as a school offering an adult continuing education program that operates into the evening hours and on weekends.

The recommendation also ignores the need to regulate uses differently by zoning district. If the language is adopted, it will negate current zoning regulations that require a special exception for



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a childhood development center with 16 or fewer students in the R-1, R-2 and R-3 districts. No evidence or testimony has been presented to show that there is no longer a need for a special exception for that use in those zoning districts.

In addition, the proposal fails to address the cumulative effects of multiple schools within a neighborhood, which can quickly overburden public services, such as police, fire, trash, and ambulance services, and traffic management, to say nothing of their deleterious effect on peace, order and quiet. With the number of charter schools increasing each year, this will inevitably increase the total number of facilities that choose to locate in our residential neighborhoods. The proposal provides no safeguards against over concentration, such as those in the existing zoning regulations for R1-R3 zoning districts (DCMR 11, Ch 2, 205.8). The impact of multiple 16 person facilities within a block or two of each other would be indistinguishable from that of single 32 or 48 person facilities. Yet this scenario is not addressed at all by the proposal to exempt small schools from lot dimension requirements.

The proposal to exempt small schools from the lot dimension requirement treats DCPS schools differently from charter schools despite the Zoning Commission's stated intent to treat DCPS and charter schools equally in the zoning regulations. When the DCPS proposes new locations for schools, of any size, they are accountable to citizens/voters through the oversight of the School Board and the City Council. These entities provide a vehicle for public input on the proposed locations of all DCPS schools. By contrast, independent charter school organizations would be free to locate some schools free from oversight of any entity that is accountable to citizens/voters. This creates an unequal playing field for DCPS schools and charter schools.

Finally, the original February 13 text amendment did not entirely prohibit small schools from locating in a residential neighborhood. Small schools can be granted a special exception to locate on nonconforming lots when conditions warrant that use. As the Office of Planning noted in their June 12 report, *"the special exception provision gives schools the additional options for smaller sites where condition warrant"*

It is for these reasons that we request the Zoning Commission to remove, from the text amendment, the language that exempts public schools with 16 or fewer students from the new lot dimensions requirements specified by the text amendment.

Sincerely,

Joseph Fengler, Chair
Advisory Neighborhood Commission 6A
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