

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:

ZONING CONSISTENCY CASE TO  
REZONE PORTIONS OF WARD 8

Case No.  
08-18

Monday,  
July 28, 2008

Hearing Room 220 South  
441 4th Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 08-18 by the District of Columbia Zoning Commission convened at 7:45 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
GREGORY N. JEFFRIES, Vice Chairman  
CURTIS L. ETHERLY, JR., Commissioner  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(OAC)  
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist  
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON  
JOHN MOORE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the  
minutes from the Public Hearing held on July  
28, 2008.

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1 P-R-O-C-E-E-D-I-N-G-S

2 7:42 p.m.

3 CHAIRPERSON HOOD: Next we'll go  
4 to our second case which is Zoning Commission  
5 Case No. 08-18. This is the Office of  
6 Planning Text Amendment of D.C. School  
7 Buildings.

8 Ms. Steingasser.

9 MS. STEINGASSER: Chairman Hood,  
10 Commissioners, the Office of Planning  
11 continues to recommend approval and the  
12 adoption of the proposed text amendment to  
13 allow the adaptive and government reuse as  
14 well as clinics, community service uses, and  
15 nonprofit office uses of previously -- DCPS  
16 properties previously used as school  
17 buildings. We are available for any  
18 questions.

19 CHAIRMAN HOOD: Thank you, Ms.  
20 Steingasser.

21 Let me start right off and ask.  
22 One of the things that I looked at, and this

1 is 201.1, and I'm looking at the back of the  
2 report which is page 2 of 2. It talks about,  
3 "The following uses are permitted if located  
4 in a building owned by the District of  
5 Columbia that was formally used as a location  
6 of a public school."

7 I don't see any issues with A, B,  
8 or C, but when I get to C-2 and 3 there is a  
9 pause here, medical and dental clinics. When  
10 we talk about medical clinics, and I don't  
11 want to get into a point where we are  
12 discriminating but I think there needs to be  
13 some type of review for medical. Dental  
14 clinic is fine but a medical clinic. What  
15 type of medical clinics are we talking about?

16 MS. STEINGASSER: Actually, the  
17 phrase "clinic" is a defined term in the  
18 zoning regs and adding the qualifier medical  
19 and dental is fairly redundant. It would be  
20 outpatient care, primary care, possibly some  
21 psychological clinics, but it would not be  
22 overnight care, surgical care. It would not

1 be a hospital, not be that kind of thing. It  
2 would just be -- I mean, what we are  
3 considering is primary care.

4 CHAIRMAN HOOD: From your  
5 knowledge would methadone clinic? I'm just  
6 throwing that out there.

7 MS. STEINGASSER: It probably  
8 would be considered a medical clinic.

9 CHAIRMAN HOOD: The reason why I'm  
10 asking is I know that the Zoning -- well not  
11 the Zoning Commission but the BZA dealt with  
12 a case which I did not sit on in one of the  
13 wards. I think it was Ward 7 in the city.

14 When we started talking in terms  
15 of those type of clinics, I believe it needs  
16 to be just like we said earlier, some type of  
17 special exception or some type of review. I  
18 don't want to single that one out but I have  
19 an issue with that just saying medical  
20 clinics. The neighborhood has no input and no  
21 type of review.

22 That just comes to mind and I'm

1 not sure how to get around it and I'm not  
2 necessarily particular about voting against it  
3 but I think we need to capture that and find  
4 out another way that we can basically deal  
5 with that because I think the other ones I  
6 don't necessarily have -- I personally don't  
7 necessarily have an issue but let's think  
8 about that. Let me open it up and hear from  
9 my colleagues.

10 Commissioner May.

11 COMMISSIONER MAY: I share that  
12 particular concern. I'm also similarly  
13 concerned actually with Roman Numeral I or VI  
14 or whatever, the District government agency  
15 uses including office uses even with those  
16 qualifiers because if you had something like  
17 a methadone clinic and it was operated by the  
18 Department of Health, would that be allowed as  
19 a matter of right if District government  
20 agency use were permitted as a matter of  
21 right?

22 If it were privately operated,

1 then maybe it becomes a special exception. It  
2 sort of makes me wonder whether we need to  
3 have special exception review of just about  
4 anything.

5 District government agency use or  
6 uses. Again, I was curious at the set down  
7 what the range of uses were that were being  
8 considered for the 23 schools that were just  
9 closed and had asked for further information  
10 on that which I don't have in what I received.

11 I'm very curious about that  
12 because of the -- oh, I'm sorry. I do have  
13 that. Never mind. That was part of the June  
14 16th report. Actually, no. That's what we  
15 had June 16th. I was looking for more  
16 information about what was being considered.

17 MS. STEINGASSER: There have been  
18 no new leases since that time.

19 COMMISSIONER MAY: Say again?

20 MS. STEINGASSER: There has been  
21 no new leases since that time.

22 COMMISSIONER MAY: Okay.



1 MS. STEINGASSER: They have put  
2 out a master RFEI which is a request for  
3 expressions of interest to master lease  
4 several of the schools together and to also  
5 serve as the management company for the  
6 District so that they can come in with a more  
7 coordinated format but we have not gotten any  
8 responses.

9 COMMISSIONER MAY: You haven't had  
10 any responses?

11 MS. STEINGASSER: The closing  
12 period hasn't happened.

13 COMMISSIONER MAY: Hasn't closed.  
14 Okay. What was the -- what are the government  
15 uses that are contemplated for these various  
16 schools?

17 MS. STEINGASSER: The government  
18 uses under discussion are fire and EMS co-  
19 locating with the possible early child  
20 development center, language programs --

21 COMMISSIONER MAY: Can you go  
22 slowly through this because I don't have it on

1 paper. Fire and EMS.

2 MS. STEINGASSER: I can't tell you  
3 which schools.

4 COMMISSIONER MAY: That's okay.

5 MS. STEINGASSER: These are just  
6 some of the government uses that were  
7 discussed.

8 COMMISSIONER MAY: Okay. Fire and  
9 EMS for office space or for --

10 MS. STEINGASSER: For both office  
11 space and training classrooms for their  
12 cadets; DDOT materials lab; early childhood  
13 development centers which would be a matter of  
14 right in almost all of these schools;  
15 Department of Youth Services; Department of  
16 Environment.

17 COMMISSIONER MAY: I'm sorry.  
18 What was the last one?

19 MS. STEINGASSER: Department of  
20 Youth Services.

21 COMMISSIONER MAY: That's DYRS,  
22 Youth Rehabilitation?

1 MS. STEINGASSER: Yes.

2 COMMISSIONER MAY: What would  
3 occur if they were to use it?

4 MS. STEINGASSER: I don't know the  
5 specifics of their operation but they would  
6 use it for their functions.

7 COMMISSIONER MAY: Okay. They  
8 have office functions. I don't know if they  
9 actually have -- if they actually operate any  
10 of the halfway houses or whatever they are  
11 called. You don't know if that use was  
12 specifically discussed. Do you?

13 MS. STEINGASSER: No. CBRFs were  
14 not specifically discussed.

15 COMMISSIONER MAY: But would that  
16 be a permitted under this? I mean, that's an  
17 agency use if it were a government operated  
18 facility?

19 MS. STEINGASSER: If the Zoning  
20 Administrative determined that the agency use  
21 was a CBRF and it qualified under here, it  
22 would be his call. It is my understanding in

1 the typical zoning practice if it is defined  
2 as something else specifically, it can't be  
3 defined as two things. If it's defined as a  
4 CBRF, that is what it would be regulated as.

5 COMMISSIONER MAY: Okay. I'm  
6 sorry. You left off at DYRS.

7 MS. STEINGASSER: There is also  
8 Department of the Environment. There's  
9 Department of Human Services.

10 COMMISSIONER MAY: Does DOE  
11 operate any laboratories and things like that?

12 MS. STEINGASSER: Not that I know  
13 of but I don't know the internal -- anybody  
14 who has a lease coming up is eligible and has  
15 been considered. That is 900,000 square feet  
16 of lease space that the District is trying to  
17 absorb into its own property that it owns as  
18 opposed to additional lease space.

19 I don't know the details of each  
20 and every operation. Department of Health,  
21 Department of Human Services, several public  
22 charter schools, DMV, Recorder of Deeds,

1 Office or the Surveyor.

2 COMMISSIONER MAY: Do you know  
3 what use is considered for DMV?

4 MS. STEINGASSER: The only one I  
5 know of is the one that they have already  
6 agreed to which is the parking meter patrol,  
7 the little mini carts that we see.

8 COMMISSIONER MAY: They have mini  
9 carts now?

10 MS. STEINGASSER: Those driving  
11 carts that they use to drive around.

12 COMMISSIONER MAY: Okay.

13 MS. STEINGASSER: I think they  
14 have already announced that those will be  
15 going into Slow Elementary, Department of  
16 Motor Vehicles, MPD.

17 COMMISSIONER MAY: Do you know  
18 what uses are considered for MPD?

19 MS. STEINGASSER: I don't know  
20 specifically. MPD has some central offices,  
21 some homicide offices and the MPD station 1D.

22 COMMISSIONER MAY: Do we have

1 specific parking requirements for police  
2 stations?

3 MS. STEINGASSER: Yes, we do.  
4 They would be applicable.

5 COMMISSIONER MAY: Right.

6 MS. STEINGASSER: DCPS  
7 headquarters.

8 COMMISSIONER MAY: Why don't you  
9 give them Franklin back?

10 MS. STEINGASSER: I don't make the  
11 decisions.

12 COMMISSIONER MAY: I'm sorry.  
13 That's just a side joke.

14 MS. STEINGASSER: DMH, Department  
15 of Mental Health, Departments of Correction,  
16 DPR.

17 COMMISSIONER MAY: Do you know  
18 what Corrections was considering?

19 MS. STEINGASSER: Do I know what  
20 they were looking at?

21 COMMISSIONER MAY: Well, they were  
22 just looking for office space?

1 MS. STEINGASSER: They need office  
2 space.

3 COMMISSIONER MAY: Oh, that's  
4 right. Right. They are moving out of Grimke.  
5 Right?

6 MS. STEINGASSER: Yes.

7 COMMISSIONER MAY: Okay.

8 MS. STEINGASSER: And then Public  
9 Works. Some small Public Works office space.

10 COMMISSIONER MAY: And the storage  
11 use restrictions that are built in here under  
12 that exception A, that would mean that the DPW  
13 facility that is currently down on Water  
14 Street next to the 11th Street Bridge, that  
15 wouldn't be permitted in a school. Right?

16 MS. STEINGASSER: If the principal  
17 use is storage, it would not. I'm not  
18 familiar with what that is.

19 COMMISSIONER MAY: I don't know  
20 what you would consider the principal use  
21 there. That is one of the places I know that  
22 they need to move. Okay. I'm still leery of

1 a lot of the uses that are being contemplated  
2 and it sort of opens the door. I would say  
3 for the most part what is being considered is  
4 quite benign in office space.

5 I also know the history of what  
6 has happened with public schools when they  
7 have gone through this sort of a cycle. I  
8 mean, it is definitely a cause of concern for  
9 me and I'm very interested in exploring the  
10 special exception consideration. That's it  
11 for my questions, I think, for now.

12 VICE CHAIRMAN JEFFRIES: Okay.  
13 Mr. Chair has stepped away. Are there any  
14 other questions from the Commission?

15 COMMISSIONER ETHERLY: Sure. I  
16 would love to jump in. Mr. May's questions  
17 are most certainly right on target. As you  
18 indicated, Ms. Steingasser, there is 900,000  
19 square feet of space to be worked with here  
20 and it most certainly is an asset not only for  
21 the government but also for the communities.

22 I applaud the Office of Planning's



1 efforts to try to get at that and capture it.  
2 Mr. May's questions, I think, are targeted  
3 right at some of the real soft underbelly  
4 questions of what goes where and just making  
5 sure -- I don't want to use the word loophole  
6 but making sure there aren't any unintended  
7 consequences by use of the language as it  
8 stands.

9 Let me -- in my former life I  
10 played a lawyer but I stayed at a Holiday Inn  
11 Express last night. Let me play lawyer for a  
12 moment and just kind of tinker with a couple  
13 of things just to get a sense of massaging  
14 some of those gray areas.

15 First of all and, again, I'm going  
16 to go right to page 2 of the proposed  
17 rulemaking report. In clause B where it  
18 notes, "A building owned by the District of  
19 Columbia that formerly served as a location of  
20 a public school," that use of the word  
21 "formerly" would that in the Office of  
22 Planning's opinion mean that if it's a

1 building that at some point because we clearly  
2 already had transition of some former public  
3 school buildings into other uses.

4 I guess putting it clearly and  
5 somewhat unartfully, once a public school  
6 building, always a public school building  
7 meaning if it has already transitioned into  
8 another use but at some point if this proposed  
9 rulemaking were to go forward, at some point  
10 it were to become available again, would it  
11 still get the benefit of this protection, if  
12 you will, or this potential --

13 MS. STEINGASSER: It was not the  
14 intention for something like, say, the Bryant  
15 school which was an old school converted to  
16 residential, if it ceased being residential  
17 that it would fall under these categories.

18 COMMISSIONER ETHERLY: Gotcha.

19 MS. STEINGASSER: That was not the  
20 intention.

21 COMMISSIONER ETHERLY: Okay.

22 Okay. Now, as my colleague Mr. May was

1 getting to, this use of the term, moving down  
2 to clause 1 with respect to District  
3 government agencies, principal use of the  
4 property, my concern there would be -- I mean,  
5 that is a word that you can massage and really  
6 slice a lot of different ways.

7 I could still envision a District  
8 of Columbia government agency use that  
9 involved in part vehicle storage impoundment  
10 or other activities that might have  
11 consequences that could be somewhat impactful  
12 but not be the principal use there.

13 I know this is a construct that we  
14 have used in other segments of the zoning  
15 regulations so maybe I'm just highlighting a  
16 problem that we know is already there. Again,  
17 it's the Office of Planning's thinking that it  
18 would not be the intent here to allow a  
19 vehicle storage use even if it doesn't pass  
20 the 50 percent test.

21 Let's say it's an old school  
22 building and 50 percent of the space is not

1 going to be used for vehicle storage but  
2 really only 40 percent and the rest of office.  
3 I could envision a very enterprising attorney  
4 arguing that, "Well, it's not a principal use  
5 so we should be able to kind of get away with  
6 it."

7 Perhaps this is again, just coming  
8 back to where Mr. May is at with respect to  
9 the protection that may be a special exception  
10 analysis would offer. Any thoughts on that?

11 MS. STEINGASSER: You could pick  
12 and number and limit that no more than 20  
13 percent of the gross floor area or 20 percent  
14 of the exterior square footage of the lot  
15 could be used for storage or something like  
16 that.

17 COMMISSIONER ETHERLY: Gotcha. I  
18 mean, again, I was heartened by one part of  
19 your answer is if there is a definition for it  
20 somewhere else in the zoning regs it can't be  
21 two things at once. To an extent that offers  
22 a certain measure of protection because

1       arguably whether it's Department of the  
2       Environment which may not necessarily have  
3       responsibility for storage of hazardous  
4       chemicals.

5               I'm thinking of a materials lab  
6       for instance, whatever materials they may be.  
7       I tend to lean towards Mr. May's position  
8       somewhat because I'm not so much worried about  
9       what you have here but I'm worried about what  
10      you don't have here.

11             If that list in Clause A here  
12      isn't exhaustive, and I don't know really how  
13      you could make it completely exhaustive, but  
14      it almost seems like it would scream for  
15      making sure that the principle use of the  
16      property shall not be hazardous material  
17      storage.

18             Again, if it is defined as  
19      something else in the zoning regs elsewhere,  
20      that is your protection and the ZA would be in  
21      place to help prevent that kind of thing from  
22      happening.

1           Essentially it means the ZA is  
2 going to be policing his employer so to speak.  
3 Again, maybe I'm just making a mountain of a  
4 molehill but I'm just kind of massaging  
5 through some of these things. The Chair was  
6 right on target with the medical and dental  
7 clinic piece.

8           Let's come to this community  
9 service use or uses. In particular the  
10 definition that is proposed is a "not-for-  
11 profit use established primarily -- another  
12 one of those key words -- to benefit and serve  
13 the population and the community in which it  
14 is located."

15           I can't recall. Is that language  
16 that is pulled or parroted from elsewhere in  
17 the zoning regs or it approximates somewhat?

18           MS. STEINGASSER: It's a new  
19 zoning definition. We got it from the  
20 American Planning Association planning terms  
21 dictionary and it's one that is commonly used  
22 around the country.

1 COMMISSIONER ETHERLY: Gotcha.  
2 Okay. And you would interpret that to mean if  
3 I'm a nonprofit organization looking to get  
4 the benefit of a former public school  
5 building, I will have to demonstrate that a  
6 primary part of my function is to benefit  
7 persons in that particular community?

8 MS. STEINGASSER: That is how I  
9 would interpret it. It is not intended to  
10 allow for the National Association of County  
11 Employees. It's not those kind of nonprofits  
12 but truly a community service.

13 COMMISSIONER ETHERLY: Okay.  
14 Finally, perhaps with a nod towards ANC-6B's  
15 submittal, the absence of broader commercial  
16 uses or commercial from the standpoint of  
17 office use specifically. Let me be very clear  
18 about that. Preferably not retail firearm  
19 sales but we won't touch that for the moment.  
20 Was there discussion about the inclusion of  
21 those types of uses here and, if not, what is  
22 the thinking behind that?

1 MS. STEINGASSER: It was not  
2 intended to draw the competitive office market  
3 competition into this. It is city owned land.  
4 We are looking at primarily government uses,  
5 the ability to house community based and  
6 community servicing nonprofits. They often  
7 have times finding space in the communities,  
8 finding affordable space.

9 It was not our intention that they  
10 should have to compete against JBG wanting to  
11 open an office space and then subleasing it to  
12 First American Bank. It was truly to allow --  
13 kind of a nonprofit incubator space to allow  
14 for the conglomeration of nonprofits that  
15 service each other.

16 The Department of Health had a  
17 phrase for it for their new SRO structure  
18 where they have services within the building  
19 that service the tenants whether it's  
20 education, job training, primary medical  
21 services. It is allowing for that kind of  
22 space. It's not meant to allow for the



1 commercial.

2 The ANC's comment about the impact  
3 being the same, they are somewhat the same  
4 except that there is a different focus and  
5 it's putting nonprofit use. In some ways it  
6 also keeps the tax base of the commercial land  
7 available for taxpaying tenants whereas the  
8 nonprofits are now on District land which  
9 could allow for nonprofit use on non-taxable  
10 land. It was never intended to be -- it was  
11 intended to actually preclude them.

12 COMMISSIONER ETHERLY: Okay. I  
13 pretty much got that. I just felt it was  
14 important to kind of put that on the record.  
15 We're talking about public assets here.

16 MS. STEINGASSER: It's a hair to  
17 split for sure. It's not a clear distinction  
18 but it is certainly what we intended.

19 COMMISSIONER ETHERLY: But perhaps  
20 an important one, an important hair  
21 nevertheless from someone who follicly  
22 challenged.

1           Finally, the issue for some of  
2       these properties we are talking about more  
3       than just a building. We have intended land  
4       that is part and parcel of these structures.  
5       What was the conversation around that? Many  
6       of these properties have extended athletic  
7       facilities or just fields. Let's say fields  
8       or play space. That is all intended to be  
9       part and parcel of a nonprofit or any of these  
10      other uses. I mean, that's part of the public  
11      school infrastructure so that goes with this.  
12      Correct?

13           MS. STEINGASSER: It does and that  
14      is part of what the Deputy Mayor for Education  
15      will be looking at when they analyze the  
16      proposals that come back to them or the  
17      solicitations to use these spaces. What is  
18      the best use? What are the nonprofits that  
19      need the fields? What are other neighboring  
20      schools that need them? How can they align  
21      with DPR and their recreational needs?

22           It's not as if we are completely

1 removing this from the public process. The  
2 Deputy Mayor for Education will be publicly  
3 reviewing the solicitations. Then, of course,  
4 any lease would go through the city counsel.  
5 It's not the most public participation that  
6 you would get as a special exception but there  
7 is some opportunities for improvement.

8 COMMISSIONER ETHERLY: Okay. So  
9 it's your understanding that through that  
10 mechanism there would, in fact -- could, in  
11 fact, be some protection for that part of the  
12 asset which could still most inure to the  
13 benefit of community residents. I mean, my  
14 only experience I'm thinking of like a Ward 6  
15 school like John Tyler Elementary which has a  
16 field that sees very active use.

17 God forbid if that school, which  
18 was at that time my elementary school, were to  
19 see another use. That field has become such  
20 an integral part of the fabric of the  
21 community for a wide range of uses. You  
22 envision based on your conversations with the

1 Deputy Mayor for Education that there would  
2 continue to be some ample opportunity for  
3 those kinds of assets to still be utilized on  
4 a regular basis.

5 MS. STEINGASSER: They are  
6 considering it in their deliberation. I can't  
7 say there is anything here that would prohibit  
8 construction on those fields or the use of  
9 those fields.

10 COMMISSIONER ETHERLY: I  
11 understand. I appreciate your answer and I  
12 know it's a sticky, sticky wicket and, again,  
13 it may come back to simply Mr. May's point  
14 that there may be a need for another mechanism  
15 here. I'm not sure. I don't know if I'm  
16 there but, at the same time, these are such  
17 multi-faceted assets that we have to walk very  
18 gingerly and very carefully and I'm not sure  
19 if we're quite there yet but I appreciate it.

20 Thank you very much, Mr. Chair.

21 COMMISSIONER MAY: Can I follow-up  
22 directly? It feels like Tyler and many, many

1 of the fields that are associated with schools  
2 are actually under the control of Parks and  
3 Rec, not under schools, so they probably  
4 wouldn't even be part of the discussion.  
5 There are only a few cases I think where they  
6 are actually part of the school property.

7 I would say that one excellent use  
8 of an under-utilized school building that is  
9 not a particularly special building might be  
10 to tear it down and use it as fields since  
11 there is a dearth of playing fields in other  
12 areas of the city. I would just like to throw  
13 in my pitch occasionally for more green stuff.

14 VICE CHAIRMAN JEFFRIES: I would  
15 align myself with many of the comments  
16 tonight. For a minute I agreed solely with  
17 the Chair about the concern about medical and  
18 dental clinics and perhaps that getting a  
19 carve-out but, you know, I started thinking  
20 about historic districts where there are  
21 schools that might be inventoried and I'm  
22 looking at various uses such as office use.

1           That can be somewhat of a harmful  
2           use in some residential zones versus a school.  
3           It does seem as if we really need to move a  
4           little more slowly and make certain that we  
5           get this right because there could be some  
6           unintended consequences from moving forward on  
7           this so quickly.

8           Again, I certainly agree with the  
9           Chair around medical and dental clinics but  
10          the special exception use might be a necessary  
11          carve-out in some of the uses that are being  
12          proposed here. We might want to talk about  
13          that. I understand that the administration is  
14          not so interested in that simply because of  
15          the time factor and so forth.

16          I think part of our job here is to  
17          protect the residential zones. I just think  
18          not so much a question but just sort of an  
19          observation as I continue to review that. I  
20          am in favor of this but I might want to see  
21          some carve-out for certain uses for just  
22          special exception.

1                   CHAIRMAN HOOD: I will tell you,  
2                   colleagues, we have -- I believe we did this  
3                   on emergency so one thing we can do is really  
4                   watch what is going on here now. The thing  
5                   that really stuck out to me alluded to by the  
6                   Vice Chairman was the medical and dental  
7                   clinics.

8                   I understand all the issues. We  
9                   probably need to talk about them and help me  
10                  understand them a little better but that  
11                  really just popped right out to me. The rest  
12                  of it I think one of the schools was a DMV and  
13                  some other issues. I didn't see that as more  
14                  of an issue with me personally as I saw the  
15                  rest. Anyway, we'll see what happens and it  
16                  will be an interesting discussion. Remember  
17                  we do have an emergency in place now.

18                 COMMISSIONER MAY: Toward that  
19                 end, I actually have a question for -- a  
20                 follow-up question for OP. Since the  
21                 emergency was put in place because there was  
22                 a perceived need for that, I'm wondering if

1       there had actually had been permits filed for  
2       use of the existing buildings.

3               MS. STEINGASSER: I believe there  
4       have been -- I'm not sure if the permits have  
5       been issued but there have been three projects  
6       that have been coordinated with the Zoning  
7       Administrator.

8               COMMISSIONER MAY: What were they  
9       for?

10              MS. STEINGASSER: MPD has two that  
11       they're working on and the DMV is working on  
12       them.

13              COMMISSIONER MAY: Can you tell us  
14       what the schools were for the MPD?

15              MS. STEINGASSER: MPD I think is  
16       Bowen. Those uses are going in Bowen and I  
17       think the DMV has started work on Slow.

18              COMMISSIONER MAY: But you said  
19       MPD had two?

20              MS. STEINGASSER: It has two.  
21       It's General Homicide Division and it's --

22              COMMISSIONER MAY: Oh, but they



1 are both at Bowen?

2 MS. STEINGASSER: They are both at  
3 Bowen but they are considered two separate  
4 uses.

5 CHAIRMAN HOOD: Ms. Steingasser, I  
6 thought the DMV was Backus or has that  
7 changed?

8 MS. STEINGASSER: You may be  
9 right. You're right, Backus. Yeah, in Ward  
10 5.

11 COMMISSIONER MAY: Bowen is  
12 southwest?

13 MS. STEINGASSER: Bowen is in Ward  
14 6. It's on 101 M Street, S.W.,

15 COMMISSIONER MAY: Next to the new  
16 DMV. I know there was an interest in building  
17 a structured parking lot there. Are they able  
18 to house all the parking on site if they need  
19 to?

20 MS. STEINGASSER: Yes. That's why  
21 that was an attractive site for them.

22 COMMISSIONER MAY: Are they

1 building the parking structure that they  
2 talked about?

3 MS. STEINGASSER: I don't know.

4 COMMISSIONER TURNBULL: Mr. Chair,  
5 I just had -- I guess my one concern and I  
6 guess Commissioner May sort of addressed it.  
7 I know Ms. Steingasser when she was talking  
8 about the properties around it could be opened  
9 for development and Commissioner May said they  
10 are really part of Parks and Rec so they would  
11 be off the table for most of those sites.

12 I guess one of the things that I  
13 was just looking at, at some point it says the  
14 Mayor is committed to maintaining ownership of  
15 these properties but the long-term prospect of  
16 them returning to educational uses. How far  
17 do you let a property be developed before it  
18 gets to a point to go back and redevelop it as  
19 Education was basically tearing it down and  
20 doing it over. Maybe there is no --

21 MS. STEINGASSER: I don't know how  
22 far. Many of these schools, if not most, are

1 pretty much obsolete for modern educational  
2 purposes right now anyway and at some point  
3 would be demolished for new construction  
4 probably in the future when the population  
5 grows to such point that they would be  
6 reactivated for education.

7 COMMISSIONER TURNBULL: As a  
8 current asset now you are looking at most of  
9 these schools are at a point where they are at  
10 the end of their longevity anyways.

11 MS. STEINGASSER: For education  
12 purposes. I don't want that to be  
13 misinterpreted that I'm predicting they are  
14 all going to be demolished. It's quite the  
15 contrary. It's that they do provide existing  
16 structures for uses that couldn't otherwise  
17 build for themselves.

18 COMMISSIONER TURNBULL: Sure.

19 MS. STEINGASSER: It is the kind  
20 of thing from what I'm hearing we could carve  
21 out a special exception for certain types of  
22 uses and one of them could be new construction

1 on any kind of field so for those areas that  
2 maybe the field is not owned by Parks and Rec  
3 we could use that as one of the special  
4 exceptions so there is matter of right  
5 principles.

6 You could do the same for the  
7 storage where maybe if storage is more than 20  
8 percent of the building area or the lot area  
9 that would be special. A threshold at which  
10 maybe the interior component could go forward  
11 but the impacts that I'm hearing concern about  
12 could go forward only by special exception.

13 COMMISSIONER TURNBULL: I'm just  
14 seeing what could happen with the neighborhood  
15 with granting use of a structure and then it  
16 sort of grows by leaps and bounds.

17 MS. STEINGASSER: We could capture  
18 that as a special exception.

19 COMMISSIONER TURNBULL: Okay.  
20 Thank you.

21 VICE CHAIRMAN JEFFRIES: I was  
22 even wondering like a hypothermia center. Is

1       that covered?   Would that be a use?

2                   MS. STEINGASSER:   The hypothermia  
3       is covered by the Hypothermia Act and they are  
4       allowed to open as a matter of right as an  
5       emergency.

6                   VICE CHAIRMAN JEFFRIES:   As an  
7       emergency situation.

8                   MS. STEINGASSER:   Yeah.

9                   VICE CHAIRMAN JEFFRIES:   But if  
10      there is inventory that is available, wouldn't  
11      that obviously set the stage for where those  
12      would be located?

13                  MS. STEINGASSER:   Yes.   We could  
14      try but the Hypothermia Act exempts them  
15      specifically from zoning.

16                  VICE CHAIRMAN JEFFRIES:   I knew  
17      you were just saying about the Act.   Okay.

18                  MS. STEINGASSER:   We could deal  
19      with other types of homeless shelters, the  
20      CBRFs, the medical clinics.   We could narrow  
21      that but the Hypothermia Act specifically is  
22      exempt from zoning.

1 VICE CHAIRMAN JEFFRIES:

2 Hypothermia shelters are theoretically limited  
3 to just the hypothermia season which is  
4 November 15th to --

5 MS. STEINGASSER: April 1st, I  
6 think.

7 VICE CHAIRMAN JEFFRIES: April  
8 15th or something like that.

9 CHAIRMAN HOOD: What happens after  
10 April 15th?

11 COMMISSIONER MAY: They are  
12 supposed to close.

13 CHAIRMAN HOOD: Okay.

14 VICE CHAIRMAN JEFFRIES: That's  
15 fine, Commissioner May. I would imagine there  
16 are certain people those are long months for  
17 them, too, in those neighborhoods so --

18 COMMISSIONER MAY: I'm just trying  
19 for clarification. That's all.

20 CHAIRMAN HOOD: Okay. All right.  
21 Thank you, Commissioner May and Office of  
22 Planning. Do you have another question?

1                   COMMISSIONER MAY: Yes, I'll keep  
2 going, One more, one more, one more. I just  
3 want to make an observation. One of the  
4 things when we talk about schools being  
5 obsolete, I think we need to be very careful  
6 about that because when you take a school like  
7 the Bowen school it may not be the most  
8 attractive on the exterior but as schools go  
9 it's highly functional and there are other  
10 schools that are very similar to it in  
11 architecture that they are not proposing to  
12 tear down simply because it's not shaped the  
13 right way.

14                   I mean, it may not have a great  
15 space to use as the library or media center  
16 which is often the limitation but I would not  
17 call them obsolete. I think, frankly, within  
18 the administration they are not saying that,  
19 too, because I think there is a significant  
20 shift in the way the master facilities plan is  
21 going to develop for public schools to make  
22 greater use of existing buildings and do less

1 tear-downs and rebuilds and do more wholesale  
2 renovations.

3 CHAIRMAN HOOD: Okay. Any other  
4 questions? Vice Chairman.

5 VICE CHAIRMAN JEFFRIES: Excuse  
6 me, Office of Planning. Was there also  
7 contemplated to be carve-outs for certain  
8 districts, overlays, historic districts? Was  
9 there any discussion about that? Okay. Thank  
10 you.

11 CHAIRMAN HOOD: Okay. Any other  
12 questions? Okay. Let's move right along.  
13 Report of other government agencies. I didn't  
14 see any. Report of the ANC. In this case, we  
15 have all ANCs city-wide and I think we are  
16 represented -- I don't see Mr. Jarboe but I do  
17 see Mr. Garrison.

18 Mr. Garrison, if you can come  
19 forward. And, Mr. Peterson, if you can join  
20 them. I still need to call for it. Do we  
21 have anyone else here in support? Okay.

22 Commissioner Garrison and Mr.



1 Peterson are in opposition of this text  
2 amendment. Commissioner Garrison, when you  
3 are ready, you can begin.

4 COMMISSIONER GARRISON: Thank you,  
5 Mr. Chairman. Good evening. I want to first  
6 apologize for my colleague Ken Jarboe's  
7 absence. He was here earlier this evening but  
8 he has a flooded basement and had to return to  
9 oversee that work. He may very well be  
10 watching us as I speak.

11 If I could beg the indulgence of  
12 the Chair, since he and I were here in a tag  
13 team mode in any case, what I would like to do  
14 is read his statement and then mine since they  
15 come as a pair. I apologize for that change  
16 in process.

17 My name is Dave Garrison. I am  
18 the Commissioner for ANC-6B-01. I am the Vice  
19 Chair of the ANC-6B Planning and Zoning  
20 Committee. I am here on behalf of myself and  
21 my colleague Kenneth Jarboe who is the Vice  
22 Chair of our 6B Commission.

1           At a special called and properly  
2 noticed meeting on July 16th of this year and  
3 of this month with a quorum present ANC-6B  
4 voted unanimously to oppose the regulation as  
5 drafted.

6           We appreciate the fact that a  
7 number of schools have been closed and support  
8 the quick reuse of the vacant school  
9 buildings. We understand that the reason for  
10 moving these regulations previously -- we  
11 understand what the reason was for moving  
12 these on an emergency basis originally but we  
13 have to question whether these regulations are  
14 needed or warranted on a permanent basis.

15           The logic behind the wording of  
16 the regulation seems to be crafted for the  
17 special circumstances of this recent past.  
18 Uses proposed as matter-of-right uses are ones  
19 that are appropriate for recently closed  
20 schools. This logic, however, may not hold up  
21 in the long run.

22           For example, the regulation

1 proposed a matter-of-right reuse of buildings  
2 for government and nonprofit offices but not  
3 for commercial offices. This is a point that  
4 was just touched on in your colloquy. The  
5 Office of Planning has not demonstrated how  
6 the use of a building for a government or  
7 nonprofit use has any different or less impact  
8 on a neighborhood than a reuse as a commercial  
9 office building.

10 Likewise, the regulation makes  
11 "community service use" as a matter-of-right  
12 without describing what those uses are. A  
13 definition of community service use is very  
14 vague. In this case as presented to you it  
15 reads "not-for-profit use established  
16 primarily to benefit and serve the population  
17 of the community in which it is located."

18 For example, and some examples  
19 have already been mentioned, our halfway  
20 houses, jails, drug treatment facilities,  
21 examples of community uses. What about a  
22 child development center? If so, why are we

1 setting up two sets of zoning standards?

2 On another case you had before  
3 you, No. 08-16, a child development center  
4 requires a special exception in many cases  
5 depending on the size and zoning district.  
6 Under this case, 08-18, it would be a matter-  
7 of-right. The only difference in the one case  
8 is that it's a former school building and the  
9 other case it's another building.

10 The type of building and ownership  
11 of the building should not have an effect on  
12 the impact of the use within that facility or  
13 the neighborhood. Given that the regulations  
14 would permanently make all these uses a matter  
15 of right, there would be no option for  
16 determining how or if these uses were  
17 appropriate.

18 The impact of the facility on the  
19 community couldn't be discussed. Our ANC is  
20 very concerned that some mechanism for  
21 community input should be in place. Under the  
22 zoning regulations that process would be, as

1 Mr. May has mentioned, a special exception  
2 process.

3 For that reason our commission  
4 opposes the regulations as drafted and we  
5 recommend the uses described be allowed only  
6 under the special exception test. This would  
7 allow the community input without subjecting  
8 these non-residential uses in a residential  
9 area to the stricter test for a variance.

10 If I may, Mr. Chairman, let me add  
11 my comments to those that I just read for  
12 Commissioner Jarboe. The primary, indeed the  
13 sole rationale offered by the Office of  
14 Planning for making the Zoning Commission's  
15 emergency authority permanent is that many  
16 residents have expressed the wish that school  
17 buildings being vacated by DCPS not be allowed  
18 to remain empty for long.

19 This concern of the neighbors  
20 about these facilities is perfectly  
21 understandable and I share it but it does not  
22 follow that the only way to remedy this

1 concern is to formally bypass all community  
2 input regarding the use options.

3 Surely it is just as logical to  
4 require the District to properly maintain such  
5 facilities for the few months it would take to  
6 conduct good faith discussions with the  
7 neighbors.

8 The text amendment would permit a  
9 wide range of possible uses be considered for  
10 closed school buildings as a matter of right.  
11 Some number of the possible uses in given  
12 situations would almost certainly be judged by  
13 neighbors to be inappropriate or disruptive.

14 Commissioner Jarboe noted some of  
15 them already in what I just read. The Zoning  
16 Commission will not be surprised to learn that  
17 ANCs charged as we are to provide an organized  
18 forum for community interaction with all  
19 manner of city actions object strongly to this  
20 proposal to shut the community out of the  
21 decisions on school building reuse.

22 The argument offered by the Office

1 of Planning is that taking the two to three  
2 months it would take, about the time most  
3 school buildings are normally closed for the  
4 summer, to run through the process of securing  
5 a special exception for proposed reuse would  
6 somehow be fatal to the city's ability to keep  
7 the property from becoming a slum.

8 Our Commission rejects this  
9 argument as unpersuasive. Moreover, it seems  
10 foolish to us to set aside the requirement  
11 that city agencies consult with the community  
12 on such major development matters. Having  
13 city agencies descend upon unsupportive  
14 neighborhoods with activities thought locally  
15 to be incompatible seems to us to be a formula  
16 for failure. Why would a thoughtful agency  
17 head want to send employees out to work in  
18 such hostile environments?

19 For these reasons as well as those  
20 provided by my colleague, we urge the Zoning  
21 Commission to reject the Office of Planning's  
22 proposal and instead require that these school

1 building reuse decisions follow the special  
2 exception process. Thank you for your  
3 indulgence.

4 CHAIRMAN HOOD: Thank you.

5 Mr. Peterson.

6 MR. PETERSON: Before my time  
7 starts, I have a procedural question. There  
8 is a difference between what was advertised  
9 and what is in the OP letter as text. I was  
10 just curious what was advertised also deleted  
11 Section 222 and what is in the OP letter as  
12 text does not have that deletion in it. I'm  
13 wondering which one is the correct one.

14 CHAIRMAN HOOD: Okay. Let me just  
15 ask you this. Are you talking about -- I'm  
16 looking at what I have in front of me. I hope  
17 this is current. If you look at 2(b). You  
18 see (a) and (b)?

19 MR. PETERSON: Right.

20 CHAIRMAN HOOD: By repealing 222.  
21 Is that what you have in front of you?

22 MR. PETERSON: Yes.



1 CHAIRMAN HOOD: Okay.

2 MR. PETERSON: In the letter from  
3 OP it doesn't address that. Where it says  
4 proposed text it doesn't have that as proposed  
5 text and I was just curious has that been  
6 dropped?

7 MS. STEINGASSER: Chairman Hood,  
8 that is certainly our intention. The appeal  
9 of 222 was advertised and that would still be  
10 our recommendation under the current.

11 CHAIRMAN HOOD: Under what we have  
12 here on page 2 of your --

13 MS. STEINGASSER: Yeah. That was  
14 just an omission from our report.

15 CHAIRMAN HOOD: Okay. So by  
16 repealing 222 should still be there and it was  
17 just an omission.

18 MS. STEINGASSER: That is what is  
19 under discussion tonight. If the Commission  
20 directs for OP to start to carve out some of  
21 the special exceptions, we would probably  
22 leave 222 but we'll see where you direct us at

1 the end.

2 MR. PETERSON: Well, 222 is  
3 important because that section addresses  
4 putting facilities and schools that are  
5 located in historic districts. That is why I  
6 raised that as a question.

7 CHAIRMAN HOOD: I guess what we'll  
8 say, Mr. Peterson, is what we have in the  
9 advertisement still stands.

10 MR. PETERSON: Okay. Thank you  
11 very much, Mr. Chairman, for the  
12 clarification. I am Gary Peterson. I am  
13 Chairman of the Capitol Hill Restoration  
14 Society Zoning Commission. I would like to  
15 say first of all we support adaptive reuse of  
16 former public schools? No one wants to see  
17 them sit vacant.

18 In fact, the vacant schools  
19 present a serious problem to our  
20 neighborhoods. However, we believe that more  
21 public input is required than is proposed by  
22 the amendment and we would like to recommend

1 to you that you make all of these uses subject  
2 to a special exception before the BZA.

3 In support of that the OP report  
4 says that the proposed text amendments are not  
5 inconsistent with the comprehensive plan goals  
6 and objectives.

7 That is sort of like taking the  
8 comprehensive plan out to the cemetery and  
9 burying it and then whistling by it hoping  
10 that no one will notice that, indeed, the  
11 comprehensive plan in at least three different  
12 places address what to do with former public  
13 schools. I would like to call your attention  
14 to that since it's not in the OP report.

15 First of all, EDU-1.5.5 says,  
16 "Adaptive reuse. In the event that surplus  
17 DCPS facilities are converted to nonschool  
18 uses require the new uses to be sensitive to  
19 neighborhood context and to mitigate impacts  
20 of parking, traffic, noise, and other quality  
21 of life factors."

22 Then it goes on and I emphasize,

1 "Provide for public review of potential new  
2 uses and ensure that any issues related to  
3 prior jurisdiction on the site by the federal  
4 government are addressed."

5 First, I don't think that having  
6 public comment on a proposed RFP is sufficient  
7 review of uses. Classically by the time it  
8 gets to the city council for public input I  
9 think is way too late. It's sort of having  
10 the cart before the horse.

11 Secondly, I note there that when  
12 jurisdiction of these properties was passed by  
13 the federal government to the District of  
14 Columbia they were for recreational purposes  
15 and I think that probably has to be clarified  
16 or fixed.

17 Secondly, from the comp plan  
18 policy EDU-1.5.2, reuse of school surplus  
19 space, lists the priority for uses. I note  
20 that all of those uses are D.C. government  
21 uses, no other uses, although public charter  
22 schools are sort of in limbo. They are sort

1 of a quasi-public use.

2 Then finally I note that policy  
3 for the Capitol Hill segment of the  
4 comprehensive plan says, "Allow conversation  
5 of obsolete or vacant nonresidential  
6 structures including schools, churches,  
7 warehouses, and institutional uses to housing  
8 provided that important architectural  
9 resources are conserved and the resulting  
10 development is consistent in density with  
11 surrounding uses." I think that, again,  
12 argues that there should at least be a special  
13 exception required before this is done.

14 Then if you are looking at my  
15 testimony, on page 3 I list not all but many  
16 of the uses that currently require a special  
17 exception. I think that points out the  
18 importance that we give to putting  
19 nonresidential uses into our residential  
20 neighborhoods. I think it cries out again for  
21 a special exception.

22 Then, finally, use No. 4 of this

1 proposed amendment is office use of not-for-  
2 profit organizations. The definition of  
3 community service use does not apply to that  
4 so that would allow any not-for-profit use,  
5 not just a community service not-for-profit  
6 use.

7 I looked in the yellow pages and  
8 counted over 2,000 not-for-profits listed in  
9 the D.C. Yellow Pages. Potentially there are  
10 2,000 not-for-profits, many of whom have no  
11 association with the community that would  
12 qualify under this exception. I think perhaps  
13 you may want to remove that or make that  
14 subject to a higher test.

15 Also, it doesn't preclude not-for-  
16 profits from anywhere in the United States  
17 wanting to come in and locate in one of these  
18 buildings. I won't give you any conclusion.  
19 I think you have heard it all.

20 CHAIRMAN HOOD: You can go ahead  
21 and give us a conclusion.

22 MR. PETERSON: Well, in

1 conclusion, I think the Capitol Hill  
2 Restoration Society, as I stated before,  
3 believes that the rules that are currently in  
4 the zoning regulations should continue to  
5 apply and that special exceptions should be  
6 required in this instance.

7 CHAIRMAN HOOD: Okay. Do either  
8 one of you have anything else you want to add  
9 before we start asking questions? I mean,  
10 since we have so many people that want to  
11 testify is there anything else you want to add  
12 you can do that.

13 COMMISSIONER GARRISON: Well, I  
14 should take a moment and thank Ms. Steingasser  
15 because part of the reason we're here is that  
16 she was a good sport and came to our recent  
17 meeting at our request to discuss this and one  
18 of the other proposals coming up before you  
19 later this week.

20 Although we ended up not  
21 supporting the proposal, we did appreciate her  
22 willingness to come and help us understand

1       what it was that was being recommended so I  
2       did want to make a point to thank her for her  
3       time.

4               CHAIRMAN HOOD:   Okay.   I want to  
5       thank you both.   Let me see if my colleagues  
6       have any questions.

7               VICE CHAIRMAN JEFFRIES:   I have a  
8       real quick question.   Do you see any uses that  
9       could be a matter of right use?   I understand  
10      Mr. Peterson, you -- excuse me?

11              You have listed here what was set  
12      forth in the regulations in terms of uses and  
13      I think that was very helpful but do you see  
14      any just in terms of the whole issue of time  
15      and not having vacant buildings do you see any  
16      uses that could be matter of right and not  
17      through the special exception process?

18              MR. PETERSON:   Well, I think that  
19      any educational use would be totally  
20      appropriate so another one or more charter  
21      schools moving in there I have no problem with  
22      that.   That is the use the neighborhood is



1 used to and doesn't upset the fabric of the  
2 neighborhood in its use.

3 It's really the use that is  
4 important. The nice thing about a special  
5 exception is it lets the neighborhood  
6 negotiate with the person requesting the use  
7 and often we are able to come to agreement on  
8 things. Right now I would say any educational  
9 use would not be a problem.

10 COMMISSIONER GARRISON: I concur  
11 with Mr. Peterson's response. That is exactly  
12 right.

13 CHAIRMAN HOOD: Thank you.  
14 Commissioner May.

15 COMMISSIONER MAY: I notice in the  
16 letter from the ANC and I guess Mr. Jarboe's  
17 testimony that there was a specially called  
18 and properly noticed meeting on July 16th. It  
19 occurred to me at that moment -- then there  
20 was also the reference to the fact that other  
21 ANC's in the city are opposed to this, yet  
22 none of them showed up and we haven't gotten

1 any letters.

2 I know that there are maybe a high  
3 occurrence of zoning junkies, if you will, in  
4 Ward 6 but there are certainly plenty in other  
5 areas of the city. Was there enough time for  
6 there to be notice and discussion of this?

7 I mean, the fact that it was a  
8 specially called meeting to me kind of stands  
9 out. It means that you really jumped through  
10 hoops to be able to discuss this and provide  
11 this input to us today. I'm just curious  
12 about how much opportunity there has been to  
13 just react to the proposed language.

14 COMMISSIONER GARRISON: Mr. May, I  
15 should clarify the reference to the specially  
16 called meeting. In ANC-6B's charter we do not  
17 normally have meetings in July and August but  
18 it has been the experience of the Commission  
19 that it almost always meets in August in any  
20 case, but since its bylaws do not call for  
21 such a meeting, in order to have a meeting  
22 they have to make it as a special called

1 meeting.

2 We have plenty of regular agenda  
3 items to discuss in July. This was not the  
4 reason for the meeting but it certainly  
5 enabled us to have the conversation with Ms.  
6 Steingasser that enabled us to respond. I  
7 would be very surprised. You can ask the  
8 staff but I suspect there were not many  
9 requests from other ANCs to be briefed.

10 I don't know what the system is  
11 for notifying them in a case like this but I  
12 would be very surprised if very many ANCs have  
13 focused on this matter. My allegation that  
14 ANCs as a generic government entity would be  
15 upset about this thing is my surmise. It's  
16 not based on any survey that I've done,  
17 although I don't think I would sorry too much  
18 about having to get my bet called on that  
19 matter.

20 COMMISSIONER MAY: Okay. Thanks.  
21 I just wanted to clarify whether there was  
22 some ground swell of developing methods that

1 we have missed. But you received notice  
2 through the regular channels and there was  
3 enough time to be able to put it on the  
4 agenda?

5 COMMISSIONER GARRISON: Right. As  
6 you mentioned in the way you framed your  
7 question, Mr. May, our ANC is especially alert  
8 to these matters either because we get them  
9 directly or because we learn about them from  
10 our colleagues with the restoration society.  
11 I suspect that we were quicker off the mark  
12 than others are normally in these situations.

13 COMMISSIONER MAY: Okay. I  
14 actually have a follow-up question for OP that  
15 goes to the nonprofit or not-for-profit  
16 question. Can I do that? I guess I can. Why  
17 is it defined as nonprofit versus not-for-  
18 profit because not-for-profit encompasses I  
19 think in the IRS view of things a much broader  
20 spectrum of organizations, or is that --

21 MS. STEINGASSER: OAG changed. We  
22 had nonprofit in OAG and changed all the

1 language to not-for-profit.

2 COMMISSIONER MAY: So that means  
3 lobbyists. PAX and people like that can get  
4 off the space and --

5 MS. STEINGASSER: If they can  
6 negotiate a lease that meets the priority  
7 terms of the deputy mayor and the city  
8 council.

9 COMMISSIONER MAY: Right.

10 CHAIRMAN HOOD: Okay. Any other  
11 questions of Commissioner Garrison or Mr.  
12 Peterson?

13 Commissioner Turnbull.

14 COMMISSIONER TURNBULL: Mr. Chair,  
15 I would just like to thank both of them for  
16 coming, both their summaries that we have been  
17 reading here and Mr. Peterson's page 3 I think  
18 is very clear. Even when you see No. 12 that  
19 even the District government agency needs a  
20 special exception I think points out a lot of  
21 things. Thank you both for coming

22 CHAIRMAN HOOD: All right. Thank

1     you both. Appreciate you taking your time to  
2     come and share some light on the topic. All  
3     right. Well, Ms. Steingasser, we have -- let  
4     me just ask do you want to have some  
5     concluding remarks? Normally we don't do that  
6     but --

7                   MS. STEINGASSER: No, sir. I  
8     think I understand the direction the  
9     Commission would like to go but I would like  
10    to request some clarification of the type of  
11    carve-outs, whether we would want to see them  
12    in the context of Section 222 or a new section  
13    that was broader than just historic districts.  
14    I would imagine we would have to. That's all.

15                  CHAIRMAN HOOD: Okay. My issue,  
16    and I've heard my colleagues, the carve-out  
17    that I had, Ms. Steingasser, my main concern  
18    was No. 3. I look at it in different places  
19    and the Roman numeral changes on me. I'm  
20    sorry, it's No. 2. If we could come up with  
21    some specific uses for 3.

22                  Now I'm hearing about the not-for-

1 profit organization. I'm not really too  
2 concerned about that. I'm more concerned --  
3 let me just say what I'm more concerned with.

4 I'm more concerned about No. 2.  
5 As you told me, clinics are defined in the  
6 medical and dental and is redundant but still  
7 there are some other things in that definition  
8 that make me want to at least carve that out  
9 for a special exception. Now my colleagues  
10 can join in.

11 COMMISSIONER MAY: I would  
12 certainly agree with that but I think the need  
13 for a special exception goes far beyond that.  
14 I am very uncomfortable with the thought that  
15 a lot of these government uses would simply be  
16 allowed as a matter of right when in the past  
17 the Zoning Commission has saw fit to make them  
18 a matter for special exception.

19 It is not because I feel like at  
20 this moment we can predict and prevent all the  
21 onerous uses. It is that we don't really  
22 understand the particulars of many of these

1 uses until they are actually proposed and  
2 considered.

3 I think there has been a very  
4 thoughtful and considerate process on the part  
5 of the various entities that are involved in  
6 this in the Office of Planning and the Deputy  
7 Mayor and so on to get public input about the  
8 reuse of these facilities. I understand a  
9 desire to make use of them so that they don't  
10 simply get boarded up.

11 But I also am just concerned about  
12 how we open the door to a lot of things that  
13 right now we don't see as potentially onerous  
14 but, in fact, they are. Part of this is also  
15 the history of things. I have lived in  
16 Washington long enough to see a couple of  
17 cycles of school closings and I have seen  
18 schools used for interior storage.

19 I know that is explicitly off the  
20 map probably because of those sorts of  
21 experiences. Parking enforcement used to be  
22 at the Gale School or, at least, they always



1 used to park there. I mean, for years and  
2 years and years after it closed that's what it  
3 was used for.

4 I think they actually had their  
5 offices there before it was a homeless  
6 shelter. I don't think that was a  
7 particularly good use for the neighborhood.  
8 It certainly wasn't a good use for the site.  
9 I mean, you knew where parking enforcement  
10 parked but it wasn't a great use of the site.

11 Even some of the things that have  
12 happened in the cycle of life for some of  
13 these other school buildings, granted we are  
14 actually taking steps to correct some of them  
15 like Grimke. I don't know that the ongoing  
16 use of Grimke by the fire department and by  
17 the Department of Corrections was a  
18 particularly good use from the neighborhood's  
19 point of view.

20 I just think it is the sort of  
21 thing where a little bit more public input in  
22 the process and with some specific guidelines

1 for how these things should be treated I think  
2 is appropriate and helpful. Granted it may  
3 slow things down a little bit but I would  
4 rather than those controls in place than  
5 simply open the door for these uses and trust  
6 that there is going to be some sort of public  
7 process that is not controlled by a specific  
8 regulation.

9 I think, frankly, even in recent  
10 history we have had examples of things where  
11 there have been public process and, yet, when  
12 the decision is made it flies in the face of  
13 that public process.

14 VICE CHAIRMAN JEFFRIES:

15 Commissioner May, I think I put out there the  
16 possibility of trying to carve out certain  
17 uses. I mean, this is just becoming an  
18 increasingly tough case. It has always been  
19 tough but it seems like it's getting tougher.  
20 I am clearly persuaded by the comments from  
21 Mr. Peterson and Mr. Garrison.

22 I'm really torn because I also

1 understand that there are situations where the  
2 public process can get drawn out and can take  
3 a long time and valuable time is lost. I am  
4 leaning towards, you know, the public input.

5 My thought was that if we could  
6 sort of look at certain uses and just sign off  
7 on those uses as potential matter of right and  
8 just really try to pinpoint those uses that we  
9 really think will absolutely require public  
10 community participation, then we could sort of  
11 have the Office of Planning sort of do some  
12 work and sort of come back to us with  
13 potential areas.

14 Not only just uses but also I'm  
15 sort of concerned again about historic  
16 districts that have built in infrastructural  
17 issues that make it tough to really manage  
18 uses that are not aligned with the residential  
19 zone. Ms. Steingasser, in terms of needing  
20 direction from us, what do you need to know?  
21 What kinds of uses we would like to see as a  
22 special exception?

1 MS. STEINGASSER: I think that  
2 would be helpful. What I'm hearing is that  
3 you want to make sure the medical clinics are  
4 special exception, construction on new fields  
5 would be special exception, possibly nonprofit  
6 use, No. 4, office use of not-for-profit.

7 VICE CHAIRMAN JEFFRIES: What  
8 about religious? Religion?

9 MS. STEINGASSER: Most religious  
10 uses --

11 VICE CHAIRMAN JEFFRIES: They are  
12 already in residential. Okay.

13 MS. STEINGASSER: Possibly a  
14 limitation on how much nonprincipal use before  
15 it triggers a special exception whether it's  
16 20 percent or 25 percent so we don't get to a  
17 51/49 percent kind of play field.

18 VICE CHAIRMAN JEFFRIES: What  
19 about a college or a university?

20 MS. STEINGASSER: A college would  
21 be accepted.

22 VICE CHAIRMAN JEFFRIES: That's a

1 different type of educational. I know they  
2 commented that would be permissible and  
3 acceptable but, you know --

4 MS. STEINGASSER: It would be  
5 subject to the campus plan regulations, I  
6 believe.

7 VICE CHAIRMAN JEFFRIES: Okay.  
8 Like a tech college or something?

9 MS. STEINGASSER: A tech college,  
10 a community college. UDC is looking at a lot  
11 of the schools with the Deputy Mayor for doing  
12 those satellite kind of campuses.

13 VICE CHAIRMAN JEFFRIES: Okay. So  
14 that would naturally come to us. Okay.  
15 Community centers.

16 MS. STEINGASSER: Community  
17 centers are currently already covered as, I  
18 think, a matter -- this is a zoning quiz. I'm  
19 not sure if they are a matter-of but they are  
20 already addressed in the regulations.

21 CHAIRMAN HOOD: Let me interject  
22 something. Once before we did an exercise.

1 I don't know if my colleagues will remember.  
2 Some of us may not have been here. I do  
3 remember Mr. Parsons, Carol, and myself and a  
4 few others. I'm not sure who the other two  
5 were. We did an exercise where we wrote down  
6 what we thought was permitted.

7 We called out every last one. We  
8 went through every last one of them. It was  
9 cumbersome and it took a few moments but that  
10 was an exercise we did. Maybe, Ms.  
11 Steingasser, another way in the same context  
12 that Commissioner Jeffries is talking about.

13 Maybe Office of Planning can come  
14 back with some of those uses in those  
15 different areas and we can just call them out  
16 -- permit it, don't permit it. That's just a  
17 way. I'm not saying come back that way but  
18 that is another way I know this Commission has  
19 done it in the past.

20 Another thing is, my colleagues, I  
21 want us to be mindful. We heard tonight who  
22 has filed already to move forward. While I am

1 definitely one who is big on making sure of  
2 public input because at the end of the day  
3 folks who live in the neighborhood, including  
4 use, we are the ones who are going to be  
5 affected.

6 We are the ones who have to live  
7 with it. I definitely don't want to take out  
8 the public input but I'm also cognizant and  
9 mindful of making sure some of these things  
10 like I know one area. That's why I wanted to  
11 make sure the DMV was in Backus. I know that  
12 community and ward wanted that to happen.

13 That is one thing that happened  
14 because here is the thing. Right now we have  
15 an emergency. If somebody wanted to do  
16 something, a medical clinic or whatever, guess  
17 what? They can do it right now. Then by the  
18 time we get around to making these finalized  
19 it's already there.

20 They have already filed and got  
21 everything started. I have some trust in the  
22 system. I'm going to sound like I'm

1     contradicting myself but I also want to make  
2     sure that we have the right input. All of  
3     this should be input but I want to make sure  
4     that we don't make the process cumbersome and  
5     we also give communities such as even my own  
6     input into what is going to happen in the  
7     reuse of these schools.

8                 COMMISSIONER TURNBULL: Mr. Chair,  
9     I think if you looked on page 3 of Mr.  
10    Peterson's paper that he gave us, that could  
11    be a starting point. He's got 12 facilities  
12    listed up there.

13                CHAIRMAN HOOD: I agree. I might  
14    not agree with all of them, Mr. Peterson, but  
15    I agree. District government agencies. What  
16    District government agencies? I keep going to  
17    DMV and I don't want everybody to think I'm  
18    just stuck on the DMV. There are some that  
19    would be fine but then we talk about public  
20    works trucks. Those are the issues that we  
21    need to go through and say, "Hey, look, that's  
22    not permitted but the DMV is great."



1 VICE CHAIRMAN JEFFRIES: So, Mr.  
2 Chairman, what you're saying is if you look at  
3 page 3 of Mr. Peterson's report these numbers  
4 under them have subcategories. Is that your  
5 point? I mean, like under 12 there's A, B, C,  
6 D. I mean, we need to sort of think about --

7 CHAIRMAN HOOD: Yeah.

8 VICE CHAIRMAN JEFFRIES: And so we  
9 are getting to that level of carve-out.

10 CHAIRMAN HOOD: Yeah, I think so.  
11 Again, this Commission, I'm not saying we have  
12 to do it, colleagues. I just know we've done  
13 that in the past because we were talking about  
14 banks, hair salons. I mean, we got to that  
15 point and I forgot exactly what it was. Maybe  
16 it neighborhood service and retail. Anyway,  
17 that was an issue where we called them out.

18 VICE CHAIRMAN JEFFRIES: Was that  
19 Mount Vernon?

20 CHAIRMAN HOOD: You're asking the  
21 wrong guy.

22 VICE CHAIRMAN JEFFRIES: That was

1 Mount Vernon action agenda where we were  
2 looking at retail uses.

3 CHAIRMAN HOOD: And we called them  
4 out.

5 VICE CHAIRMAN JEFFRIES: Yeah,  
6 yeah. That was Mount Vernon action agenda.

7 CHAIRMAN HOOD: Okay.  
8 Commissioner Etherly.

9 COMMISSIONER ETHERLY: I'll just  
10 say as we move forward this is difficult. I'm  
11 going to for the moment -- not for the moment.  
12 I tend to be in Mr. May's camp on this one in  
13 terms of I'm not sure we're going to be able  
14 to sort it out the right way.

15 This is incredibly tough because,  
16 quite frankly, I came to this thinking of the  
17 need to continue to move forward and ensure  
18 that these assets are maintained and continue  
19 to inure to the benefit of public use and  
20 government use, nonprofit use is indeed part  
21 and parcel of that but I'm not sure if  
22 specific carve-outs are going to get us there.

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1 I want to go through the exercise  
2 and see what we can fashion, what kind of  
3 framework we can come to but I'm not sure if  
4 at the end of the day we are going to be able  
5 to get there. Let's work through it and see  
6 what we can come up with.

7 CHAIRMAN HOOD: I'll just say it.  
8 I want us to get this so if we think that  
9 exercise is not going to be meaningful. I  
10 agree with you, Mr. Turnbull, about Mr.  
11 Peterson. That is a good starting point.

12 COMMISSIONER TURNBULL: I'm very  
13 much in the same camp as both Commissioners  
14 Jeffries and May and Mr. Etherly when they  
15 were saying that -- I mean, they were -- I  
16 mean, basically what Mr. Peterson and what Mr.  
17 Garrison has said is that everything is a  
18 special exception except educational  
19 facilities whether it's a replacement or  
20 whether it's a charter school. I mean, how  
21 much do you carve out and say as a matter-of-  
22 right without getting the community

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1 involvement.

2 VICE CHAIRMAN JEFFRIES: I think  
3 that the exercise -- I think we need to at  
4 least be able to be on record through the  
5 Office of Planning to look at all the various  
6 uses and go through with them. I mean, at the  
7 end of the day Commissioner Etherly is  
8 probably right. We might just say everything  
9 is really a special exception with the  
10 exception of education but I'm just  
11 thinking --

12 COMMISSIONER MAY: Are you asking  
13 the Office of Planning to do that?

14 VICE CHAIRMAN JEFFRIES: Well --

15 COMMISSIONER MAY: I'm just  
16 curious who is going to do it.

17 CHAIRMAN HOOD: It's just an  
18 option. That was something I said we can do  
19 or we can go with some of the likes of what  
20 Mr. Peterson had and make everything a special  
21 exception. That would also give us the  
22 confidence level of knowing what exactly is

1 going in there besides education.

2 MS. STEINGASSER: Okay. So we  
3 would bring back to you in September under  
4 proposed action a list of all potential uses  
5 and all uses that are currently allowed in the  
6 residential zone and the Commission could go  
7 through --

8 VICE CHAIRMAN JEFFRIES: You  
9 wouldn't put anything there that is already a  
10 matter of right in a residential zone.

11 MS. STEINGASSER: Right.

12 VICE CHAIRMAN JEFFRIES: If you  
13 look at page 3 of Mr. Peterson's report, I  
14 mean, obviously he is going one through 12 but  
15 there are subcategories.

16 I mean, District government  
17 agencies some might be quite comfortable that  
18 could be matter-of-right and then others  
19 simply are very labor intensive. People are  
20 coming and going or whatever. Those agencies  
21 clearly will need special exception review.  
22 Again, I think Commissioner Etherly is right.

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1                   We might end up there is no way to  
2                   carve this out the way we would like but I  
3                   would personally like to go through the  
4                   exercise so at least we can say that we sat  
5                   down and we considered all these uses and we  
6                   came to the conclusion that we had to fall out  
7                   on just a straight special exception because,  
8                   you know --

9                   MS. STEINGASSER: We would be  
10                  happy to do that.

11                  VICE CHAIRMAN JEFFRIES: Yeah.  
12                  Okay.

13                  CHAIRMAN HOOD: I will tell you  
14                  the exercise is very helpful. We took them  
15                  item by item. We hashed them around. It took  
16                  a little time but we got what we needed to  
17                  move forward. Anything else?

18                  COMMISSIONER MAY: I just want to  
19                  say I think it is a useful exercise to  
20                  consider this because it is a more thorough  
21                  consideration on how part of what these  
22                  potential uses are. I will just sort of throw

1 out there that I think even if we go through  
2 that exercise, we may wind up in the same  
3 place that it really has to be everything by  
4 special exception simply because there are too  
5 many circumstances that we can't anticipate.

6 It only takes one or two big DPW  
7 or DDOT trucks to make an unbearable situation  
8 for a neighborhood. It doesn't require it to  
9 be a majority or even 20 percent of the  
10 parking. It could be a relatively small  
11 amount. The materials testing lab is for  
12 testing asphalt mixes and things like that and  
13 that may be an onerous use simply because of  
14 the way it smells.

15 I don't know but those are --  
16 there may be too many little complications.  
17 We may wind up there but I am perfectly  
18 willing to go through it and try to see if we  
19 can do something because I do support the  
20 notion that we want to try to open the door  
21 for sensible reuse of existing buildings.

22 VICE CHAIRMAN JEFFRIES: A

1 sensible adaptive reuse of buildings. We are  
2 in agreement. I thought I said it twice that  
3 I thought we would probably end up in the same  
4 place but I just need to go through the  
5 exercise so that we are on record.

6 CHAIRMAN HOOD: I would even think  
7 that even administration if we made something  
8 matter-of-right and they were going through  
9 the lease agreement or whatever in the reuse  
10 of the schools, I would think even the  
11 administration would do what is best for the  
12 community. I mean, that's what I would think  
13 would happen because at the end of the day we  
14 all vote. Anyway, enough said on that.  
15 Office of Planning has good --

16 COMMISSIONER MAY: Did that  
17 happen?

18 CHAIRMAN HOOD: Don't ask that  
19 question, Commissioner May.

20 COMMISSIONER MAY: Do you know  
21 what I'm talking about?

22 CHAIRMAN HOOD: I know exactly



1       what you're talking about. Okay. Anyway,  
2       anything else?

3               Ms. Steingasser, are we on the  
4       same page?

5               MS. STEINGASSER: I think so.

6               CHAIRMAN HOOD: Okay. Thank you  
7       very much, Ms. Steingasser, Mr. Lawson.

8               Ms. Schellin, is everything in  
9       order?

10              MS. SCHELLIN: Are we going to aim  
11       for the September meeting? Is that what you  
12       want to do? If we could have everything by  
13       September 2nd, that would be the latest.

14              CHAIRMAN HOOD: Is there going to  
15       be a point where we need to make sure that the  
16       community comments?

17              MS. SCHELLIN: They will be able  
18       to comment on the 30-day -- it has to be  
19       published because --

20              CHAIRMAN HOOD: They'll publish it  
21       and then 30 days. Okay.

22              MS. SCHELLIN: They will have 30-

1 day review period.

2 CHAIRMAN HOOD: Can we work the  
3 dates out now?

4 MS. SCHELLIN: We don't know  
5 unless you take proposed action in January --  
6 I mean, in September, whether that is going to  
7 happen or not.

8 CHAIRMAN HOOD: You think  
9 September?

10 MS. SCHELLIN: Second.

11 CHAIRMAN HOOD: September 2nd?

12 MS. SCHELLIN: For her to submit  
13 everything and then we'll consider it  
14 September 8th.

15 CHAIRMAN HOOD: Is that a good  
16 time for you?

17 MS. STEINGASSER: Yes.

18 CHAIRMAN HOOD: And then the  
19 community will be able to comment.

20 MS. SCHELLIN: If you take  
21 proposed action favorably on the 8th, then a  
22 proposed rulemaking will be published and

1       there will be a 30-day comment period.

2                   CHAIRMAN HOOD:   Okay.   Again, Ms.  
3       Steingasser, do you have Mr. Peterson's and  
4       the submittals of the ANC?   Okay.   I think, as  
5       Mr. Turnbull said, those are just starting  
6       points.   Plus our comments are very good  
7       starting points.   Okay, so September 2nd.   I'm  
8       being told to hurry up.   Okay.   Ms. Schellin,  
9       are we in order?   Everything is in order?

10                  MS. SCHELLIN:   Yes, sir.

11                  CHAIRMAN HOOD:   All right.   With  
12       that both of these hearings are adjourned.  
13       Good night and thanks everybody for their  
14       participation.

15                  (Whereupon,   at   8:56   p.m.   the  
16       public hearing was adjourned.)

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