

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

THURSDAY

MAY 29, 2003

+ + + + +

The Public Hearing convened in Room 200 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 6:50 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSIONERS PRESENT:

CAROL J. MITTEN, Chairperson
ANTHONY J. HOOD, Vice Chairperson
PETER G. MAY

COMMISSION STAFF PRESENT:

Alberto P. Bastida, Secretary, ZC

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy, Deputy Director, OP
Jennifer Steingasser, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Corey Buffo, Esq.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

(6:50 p.m.)

CHAIRMAN MITTEN: Good evening, ladies and gentlemen. This is public hearing of the Zoning Commission of the District of Columbia for Thursday, May 29, 2003. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner Peter May.

The subject of this evening's hearing is Zoning Commission Case No. 03-09. This is a request by the Office of Planning for a text amendment to Section 217 of 11 DCMR. This section regards non-profit organizations in the R-1 zone. This amendment would expand the section to include historic public school buildings, as well as what the existing regulation provides for historic residential buildings, and permit the use of such structures by a District government agency, as well as the existing provision for non-profit organizations.

Notice of today's hearing was published in the D.C. Register on April 11, 2003. This hearing will be conducted in accordance with the provisions of 11 DCMR Section 3021, which are the procedures for rulemakings. Copies of today's hearing announcement are available to you and are located in the wall bin

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 near the door.

2 The order of procedure will be as follows.

3 Preliminary matters followed by the presentation by
4 the Office of Planning, reports of other government
5 agencies, reports of any ANC's who are present,
6 organizations and persons in support, organizations
7 and persons in opposition.

8 The following time constraints will be
9 maintained in this hearing. Organizations will have
10 five minutes. Individuals will have three minutes.
11 The Commission intends to adhere to these time limits
12 as strictly as possible in order to hear the case in a
13 reasonable period of time. The Commission reserves
14 the right to change the time limits for presentations
15 if necessary, and notes that no time shall be seeded.

16 All persons appearing before the
17 Commission are to fill out two witness cards. These
18 cards are located on the table near the door as well.

19 Upon coming forward to speak to the Commission,
20 please give both cards to the reporter, who is sitting
21 to our right.

22 The decision of the Commission in this
23 case must be based on the public record. To avoid any
24 appearance to the contrary, the Commission requests
25 that persons present not engage the members of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission in conversation during a recess or at any
2 other time. Staff will be available throughout the
3 hearing to discuss procedural questions.

4 Please turn off all beepers and cell
5 phones at this time so as not to disrupt these
6 proceedings.

7 I just want to check, because we do have
8 another matter that's coming up after this. Mr.
9 Bastida, that's scheduled to begin at 7:30, is that
10 correct?

11 MR. BASTIDA: That's correct, Madame
12 Chairman.

13 CHAIRMAN MITTEN: All right, thank you.
14 Are there any preliminary matters related to the Case
15 No. 03-09.

16 MR. BASTIDA: There are no preliminary
17 matters. Thank you.

18 CHAIRMAN MITTEN: Thank you. So, we're
19 ready to move to the presentation by the Office of
20 Planning. Good evening Ms. Steingasser.

21 MS. STEINGASSER: Good evening, Madame
22 Chair, and Zoning Commissioners. I'm Jennifer
23 Steingasser with the Office of Planning, and I'm
24 representing the case 03-09. The description of the
25 case was aptly read through the -- let me start again.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Section 17 of the Code currently allows
2 for non-profit use of large historically designated
3 residential buildings by special exception. OP has
4 proposed a text amendment that would expand the
5 section to include public school buildings and their
6 land, and would make District of Columbia government
7 agencies eligible applicants to occupy the buildings,
8 provided the buildings are listed in the D.C.
9 Inventory of Historic Sites or within a historic
10 district and the gross floor area of the building in
11 question is at least 10,000 square feet in size.

12 The purpose of the amendment is to
13 encourage the investment and preservation of many of
14 the city's surplus and neglected school buildings, and
15 allow for their adaptive re-use, and would allow
16 District government agencies to use the building in
17 the same manner with the same limitations and special
18 exception criteria as the non-profit uses.

19 It would also couple this opportunity with
20 the city's efforts to locate city services within
21 District neighborhoods. The land use impact of
22 extending the eligibility to District government
23 agencies has been considered to be comparable to the
24 use by the general term non-profit organizations, and
25 the special exception criteria is the same.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 A new subsection 217.7 has been proposed
2 to clarify that the amended Section 217 would be used
3 in conjunction with any other related special
4 exception criteria, not in lieu of that criteria. For
5 example, a child or elderly day care, if they proposed
6 to occupy a landmark or unused public school building,
7 would be subject to both Section 205, which regulates
8 elderly day care facilities, and Section 217, which
9 addresses the use of these buildings.

10 The proposed amendment is also consistent
11 with many of the comprehensive plan themes, and OP has
12 provided a detailed list in our staff report.
13 Notably, Chapter 6, location of public facilities,
14 calls for public facilities to optimize service and to
15 support the land use, social development, and
16 neighborhood improvement objectives.

17 Chapter 8, historic preservation, has a
18 section 804, which are general policies for the
19 protection and enhancement of historic properties, and
20 it calls for the use to the maximum extend of historic
21 properties eligible when acquiring, constructing,
22 leasing, or carrying out government responsibilities.

23 Elsewhere in that same chapter,
24 subparagraph (f) calls for the provision of sufficient
25 administrative flexibility in building codes and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 related codes and regulations to permit maximum
2 preservation and protection of historic resources
3 while still ensuring the health and safety of the
4 public.

5 OP believes that the amendments to Section
6 217 address those specifically, and the special
7 exception criteria go to ensuring the health and
8 safety of the public. Further in this chapter, there
9 are specific policies for the protection of historic
10 properties that call for every effort to be made to
11 provide for the continued use of all historic
12 properties.

13 All of the Ward plans call for increased
14 efforts to encourage the preservation and awareness of
15 historic buildings. In particular, Ward 1, 3, and 4
16 plans call for the consideration of legislative
17 remedies and administrative flexibilities in efforts
18 to encourage maximum preservation of historic sites.
19 OP believes that the proposed amendment addresses
20 those flexibility efforts.

21 At the set-down hearing, Office of
22 Planning was asked to consult with the D.C. Public
23 School Systems and their facilities plans to get any
24 input they might have on this proposal. We did so.
25 On May 5, we met with their public facilities people,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and they supported this effort and were encouraged by
2 the efforts to keep some of the schools, get them
3 designated, and keep them within the city's inventory.

4 They provided no written response, however.

5 Based on the consistency with the
6 Comprehensive Plan, the Office of Planning recommends
7 adoption of this proposal.

8 CHAIRMAN MITTEN: Thank you. When you
9 mentioned the additional section, I may have misheard
10 you. Is it 217.7 or 217.6?

11 MS. STEINGASSER: I'm sorry, it's 217.6.

12 CHAIRMAN MITTEN: Okay. I just wanted to
13 make sure there wasn't another section that had
14 slipped in there that I wasn't aware of.

15 MS. STEINGASSER: No, that was my mistake.

16 CHAIRMAN MITTEN: I think -- I don't know
17 if it was when we set it down, we had talked about
18 possibly some alternative language to what you had
19 included, and not changing the meaning, just changing
20 the language from what had been in your set-down
21 report on page 7. Do you have that language?

22 The language is, "Any special exception
23 application made pursuant to this section shall be
24 heard and decided together with any other special
25 exception relief required. The Applicant shall have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the burden of proving compliance with all applicable
2 special exception requirements, whether stated in this
3 section or elsewhere in this title. In the event of
4 any inconsistency between the requirements, the most
5 restrictive criteria shall apply." That was the
6 alternative language. Did you get a chance to look at
7 that? I think it's the same.

8 MS. STEINGASSER: It does serve the same
9 intent, and that is the language proposed by I think
10 corporation counsel, and OP supports that language.

11 CHAIRMAN MITTEN: Okay, great. Any
12 questions for Ms. Steingasser? Mr. May?

13 MR. MAY: Just a couple of hopefully quick
14 ones. Was there any particular case or property that
15 actually prompted this?

16 MS. STEINGASSER: There is a property that
17 would be applying for the special exception once the
18 amendment is available to them, and that was the -- it
19 will be the Hayes School, which has requested a
20 special exception originally for an elderly care
21 facility, and they would also like to locate some of
22 their offices in the building. The property is
23 currently zoned R-4, and they were not eligible to
24 move their offices there.

25 MR. MAY: That is a school property. Is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it still in the school's inventory?

2 MS. STEINGASSER: No, it's a surplus
3 property. Their architect has been working with our
4 historic preservation staff to get the property
5 nominated and to get the design moving forward.

6 MR. MAY: Has there been discussion
7 already with this specific neighborhood with regard to
8 the future of the Hayes School?

9 MS. STEINGASSER: Yes. The Department of
10 Aging has done extensive outreach. There's a sign on
11 the property. They've met with the ANC's, and I
12 believe they've met with some of the civic
13 associations. They report that they've had full
14 support for both the office use and the elderly
15 center, and the restoration of the building.

16 MR. MAY: Okay. That's sort of a dry run
17 for how we'll eventually be going, I assume. Then the
18 last question I have is the reference to parking,
19 which is the paragraph that simply states that parking
20 shall be adequate.

21 MS. STEINGASSER: That's correct.

22 MR. MAY: Amount of arrangement of parking
23 shall be adequate and located to minimize traffic
24 impact on the adjacent neighborhood.

25 MS. STEINGASSER: Yes, that's the existing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 language that's currently in Section 217. We've not
2 proposed any changes to that. Typically when OP
3 begins to analyze a statement that's that broad, we
4 look to the Code, and determine what the required
5 parking is. We then take the required parking
6 standard, look at the size of the building, the use,
7 and how the applicant proposed to modify, if at all,
8 that parking requirement, and then it is referred to
9 the District Department of Transportation for their
10 review and comment.

11 MR. MAY: Okay, so typically, I mean, it
12 doesn't get into specific numbers or ratios. You
13 would look at the proposed use and the requirement
14 that that would generate?

15 MS. STEINGASSER: As a starting point,
16 yes.

17 MR. MAY: As a starting point. And that
18 could also go to inform the discussion of adverse
19 impact as well.

20 MS. STEINGASSER: Yes, absolutely,
21 absolutely.

22 MR. MAY: Okay, because it seems to me
23 that if we're talking about a school building being
24 re-used, it's conceivably a lot more square footage
25 than would occur with an existing residential

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 building, which is what the rest of the Code was
2 about. So, we could be talking about a lot more
3 parking.

4 MS. STEINGASSER: There could be a lot
5 more parking, and we would look at it in light of the
6 urban design aspect of having too much parking, or if
7 they would convert a playground. So, we would also
8 look at that as to whether there would be an adverse
9 impact by overpaving as well. It would be site
10 specific and project specific as to how they would
11 move forward.

12 MR. MAY: Okay. I don't know how to
13 answered it, but I guess the question that all this
14 raises in my mind is whether we are with this going
15 into the special exception process. We are
16 essentially blessing D.C. government use of any school
17 property and historical school building in a
18 residential neighborhood, conceivably for any use that
19 the city would deem necessary, so long as there is a
20 filing of no adverse impact.

21 MS. STEINGASSER: We're allowing the
22 District to compete in the same arena as general non-
23 profit uses subject to the same criteria.

24 MR. MAY: I guess what I'm thinking about,
25 though, if they're non-profit uses for them to make

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 good use of say a public school building or a
2 residential building. They are typically not going to
3 go in and just do office space, whereas the city's use
4 so far of school buildings has been a range of things,
5 not many of which are actually really public service
6 oriented. They're often storage or office space or
7 things like that. So, we're opening up the door to
8 those sorts of uses, and essentially blessing or
9 recognizing their appropriateness in all of these
10 circumstances.

11 MS. STEINGASSER: Well, actually, I guess
12 we can view it from the flip side of that, is that
13 we're creating more opportunity for a broader range of
14 uses besides just passive storage and static use of
15 the building, but we're creating an adaptive re-use of
16 the building, and encouraging people to go in and have
17 the building actually restored and actively used as
18 opposed to the way they're now currently surplusd.
19 They're often just mothballed, used as storage, the
20 property is used as a parking lot. We're hoping to
21 get preservation efforts actively moving forward on
22 some of them.

23 MR. MAY: All right, thank you.

24 CHAIRMAN MITTEN: Thank you, Mr. May. Mr.
25 Hood?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRMAN HOOD: Thank you, Madame
2 Chair. Ms. Steingasser, let me set up a scenario, and
3 if you can help me through it. While I'm very well
4 aware of the use that you just mentioned, the Office
5 on Aging, which I think is suitable for this whole
6 text amendment, but let's set up another scenario.

7 The Department of Public Works, and you
8 know --

9 MS. STEINGASSER: I have a feeling I know
10 where this one's going.

11 VICE CHAIRMAN HOOD: I'm just trying to
12 figure out how is the Board adverse impacts -- I just
13 see maybe we're creating something and we don't see it
14 yet, but you know, maybe I'm off in left field, but
15 the Department of Public Works wants to relocate. For
16 example, those vehicles they have parked over at RK
17 parking lot right now, and they want to move them to a
18 residential area and serve that as a District
19 government agency.

20 How will this text amendment alleviate, or
21 at least make sure that that is put in the proper
22 area, as opposed to the Office on Aging, which I think
23 is suitable? But then we have the Department of
24 Public Works, which is also a District government
25 agency.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: That's true. I
2 understand the concern, but the building would have to
3 be historically designated. It doesn't necessarily
4 mean it would have to be historically preserved. So,
5 they designate the building, and then they create an
6 impound lot on the playground. Is that the kind of
7 scenario we're worried about?

8 I think we would then look to the special
9 exception criteria about the arrangement of parking
10 spaces, minimized traffic impact. It also talks about
11 shall not adversely affect the use of neighboring
12 properties. We could certainly look to strengthen
13 that to get to more external use of the properties
14 that are not reliant upon the internal occupancy of
15 the building, if that -- create a stronger
16 relationship.

17 VICE CHAIRMAN HOOD: I would like to see
18 that because I just hate to see the citizens fighting
19 the government when the snow plows want to park in
20 school. You know, we get to that point. So, maybe if
21 we can hopefully try to prevent that, I'm sure that
22 the Office of Planning, in their recommendations to
23 the Board at the time, will make the appropriate
24 recommendation, but I think that if we can kind of see
25 that up front, that would alleviate us coming down and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 having a lot of District government versus citizens
2 around the school area.

3 MS. STEINGASSER: Okay. So --

4 VICE CHAIRMAN HOOD: Unfortunately, I
5 don't have anything to offer, but if we can look at
6 that.

7 MS. STEINGASSER: But I just want to make
8 sure that I have the Commission's main concern, which
9 is really kind of the external use of the building and
10 the way the property relates to the neighborhood.

11 VICE CHAIRMAN HOOD: That's where I would
12 go.

13 MS. STEINGASSER: Should be consistent
14 somehow with the character of the neighborhood, the
15 uses should be internally compatible? I guess that's
16 not the right phrase.

17 VICE CHAIRMAN HOOD: I don't know if that
18 has to be extremely in terms of compatible, but again,
19 let me just say, my concern is those trucks over at
20 RFK parking lot parked in a residential area, and then
21 causing friction between the District government and
22 the citizens.

23 The other project which you mentioned I
24 think is definitely appropriate, but then on the other
25 hand, I don't know if this one is definitely

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appropriate. I just see that coming in. It may not
2 never happen, but we want to make sure that we cut it
3 off in the front.

4 MS. STEINGASSER: I understand, and I'll
5 work with corporation counsel to see how we can split
6 those two.

7 VICE CHAIRMAN HOOD: Thank you.

8 MR. MAY: I wouldn't limit the
9 consideration of the use to --

10 MS. STEINGASSER: External?

11 MR. MAY: External, because I think that
12 there may be uses that are internal in a building that
13 may be objectionable that, you know --

14 MS. STEINGASSER: Such as storage.

15 MR. MAY: Well, I can think of things that
16 are more objectionable, conceivably. I would hate to
17 sort of set up the BZA to become a forum for a lot of
18 squabbles from the city, and the District government
19 for these potential uses.

20 MS. STEINGASSER: Okay.

21 CHAIRMAN MITTEN: Okay, are we ready to
22 move on then? Okay, we had the oral representation of
23 the DCPS report. I don't think there are any other
24 government agencies that commented.

25 MS. STEINGASSER: We received no other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 comments.

2 CHAIRMAN MITTEN: All right. Any ANC's
3 here to comment on 03-09? All right, organizations
4 and persons in support? Anyone? Please come forward.
5 To the court reporter, please.

6 Are you testifying as an individual or
7 representing an organization? All right. If you just
8 turn your mike on for me, and state your name for the
9 record, and then begin your testimony.

10 MR. BARTEL: My name is Richard Bartel. I
11 live in Cleveland Park. I'm an ANC commissioner for
12 that area, ANC-3C-04, but our Commission hasn't passed
13 any resolution on this matter. I'm also the treasurer
14 of Sharewriter International, which is a 501(c)(3)
15 D.C. Corporation, non-profit. It has been since 1981.

16 I generally support the concept of the use
17 of these buildings to be available for D.C. government
18 agencies. I do share Mr. Hood's concerns about
19 particular uses that may have relevant impacts on the
20 neighborhood. That is something I think that should
21 be looked at in terms of the language.

22 However, I would also like to suggest that
23 it be explicit in the regulation that a District
24 government agency includes advisory neighborhood
25 commissions so that they can use the office space in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 these buildings. That's one of the problems with a
2 lot of these ANC's. I know our ANC pays monthly rent
3 to a condo building. We've asked the mayor for space
4 under the D.C. Code, which is obligated to provide,
5 but it hasn't been provided in years to ANC's that
6 have requested space.

7 The second thing is I have some
8 nervousness about the general term non-profit
9 organization. Anyone can go down to the DCRA and
10 incorporate as a non-profit organization, regardless
11 of what their purpose of their organization is. I
12 could open up a grocery store and incorporate as non-
13 profit, and actually, it's a non-stock corporation,
14 and call myself a non-profit corporation and make as
15 much money as I want and as much business impact as I
16 want. I just don't have shareholders.

17 So, a non-profit organization, in general
18 terms, is an organization that does -- and under the
19 D.C. Code, the corporation article is an organization
20 that just simply doesn't have shareholders. It can
21 issue bonds and debentures, but it just can't issue
22 stock and have private owners.

23 So, I feel a little nervous about the
24 breadth of the term non-profit organization, and I
25 would prefer that the Section 217 describe non-profit

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 organizations as non-profit, tax exempt organizations.

2 I think that will actually filter out a lot of the
3 potential abuses that may occur by a say a land
4 speculator or real estate speculator who simply gets
5 the idea, hey, I just need to incorporate as a non-
6 profit organization, and I can do pretty much anything
7 I want, as long as the impact issues are assimilated.

8 I have a question about the impact
9 possibilities with other private schools that might
10 move into D.C. schools because you have an existing
11 use as a D.C. school, and it's not clear whether D.C.
12 schools have certificate of occupancies with
13 enrollment limits and things of that nature so that
14 the private organization or private school moves in,
15 they can just say look, this is res judicata, this is
16 estopped. You cannot question our use because it's
17 already been used as a school, and we're not exceeding
18 the enrollment of the prior use. So, that may be
19 something that the citizens may be concerned about.

20 That pretty much summarizes my comments.
21 I thank you very much for the opportunity to testify.

22 CHAIRMAN MITTEN: Thank you, and if you
23 just hold your seat, and then we'll hear from Mr.
24 Williams, and then we'll ask questions.

25 MR. WILLIAMS: Good evening, Madame

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chairman, and members of the Commission. My name is
2 Lindsley Williams. I live at 3307 Highland Place,
3 N.W., Washington, D.C. I am appearing tonight only on
4 behalf of myself. I wanted to thank both Mr. May and
5 Mr. Hood, who actually started what I would have
6 testified to as their line of inquiry,

7 I bring to your attention three agencies,
8 not because they're awful agencies. They have
9 important things to do, but the uses that they can
10 bring with them just might give some pause here. Let
11 me start with the Department of Motor Vehicles, and
12 then it brings up the issue of impoundment lots, which
13 you've talked about.

14 Let me move to the Department of Public
15 Works, which has certain functions having to do with
16 trash, which are regulated elsewhere in the
17 regulations in the form of the stations where the
18 trash is consolidated and so on and so forth. It's
19 not the type of use which is likely to go into most
20 public historic buildings, but it's an example of a
21 use that might not be exactly perfect.

22 Then I would simply bring you to the
23 Department of Corrections, and I'm sure you can
24 complete the sentence with the types of uses that that
25 could bring with it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 So, it seems to me that some attention
2 should be given to what to do about that, and a
3 possibility. I'm not recommending this, but I'm
4 recommending that you think about it, is to say in
5 217.2, or offices of a government agency, so that we
6 get to what it is that we're trying to allow, which it
7 seems to me is what you want to have going on inside
8 the space and not on the land of.

9 So, storage of pipes, storage of rock
10 salt, storage of heaven knows what on the grounds
11 isn't what you want. It probably would be okay if it
12 was inside of an old gymnasium, et cetera, et cetera.

13 I don't really know, but I offer to you the thought
14 that maybe you should look at what you want to put in
15 front of the roster of D.C. government agencies so as
16 to get some control over it.

17 As to the discussion on parking, it seems
18 to me that one might want to also look at the words
19 loading because it's closely related, and it's simply
20 not in the current regulations as it relates to non-
21 profits, but it could become more important as this
22 case goes forward.

23 Finally, I would simply note that you have
24 an interesting opportunity here, I twinkle to say,
25 that because of the fact that you're now voicing some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concerns in some settings, having to do with whether
2 parking and loading requirements apply when there is a
3 historic property or not, and you've got a byplay
4 between this discussion that you're having tonight and
5 that discussion that is going on elsewhere to resolve.

6 Thank you very much.

7 CHAIRMAN MITTEN: Thank you. Any
8 questions for these gentlemen?

9 VICE CHAIRMAN HOOD: I would just ask Mr.
10 Bartel, I think if I understood you correctly, you
11 would propose that everywhere we have non-profit, that
12 we would also say non-profit tax exempt?

13 MR. BARTEL: That's correct, and the tax
14 exemption could be as broad as this 501(c), not
15 necessarily (c)(3), or it could be a tax exemption
16 obtained from the D.C. Office of Tax and Revenue.

17 VICE CHAIRMAN HOOD: Okay.

18 MR. BARTEL: The other thing I had then
19 mentioned was to make sure that the District
20 government agency is inferred to mean advisory
21 neighborhood commissions are included because it's not
22 clear whether they're in a legislative branch or the
23 executive branch, but they are a District agency.

24 VICE CHAIRMAN HOOD: Okay, thank you. Mr.
25 Williams, you also offer some language. You said what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we should put in front of that. Do you have any
2 recommendation?

3 MR. WILLIAMS: Well, I penned into mine
4 the thought that you could say offices of a District
5 of Columbia government agency. Now, maybe you want to
6 say more than just offices, but if you said something
7 to modify what it was that you were focusing on, then
8 it wouldn't open it up to custodial institutions. It
9 wouldn't open it up to trash yards. It wouldn't open
10 itself up to impoundment lots, because those are uses
11 that are characteristically taking place on the
12 grounds as distinct from within the building.

13 There may be other non-noxious government
14 uses besides offices that could be contemplated within
15 the rest of this. I didn't immediately come up with
16 that, but it seems to me that right now, it is likely
17 to open up more than you may realize in this room, and
18 we'll be back here with a crisis, and the room will be
19 filled with steaming people. You've been there, and
20 I'm trying to prevent it.

21 VICE CHAIRMAN HOOD: Thank you.

22 CHAIRMAN MITTEN: I think these are
23 constructive suggestions, so I thank you both for
24 coming down. Thank you. Anyone else in support?
25 Anyone would like to testify in opposition?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I was thinking of you this evening, Mr.
2 Crockett, and then you appeared.

3 MR. CROCKETT: Well, Madame Chairman, I
4 guess when these things start to happen, they happen
5 in threes. So, I'm down here for the third proceeding
6 on this subject matter this month.

7 CHAIRMAN MITTEN: Would you just state
8 your name for the record?

9 MR. CROCKETT: My name is Don Crockett. I
10 live at 3070 Q Street, N.W., where I have presided for
11 about the past 30 years.

12 CHAIRMAN MITTEN: Are you testifying just
13 as an individual this evening?

14 MR. CROCKETT: I am testifying as an
15 individual.

16 CHAIRMAN MITTEN: Okay.

17 MR. CROCKETT: And I have a statement.

18 CHAIRMAN MITTEN: Go ahead.

19 MR. CROCKETT: I am a veteran of many wars
20 in this area, unfortunately, starting with the Hurt
21 Home war against the city in 1988, which went through
22 two appeals to the Court of Appeals. I know how this
23 section can operate and how the city operates with
24 respect to zoning.

25 I'm here to tell you that I think this is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a terrible piece of proposed legislation that should
2 not be adopted. I don't see any -- I did not hear any
3 basis for changing the existing regulation in the
4 presentation by the Office of Planning. All I heard
5 was well, this may be a nice thing to do. There
6 hasn't been a study. There hasn't been an inventory
7 of the buildings that would be affected.

8 Apparently there are a couple of instances
9 where people would like to use these buildings, some
10 building somewhere for something, which is the
11 catalyst for this. That does not seem to me to be the
12 basis for public legislation and changing the zoning
13 laws, as far as I'm concerned.

14 The reason we have zoning laws is to give
15 people like me and everybody else who lives here in a
16 residential area some consistency, that we know what's
17 going to happen, and that our neighbors are not going
18 to be just changing things on us. Now, that's
19 happened in Georgetown a lot, and we've tried to fight
20 it, and we've been successful.

21 We should have those. If you have a good
22 zoning law, then all these things are in the law, and
23 to open this up to the exception process, it isn't
24 really what the zoning is all about. Residential
25 zoning ought to be residential, and we ought not to be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 talking about non-residential uses in our residential
2 neighborhoods.

3 The only reason that we have this
4 particular provision is to save historic houses from
5 deteriorating, to the extent that historic houses
6 and/or school buildings can be converted over to
7 residential use, that's what should happen. We should
8 not being going backwards and saying that we're going
9 to let government agencies willy nilly come into the
10 middle of residential neighborhoods. What the members
11 stated is that you're just creating a situation in
12 which every one of these is going to be a battle with
13 irate neighbors from the neighborhood when the
14 government comes in and says they want to do such and
15 such in the middle of a residential neighborhood.

16 The Department of Planning hasn't made the
17 case at all, and I don't think the zoning regulations
18 ought to be changed. We ought not to do these things
19 casually. They ought to be done only when there's a
20 very compelling reason, and I don't see any compelling
21 reason here tonight.

22 CHAIRMAN MITTEN: Thank you, Mr. Crockett.
23 Any questions for Mr. Crockett? Mr. May?

24 MR. MAY: You're making a case that
25 residential use is really the only thing that would be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appropriate for a re-used school building. I mean, is
2 there anything else, any other use that would, in your
3 mind, be considered appropriate? I mean, is an office
4 use, for example, so inappropriate or some other, you
5 know, non-profit arts use or something like that? I'm
6 thinking of performance space or gallery space, or
7 things like that.

8 MR. CROCKETT: I think the regulations for
9 the various residential districts have sufficient uses
10 for these school buildings. The best thing for them
11 would be to turn them into private schools, which is a
12 residential use. If that were done, then that's fine.

13 There are a lot of residential uses that they could
14 be used for.

15 They could be turned into condominiums.
16 That's happened in Georgetown to a number of these
17 schools. They could become an art school. They could
18 be a specialized school. That is fine. That is a
19 residential use.

20 Office use is not. We ought to restrict
21 office use to commercial areas where office use should
22 be. The only reason that we have office use in the
23 current regulation for large single family homes is an
24 effort to protect those homes and protect the
25 integrity of the residential neighborhood. So, it's a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 benign use, just to make sure that the single family
2 home is protected.

3 Now, if somebody should come along like
4 they have in Georgetown recently and said well, I want
5 to buy this \$3 million piece of property and renovate
6 it and turn it back into a grand mansion, well then
7 that's fine, and we've come, but I think we're going
8 in entirely the wrong direction here by suggesting
9 that we ought to expand these non-residential uses in
10 the middle of our residential neighborhoods.

11 CHAIRMAN MITTEN: Anyone else? I was just
12 -- I actually thought you were going to say something
13 else, and it's something that I'd like to ask the
14 Office of Planning as we take another look at the
15 suggestions that Mr. Bartel has made and Mr. Williams
16 has made, which is that we really don't have well
17 defined, just as we're sort of trying to problem solve
18 and think of worst case scenarios about what District
19 government uses might be sought to be introduced that
20 would be incompatible, we really don't have a good
21 definition in the existing regulation of what is use
22 by a non-profit organization.

23 MR. CROCKETT: That's correct. It's
24 totally wide open.

25 CHAIRMAN MITTEN: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. CROCKETT: So it has to be defined on
2 every exception hearing, which is a real problem
3 because every corporation, every non-profit that comes
4 in and says well, this is what my purpose is, then
5 there's always the question, well, is that purpose
6 really suited to the residential neighborhood, and
7 being as wide open as it is, it is a problem.

8 CHAIRMAN MITTEN: Yes, and I mean, at the
9 core of this is if you put it in as a special
10 exception, there's this presumption of compatibility,
11 and then you're working against that presumption in
12 trying to condition the special exception.

13 So, I think this is an occasion to, you
14 know, take a good hard look at 217, even as it exists.

15 MR. CROCKETT: I would second that. I
16 listened to the testimony of the gentleman here who
17 suggested that non-profits be restricted more than
18 they are. I think that's a good idea if you're
19 looking at modifying the section. I also think it
20 would be a good idea to make explicit -- I quoted for
21 you in my paper from the court decision in which I
22 take it they were looking at the legislative history
23 of this particular provision, which was to save these
24 hold homes by allowing benign non-profit office use.
25 Now, that's the purpose.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I don't think we should stray from that
2 purpose. Throwing in schools into the same thing, if
3 you want to deal with schools, I would suggest that
4 you deal with schools in a separate regulation because
5 they're entirely different.

6 CHAIRMAN MITTEN: Okay, thank you. Anyone
7 else like to testify in the text amendment case,
8 Section 217, Case No. 03-09?

9 All right, then I think we're ready to
10 close out this hearing, and I would ask Ms.
11 Steingasser, I think we have a little bit more work to
12 do on this, but I think it's going to be time well
13 spent. So, I just need an estimate from you about how
14 long it's going to take to get some additional
15 feedback from the Office of Planning.

16 MS. STEINGASSER: I think we could get
17 something back to you for your July meeting.

18 CHAIRMAN MITTEN: Okay. So, Mr. Bastida,
19 we need a deadline for the July meeting, which is at
20 the end of the month.

21 MR. BASTIDA: How about Thursday, July 17,
22 at 3:00? Mr. Steingasser, is that okay with you?

23 MS. STEINGASSER: I'm sorry, what was that
24 date?

25 MR. BASTIDA: Thursday, July 17, 3:00.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: Is that -- that seems a
2 little early for the filing for the July meeting.

3 MR. BASTIDA: July 17?

4 MS. STEINGASSER: Oh, July 17. I'm sorry.

5 MS. MCCARTHY: I think we were indicating
6 we could get it in by that last Friday in June in
7 order to have the Commission have sufficient time to
8 consider it for decision for their July meeting.

9 CHAIRMAN MITTEN: Our July meeting is at
10 the end of the month.

11 MS. STEINGASSER: Oh, I thought you were
12 saying that it would be required of us by the end of
13 June.

14 CHAIRMAN MITTEN: No, no. You would have
15 until July 17 to submit something, and then that would
16 be plenty of time for us to consider it for our July
17 meeting, which will be at the end of the month, of
18 July. Is that all right?

19 MS. STEINGASSER: That will be very good.

20 CHAIRMAN MITTEN: Terrific. All right, so
21 we will keep the record open, and if Mr. Williams, or
22 Mr. Bartel, if you had anything you want to submit in
23 writing, we'd be happy to have that, and the record
24 will be closed on July 17 at 3:00 p.m. We'll look for
25 some additional feedback from the Office of Planning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Then we'll, at least on the schedule we
2 have now, make our decision, or at least consider it
3 for decision, at our July meeting, which will be the
4 31st, is that correct?

5 MR. BASTIDA: Thursday, July 31.

6 CHAIRMAN MITTEN: Okay, Thursday, July 31.
7 Then, depending on the action that we take, if we take
8 affirmative action, we'll publish that in the D.C.
9 Register, and there would be a further period of time
10 for comments, and then there will be a referral to
11 NCPC and so on and so on.,

12 So, I'm going to adjourn the public
13 hearing for Case No. 03-09, and we will resume in five
14 minutes with a status hearing regarding the Center Leg
15 Freeway PUD.

16 (Whereupon, the above-referred to hearing
17 was adjourned at 7:27 p.m.)

18
19
20
21
22
23
24

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701