Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Sharon S. Schellin
Acting Secretary to the Zoning Commission

DATE: July 15, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on July 22, 2005:

1. Z.C. Notice of Proposed Rulemaking (Case No. 05-08); and
2. Z.C. Notice of Change in September Meeting.

Attachments

[redacted]
CASE NO. 05-08
EXHIBIT NO. 23

441 4th St., N.W., Suite 210-S, Washington, D.C. 20001
Telephone (202) 727-6311 E-Mail Address zoning_info@dcoz.dc.gov Web Site www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO.05-08
EXHIBIT NO.23

RULEMAKING TRANSMITTAL FORM

DATE AND TIME RECEIVED
Office of Documents use only

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES ☐ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South TELEPHONE: 727-0340

TITLE AND DESCRIPTION OF RULES:

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Chapters 16 and 30.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: DCR _____ DATE: _____

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.
DATE: JULY 14, 2005 SIGNED: Alan Bergstein for PHONE: (202) 442-9777

	FINAL		CONDITIONAL	NAME: ROBERT J. SPAGNOLETTI TITLE: ATTORNEY GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)
Zoning Commission For The District Of Columbia Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules. Section 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE:		APPROVAL OF ATTEST: TITLE:	Acting Secretary to the Zoning Commission	PHONE:	(202) 727-0340
Office of Documents use only:	THIS NOTICE PUBLISHED AT:	VOL:	DCR:	DATE:	

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING

ZC CASE NO. 05-08
(Text Amendment - Capitol Gateway Overlay District)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 and 6-641.07 (2001)), hereby gives notice of its intent to amend Chapters 16 and 30 of the Zoning Regulations (Title 11 DCMR) to allow, within a specified area of the Capital Gateway Overlay District, the construction and operation of a stadium (defined in the text as a "Ballpark") to host professional athletic team events The specified area is the site proposed for the construction of a Ballpark to house the Washington Nationals major league baseball team. The proposed text sets forth the height, floor area ratio, setback, ground floor preferred uses, and parking requirements that will apply to this use and establishes a process for the Commission to review the Ballpark's final design for compliance with these requirements and adherence to design criteria also included in this text. That review will be conducted under the Commission's contested case procedures following notice to the public.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

A. Chapter 16, CAPITAL GATEWAY OVERLAY DISTRICT, is amended as follows:

1. Subsection 1600.1, PREAMBLE, is amended by adding a new paragraph (f): to read as follows:

   (f) Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sport and entertainment and associated uses.

2. By adding a new Section 1606 to read as follows.

1606 BALLPARK

1606.1 A Ballpark may be constructed and operated within Squares 702, 703, 704, 705 and 706 and Reservation 247 (the "Ballpark Site").

1606.2 For the purposes of this section, the term Ballpark means a stadium or arena, including accessory buildings or structures (including, but not limited to office and transportation facilities) that has as its primary purpose the hosting of professional athletic team events.

1606.3 The Ballpark may also be used to host events customarily held in such facilities including, but not limited to performances, amateur sporting events, municipal functions, and public or private ceremonies.

1606.4 Notwithstanding § 631.1 of this Title, no portion of the FAR need be used for residential purposes within the Ballpark Site.

1606.5. The Ballpark's maximum permitted height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09), as amended. For the purposes of determining height for a Ballpark, height shall mean the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the building including a scoreboard, roof, cantilevered sunscreen, or parapet, with the exception of elements noted in §630.3.

1606.6 In addition to the streetwall setbacks of §1606.15, any portion of the Ballpark that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step back from the building line along South Capitol Street.

1606.7 All parking spaces within the Ballpark Site shall be provided underground. At or above grade parking spaces shall be permitted if approved by the Zoning Commission pursuant to §1606.18; subject to the applicant demonstrating:

(a) Practical difficulty with the provision of underground parking; and

(b) Compliance with the provisions of §§ 1606.19 & .20.

1606.8 A maximum of 1,225 vehicular parking spaces shall be provided for the Ballpark use within the Ballpark Site, in addition to bus parking requirements of §1606.10. Of this number, a minimum of 125 shall be designated handicapped parking spaces. Any parking spaces in addition to the 1,225 amount shall be permitted if approved by the Zoning Commission pursuant to §1606.18; subject to the applicant demonstrating:

(a) That the parking spaces are needed to satisfy parking demand generated by the Ballpark not met by existing or approved but not yet constructed parking facilities; and

(b) Compliance with the provisions of §§ 1606.19 and.20.

1606.9 In considering whether to approve additional ballpark related at or above ground parking spaces under §1606.8, the Commission shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood.

1606.10 Any on-site bus parking shall be located internal to a building, with doors and entranceways designed to compliment the building façade, and shall permit safe and convenient vehicular and pedestrian movement.

1606.11 The Zoning Commission may grant relief from the requirements of § 1606.10 pursuant to §1606.18 if necessary to the economic viability of the Ballpark and if consistent with the purposes of the CG Overlay as stated in §1600.2 and the provisions of §§ 1606.19 & .20.

1606.12 Loading platforms and berths for the Ballpark shall be located internal to a building, with doors and entranceways designed to compliment the building façade, and shall permit safe and convenient vehicular and pedestrian movement.

1606.13 A minimum of one pedestrian entrance gate to the Ballpark shall be provided on each street frontage.

1606.14 Not less than twenty percent (20%) of the Ballpark building's exterior perimeter frontage, not including any detached accessory building, shall be devoted to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §1807.2 of this Title, with the addition of "museum", in accordance with the following provisions:

(a) Preferred uses shall have a street orientation;

(b) Preferred uses shall provide direct exterior access at ground level;

(c) Not less than fifty percent (50%) of area devoted to preferred uses shall be devoted to display windows having clear or low-emissivity;

(d) The minimum floor to ceiling height of area devoted to preferred uses shall be 14 feet clear; and

(e) The average depth from the exterior façade in towards the center of the building for space devoted to preferred retail shall be 50 feet minimum.

1606.15 The Zoning Commission may grant relief to a maximum of 50% of the amount of space required by § 1606.14 if necessary for the economic viability of the Ballpark and if consistent with the purposes of the CG Overlay as stated in §1600.2 and the provisions of §§1606.19 & .20.

1606.16 Each building or structure located on the portion of South Capitol Street that lies within the Ballpark Site shall be set back for its entire height and frontage not less than 15 feet, provided that a minimum of 60% of the street-wall shall be constructed on the setback line

1606.17 No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after {*Effective Date of This Section*].

1606.18 The Ballpark and all other proposed buildings or structures within the Ballpark Site shall be subject to the approval of the Zoning Commission in accordance with the provisions of §§1606.19 & 1606.20.

1606.19 An applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize potential neighborhood impacts by:

(a) Minimizing associated noise, particularly into adjacent residential neighborhoods;

(b) Minimizing light spill, particularly into adjacent residential neighborhoods;

(c) Minimizing parking and traffic conflict between Ballpark patrons and neighborhood residents;

(d) Encouraging the use of bicycles through the provision of safe, secure and convenient bike storage, as well as other forms of alternative transportation to the site;

(e) Minimizing conflict between vehicles and pedestrians;

(f) Encouraging the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard while recognizing the proximate residential neighborhood use and context;

(g) Being in context with the surrounding neighborhood and street patterns;

(h) Providing view analysis which assesses openness of views and vistas around the Ballpark, including views toward the Capitol Dome, other federal monumental buildings, and the waterfront, from the surrounding neighborhood and neighborhoods east of the Anacostia River, South Capitol Street, the Frederick Douglas Bridge, and the waterfront;

(i) Providing for safe and convenient movement to and through the site, including to public transit and to the Anacostia River; and

(j) Ensuring that signage on the exterior of building or internal to the ballpark structure but visible from the outside, including the scoreboard, will not have such intensity or brilliance as to cause glare or impair the vision of any driver, or otherwise interfere with the driver's operation of a motor vehicle; adversely impact an owner's enjoyment of residential property located proximate to the ballpark; or impact the character and integrity of the ballpark site.

1606.20 In addition to the required provisions of 1606.19, an applicant requesting approval under this section shall also demonstrate that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation will:

(a) Help achieve the objectives of the CG Overlay District as set forth in §1600.2;

(b) Be of a superior quality;

(c) Encourage safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;

(d) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and

(e) Promote the use of best practice environmental design, including minimizing potential impacts on the Anacostia River through stormwater management and recycling practices.

1606.21 The Commission may impose requirements pertaining to building or structure design, appearance, landscaping, signage, lighting, and other such requirements, as it deems necessary to protect neighboring property and to achieve the purposes of the Capitol Gateway Overlay District.

1606.22 The Commission may hear and decide any additional requests for relief from Zoning Regulations for the subject site. Such requests may be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1606.23 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal as a preliminary matter to hearing the application."

1606.24 At any time after the application is filed, but no later than 30 days prior to the hearing date, at the request of one or more Zoning Commission member(s), the Zoning Commission may, at a regular or special public meeting, offer preliminary comment on the design presented. Written notice of the Commission's intent to offer preliminary comment shall be provided to the Applicant, ANC 6D, and the Office of Planning. The Office Planning may participate at the meeting only through responding to the Commission's questions and offering solutions to any concerns expressed.

B. Subsection 3011.1 of Chapter 30, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended to read as follows (new language is shown in bold and underline).

3011.1 As soon as an application or petition is accepted for filing by the Director of the Office of Zoning, the Director shall place a copy of the application or petition in the public record of the Commission and refer a copy to the D.C. Office of Planning for review and recommendation on whether the matter should be processed further, except that applications for Zoning Commission review and approval filed pursuant to Chapters 16 and 18 of this Title, which are deemed complete by the Director, shall be immediately scheduled for hearing consistent with the notice provisions of this chapter. **The exception from the requirements of this subsection shall not apply to an application for Zoning Commission approval pursuant to § 1606 unless accompanied by a written report of the Office of Planning certifying that the application is compliant with the standards of that section.**

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.