NCPC
NATIONAL CAPITAL PLANNING COMMISSION

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Executive Director
Patricia E. Gallagher, AICP

IN REPLY REFER TO:
NCPC File No. Z.C. 05-20

JAN 11 2006

Zoning Commission for the
District of Columbia
2nd Floor, Suite 210 South
441 4th Street, NW
Washington, D.C. 20001

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Members of the Commission:

The National Capital Planning Commission, at its meeting on January 5, 2006, approved the enclosed action commenting unfavorably on the text amendment to Chapter 8 of the District of Columbia Zoning Regulations to allow asphalt plants as a permitted use within C-M and M industrial zone districts subject to special exception review. Also enclosed, for your information, is a copy of the Staff Recommendation for the project.

Sincerely,

P. Gallagher

Patricia E. Gallagher, AICP
Executive Director

Enclosures

ZONING COMMISSION
District of Columbia
Case 05-20
Exhibit 15

ZONING COMMISSION
District of Columbia
CASE NO.05-20
EXHIBIT NO.15

COMMISSION ACTION

NCPC File No. Z.C. 05-20

SPECIAL EXCEPTION REVIEW OF ASPHALT PLANTS
AND RELOCATION OF AN EXISTING ASPHALT PLANT TO DC VILLAGE
TEXT AMENDMENT TO DISTRICT OF COLUMBIA ZONING REGULATIONS
Within the C-M and M Zone Districts
Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

January 5, 2006

Commission Action Requested by Applicant

Approval of comments to the District of Columbia Zoning Commission pursuant to Section 8 of the National Capital Planning Act (40 U.S.C. 8724(a)) and D.C. Code 2-1006(a).

Commission Action

The Commission comments that:

- Permitting asphalt plants in Squares 3582 and 3584 or the C-M-2 zone district at Square 3518, where New York and Florida Avenues intersect), will adversely affect the identified federal interests in NCPC's *Memorials and Museums Master Plan* and be inconsistent with the Comprehensive Plan for the National Capital Federal Elements.

- The District of Columbia should consider undertaking environmental review of the proposal under the DC Environmental Policy Act of 1989, and add a definition to the text for "asphalt plant."

- The text amendment should include a protection of the vista from the Anacostia Freeway and its viewshed to the north by minimizing visibility of any portion of the asphalt plant facility or equipment from the freeway, including a requirement to use evergreen trees to screen the western and southern edges of the site, as required along all public rights-of-way.

Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. Z.C. 05-20

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

SPECIAL EXCEPTION REVIEW OF ASPHALT PLANTS
AND RELOCATION OF AN EXISTING ASPHALT PLANT TO DC VILLAGE
TEXT AMENDMENT TO DISTRICT OF COLUMBIA ZONING REGULATIONS
Within the C-M and M Zone Districts
Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

December 29, 2005

Abstract

The Zoning Commission of the District of Columbia has proposed a text amendment to Chapter 8 of the District of Columbia Zoning Regulations to allow asphalt plants as a permitted use within C-M and M industrial zone districts subject to special exception review. Currently, concrete plants are permitted in C-M zones under the category of "light manufacturing, processing, fabricating or repair," but asphalt plants are not permitted in any zone, as all existing plant(s) pre-date the current zone regulations. An additional proposed text amendment would permit an asphalt plant now located at 60 P Street, SE, Square 705, Lot 802, to relocate to parcel 253/26 within D.C. Village. The text amendment and relocation would make the current asphalt plant site available for baseball stadium construction, consistent with the District's agreement with Major League Baseball.

Federal Interests

This proposal could potentially affect federal interests by allowing asphalt plants in existing industrial zones adjacent to the intersection of New York and Florida Avenues, NE and near federal lands along the Anacostia River and within the Anacostia Watershed Initiative area. The intersection of New York and Florida Avenues, both of which are historic L'Enfant Streets, is described as "a major gateway corridor into the city" and a potential major memorial site in NCPC's *Memorials and Museums Master Plan.* It is also adjacent to the site of the Bureau of Alcohol, Tobacco, Firearms and Explosives headquarters, under construction, and near the New York Avenue Metrorail Station.

Commission Action Requested by Applicant

Approval of comments to the District of Columbia Zoning Commission pursuant to Section 8 of the National Capital Planning Act (40 U.S.C. 8724(a)) and D.C. Code 2-1006(a).

Executive Director's Recommendation

The Commission:

- **Advises not** permitting asphalt plants in certain areas of industrial zone districts (such as Squares 3582 and 3584 or the C-M-2 zone district at Square 3518, where New York and Florida Avenues intersect), so as not to adversely affect the identified federal interests in NCPC's *Memorials and Museums Master Plan* or be inconsistent with the Comprehensive Plan for the National Capital Federal Elements.

- **Requests** that if special exception review of asphalt plants is permitted within the C-M and M zone districts, that future proposals for asphalt plants in these zone districts be referred to NCPC for review of federal interest impacts as part of the special exception review process.

- **Advises** considering undertaking environmental review under the DC Environmental Policy Act of 1989, and adding a definition to the text for "asphalt plant" as with "concrete plant".

- **Recommends** that the text amendment include a protection of the vista from the Anacostia Freeway and its viewshed to the north by prohibiting visibility of any portion of the asphalt plant facility or equipment from the freeway, to include the use of evergreen trees to screen the western and southern edges of the site, as required along all public rights-of-way.

* * *

PROJECT DESCRIPTION

Background

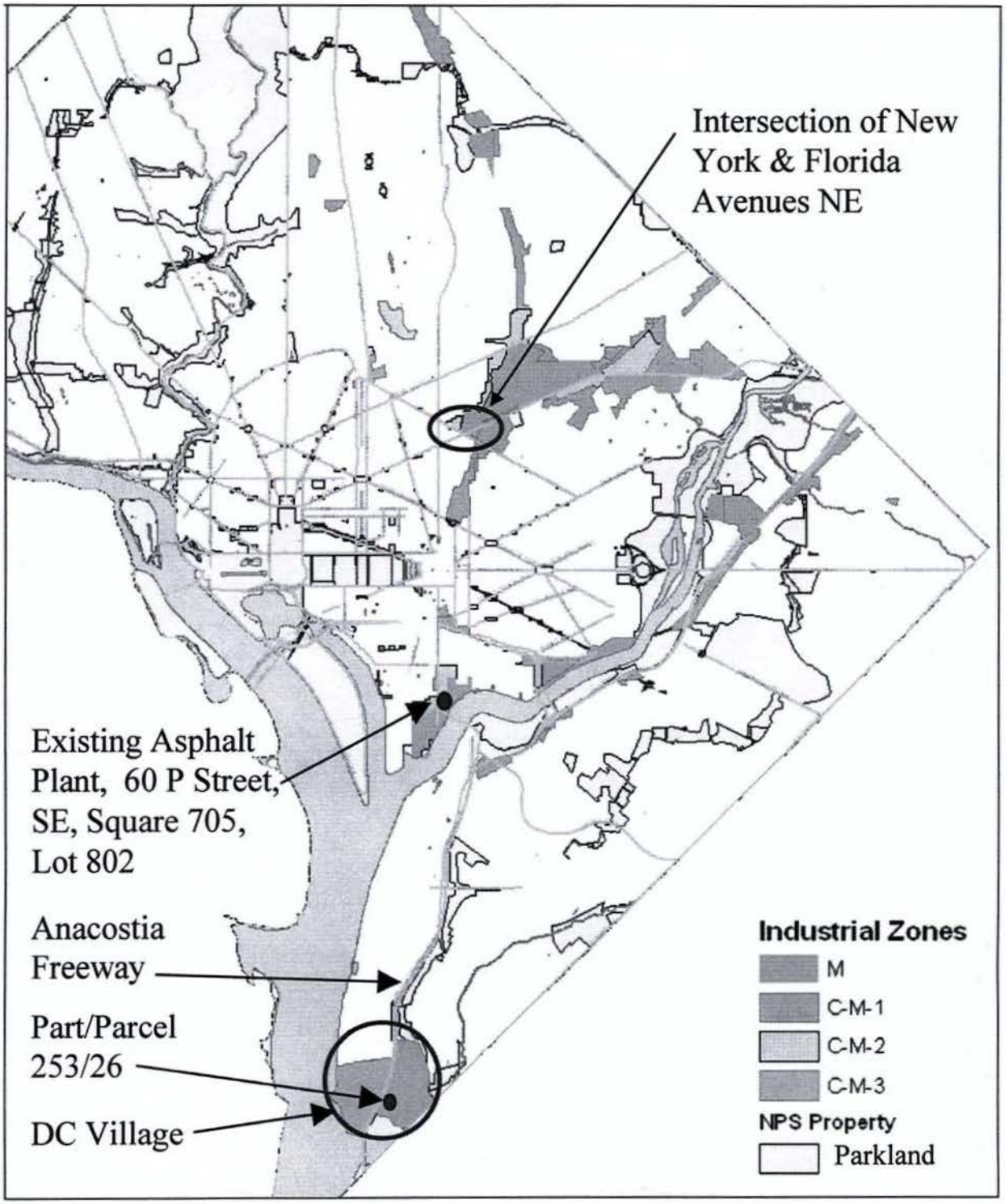
The proposed text amendment was initiated by the District of Columbia Office of Planning (DCOP), at the request of the Office of Property Management (OPM) and the District Department of Transportation (DDOT). DCOP recommends adoption on an emergency basis of the amendment to enable an existing asphalt plant, now located at 60 P Street, SE, Square 705, Lot 802, to relocate. The land it now occupies is needed for construction of the new stadium, consistent with the District's agreement with Major League Baseball. Zoning to permit asphalt plants by special exception review, but more specifically relocation of the existing plant, would make the site of the existing asphalt plant available for stadium construction per the agreement.

Currently asphalt plants are not permitted in any zone, as all existing plants pre-date the current zoning regulations; are explicitly prohibited in the heavy industry (M) zone districts; and are not permitted in the commercial-light manufacturing (C-M) zone districts. Two asphalt plants currently operate legally in the District, located in the Buzzard Point and Bladensburg Road areas. The Buzzard Point property was rezoned from industrial to CR zoning. Because asphalt uses are prohibited, they are considered non-conforming uses and are subject to Section 2002 restrictions. DCOP and DDOT believe it is in the best interest of the District to allow asphalt

facilities to operate within the District as conforming uses due to the maintenance and construction needs for asphalt within an urban environment and the transportation costs associated with asphalt. A previous text amendment (ZC Order No. 950-B) was passed to permit special exception review for concrete plants in the C-M zone districts, intended to provide an orderly and coordinated review of concrete facilities and to ensure that any adverse impacts on adjoining properties would be appropriately mitigated. NCPC, in a report dated September 6, 2002, found that the [previously] proposed text and map amendments [for concrete plants] would not adversely affect identified federal interests.

Context: Existing Asphalt Plant at 60 P Street, SE, Square 705, Lot 802

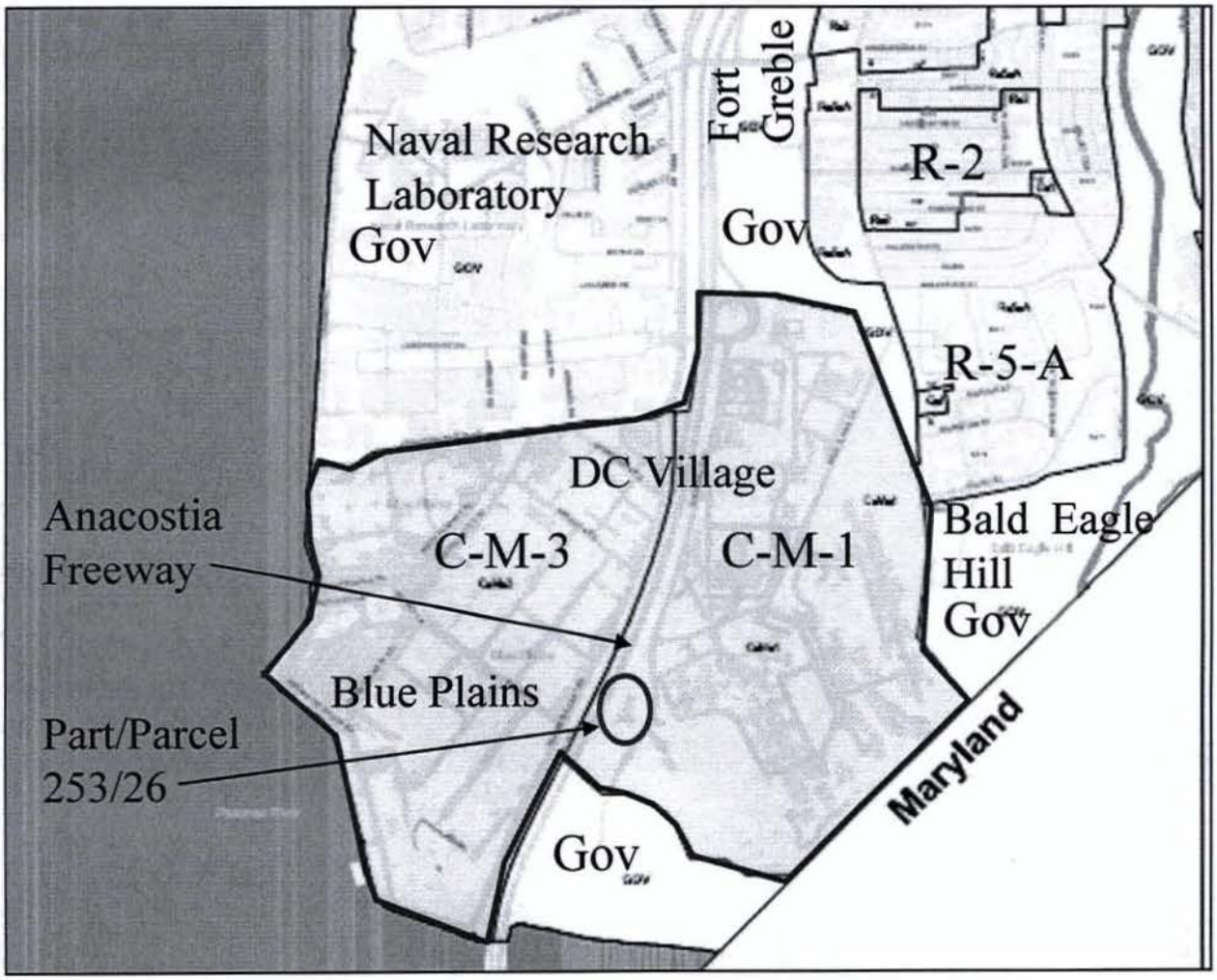
Context: Asphalt Manufacturing Process at Existing Plant



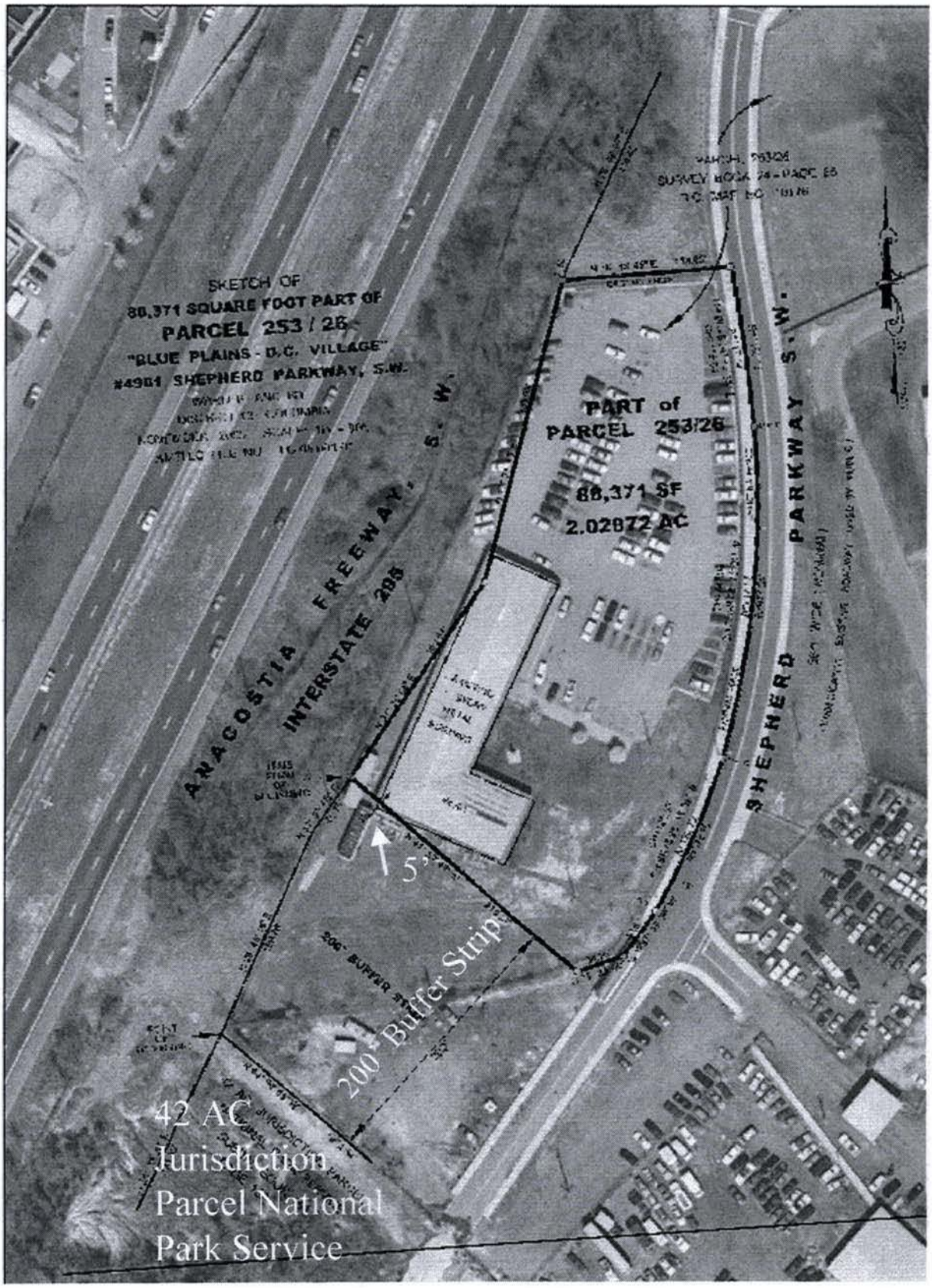
Asphalt Plant Locations; C-M and M Zone Districts

Proposal

The text proposed by the DCOP to permit special exception review for asphalt plants would further amend text amendments adopted in 2002 (§§ 802.17 through 802.20 and 822.15), permitting concrete plants by special exception review in C-M zone districts, by adding asphalt plants in addition to concrete. The existing prohibition of bituminous products in M Districts in §§ 823.1(f) would be modified to prohibit **"bituminous products refining or manufacture" "other than asphalt"**. Subsection 802.18 addresses requirements for the Board of Zoning Adjustment to refer applications, which would be expanded to asphalt plants, to the DCOP for coordination, review, report and impact assessment. Further, §§ 802.19 requires DCOP to review site, landscape and lighting plans and a traffic study that the applicant must submit. Subsection 802.20 covers any other conditions deemed necessary to mitigate potential adverse impacts of the asphalt plant. The Board of Zoning Adjustment may impose additional conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, methods and hours of operations, or any other matter necessary to protect adjacent and nearby property, particularly with respect to protecting residential property from excessive noise and truck traffic.



Zoning Map in Vicinity of DC Village



Survey: Part Parcel 253/26 Asphalt Plant Proposed Relocation

In addition, the text amendment would permit relocation of the existing plant to the specific site described above. To that end, additional uses permitted in a C-M district as a matter-of-right subject to the standards of external effects in §§ 804 would be modified to include:

An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, SW, and east of the Anacostia Freeway (DC Village site) if the plant was located in Square 705, Lot 802 on November 21, 2005 and was relocated to the DC Village site, provided that the plant:

Displays no signs visible from the Anacostia Freeway, and **Meets the requirements of §§ 802.17 (a) though (h),** adopted in 2002 under ZC Order No. 950-B 2002 for special exception review of concrete plants, enumerated below but cited in the text by reference only:

(a) No portion of the facility, including the land used by such facility, shall be located within two hundred feet (200 feet) of a residential property line or of any property that is a public park or is used for retail, office, church, school, or institutional purposes;

(b) There shall be no truck access, parking, standing, or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are used for residential purposes;

(c) No truck dumping or picking up concrete or related materials shall park, stand, or queue for the facility along any public right-of-way. Vehicular traffic resulting from operations at the facility shall not obstruct traffic and the location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;

(d) Any facility located within five hundred feet (500 feet) of a residence district shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks;

(e) The use shall not have unacceptable adverse impacts on the character of the neighborhood due to traffic, parking, or other objectionable conditions;

(f) The facility shall meet the "Standards of External Effects" pursuant to SS 804;

(g) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 feet) in height. The public view side and the side of the facility facing residence districts or nearby or adjacent property used as a public park or for retail, office, church, school, or institutional purposes shall be landscaped and shall have an opaque screen, fence or wall, not less then ten feet (10 feet) in height. The use of barbed wire or razor wire that is visible from residential or public space is prohibited; and

(h) Landscaping standards shall be applied as follows:

(1) A landscape area of evergreen trees shall be maintained in the front, side and rear yards, and along all public rights-of-way;

(2) The landscaping shall be maintained in healthy growing condition; and

(3) The trees shall be a minimum of eight (8) feet in height when planted.

PROJECT ANALYSIS

The proposed text amendment would allow asphalt plants in existing industrial zones, amending the text amendment adopted in 2002 which allowed concrete plants in these zones, since many of the negative externalities associated with concrete plants (truck traffic, truck stacking, hours of operation, noise, storage of materials, potential adverse impact on adjoining residential neighborhoods and supporting roadway systems) are similar. DCOP believes that setting down a proposed text amendment to permit inclusion of asphalt plants as a use in the zoning regulations will allow for the proper review and public input in the consideration of any permanent text amendments regarding the use by virtue of the special exception review process. However, staff questions that assumption and cannot accept it in its entirety, as detailed below and reiterated under the CONFORMANCE section of this report, where staff has highlighted federal interests.

Federal interests potentially affected by permitting asphalt plants in industrial zones include the New York Avenue/Florida Avenue intersection, re-envisioned as a gateway to the L'Enfant city in the Memorials and Museums Master Plan, the Anacostia Waterfront Initiative, the Legacy Plan and the Comprehensive Plan for the National Capital. Staff must ensure the protection of these federal interests, even in view of DCOP's intent for proper review and public input through the special exception review process. Although the proposed subsections do call for coordinated review and impact assessment by District departments including the SHPO if a historic district or landmark is involved, staff requests that NCPC be represented in impact assessment and approval process in order to protect federal interests. Without NCPC review and approval, federal interests may not be protected and the text amendment could be inconsistent with Federal elements of the Comprehensive Plan.

Federal interests potentially affected by permitting the existing asphalt plant to relocate to the D.C. Village parcel include Interstate 295, (the Anacostia Freeway), a major route and gateway into the District from the south less than 200 feet to the west of the site, and a National Park Service parcel surveyed at almost exactly 200 feet south of the site. The amendment would require a 200 foot buffer from certain land uses, including public parks, but does not propose special exception review for this proposed site. The proposed text prohibits signs at the asphalt plant (with the intent of prohibiting billboards mounted high on silos) that would be visible from the Anacostia Freeway. Therefore, staff recommends adding a protection of the vista from the Anacostia Freeway and its viewshed to the north when approaching the District by prohibiting visibility of any portion of the asphalt plant facility or equipment from the freeway. Staff further recommends the use of evergreen trees to screen the western and southern edges of the site, as required along all public rights-of-way under (h) landscaping standards.

The text amendment could adversely affect the identified federal interests and be inconsistent with the Comprehensive Plan for the National Capital, as well as the vision for its future, as envisioned by NCPC in Extending the Legacy. Therefore, staff recommends:

- Not permitting asphalt facilities subject to special exception review within the M zone at Squares 3582 and 3584 or the C-M-2 zone at Square 3518, where New York and Florida Avenues intersect, due to the potential for adverse affects to federal interests.

- That if special exception review of asphalt plants is permitted within the C-M and M zone districts generally, that zoning proposals for asphalt plants be reviewed by NCPC for federal interest impact prior to the Zoning Commission taking final action.

- That the text amendment include a definition for "asphalt plant", as the previous amendment included for concrete facilities, thus providing limits. The asphalt proposal merely excludes certain manufacturing processes, but stops short of defining an asphalt plant.

- That certain provisions of §§ 804, "Standards of External Effects" may be more critical with respect to asphalt than concrete. Special attention should be paid to prohibiting emission of any odorous gases or other odorous matter (§§ 804.9) and not permitting noxious, toxic or corrosive fumes or gases to escape (§§ 804.10). To that end, environmental review under the DC Environmental Policy Act of 1989 may be useful.

- That the text amendment include a protection of the vista from the Anacostia Freeway and its viewshed to the north by prohibiting visibility of any portion of the asphalt plant facility or equipment from the freeway, to include use of evergreen trees to screen the western and southern edges of the site, as required along all public rights-of-way under (h) landscaping standards.

CONFORMANCE

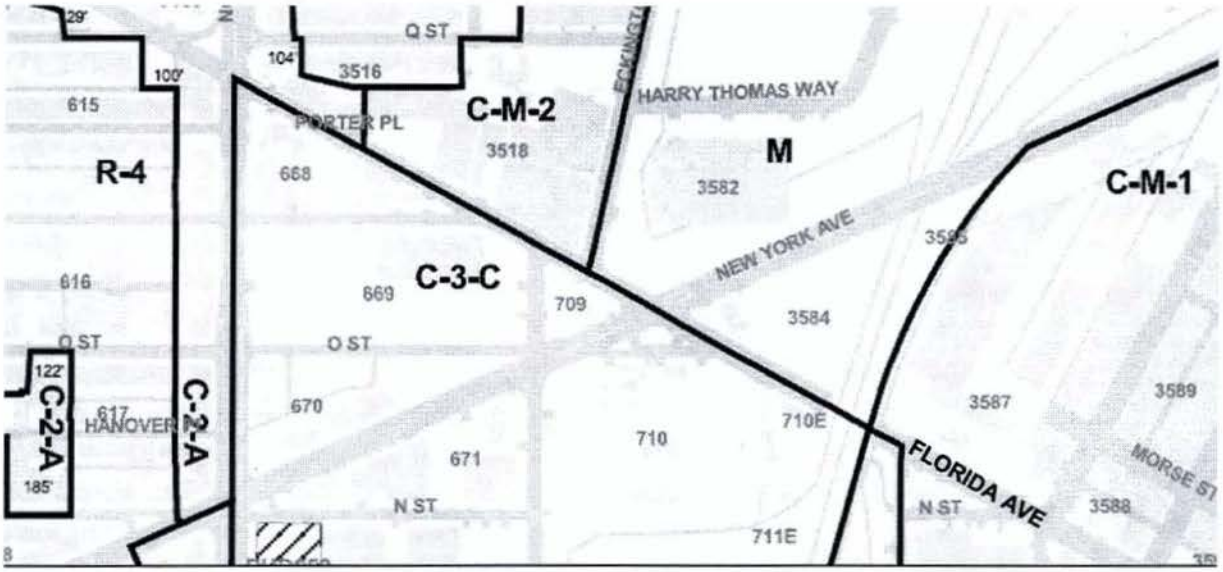
Extending the Legacy

The New York Avenue/Florida Avenue intersection consists of two L'Enfant avenues, marking a significant gateway to the historic center of the nation's capital and downtown commercial business district. NCPC's Legacy Plan calls for development sites that strengthen views of the Capital in order to unify the city in an integrated and visually coherent manner. Allowing an asphalt plant to locate at the intersection or in its viewshed rights-of-way, as proposed in the proposed text amendment under current industrial zoning, would be inconsistent with these policies and also interfere with the potential to transform the existing intersection into a more urbanized intersection as envisioned in the Legacy Plan.

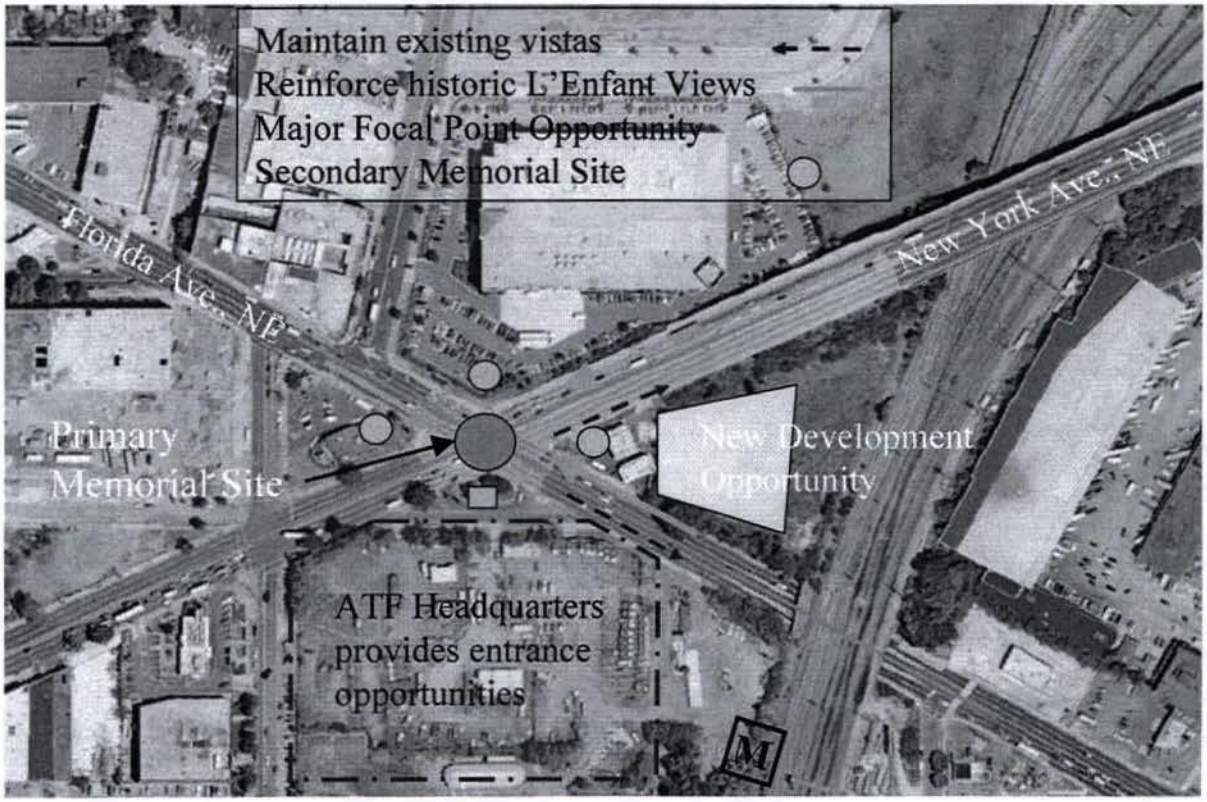
Comprehensive Plan

The Comprehensive Plan for the National Capital Federal Elements notes that both the federal and the District of Columbia governments should adhere to the principles of the L'Enfant Plan by protecting and enhancing the elements and views in any improvements or alterations to the

historic framework. Protection should include views outward from the L'Enfant City, visual and functional qualities of L'Enfant rights-of-way, the open space of the L'Enfant streets, and reciprocal views along the rights-of-way, as well as to and from squares, circles and reservations. New York Avenue is a major gateway corridor into the L'Enfant City. Allowing an asphalt plant to locate within this viewshed would conflict with its visual and functional qualities.



Zoning Map; Vicinity of New York & Florida Ave Intersection



Memorials and Museums Master Plan Site 14

Memorials and Museums Master Plan

NCPC's Memorials and Museums Master Plan (2M Plan) designates the New York Avenue/Florida Avenue intersection as a primary location for a future monument or memorial to celebrate and mark the entrance to the historic L'Enfant City. The opportunity exists for a significant memorial to create a prominent civic feature at the cross axis of New York and Florida Avenues. This location is linked symbolically to major focal points within the city. The L'Enfant Plan recognized the importance of providing reciprocal views along major avenues for symbolic connection, access, and visual orientation. To the quadrant east of the intersection, new development avails opportunities to incorporate museums and other related facilities, and faces the Alcohol, Tobacco, Firearms, and Explosives (ATFE) Headquarters currently under construction and the New York Metrorail station southeast of Florida Avenue. The New York Avenue station was funded through direct federal investment to encourage federal relocation to the ATFE site. Allowing an asphalt plant to locate in the vicinity would conflict and compete with these opportunities and major federal interests.

Anacostia Waterfront Initiative

The Legacy Plan identified opportunities for parks along the Anacostia River. Since then, the federal and District of Columbia governments have partnered to move this vision forward through the Anacostia Waterfront initiative (AWI) and are working to meet federal and local needs on federal sites. A critical component is to provide over 100 acres of new waterfront public spaces as riverparks and to develop a 16 mile riverwalk trail system along both sides of the Anacostia River. The National Park Service manages Anacostia Park, including Kenilworth Park and Aquatic Gardens.

There appears to be overlap between the Anacostia Watershed Initiative, National Park Service land, and proposed new waterfront riverparks with land currently zoned industrial. In addition, the twenty-two miles of waterfront along the Potomac and Anacostia Rivers should be a national showcase of urban vitality and sensitive design. This will include different kinds and levels of activity to compliment the character of the rivers – from environmentally sensitive open space near the Arboretum, to urban development. Barriers that separate the city from its waterfront, to include inappropriate land uses, should be removed. In order to be consistent with the Parks and Open Space element of the Comprehensive Plan for the National Capital, a policy intends to

- Ensure that Anacostia Park functions as a regional recreational resource, emphasizing the park's special riverside, ecological, and scenic qualities and character.

Regarding parkland beyond the Anacostia Waterfront Initiative, provisions for special exception adopted for concrete plants require a 200 foot buffer between any portion of a facility and a public park. Staff notes that on the survey of the proposed Parcel 253/26, a 200 foot buffer is identified adjacent to a 42 acre National Park Service parcel to the south, and that the buffer encroaches five feet beyond the corner of an existing building.

CONSULATION

D.C. Office of Planning

In a report dated June 27, 2005, the DCOP initiated and recommended adoption of the text amendment on an emergency basis in order to make available the existing asphalt site at 60 P Street, SE, by early 2006 in order to begin construction of the new stadium, consistent with the District's agreement with Major League Baseball. DCOP and DDOT believe it is in the best interest of the District to allow asphalt facilities to operate within the District as conforming uses due to the maintenance and construction needs for asphalt within an urban environment and the transportation costs associated with asphalt.