

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

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D.C. OFFICE OF ZONING

MEMORANDUM

TO: Zoning Commission of the District of Columbia

FROM: JLS for
Ellen McCarthy
Director

DATE: June 27, 2005

SUBJECT: Setdown Zoning Text Amendments Regarding Special Exception Review of Asphalt Plants within the C-M and M Zone Districts by Special Exception; initiated by the Office of Planning;

Request for Emergency Adoption of the Amendments or, in the alternative, for the Setdown of an Additional Text Amendment to Authorize the Matter of Right Relocation of the Asphalt Plant Located at 60 P Street, S.E.

RECOMMENDATION

The Office of Planning recommends adoption, on an emergency basis, of a text amendment to permit asphalt facilities subject to special exception review within the C-M and M zone districts. As an alternative to taking emergency action, the Office of Planning is offering an additional text amendment that would permit the asphalt plant, now located at 60 P Street, SE, Square 705, Lot 802, to relocate as a matter of right within the CM-1 portions of the D.C. Village west of Shepard Parkway.

BACKGROUND

The Office of Planning, at the request of the Office of Property Management (OPM) and the District Department of Transportation (DDOT), is initiating a proposed text amendment to allow asphalt plants as a permitted use within the industrial zone districts. Currently, this use is not permitted in any zone, as all existing plant(s) pre-date the current zone regulations.

Asphalt plants are explicitly prohibited in the M zone (§823) and not permitted in the C-M (§§801 and 802) or other zone districts. There are currently two (2) legally operating asphalt plants in the District located in the Buzzard Point and Bladensburg Road areas. The Buzzard Point property was

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CASE No. 05-20

EXHIBIT No. 1

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rezoned from Industrial to CR zoning. Because asphalt uses are prohibited they are considered non-conforming uses and subject to the restrictions of Section 2002.

The recent action of the Council of the District of Columbia that identified the South Capitol Street site as the home for the new Washington National's baseball stadium and the recently completed Capitol Gateway Overlay and Buzzard Point rezoning in 2002 have created enormous pressure for these uses to relocate to a more appropriately zoned industrial area. District agencies are concerned about the potential loss of industrial locations for existing businesses, particularly asphalt plant operations due to these actions

Due to the maintenance and construction needs for asphalt within an urban environment and the travel costs associated with asphalt, OP and DDOT believe it is in the best interest of the District to have a provision that allows asphalt facilities to operate in the District as conforming uses. This proposed text amendment attempts to prevent the loss of a necessary service in the District and accommodate the potential relocation of such plants in existence prior to January 1, 2005.

In a previous study and subsequent text amendment (**ZC Order No. 950-B**), which permits special exception review for concrete plants in the C-M Zone Districts, the intent of the regulations was to provide an orderly and coordinated review of concrete facilities and to ensure any adverse impacts on adjoining properties are appropriately mitigated. This approved text would be amended to include asphalt plants, 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 the supporting roadway systems) are similar¹.

Based on OP's previous review of the adjacency of C-M industrial and R residential zones throughout the city, the zoning maps indicate a large majority of the C-M zoned areas are directly adjacent to R-1, R-2, R-3, R-4 and R-5-A residential zoned areas. (Attached)

OP 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 issue.

In addition, in order to complete construction of the new stadium consistent with the District's agreement with Major League Baseball, it critical that the land now occupied by the asphalt plant become available within the next few months. In order to expeditiously accommodate the relocation of that facility, OP is recommending emergency action to permit the plant's owners to immediately apply to the Board of Zoning Adjustment for special exception relief. Nevertheless, OP is cognizant of the Commission's understandable reluctance to engage in emergency rulemaking. As an alternative, OP is offering an additional text amendment that would permit the facility to relocate within the CM -1 portions of D.C. Village. Although technically a text change, the Commission could undertake the same degree of scrutiny as the BZA when considering the appropriateness of the relocation site and may add conditions in the text in much the same way as

¹ In 2002, the EPA announced that asphalt plants are no longer on its list of industries considered major sources of hazardous air pollutants.

the BZA might add similar conditions to its written order. It may also be more efficient for the Commission to consider both the merits of permitting asphalt plants as special exception uses and, in the same proceeding, sanctioning the specific relocation needed, rather than have the Commission do the former and the BZA the latter.

ANALYSIS

Comprehensive Plan

The Land Use Element of the Comprehensive Plan (1100.4 (a)) describes the District's current industrial zoned land as:

“a diminishing resource that must...continue to provide essential jobs and services for District residents, with the understanding that every effort will be made to mitigate or eliminate adverse impacts on surrounding communities...”

The majority of the District's C-M-1 zoned areas occur in Wards 4, 5, 7 and 8. According to Ward 5's Comprehensive Plan, Section 1628.12, “40% of the city's industrial zoned land is in Ward 5 and located along two rail corridors.” It also has about “68% of the city's general industrial (M) zoned land concentrated along New York Avenue, north of the Arboretum and also near the Fort Totten Metrorail Station.”

One of Ward 5's objectives for Land Use/Zoning is as follows:

1629.1 (f) Ensure that industrial and commercial development does not adversely impact adjacent and nearby neighborhoods, particularly with inappropriate design, traffic, parking, noise, litter, and other hazardous products of industry and commerce.”

In addition, the Fort Totten Metrorail Special Treatment Area has an established policy, as follows:

1122.2 (f) Identify suitable industrial relocation sites for industrial uses, such as New York Avenue, N.E. corridor. For large industrial areas that cannot be relocated, identify zoning and other appropriate measures to ensure their continued ability to function, modernize and expand, and to be contributors to the District's economy, with sufficient buffers to protect and preserve adjacent residential communities...”

In Ward 4, “although the C-M-1 and M industrial zones represent the smallest land use category in the ward, they are a major source of land use conflicts. Many industrial parcels are adjacent to low and moderate density residential neighborhoods. The activities associated with industrial uses in many instances are incompatible and have adverse impacts on the residential areas...” A recommended action in the Ward 4 element of the Comprehensive Plan to eliminate and mitigate negative impacts of existing industrial development on residential areas includes:

1530.1 (g) (2) (B) Direct major new industrial development, as well as existing uses that adversely affect residential neighborhoods, to the city's industrial parks and areas that are designated for industrial uses, such as the New York Avenue corridor.

Therefore, a theme of the Comprehensive Plan seems to be protection of the industrial zones as a resource as it continues to provide an economic and service base for the District.

Current Regulations

The current C-M zone regulations are intended for heavy commercial and light manufacturing. Chapter 8 of 11 DCMR sets out the purposes and uses of the C-M zone:

800 COMMERCIAL-LIGHT MANUFACTURING DISTRICTS (C-M)

- 800.1 The Commercial-Light Manufacturing (C-M) districts shall be intended to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that would minimize any adverse effect on other nearby, more restrictive districts.
- 800.2 Heavy truck traffic and loading and unloading operations shall be expected to be characteristic of C-M districts.
- 800.3 The three (3) C-M districts shall provide a varying schedule for both density and height controls. They shall be mapped throughout the city, and shall embrace areas used for low density warehousing as well as sections of the city presently improved with both high and medium density buildings in warehousing, light manufacturing, office, and automotive usage.

The permitted uses in the C-M Zones are quite broad and include the following:

- a. Any commercial use permitted as a matter-of-right in the C-4 zones
- b. A hotel or inn
- c. A caretaker's residence
- d. An accessory apartment to an artist's studio
- e. Carting, express, moving, or hauling terminal or yard;
- f. Commercial athletic field,
- g. Experimental, research, or testing laboratory;
- h. Incinerator;
- i. Motorcycle sales and repair, with no limitation on location;
- j. Laundry or dry cleaning establishment, without limitation on gross floor area;
- k. Public utility pumping station;
- l. Repair garage;
- m. Wholesale or storage establishment, including open storage, except a junkyard;
- n. Any light manufacturing, processing, fabricating, or repair establishment; and
- o. Temporary detention or correctional institution on leased property for a period not to exceed three (3) years.

Special exception uses within the C-M zone are currently massage establishments, solid waste handling facilities, intermediate material recycling facilities and concrete mixing plants.

820 GENERAL INDUSTRY DISTRICTS (M)

Section 820.1 specifies that the General Industry Districts are designed to provide areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede full utilization of properly located industrial sites.

Further, Section 820.4 declares that other than certain specifically prohibited uses, any use conforming to specified standards of external effects shall be permitted in the M Districts.

Asphalt batching plants are currently prohibited in the M Zone District according to Section 823.1 (f), which refers to prohibition of bituminous products or manufacture. OP believes that asphalt plants, like concrete mixing plants, if permitted in the C-M Zone District through special exception will be subject to the standards of external effects prescribed by **Section 804**, and therefore should be permitted subject to special exception review in the M Zone District.

The proposed text amendment will address concerns regarding potential adverse impacts and mitigation that could result from the adjacency of asphalt plants and their associated operations.

RECOMMENDATION AND PROPOSED TEXT

OP believes that the uniqueness of the operations and the intent of the special exception review for asphalt plants are compatible in purpose with concrete plants and have many of the same traffic, parking, intensity of use, pollution and adjacency concerns. The purpose of the special exception review of concrete and asphalt plants in the industrial zones is to ensure that the unique land use and operational characteristics of these facilities have no adverse impact on neighboring properties, do not restrict the potential for neighborhood revitalization efforts, or overload residential streets with industrial traffic.

Local area municipalities specifically address the concrete and asphalt mixing and batching plants in their zoning ordinances as similar uses. OP recommends that the regulations specific to concrete mixing plants be applied to asphalt mixing plants and included in the recently adopted text amendment (**new Sub-sections 802.17 through 802.20**) to permit its use by special exception in the District in the C-M and M zone as follows:

A. AMEND EXISTING SECTIONS TO READ AS FOLLOWS:

CHAPTER 8 INDUSTRIAL DISTRICTS

Add a new §801.7 (m) to read as follows:

- (m) An asphalt plant located in [the area of D.C Village] if the plant had been located in Square 705, Lot 802 on [the effective date of this amendment] and was relocated to the [D.C. Village location].

SECTION 802.17 TO READ AS FOLLOWS:

802.17 A facility that manufactures, processes, mixes, stores, or distributes concrete or asphalt or the materials that are used to make concrete or asphalt shall be permitted provided, that the following requirements shall be met:

SECTION 802.17 (B) TO READ AS FOLLOWS:

- (b) No truck dumping or picking up concrete or asphalt 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 load limits;

SECTION 802.18 TO READ AS FOLLOWS:

802.18 The board shall submit an application for a concrete or asphalt plant to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant district departments and agencies, including but not limited to the Departments of Public Works, Transportation, and Health, the Soil Resources Branch of the Department of Consumer and Regulatory Affairs and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SECTION 802.19 TO READ AS FOLLOWS:

802.19 The applicant for a concrete or asphalt plant special exception shall provide the following:

SECTION 802.20 TO READ AS FOLLOWS:

802.20 In addition to any other conditions or asphalt deemed necessary to mitigate potential adverse impacts of the concrete or asphalt plant, the board 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.

B.

NEW SUB-SECTION 822.15 TO READ AS FOLLOWS:

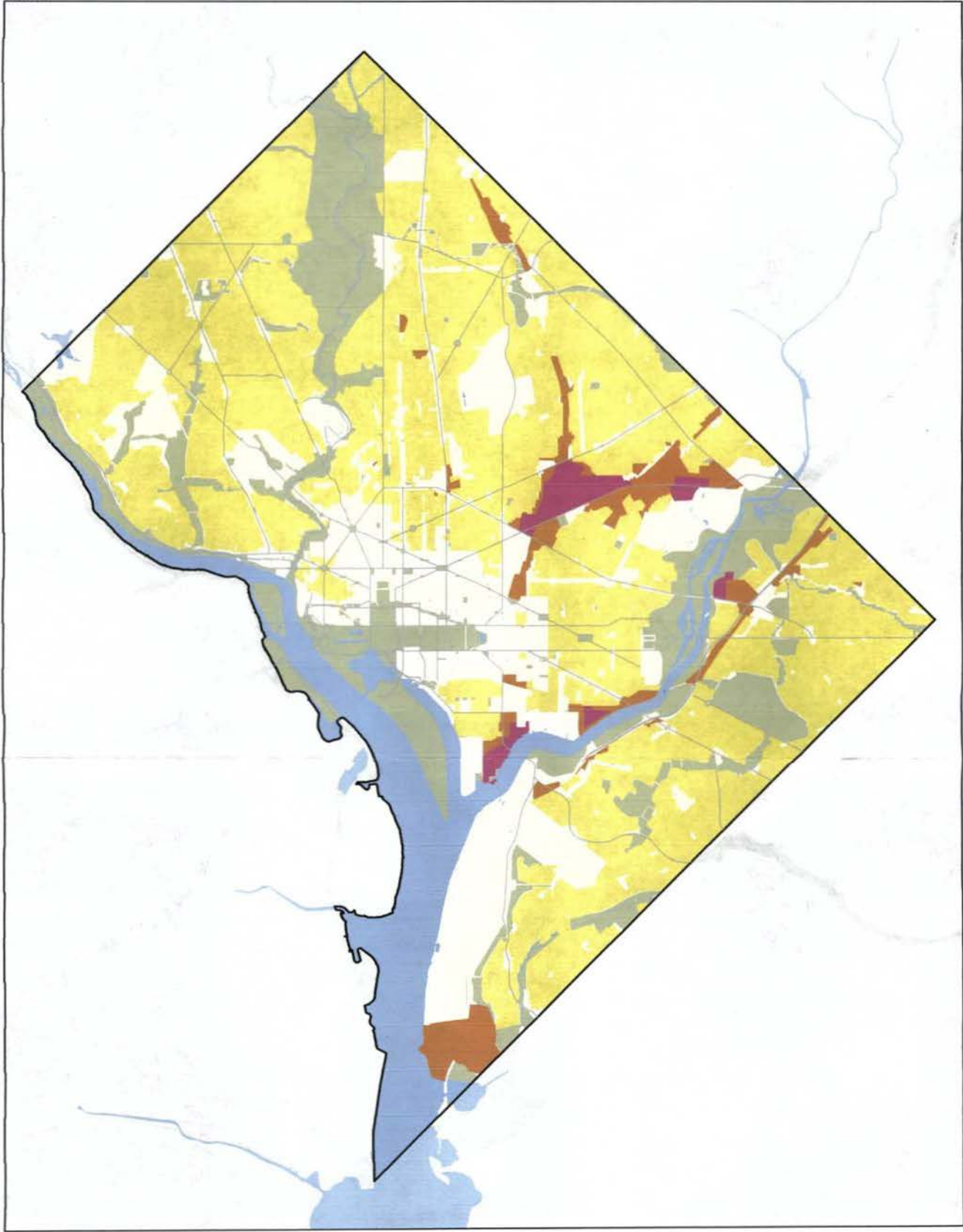
822.15 A CONCRETE OR ASPHALT PLANT SHALL BE PERMITTED AS A SPECIAL EXCEPTION IN THE M DISTRICT IF APPROVED BY THE BOARD OF ZONING ADJUSTMENT UNDER §3104. SUBJECT TO THE PROVISIONS OF §§ 802.17 THROUGH 802.20

C.

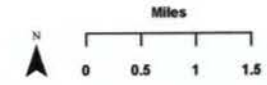
DELETE SECTION 823.1(F) AS FOLLOWS:

823.1 THE FOLLOWING USES ARE PROHIBITED IN M DISTRICTS:

~~—— (F) — BITUMINOUS PRODUCTS REFINING OR MANUFACTURE~~



Zoning Map CM, M, & R Zones



*** Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning - June 24, 2005
This map was created for planning
purposes from a variety of sources.
It is neither a survey nor a legal document.
Information provided by other agencies
should be verified with them where appropriate.

- C-M Zones
- M Zones
- R Zones
- Parks