

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

MONDAY

NOVEMBER 21, 2005

+ + + + +

The Special Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:32 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

|                     |                    |
|---------------------|--------------------|
| CAROL J. MITTEN     | Chairperson        |
| ANTHONY J. HOOD     | Vice-Chairperson   |
| GREGORY JEFFRIES    | Commissioner       |
| JOHN G. PARSONS     | Commissioner (NPS) |
| MICHAEL G. TURNBULL | Commissioner (AOC) |

OFFICE OF ZONING STAFF PRESENT:

|                 |                  |
|-----------------|------------------|
| SHARON SCHELLIN | Acting Secretary |
|-----------------|------------------|

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
ART RODGERS  
JENNIFER STEINGASSER  
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.  
JACOB RITTING, ESQ.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

This transcript constitutes the minutes  
from the special public meeting held on November 21.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

A-G-E-N-D-A

Call to Order . . . . . 4

Proposed Action Z.C. Case No. 05-20  
 (Asphalt Plants - Text Amendment) . . . . . 4

Vote to Approve Emergency Action . . . . . 9

Vote to Approve Proposed Action . . . . . 11

Hearing Action Z.C. Case No. 05-10  
 (Capital Gateway Overlay - Text Amendment)  
 Joel Lawson, Office of Planning . . . . . 11

Adjourn . . . . . 17

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

6:32 p.m.

VICE-CHAIR HOOD: Good evening, ladies and gentlemen. This is a special public meeting of the D.Z. Zoning Commission, Monday, November 21st. I don't know what time it is, but it's a little after 6:00.

First, we have preliminary matters. Mrs. Schellin, do we have any preliminary matters?

MS. SCHELLIN: No, sir, we do not.

VICE-CHAIR HOOD: Okay. For those who have the agenda, we're going to rearrange and do three first and two second. So our chair can join us when we do what's cited as two on our agenda.

So proposed action, Zoning Commission Case No. 05-20, Asphalt Plants. We have an emergency request. I'm going to go to the Office of Planning first.

Forgive me. Let me say who's here with me tonight on the dais. Joining are Commissioners Jeffries, Commissioners Parsons and Commissioners Turnbull and I'm Anthony Hood, the Vice Chairman of the Commission. I guess we needed to introduce ourselves first. Sorry.

Now, you can proceed.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: Chairman Hood,  
2 Commissioners, we appreciate the opportunity to  
3 speak before a proposed action. We realize this is  
4 somewhat out of the norm and I'd like to point out,  
5 with us this evening is Steve Green of the Deputy  
6 Mayor's for Planning and Economic Development. He's  
7 the Director of Development and is available to  
8 answer questions as the Commission may have on the  
9 need for this emergency proposal.

10 We're requesting that the Commission  
11 adopt the standard text as proposed, the text  
12 amendment, to allow asphalt plants along with  
13 concrete plants in the CM Zone by special exception.  
14 We're also requesting that the Commission consider  
15 and adopt on a emergency basis the by right  
16 provision that was advertised, which would allow an  
17 asphalt plant to be located immediately on the D.C.  
18 Village cite that has to do with the amount of time.  
19 The reason we're requesting that is it takes quite a  
20 bit of time to prepare, plan and relocate an asphalt  
21 facility. And as it was stated at the public  
22 hearing, Mr. Barron and Mr. Ruben went through the  
23 details of how the asphalt operates, why it's needed  
24 to be within a certain time and proximity of its  
25 clients. And based on that, we're requesting that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the Commission consider that emergency provision.

2 VICE-CHAIR HOOD: Okay. Thank you, Ms.  
3 Steingasser.

4 Colleagues, any questions of Ms.  
5 Steingasser? We're being asked to deal with this as  
6 an emergency basis. I believe the asphalt facility  
7 located at 60 P Street S.E., Square 705, Lot 802 to  
8 relocate to D.C. Village.

9 Any questions of Mrs. Steingasser?

10 (No audible response.)

11 VICE-CHAIR HOOD: Any comments?

12 (No audible response.)

13 VICE-CHAIR HOOD: I will ask one  
14 question. Are we asking that from the original text  
15 that the conditions that are imposed be included in  
16 this emergency?

17 MR. BERGSTEIN: Let me answer that, if I  
18 may. When we drafted the hearing notice, we failed  
19 to make a reference to the conditions that would  
20 apply to special exceptions. So, I wanted to bring  
21 that to your attention. If you say nothing, then  
22 this will simply be a matter of right facility and  
23 not subject to any conditions with respect to its  
24 location or external operations. But there are a  
25 series of operational conditions that exist for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 special exceptions that appear at 802.17(a) through  
2 (h), several of which the Office of Property  
3 Management has indicated that it intends to require  
4 its lessee to abide by. But the question is whether  
5 or not you want to indicate, both for the emergency  
6 and for the proposed action, but you're dealing with  
7 the emergency now, whether or not the relocated  
8 plant would have to comply with these conditions.

9 VICE-CHAIR HOOD: Okay. So let me ask  
10 my question again. Does this particular facility  
11 meet all the conditions that are proposed are in the  
12 regular text?

13 MS. STEINGASSER: I believe that OPM has  
14 committed to all but the landscape plan, and I'd be  
15 happy to walk through them. And I believe a letter  
16 was submitted at the public hearing as well from,  
17 was it from Mr. Barron, that addressed how they  
18 walked through those criteria.

19 VICE-CHAIR HOOD: Okay.

20 MS. STEINGASSER: But the facility as  
21 laid out in the memo from OPM goes through the  
22 details.

23 VICE-CHAIR HOOD: Okay. So, colleagues,  
24 we have -- I don't think we need to go one by one  
25 unless somebody prefers for us to do that --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: I'd also like to point  
2 out that Mr. Barron is here; not to testify on  
3 behalf necessarily, but to answer any specific  
4 questions that the Commission has about the  
5 operations of an asphalt facility.

6 VICE-CHAIR HOOD: Unless somebody has  
7 any additional questions, I think that was really  
8 fleshed out at the hearing, Mr. Turnbull, unless you  
9 may have some questions of Mr. Jeffries. If not, I  
10 think it was very well fleshed out. I learned a lot  
11 about asphalt and have a better respect for it.

12 MS. STEINGASSER: We appreciate Mr.  
13 Barron taking that time.

14 COMMISSIONER TURNBULL: Mr. Chairman, I  
15 think we're all convinced that this is an emergency.  
16 I don't think there's a problem there.

17 I did need to ask Ms. Steingasser, you  
18 say all but the landscape plan. What does that  
19 mean? I mean, if we impose that, will that be  
20 detrimental to the project? It seems pretty minimal  
21 to me what's being required or asked for.

22 MS. STEINGASSER: It's my understanding  
23 that the landscape plan can be met.

24 COMMISSIONER TURNBULL: Oh, okay.

25 MS. STEINGASSER: That it can be met.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER TURNBULL: My concern, and  
2 I think I expressed it at the hearing, was this is  
3 the entrance to the Nation's Capital, this is Route  
4 295, this is some of the best views we have of the  
5 city and these 70-foot silos which are a necessity,  
6 I wanted to make sure that they didn't contain  
7 advertising or signage and something that would  
8 distract from an otherwise fine view. So I wanted  
9 to add a condition that says no signs advertising  
10 the facility shall be visible from Route I-295.

11                   VICE-CHAIR HOOD: Okay. Where would we  
12 put that, in the landscape No. 4?

13                   COMMISSIONER TURNBULL: I was going to  
14 make it I.

15                   VICE-CHAIR HOOD: I?

16                   COMMISSIONER TURNBULL: Yes.

17                   VICE-CHAIR HOOD: Okay. I don't think  
18 that will cause any problem.

19                   COMMISSIONER TURNBULL: If you would  
20 agree with that, I would just move approval on an  
21 emergency basis of the text as well as these special  
22 conditions that are before us.

23                   VICE-CHAIR HOOD: Along with the  
24 proposed amendment I?

25                   COMMISSIONER TURNBULL: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 VICE-CHAIR HOOD: Okay. It's been moved  
2 and second? Can I get a second?

3 COMMISSIONER PARSONS: Second, Mr.  
4 Parsons.

5 VICE-CHAIR HOOD: Okay. It's been moved  
6 and seconded. Any discussion?

7 (No audible response.)

8 VICE-CHAIR HOOD: All those in favor?  
9 Aye.

10 COMMISSIONER JEFFRIES: Aye.

11 COMMISSIONER PARSONS: Aye.

12 COMMISSIONER TURNBULL: Aye.

13 VICE-CHAIR HOOD: Any opposition?

14 (No audible response.)

15 VICE-CHAIR HOOD: So recorded. Mrs.  
16 Schellin, would you record the vote?

17 MS. SCHELLIN: Yes. Staff would record  
18 the vote 4 to 0 to 1 to approve emergency action in  
19 Case No. 05-20, as amended. Commissioner Parsons  
20 moving. Commissioner Turnbull seconding.  
21 Commissioners Hood and Jeffries in favor.  
22 Commissioner Mitten not present, not voting.

23 VICE-CHAIR HOOD: Okay. Now we have in  
24 front of us the original text. Says here I'm  
25 supposed to go to Mrs. Schellin, but she's --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. STEINGASSER: Staff has nothing.

2 VICE-CHAIR HOOD: You have no

3 additional?

4 Okay. We have, colleagues, the original  
5 text, which is the special exception, which is  
6 Chapter 8, Industrial Districts, which adds the word  
7 "asphalt" in sections 802.17. I'm looking at  
8 something dated November the 8th, 2005. Maybe if  
9 you had that in front of you, you could pull that  
10 out. As I stated earlier, this was fleshed out I  
11 think tremendously and the text is pretty  
12 straightforward.

13 Mr. Jeffries, could you put on the  
14 record that you have reviewed the record?

15 COMMISSIONER JEFFRIES: Yes, I have  
16 reviewed the record.

17 VICE-CHAIR HOOD: Okay. Thank you.

18 COMMISSIONER TURNBULL: Mr. Chairman, I  
19 move approval.

20 VICE-CHAIR HOOD: I'll second.

21 Any further discussion?

22 (No audible response.)

23 COMMISSIONER TURNBULL: All those in  
24 favor, say aye. Aye.

25 COMMISSIONER JEFFRIES: Aye.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: Aye.

2 VICE-CHAIR HOOD: Any opposition?

3 (No audible response.)

4 VICE-CHAIR HOOD: So ordered. Mrs.  
5 Schellin, would you record the vote?

6 MS. SCHELLIN: Yes. Staff would record  
7 the vote 3 to 0 to 2 to approve proposed action in  
8 Case No. 05-20. Commissioner Parsons moving.  
9 Commissioner Hood seconding. Commissioner Jeffries  
10 in favor. Commissioner Turnbull not voting having  
11 not participated and Commissioner Mitten not  
12 present, not voting.

13 VICE-CHAIR HOOD: Okay. I think we are  
14 through with asphalt.

15 Now, we'll turn it over to our  
16 chairperson.

17 CHAIRPERSON MITTEN: Thank you, Mr.  
18 Hood. And the final action for our consideration  
19 for the special public meeting is hearing action in  
20 Zoning Commission Case No. 05-10.

21 And I'll turn to Mr. Lawson for a few  
22 words.

23 MR. LAWSON: Thank you, Madam Chair. My  
24 name is Joel Lawson with the D.C. Office of  
25 Planning.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Very briefly, at your last meeting you  
2           received a report from the Office of Planning  
3           proposing amendments to the Capitol Gateway Overlay  
4           District. You requested that OP prepare a draft of  
5           proposed wording for receipt at the special public  
6           hearing, which is tonight.

7           OP has just distributed copies of the  
8           report hot off the presses, as well as a draft  
9           version of the Capitol Gateway Overlay for  
10          discussion with proposed amendments noted in red  
11          underlined text. For clarity, we included the  
12          entire Capitol Gateway Overlay District text,  
13          including large sections which are not recommended  
14          to be changed.

15          In summary, the proposed amendments  
16          include in Section 1600 additional objective or  
17          purpose statements. In Section 1602 amendments to  
18          existing combined lot development regulations to  
19          regulate the transfer of density from one parcel to  
20          another within the Capitol Gateway Overlay. These  
21          amendments are as recommended in the previous OP  
22          report. In Section 1603, Capitol Gateway W2, a new  
23          provision to prevent access to parking or loading  
24          facing directly onto the waterfront. In 1604, along  
25          M Street a new requirement for a minimum floor to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 ceiling height requirement in accordance with  
2 similar requirements for other required retail  
3 preferred use areas. A new Section 1605 for South  
4 Capitol Street with a setback requirement of 15  
5 feet, a one-to-one upper story step back above 110  
6 feet and a prohibition on new driveways or loading  
7 or parking. A new Section 1606 for 1<sup>st</sup> Street S.E.,  
8 a new requirement for and regulation of preferred  
9 use retail. A new Section 1607 for Half Street S.E.;  
10 these are all south of M Street, of course, a new  
11 requirement for preferred use retail and a  
12 prohibition on new driveways to loading or parking,  
13 as well as a new provision for an upper story step  
14 back for which OP is especially requesting comment  
15 from the Commission, the development community and  
16 landowners within the area. A new Section 1608  
17 which would be a one-to-one upper story step back on  
18 Potomac Avenue. A new Section 1609 for P Street  
19 S.W., which would be a new prohibition on driveways  
20 to loading or parking and that's to minimize impacts  
21 in such spaces for high-density development on the  
22 low-density areas to the north. And finally, a new  
23 Section 1610. This is to establish new areas for  
24 mandatory Zoning Commission review and these would  
25 be in addition to the areas currently requiring such

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 review within Capitol Gateway W2 District, the  
2 ballpark cite and facing M Street, S.E.

3 A change from the previous OP proposal  
4 where all properties within the Capitol Gateway  
5 Overlay area were proposed to be subject to  
6 mandatory review. OP is now proposing a more  
7 limited and directed review for the following  
8 additional areas within the existing boundaries of  
9 the Capitol Gateway Overlay only. And those would  
10 be on a lot at about South Capitol Street on a lot  
11 within Square 700 or 701, which are the two squares  
12 directly to the north of the ball park cite. Within  
13 Square 601, 656 and 657, which are the squares that  
14 are directly adjacent to the low-density residential  
15 development usually called the Southwest. And  
16 finally, a mandatory Zoning Commission review of any  
17 lot which is the recipient of density through the  
18 combined lot provisions of Section 1602.

19 Of the 97 acres of land within the  
20 squares with the Capitol Gateway Overlay area, over  
21 half is already subject to Zoning Commission review.  
22 The current OP proposal would add about 16 percent  
23 of the total area of the overlay to the area  
24 requiring review, but that could increase with  
25 parcels which are recipients of combined lot

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 density.

2           Within Section 1610, finally, OP is also  
3 proposing a more refined and clarified set of review  
4 criteria, some of which apply to all of the  
5 designated areas and some of which would apply to  
6 specific areas only.

7           Finally, we recognize that you've not  
8 had much of a chance to review the language in any  
9 detail. Drafting the amendment took a little bit  
10 longer than we'd expected as we attempted to address  
11 some of the issues and concerns raised by the  
12 Commission at the last meeting. As such, we would  
13 suggest that you consider this proposed text  
14 amendment at an additional special public meeting to  
15 be held at 6:00 next Monday night; that would be  
16 November the 28th, if you're not comfortable with  
17 doing so tonight.

18           And that concludes OP's testimony and  
19 we're here for questions. Thank you.

20           CHAIRPERSON MITTEN: Thank you, Mr.  
21 Lawson. I think you're right that we haven't had a  
22 chance to review this, although it's clear you've  
23 been busy.

24           Mrs. Schellin, do we have a slot for a  
25 special public meeting on the 28th?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Yes, ma'am. We could do  
2 that at 6:00 or 6:15, however much time you think  
3 you need.

4 CHAIRPERSON MITTEN: Okay. What are the  
5 thoughts of the Commission? We have a hearing  
6 already scheduled for 6:30 and I've already heard  
7 two votes for 6:00 in my ears. 6:00? Okay.

8 Okay. Then we'll just defer action on  
9 this until 6:00 p.m. special public meeting on  
10 Monday, November 28th.

11 And I think that concludes the business  
12 for our special public meeting and I will adjourn  
13 that.

14 (The hearing was adjourned at 6:48 p.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25