

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA NOTICE OF EMERGENCY RULEMAKING

and

ZONING COMMISSION ORDER NO. 950

Case No. 01-32TA

**(Text Amendment – Special Exception Use for Concrete Plants in the C-M Districts
(11 DCMR 802))**

November 19, 2001

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in sections 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Code 2001 Ed. §§ 6-641.01 and 6-641.07 (formerly codified at D.C. Code §§ 5-413 and 5-424 (1994 Repl.)), and section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code 2001 Ed., § 2-505(c) (formerly codified at D.C. Code § 1-1506(c)(1999 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 8 of the Zoning Regulations (11 DCMR), section 802, Special Exceptions in the C-M District. This emergency rule was adopted at the regular meeting of the Zoning Commission on November 19, 2001. The rule became effective on its date of adoption. The rule requires special exception approval for concrete plants in the Commercial-Light Manufacturing (C-M) Districts, and establishes specific criteria to use when evaluating applications for this use. This emergency rule will expire on March 20, 2002 (the 120th day after the adoption of the first rule), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

This action is being taken on an emergency basis because of 1) the multitude of C-M District parcels adjacent to residential neighborhoods; 2) the unique land use implications of concrete plants and their potentially adverse impacts on adjacent residential areas caused by exposed outdoor storage of materials, dust, heavy truck stacking, heavy truck traffic, and hours of operation; and 3) the potential adverse impacts of related truck traffic on adjacent road systems and residential parking.

The Zoning Commission has not heretofore determined that concrete plants should be permitted as a special exception and in the absence of a Zoning Regulation providing for this special exception review, there is no means to control the development of these facilities or assess the adverse impact they may have on the adjacent neighborhoods and surrounding road systems.

Normal rulemaking procedures cannot be completed in sufficient time to adequately safeguard the public welfare.

The purpose of the special exception review of concrete plants in C-M Districts is to ensure that the unique land use and operational characteristics of concrete plants have no adverse impact on neighboring properties, do not restrict the potential for neighborhood revitalization efforts, and do not overload residential streets with industrial traffic.

Title 11 DCMR (Zoning Regulations) Chapter 8, INDUSTRIAL DISTRICTS, section 802, Special Exceptions (C-M), is amended by adding a new section 802.17 to read as follows:

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

- (a) No portion of the facility, including the land used by the facility, shall be located within two hundred feet (200 ft.) of a residential property line or of any property that is a public park or that is used for retail, office, church, school, or institutional purposes;
- (b) There shall be no truck access or queuing to the site from residential streets;
- (c) The facility shall meet the "Standards of External Effects (C-M)" pursuant to §804, and be in compliance with the District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53, 24 DCR 5293 (December 30, 1977), as amended); 20 DCMR Chapters 27-28, and the noise measuring test procedures in 20 DCMR Chapter 29;
- (d) The use shall not have unacceptable adverse impacts on the character of the neighborhood due to noise, traffic, dust, fumes, parking, or other objectionable conditions;
- (e) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 ft.) in height. The public view side and any 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 than ten feet (10 ft.) in height;
- (f) All queuing related to the facility shall occur on-site and no standing or parking by trucks related to the facility shall be allowed off-site;
- (g) Any facility located within five hundred feet (500 ft.) 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 and the delivery of concrete; and
- (h) The Board may impose conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, methods and hours of operation, and any matter

necessary to protect adjacent and nearby property, particularly with respect to protecting residential property from excessive noise and truck traffic.