

RECEIVED  
D.C. OFFICE OF ZONING  
2007 NOV 13 AM 11:18



401 9th Street, NW  
North Lobby, Suite 500  
Washington, DC 20004  
Tel 202 482-7200  
Fax 202 482-7272  
www.ncpc.gov

**Commission Members**

*Presidential Appointees*

John V. Cogbill, III, Chairman  
Herbert F. Ames  
Jose L. Galvez, III

*Mayoral Appointees*

Arrington Dixon  
Stacie S. Turner

*Ex Officio Members*

Secretary of Defense  
The Honorable Robert M. Gates

Secretary of the Interior  
The Honorable Dirk Kempthorne

Administrator  
General Services Administration  
The Honorable Lurita Alexis Doan

Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
The Honorable Joseph I. Lieberman

Chairman  
Committee on Oversight  
and Government Reform  
U.S. House of Representatives  
The Honorable Henry A. Waxman

Mayor  
District of Columbia  
The Honorable Adrian M. Fenty

Chairman  
Council of the District of Columbia  
The Honorable Vincent C. Gray

**Acting Executive Director**

Marcel C. Acosta

IN REPLY REFER TO:  
NCPC File No. Z.C. 07-20

NOV 08 2007

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

**Members of the Commission:**

The National Capital Planning Commission, at its meeting on November 1, 2007, approved the enclosed action on the map amendment for Kingman and Heritage Islands to W-0, and a text amendment that affects all areas of the District zoned W-0 in northeast Washington. Also enclosed, for your information, is a copy of the Staff Recommendation for the project.

Sincerely,

Marcel C. Acosta  
Acting Executive Director

Enclosures

ZONING COMMISSION  
District of Columbia

CASE NO. 07-20

EXHIBIT NO. 10

# COMMISSION ACTION

NCPC File No. Z.C. 07-20



## TEXT AND MAP AMENDMENTS FOR KINGMAN AND HERITAGE ISLANDS

Northeast Washington, DC

Submission by the Zoning Commission of the District of Columbia

November 1, 2007

---

### *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 the proposed text and map amendments would not adversely affect the Comprehensive Plan or other federal interests if applied only to Kingman and Heritage Islands; and that if § 930.5 is applied city-wide to the W-0, it may have an adverse affect on federal interests because it would allow rooftop elements on buildings in the W-0 zone to be placed along a building's outer walls rather than set back. This condition could make unsightly rooftop elements more visible in waterfront areas.

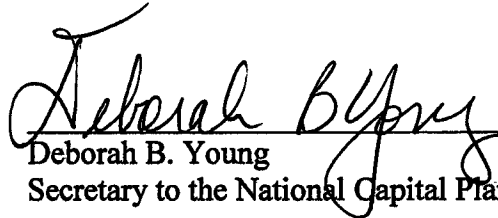
§ 930.5 to 2200.1 reads:

§ 930.5. Roof structures less than ten feet (10 ft.) in height above a roof or parapet wall of a structure in the W-0 zone shall not be subject to the requirements of this section when the top of the roof structure is below the maximum building height prescribed for the W-0 zone.

Section 930.5 would allow rooftop structures up to ten feet in any W-0 zone throughout the District. Staff is concerned that this exemption could potentially adversely impact federal interests in or near other portions of the District zoned W-0.

**Recommends** that the text amendments be applied to the Kingman and Heritage Islands projects only rather than applied District-wide in the W-0 zone.

**Notes** that staff is currently working with the city and the National Park Service to clarify land ownership and environmental issues related to the Islands' proposed restoration work. The zoning amendment and NCPC's related comments are designed to facilitate the Deputy Mayor Office's restoration proposal—which presumes the District of Columbia has clear title to the land.



---

Deborah B. Young  
Secretary to the National Capital Planning Commission

# STAFF RECOMMENDATION

NCPC File No. Z.C. 07-20



---

## TEXT AND MAP AMENDMENTS FOR KINGMAN AND HERITAGE ISLANDS

Northeast Washington, DC

Submission by the Zoning Commission of the District of Columbia

October 25, 2007

---

### *Abstract*

The Zoning Commission has referred a map amendment for Kingman and Heritage Islands to W-0, and a text amendment that affects all areas of the District zoned W-0. The development on Kingman Island, proposed by the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (Deputy Mayor's Office), includes the restoration of Heritage Island and a portion of Kingman Island, as well as the construction of a 15,400 square foot Environmental Education Center, new paths and trails, new boat and canoe docks, an amphitheater, meadows, and a September 11<sup>th</sup> Remembrance Grove. The property is currently unzoned property (GOV). The proposed zoning supports the Deputy Mayor's plan, which is undergoing consultation between NCPC staff and Deputy Mayor's Office staff to resolve outstanding jurisdictional and environmental issues.

### *Federal Interests*

The federal interests include the Federal Elements of the Comprehensive Plan, the Memorials and Museums Master Plan, CapitalSpace, the Anacostia River and waterfront, the W-0 zone district, and RFK Stadium.

### *Commission Action Requested by Applicant*

Approval of report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and D.C. Code § 2 – 1006(a).

---

### *Executive Director's Recommendation*

The Commission

**Comments** that the proposed text and map amendments would not adversely affect the Comprehensive Plan or other federal interests if applied only to Kingman and Heritage Islands; and that if § 930.5 is applied city-wide to the W-0, it may have an adverse affect on federal interests because it would allow rooftop elements on buildings in the W-0 zone to be placed

along a building's outer walls rather than set back. This condition could make unsightly rooftop elements more visible in waterfront areas.

§ 930.5 to 2200.1 reads:

§ 930.5. Roof structures less than ten feet (10 ft.) in height above a roof or parapet wall of a structure in the W-0 zone shall not be subject to the requirements of this section when the top of the roof structure is below the maximum building height prescribed for the W-0 zone.

Section 930.5 would allow rooftop structures up to ten feet in any W-0 zone throughout the District. Staff is concerned that this exemption could potentially adversely impact federal interests in or near other portions of the District zoned W-0.

**Recommends** that the text amendments be applied to the Kingman and Heritage Islands projects only rather than applied District-wide in the W-0 zone.

**Notes** that staff is currently working with the city and the National Park Service to clarify land ownership and environmental issues related to the Islands' proposed restoration work. The zoning amendment and NCPC's related comments are designed to facilitate the Deputy Mayor Office's restoration proposal—which presumes the District of Columbia has clear title to the land.

\* \* \*

## PROPOSAL

### Background

Kingman and Heritage Islands were created from materials dredged in 1916 by the Army Corps of Engineers in an effort to deepen the channel for navigation. These islands, combining for 50 acres, were part of the Anacostia Park and under the purview of the National Park Service until 1996 when the land was transferred to the District of Columbia. Several conditions were included in the transfer including a requirement to commence improvements on the site within four years. Several plans for developing these islands have been proposed over the years. These plans have included a private airstrip, a children's recreation center and as recent as the 1990's, an amusement park. None of these plans has ever developed.

The recent emphasis on restoring these islands is due in part to the need to improve the Anacostia River, a goal identified in the Commission's *Legacy Plan of 1997*. These islands have played an integral role in the subsequent Anacostia Waterfront Initiative (AWI), in which NCPC is a partner. The AWI called for a more detailed plan for both revitalizing the District's waterfront areas and reconnecting the city and its neighborhoods with this important natural resource.

In 2003, the Anacostia Waterfront Corporation unveiled its master plan for restoring these islands and developing a nature center on Kingman Island. This plan identified the need for restoring the island as well as creation of a nature center, trails and docks. In April 2005, the

Commission approved the preliminary and final site and building plans for the Lower Kingman Island Habitat Restoration Entrance Design. This action was required because the entrance to these islands is to be located on National Park Service land at RFK Stadium.

In May 2005, Studios Architecture was chosen as the lead architect, following a design competition for the nature center. Lee and Papa Associates were chosen also in 2005 to design the landscaping for Kingman Island. The structure was designed to be built as matter of right pursuant to uses described under DC Zoning Code Section 901.5(d)—public nature education center. Continuing the work of the now defunct Anacostia Waterfront Corporation, the Deputy Mayor's Office recently submitted its proposal to redevelop the Islands.

At this time, NCPC staff has not yet received materials confirming that the District has satisfied the terms of the 1997 land transfer and therefore is not currently able to approve the proposed restoration work. Staffs of NCPC, the District of Columbia government and the National Park Service are currently working to resolve the environmental and jurisdictional issues. In the meantime, District of Columbia agencies have expressed a desire to move forward with zoning modifications that would be necessary to develop the current restoration proposal, with the presumption that the outstanding transfer issues will be resolved in a matter that allows for the development of the lands as proposed by the Deputy Mayor's Office.

### Proposed Regulations

The District of Columbia Office of Zoning has submitted a map and text amendment that would apply the W-0 zoning district to Heritage Island and the portion of Kingman Island south of East Capitol Street. This submission presumes that the District of Columbia has a clear title to develop the lands as it proposes.

The W-0 district is intended for low density open space, park and low density and low-height waterfront-oriented retail and arts uses (§ 900.3). This district is also intended to provide waterfront recreation areas with related waterfront-oriented or waterfront-enhancing uses to serve local and regional open space recreation needs (Section 900.6). Section 901.5 permits a public nature education or interpretive center as a matter-of-right. Therefore, the District of Columbia determined that the W-0 zone is appropriate for the Islands with several related minor zoning text amendments as supported by the 2006 District Elements of the Comprehensive Plan.

The proposal includes the following amendments to the W-0 zone (**new language in bold**):

1. Amend § 2 100.1 as follows:

2100.1 All buildings or structures erected on or after May 12, 1958, shall be provided with parking spaces to the extent specified in § 2101, except as permitted by §§ 2102 through 2108 and **for structures erected on Kingman and Heritage Islands for which the construction of parking spaces shall be prohibited except for handicap spaces.**

2. Amend § 2200.1 as follows:

(a) 2200.1 *All* buildings or structures erected on or after May 12, 1958, shall be provided with loading berths, loading platforms and service delivery loading spaces to the

extent specified in § 2201, except as provided in § 2202 and for structures erected on Kingman and Heritage Islands for which the construction of parking related to servicing activities shall be prohibited.

- (b) 938.2 Notwithstanding § 938.1, a waterfront setback need not be provided for a water taxi ticketing/information booth, or for structures directly associated with a public accessible wharf, dock or pier and for a public nature education center on Kingman Island.
- (c) 930.5 Roof structures less than ten feet (10 ft.) in height above a roof or parapet wall of a structure in the W-0 zone shall not be subject to the requirements of this section when the top of the roof structure is below the maximum building height prescribed for the W-0 zone.

Amendments 1. and 2.(a) are designed to remove the parking and loading requirements of the W-0 Zone for Kingman and Heritage Islands. Amendment 2.(b) would exempt the Kingman Island education center from setback requirements in the W-0 district. Amendment 2.(c) would enable rooftop structures up to an elevation of ten feet (10 ft.) in the W-0 zone. Submission materials indicate this exemption is designed to allow for a rooftop wastewater treatment system, presumably for the Kingman Island interpretive center.

## ANALYSIS

### Summary

The purview of the Commission when reviewing proposed actions taken by the District of Columbia Zoning Commission is to assess the action's potential impact on any federal interest. The federal interests in this case include the Federal Elements of the Comprehensive Plan for the National Capital, the proposed commemorative site recommended by NCPC's Memorials and Museums Master Plan, and CapitalSpace.

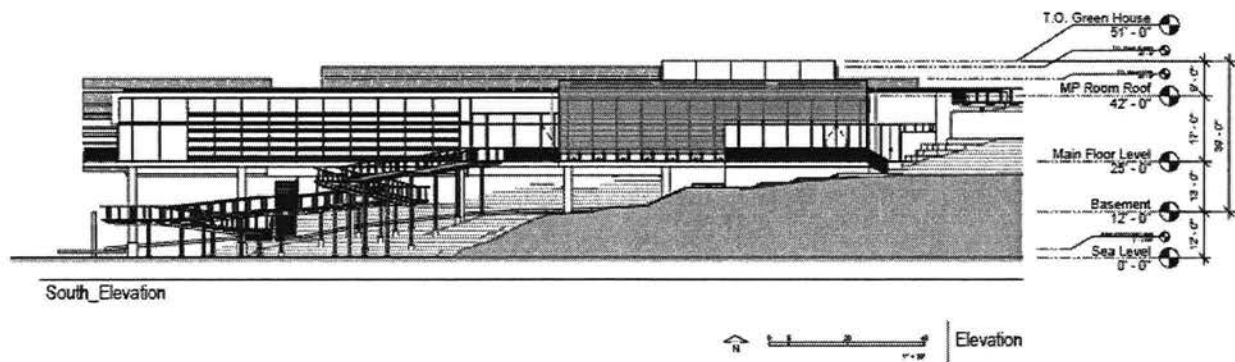
Staff is supportive of the overall plan for the restoration of Kingman Island as proposed in the preliminary design plans. The Islands restoration represents an important piece of the Anacostia Waterfront Initiative. The proposed map and text amendments would effectively permit the restoration of the Islands as currently proposed. Therefore **staff supports the proposed zoning designation and related amendments except for the proposed amendment to § 2200.1 of the W-0 regulations that adds section 930.5.** However staff comments that this zoning review does not represent a resolution of previously identified legal and environmental issues surrounding the development of Kingman and Heritage Islands. Staff is working with the District to resolve these issues.

The proposed zoning amendments are designed to facilitate a restoration plan that was recently submitted to the Commission. Although staff recommends approval of the W-0 zone application to the Islands, staff has outstanding concerns related to land ownership and environmental impact obligations related to the restoration work. Staff is coordinating with the stakeholder agencies to resolve these issues and believes that the zoning modifications can be approved independently of the proposed Islands restoration plan.

The W-0 zone is appropriate for the low-intensity open space and low density waterfront oriented structures envisioned for the area. The proposed amendments to the W-O zone would

enable the development of the proposed environmental interpretive program. The amendments related to vehicular parking and servicing, Section 2100.1 and the first amendment to 2200.1, are required as per the 1995 National Children's Island Act that was developed to transfer the Islands to the District of Columbia. The amendment to 938.2 of Section 2200.1 is necessary to allow the proposed waterfront education center to cantilever over the water. Staff finds that the proposed W-0 designation and amendments to Section 2100.1 and Section 2200.1 and 938.2 of Section 2200.1 would not adversely affect the Comprehensive Plan or other federal interests.

Section 930.5 of Section 2200.1, which enables rooftop structures up to ten feet high, would not adversely impact federal interests if applied specifically to Heritage and Kingman Islands but may adversely affect said interests if applied broadly to the whole W-0 zone as currently proposed. The current zoning proposal suggests that the exemption is necessary to enable a rooftop wastewater treatment facility, presumably for the Kingman Island interpretive center. However the proposed rooftop exemption is not restricted to Kingman and Heritage Islands. Staff worked carefully with the District Office of Planning to develop the W-0 zone as a low impact waterfront district and is concerned that the proposed exemption would enable future developments located in other W-0 zones to construct a variety of rooftop structures that could be visible from their surroundings because they would not be set back under this proposal.



### Federal Interests

The identified federal interests in this project include the Federal Elements of the Comprehensive Plan for the National Capital, the Memorials & Museums Master Plan, CapitalSpace, the Anacostia River and waterfront, the W-0 zone district, and RFK Stadium.

These above referenced plans and programs have established a framework for planning prominent waterfront areas including Heritage and Kingman Islands. Staff finds that the proposed zoning amendments would not adversely impact these plans and programs.

### *Federal Elements of the Comprehensive Plan for the National Capital*

The *Parks and Open Space* Element designates river and waterfront settings of the Nation's Capital. The Federal policies of the Comprehensive Plan state: that the federal government should:

2. Develop the banks of the Anacostia River as a high quality urban park with a mix of active and passive recreational opportunities
3. Ensure that Anacostia Park functions as a regional recreation resource, emphasizing the park's special riverside, ecological and scenic qualities and character.
4. Protect, restore and enhance the Anacostia and Potomac Rivers as great open space resources and as recreational amenities, including shorelines and waterfront areas along rivers.
7. Manage all lands along the Anacostia and Potomac Rivers in a manner that encourages the enjoyment and recreational use of water resources, while protecting the scenic and ecological values of the waterways.
13. Encourage swimming, boating and fishing facilities as well as water-oriented tourist activities, on the Anacostia and Potomac Rivers.

The zoning modification would enable the District to restore Kingman and Heritage Islands according to a plan that is consistent with the policies contained within the Comprehensive Plan.

### *Memorials & Museums Master Plan*

The zoning modification would permit a proposed September 11<sup>th</sup> Remembrance Grove on Kingman and is consistent with the recommendation contained within the Memorials and Museums Master Plan for this site. The Memorials and Museums Master Plan identifies Kingman Island as site four of 20 prime sites for the location of a memorial. According to the Memorials and Museums Master Plan these 20 sites are prime "because of their high visibility and strong axial relationships with the U.S. Capitol and the White House, they should be reserved for subjects of lasting historic and national importance." (Site Selection, p. 17)

### *CapitalSpace*

The proposal would support the CapitalSpace initiative. CapitalSpace is a multi-jurisdictional effort to improve access, quality, use and management coordination for federal and local park systems located in the District of Columbia. Key partners include the National Capital Planning Commission, the National Park Service, and the District of Columbia government. The initiative has two phases: a needs and asset assessment, completed in FY 2006, and a framework and implementation plan to be completed in FY 2008. Staff encourages the District of Columbia government to continue working with the other CapitalSpace partners to enhance and connect parks along the Anacostia River to ensure that they remain an important piece of our local and regional identity so that they can remain a tremendous asset for local recreation and natural resources.