

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



Z.C. CASE NO.: 07-20

MAR 13 2008

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Notice of Final Rulemaking & Order No. 07-20 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|--|
| 1. <i>D.C. Register</i> | 8. Commissioner Tony Scurry
7D06
4208 Benning Road NE #5
Washington, DC 20019 |
| 2. Dorothy Douglas, Chair
ANC 7D
5140 Nannie Helen Burroughs Ave., N.E.
Washington, DC 20019 | 9. Michelle Starr
7D07
3732 Burnham Place NE
Washington, DC 20019 |
| 3. Commissioner Veronica Raglin
7D01
408 21st Street NE
Washington, DC 20002 | 10. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 |
| 4. Commissioner Sharita Slayton
7D02
918 42nd St NE
Washington, DC 20019 | 11. Councilmember Yvette Alexander |
| 5. Commissioner Dorothy Douglas
7D03
4401 Minnesota Ave. NE
Washington, DC 20019 | 12. Office of Planning (Harriet Tregoning) |
| 6. Commissioner Warees Majeed
7D04
316 34th Street NE
Washington, DC 20019 | 13. DDOT (Karina Ricks) |
| 7. Commissioner Rick Tingling-Clemmons
7D05
4614 Central Avenue NE
Washington, DC 20019 | 14. Zoning Administrator (Matthew LeGrant) |
| | 15. Jill Stern, Esq.
General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| | 16. Office of the Attorney General (Alan Bergstein) |

ATTESTED BY: _____

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia

CASE NO. 07-20
EXHIBIT NO. 13

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 07-20
Z.C. Case No. 07-20
(Map and Text Amendment – 11 DCMR)
(Map Amendment to include Kingman Island and Heritage Island in the
W-0 Zone District and Text Amendments to Accommodate Construction of a Public
Nature Education Center on Kingman Island)
January 14, 2008**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District Charter; hereby gives notice of the adoption of amendments to the Zoning Map and to §§ 901, 925, 930, 938, 2100, and 2200 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”)).

The map amendment zones Kingman and Heritage Islands, islands located in the Anacostia River, to the W-0 Zone District. The text amendments:

- allow a public nature education or interpretive center in the W-0 Zone District to include a boat dock as a matter-of-right;
- create an exemption for certain roof structures on Kingman Island from the roof structure limits of § 930;
- exempt the proposed public nature center on Kingman Island from the waterfront setback requirements of § 938.2; and
- prohibit the construction of parking spaces and service delivery loading spaces on Kingman and Heritage Islands.

A Notice of Proposed Rulemaking was published on the *D.C. Register* (“DCR”) on November 30, 2007 at 54 DCR 11586. The Commission took final action to adopt the amendments at a public meeting on January 14, 2008, making three changes to the text originally proposed, as will be explained later in this Order under “Final Action.” The final rulemaking is effective upon publication in the *D.C. Register*.

Existing Zoning Map and Regulations

Kingman and Heritage Islands are currently unzoned.

Subsection 901.5 of the Zoning Regulations permits a “public nature education or interpretive center” as a matter-of-right use in the W-0 Zone District, but § 925 provides that a “boat launching facility, dock, wharf, or pier” requires special exception approval. Section 930 establishes a 40-foot height limit for buildings and structures in the W-0 Zone District, and while it exempts certain types of roof structures, it does not exempt structures designed to accommodate wastewater treatment systems as proposed for the Kingman Island nature center. Section 938 requires a 100-foot setback from the mean high water level for buildings or structures in the W-0 Zone District. Sections 2100 and 2200 require all buildings and structures to be served with an allotment of parking spaces and loading facilities.

Description of Map and Text Amendments

The map and text amendments are designed to permit construction of a public nature education center on Kingman Island.

The map amendment zones Kingman and Heritage Islands to the W-0 Zone District.

The text amendments amend §§ 901.5(d) and 925.1 of the Zoning Regulations to allow a public nature education or interpretive center in the W-0 Zone District to include a boat dock as a matter-of-right. The amendments add a new § 930.5 that exempts roof structures from the height limits of the W-0 Zone District when the roof structure is: (1) less than ten (10) feet in height; (2) located atop a building that is below the maximum building height; and (3) located on a building on Kingman Island. The amendments exempt the proposed public nature center on Kingman Island from the waterfront setback requirements of § 938.2. Finally, the text amendments prohibit the construction of parking spaces and service delivery loading spaces on Kingman and Heritage Islands by amending §§ 2100.1 and 2200.1.

Relationship to Comprehensive Plan

The 2006 Generalized Policy Map designates the Kingman and Heritage Islands as “Parks, Recreation and Open Space” with the dominant uses being “parks and recreation centers, cemeteries, and the National Capital Open Space System.” The proposed use of a private, non-profit nature education center for Kingman Island is consistent with this designation and does not appear inconsistent with the Policy Map, the Future Land Use Map or the 2006 Comprehensive Plan.

The proposal supports the 2006 Comprehensive Plan policy objectives for the site including Policy E-5.2.4 (Interpretive Centers) to support the development of environmental education and nature centers in the District in particular in recovering habitat areas such as the Anacostia River

shoreline. Policy AW-1.2.8 specifically refers to the retention of Kingman and Heritage Islands as natural sanctuaries where use should be limited to an interpretive nature center, trails, public art, passive open space, and pedestrian access ways.

Set Down Proceeding

The Office of Planning (“OP”) initiated this rulemaking by filing a report. The Commission set down the case for a public hearing at its July 30, 2007 public meeting.

Public Hearing

OP submitted a supplemental report suggesting revisions to the advertised text on October 4, 2007. The supplemental report suggested adding the amendments to §§ 901.5(d) and 925.1 to allow inclusion of a boat dock to a public nature education or interpretive center as a matter-of-right.

The Commission held a public hearing on October 11, 2007. OP and the Deputy Mayor’s Office for Planning and Economic Development testified in support of the map and text amendments.

Proposed Action

The Commission voted to support OP’s recommendations and adopt the amendments at the conclusion of the public hearing on October 11, 2007.

The proposed rulemaking was referred to the National Capital Planning Commission (“NCPC”) for review of any impacts on the federal interest under the Comprehensive Plan under the terms of § 492 of the District of Columbia Charter.

NCPC, by action dated November 1, 2007, expressed concern that the proposed new § 930.5, which would allow rooftop structures up to ten (10) ft. in height in the W-0 Zone District, could potentially adversely impact federal interests in or near the portions of the District zoned W-0. NCPC recommended that the text amendments apply only to Kingman and Heritage Islands.

The Notice of Proposed Rulemaking was published in the *D.C. Register* at 54 DCR 11586 on November 30, 2007, for a 30-day notice and comment period. No comments were received.

Great Weight Given to ANC Issues and Concerns

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the issues and concerns expressed in the affected ANC’s written recommendation. No recommendation was received by an affected ANC in this case.

Final Action

At its regularly scheduled January 14, 2008 public meeting, the Commission re-opened the record to receive a supplemental report from OP dated October 29, 2007. In the supplemental report, OP acknowledged the NCPC comment regarding the proposed new § 930.5, and recommended limiting its application to Kingman Island.

The Commission took final action to adopt the rulemaking, including the amendments suggested by OP in its October 4 and 29, 2007 supplemental reports, at its regularly scheduled public meeting on January 14, 2008.

Based on the above, the Commission finds that the proposed amendments to the Zoning Map and the Zoning Regulations are in the best interests of the District of Columbia and consistent with the purpose of the Zoning Regulations and the Zoning Act.

The Office of the Attorney General has determined that this rulemaking is legally sufficient.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to the Zoning Regulations, Title 11 DCMR:

- A. The Zoning Map is amended by including Kingman and Heritage Islands in the W-0 Zone District.
- B. Chapter 9, WATERFRONT DISTRICTS, is amended by (new language is shown in **bold and underlined**):
 - 1. Amending § 901.5(d) to read as follows:
 - (d) Public nature education or interpretive center **including a boat dock**; and
 - 2. Amending § 925.1(k) to read as follows:
 - (k) Boat launching facility, dock, wharf, or pier **except as provided by § 901.5 (d)**;
 - 3. Adding a new § 930.5 to read as follows:

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

4. Amending § 938.2 to read as follows:

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. Chapter 21, OFF-STREET PARKING REQUIREMENTS, is amended by amending § 2100.1 to read as follows (new language is shown in **bold and underlined**):

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.**


- D. Chapter 22, OFF-STREET LOADING FACILITY REQUIREMENTS, is amended by amending § 2200.1 to read as follows (new language is shown in **bold and underlined**):


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 service delivery loading spaces shall be prohibited.**

The Zoning Commission voted to **APPROVE** the proposed rulemaking at the close of the public hearing on October 11, 2007 by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve; John G. Parsons not present, not voting).

The Zoning Commission voted to **ADOPT** this final rulemaking at its public meeting on January 14, 2008 by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to adopt; Peter G. May and Curtis L. Etherly, Jr., having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on **MAR 14 2008**.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.