

# STAFF RECOMMENDATION

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NCPC File No. ZC 02-42



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## TEXT AMENDMENT TO THE ZONING REGULATIONS OF THE DISTRICT OF COLUMBIA TO ADD THE W-0 WATERFRONT OPEN SPACE ZONE DISTRICT

Submission by the Zoning Commission of the District of Columbia

October 30, 2003

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### *Abstract*

The Zoning Commission of the District of Columbia has taken a proposed action to amend the text of the District of Columbia Zoning Regulations by adopting the W-0 Waterfront Open Space Zone District. This action will add the new W-0 district to Chapter 900 Waterfront Districts and amend various areas of the existing regulations so that the new W-0 district is properly referenced. The provisions of the new zoning district promote low-density recreation and open space uses on properties that have frontage on or access to waterfronts in the District of Columbia. This specific action is a text amendment which will add the new district to the Zoning Regulations and does not include any rezoning of properties to the W-0 zone.

### *Federal Interests*

The federal interests in this case include the Potomac and Anacostia River Waterfronts which include significant National Park Service, United States Military and General Services Administration properties, as well as the numerous memorial or museum sites located on these waterfronts as identified in the Memorial & Museums (2M) Plan, and the Anacostia Waterfront Initiative (AWI) in which the National Capital Planning Commission is a participating agency. Other federal interests include the National Mall and the Georgetown Waterfront, both of which are designated historic places under the Federal Elements of the Comprehensive Plan and are located on the banks of the Potomac River.

### *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)).

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### *Executive Director's Recommendation*

- The Commission concludes that the text amendment to the District of Columbia Zoning Regulations adding the W-0 – Waterfront Open Space Zone District **would not negatively affect the federal interest.**
- The Commission further recommends that the Zoning Commission **amend** Section 917.4 of the W-0 zone to delete “**within National Park Service lands**” and insert “**property formerly owned by the federal government**” to clarify that this provision does not apply to federally owned property.

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### **BACKGROUND AND STAFF EVALUATION**

#### *DESCRIPTION OF PROPOSAL*

The District of Columbia Zoning Commission has taken a proposed action to add the W-0 Waterfront Open Space district to the District of Columbia Zoning Regulations. This district is aimed at promoting and regulating through zoning the development of low density open space and recreational type uses as well as waterfront-oriented retail and art uses. The W-0 district will constitute a fourth waterfront zoning district, as the W-1, W-2 and W-3 districts already exist in the zoning regulations and are mapped in various areas throughout the District of Columbia.

The W-0 regulations address standard zoning issues such as height, bulk, intensity, lot occupancy and yard requirements and also provide unique standards for developments that are waterfront-oriented. These include such standards as waterfront setback, use restrictions, design review and parking regulations. The following is a summary of the proposed W-0 zone regulations and the full text of the amendment is included as an attachment to this report.

#### Uses

The general intent of the W-0 zone is to promote waterfront recreation areas and related waterfront-enhancing uses. As such, the zoning district sets out specific parameters on the uses allowed as matter of right, prohibited uses, and uses subject to approval through a special exception process.

The W-0 permits five uses to be developed as a matter of right. A project consisting of one of these uses, and meeting all other sections of the Zoning Regulations, can receive a permit without a public hearing. The matter of right uses within the W-0 zone include:

- Publicly-accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits
- Boat construction on an occasional basis by a local community organization
- Community garden operated by a local community organization or District government agency

- Public nature education or interpretive center
- Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures

A number of other uses within the W-0 are deemed acceptable but are only permitted after special exception review and approval. This process generally occurs before the District of Columbia Board of Zoning Adjustment and is explained in greater detail in the special exception section of this report. Specifically, uses include boathouses, marinas, yacht clubs, caretakers' residences, and various low intensity retail, cultural and water related uses.

The W-0 district does not permit industrial, manufacturing, or medium and high intensity commercial or office uses. Further, unlike the W-1, W-2, and W-3 waterfront categories, the W-0 does not permit residential uses, except in the case of a floating home or caretakers' residence, in conjunction and approved with, a boathouse use.

Waterfront Setback

The proposed zoning district establishes standards for the distance structures should be set back from the water's edge. Specifically, the regulations state that a structure must be set back at least 100 feet from a bulkhead or mean water-level, whichever is greater. A setback less than 100 feet but greater than 20 can be provided if approved through a special exception process. A setback of less than 20 feet is not permitted unless a variance from the regulation is granted by the Board of Zoning Adjustment.

Additionally, under the waterfront setback standards no parking or loading area or related space can be located within the required setback. A setback is not required for structures directly associated with a public wharf, dock or pier.

Parking and Loading

The proposed Zoning Commission action will amend the schedules of parking and loading requirements to provide standards for uses in the W-0 zone. In terms of loading requirements, any retail, service or public assembly use located in the W-0 will be required to provide one loading berth at a depth of 30 feet with one 100-foot loading platform and one 20-foot loading space. If the use is less than 20,000 square feet, then no loading is required.

In terms of parking, the proposed amendment will add uses permitted in the W-0 to the schedule of parking requirements, specifically marinas, boathouses, and yacht clubs. The number of parking spaces for these uses will be required as follows:

| Use        | Spaces   |
|------------|--|
| Marina     | 1 for each 4 berths or slips plus 1 for each floating home space within a marina                     |
| Boathouse  | 1 space for every 2,000 square feet of gross building area   |
| Yacht Club | The greater of 1 for each 4 berths or slips of 1 for each 800 square feet of clubhouse building area |

Aside from parking space requirements, the amendment also establishes requirements for bicycle spaces within the W-0 for marina, boathouse and yacht club uses. For marinas or yacht clubs, the requirement is one bicycle rack for each ten berths or mooring spaces. For a boathouse use, the requirement is one bike rack for each 2,000 square feet of gross building area.

The W-0 regulations also allow special exception approval for the location of parking spaces elsewhere than on the same lot of the principle use. To gain this approval, it must be shown that on-site spaces will be unsafe or economically impractical, and the spaces must be conveniently located and adequately screened from the waterfront and any adjacent park space.

### Height, Bulk and Intensity

The W-0 district also establishes zoning requirements concerning height, bulk and intensity of buildings. This includes maximum Floor-to-Area (FAR), lot occupancy, and yard requirements in addition to height restriction. The following table summarizes these requirements:

|                |   |
|----------------|---|
| Maximum FAR    | 0.5 / 0.75 for marina, yacht club or boathouse              |
| Maximum Height | 40 feet   |
| Lot Occupancy  | 25% / 50% for recreational, marina, yacht club or boathouse |
| Side Yards     | 12 feet   |
| Front Yard     | None Required   |
| Rear Yards     | None required   |

### Special Exception Review

As mentioned above, there are numerous uses listed in the W-0 district, which are only permitted through a special exception process. Aside from uses, the zoning requires approval of the reduced waterfront setback and off-site parking subject to special exception. The special exception process as detailed in the W-0 zoning includes a public hearing before the District of Columbia Board of Zoning Adjustment (BZA) and extensive review by the District of Columbia Office of Planning. In evaluating an application for a special exception, the applicant must comply with specific submittal requirements enumerated in the W-0 and must demonstrate compliance with the following criteria:

- The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront.
- Buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas.
- If the proposed use is a boathouse, marina, or yacht club, the buildings will be located entirely on shore directly in front of berths, separated only by the setback area described

in the W-0, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the district.

- Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas.
- All structures and buildings will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking, and so as not to limit public access along or to the waterfront, other than directly in front of the principal building or structure of a boathouse, marina, or yacht club.
- Impervious surfaces will be minimized, and buildings, structures, and other uses will be designed and sited to minimize potential for surface storm water run-off directly into the river.
- Screening, coping, setbacks, fences, the location of entrances and exits, or any other consideration for accessory or non-accessory parking spaces will screen and protect adjacent parkland and the waterfront.
- Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

Additionally, if an applicant can demonstrate that a strict application of the Zoning Regulations would result in an infeasible project and would not hinder the objectives of the waterfront district, then a project may receive an additional five percent in the maximum lot occupancy, height, floor area ratio, or a five percent reduction in the minimum yard or court requirements. Further, according to the text of the proposed regulations, if the subject property is “located within National Park Service lands,” then a greater flexibility in these standards can be approved.

Any application for special exception under the W-0 also requires review and report by the District of Columbia Office of Planning (DCOP). In its recommendation on the project, DCOP shall consider the following aspects of the project:

- Whether the proposed use furthers the objectives of the Waterfront Districts
- The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government
- The proposed site plan, including the relationship of different uses on the site
- The effect of the proposed site plan on neighboring properties and the waterfront shoreline (if applicable)

- Other issues deemed appropriate for report

DCOP is also required to coordinate review of the application with other appropriate District of Columbia agencies, including the District of Columbia Department of Transportation and the District of Columbia Department of Health.

#### Other Amendments in the Proposed Order

The proposed order as approved by the Zoning Commission includes various miscellaneous text amendments which will ensure that the W-0 is properly referenced throughout the Zoning Regulations. The order adds three new definitions to Chapter 199 – Definitions concerning boathouses, floating homes, marinas and yacht clubs. These definitions are as follows:

- Boathouse - a building or structure designed and used to store and provide water access for non-motorized watercraft, including racing shells, kayaks, canoes, sailboats, rowboats, and similar boats.
- Floating home - a sailboat, motorboat, or other floating structure that is designed and built to be used, or is modified to be used, as a waterborne residential dwelling, is dependent for utilities upon a utility linkage to a source originating on shore, and in which the tenant or owner sleeps overnight an average of 15 days per month.
- Marina - the use of land, buildings, structures, and the surface of water for the provision of docking and storage facilities for boats.
- Yacht Club - land, buildings, structures, and the surface of water for recreational use of an incorporated club, for the purpose of boating, sailing or yachting and in which the affairs of the organization are actually conducted and carried on by the members thereof.

Finally, the proposed order adds boathouses, marinas, and yacht clubs as matter of right uses within the CR – Mixed Use zoning district as referenced in Chapter 6 of the Zoning Regulations.

#### *EVALUATION*

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 to any federal interest. The federal interest in this case includes the Potomac and Anacostia River Waterfronts which include significant National Park Service, United States Military and General Services Administration properties. Other federal interests include the National Mall and Georgetown Waterfront, both of which are designated historic places under the Federal Elements of the Comprehensive Plan, the numerous potential memorial or museum sites located on these waterfronts identified in the Memorials & Museums (2M) Master Plan, and the Anacostia Waterfront Initiative (AWI) in which the National Capital Planning Commission is a participating agency. Another federal interest is to assess whether this proposed waterfront zoning is consistent with the goals and objectives of the updated Parks, Open Space, and Natural

Features Element and Federal Environment Element of the Comprehensive Plan for the National Capital.

### Anacostia Waterfront Initiative

On March 22, 2000, a Memorandum of Understanding was signed by numerous federal and District of Columbia agencies, including the National Capital Planning Commission, authorizing the Anacostia Waterfront Initiative (AWI) project. This is a cooperative effort to help revitalize and restore the Anacostia River and its waterfronts. Specific goals of AWI are as follows:

- Create a riverfront that serves a world-class capital city for the new millennium
- Create a coordinated plan for the waterfront that can be implemented over time
- Improve the river's water quality and enhance its natural beauty
- Promote sustainable development and smart growth strategies
- Stimulate economic revitalization through commercial activity and job creation
- Link the neighborhoods along the river and create direct access to the water from surrounding communities
- Address the concerns of all segments of the community, including residents, business and property owners, and visitors
- Create open green spaces and maritime activities
- Maximize educational and training opportunities for residents of the District
- Minimize adverse effects on waterfront communities and the environment
- Promote excellence in design

Efforts to achieve these goals include the development of the Anacostia Waterfront Plan, which consists of a partnership between the Office of Planning, the General Services Administration and the National Park Service, as well as the development of the Riverwalk. The Riverwalk is a planned trail and park to run along both banks of the Anacostia River to provide access to all neighborhoods and amenities along the Anacostia and to present a unique trail design that reflects excellence in environmental design and cultural heritage.

The proposed amendment, which adds the W-0 text category to the zoning regulations, was formulated based on the principles outlined in the AWI and is designed to help implement the Riverwalk project. Staff supports the low level of density and required open spaces and setbacks established in the W-0 as appropriate to encourage the type of development called for in the AWI and Riverwalk studies. If a project seeks to reduce the amount of setback or open space, the special exception process has been designed to allow technical comment and public decision making to ensure that the proposed exception will not disrupt the planned vision for the Anacostia Waterfront.

### Memorials & Museums (2M) Master Plan

In December 2000, the National Capital Planning Commission released the 2M Master Plan to provide a framework for the site selection of future commemorative projects within the Nation's Capital. An important aspect of this plan is to locate new memorials and museums outside the traditional monumental core of the District of Columbia. The 2M Plan recommends numerous sites along the Potomac and Anacostia Waterfronts, including seven prime candidate sites and approximately 17 candidate sites for both rivers. Given that the W-0 zone is designed for

waterfront development and that it will likely be applied to both riverfronts at some point in the future, it will impact any future site identified in the 2M Plan.

Staff's evaluation concludes that as the zoning district only permits low density development and encourages extensive setbacks and open space, the W-0 zoning will not negatively affect any identified future 2M site. No high density residential or commercial use is permitted and the height and FAR restrictions are at a level where any potential commemorative development could be designed to be compatible with uses in the W-0 zone and would not be overshadowed by high intensity development.

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

On February 1, 2001 NCPC adopted the updated version of the Parks, Open Space, and Natural Features Element of the Comprehensive Plan for the National Capital. The element has specific bearing on the W-0 zone district as it provides policies on how waterfront development and open space should be maintained and managed. The applicable policies are:

Policies for Shorelines and Waterfronts:

1. The shoreline of the Anacostia and Potomac Rivers in the National Capital region should be preserved, restored, and enhanced as a matter of federal interest.
2. Development along or near the shoreline should be limited and integrated with the generally low and continuous line of river embankments. Building height should be determined by the building's proximity to the shoreline. The lower the structure is to the shoreline, the lower the profile should be. Sixty-five feet is generally an appropriate maximum height for buildings within 200 feet of the shoreline.
3. Within the District of Columbia, the character of publicly-owned waterfront areas should reflect great variety, ranging from a more developed shoreline in Georgetown, the Southwest Waterfront, and the Southeast Federal Center and Washington Navy Yard areas, for example, to a more natural treatment along the shorelines of the Upper Anacostia.

Staff concludes that the proposed W-0 zone does not conflict with any of the Comprehensive Plan objectives identified above. The levels of development and the required setbacks and open space established in the W-0 will help preserve the shorelines of the Anacostia and Potomac Rivers, while providing for the establishment of uses which activate and enhance the waterfront areas. According to W-0 standards, which are designed to accommodate low density cultural and recreational development, matter of right projects must maintain a height of 40 feet and a setback 100 feet from the shoreline, rather than the height of 65 feet and the setback from the shoreline of 200 recommended in 2(c). Nevertheless, staff believes that the W-0 does not conflict with policy 2(c) as it maintains an appropriate height to allow the permitted uses within the zone to function, without damaging the character of the adjacent waterfront.

### Federal Lands and Special Places

Both the Potomac River and the Anacostia River include significant federal land holdings under the jurisdiction of the National Park Service, the United States Military and the General Services Administration. Among these, the National Mall is a designated Special Place under the Federal Elements of the Comprehensive Plan for the National Capital as is the Georgetown Waterfront. Staff does not believe that the W-0 zone, if applied to lands adjacent to the federal properties, would negatively affect their integrity. Property around the National Mall is federally owned and therefore not subject to zoning restrictions. The predominant zoning on the Georgetown Waterfront is W-1 which is a moderate density waterfront zoning. If the W-0 were applied in this area, it would represent a less intense and more restrictive district, thereby not permitting development that would negatively impact the waterfront.

**Staff recommends that the Commission conclude that the proposed text amendment to add the W-0 zoning district would not adversely affect the identified federal interests.** However, staff has concerns regarding the proposed Section 917.4 of the W-0 zone which states that if a subject property is “located within National Park Service lands” then the development can receive a five percent increase in the maximum lot occupancy, height, or floor area ratio, or a five percent reduction in the minimum yard requirements. It is staff’s understanding from discussions with the Office of Planning that this requirement is meant to apply to lands that were formerly in possession of the National Park Service and would have been transferred to private or District of Columbia possession, and therefore subject to zoning. Under federal law, land owned by the National Park Service or any other federal agency is not subject to zoning restrictions. Staff views this language as misleading, in that it appears to imply that lands that are under National Park Service control are subject to these provisions, therefore making this aspect of the regulations contrary to federal law. Further, the language is ambiguous in that it is difficult to determine the specific lands located *within* National Park Service property. **Staff concludes that the Commission make a related recommendation to the Zoning Commission that the proposed Section 917.4 of the W-0 zone be amended so that the phrase “within National Park Service lands” is deleted and in its place the phrase “property formerly owned by the federal government” be added.**