Statement of Barbara Zartman, Vice Chair
Committee of 100 on the Federal City and
Chair, Zoning Subcommittee

June 19, 2003
Zoning Commission

Overall W-O zoning

As we commented in the rulemaking case, the Committee of 100 had real concerns about the original proposal to create W-O zoning applicable to Potomac and Anacostia waterfronts, concerns about height, about development on both sides of the water's edge, about vague descriptions of special exception uses, about public access, about the need for parking and loading facilities, and about frontage, to name some.

This case is the first test for the new zoning classification, and especially in light of the plans to build additional boathouses in the immediate area, we believe it is very important to "get it right," even if it takes a little more time. The loss of river access in front of all boathouses built or to be built on a waterfront is a tremendous loss to the public and defeats the oft-repeated goal of assuring pedestrian access and the commitment to protect and expand open space. Seeing the river from the rump end of a row of boathouses is not what most people have in mind when they think "river promenade."

This Proposal

The particular proposal before you tonight emphasizes the concerns we had. Three hundred feet of the shoreline would be unavailable to the public, a 40' structure would block views of the Potomac from important park areas, large docks would affect the public's use of the river,

Are there limitations on social or development uses of the facility? The only evidence in the file is the suggestion from GU to the NPS that it has no *intention* to use this attractive athletic facility – sitting on a precious and beautifully visible site on the Potomac – for social purposes. Will the NPS prohibition on consumption of alcohol on NPS property be vacated with the title transfer? Nothing in the proposal before you limits such activity in any way.

(GU has recently proposed moving development social activities that used to be housed within the campus into a small group of townhouses on the very eastern edge of its campus at 36th and O Streets - 100 events each year in a residential area. Could some of them be moved onto the river property?)

The observations about how attractive the facility is must be examined. Surely, surely Steve Muse has designed a beautiful facility. But that should not end the discussion. These concept drawings in no way guarantee what will be built once title passes, and they cannot, of course, constitute a justification for zoning relief.

Nonetheless, to address the design, we have all run afoul of changes made ostensibly in the name of "value engineering," which has come to mean cost-cutting and the elimination of amenities, quality materials, fenestration elements, and the like (several examples of which sit just above the site proposed for the boathouse). And then there are outright decisions to build other than what has been approved and worst of all the four words: our needs have changed. I hate even to contemplate the thought, but there is no guarantee that an architect who prepares a concept design will be the architect who completes a project (see Bowie Sevier, see Volta Bureau, see Dumbarton Oaks, see Bowie Sevier again).

NPS offers assurances that it will hold easements to limit disappointments, but the Park Service is

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poorly positioned to deal with enforcement matters.

The Zoning and Special Exception Arguments

As to the zoning provisions particularly, we cannot seriously consider the circular logic suggested by the applicant through counsel. The W-O provision was created with this site in mind; its details are very specifically related to this boathouse, though it would now be applicable more broadly. But we should not be asked to find that the boathouse meets the test of consistency with zoning regulations, the very zoning regulations written to accommodate it.

As to the variance, we cannot see how this *self-imposed hardship* can meet the test for a variance. (In the parlance of New York State zoning, you can't buy a hardship.) Surely the dimensions of the property were and are known to the applicants. The university is not being compelled to gain title to this property; the GU architect has frequently been quoted as saying they could build on the property they own farther up the river. This proposal fails the test outright.

OP's recommendation, instead, that a special exception to 20' could be acceptable seems a more reasonable resolution.

With regard to the variance and special exceptions requested, we clearly believe changing the 20' setback to 15' will undermine any ability to hold to even the 20' standard in the future. The parking exception, it is argued, is justified by the proffer that a 100-car public parking metered lot will be located under the Whitehurst. The last plan for the waterfront park that we saw contained no such parking lot, meaning all parking that might be required for this facility, *plus* the new GWU boathouse (of a size we can't yet imagine), and the park itself will all have to be satisfied with on-street parking spots that serve the residential and commercial interests of Water Street, including the new facilities at 3303 Water.

We question whether the applicants have met the burden of demonstrating that it is unlikely this will become objectionable for nearby properties. Is the absence of parking on site or nearby likely to make traffic objectionable to neighbors?

Have the applicants met the burden of demonstrating that the denial of public access in order to assure private access is unlikely to become objectionable? Have many of those giving testimony already declared their objections?

And last, this project is being considered without a number of environmental reports in hand, including an EIS with regard to the structure and program of the boathouse (as opposed to the land swap). Have we even seen projections of the impact clearing the site and construction will have on the visual landscape? Attached is a brief, partial list of policies from the Federal Environmental Element of the Comprehensive Plan, issues of construction in the floodplain, adding fill in the floodplain, the need for a buffer of vegetation at water's edge, etc. It is not argued that any one or all of these policies preclude the development along the Potomac or at this site. Rather, this listing is intended as a reminder of how precious this piece of waterfront is as you contemplate how much impact the first in a *series* of new structures will have. And the environmental rigor you will require.

If the Commission is to approve this project, we ask that:

1. The size of the facility be reduced. The need to have the rowing tank – unique within the region by the testimony of GU's own expert – cannot be considered essential. With other amendments to the building volume, elimination of the tank can permit re-establishment of viewsheds and help re-

establish proportionality among structures. Surely multiple 35,000 sq. ft. structures would change the character of the riverside out of all proportion. I have no doubt that Steve Muse can design an equally beautiful facility that claims a little less of the nation's Potomac.

2. The special exception setback of 20' should be retained and should be maintained along the river's edge at a minimum. As important, the ability for the public to walk in front of the boathouses should be required at all times when crews are not active.

3. The size of the floating dock should be reduced. Again, precedent for the other boathouses makes one ask how large a facility is needed (as opposed to desired). The approvals of OGB, CFA for the boathouse were in concept only and were given without meaningful perspective drawings. The normal process for moving from concept to permit approvals should allow these elements to be well developed.

4. Detailed limitations should be specified with regard to vehicular access, with removable barriers, as suggested by DDOT as a useful option. Special attention should be given to the impact on these sensitive areas during construction, when 100 truckloads of fill will have to reach the site, and when all construction materials and crews will need to be accommodated. Further, the "Cooper Rules" for truck safety used by GU for its Southwest Quadrangle project should again be adopted for this project.

5. The order in its totality should offer highly specific and crystal-clear conditions that deal with the items mentioned above as well as: non-crew activities including particularly social activities, size and activity on the dock, vegetation buffers - a clearly enforceable order. The vague language of the W-O zoning requires extra prudence (one example: how does the phrase "one or more" *limit* in any way the number of motorized craft associated with a non-motorized boathouse?).

Before the next opportunity for W-O zoning, the Commission should revisit the extraordinarily broad options included in the provisions intended to protect waterfront open space which unfortunately put it at risk.

Federal Environmental Element of the Comprehensive Plan

National Capital Planning Commission

In addressing "Environmentally Sensitive Areas," the element advises:

"In this Region many of our natural resources and areas have been lost or severely altered as a result of development. In the past, federal agencies sometimes failed to recognize the natural and beneficial values served by these resources during their own planning and development processes. The cumulative impact of urban development upon these natural resources continues to threaten their natural functions as well as their amenities and benefits to society. Environmental and public benefits from these resources can only be ensured if they are sufficiently protected from incompatible development. ...

"In this Region, large amounts of federal land, by virtue of its location, is in designated floodplain areas. As federal agencies and facilities conduct their activities and fulfill their mission goals and objectives, some development within the floodplain will be necessary. Consequently, the "Environmentally Sensitive Areas" section is intended to provide guidance to federal agencies so that, as they develop their plans and programs, they: (1) protect and conserve endangered and threatened species; (2) avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains; (3) avoid direct and indirect support of floodplain development wherever there is a practicable alternative; (4) minimize the destruction, loss or degradation of wetlands; and (5) preserve and enhance the natural and beneficial values of wetlands."

In "Policies for Environmentally Sensitive Areas," the element defines and advises as follows:

"The term environmentally sensitive area means "features and resources that, because of their unique physical characteristics may be susceptible to damage by human actions and whose protection and maintenance are vital to the well-being of man and the overall quality of the environment." These areas should be given special attention in planning and development activities.

And offers the definition of floodplains as:

"usually lowlands along rivers, streams, lakes, and oceans that are subject to periodic flooding ... "

It establishes that is in the Federal Interest to:

"1. Avoid the long- and short-term adverse effects associated with the occupancy and modification of floodplains in the Region...

"3. Protect and maintain natural and cultural floodplain values, resources, and benefits.

"4. Reduce existing and future flood loss potential.

"5. Support the preservation and sound management of floodplains in the Region.

"6. Ensure that federal agencies institute the procedures set forth in the Coastal Zone Management Act to protect, preserve, and restore the Coastal Zone and its amenities in the National Capital Region ... "

Federal actions are to conform to the following policies:

"2. Proposed development and new uses should be carefully regulated to insure the harmonious use of floodplains by minimizing flood hazards and preserving natural values...

"4. Modification and/or rehabilitation of existing developments in the floodplain should be discouraged if they are unrelated to correcting flood hazards or restoring floodplain values.

"5. If construction in a floodplain is necessary:

a. The site should be returned, as closely as possible, to its natural contours.

b. Floodplain fill should be minimized.

c. Grading requirements should be minimized

d. Free natural draining should be preserved.

e. The proposed development should be floodproofed.

"7. Floodplain areas may be used for such purposes as recreation, scientific study, and education instruction, where appropriate ... "