Government of the District of Columbia

ZONING COMMISSION

September 9, 2003

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Dear Parties:

Attached to this letter is the proposed rulemaking for ZC Case No. 02-42(TA) (Text Amendment – Waterfront Open Space Zone District (W-0) -- 11 DCMR). The notice will shortly appear in the *D.C. Register*. Also attached is the hearing notice for that case, as published in the January 4, 2003, edition of the *Register*

In accordance with the direction given by the Zoning Commission at its public meeting of July 31, 2003, each party is permitted to submit a written statement consistent with the following:

ZONING COMMISSION
District of Columbia
Case 02-30
Exhibit 384

ZONING COMMISSION
District of Columbia
CASE NO.02-30
EXHIBIT NO.384

To the extent that a party believes that (1) the proposed rule differs from the description of the rule in the hearing notice and (2) the difference creates or impacts issues relevant to ZC Case No. 02-30, the party may:

1. Describe the difference or differences between the proposed rule and the hearing notice;

2. For each difference noted, indicate the issue created or impacted; and

3. As to each issue, make such comments or arguments as directly arise from the difference identified.

The Commission will consider no other information.

The parties shall adhere to the following schedule with respect to these submissions. Parties may file their first submission with the Office of Zoning no later than 3:00 P.M. Thursday, September 25, 2003. Parties may file their responses to the other parties' submissions, along with any finding of facts and conclusion of law no later than 3:00 P.M. Thursday, October 9, 2003.

A submission must be served on all parties.

The parties are welcomed and encouraged to comment on the proposed rule. However, such written comments must be sent separately to the undersigned and received no later than thirty days after publication of the notice in the *D.C. Register.*

Sincerely,

Alberto P. Bastida, AICP
Secretary to the Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Case No. 02-42
(Text Amendment – Waterfront Open Space Zone District (W-0) -- 11 DCMR)

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code § 6-641.01), hereby gives notice of the intent to adopt amendments to Chapters 1, 6, 9, 20, 21, 24, 25, 31, and 32 the Zoning Regulations (11 DCMR). The amendments will establish a new zone district to be known as the Waterfront Open Space Zone District (W-0). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

The following amendments to Title 11 DCMR (Zoning) are proposed. New text is shown in bold type and deleted text in strikethrough. (Existing bold fonts used for section headings and introductions to definitions are retained.)

A. Chapter 1, THE ZONING REGULATIONS, is amended as follows:

1. Section 105.1 (g) is amended to read as follows:

105.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:

(g) **WATERFRONT DISTRICTS**, as follows:

(1) **W** mixed uses, subdivided as follows:
(A) W-0 waterfront open space and recreation, low density;
(B) **W-1** ~~low~~ **moderate** density;
(C) **W-2** medium density; and
(D) **W-3** high density;

2. Section 199.1 is amended as follows:

(a) By amending the definition of "Percentage of lot occupancy" to read as follows:

Percentage of lot occupancy - a figure that expresses that portion of a lot lying within lot lines and building lines that is occupied or that may be occupied under the provisions of this title as building area; except as provided in the Waterfront Districts **wherein lot occupancy shall be calculated in accordance § 932**, and Mixed Use Districts wherein the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.

(b) By inserting the following new definitions in alphabetical order:

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 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.

B. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, is amended as follows:

1. **By amending the mater of right provisions of section 601.1 as follows:**

(a) By amending 601.1 (l) is amended to read as follows:

(l) ~~Boat club or Marina~~ **Boathouse for non-motorized watercraft, except that one or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety; and may include as accessory uses rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, rowing tank, dock, one caretaker's residence in conformance to the regulations of §§921.2 to 921.4, and related functions;**

(b) By adding new subsections 601.1 (u) and (v) to read as follows:

(u) Marina, including floating homes subject to the provisions of § 919.4, and, as accessory uses, an office for the operation of the marina; boat launching; the sale of marine fuels; minor repairs to boats and marine engines; the rental of boats; and retail of supplies and services for small pleasure and commercial vessels; and

(v) Yacht club.

2. Section 601.4 is amended as follows:

601.4 Subject to the provisions of § 2501, mechanical amusement machines shall be permitted as a matter of right in a CR District as accessory uses to the following uses:

. . .

(d) ~~Boat club or Marina~~ **Boathouse**;

. . .

(g) Marina; and

(h) Yacht club.

C. Chapter 9, WATERFRONT DISTRICTS, is amended to read as follows:

1. Sections 900 and 901 are amended to read as follows:

900 GENERAL PROVISIONS: WATERFRONT DISTRICTS

901.1 The Waterfront (W) Districts are applied to waterfront areas that have one (1) or more of the following characteristics:

(a) Geographically, historically, or locationally unique;

(b) Adjacent to well-established residential areas;

(c) Undergoing transition from light and heavy industrial uses to office and commercial uses; or

(d) Where the public health, safety, general welfare, and amenity would be promoted and protected by the encouragement of mixed uses.

901.2 The Waterfront District shall be subdivided into **W-0,** W-1, W-2, and W-3 Districts.

900.3 The **W-0 District permits open space, park, and low density and low height waterfront-oriented retail and arts uses**, the W-1 District permits a **moderate** height and density, the W-2 District allows a medium height and density, and the W-3 District allows the greatest height and density of the Waterfront Districts.

900.4 The purpose of the Waterfront Districts is to encourage a diversity of compatible land uses at various densities, including combinations of residential, offices, retail, recreational, **arts and cultural**, and other miscellaneous uses.

900.5 **The** ~~Waterfront~~ **W-1, W-2, and W-3** Districts are also intended to be relatively self-contained by supplying a variety of housing, service, employment, and recreational opportunities in one (1) location. This characteristic allows one (1) area to serve many different needs of a single population and to thereby reduce the amount of vehicular traffic generated by the uses in the districts.

900.6 **The W-0 District is intended to provide waterfront recreation areas with related waterfront-oriented or waterfront-enhancing uses, to serve local and regional open space recreation needs.**

900.7 Except as provided in chapter 21 of this title, in the Waterfront Districts, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except as specified in §§ 901, 902, and 906 through **922**.

901 USES AS A MATTER OF RIGHT (W)

901.1 The following uses shall be permitted in ~~a Waterfront~~ **the W-1, W-2, and W-3** Districts as a matter of right:

(a) One-Family dwelling, flat, or multiple dwelling;

(b) Rooming or boarding house;

(c) Community center;

(d) Hotel or inn;

(e) Church or other place of worship;

(f) Community-Based Residential Facilities, as limited by the following:

(1) Youth residential care home, community residence facility, or health care facility for not more than six (6) persons, not including resident supervisors or staff and their families; or for not more than eight (8) persons, including resident supervisors or staff and their families; provided, that the number of persons being cared for shall not exceed six (6); and

(2) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

(g) Youth residential care home, community residence facility, or health care facility for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property;

(h) Retail sales or services not specified in §§ 902 and 906 through 915;

(i) Office;

(j) Private club, restaurant, fast food restaurant, or food delivery service; provided, a fast food restaurant or food delivery service shall not include a drive-through;

(k) Artist's studio;

(l) Private or public theater;

(m) ~~Boat club or marina~~ **Boathouse for non-motorized watercraft, except that one or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety; and may include as accessory uses rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, rowing tank, dock, one caretaker's residence in conformance to the regulations of §§921.2 to 921.4, and related functions;**

(n) Swimming pool;

(o) Recreational building or use;

(p) Park or open space;

(q) Library;

(r) Museum;

(s) Embassy, chancery, or international organization;

(t) Child/Elderly development center;

(u) Antenna, subject to the standards and procedure that apply to the particular class of antenna pursuant to §§ 201.2 through 201.7;

(v) Marina, including floating homes subject to the provisions of § 919.4, and, as accessory uses, an office for the operation of the marina; boat launching; the sale of marine fuels; repair and maintenance of boats and marine engines; the rental of boats; and retail of supplies and services for small pleasure and commercial vessels; and

(w) **Yacht club.**

901.2 Accessory use (including parking), building, or structure customarily incidental and subordinate to the principal uses permitted in § 901.1 shall be permitted in ~~a Waterfront~~ **the W-1, W-2, and W-3** Districts as a matter of right.

901.3 Mechanical amusement machines shall be permitted **in** ~~a Waterfront~~ **the W-1, W-2 and W-3** Districts as a matter of right, as accessory to the following uses:

(a) Hotel or inn;

(b) Retail sales or services not specified in §§ 902, 906 through 911, and 913 through 915;

(c) Restaurant or private club;

(d) Private school, trade school, college, or university; but only to a college or university subject to § 2501;

(e) Boathouse;

(f) Marina; and

(g) Yacht club.

901.4 A child development home and an elderly day care home shall be permitted in ~~a Waterfront~~ **the W-1, W-2, and W-3** Districts as a matter of right, as an accessory use; provided, that the dwelling unit in which the use is located shall be the principal residence of the caregiver and that the use shall otherwise meet the definition of a home occupation.

901.5 **Within the W-0 District, the following uses shall be permitted as a matter of right:**

(a) Publicly-accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;

(b) Boat construction on an occasional basis by a local community organization;

(c) Community garden operated by a local community organization or District government agency;

(d) Public nature education or interpretive center; and

(e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures.

2. Section 902, PROHIBITED USES (W), subsection 902.1 (l) is amended to read as follows:

(l) Parking lot**, other than as permitted by Special Exception in the W-0 District in §923**;

3. Section 905, PLANNING OFFICE REVIEW (W), is amended to read as follows:

905 PLANNING OFFICE REVIEW (W)

905.1 Wherever §§ 906 through 923 require referral of an application to the D.C. Office of Planning for coordination, review, and report, the report shall reflect consideration of the following:

(a) Whether the proposed use furthers the objectives of the Waterfront Districts;

(b) 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;

(c) The proposed site plan, including the relationship of different uses on the site;

(d) The effect of the proposed site plan on neighboring properties **and the waterfront shoreline (if applicable)**; and

(e) Other issues deemed appropriate for report.

905.2 Whenever the Office of Planning refers an application to the D.C. Department of Transportation under §§ 906 through **923**, the report shall reflect consideration of the following transportation and environmental matters:

(a) Traffic to be generated;

(b) Location and design of vehicular access and parking facilities;

(c) Number of parking and loading facilities;

(d) Treatment of public space;

(e) Availability of sewer and water capacity;

(f) Air quality;

(g) Noise from commercial, industrial, and traffic sources; and

(h) Other issues deemed appropriate for report.

4. Sections 906 through 912,914, and 916 are amended as follows:

(a) The titles of the section are amended so that the zone district designation "(W)" is replaced with "(W-1, W-2, and W-3)".

(b) The phrase "shall be permitted as a special exception in a Waterfront district" is deleted wherever it appears and the phrase "shall be permitted as a special exception in the W-1, W-2, and W-3 Districts" is inserted in its place.

5. Sections 913 and 915 are amended as follows:

(a) The titles of the section are amended so that the zone district designation "(W)" is replaced with "(W-1, W-2, and W-3)".

(b) The phrase "shall be permitted as special exceptions in a Waterfront district" is deleted whenever is appears and the phrase "shall be permitted as special exceptions in the W-1, W-2, and W-3 Districts" is inserted in its place.

6. New sections 917 through 926 are added to read as follows:

917 USES SUBJECT TO SPECIAL EXCEPTION (W-0) – GENERAL PROVISIONS

917.1 The uses described in §§ 918 through 922 are permitted if approved as special exceptions in the W-0 District.

917.2 Except as provided in §917.3, applications for special exceptions within the W-0 District shall be heard by the Board of Zoning Adjustment.

917.3 As part of its consideration of a petition or application to zone a property or properties to the W-0 District, the Zoning Commission may also review special exceptions (whether authorized in this chapter or elsewhere in this Title) and variance requests for the subject properties, simultaneously with the zoning map amendment application.

917.4 With respect to any special exception use under consideration, the Commission may authorize the following if the applicant is able to demonstrate that application of normally applied zoning regulations would result in an infeasible project and would hinder furtherance of the objectives of the Waterfront District:

(a) An increase of not more than five percent (5%) in the maximum lot occupancy, height, or floor area ratio as otherwise prescribed in this title. The Commission shall have the option to approve a greater increase if the subject property is located within National Park Service lands; or

(b) A reduction of not more than five percent (5%) of the minimum yard or court requirements as otherwise prescribed in this title. The Commission shall have the option to approve a greater decrease if the subject property is located within Nation Park Service lands.

918 BOATHOUSE (W-0)

918.1 If appropriate in furthering the objectives of the Waterfront District, a boathouse shall be permitted as a special exception in the W-0 District.

918.2 In addition to demonstrating that the boathouse meets the criteria for special exceptions set forth in §§ 924 and 3104 of this Title, the applicant shall further demonstrate that the boathouse and associated structures:

(a) Will be designed to enhance the visual and recreational opportunities offered along the waterfront;

(b) Will not result in the filling of normally submerged area, and will minimize excavation to that reasonably required for a facility that is principally above-grade; and

(c) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking.

918.3 One or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety.

918.4 A boathouse may include rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, one caretaker's residence pursuant to § 921, rowing tank, dock, and related functions.

918.5 Off-street parking spaces shall be provided in the amount and manner specified in Chapter 21 – Off-Street Parking Requirements, except as may be permitted in accordance with the provisions of § 923.

919 MARINA (W-0)

919.1 If appropriate in furthering the objectives of the Waterfront District, a marina shall be permitted as a special exception in the W-0 District, provided that the applicant demonstrates the proposed use meets the special exception criteria set forth in §§ 924 and 3104 of this Title.

919.2 A marina may also include as accessory uses an office for the operation of the marina; boat launching; the sale of marine fuels; minor repairs and maintenance to boats and marine engines; the rental of boats; and retail of supplies and services for small pleasure and commercial vessels.

919.3 Off-street parking spaces shall be provided in the amount and manner specified in Chapter 21 – Off-Street Parking Requirements.

919.4 Floating homes shall be permitted within an approved marina provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina. This percentage may be increased or waived by special exception, subject to the provisions of § 924.

919.5 A home occupation within a floating home, including a Bed and Breakfast, is permitted, subject to the regulations of §203.

919.6 Off-street parking spaces for a Marina and each floating home permitted shall be provided in the amount and manner specified in Chapter 21 – Off Street Parking Requirements, except as may be permitted in accordance with the provisions of § 923.

920 YACHT CLUB (W-0)

920.1 If appropriate in furthering the objectives of the Waterfront District, a yacht club shall be permitted as a special exception in the W-0 District.

920.2 In addition to demonstrating that the yacht club meets the criteria for special exceptions set forth in §§ 924 and 3104 of this Title, the applicant shall further demonstrate that the yacht club and associated facilities:

(a) Will be primarily for the use of the members of the yacht club, except that the yacht club may provide transient berths;

(b) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and

(c) Will not result in the filling of normally submerged areas and will minimize excavation to that reasonably required for a facility that is principally above-grade.

920.3 Off-street parking spaces shall be provided in the amount and manner specified in Chapter 21 – Off-Street Parking Requirements, except as may be permitted in accordance with the provisions of § 923.

921 CARETAKER'S RESIDENCE (W-0)

921.1 A caretaker's residence as an accessory use within a boathouse, marina, or yacht club in the W-0 District shall be permitted as a special exception.

921.2 In addition to demonstrating that the caretaker's residence meets the criteria for special exceptions set forth in §§ 924 and 3104 of this Title, the applicant shall further demonstrate that the residence is clearly secondary in design, location and size to the principal use of the building.

921.3 The caretaker's residence shall be located within the principal building and exclusively for the use of the facility's caretaker and immediate family.

921.4 If the caretaker's residence is large than 1,200 square feet, it shall occupy no more than 20% of the total area of the principal yacht club building.

921.5 One on-site parking space, in addition to other parking requirements, shall be provided.

922 ADDITIONAL USES SUBJECT TO SPECIAL EXCEPTION (W-0)

922.1 In addition to the uses set forth in §§ 918 through 921 of this Chapter, the following uses shall also be permitted as special exceptions in the W-0 District if appropriate in furthering the objectives of the Waterfront District; Provided that the applicant shall demonstrate that the proposed use meets the special exception criteria set forth in §§ 924 and 3104 of this Title:

(a) Amusement enterprise;

(b) Antique store;

(c) Art gallery;

(d) Art supply store;

(e) Artist studio;

(f) Auction house;

(g) Bakery;

(h) Bicycle sale, repair, or rental;

(i) Boat accessory sales;

(j) Boat repair, rental, or sales;

(k) Boat launching facility, dock, wharf, or pier;

(l) Book store;

(m) Cabaret;

(n) Camera / photo supplies;

(o) Child care facility;

(p) Cosmetic / toiletries sales;

(q) Cruise line operation, including necessary associated dock and land facilities;

(r) Fish monger;

(s) Floating home, only within an approved marina and subject to the regulations of §919.4;

(t) Flower stand / florist;

(u) **Food / grocery store;**

(v) **Gift shop;**

(w) **Hobby shop;**

(x) **Jewelry store;**

(y) **Leather goods store;**

(z) **Legitimate theater;**

(aa) **Library private or public;**

(bb) **Mass transit facility;**

(cc) **Museum;**

(dd) **Music store, including the sale of musical instruments;**

(ee) **Newsstand;**

(ff) **Off-premises sale of beer and wine, with sale directly to consumers;**

(gg) **Pet shop;**

(hh) **Photo studio;**

(ii) **Picture framing studio / shop;**

(jj) **Place of worship;**

(kk) **Private club other than a yacht club;**

(ll) **Recreation building or use;**

(mm) **Public parking - uncovered surface parking lot or underground structure only;**

(nn) **Restaurant;**

(oo) **Retail establishments;**

(pp) **Sporting goods store;**

(qq) **Stationery store;**

(rr) **Swimming pool operated by a local community organization or District government agency;**

(ss) **Temporary use of premises by fairs, circuses, or carnivals, upon compliance with the provisions of 19 DCMR chapter 13, "Amusements and Recreation";**

(tt) **Ticket office;**

(uu) **Water taxi information / ticket booth and passenger shelter; and**

(vv) **Other maritime-related retail and service commercial uses.**

923 PARKING SPACES (W-0)

923.1 Notwithstanding §2116.1 of this Title, parking spaces for boathouses, marinas, yacht clubs, or other recreational uses to be located elsewhere than on the same lot or part of the lot on which the principal use, may be permitted as a special exception, if the applicant proves that compliance with this parking requirement would be unsafe or economically impractical and:

(a) **The parking spaces shall be located to furnish reasonable and convenient parking for patrons of the principal building;**

(b) **Any support facility in relation to the parking spaces is designed so as not likely to become objectionable to adjoining or nearby property, park space, or the waterfront because of noise, traffic, or other objectionable conditions;**

(c) **The parking spaces shall be adequately screened from adjacent park space and from the waterfront, and shall be designed to prevent storm water run-off directly into the river; and**

(d) **All other requirements of Chapter 21 will be met.**

923.2 The applicant shall prove that compliance would be unsafe or economically impractical by showing that one or more of the following applies:

(a) The lack of street frontage or the separation of the use from any publicly-accessible street by public park space;

(b) Unusual topography, grades, shape, size, or dimensions of the lot;

(c) The lack of appropriate ingress or egress through existing or proposed streets;

(d) Strip zoning or shallow zoning depth;

(e) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot; or

(f) Traffic hazards caused by unusual street grades or other conditions.

923.3 All or a portion of required parking spaces for a boathouse may be reduced or eliminated by special exception, provided the applicant shall demonstrate that:

(a) The provision of parking would result in significant adverse impacts on adjacent park land;

(b) The type or location of the associated principal use results in diminished need for parking from what would otherwise be required by zoning regulations; or

(c) Reasonable and conveniently-located alternatives to the required parking exist and are available to the boathouse users with minimal impact on adjacent land or development.

924 SPECIAL EXCEPTION REVIEW CRITERIA (W-0)

924.1 In addition to proving that the proposed use meets all specific special exception criteria applicable to it as well as the general criteria set forth in § 3104, the applicant shall also demonstrate that:

(a) The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront;

(b) Buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas.

(c) 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 § 937, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the Waterfront District;

(d) Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas;

(e) 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;

(f) 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;

(g) 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; and

(h) Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

925 SPECIAL EXCEPTION APPLICATION REQUIREMENTS (W-0)

925.1 The applicant shall provide a survey plan showing:

(a) Existing vertical contours at two-foot intervals;

(b) The 100 year floodplain and all existing streams, wetlands, and bodies of water, as well as general drainage patterns with arrows indicating the directions of major drainage flow;

(c) Existing vegetation, including a listing of most abundant species; and

(d) All existing disturbed areas, including the locations of utilities, paved areas, streets, culverts, storm water management systems, and bridges.

925.2 The applicant shall provide a proposed site plan showing:

(a) The proposed location, height, bulk, and design of all improvements, including buildings, structures, pedestrian and vehicular access, parking, piers and wharves, berths, utilities, paved areas, culverts, storm water management, and bridges;

(b) Suitable open space treatment of a waterfront setback area, as required in § 937, for uses such as walkway, bikeway, passive or active recreation; and including provisions assuring private maintenance of the space, convenient and public access to the space, and suitable connections to adjacent public space along the waterfront;

(c) Proposed grading, including a calculation of the amount of cutting from and filling to natural grade;

(d) Proposed landscaping, including riverbank treatment/restoration; and

(e) The location and design of fencing, gates, screening, exterior lighting, and signage.

925.3 The applicant shall provide a parking plan showing:

(a) The location and design of parking spaces, access driveways, and other impervious surface landscaping;

(b) The location and design of emergency vehicle access to all buildings, structures, and active public spaces; and

(b) For boathouse, marina, and yacht club facilities, a parking management plan for special events (such as regattas).

925.4 The applicant shall provide a description of activities proposed to be conducted at the site.

926 REFERALOF SPECIAL EXCEPTIONS (W-0)

926.1 Before commencement of a Public Hearing on an application for any special exception in the W-0 Zoning District, the Commission or Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The application shall include reports and recommendations from the Departments of Health and Transportation and all other appropriate agencies.

926.2 The report submitted by the Office of Planning shall specifically address the environmental impact of the proposed use, as that impact is identified by the Department of Health; provided that any such report is not intended to be, and shall

not be construed to constitute, the functional equivalent of an Environmental Impact Assessment or Statement.

7. Sections 930 through 935 are amended to read as follows:

930 HEIGHT OF BUILDINGS OR STRUCTURES (W)

930.1 Except as provided in this section, the height of buildings and structures shall not exceed the maximum height in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)
W-0	**40 feet**
W-1	40 feet
W-2	60 feet
W-3	90 feet

Notwithstanding the above, the maximum height of a building or structure located on or in the water within the W-0 District, including a floating home, shall be twenty-five (25) feet, measured from the mean high water level along the shore directly in front of the building or structure.

930.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses over elevator shafts, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes.

930.3 Housing for mechanical equipment or a stairway or elevator penthouse may be erected to If housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:

(a) It shall meet the requirements of § 411;

(b) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located; and

(c) It shall not exceed eighteen feet, six inches (18 ft., 6 in.), in height above the roof upon which it is located. Mechanical equipment shall not extend above the permitted eighteen foot, six inch (18 ft., 6 in.), height of the housing.

930.4 Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.

931 FLOOR AREA RATIO (W)

931.1 In the W-0 District, the floor area ratio of all buildings and structures shall not exceed five-tenths (0.5), provided that:

(a) The floor area ratio on a lot used exclusively for recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed 0.75; and

(b) For the purposes of this sub-section, floor area ratio shall be the gross floor area of all buildings and structures located on land and any associated permanent structure located over water, other than a floating home, divided by the total area of the lot.

931.2 In the W-1 District, the floor area ratio of all buildings and structures on a lot shall not exceed two and five-tenths (2.5), not more than one (1.0) of which may be used for other than residential purposes.

931.3 In the W-2 District, the floor area ratio of all buildings and structures on a lot shall not exceed four (4.0), not more than two (2.0) of which may be used for other than residential purposes.

931.4 In the W-3 District, the floor area ratio of all buildings and structures on a lot shall not exceed six (6.0), not more than five (5.0) of which may be used for other than residential purposes.

931.5 For the purposes of this section, "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, community-based residential facilities, inns, and guestroom areas and service areas within hotels.

932 PERCENTAGE OF LOT OCCUPANCY (W)

932.1 No building or portion of a building devoted to residential use, including accessory buildings, shall occupy the lot upon which it is located in excess of the percentage of lot occupancy in the following table:

ZONE DISTRICT	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
W-1	80%
W-2, W-3	75%

932.2 Within the W-0 District, no building or portion of a building, including accessory buildings, shall occupy greater than twenty-five percent (25%) of the lot upon which it is located, provided that:

(a) The lot occupancy on a lot used exclusively for a recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed fifty percent (50%); and

(b) For the purposes of this sub-section, the lot occupancy shall be the total area occupied by all buildings and structures located on land and by any associated permanent structure located over water, other than a floating home, divided by the total area of the lot.

932.3 For the purposes of this section, the percentage of lot occupancy **in the W-1, W-2, and W-3 Districts** may be calculated on a horizontal plane located at the lowest level where residential uses begin.

932.4 For the purposes of this section, the phrase "residential use" shall mean dwellings, flats, multiple dwellings, rooming houses, boarding houses, hospitals, and community-based residential facilities.

933 REAR YARDS (W)

933.1 A rear yard shall be provided for each residential building or structure, **other than a floating home**.

933.2 When a residential use begins at or below grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve feet (12 ft.).

933.3 When a residential use begins above grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof, but not less than twelve feet (12 ft.). The rear yard shall be provided at and above the residential plane.

933.4 For the purposes of this section, "residential building or structure" shall include those used as or intended to be used as dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, hotels, inns, and community-based residential facilities.

934 SIDE YARDS (W)

934.1 Within the W-0 District, for any building or structure located in whole or in part on land, the minimum width of each side yard shall be twelve (12) feet.

934.2 No side yard shall be required in **the W-1, W-2, and W-3 Districts.** If a side yard is provided, its minimum width shall be at least eight (8) feet.

935 COURTS (W)

935.1 Where a court is provided in a Waterfront District, the court shall have the following minimum dimensions:

STRUCTURE	MINIMUM WIDTH OF OPEN COURT	MINIMUM WIDTH AND AREA OF CLOSED COURT
Residential building	4 in. per foot of height; Minimum: 10 ft.	Width: 4 in. per foot of height; Minimum: 15 ft. **Area: 2 x square of required width;** Minimum: 350 ft.^{2}
Hotel and inn	3 in. per foot of height; Minimum: 10 ft.	Same as above
Other structure	2½ in. per foot of height; Minimum: 6 ft.	**Width: 2 ½ in. per foot of height;** Area: 2 x square of required width; Minimum: 250 ft. ^{2}

935.2 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:

(a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and

(b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for a residential building in § 936.1.

935.3 For the purposes of this section, "residential building" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, and community-based residential facilities.

935.4 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width and depth of the court niche is less than two to one (2:1).

935.5 No portion of a court niche shall be further than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.

8. A new section 937 is added to read as follows:

937 WATERFRONT SETBACK (W-0)

937.1 A setback inland from the bulkhead or the mean high water level, whichever provides the larger setback, shall be provided of not less than one-hundred feet (100 ft.) to any building or structure.

937.2 Notwithstanding §937.1, a waterfront setback need not be provided for a water taxi ticketing / information booth, or for structures directly associated with a public wharf, dock, or pier.

937.3 A special exception may be granted in accordance with the criteria of §§924 and 3104, for any proposed waterfront setback of greater than twenty (20) feet and less than one hundred (100) feet.

937.4 Parking spaces, passenger drop-off areas, access to parking spaces, and access to loading areas shall not be located within the required waterfront setback area.

D. Chapter 20, NONCONFORMING USES AND STRUCTURES, section 2003.6 (a), CHANGING USES WITHIN STRUCTURES is amended to read as follows:

2003.6 For the purpose of this section, the districts established by this title are listed in the following order of decreased use restriction:

(a) **W-0,** R-1-A, R-1-B, R-2, R-3, R-5-A, R-4, R-5-B, R-5-C, R-5-D, and R-5-E; . . .

E. Chapter 21, OFF-STREET PARKING REQUIREMENTS, is amended as follows:

1. The table included in section 2101.1, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, is amended by inserting the following:

USES	NUMBER OF PARKING SPACES REQUIRED
Marina: **W-0, W-1, W-2, and W-3**	**1 for each 4 berths or slips plus 1 for each floating home space within a marina**
Boathouse: **W-0, W-1, W-2, and W-3**	**1 space for every 2,000 square feet of gross building area**
Yacht Club: **W-0, W-1, W-2, and W-3**	**The greater of 1 for each 4 berths or slips or 1 for each 800 square feet of clubhouse building area.**

2. Section 2116.1is amended to read as follows:

2116.1 Except as provided in §§ 214, 510, 708, 730, 743.2(d), 753.1(c), 761.2, 803.1, **923**, 2116.5, and 2117.9(c), all parking spaces shall be located on the same lot with the buildings or structures they are intended to serve.

3. Section 2119, BICYCLE PARKING SPACES, is amended by adding new subsections 2119.11 and 2119.12, to read as follows:

2119.10 For a marina or yacht club within the W-0, W-1, W-2, and W-3 Districts, one suitably designed and sited bicycle rack parking space shall be provided for each ten (10) berths or mooring spaces, in a location that is secure and convenient to the principal structure.

2119.11 For a boathouse within the W-0, W-1, W-2, and W-3 Districts, one suitably designed and sited bicycle rack parking space shall be provided for each 2,000 gross square feet of gross building area, in a location that is secure and convenient to the principal structure.

F. Chapter 22, OFF-STREET LOADING FACILITY REQUIREMENTS, § 2201, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, is amended by inserting the following into the table included in section 2201.1:

Uses And Districts	Minimum Number And Size Of Loading Berths Required	Minimum Number And Size Of Loading Platforms Required	Minimum Number And Size Of Service / Delivery Loading Spaces Required
Any retail, service, or public assembly use in the W-0 District:			
With greater than 20,000 sq.ft. of gross floor area	**1 @ 30 feet deep**	**1 @ 100 ft.^{2}**	**1 @ 20 feet deep**

G. Chapter 24. PLANNED UNIT DEVELOPMENT PROCEDURES, is amended as follows:

1. Section 2400.1 is amended to read as follows:

2400.1 The minimum area included within the proposed development, including the area of public streets or alleys proposed to be closed, shall be as follows:

(a) A total of two (2) acres for a development to be located in any R-1, R-2, R-3, R-4, or R-5-A District;

(b) A total of one (1) acre for a development to be located in any **W-0 or** R-5-B District; or

(c) A total of fifteen thousand square feet (15,000 ft.^{2}) for development to be located in any other zone district.

2. Section 2405. DEVELOPMENT STANDARDS, is amended as follows:

(a). Section 2405.1 is amended by modifying the first line of its table to read as follows:

ZONE DISTRICT	**MAXIMUM HEIGHT** (feet)
R-1-A, R-1-B, R-2, R-3, C-1, **W-0**	40

(c) Section 2405.2 is amended by adding the following at the end of its table:

FLOOR AREA RATIO (FAR)			
ZONE DISTRICT	**RESIDENCE**	**COMMERCIAL, INCLUDING HOTELS AND MOTELS**	**TOTAL**
W-0		**0.5**	**0.5**

H. Chapter 25, MISCELLANEOUS ZONING REQUIREMENTS, section 2514.3, is amended to read as follows

2514.3 For the purpose of interpreting this section, the zone districts established in this title are listed in the following groups of decreasing use restrictions:

(a) **W-0**, R-l-A, R-l-B, R-2, and R-3 Districts;

(b) R-4, R-5-A, R-5-B, R-5-C, R-5-D, R-5-E, and SP Districts;

(c) C-l, C-2-A, C-2-B, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and C-5 (PAD) Districts;

(d) W-l, W-2, W-3, and CR Districts; and

(e) C-M-l, C-M-2, C-M-3, and M Districts.

I. Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, section 3104, SPECIAL EXCEPTIONS, is amended as follows:

1. Section 3104.1 is amended by making the following modifications to and insertions in its table:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Antenna for commercial TV or FM	Any R, SP, **or** CR District, **W-1, W-2, or W-3 Districts**	§§ 211, 514, 617, and 914
Antenna, other than commercial	Any R, SP, **or** CR **District, W-1, W-2, or W-3** Districts	§§ 212, 515, 617, and 914
Boathouse	**W-0 District**	**§ 918**
Bowling alley	CR, C-1, **W-1, W-2,** and W-**3** Districts	§§ 609, 709, and 908

Building service trades, including plumber, electrician, exterminator, and air-conditioning mechanic	CR, **W-1, W-2,** and W-**3** Districts	§§ 612 and 912
Community-based residential facility	Any R, SP, CR, C-1, **or** C-2 **District,** W-**1, W-2, or W-3** Districts	§§ 218 - 221, 303 - 306, 335, 357 - 360, 513, 616, 711, 732, and 913
Electric substation	Any R, SP, **or** CR **District,** W-**1, W-2, or W-3** Districts	§§ 207, 509, 608, and 907
Floating home	**W-0 District**	**§ 919**
Hospital or clinic	CR, **W-1, W-2,** or W-**3** Districts	§§ 606 and 906
Light manufacturing, processing, fabricating, or milling	CR, **W-1, W-2,** or W-**3** Districts	§§ 610 and 909
Marina	**W-0 District**	**§ 919**
Miscellaneous uses	CR **or** W Districts	§§ 618, 915**, and 922**
Natural gas regulator stations	Any R, SP**, or** CR **District,** W-**1, W-2, or W-3** Districts	§§ 207, 509, 608, and 907
Parking spaces – location of accessory spaces	Any District	§§214, 510, 708, 730, 743.2(d), 751.1(c), 761.2, 803.1, 824, **923.1,** and 2116.5 – 2116.9
Parking spaces – reduction or elimination for boathouses	**W-0**	**§ 923**
Public utility pumping stations	Any R, SP, CR, **or** C **District,** W-**1, W-2, or W-3** District	§§ 207, 509, 608, 707, 728, 743.2(b), 753.1, 761.2, and 907
Retail, service, arts and cultural uses as specified	**W-0 Zone**	**§ 922**
School - private school or trade school	W-**1, W-2, or W-3** Districts	§ 912
Telephone exchange	R-4, R-5, SP, CR**, W-1, W-2,** and W-**3 Districts**	§§ 332.1(b), 509, 608, and 907
Warehouse use	CR, **W-1, W-2,** and W-**3** Districts	§§ 611 and 910
Wholesaler use	CR**, W-1, W-2, and W-3**	§§ 611 and 910

	Districts	
Yacht club	**W-0 District**	**§ 920**

2. Section 3104.4 is amended by modifying the first line of its table to read as follows:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
College, university, or other academic institution of higher learning	Any R, SP, or CR Districts, or **W-1, W-2, or W-3** Districts	§§ 210, 507, 615, and 916

J. Chapter 32, ADMINISTRATION AND ENFORCEMENT, Section 3202.3 is amended to read as follows:

3202.3 Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Code, 2001 Ed. § 9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia. **Notwithstanding the foregoing, a building permit may be issued for a boathouse or marina to be constructed on a lot that is not a lot of record, provided that such lot fronts on a public body of water, is otherwise surrounded by public park land, and is zoned W-0.** Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Alberto Bastida, Office of Zoning, 441 4th Street, N.W., Washington D.C. 20001. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, March 13, 2003 @ 6:30 P.M. (2nd Case)**
Office of Zoning Hearing Room
441 4th Street, N.W. - Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 02-42 (Text Amendment – Waterfront (W-0) Open Space Zone District)

THIS CASE IS OF INTEREST TO ALL ANCs:

On October 18, 2002, the Office of Zoning received a request from the Office of Planning requesting text amendment to create a new W-0 Waterfront Open Space Zone District to District of Columbia Zoning Regulations, 11 DCMR (July 1995, as amended).

THIS APPLICATION IS FOR A TEXT AMENDMENT ONLY. No property is proposed to be rezoned W-0 as part of this application. Separate action by the Zoning Commission, including notices and separate public hearings, would be required to apply this zone to any property.

A summary of proposed uses and density of development is outlined below:

ZONE	Matter of Right Uses include:	Special Exception Uses include:	Height	FAR	Lot Occupancy
W-0	• boat construction on a temporary basis by a local community organization • park or open space • park, playground, athletic field operated by a local community organization • public dock, wharf or pier • swimming pool operated by a local community organization • temporary market for produce, arts, and crafts	• art gallery • artist studio • boat accessory sales • boat construction, rental, and sales • boathouse • fish monger • library • marina / yacht club • mass transit facility • museum • place of worship / church • private club • private or public theater • recreation building or use • restaurant • temporary fair, circus, carnival • ticket office • retail establishments	40 feet max.	0.5 max. .75 on lots used exclusively for boathouse, marina or yacht club	25% max. 50% on lots used exclusively for boathouse, marina or yacht club

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, and § 5-413 *et seq.*, D.C. Code, (1994 Repl.).

The public hearing on this case will be conducted in accordance with the provisions of section 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C., 20001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, JOHN G. PARSONS, JAMES H. HANNAHAM, AND PETER G. MAY---------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY ALBERTO P. BASTIDA, AICP, SECRETARY TO THE ZONING COMMISSION.