TESTIMONY OF AUTHUR DONAHUE

Capital Yacht Club
1000 Water Street, NW
Washington DC 20024

RE: Proposed W-0 Open Space Zone, Case 02-42

My name is Arthur Donahue, of the Capital Yacht Club in Washington, DC.

As a 111-year old historic institution on the Washington Waterfront, Capital Yacht Club must be maintained as part of our nation's maritime heritage.

Our lease with the DC government stipulates that the Capital Yacht Club must accommodate all boats and mega-yachts visiting the nation's capital. The agreement includes the fact that we must vacate our slips temporarily to make room for transients, In other words, the DC government made the Capital Yacht Club the city's transient boat slip management.

I am entering into the record an article from Chesapeake Bay magazine that documents the extent to which the Capital Yacht Club is a highly attractive tourist attraction that enriches the city. Mega-yachts travel from all over the world to use our club—top members of Congress are frequently entertained on these impressive vessels when they are moored at our state-of-the-art, environmentally-friendly facilities. And the public loves looking these boats over every bit as much as our members do!

Your proposed text amendment creating a W-0 Open Space Zone concerns us for a number of reasons. And there is no question that a December 2002 memo from the Office of Planning indicate intent to apply this new Open Space Zone to the SW Washington Waterfront.

We can see no reason why a low density W-0 Open Space Zone should be used in an area where it is clear that the proposed re-development of the SW waterfront will require a much higher density that currently allowed by the area's current zoning of W-0.

In essence, granting the Office of Planning and Zoning Commission absolute authority to grant (and possibly revoke) special exceptions in the SW Washington waterfront development is essentially the same as allowing spot

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zoning, a practice that is illegal for obvious reasons. Granting special exceptions achieves the same effect as zoning businesses on a case by case basis with no oversight and no public involvement. Such a situation can easily lead to abuse of the system and must be avoided.

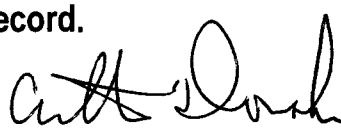
At a recent meeting of the Washington Waterfront Association a representative of the DC Zoning Commission explained that the proposed change to the regulations is a text change, not a map change. We were also told that a separate hearing would be required before the W-0 zone could be applied to any specific area.

If there is no proposal to apply the W-O zone in a specific area, why is it necessary for 11 DCMR 901.6 to establish a fixed definition for an existing business that is linked to having a Certificate of Occupancy or a Master Business License as of January 31, 2003? This creates a situation where a business can become subject to the W-0 Open Space Zone retroactively. DC Official Code 6-641.06a states that a lawful use of a building or premises pre-existing the adoption of a regulation is lawful. This language does not allow for retroactive application of a new zoning designation to an existing business.

Under the proposed regulations, any future reclassification of any portion of an existing waterfront zone to the W-0 zone would make the W-0 zoning regulations retroactive to any business that was established after January 31, 2003, even if the change in zoning occurred a year from now, 10 years from now or a hundred years from now. This is clearly inconsistent with the statute and existing regulations. The definition of an existing business must be linked to the date the area the business is located in is reclassified as W-0 Open Space Zone and not a date associated with this text amendment.

There are many concerns in the Washington Waterfront Community about the methods being employed here. The Capital Yacht Club represents a community that is deeply rooted in the Waterfront. Please rest assured that our community will be paying close attention to your future decisions, and in how you address our legitimate concerns.

Thank you for your time and attention and I would like all this entered into the record.



Arthur Donahue, Capital Yacht Club