GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

ZONING COMMISSION
District of Columbia
Case 02-42
Exhibit 50

D.C. OFFICE OF ZONING
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FURTHER INFORMATION REPORT

DATE: April 04, 2003

TO: District of Columbia Zoning Commission

FROM: Andrew Altman, Director OP

SUBJECT: Further Information Report for Zoning Commission **Case #02-42,** Zoning Regulation Text Amendments for the creation of a new W-0 Waterfront Open Space Zone District.

I. RECOMMENDED ACTION:

The Office of Planning (OP) recommends that this application for text amendments to the Zoning Regulations to create a new W-0 - Waterfront Open Space Zoning District, be adopted.

II. BACKGROUND

The Office of Planning is recommending the creation of new W-0 Zoning District text that may, in the future, be applied to appropriate sites on the waterfront, as detailed in the OP report dated February 28, 2003. The text amendments are intended to provide a low density, low intensity zoning option which would permit open space uses as of right, as well as specific waterfront-related recreation, retail, and cultural uses by Special Exception. No lands are proposed to be zoned W-0 as part of this application.

The proposed W-0 zone was set down on October 28, 2002, and the Public Hearing was held March 13, 2003. The Commission left the record open until April 04, 2003 for the receipt of additional information. At the Public Hearing, Commission members raised issues for clarification, and heard comments and received submissions from ANC 6D and a number of residents. This report briefly outlines these issues and provides preliminary OP response, for the information of the Commission.

III. ISSUES RAISED BY THE ZONING COMMISSION

§930.2 - OP recommended a maximum height of 25' for structures located over water, measured from "the normal high water mark along the shore directly in front of the building or structure". The Commission requested clarification of this means of measurement, and information regarding the extent of DC jurisdiction out over the water surface. OP has requested input from Department of Consumer and Regulatory Affairs (DCRA) and Office of the Corporation Counsel (OCC).

IV. PUBLIC COMMENTS

The Zoning Commission and OP staff have received verbal and written comments from ANC 6D and many concerned residents of the District. While cautious support for the concept of the zone was often expressed, many general concerns were raised regarding its possible future application. OP reiterates that the application is a text amendment only. Other than the two sites for which separate Zoning Commission rezoning applications have been made (Case #'s 02-30 and 03-06), OP has not identified any specific sites for future application of the W-0 zone. Other specific issues raised at the Hearing included the following:

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§901.6 – There was considerable confusion regarding the wording and the intent of this provision. Some members of the public indicated that it would provide for retroactive application of W-0 requirements to existing properties and uses. In fact, it would do the opposite. However, the wording may require clarification, and OCC will suggest alternate wording.

§905.4 – The Natural Resources Defense Council suggested a number of additional Special Exception review requirements. OP agrees with a number of these suggestions, as they would ensure that an appropriate level of information regarding existing site conditions and proposed changes are provided for Zoning Commission, staff and public review of the proposal. Additional submission information would consist of:

- a more detailed survey plan showing existing contours at two foot vertical contours; the 100 foot floodplain; all existing streams, wetlands, and water bodies, general drainage patterns; existing vegetation, and all existing disturbed areas;
- location, height, bulk, and design of all improvements, including buildings, pedestrian and vehicular access, parking, piers and wharves, berths, utilities locations, paved areas, culverts, storm water management systems, and bridges;
- grading plans showing any proposed alteration of the ground;
- a detailed description of storm water management; and
- project compliance with DC Flood Hazard Rules.

§905.5 – A suggestion was made to add additional PUD-type flexibility permitting Commission review of minor FAR, height, lot coverage, setback, and parking requirements. OP agrees that this would provide a more efficient review process.

§917.1 – OP had proposed a limit of 35% for floating homes within a marina. Some residents suggested that this limit be eliminated. OP agrees that this is a unique and desirable use on the waterfront, providing a resident population and security to the area. Temporary moorage spaces are also highly desirable uses for the broader DC community. New facilities would require Special Exception review, and OP agrees that the limit could be eliminated (allowing market conditions to determine the liveaboard ratio), or, alternatively, increased to a higher number such as 50%.

Questions were raised about the definition for "floating home"– OP's rationale for this definition is to provide constancy with a definition proposed by City Council in an amendment to the proposed Floating Homes Residency Tenancy Act, a Bill to amend the Rental Housing Act of 1985. OP continues to feel that the two definitions should be consistent.

§917.1 (y) Yacht Clubs: A number of specific concerns were raised with regards to the operation of a yacht club. Currently, there is no Zoning Regulation definition for this use, and it is not specifically listed as a permitted use – rather, it falls within the current "boat club or marina" definition, which is permitted in the W and CR zones. The Capital Yacht Club is concerned that, should they ever be required to move from their current location, new zoning regulations could be applied to them which could change the nature and feasibility of this DC waterfront institution. OP also wishes to ensure that there is a relatively level playing field, in that any future yacht club would be permitted uses similar to existing facilities. The following issues have been raised with the OP proposed wording:

- a yacht club (and a marina) would be required to be a minimum of 2 acres in size, the concern being that 2 acres of valuable waterfront property would make it difficult or impossible to establish new businesses. Because these are both Special Exception uses, OP agrees that this

size limit could be eliminated.

- A yacht clubhouse would be required to be located "*entirely on shore directly in front of the yacht club berths*". OP continues to believe that this is a reasonable consideration, but this regulation could be replaced with slightly expanded criteria by which Special Exception applications for these uses are reviewed; i.e. clause 905.3 (b) could be expanded to read "*All, boathouse, marina or yacht club buildings should be located entirely on shore directly in front of moorage berths*".
- a yacht clubhouse would be limited to "*exclusively for the use of the members of the yacht club*". The intent was to ensure that clubhouses not become "public halls" with functions that regularly require large parking areas in addition to that required by regular club members, and which generate large amounts of noise on a constant basis. However, wording such as "*primarily*" instead of "*exclusively*" may be appropriate, to provide for less frequent, special public events.
- temporary moorage of boats, an important function of the Capital Yacht Club, may not be permitted. OP has no concerns with an amendment to more clearly permit this, such as *"A yacht club may provide transient moorage spaces."*
- § 2101.1 parking - parking ratio (1 per 3 berths) for yacht clubs remain at the current 1 per 4 berths, similar to that of marinas (1 per 4 berths, plus one for beach liveaboard unit). The more customary distinction between a yacht club (social and boat storage, often requiring more parking) and a marina (principally boat storage) is, in practice, less clear in the District. Parking along the waterfront is not a preferred use, and the Commission would review parking amount and location as part of a Special Exception application for either of these uses. Parking for marinas in other jurisdictions tends to be 1 space for every one to two moorage spaces, so the current and proposed regulations are lower than the norm, but OP would have no major concerns with a 1 space per 4 moorage spaces for each type of facility.

§935 – OP proposed a 20' waterfront setback. Comments included ones to increase the setback significantly for environmental reasons and to provide adequate room for waterfront trails, as well as ones to eliminate the setback altogether, particularly in front of structures that require direct access to the water, such as a boathouse or marina, and for which security and safety requirements mandate that public access to the waterfront be limited. In addition, it was noted that these structures might be located on relatively narrow strips of land along the waterfront, making large setbacks impossible. OP suggests, for discussion, the following:

- no setback for a water-taxi waiting / ticket booth and for decks or other facilities directly associated with public docks or piers;
- a 75' waterfront setback for all other buildings and structures through which public access along the waterfront must be provided. This amount corresponds to the setback required in the Capital Gateway Overlay District, and provides a space for more meaningful waterfront access, protection from potential flooding, and water quality and shoreline protection or restoration.
- Special Exception review of any proposed waterfront setback of between 20' and 75', which would include evaluation of the form and extent of public access. A setback of less than 75' may be appropriate for uses such as a boathouse; the special exception review would ensure that waterfront impacts and public waterfront access issues could be addressed.

AA/jl