ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
ATTORNEYS AT LAW

ATLANTA
BOSTON
CHICAGO
LOS ANGELES
MINNEAPOLIS
ORANGE COUNTY
SAINT PAUL
SAN FRANCISCO
WASHINGTON, D. C.

SUITE 1200
1801 K STREET, N.W.
WASHINGTON, D. C. 20006-1301
TELEPHONE (202) 775-0725
FACSIMILE (202) 223-8604
TELEX 4931197 RKMC

ELLEN M. MCCARTHY
Director of Planning and
Land Use Services
(202) 736-2640

January 24, 1997

Ms. Madeliene Dobbins
Director
Office of Zoning
440 4th Street, NW
Washington, DC 20001

Re: Buzzard Point

Dear Ms. Dobbins:

On behalf of the Committee of 100 on the Federal City, I am pleased to submit the attached testimony regarding the proposed rezoning for Buzzard Point. We look forward to working with the Commission on this important matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Ellen M. McCarthy

EMM/

ZONING COMMISSION
CASE No. 96-3
EXHIBIT No. 76

Received 1/24/97

TESTIMONY OF ELLEN M. McCARTHY

ON BEHALF OF

THE COMMITTEE OF 100 ON THE FEDERAL CITY

OFFICE OF ZONING
DISTRICT OF COLUMBIA
97 JAN 24 P6:01

Good evening my name is Ellen McCarthy. I have a master's degree in City Planning from Harvard University and 23 years of experience in Planning and Zoning. I am currently the Director of Planning and Land Use Services for Robins, Kaplan, Miller & Ciresi and Chair of the Planning and Zoning Committee of the Committee of 100.

What we have tried to do with the slide show this evening showing the waterfront areas in other cities is to present a sense of what the possibilities could be for the Buzzard's Point area in Washington, D.C. As the Wallace, Roberts, Todd report which was done for the Federal City Council stated:

> "It literally represents a once in a lifetime opportunity to meet both District and Federal needs for offices, housing and open space."

The models for a vibrant waterfront area do not have to go as far afield as Seattle or Charleston, however. Right around us, Old Town Alexandria, Baltimore or even to a somewhat limited extent, Washington Harbour in Georgetown, show the exciting possibilities. I urge you all to visit the Old Town Alexandria waterfront area around the Torpedo Factory, see how one relatively compact area, roughly comparable in size to Buzzard's Point, there are moderate density office buildings (with the associations that have been stolen from the Washington, D.C.), market rate housing next to public housing mixed with recreational areas, bicycle paths, a major art entertainment facility (the Torpedo Factory), restaurants and food courts and major retail and eating establishments. The public spaces in that section of Alexandria are filled with people on the weekends and in the evenings and provide a model for the kind of vibrant street life that we could have in the Buzzard's Point area.

What we are talking about here is in the proposed re-zoning of Buzzard's Point is the creation of value for the property owners and the citizens of the District of Columbia, as well as the D.C. Government. The value which we can create is more than what can be accomplished by any single property owner acting individually. That value comes from the requirement for the waterfront setback that would, as the National Capital Planning Commission's Monumental Core Plan called for, create a path that could link the Washington Arboretum all the way around through the Southwest Waterfront and the Mall area and up to the Georgetown waterfront area. A second action which we are strongly endorsing, which would also create value in the area is the introduction of a major residential presence. The eyes on the street and the 24-hour vitality that would be generated by a substantial residential presence in the Buzzard's Point area would carry

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over into the office buildings, retail and other mixed usage that would be placed there. The Third action which creates value is the preparation of a plan, with incentives and strategies which investors could count on to establish the appropriate climate for new development.

SECTION 2: COMPREHENSIVE PLAN CONTEXT

So first we have given the overview of the opportunity that is possible here. Now I would like turn briefly to the context in terms of the Comprehensive Plan. Most significant, I think, among the local D.C. elements of the Comprehensive Plan is the designation of this section as a Development Opportunity Area. These are areas which have great development potential. They are required by the Comprehensive Plan to have an area plan done. While there has been quite a bit of planning activity in the Buzzard's Point area, there is no official area plan that has been done. It is also quite clear from looking at the previous planning efforts, both the Federal City Council study and the Buzzard's Point Planning Association study, that they were based on assumptions about levels of office absorption and market demand which definitely do not reflect the reality of the moment nor of the foreseeable future. As such, there is a clear need to do a realistic plan for the area, which includes an assessment of the retail, residential, entertainment and hospitality market.

In the Federal elements of the Comprehensive Plan, as the letter from the National Capital Planning Commission points out, there is a setback requirement of 150-200 feet from the natural waterfront area. This is a significant restriction in the Comprehensive Plan and must be addressed directly.

SECTION 3: RECOMMENDATIONS

Objectives. The Committee of 100 recognizes five important objectives for the Buzzard's Point area. They include:

1) create a lively attractive waterfront with public access along the entire length.
2) protect views of the water and of the Capitol dome and Anacostia across the river
3) create a 24-hour, mixed use area, with an emphasis on residential development
4) create a management entity to oversee development with representation from the District and Federal Governments as well as residents, civic groups and property owners
5) create a stable, predictable framework to maximize this asset.

I should note parenthetically with regard to objective number 5 that a number of those who are testifying before you have called for flexibility in the establishment of a regulatory framework for the development of Buzzard's Point so that property owners may be free to respond to the market. While we see some virtues in controlled flexibility, we see the situation quite differently. This is an area of the city with unbelievable potential, but it is an area that must

undergo substantial transformation in order to capitalize on its potential.

The only way to minimize the risk to possible investors and to create the stable, predictable development climate that those investors must have, is to develop a consensus planning document that is clear and straight forward about the need to change the usage in the area. The plan must provide both requirements for residential development and opportunities for the continuance of non-conforming usage, but within the regulatory framework which appropriately applies to non-conforming usage.

What we are recommending is essentially a two-phase approach. The first phase we would call basically the "do no harm approach" and that is very much in consonance with what the Office of Planning has proposed.

Let me add here that we wish to be highly complimentary to the work which the Office of Planning has done under almost impossible conditions. The proposed zoning reflects a very careful analysis of the objectives to be achieved and a recognition that the existing zoning does not accomplish those objectives. We would agree with the Office of Planning that the existing zoning needs to be changed as soon as possible.

What we would propose is a framework based on the clear objectives we have enumerated above. We would put this framework in place to protect the waterfront setback and to protect residential requirements in Buzzard's Point, but we would also explicitly recognize the need to take the time after putting those basic guarantees in place to develop a more comprehensive plan for the area.

The Committee of 100 recommends encouraging planned unit developments, especially along the waterfront sections in Buzzard's Point, in consonance with following the Comprehensive Plan requirement for the establishment of setbacks of at least 150 feet from the water's edge. At least within the section that the Office of Planning has proposed to be zoned W-2:

1) There should be a absolute minimum setback from the waterfront of no less than 75 feet
2) There should be a height limit of no more than 55-60 feet at the water and adjacent to Fort McNair.
3) Developers can achieve the minimum of setback of 75 feet but only if the planned unit developments demonstrate sensitive development in the section between the 75 feet minimum setback and the 150 feet that would be required in matter of right development. That sensitive development should include a substantial portion of residential uses, waterfront cafes, managed public spaces and other amenities which contribute to a lively waterfront area.
4) There should be public space maintenance agreements provided by the developers as part of the PUD application.

5) Commercial and residential developments must provide active usage at the street level such as sidewalk cafes, restaurants and active retail (restrictions on banks, travel offices, and other offices related retail similar to those proposed for the M Street corridor should also be in place on the retail along waterfront.

6). We would recommend the establishment of design guidelines. The Wallace, Roberts, Todd Report provides some detailed analyses of view corridor requirements both of the Capitol and of the waterfront.

We would also recommend mixed use zoning with a housing minimum in the areas that the Office of Planning has proposed to be zoned CR. The goal should be to aim for approximately 50% of the total development in Buzzard's Point to be residential.

Non-conforming usage should be strictly limited to discourage the expansion of existing PTE industrial type usage. If, after further analysis, the property owners can provide clear substantiation of the need for expansion,in order to invest in modern technology to make the existing usage more compatible with the type of development we wish to encourage along the waterfront, the Commission should examine either the establishment of an amortization time for non-conforming use investment as exists in some cities, or should recognize that the existing regulations with regard to non-conforming uses do permit property owners to invest in more modern equipment as long as the non-conforming uses are not expanded in size or scope or impact on neighboring properties.

Phase II of our recommendations would involve a more detailed study of the area. The Committee of 100 is willing to prepare grant applications to look for sponsorship for such a study. We have approached the General Services Administration which is willing to provide matching funds for such a study. We have also talked to the Federal City Council and The Office of Planning who would be willing to participate in such a study and of course we would expect to discuss such an undertaking with both property owners and residents as well.

Within this study we would expect to include a realistic assessment of possibilities for the establishment of a Tax Inclement Financing District and management entity for the area. In previous comments to a meeting sponsored by the local chapter of the American Planning Association, Mr. Braunholer stated that analyses JBG had done indicated a TIF could cover bulkhead shoring expenses, transportation infrastructure investment and housing subsidies, but of course that was based on a rate of return from investment predicated on a robust office market.

The planning effort should also include a detailed analysis of potential housing market segment and products. We need to know what type of housing market is attractive to an area like Buzzard's Point and are those market segments looking for townhouses? Are they willing to locate in high-rise housing? Are we talking about studios and efficiencies or are we talking about empty nesters who need a minimum of two bedrooms?

A third area which should be analyzed in any planning effort is a scenario about how to