

The Committee of 100

on the Federal City



October 12, 2020

Dear Chairman Hood and members of the Zoning Commission,

We are writing to object, in the strongest terms, to your letter of August 5, 2020 to Chairman Mendelson and the Council of the District of Columbia (attached.) We believe the letter crosses the bounds of propriety for an adjudicatory body.

The letter inquires into the status of Council consideration of the Comprehensive Plan amendment legislation. It goes on to state that there is a “backlog” of pending zoning cases awaiting Council approval of the Comprehensive Plan (Bill 23-736), complains that the Council’s “delay is having a negative effect on our process” and that it’s “imperative that the new Comprehensive Plan is finalized for use in making our decisions”, and states that several proposed Comprehensive Plan Land Use map and policy amendments “are needed to counteract adverse decisions by the D.C. Court of Appeals... .”

Your interest in the timing of Council action on this pending legislation is legitimate. But your letter is an intervention in the Comprehensive Plan process, explicitly seeking passage of the draft Comprehensive Plan to provide the Zoning Commission a preferred basis for resolution of cases before it now. That is grossly inappropriate for the following reasons.

First, your letter assumes that the Council will merely adopt the Mayor’s proposed amendments to the Comprehensive Plan, although the Plan will be the subject of further hearings in November and is subject to numerous requested amendments from citizens and organizations. The Home Rule Act confers sole authority on the Council to determine the content of, and to enact, this legislation.

Secondly, by this intervention the Chairman is prejudging the outcome of cases pending before it, in disregard of the obligatory guarantees of due process in the Administrative Procedure Act and the Zoning Commission’s own regulations. It thus casts serious doubt on the integrity of the Commission’s adjudicatory process.

Finally, your letter states that swift passage is needed because certain cases are “in limbo” because of the absence of the proposed Plan. On the contrary, the District has a complete Comprehensive Plan that will continue to have the force of law until such time as the Council approves a new Plan. That is the law that the Zoning Commission is obligated to apply.

In sum, the Zoning Commission must not, as it has in this letter, seek to shape the Comprehensive Plan to accommodate cases pending before it, whether to evade the impact of decisions of the Court of Appeals or for any other reason.

For the above reasons, we ask you to withdraw your August 5th letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kirby Vining".

Kirby Vining, Chair, Committee of 100 on the Federal City

CC: D.C. Council Chair and Council Members

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



August 5, 2020

Via E-Mail

Chairman Phil Mendelson
Council of the District of Columbia

Re: Comprehensive Plan

Dear Chairman Mendelson:

I want to thank you and your fellow Councilmembers for all of the hard work you do and the support you have given the Zoning Commission and the Office of Zoning over the years. I want to especially thank you for your continued community engagement during the Covid-19 pandemic.

On behalf of the Zoning Commission for the District of Columbia, I am writing to inquire as to when the pending Comprehensive Plan amendment legislation (Bill 23-736) is anticipated to be scheduled for publication hearings and consideration by the Council. I am sure you are aware that there is a backlog of zoning cases that are in limbo until the Comp Plan is approved. In particular, several updates to the Comp Plan, including proposed Land Use map and policy amendments, are needed to counteract adverse decisions by the D.C. Court of Appeals in zoning cases which support small area plans, land use dispositions, or other policies previously approved by the Council. Therefore, it is imperative that the new Comp Plan is finalized for use in making our decisions.

I know a lot of diligent efforts have been put into the Comp Plan by the Council, the Office of Planning, and the public, so I am not trying to rush your process, but the delay is having a negative effect on our process. It would be greatly appreciated if you could advise the Zoning Commission on the status of the Comp Plan at your earliest convenience. If you have any questions, or I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Anthony J. Hood
Chairman

cc: All Councilmembers