The Committee of 100 on the Federal City

November 13, 2025

Re: Case 25-12 (Group 6)

To: Chairman Hood and Members of the Zoning Commission

Below are the Committee of 100's comments on the proposed text amendments to be discussed at the Zoning Commission's Public Hearing on November 13, 2025. At the hearing, Laura Richards will be testifying for the Committee of 100. Please contact Ms. Richards if you have any questions (202-285-2654; lmmrichards@gmail.com).

21. Align Zone Descriptions with Comp Plan Classifications Subtitle G§101

Brief Summary of OP's Proposal.

OP proposes to amend the description of the MU-4, MU-5, and MU-7 zones "to be consistent with the land use descriptions of the Comprehensive Plan." Specifically, OP proposes to amend the definition of MU-5, which the regulations now define as "medium" density, to "moderate" density. It proposes amending the description of MU-7 from "medium density" to "moderate to medium density." OP also proposes amending the definition of the MU-4 zone from "moderate density" to "low to moderate density.

Committee of 100 Comment.

These proposed amendments reflect a long-standing problem with Comp Plan Framework Element section 227, which purports to describe residential and commercial densities, and suggests representative zone classifications for each. In fact, section 227 blurs the distinctions among land use descriptions. The proposed amendments do not clear up this problem and in fact create more confusing ambiguity.

C100 questions why OP proposes changing these zoning definitions now, when it has already begun work on a new Comprehensive Plan based on "form-based" zones. The new plan, which apparently will be radically different from what we have now, may make Comp Plan section 227 obsolete.

The proposed amendments create three overlapping zones:

- Low-moderate density – MU-4
- Moderate density – MU-5
- Moderate-medium – MU-7.

The amendments change zone descriptions but apparently do not affect development standards. A Comp Plan designation of moderate density could result in a development anywhere from 50 to 75 feet, and 2.5 to 4.8 FAR, depending on which of these overlapping zones is applied. If a parcel is designated on the FLUM as "moderate density" and then zoned as MU-5, it could face a maximum development envelope of 3.5 to 4.2 FAR, and heights of 65 to 75 feet.
That is a very different envelope from the one established under MU-4 (also moderate density), under which heights are capped at 50 feet and FAR is capped at 3.0. Similarly, the MU-7 zone authorizes a FAR range of 4.0 to 4.8 and heights up to 65 feet. Does the upper range of MU-7 apply only when applied to a medium density FLUM parcel?

However, the amendments contain no guidance for applying them in a particular neighborhood context. The amendments incentivize additional height and bulk, regardless of what a community might want. These changes will exacerbate confusion, contrary to the stated intent of OP's proposals.[1]

The looseness of Comp Plan section 227 was one of the most hotly contested provisions of the 2021 Comp Plan amendments, as the Commission and OP are very much aware. The ensuing uncertainty was foreseen. **The regulations and the Zoning Handbook[2] bring a measure of predictability by designating MU-3 as low density, MU-4 as moderate and MU-5 and MU-7 as medium. Because the new Plan is underway, we again urge the Commission to leave the regulations alone until the new Plan is in place.**

22. Penthouse Height Limit in MU/CAPZones Subtitle G sec. 403

Brief Summary of OP's Proposal. OP is proposing to amend the penthouse height limit for these zones to be consistent with the provisions of other low/moderate density mixed use zones.

Committee of 100 Comment. Heights in the Capitol Hill Interest Zone, which is included in the Capitol Hill Historic District, are capped at 40 feet, plus 10-foot penthouses. OP proposes to

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[1] **MU-4.** OP also proposes to amend the definition of the MU-4 zone to change the description of MU-4 from "moderate density to "low to moderate density."[1] Subtitle G sec. 101.9. OP seeks the change to conform the zoning description to Comp Plan Framework section 227.10, which states that in a "low density commercial FLUM designation" both MU-3, MU-4, "and other zones" may apply.

It is unnecessary to amend MU-4 because the Commission already has created an intermediate zone. In 2018, while the Framework Element was being drafted but was not finalized, the Zoning Commission created an intermediate zone between MU-3 and MU-4, which obviates the need for OP's proposed amendment. See ZC 18-06, creating MU-3B and designating existing MU-3 zones as MU-3A. Prior to 18-06, MU-3 zones had a total permitted FAR of 1.0 (1.2 with IZ), and MU-4 had a maximum FAR of 2.5 (3.0 with IZ). Any development over 1.0 automatically went from MU-3 to MU-4. Thus, there was room to apply MU-4 to developments exceeding 1.0. Case 18-06, however, filled in the gap by creating MU-3B, which applies to development with an FAR of 2.0 (2.4 with IZ). While normal rules of statutory construction would presume that the Council was aware of MU-3B's creation, that is questionable because there is no mention of it in any subsequent Comp Plan documents and it still appears not to have been fully mapped.

[2] The Handbook is not authoritative but is nevertheless widely used.

allow 15-foot penthouses, to facilitate residential development and elevator overrides. When residential penthouses were authorized, C100 advocated for the 10-foot limit, contending that a 15-foot penthouse on a 40-foot building was incongruous and injurious to the historic design. Nevertheless, we take no position on this amendment. The Architect of the Capitol will have a say, and a very engaged community has weighed in, and should be given controlling weight in this instance.

23. Window Separation Criteria in MU Zones and D Zones
Subtitles G sec. 207.14 and I sec. 205.5

Court Special Exception Relief in D Zones Subtitle I sec. 207

Brief Summary of the Window Separation Proposal. OP's proposed amendments would, in all Mixed Use and Downtown zones, **repeal the minimum required distance between windows** in one building from windows in another facing building, provisions designed to assure privacy, light and air.

Committee of 100 Comment.

The Committee of 100 asks the Commission to retain the mandatory minimum distance. Those most likely to be adversely affected by inadequate distancing – apartment dwellers – may not know a new building is going up until construction is underway virtually under their noses. OP overlooks the fact that the existing rules impose a mandatory minimum distance *before* undue burden is considered and explicitly states that the minimum distance cannot be reduced by special exception.

Section 207.14, for MU zones, states:

> Relief from the rear yard requirements of Subtitle G § 207 may be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:
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> 1. (a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;
> 2. (b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;
> 3. (c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;
> 4. (d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; ….
>
> ….

https://online.encodeplus.com/regs/washington-dc/doc-viewer.aspx#secid-9581.

OP proposes to repeal subsections 207.14(a)-(c) and begin with what is now subsection (d). It also proposes to repeal identical language in Subtitle I sec. 205.5(a-3) for D zones. OP asserts

that the language is unnecessary because if the Board of Zoning Adjustment (BZA) is faced with a special exception application from rear yard requirements, it has to consider whether granting relief will unduly burden neighboring properties. Subtitle X sec. 901.4. The BZA can consider window spacing in that context, and can impose screening and lighting requirements, if desirable, OP asserts.

That is insufficient. OP seeks to make a legal standard – adverse impact – do the work of a concrete substantive standard, i.e., 40 feet. Absent any concrete reference point, adverse impact is wholly subjective.

The BZA often determines whether adverse impact exists based on opposing statements from affected neighbors. However, notice of an upcoming zoning action is given to a building owner or manager, who may have little interest in protecting tenants' air space and privacy, or advising them of their right to object. The amendment applies in all MU zones across the city. Tenants, especially those in lower income neighborhoods, are most likely to be adversely affected and the least likely to hear about and participate in a BZA hearing. As more housing is built in Downtown zones, privacy protections are needed there as well. The Commission also should consider the situation of MU-3 zones that back onto R zones. Minimum distancing helps create the required buffering between those zones.

OP calls the rules it seeks to repeal "complicated and overly specific." It notes that the "the provisions are generally carried forward from the ZR-58 regulations (Sections 534 and 774)," suggesting without evidence that this was error or oversight. It is more likely that the provisions were retained to protect neighbors.

The bigger picture. Strong protections for light, air and privacy have become more important with the executive branch's move to increase density in all neighborhoods and make more development standards either matter of right or subject to the discretion of the Zoning Administrator. As the Committee of 100 has said regarding other proposed amendments, OP is increasingly oblivious to quality of life issues and the overall appearance of the city. Proposals to allow 16-foot rear additions to rowhouses and 1200 square foot ADUs come to mind. <u>The Commission should not allow OP to keep chipping away at the zoning code in a fruitless effort to create affordable housing through density</u>.

Court Special Exception Relief in D Zones Subtitle I sec. 207

When OP issued its revised report for the six-hearing format, it emphasized that it made only one change to the text since setdown, the addition of an amendment allowing applicants to seek relief from courts in the Downtown zones by applying for a special exception rather than an area variance, which is a higher burden. The amendment was requested by Goulston & Storrs, which also asked for a number of other substantive changes.

The Committee of 100 has no objection to the substance of this amendment. Although it was not noticed to the public when the amendments were introduced, we view the change as a minor

technical amendment permissible under administrative procedure principles. OP appropriately declined to adopt the firm's other requests.

24. Designated Uses in Neighborhood Mixed-Use Zones

Brief Summary of OP's Proposal. OP proposes to add "daytime care" use as a "designated use" in the Neighborhood Mixed Use (NMU) Zones.

SCOPE – Would apply to any Neighborhood Mixed Use zone, found in many parts of the city along commercial mixed-use corridors.

Committee of 100 Comment. The Committee of 100 has reviewed this proposal and takes no position for or against it.