



February 2018

## TAKE ACTION

### ***OPPOSE Mayor Bowser's Bill to Radically Change DC's Comprehensive Plan to Favor Developers Over Residents***

Mayor Muriel Bowser has submitted legislation to the DC City Council to amend the Framework Element of the DC Comprehensive Plan, the city's most important land use law. The bill strips citizens and their elected Advisory Neighborhood Commissions (ANCs) from effectively challenging development projects. The DC City Council will hold a hearing on *B22-0663 Comprehensive Plan Framework Amendment Act of 2018*, a.k.a. ***The Developer's Wish List Act***, on March 20, 2018 at 2:00 PM at City Hall. (Bill text: <http://lims.dccouncil.us/Download/39567/B22-0663-Introduction.pdf>)

The legislation, which removes certainty about the range of authorized future development citywide, was sent to Council before the Office of Planning provided the public and ANCs with a promised 60-day comment period. The Mayor's bill would radically alter the Plan's legally binding Framework Element:

1. It would permit more density and greater commercial development in residential neighborhoods. Current definitions of building height and allowable density would be *redefined* to permit unpredictable higher height and density. For example, new limits for moderate density would equal the current higher medium density limits; and the new medium density would equal current high-density.
2. It replaces *definitions* in the current Plan with *fuzzy descriptions* and loose terms that developers and the ZC could interpret freely. The phrase "**not exclusively**" appears throughout the descriptions and renders them virtually meaningless.
3. The Generalized Policy Map and the Future Land Use Map (FLUM) would no longer provide the predictability or clarity that residents rely on to make decisions.
  - Zones for each land use category are for "**broad guidelines**" ... "**not intended to be strictly followed**" and are "**intended to be 'soft edged.'**"
  - "...boundaries on the map are **generalized and are** to be interpreted in concert with other sources, as well as the...**context** of each location shown."
  - **Each land use category includes a brief description... a reference to the areas for which the category is generally, but not exclusively, suited.**
4. The Mayor's proposed legislation fails to force land use decisions that will address the city's serious income divide, unemployment, displacement and lack of affordable housing. Instead, it focuses on preventing residents from meaningful participation in land use decisions.

***The Developers' Wish List Act*** would make recent successful challenges of ZC rulings before the Court of Appeals all but impossible because the standards for land use decisions would be so vague that neither the ZC nor the Board of Zoning Adjustment (BZA) could hold developers to any standard. **Together we must demand a revised Plan that is good for everyone in the city.**

**TAKE ACTION:** Contact your ANC and your Council Members immediately. Sign up to testify on **Tuesday, March 20 @ 2:00 PM** at the Wilson Building, 1350 Pennsylvania Ave., NW, Room 500 by contacting [cow@dccouncil.us](mailto:cow@dccouncil.us) or calling Sydney Hawthorne at 202-724-7130 and provide your name, address, telephone number, organizational affiliation if any and title by COB Friday, March 16, 2018.

## *More About DC's Comprehensive Plan and the Mayor's Proposed Changes*

**The DC Comprehensive Plan:** (See current Comp Plan at <https://planning.dc.gov/page/comprehensive-plan>), The Comp Plan has three parts: (1) a Framework Element (FE) setting out economic and demographic data and setting overall goals for the city's future; (2) citywide elements for urban design, housing, environment, transportation, economic development, etc.; and (3) area elements for each geographic area of the District. Since the FE guides the rest of the plan, watering down the standards and definitions in the FE with pro-developer provisions will block pro-neighborhood policies regarding the citywide and area elements. The Plan is intended to provide certainty for home and business owners by directing where and how much development is good for the city. Last updated in 2011, the Plan is the most important land-use law in the city. Zoning regulations, the Zoning Commission (ZC) and the Board of Zoning Adjustment (BZA) must follow the Plan.

The Future Land Use Map (FLUM) is part of the adopted Comprehensive Plan and carries the same legal weight as the Plan document itself. The current maps show how the District is developed and where and what kind of changes we envision. Most importantly, it identifies *what we want to preserve and protect*. The General Policy Map and the FLUM are law (<https://planning.dc.gov/page/district-map-library>). Decisions *must "not be inconsistent" with these maps*. The proposed language in the FLUM **generally depicts** public policy for future land uses across the city and **is intended to be used in concert with the Comprehensive Plan policies and actions as well as direction from approved small area plans**. Preparation of this map is explicitly required by DC law; its purpose is to represent the land use policies set forth in the proposed Land Use Element, using standardized colors for planning maps, but *the Mayor's proposed language eliminates the requirement to color code the maps*.

**The Mayor, the Office of Planning and pro-development advocates want to change the Comp Plan to prevent residents from being heard, thereby greasing the process for unchecked development.** Recently, by relying on the Comp Plan, neighborhood residents have successfully challenged ZC decisions before the Court of Appeals when they felt the ZC ignored them by dismissing the Comp Plan policies. (For example, see: *Friends of McMillan Park v. DC Zoning Comm'n et al.*, December 2016. [www.caselaw.findlaw.com](http://www.caselaw.findlaw.com)) In response to these successful court cases, Section 227 of the Mayor's bill includes an entirely new section devoted to the broad authority and flexibilities available to the ZC.

**Definitions are fundamentally changed to vague "descriptions."** *Stories* (or floors), a term people understand, is deleted and number of feet substituted in its place. *Medium density residential* currently limits mid-rise apartment buildings to 4-7 stories; the Mayor's bill deletes the 4-7 story limit and there is no height maximum. *High density residential* currently limits high-rise apartment buildings to a max of 8 stories; the Mayor's bill deletes the limit on stories and no height limit is specified. The Mayor's list of zone districts that are compatible with medium density include zones permitting heights of 90 feet as in the high density residential designation. For *commercial zones*, the Mayor has replaced the number of stories with building heights in feet by stating that PUDs (Planned Unit Developments) can be taller, a move that will insulate the ZC from appeals based on excessive height. Further, the restriction that *high density commercial* (over 90 ft.) be limited to downtown has been removed, permitting this designation to apply in other parts of the city. *If these changes are allowed in the Comp Plan, the ZC will begin to approve significant up-zoning in medium density areas that will permit matter of right projects. Anything Goes; Challenges Will Fail.*

Neighborhood Conservation Areas, a category on the Generalized Policy Map, are areas intended to conserve and enhance established neighborhoods; currently, if these areas are also low density residential areas, only limited small scale development is permitted. The Mayor's bill changes that definition to **encourage the conservation and enhancement of existing neighborhood character while not precluding new development, redevelopment or alteration**.

### **The consequences of major policy changes are unexamined.**

- The Mayor's bill projects the District's population to increase from 693,000 to 1 million by 2045. Yet there is no discussion of the impact on infrastructure, transportation or quality of life.
- The bill promotes affordable housing in **residentially-compatible industrial areas** that currently require substantial buffering to protect uses such as housing. What specific criteria does the Mayor propose to ensure that this policy does not become economically and physically discriminatory?