



**BEFORE THE ZONING COMMISSION  
OF THE DISTRICT OF COLUMBIA**

**CASE NO. 22-36**

**APPLICATION OF WMATA AND TM ASSOCIATES, LLC**

**STATEMENT IN OPPOSITION**  
*of the* **COMMITTEE OF 100 ON THE FEDERAL CITY**

The Committee of 100 on the Federal City (C100) appears in opposition to this application because of its patent noncompliance with the Comprehensive Plan, as amended in 2021, and with the associated Rock Creek East Area Plan and the Takoma Central District Plan (hereafter Small Area Plan or SAP). Approval of this application in its current form will deal a serious blow to the principle of adapting infill development to the surrounding neighborhood. The proposed multi-family building at the Takoma Metro Station simply is too tall for the location.

It is important to note at the outset that calls to preserve neighborhood character in this case are not a proxy for other motives. In Takoma Park,<sup>1</sup>

- There is no history of exclusion to correct.
- There is no objection to greater income diversity.
- There is considerable existing density and there is no entrenched objection to additional density.

In fact, no objection has been made to the having a multi-story, multifamily building on the site, provided that its height, design and massing are not inconsistent with the neighborhood. The 2021 amendments to the Comprehensive Plan specifically addressed neighborhood character and made clear that preserving “the sense of place” manifested in distinctive communities remains an important planning and development goal.<sup>2</sup> As the opposing neighbors have demonstrated, the

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<sup>1</sup> The names “Takoma” and “Takoma Park” are used interchangeably by many residents, although some have a strong preference “Takoma.” The abutting Maryland neighborhood is officially named “Takoma Park.”

<sup>2</sup> Washington is a city of distinctive neighborhoods. The terms “neighborhood character” and “historic character” are used extensively in the Land Use Element and other elements. Neighborhood “character,” however, has been a term associated with exclusion and discrimination by race, income, religion, and other categories. As used in the comprehensive plan, neighborhood “character” and historic “character” reflect the sense of place defined by neighborhood architecture, visual landmarks and vistas, streets, public spaces, and historic or cultural places; for instance, the differences between the Anacostia and Bloomingdale neighborhoods.

applicant's<sup>3</sup> goal of increasing the housing supply and including a significant percentage of affordable housing can be achieved while preserving Takoma Park's special sense of place. In these circumstances, approving the project in its current form is unwarranted.

**The Comprehensive Plan supports a shorter building.**

The Comprehensive Plan establishes a range of potential zones for each land use category and states further that "other zones may apply." The 2021 Plan amendments changed the metro station's land use designation from moderate to medium density, which states that buildings of 4-7 stories are typical of the category.<sup>4</sup> The former moderate density designation is typified by 2-4 story structures, rowhouses and small apartment buildings. The land use change presented the city with a significantly enlarged development envelope without the need to jump to a 76-foot building that appear will look like a 90-foot building from most vantage points.

The Commission has almost unfettered discretion in applying land use categories and considers all factors in determining appropriate zoning densities. Nothing prevents the Commission from deciding that the facts, circumstances and history of the Takoma Park metro site call for a building in the lower range of the medium density land use category or the upper end of the moderate density category.

The facts and circumstances here that warrant a lower height and density include:

- the Takoma Small Area Plan;
- the neighborhood's history of embracing racial diversity;
- the distinguishing features of the Takoma Park Historic District; and
- the neighborhood's history of accommodating density at lower heights.

The Comprehensive Plan explicitly endorses the Takoma SAP and places a priority on preserving the small-town character of Central Takoma. See Rock Creek East Area Element.<sup>5</sup> Consequently, the application is inconsistent with the Comprehensive Plan.

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10-A DCMR 304.6 (Land Use Element Policy Supporting Growth).

<sup>3</sup> This application was filed by WMATA and TM Associates, LLC ("EYA"), collectively the applicant.

<sup>4</sup> The Plan defines "Medium Density Residential" as thusly:

This designation is used to define neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone districts are generally consistent with the Medium Density designation, although other zones may apply. 225.5.

10-A DCMR 225.5 (Framework Element).

<sup>5</sup> Policy RCE - 2.1. The Historic Preservation Element of the Comprehensive Plan also provides that new construction in an historic district is permitted if the construction is compatible and in scale with the historic context. Policy HP-2.5.3. The application violates this principle.

## Takoma Small Area Plan

The 20-year-old Takoma SAP documents and celebrates the neighborhood's small town, close-knit feel, achieved in part through its low- to-moderate height buildings. Notably, it is also a fairly dense neighborhood, with a longstanding mix of multifamily buildings and an eclectic retail area with locally owned, non-chain store businesses, such as a bead store on the ground floor of a mid-rise apartment building. The 2021 Comp Plan Amendments, far from superseding the SAP, acknowledge its continued vitality and its importance as a guide to future development. The Commission cannot ignore the plain language of a durable SAP *whose* force of law has been recognized and confirmed by the DC City Council as recently as two years ago. See *Durant v. Dist. of Columbia Zoning Comm'n*, 65 A.3d 1161 (D.C. 2013) (striking down a proposed development whose FAR exceeded the height and density allowed under the applicable small area plan) (*Durant I*).

The applicant in *Durant* blatantly ignored the Brookland Small Area Plan by doubling the FAR. The applicant in this case, while nominally within the letter of the medium density category, is no more compliant because of the way it has designed the building within this category. The applicant was not entitled to ignore the elements of Takoma's neighborhood character that the Plan states are relevant to development. The architectural features, height, massing, etc. – all of which the Plan says constitute preservation-worthy “character” – are not entitled to a lesser degree of enforcement simply because they lack the easy-to-measure yardstick of FAR. Nor does the laudable goal of increasing the housing supply override every other consideration. As the court held in *Durant III* (rejecting the overlarge project for the third and final time):

[W]e generally defer to the Commission's interpretation of the zoning regulations and their relationship to the Comprehensive Plan.” *Howell v. District of Columbia Zoning Comm'n*, [97 A.3d 579, 581](#) (D.C.2014) (brackets and internal quotation marks omitted). We do not defer, however, to an agency interpretation that is unreasonable or contrary to the language of the applicable provisions. *E.g., Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, [642 A.2d 125, 128](#) (D.C.1994).

139 A.3d 880, 881 883 (D.C. 2016).

Appropriate consideration of the SAP and the Rock Creek Park East element compel rejection of this project in its current configuration.<sup>6</sup>

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<sup>6</sup> The submission of Historic Takoma, Inc. on this point is so comprehensive and eloquent that it bears reiterating:

What, then, is the proper “synthesis” of a FLUM designation of “Medium Density Residential” for the Project area, and the RCE-2.1.1 Policy of recognizing and respecting the “small-town ambiance” of Takoma Park. Particularly considering the size and scale of development in the vicinity of the Project, the updated Plan’s acknowledgement of the small-town ambiance of Takoma, and the need for infill development to “[a]void overpowering contrasts of scale and height” with “the surrounding neighborhood,” Policy UD-2.2.5, the Commission should reject, if only for this Property, the Applicant’s attempt to characterize its massive building of over 11

## History of Racial Equity and Economic Diversity

As noted above, opposition to density and affordable housing often is characterized, fairly or not, as a coded attempt to avoid racial and economic diversity. That is not true of Takoma Park, which has worked affirmatively for at least 65 years to achieve and maintain such diversity, organizationally through Neighbors, Inc., and on an individual basis through decades of interpersonal relationships. These facts much be included in the Commission's racial equity analysis to the same extent that a history of de jure and de facto segregation have been relevant in other areas. Also important is the cross-racial *economic* diversity. Some neighborhoods, particularly those in gentrifying areas, have a stark income imbalance that makes social integration difficult and drives out many African-Americans. Takoma is home to affluence and straitened means across racial boundaries, and residents from all income strata contribute to its substantial reservoir of social capital.<sup>7</sup>

Takoma's history of mutual inclusion – which operates without condescension or grudging tolerance – must be accorded significant weight in the Commission's racial equity analysis. A fair look will make manifest that this project will play no role in opening up the neighborhood to historically excluded groups. They already are there. The Commission can decide this case on height, massing and building design, and the compatibility of those features with the SAP.

## Takoma Park Historic District

This matter is now before the Historic Preservation Review Board. At a hearing last week, Board members raised some concerns with the proposed structure. We recommend that the Zoning Commission defer consideration of this application until receiving final guidance from the HPRB. The Zoning Commission is required to consider whether the applicant has complied with historic preservation law and principles, and the requirements of specific historic districts. The Commission also must consider whether the urban design of the project is compatible with the historic fabric. Final Zoning Commission action at this time puts “the cart before the horse.”

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acres of GFA, fully exposed on all sides, and rising to over 90' for most of its facades, as what the FLUM envisioned here. The FLUM also notes that taller buildings may be appropriate under this category, but only if they are “surrounded by large areas of permanent open space.” Id. That is decidedly not the case here. This building would not be shielded from view on the nearby streets and sidewalks by the permanent vegetation of a large area of open space. And it is anticipated that there will be a large volume of coming and going pedestrian traffic for both the Metro stop and the retail area. In other words, this is not a case where the significance of the bulk and height of the building are ameliorated by a well-buffered location; it will be in plain view all the time, on all sides, by every pedestrian and vehicle that touches or passes by the location.

Historic Takoma, Inc. statement in opposition at 6.

<sup>7</sup> See, e.g., <<https://www.culturaltourismdc.org/portal/web/portal%20/neighbors-incorporated-site-african-american-heritage-trail>> (history of Takoma Park's diversity commitment).

## **Existing and Planned Density in Takoma**

While Takoma has a small-town atmosphere, it is by no means sparsely populated. Residents live cheek by jowl with each other, a two-block stretch of Blair Road contains single family houses, the 145-unit Gables apartment building, and a low-rise condominium complex (one of several multifamily complexes, including at least one that is 100 percent affordable). It has mixed residential and commercial uses for. Takoma Park is home to the District's first co-housing residence. Neighbors, Inc. has produced a list of more than 600 additional units built on in the development pipeline over the last decade.

The neighborhood has accomplished all of this within its small-town envelope. Indeed, it undoubtedly has succeeded because of its conscientious stewardship of its assets.

## **Conclusion**

For all of the foregoing reasons, this application should be denied in its current form and sent back for redesign in a manner consistent with the Plan and the neighborhood.

Thank you for the opportunity to comment.

Committee of 100 on the Federal City

/s/ Laura M. Richards

Co/chair, Zoning Subcommittee

*Lmmrichards@gmail.com*