

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

APRIL 6, 2023

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at (time not specified) EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
PETER G. MAY, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on April 6, 2023.

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T A B L E O F C O N T E N T S

Case No. 22-23

NHP Foundation 12

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P-R-O-C-E-E-D-I-N-G-S

(4:30 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is April the 6th, 2023. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood. I'm joined by Commissioner May and Commissioner Imamura, also Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations, also our Office of Zoning legal division, Ms. Lovick. And I again want to thank everyone. We are starting 30 minutes late because of a quorum issue and I appreciate everyone's patience. The virtual public hearing notice is available on the Office of Zoning's website. This proceeding is being recorded by a court reporter and the platforms used are Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing. All persons planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of signup, all participants will complete the oath or affirmation required by Subtitle Z 408.7. Accordingly, all those listening on Webex or by phone will be muted during the hearing, and only those who have signed up to participate or testify will be unmuted at the appropriate time.

When called, please state your name before providing your testimony. When you are finished speaking, please mute your audio. If you experience difficulty accessing Webex or with your

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1 telephone call-in or have not signed up, then please call out OZ
2 hotline number at 202-727-0789. If you wish to file written
3 testimony or additional supporting documents during the hearing,
4 then please be prepared to describe and discuss it at the time
5 of your testimony.

6 The subject of this evening's hearing is Zoning
7 Commission Case No. 22-33, NHP Foundation and Elm Gardens, owner,
8 LLC, map amendment at Square 3351, Lot 12, 750 Eastern Avenue,
9 N.W. Again, today's date is April the 6th 2023.

10 The hearing will be conducted in accordance with
11 provisions of 11 Z D.C.M.R. Chapter 4 as follows: preliminary
12 matters; applicant's case, the applicant has up to 60 minutes;
13 report of other government agencies; report of the Department of
14 Transportation; and then we'll hear from the Office of Planning;
15 report of the ANC; testimony of organizations and individuals,
16 organizations five minutes, individuals three minutes; and we
17 will hear in the order of support, opposed, or undeclared; then
18 we'll have rebuttal on closing by the applicant.

19 Again, the Office of Zoning hotline number for any
20 concerns are 202-727-0789. At this time, the Commission will
21 consider any preliminary matters. Does the staff have any
22 preliminary matters?

23 MS. LOVICK: Excuse me. I just wanted to make one
24 clarification. The Applicant had clarified at the last hearing
25 that it's actually Lot 813. Yeah, it's Lot 813, not Lot 12,

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1 that this application involves.

2 CHAIRPERSON HOOD: Okay.

3 MS. LOVICK: Just want to correct that.

4 CHAIRPERSON HOOD: Thank you. So noted. Anything
5 else?

6 Ms. Schellin?

7 MS. SCHELLIN: Yes.

8 CHAIRPERSON HOOD: Okay.

9 MS. SCHELLIN: Are you done, Ms. Lovick?

10 MS. LOVICK: Yes, I'm done.

11 CHAIRPERSON HOOD: She made the correction, so it's so
12 noted.

13 MS. SCHELLIN: Okay. So the first preliminary matter
14 is a request for party status in opposition from Jeremi Jones, a
15 resident at Eastmont Cooperative. There was opposition filed by
16 the Applicant at Exhibit 39. The Applicant's opposition states
17 that they feel that the request is untimely based on the original
18 hearing date, and that there's no -- that the party status request
19 is -- it does not offer enough explanation for why party status
20 should be granted, and that also Mr. Jones is only requesting
21 five minutes to speak as opposed to the original three minutes
22 that would normally be allowed for an individual. So the party
23 status request is at Exhibit 37. The Applicant's opposition is
24 at Exhibit 39. And ask the Commission to take that up.

25 CHAIRPERSON HOOD: So I'm glad Ms. Lovick didn't go out

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1 because I was reading through this party status about untimely
2 and because of the postponement, short story, let me get straight
3 to the -- cut to the chase. Ms. Lovick, if we're dealing with
4 it tonight, is it still untimely?

5 MS. LOVICK: Yes, I think it's technically still
6 untimely because it wasn't filed 14 days prior to the original
7 hearing date, which was March 13th. So if you would like to
8 consider it, you would need to waive your rule.

9 CHAIRPERSON HOOD: Okay. Thank you, Ms. Lovick, for
10 that explanation, because I actually read it a few times trying
11 to digest all that. So let me hear from my other colleagues. I
12 certainly don't mind waiving the rule, but let me hear from
13 others. One thing about it, we all have to agree tonight, so.

14 Commissioner May?

15 COMMISSIONER MAY: Yeah, I don't have any objection to
16 waiving the rule and allowing party status. I mean, it's a little
17 unusual because Mr. Jones, is that it, he's one person who lives
18 in that large building immediately to the north. It would be
19 nice if he were -- there were actually a group of them because
20 we know there are many people that live who are concerned about
21 this project. But you know, we are dealing with what we are
22 faced with. So I don't -- I'm okay with giving him party status
23 in this circumstance.

24 MS. LOVICK: So sorry, excuse me, I just want to
25 interject. So first you need to -- you would be waiving your

1 rule to consider it. And then we need to see if Mr. Jones is
2 here for you to consider it.

3 COMMISSIONER MAY: Okay. I went too far.

4 MS. LOVICK: Yes, okay.

5 CHAIRPERSON HOOD: You actually did, but I appreciate
6 it, so I know where you are on both issues, so anyway.

7 Commissioner Imamura, what about waiving the rule?

8 COMMISSIONER IMAMURA: All right. Thank you, Mr.
9 Chairman. I'm willing to waive the rule, but that's as far as
10 I'm willing to go.

11 CHAIRPERSON HOOD: Okay. Let's see. Is Mr. Jones
12 here?

13 MS. SCHELLIN: He is present.

14 CHAIRPERSON HOOD: Okay. So now, Ms. Lovick, we can
15 consider it, right? Okay, great. We want to make sure we do
16 everything step by step by step.

17 Commissioner May, unless you want to add to something,
18 we kind of know where you are, and I'll go to Commissioner
19 Imamura.

20 I will tell you, Commissioner Imamura, I'm kind of in
21 line with Commissioner May. I'm just hoping that others who are
22 in opposition -- I don't know if they want to -- I'm not sure,
23 because he's -- like Commissioner May said, we are where we are,
24 we have what we have before us. And I do think that I would give
25 him party status. Let me hear what Commissioner Imamura --

1 COMMISSIONER IMAMURA: All right. Thank you, Mr.
2 Chairman. You know, I read Mr. Jones response and didn't find
3 it overly compelling (audio glitch) as Commissioner May pointed
4 out, there are several others. Just points that Mr. Jones raised,
5 I think are more specific to a project and not necessarily the
6 map amendment itself, so. But I can be persuaded.

7 CHAIRPERSON HOOD: I thank you for bringing up that
8 point. Again, as I have been advised by counsel for many years,
9 this is an amendment. We're not talking about any specific
10 project. We don't have any view. We don't have anything right
11 now. We're talking about a rezoning at this point. So
12 Commissioner Imamura, you said you -- I'm still kind of trying
13 to figure where you are, because if we don't all agree, then he
14 won't get party status. But I'm not trying to push you. I think
15 I've said what I said and I don't know if Commissioner May has
16 any more to try to persuade you, but if you are in the opposite
17 direction of us, then we won't grant him party status, but I will
18 give him some additional time in his testimony.

19 COMMISSIONER MAY: I don't really have anything to add,
20 but I wish it was a more robust group. And certainly if there
21 were a group of adjacent neighbors, they certainly are in close
22 proximity (audio glitch) normally grant (audio blank). But I've
23 gotten the impression this is all coming together, you know, last
24 minute for those people in the affected building next door. So
25 I'm normally kind of sympathetic to the concerns voiced by Mr.

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1 Imamura -- Commissioner Imamura about this. But, you know, I'm
2 willing to be flexible in this circumstance, given the way this
3 is all happening.

4 CHAIRPERSON HOOD: Okay. So this is how I'm going to
5 do it. I would move that unless Commissioner Imamura, you have
6 something you want to add, I'm going to go ahead and make a motion
7 and then I'll see where it goes, and that will tell me which way
8 we're going to move forward. I would move that we give Mr. Jones
9 party status in this case, Zoning Commission Case -- well, let
10 me pull that up. What's the case, Ms. Schellin, right quick,
11 22, what's the case?

12 MS. SCHELLIN: 22-33.

13 CHAIRPERSON HOOD: In Zoning Commission Case 22-33 and
14 ask for a second.

15 COMMISSIONER MAY: Second.

16 CHAIRPERSON HOOD: It's been moved and properly second.
17 Ms. Schellin -- any further discussion?

18 Ms. Schellin, would you do a roll call vote please?

19 MS. SCHELLIN: Chair Hood?

20 CHAIRPERSON HOOD: Yes.

21 MS. SCHELLIN: Commissioner May?

22 COMMISSIONER MAY: Yes.

23 MS. SCHELLIN: Commissioner Imamura?

24 COMMISSIONER IMAMURA: Yes.

25 CHAIRPERSON HOOD: All right. So we will give Mr.

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1 Jones party status.

2 MS. SCHELLIN: The vote --

3 CHAIRPERSON HOOD: I'm sorry.

4 MS. SCHELLIN: The vote is three to zero to two to
5 grant party status to Jeremi Jones in opposition. The minus 2
6 being Commissioner Miller not present, not voting, and the third
7 mayoral appointee position being vacant.

8 CHAIRPERSON HOOD: And I would just say, Mr. Jones,
9 while I can't tell you how to proceed, we are not talking about
10 a specific project, and I'm sure if I'm incorrect, my counsel
11 will correct me, but we're not talking about a specific project.
12 We're not talking about -- I will help you when you come up so
13 we can stay on course. And also you will have the opportunity,
14 Mr. Jones, and maybe -- well, Mr. Jones, who's the party, of
15 cross-examination and being served as this case moves forward.

16 All right. Anything else, Ms. Schellin?

17 MS. SCHELLIN: I think that is it. There are no --
18 Ms. Brown, can correct me if I'm incorrect, I don't see any
19 proffered experts, so I think that's everything.

20 CHAIRPERSON HOOD: Okay. I think -- well, let's bring
21 Ms. Brown up because I think we do have some -- but anyway,
22 let's bring Ms. Brown up.

23 MS. SCHELLIN: And her representative from NHP, if Mr.
24 Young could bring them up.

25 CHAIRPERSON HOOD: Ms. Brown If you could -- first of

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1 all, good afternoon. If you could identify yourself and then
2 help us with this expert witness deal. You can go ahead.

3 MS. SCHELLIN: You did not have any experts, correct?

4 MS. BROWN: That is correct. For the record, Carolyn
5 Brown with the Brown law firm on behalf of the Applicant, the
6 NHP Foundation and Elm Gardens, Owner, LLC.

7 CHAIRPERSON HOOD: Okay. So you have no experts. All
8 right. So with that, unless everything -- something -- since
9 everything's in order, let's go ahead, Ms. Brown, you'll have -
10 - I forgot how much time you wanted, was it 45 minutes or 30
11 minutes?

12 MS. BROWN: Forty-five minutes. We'll try to go
13 quickly.

14 CHAIRPERSON HOOD: Okay. You all may proceed.

15 MS. BROWN: All right. Thank you again. We're very
16 pleased to be here this evening. I am joined by Mr. Mansur Abdul-
17 Malik. He's a senior vice president at the NHP Foundation, as
18 well as Michael Simon, also with the NHP Foundation, who is the
19 project manager for this site. We're very pleased with this
20 application to rezone the property to RA-3, which has those two
21 positive reports from the Office of Planning, DDOT Support, ANC
22 4B support. The tenants' association of the existing Elm Gardens
23 also support the project.

24 Unfortunately, as is apparent from the letters in the
25 record, we do not have the support of the Eastmont Cooperative.

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1 We did have a meeting with them on March 28th and you will hear
2 a brief update about that meeting momentarily. We are also aware
3 of a new issue that was raised by the Office of Planning less
4 than 24 hours ago regarding whether or not this property actually
5 is in all three future land use map categories, as we have in
6 our presentation, namely low density commercial, medium density
7 residential, and moderate density residential. Based on a study
8 that they did with GIS overlaying the exact boundary lines onto
9 the future land use map, it was their conclusion that it's solely
10 in the moderate density residential category. We don't believe
11 -- even if that is true, we don't believe that undermines in any
12 way the strength of our case or the overwhelming support found
13 throughout the comprehensive plan for the proposed RA-3 district.

14 First, notwithstanding the precision provided by the
15 GIS mapping, the guidance for interpreting the future land use
16 map, or the FLUM, explicitly states, and I quote, "The future
17 land use map is intended to be soft edged and does not follow
18 parcel boundaries, and its categories do not specifically allow
19 uses or development standards. By definition, the future land
20 use map is to be interpreted broadly." For that reason, I think
21 that's why there's no scale on the future land use map, because
22 it's not meant to follow strict parcel boundaries. In fact, I
23 would posit that the use of GIS is actually inconsistent with the
24 FLUM's directive to interpret it broadly and not to follow parcel
25 boundary lines and to ensure that the boundaries are viewed as

1 soft edged.

2 Second, there are multiple provisions in the
3 comprehensive plan, notably the land use element, the housing
4 element, and the Rock Creek East element that fully support the
5 RA-3 zoning. Even if setting aside the FLUM guidance and using
6 GIS, this site is actually only designated in the moderate density
7 residential zone. There are sometimes conflicting elements in
8 the comprehensive plan, and it is up to the Zoning Commission to
9 resolve those tensions. And, you know, there are many case laws
10 on -- that need to resolve the tensions between conflicting
11 provision. So I'll address that more in my presentation. But
12 first, I would like to turn it over to the NHP Foundation,
13 starting with Mr. Mansur Abdul-Malik. If you could introduce
14 yourself for the record and present your testimony. Thank you.

15 MR. ABDUL-MALIK: Yes, thank you. My name is Mansur
16 Abdul-Malik. I'm the senior vice president of development for
17 the NHP Foundation. The NHP Foundation is a 30-year-old nonprofit
18 that is headquartered in New York with offices in Washington,
19 D.C., Chicago, and Baltimore. Our focus is to preserve and create
20 affordable housing. The District is actually our highest
21 concentration of rental units throughout our 16-state footprint,
22 of which we have over 1,500 units of affordable housing that
23 service folks from 0 to 60 percent of area median income.

24 The second thing I want to point out is that the NHP
25 Foundation has been successful in working with tenant

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1 associations. Ninety percent of the District portfolio is
2 actually partnership with tenant associations through -- due to
3 the TOPA law of which their building went up for sale, not unlike
4 the Elm Gardens property, and they were forced to make a decision
5 to either allow that sale to move forward or control their own
6 destiny and partner with a developer that would be willing to
7 work with them to maintain the affordability of their home. So
8 in this instance, our strength of working not just with the
9 District residents, but also being able to uphold many of the
10 laws and plans that the District has put in place in order to
11 further affordable housing, especially in parts of the District
12 that are lacking affordable housing now, has continued to allow
13 us to do very good work and be able to support different
14 communities throughout the District in all sides.

15 MS. BROWN: Thank you. We now turn to Mr. Michael
16 Simon. We can't hear you, Michael.

17 MR. SIMON: Sorry. Good afternoon. I'm Michael Simon.
18 I'm the project lead for the Elm Gardens project. I want to give
19 you a little bit of a timeline of how we kind of got to where we
20 are today. NHP Foundation responded to an RFP to be the tenants'
21 association's development partner back in spring of 2022.

22 MS. BROWN: I'm sorry to interrupt you, Michael.

23 Mr. Young, could you bring up the slide deck?

24 CHAIRPERSON HOOD: And if everybody else could be on
25 mute while he's talking, I think that would help some of the

1 background noise that we're all getting.

2 MR. SIMON: Yeah. If you could advance to Slide 5
3 please? All right. There we go.

4 As I was saying, the NHP Foundation responded to an RFP
5 to partner with the tenants' association, as Mansur mentioned.
6 They formed to exercise their rights under TOPA when Elm Gardens
7 went up for sale some years in the past. In summer, the tenants'
8 association selected us to be the development partner and we
9 moved forward to entering into a developer agreement with them
10 whereby they assigned their TOPA rights to us to effectuate the
11 acquisition and redevelopment of the site. We acquired the
12 property on October 27th 2022, and that is significant because
13 under TOPA, the tenants' rights do expire if they are not able
14 to close a transaction within a certain amount of time. So we
15 had 'til the end of October to acquire the property, otherwise
16 the tenants could have been displaced, potentially permanently,
17 and the building would have been up for sale to a for-profit
18 developer likely.

19 NHPF was matching an existing contract. That's how the
20 TOPA law works. But that contract was based off of market rate
21 rents, which are significantly higher than the existing rents on
22 the property. NHPF is seeking to upzone this site so that we
23 can deliver a financially viable project that will preserve the
24 affordability for the existing residents and allow for some
25 increased density affordable units next to the Metro, the Takoma

1 Park Metro. Looking forward into the future, it is important -
2 - timing is important too. The District only has two funding
3 windows per year, which we would try to apply to finance the
4 future development of this project, the next being in July. To
5 receive an award from that process, NHPF has to have site control,
6 all entitlements, and we would have to be able to close within
7 365 days of that award. The subsidy needed from the District to
8 complete the proposed transaction is finite, and delays, you
9 know, there could be that there are not sufficient resources to
10 redevelop this project, which could potentially lead to the
11 displacement of the existing Elm Gardens residents. If you could
12 move to the next slide please?

13 We believe that this action, the map amendment action,
14 is an opportunity to preserve and create affordable housing units
15 here in the District. As I mentioned, you know, we are preserving
16 the 36 existing units and we used housing production -- we used
17 the Housing Preservation Fund money to acquire the property. The
18 Housing Preservation Fund aims to preserve 100 percent of the
19 existing affordable units in the District, and that's how we were
20 able to get favorable financing to acquire the project on behalf
21 of the tenants.

22 Additionally, if we were able to complete the rezoning
23 and we finished the redevelopment of the site, we would be putting
24 an extended use agreement on the property. It's proposed that
25 this would become a Lytek transaction, which would help to meet

1 the Mayor's 2025 housing goal for the housing goal, which is
2 production of 12,000 affordable units here in the District. And
3 the Rock Creek East planning area, which is where this site is
4 located, we are only currently at about 66 percent of that 2025
5 goal. So the proposed upzoning of this would allow us to close
6 that gap significantly. Next slide please?

7 I'm going to go through some of the stakeholder
8 outreach that we've conducted over the, you know, since Summer
9 of last year. In August of last year, we contacted the
10 commissioner for where the site is located, Commissioner Yeats,
11 and we've had ongoing conversations with him about the potential
12 project and the rezoning. We also went and met with ANC 4B on
13 multiple occasions. We support -- we presented a map amendment
14 and our concept design to them, which they unanimously supported.
15 And they also importantly, as noted in their letter in the record,
16 oppose any changes that would reduce the potential unit count on
17 this site. We also have met with Office of Planning. Their
18 recommendation -- they did recommend approval of the map
19 amendment initially with an application with the IZ Plus, and
20 it's noted that our proposed redevelopment would go far beyond
21 the IZ Plus standards. Next slide please?

22 We also met with the ANC 4B housing justice committee,
23 again similar to the ANC, they recommended approval of the map
24 amendment application and concept design that went to Historic
25 Preservation Review Board. We did meet with the Historic

1 Preservation Review Board as this is located in a historic
2 district. It's not a contributing structure. They reviewed our
3 concept application. They did have comments which we
4 incorporated into a revised design. They ultimately voted
5 unanimously to support the revised design, which I should note
6 that that did take into account, you know, meeting with the
7 historic Takoma entity. And we, you know, listened to some of
8 their concerns that they testified at the Historic Preservation
9 Review Board related to potential impact on the historic
10 district. They ultimately supported our concept design.

11 I'm going to go back, let Mansur talk a little bit more
12 about the meeting we had with the Easement Cooperative on the
13 28th of last month.

14 MR. ABDUL-MALIK: All right. Thank you, Michael.

15 As noted, we met with the Eastmont Cooperative on the
16 28th in order to hear all of their concerns. Some of the
17 residents were gracious enough to allow us to come to their homes
18 in order to see their perspective in relation to the proposed
19 building. We were able to have a better understanding of where
20 they were coming from and be able to hear all the residents that
21 were in attendance, their concerns. Ultimately, we were not able
22 to come to an agreement as to what the changes would be that
23 would be mutually beneficial for both Elm Gardens as well as
24 Eastmont, largely because the proposed development could not
25 sustain a substantial reduction in units, which resulted in a

1 reduction of approximately two floors in order for us to be able
2 to meet some of the concerns of Eastmont.

3 So in this instance, although we did try to propose
4 some things that we were willing to do, which included certain
5 side yard setbacks, letting them know what the design of the
6 front setbacks, and in being able to put certain covenants into
7 the land in order to make sure that in the future that those
8 setbacks would remain so that they would not have to worry about
9 that in 20 or 30 years in the event that the building changes
10 hands. We still could not come to an agreement. And eventually
11 it boils down to two things. The Eastmont Cooperative expressed
12 grave concerns about light and air. And unfortunately, the
13 concerns of the Elm Gardens Tenant Association is about being
14 able to have a place to call home. In the event that the building
15 is not able to be built because we are unable to have this zoning
16 change, there is a very grave risk of not only displacing 33
17 families, but also losing out on 100-plus units of affordable
18 housing in an area of the city that severely lacks affordable
19 housing, especially next to transportation. Although we
20 expressed those concerns, we still were not able to come to a
21 resolution with the Eastmont Cooperative. So in that instance,
22 we are here to still present to you this building in hopes of
23 being able to have the zoning changed in order for us to make
24 sure that those families are not displaced and that we're able
25 to bring needed affordable housing to the District, which is in

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1 accordance with the Mayor and all of the District's other plans.

2 And I'll turn it back over to Michael.

3 MR. SIMON: Thanks, Mansur.

4 I know that the Commission raised concerns about
5 displacement. So if you could go to the next slide please? Thank
6 you.

7 Yeah. I know the Commission has raised concerns about
8 displacement, and I will address that now, you know, that our
9 plan does not call to displace any of the existing residents.
10 All residents will have the right of return. There would be a
11 temporary relocation obviously, because we would be redeveloping
12 the site. The tenant -- the existing tenants will be involved
13 in that process. They will help select sites that, you know,
14 are in the area if possible. The idea is is that we would be
15 finding a comparable site that has comparable amenities. And in
16 many instances in the past, when we have done this, you know,
17 we're putting our residents into market rate buildings with
18 amenities and things like that. So you know, we would expect
19 that the rents that we're going to be, you know, covering are
20 probably going to be more than twice what these residents are
21 paying. I think it's important to note that the residents will
22 not pay a penny more than what they're paying now during that
23 relocation period. NHPF has -- you know, will cover all the
24 costs of relocation, including any differential in rent.
25 Packaging, moving and transferring of utilities is all going to

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1 be covered by NHPF. The idea is is that the residents will not
2 have, you know, have any hardship and that we want to make that
3 process of moving out and moving back to the redeveloped site as
4 easy as possible. And to that end, we would hire a third-party
5 relocation specialist that would work with the existing
6 management company to ensure that that does happen. And as I
7 noted, you know, rents in Takoma are already unaffordable. You
8 know, if these residents, you know, had to leave tomorrow, they
9 probably would not be able to find adequate, you know, or an
10 adequate home within the Takoma Metro area. You know, I think
11 that goes to show, you know, the need for the additional
12 affordable units by the Metro. The next slide please?

13 I want to share a little bit about what the potential
14 impacts of a map -- of this map amendment would be. You know,
15 as I mentioned, the Elm Gardens rents were below market rate.
16 It's actually two-thirds of the Elm Gardens rents are at or below
17 what 50 percent of the area median income rents would be under
18 the Lytek program. The only reason Elm Gardens' residents were
19 able to stay in the existing building for so long is because this
20 building was subject to rent control or is still subject to rent
21 control. The previous owner did not even max out those increases
22 on an annual basis. So this is almost like a naturally occurring
23 affordable project. You know, so the rent -- in order to keep
24 this and to maintain this affordability, it's necessary to have
25 the map amendment. The RA-3 zoning will allow us to preserve -

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1 - or prevent the 31 existing residents from being permanently
2 displaced and allow them to return to the site and continue to
3 live in Takoma area. It'll will bring 110 affordable units to
4 the Rock Creek East planning area, and it's an opportunity to
5 provide housing at varying income levels because we would plan
6 that the replacement building be -- have incomes anywhere from
7 30 percent of the area median income up to 80 percent of the area
8 median income, with the average at 60. You know, we believe that
9 affordable housing is not just a necessity, it's a right, it's a
10 civic duty, and it should be one of the highest pursuits for both
11 public and private sectors. With the approval of a map amendment,
12 NHPF is ready and willing to help the District meet its affordable
13 housing goal and the affordable housing goal for Rock Creek East
14 specifically.

15 With that, I'll turn it back to Carolyn for her
16 testimony. I appreciate your time.

17 MS. BROWN: Thank you.

18 I wanted to turn back to the comprehensive plan and why
19 we believe that the RA-3 zoning is not inconsistent with the
20 comprehensive plan. Next slide please? Next slide? Thank you.

21 As you are fully aware, the standard of review for a
22 map amendment is ensuring that the map amendment is not
23 inconsistent with the comprehensive plan. In all cases, the
24 Zoning Commission shall find that the amendment is not
25 inconsistent with the plan or other adopted policies. Next slide?

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1 We are proposing changing the existing zoning from RA-
2 1 and MU-4, as shown on the slide here, and upzoning to RA-3 IZ
3 Plus. Next slide?

4 This slide is probably conflicting with what the Office
5 of Planning has done with their GIS, but these are the three
6 areas that are on Square 3- -- land use designations for Square
7 3351, including moderate density, medium density, and low density
8 commercial. Generally, for the medium density, RA-3 is the
9 consistent zone. For moderate density, it's usually R-3, RF, and
10 RA-2, but other zones may apply. Next slide please?

11 It is in a neighborhood conservation area and a
12 neighborhood enhancement area. The guiding philosophy in a
13 neighborhood conservation area is to conserve and enhance
14 established neighborhoods but not preclude development,
15 particularly to address citywide housing needs. So that's
16 clearly applicable right here for this project and this request
17 for RA-3 zoning. Next slide please?

18 So I think it's important to get back to the guidelines
19 for interpreting the future land use map. Again, the future land
20 use map is not a zoning map. Whereas zoning maps are parcel
21 specific and establish detailed requirements, the future land use
22 map is intended to be soft edged and does not follow parcel
23 boundaries. By definition, the future land use map is to be
24 interpreted broadly and the land use categories identify desired
25 objectives. Next slide? Thank you.

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1 Two other rules of interpretation are while the
2 densities within any given area on a future land use map reflect
3 all contiguous properties on a block, there may be individual
4 buildings that are larger or smaller than these ranges within
5 each area. And under Subparagraph D, "The zoning of any given
6 area should be guided by the future land use map, interpreted in
7 conjunction with the text of the comprehensive plan, including
8 the citywide elements and the area elements." Next slide?

9 So I want to focus on that last element to talk about
10 all the comprehensive plan area-wide and city -- area-wide and
11 citywide elements that apply. So Land Use Policy 1.4.3: "Housing
12 Around Metrorail Stations: Build housing adjacent to Metrorail
13 stations ... and prioritize affordable and deeply affordable
14 housing production." Land Use Policy 1.4.4: "Affordable Rental
15 and For Sale Multifamily Housing Near Metrorail Stations:
16 Explore and implement as appropriate mechanisms, which could
17 include land trusts, public housing, shared appreciation models
18 to encourage permanent affordable rental and for sale multifamily
19 housing adjacent to Metrorail stations." So that's exactly what
20 this RA-3 zoning would allow. Next slide?

21 Another important Rock Creek East element is directing
22 growth. Concentrate new housing, including affordable housing,
23 in Rock Creek East around the Takoma Metro station area. Improve
24 -- provide improved pedestrian transit and bicycle access to
25 these areas and improve their visual and urban design qualities

1 to create unique destinations for the local community to enjoy.
2 Again, exactly what is being proposed by the RA-3 zoning. The
3 Rock Creek East 1.16 element, developing new housing to
4 encourage the retention of existing housing, public housing
5 units, along with other measures to increase housing choices and
6 improve housing affordability for area residents. Again, that's
7 what this RA-3 zoning will allow. Next slide?

8 Similarly, the housing element, balanced growth,
9 strongly encourage the development of new housing, including
10 affordable housing, on surplus vacant, and in this case underused
11 land in all parts of Washington, D.C. The historic preservation
12 policy for compatible design, ensure that new construction,
13 building additions, and exterior changes are in scale and respect
14 their historic context through sensitive siting and design in the
15 appropriate use of materials and architectural detail. And while
16 I know that this project is not before you, we did have the
17 benefit of going before the Historic Preservation Review Board
18 and testing out whether or not this RA-3 envelope would be
19 appropriate for this part of the historic district, and they
20 overwhelmingly agreed that it was fine. In fact, at the first
21 meeting, they didn't raise any issues regarding height, massing,
22 density. It was aesthetics on the facade. And that's -- so in
23 October we got their initial comments about the facade design.
24 We returned in November and got approved. And I would note that
25 Mr. Jeremi Jones had filed a letter in the record opposing the

1 project, so -- he wasn't at the meeting, but he had the
2 opportunity to address his concerns about what an RA-3 building
3 would allow, and the Historic Preservation Review Board
4 specifically rejected those comments. And I can't say that they
5 specifically rejected -- they did not agree with them because
6 they went forward and approved the building envelope that we have
7 that is designed to the RA-3 parameters. Next slide?

8 Again, another housing element, low and moderate income
9 housing production as a civic priority, production and
10 preservation of affordable housing is a major civic priority.
11 Policy H-1.2.6: "actively involve and coordinate with the
12 nonprofit sector," which is what we have here, the NHP Foundation,
13 a nonprofit organization, and "affordable housing, and nonprofit,
14 and faith based institutions. The District agencies should work
15 collaboratively with nonprofits to investigate zoning options to
16 reduce procedural burdens and facilitate the development of
17 affordable housing." And that's what we're after here, the
18 ability to use the zoning regulations to produce as much
19 affordable housing as possible. Next slide?

20 And then again, another housing policy, "conversion of
21 at-risk rentals to affordable units." Again, that's exactly what
22 we've got going on here. "Support efforts to purchase affordable
23 rental buildings that are at risk of being sold and converted to
24 luxury apartments or condominiums to retain the units as
25 affordable. Consider a variety of programs to own and manage

1 these units, including TOPA." And you've already heard the
2 testimony about TOPA. "Reducing barriers to production, the
3 development of housing may be hampered by both governmental and
4 nongovernmental constraints. Governmental constraints include
5 zoning regulations, which may not reflect contemporary housing
6 trends. Nongovernmental constraints include the high cost of
7 land and rising interest rates." Next slide?

8 Then a final interpretive element for the future land
9 use map states that "The designation of an area with a particular
10 future land use map category does not necessarily mean that the
11 most intense zoning district described in that category is
12 automatically permitted. Similarly, even if a zone is not
13 identified as in a category, it can be permitted as described in
14 Section 2227.2." And that section is the one that sets out what
15 the moderate categories are, the medium density categories are.
16 Next slide? Next slide?

17 So here's a list of just a good sampling of all the
18 comprehensive plan elements that this RA-3 zoning fulfills, and
19 those are explained in greater detail in our statement the
20 Applicant filed last fall. Next slide please?

21 So now a major component of the Zoning Commission's
22 evaluation is the racial equity analysis. And based on the update
23 that was issued in 2023 in February, there are now four parts to
24 the evaluation. Part 1 was included in our statement of the
25 Applicant, along with the Office of Planning's reports. Part 2

1 was community outreach engagement and we updated that element and
2 submitted it to the record on March 27th. Part 3 is the
3 disaggregated data regarding race and ethnicity. That again is
4 in our statement of the Applicant and also in both of the Office
5 of Planning reports, and you heard a little bit about the makeup
6 today. And finally, what the Zoning Commission needs to do, it
7 uses its particular criteria to evaluate the zoning action
8 through a racial equity lens. Next slide?

9 So I went through your criteria that you need to use
10 to evaluate this, and I won't read through this, but all the
11 answers are there for you about how we believe that when you look
12 at this project through a racial equity lens, that we meet the
13 standards, that this is a project that is not -- this request
14 for RA-3 IZ Plus zoning is not inconsistent with the comprehensive
15 plan and completely fulfills so many elements of the
16 comprehensive plan. And for that reason, we believe the
17 application should be approved. Thank you, and that concludes
18 our presentation.

19 CHAIRPERSON HOOD: Thank you to Ms. Brown and team. I
20 appreciate your presentation. Let me just go right to it. Are
21 most of the residents seniors?

22 MR. SIMON: At the existing Elm Gardens?

23 CHAIRPERSON HOOD: Yes.

24 MR. SIMON: No, I believe we have varying ages. You
25 know, it's predominantly one-bedroom apartments. So we have

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1 everyone from people in their 20s into their, you know, there are
2 some elderly folks there as well.

3 CHAIRPERSON HOOD: Okay. Because it seems like -- I'm
4 going by the record. The record reflects that there are a lot
5 of seniors and, you know, if I just keep living, I'll be even
6 older too, all of us. So sometime -- I know what the rules say,
7 I know what the regulations say, but my 25 years on the Zoning
8 Commission, especially when it comes to seniors and those who
9 don't do zoning every day, I think there should be some grace.
10 And I'm having a problem when I hear statements like well, if
11 they don't -- we don't do this, then this is what's going to
12 happen. I know this administration and I'm sure this
13 administration and this city will protect the residents of the
14 city. And while we may not always agree, some of that that I
15 heard today and this testimony would not happen. And I'm sure
16 that we have a mayor that would not allow that to happen, some
17 of it. And I know their TOPA rights, I get that, but the
18 disenfranchised, and this goes to the racial equity, the one I'm
19 looking at. It's just the presentation. I didn't get a good
20 feel from the presentation I've heard. I'll wait to hear from
21 others, but I can just let you know when I get to my questioning,
22 I'm going to go down those lines, because it's like if we don't
23 do this, then we're going to do this. And then according to one
24 of the residents, who I perceive to be a senior, I don't want to
25 assume anything, it seemed like the issue was you all bought the

1 land or you bought the property, and you got to get your money
2 back.

3 So I mean, it's just -- this is not -- and I know you
4 might meet most of the -- I know you've been through HPRB, but
5 the city has mandated that the Zoning Commission look at it
6 through a racial equity lens. And as far as I'm concerned right
7 now, unless I'm persuaded or I reread some of this, you flunked.
8 You flunked. You flunked because of what I heard during this
9 conversation. I believe that some of those residents, unless I'm
10 wrong, I believe a lot of these residents are seniors and a lot
11 of them are African-American. So what I'm saying is I say you
12 flunked, but I'll leave it at that. And you'll hear from others.
13 That's my opinion of the record. Let me see if anybody has any
14 other questions or comments and I'll come back.

15 Commissioner May.

16 COMMISSIONER MAY: Yeah, Mr. Chairman, just to be
17 clear, I think the question was asked about whether most of the
18 residents are seniors at Elm Gardens or at the Eastmont because
19 the letters that we have in the record are from the Eastmont?

20 CHAIRPERSON HOOD: Well, I'm speaking in terms of
21 opposition, Eastmont, yeah, not the Elm -- Eastmont.

22 COMMISSIONER MAY: Right. That's what I thought.
23 That's what it sounded like. But that's not -- most of the
24 residents of Elm Gardens are not necessarily seniors --

25 CHAIRPERSON HOOD: Right. No, I'm sorry. If I said

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1 Elm Gardens, I misspoke. I'm talking about where we got the
2 letters from.

3 COMMISSIONER MAY: Okay. All right. So I am -- I'm
4 concerned about the letters that we have in the record as well.
5 And I appreciate the comprehensive plan analysis, and certainly
6 there are many policies that, you know, that support this type
7 of a map amendment. And we certainly have seen many like it over
8 the years and have approved them and approved them even with the
9 soft lines that are drawn on the FLUM and so on. So this is not
10 new territory for us, but I am very concerned actually about
11 where this lays out on the FLUM and how it was presented to us.
12 It seemed like a, you know, when I read the initial information,
13 the submissions, the Office of Planning report, it seemed kind
14 of like a no brainer that, you know, that this was supportable
15 given where the property was indicated on those maps. But it
16 did not make sense to me when I looked more closely, it looked
17 like the property was actually being misrepresented on those
18 maps.

19 Now, I'm not saying that that was deliberate and
20 anybody was trying to pull anything over on us. But if this is
21 what people have been seeing about this, including us, I think
22 there is a really substantial flaw in what was presented in your
23 application. Those red ovals are -- they're not -- I mean, it's
24 -- they're not really even close to this property. They're, I
25 don't know, 50, 100 feet away. It doesn't follow parcel

1 boundaries, I know that about the FLUM. But this is like really
2 off. And then when you add to that that this is a neighborhood
3 enhancement area and the neighborhood itself is composed entirely
4 -- I mean, that strip of buildings that's labeled neighborhood
5 enhancement is all, you know, two- to three-story garden
6 apartments, and you're talking about putting in a building or
7 being able to put in a building that's much taller than that. So
8 I'm really concerned about that. So I guess my first question
9 is how did you wind up with that map? I mean, is there any
10 explanation for why you have such a wildly incorrect map?

11 MS. BROWN: First of all, I don't think it's wildly
12 incorrect whatsoever. So we always strive to be accurate in what
13 we present in our applications, Mr. May, so I want -- please be
14 reassured that this was a good faith effort to represent what the
15 categories were. Secondly, I can tell you that we had this
16 specific discussion with the Office of Planning in August of 2022
17 about where these FLUM boundary lines were, and we were debating
18 as to how these lines were drawn, and we, I, and one of the other
19 members of the OP staff, started looking at the zone boundary
20 lines, knowing that there is the MU-4 on a sliver of this
21 property, it was assumed that that's why the higher medium density
22 residential and the low density commercial was on the corner of
23 what we believe was the property. But knowing that -- and, you
24 know, immediately another member of the Office of Planning staff
25 said we don't need to worry about that because they're soft

1 boundaries and it's -- you know, whether you say it's close enough
2 or it's right there, that's how that was determined, more based
3 on what the zoning map is because we can -- again, there are no
4 dimension lines to guide us on the FLUM, none whatsoever.

5 COMMISSIONER MAY: I understand that. Just so you
6 understand what we normally see on a map amendment case is that
7 we do actually see the property boundaries overlaid on the FLUM.
8 So we understand, you know, that it's soft, but, you know,
9 certainly the suggestion that using GIS is inappropriate for
10 figuring that out is completely incorrect. It is par for the
11 course. And you know, that is really we want to see. I mean, I
12 noticed this because I was looking at the cross street, right,
13 across Eastern Avenue is Holly or something like that, and, you
14 know, your property is not only completely north of Holly, the
15 property to the south of you is completely north of Holly. And
16 it looks like the FLUM designation for these -- that would allow
17 these higher zones actually starts, you know, two properties
18 away. And, you know, again, I appreciate the soft boundaries,
19 and if we were not talking about the neighborhood where it is
20 consistently kind of a same building type with the garden
21 apartments, you know, it's just very hard to turn a blind eye to
22 those FLUM designations. And then you layer onto that the fact
23 that the next-door neighbors are up in arms about what you are
24 proposing.

25 So let me move on to a different topic. The outreach

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1 to the neighbors at the Eastmont, there was a meeting on the
2 28th. That happened because, you know, we asked that that happen.
3 But what was the outreach before this time? I mean, you went -
4 - you detailed all this other outreach that you did and I didn't
5 see anything about the Eastmont before March 28th. So what was
6 your outreach to them? You know, and, you know, did you follow
7 up with -- I've already forgotten its name -- the party in
8 opposition? What was your follow-up with him after he filed a
9 letter of opposition at HPRB?

10 MS. BROWN: So a couple points, Mr. May, Commissioner
11 May, we sent out the notice that was required and it went to the
12 cooperative. When -- and for the notice of intent to file the
13 map amendment, I did receive calls from adjacent property owners,
14 but I did not receive any calls from the Eastmont, and then other
15 property owners did not respond. So that was, you know, the
16 first level of outreach to the Eastmont.

17 Second, when we worked with the ANC, I understand the
18 ANC sent out their notices and we had an informational meeting
19 with the community before the ANC in September. When we went
20 before HPRB, we did see Mr. Johnson's -- I'm sorry, Mr. Jones'
21 letter in the record. He did not show up at the hearing, so we
22 thought that he was not as interested or didn't feel that strongly
23 about it. So we went forward with the November HPRB meeting.
24 His letter was recognized again as being in the record and we
25 just did not hear anything additional from anyone at the Eastmont

1 about this project.

2 I'm sorry. Are you on mute?

3 COMMISSIONER MAY: Thank you. So you're talking about
4 sort of the typical notification process of, you know, sending
5 letters out to the 200 voters and notifying through the ANC, but
6 I think what one of the points the Chairman was trying to make
7 before is about how sometimes those methods of outreach are not
8 sufficient to reach certain folks in the District, senior
9 citizens especially, you know, that kind of notification might
10 not be sufficient. So the question I guess I would ask is did
11 anybody think to like go and knock on the doors or drop off
12 letters with the people who actually live there?

13 MS. BROWN: I'm sorry. I'm afraid my screen froze, but
14 I caught the gist I think of, you know, that you typically would
15 expect us to be reaching out to the Eastmont neighbors, not
16 relying on --

17 COMMISSIONER MAY: Oh, no. I mean, you know, it's not
18 an absolute expectation, otherwise it would be in the
19 regulations. But it's a common thing to go and knock on the
20 doors of next-door -- did anybody attempt to do that kind of
21 direct outreach to the Eastmont neighbors?

22 MS. BROWN: Not that I'm aware of. We, like I said,
23 had the notice that was sent directly to them about the --

24 COMMISSIONER MAY: Yeah, I don't need you to repeat
25 what you've already did.

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1 MS. BROWN: Yeah, the HPRB meeting also had the notice
2 of the RA rezoning listed on it, and the certified notification
3 that was sent out.

4 COMMISSIONER MAY: Yeah.

5 MS. BROWN: So no, I understand what --

6 COMMISSIONER MAY: A lot of times those things don't
7 reach the actual people. Right? They're not actually --

8 MS. BROWN: We discovered. That's what we discovered,
9 that the attorney who (audio glitch) the letters did not share
10 it with the cooperative. And that's why we agreed to postpone
11 the hearing, because we recognized that we needed to do that.

12 COMMISSIONER MAY: Okay. So next is did you look at
13 any zones other than RA-3?

14 MS. BROWN: Yes, we did.

15 Michael, if you want to address that?

16 MR. SIMON: Yeah, we -- and one of the options we looked
17 at was, you know -- it's a split zone site currently, you know,
18 MU-4 and RA-1. We looked at potentially looking at trying to
19 extend the MU-4 boundary. You know, based off of our analysis,
20 I don't think that we would be able to get enough density on the
21 site to make it a project that would be -- that we could get
22 financed through the District. I mean, that's really -- that's
23 what it is, you know. What we did as developers when we partnered
24 with the tenants' association is we were --

25 COMMISSIONER MAY: You're going way beyond what my

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1 question was. My question was did you look at other zones?

2 MR. SIMON: Yes, we did.

3 COMMISSIONER MAY: And it's like sort of did. So what
4 other zones did you look at?

5 MR. SIMON: We looked at that. We looked at the MU-4,
6 RA-1, and getting -- asking for a special exception. We looked
7 at RA-2 briefly, but we didn't believe that with the lot occupancy
8 that we would be able to get enough density onto that site to
9 make it a financially viable project.

10 COMMISSIONER MAY: Okay. That's helpful to know. I
11 can't remember what the third area of questioning was.

12 Mr. Chairman, I'm blanking. I may need to come back
13 to me about my last set of questions.

14 CHAIRPERSON HOOD: Okay. Yeah, I'll come back because
15 I'm blanking too. BZA yesterday, this today, and I'm thinking
16 about what we got Monday.

17 So let me go to Commissioner Imamura.

18 COMMISSIONER IMAMURA: Sure. Happy to fill some
19 airtime here and follow on Commissioner May's question. This is
20 the one that I shared too about whether or not you looked at --
21 went through the exercise of, you know, zones. Essentially, what
22 you put forward to HPRB is really that mass and scale. Obviously,
23 you perhaps fleshed out what the architectural character is. And
24 they seem to think that it was perfectly suitable being near the
25 historic district. But I guess I'm curious, it doesn't sound

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1 like you've actually really ran down the path looking at what
2 that study would look like, a massing study would look like,
3 whether you would achieve that density under an RA-2 zone. You
4 know, where is that, right? Normally you would say all right,
5 we'll run down this, we'll sketch this out, this is what it might
6 look like, compare the two, you know, the RA-3 or what have you.
7 It sort of sounds like it was more of just back of napkin, yeah,
8 it doesn't look like it's going to work, we'll put our time and
9 money into running with RA-3 because I think what it is, it's
10 RA-2, right, the maximum height is 50 feet. RA-3 is a maximum
11 of 60 feet. Right? We know that RA-1 is a 40 feet lot occupancy,
12 we know that. So I guess what is the delta?"

13 MR. SIMON: Yeah, yeah.

14 COMMISSIONER IMAMURA: Do you know what that delta is?

15 MR. SIMON: I mean, we have done -- we've run
16 calculations showing kind of what roughly the unit count would
17 be in each of those. And at one point we had -- I mean, we did
18 do different massings on the site. You know, I would have to --
19 -- off the top of my head, I don't remember exactly what those
20 all were. I would have to go back and see what we did. But we
21 looked at differing, you know -- it's just -- really what it came
22 down to is trying to get enough density on the site so that we
23 believe that the District would find it to be an attractive
24 project to meet their underwriting guidelines. So we did look
25 at varying massings.

1 I think the issue we ran into with the RA-2 again is
2 the lot occupancy percentage. We were trying to do this as a
3 right and not with a map amendment. That was the idea. Right?
4 So we're not -- I think the proposed building under RA-3 is not
5 maxing out RA-3, but that it's, you know -- the driving factor
6 there is really the lot occupancy percentage. And I mean, the
7 FAR also is much higher under IZ Plus with, you know, from RA-2
8 to RA-3.

9 COMMISSIONER IMAMURA: So I'm just kind of wrestling
10 with, you know, the fact that Commissioner May did point out, you
11 know, the higher density is two properties over. So, you know,
12 the question is is it appropriate, right, for this particular
13 location. Whether -- you know, regardless of whether, you know,
14 HPRB is supportive of it or not, I find it concerning too to see
15 the number of people that are in opposition of this or have
16 expressed their concerns about it, and the outreach part of it.
17 It just doesn't really feel right. I guess with that, I'm kind
18 of curious to know what you would do differently, if anything,
19 because there's no perfect project, and so you know, how would
20 you do your outreach different?

21 MR. SIMON: I mean, I guess we would have probably had,
22 you know, more meetings with the general public and we would
23 have, you know, sent out what, you know, gone to Eastmont and
24 not just sent it to the address on file.

25 COMMISSIONER IMAMURA: I'm certainly conflicted because

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1 I know there's tremendous potential behind this map amendment,
2 and there are some benefits to, you know, what's been proposed.
3 Certainly wish that we could reach a better alignment with
4 Eastmont residents.

5 Mr. Chairman, I yield back. I may reserve some
6 additional time with additional questions, but interested to hear
7 what your questions are, Mr. Chairman.

8 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
9 Imamura and Commissioner May.

10 So yes, I was referring to Eastmont. And you know, Ms.
11 Brown, you've been around, you and I have been interacting in
12 this city for a long time. I think you've always been very
13 forthright. You've always been very fair. You've always
14 represented your clients well. I'm just having big problems with
15 Eastmont. I don't know what we need to do, but having been
16 through this in front of my last confirmation hearing about the
17 way things are done from a racial equity lens, this is exactly
18 what the city is on. I'm sure HPRB has to do this as well. I'm
19 not really sure. I know we have to do it and we should have been
20 doing it. I know we used to do it to a point even though we
21 didn't have the law behind us.

22 I just have problems with what's going on with
23 Eastmont. And when I say I think we flunked the racial equity
24 for Eastmont, yes, and I think Mr. Simon's comments under the
25 questioning of Commissioner May validated that for me. So I'm

1 going to probably not ask a whole lot of questions right now
2 because it's about a map amendment. And we have to look at map
3 amendments under the racial equity lens as well, and the comments
4 that I got are very uneasy, and I know those -- obviously you
5 have to be able to come back, right to return, all that. I
6 haven't even gotten to that because I'm having so many problems
7 with Eastmont. But instead of me trying to guess it and assuming,
8 I want to get to them and hear directly from them because if I
9 remember, I believe most of them are seniors, is that a correct
10 assessment? I know I had the places wrong first, but Mr. Simon,
11 is that correct, Eastmont mostly seniors?

12 MR. SIMON: I mean, I don't know have -- yeah, from
13 what my observations were, yes. I don't have, you know, the
14 demographic information for Eastmont, but who we met were mostly
15 seniors, correct.

16 CHAIRPERSON HOOD: So I guess, Ms. Brown, that's why
17 things weren't maybe time- -- sent to us untimely. You know, I
18 mean, and there's nothing wrong with that. Seniors, you know,
19 I'm not necessarily -- I'm a senior to a point. I'm 59, so I
20 don't do certain things like I used to do. None of us do. And
21 I think we need to be, as I say, a little grace. So I'm not
22 going to ask a lot of questions, but I will tell you when we come
23 back, we'll probably have more questions after we hear from the
24 public.

25 Commissioner May, did you reclaim? If not, we're going

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1 to ask questions on the back end.

2 COMMISSIONER MAY: No, I could not recall what the
3 train of thought was, so I'm happy to continue.

4 CHAIRPERSON HOOD: Well, we'll ask our questions after
5 we hear from the public. Okay.

6 MS. BROWN: I'm sorry. Mr. -- or Commissioner Hood,
7 do you want me to respond to any of your things, or shall I just
8 do that later in rebuttal?

9 CHAIRPERSON HOOD: I think, Ms. Brown, at the end,
10 we're going to have more of a discussion once we hear from them.
11 Maybe for me personally, I can get a better understanding of some
12 of the comments that came in about this map amendment.

13 MS. BROWN: Okay. Because I think there is a tension
14 between, you know, the concept of racial equity. We also have
15 to look at the demographics of the existing Elm Gardens community,
16 and that also is a completely racially diverse building. And so
17 I think that, you know, it's sort of the makeup of Takoma Park
18 in this particular area, there's a lot of inclusivity and
19 diversity here. And I'm not saying that the issues that the
20 Eastmont residents have raised are not -- I sympathize with them,
21 and I think that yes, it will be a much bigger building envelope
22 to have an RA-3 building next to them, but it's just one of those
23 balancing tensions that, you know, that's all part of the racial
24 equity analysis as well. So we can return to that toward, you
25 know, in rebuttal and in closing, but I just wanted to make that

1 point.

2 CHAIRPERSON HOOD: Okay. Ms. Brown, I appreciate your
3 comments and I'm going to look at the racial equity lens in
4 totality. I'm going to look at that in totality. But right now
5 I believe Eastmont, the way I see it and the way I read the
6 record, is being disenfranchised. That's the way I see it right
7 now. So that's why I need to hear from them. Okay.

8 All right. Any other questions, colleagues?

9 All right. Ms. Schellin, let's go to -- let me pull
10 this up because we've changed how we do things. I think we go
11 to the ANC for cross, Ms. Schellin?

12 MS. SCHELLIN: Yes, the ANC.

13 CHAIRPERSON HOOD: Yes, for cross. I assume
14 Commissioner Yeats, is he going to be representing the ANC?

15 ANC COMMISSIONER YEATS: Commissioner Palmer and I are
16 both authorized by resolution to represent ANC 4-B in this case.

17 CHAIRPERSON HOOD: Okay. Who's going to be ask --
18 doing the cross-exam? We're not going to ask for your
19 presentation. We need the cross-examine. Who's going to be
20 crossing the Applicant?

21 ANC COMMISSIONER YEATS: I have no questions for the
22 Applicant at this time.

23 CHAIRPERSON HOOD: Commissioner Palmer, you have any
24 questions for the Applicant?

25 ANC COMMISSIONER PALMER: No. I have a statement, but

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1 no questions.

2 CHAIRPERSON HOOD: Okay. We're going to come back to
3 the ANC report at the appropriate time. This is the time when
4 you all have questions of what you heard from the Applicant.
5 Okay?

6 All right. So we can --

7 MS. SCHELLIN: Party in opposition, Mr. Jones, if he
8 has any questions for cross.

9 CHAIRPERSON HOOD: Yeah. Thank you, Ms. Schellin.

10 MS. SCHELLIN: Jeremi Jones.

11 CHAIRPERSON HOOD: My file closed on me. Hold on one
12 second.

13 Okay. There we go. Mr. Jones. Can we bring Mr. Jones
14 up?

15 Mr. Jones, you are a party in opposition, so this is
16 the time for you to ask any cross-examination only of what you've
17 heard.

18 MR. JONES: Thank you. I don't have any questions
19 right now.

20 CHAIRPERSON HOOD: Okay. Thank you. We'll come back
21 to you.

22 Okay. Ms. Schellin, do we have any other government
23 agencies?

24 MS. SCHELLIN: No other --

25 CHAIRPERSON HOOD: I know about OP and DDOT.

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1 MS. SCHELLIN: Right. No other government agencies
2 that I'm aware of.

3 CHAIRPERSON HOOD: Okay. None in the file. Okay.
4 Let's go to the Department of Transportation.

5 MS. SCHELLIN: I don't think we have anybody signed up.

6 CHAIRPERSON HOOD: Okay. This is a map amendment, they
7 usually don't show, so we'll just --

8 MS. SCHELLIN: Yeah. They don't, so.

9 CHAIRPERSON HOOD: Okay. Let's go to the Office of
10 Planning.

11 MS. SCHELLIN: Mr. Cochran, I believe. Yes.

12 CHAIRPERSON HOOD: Let's go to the Office of Planning.

13 MS. SCHELLIN: Mr. Cochran and Mr. Lawson.

14 CHAIRPERSON HOOD: Okay. Let's go to the Office of
15 Planning, and then I will read the DDOT report once I pull it
16 up. Too many files open.

17 MR. COCHRAN: Okay. Good afternoon, Mr. Chair, and
18 members of the Commission. OP continues to support the efforts
19 the residents of the Elm Gardens Apartments and the NHP Foundation
20 are making to secure high quality affordable housing for
21 themselves and for others for years to come. The proposed map
22 amendment, when combined with signed covenants between the
23 Applicant and DHCD, is an inherent part of achieving that goal.
24 OP's set-down report reviewed the many policies in the
25 comprehensive plan's citywide and Rock Creek East elements that

1 stressed the importance of affordable housing and the zoning that
2 would support it. Those reports noted that the congruence between
3 the plan's written elements and the proposed map amendment would
4 be even stronger when viewed through a racial equity lens. As
5 you can see from the slide, the site is now split zoned RA-1 and
6 MU-4. OP has recommended approval of the Applicant's request
7 that a single RA-3 zone be applied to the entire site.

8 However, since filing our hearing report, OP has become more
9 aware of a possible tension between the amendment's supportive
10 written policies and the comprehensive plan, and the site's
11 depiction on the generalized future land use map and the
12 generalized policy map. OP misjudged the degree of overlap
13 between the site's boundaries and what the computerized maps show
14 for the land use and policy designations near the site.

15 Paul, could you bring up Slide 2 please? Okay.

16 As you can see, when the site boundaries are overlaid
17 on the FLUM and policy map, parts of the Applicant's property are
18 adjacent to the commercial low density and residential medium
19 land use designation and the Neighborhood Enhancement Area Policy
20 designation. But no part of the property appears to be within
21 the boundaries of those designations. Given this, it's
22 understandable that if these maps were viewed in the same way one
23 looks at a zoning map, the proposed RA-3 zone might be considered
24 inappropriate if there weren't other supportive written policies
25 to be considered. However, the comprehensive plan makes clear

1 that the policy map and the FLUM are not to be viewed in the same
2 way as a zoning map and that other factors should be taken into
3 account when determining whether a particular zone is
4 appropriate. When the policy map designates an area for
5 neighborhood conservation, it doesn't mean that every property
6 is to be frozen in time. You know that. It means that future
7 development in the overall neighborhood should reflect, but not
8 necessarily duplicate, the variety of uses and densities that
9 already exist in the neighborhood. "The goal of the neighborhood
10 conservation designation is," and I'm quoting the comprehensive
11 plan, "is to conserve and enhance established neighborhoods, but
12 not preclude development, particularly to address citywide
13 housing needs." There's now a four-story apartment house
14 adjacent to the Applicant's site that's actually one story taller
15 than the current zoning allows. And there's a five-story
16 apartment building behind the site across the rail tracks. Three
17 other five- or six-story apartment buildings are currently
18 planned for the Takoma neighborhood. With respect to the FLUM,
19 the framework element states that the FLUM should be interpreted
20 broadly, and that while densities within any given area of the
21 FLUM reflect all contiguous properties on a block, there may be
22 individual buildings that are larger or smaller than the ranges
23 within each area. The framework element describes the FLUM
24 boundaries, as you've heard, soft edged, and specifically states
25 that the map does not follow parcel boundaries like a zoning map.

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1 Before the comprehensive plan maps became computerized, it was
2 understood that the other factors and comprehensive plan policies
3 would affect the degree to which a particular FLUM designation
4 might apply to areas near those soft edged FLUM boundaries. But
5 with computerization, the FLUM in particular has morphed into
6 being seen as having hard edged boundaries that followed property
7 lines. This is contrary to the framework elements' stated
8 intentions. FLUM designations are to be interpreted in
9 conjunction with relevant written goals, policies, and action
10 items in the comprehensive plan text and further balanced against
11 policies or objectives in relevant small area plans and other
12 city plans. The buildings that are near the Applicant's site or
13 two to four stories tall. An RA-3 zone would permit a new
14 building to be only two to three stories taller than the other
15 buildings in the area. The difference in density admittedly
16 between the existing and the proposed zoning would be greater.
17 However, we already know that whatever is built on the site under
18 the proposed -- oop, excuse me just a second -- under the proposed
19 zoning would be residential and that all units would be
20 affordable. The NHP Foundation and the Elm Gardens Tenant
21 Association have recorded a covenant with the DHCD that grants
22 tax relief to the property but requires the following: housing
23 to be developed and used on the eligible property shall be rent
24 restricted as low income residential units and occupied by
25 households with an average income at or below 60 percent of the

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1 MFI. Now, that covenant isn't a development proposal. That
2 wouldn't be appropriate for a map amendment, but it does mean
3 that whatever is developed on the site would have affordable
4 housing that is 20 percent lower in MFI than IZ requires. And
5 it would also mean that the deeper IZ Plus levels of affordability
6 would apply to every single unit in the building, not just to
7 some. The combination of this restrictive covenant and the RA-
8 3 zone's permitted densities would result in the production of
9 more units with deeper affordability than could ever be achieved
10 under the existing zoning or within a RA-2 zone. And I would
11 note that this would be done without the displacement of anyone
12 other than the tenants who have already agreed to move off-site
13 and come back under the covenants.

14 OP's report notes the many written policies in the
15 comprehensive plan that the proposed zone, coupled with the
16 signed covenant, would help achieve, not just affordable housing
17 policies, but also and in particular policies that support
18 locating additional housing density near a transit corridor and
19 a Metro station that's only a three- or four-minute walk away
20 from the site, as well as the environmental benefits of such
21 transit-oriented development. So given these policies, the
22 demographics of the Takoma neighborhood of Ward 4 and the District
23 as a whole, and taking into account the way the framework element
24 says the FLUM and policy maps are to be interpreted, the proposed
25 map amendment would be not inconsistent with the comprehensive

1 plan, particularly when viewed through a racial equity lens. For
2 these reasons, OP does not object to the proposed map amendment.
3 That concludes my testimony. Of course, I'm available for
4 questions.

5 CHAIRPERSON HOOD: Thank you, Mr. Cochran. Hold tight.
6 Let me do the DDOT letter. DDOT has reviewed the Applicant's
7 request. This is our Exhibit 26.

8 "DDOT has reviewed the Applicant's request and
9 determined that based on the information provided the proposed
10 rezoning may lead to a minor increase in the number of peak hour
11 vehicle trips on the District's transportation network if
12 developed with the most intense matter-of-right uses in the RA-
13 3 zone." And then it goes on to say, "Given the subject property
14 is in a short walk to Takoma Metro station, a proposed change in
15 zoning is consistent with DDOT's approach to new development that
16 supports higher densities, adjacent transit, and walkable design,
17 DDOT has no objection to the approval of the requested map
18 amendment." And DDOT also mentions continued coordination and
19 they have a number of bullet items. I won't read through all of
20 those. They were the number that the Applicant has to continue
21 in dialog with DDOT through possibly the BZA process, possibly
22 through permitting, and I think open space or whatever, whatever
23 processes, and I'm sure the Applicant has reviewed this, but I
24 wanted to read that for the record.

25 All right. Nobody never calls me until I get on a

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1 hearing. Hold on one second.

2 (Pause.)

3 CHAIRPERSON HOOD: Okay. Sorry about that.

4 Okay. Let's see if we have any questions of Mr.
5 Cochran. And again, the DDOT letter is in support, and that's
6 Exhibit 26.

7 Commissioner May, any questions?

8 COMMISSIONER MAY: Yeah, I do have a couple or three.
9 So first of all, your presentation was not in the record as of
10 this afternoon. Is it in the record now?

11 MR. COCHRAN: It is not yet. I will certainly put it
12 in.

13 COMMISSIONER MAY: Okay. Well, it would be helpful to
14 have it, to be able to refer to it as I'm looking at it, so if
15 that can be done now, if somebody could get it in there right
16 away.

17 MR. COCHRAN: I will. Why don't I send it direct?

18 Sharon, what is the best way to do that?

19 MS. SCHELLIN: Trying to see it now, Commissioner May?

20 COMMISSIONER MAY: I would like to see it now, yeah.

21 MS. SCHELLIN: So Steve, if you could go ahead and just
22 upload it into IZIS since they're accepting it, that would be the
23 best way. And then Ella can release it into -- well, I'll release
24 it into ZDOTS.

25 COMMISSIONER MAY: Okay. So I mean, I can go ahead and

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1 ask my questions without having it --

2 MS. SCHELLIN: But if you want to just email it to me,
3 Steve, it's probably faster. Just email it to me.

4 MR. COCHRAN: All right. I'm just going to -- the
5 record will probably show a few underlinings and all those kinds
6 of things you do to remember where you're supposed to emphasize
7 things, so excuse that.

8 COMMISSIONER MAY: Well, I mean, what was Paul showing
9 us? That's what I'm looking for. If Paul already has it, can't
10 we just look at the record?

11 MR. COCHRAN: Oh, that's in the record.

12 MS. SCHELLIN: Yeah, (indiscernible).

13 COMMISSIONER MAY: Yeah. All right.

14 MR. COCHRAN: I'll send the testimony to Sharon, sorry.

15 COMMISSIONER MAY: I just want the slide show in the
16 record so I can see it, pull it up and see it.

17 MR. COCHRAN: Okay.

18 COMMISSIONER MAY: So Paul, would you mind pulling up
19 that slide show again so we can look at the maps?

20 Ms. Schellin, you might want to mute when you're not
21 talking to us.

22 CHAIRPERSON HOOD: Yeah, you might want to mute.

23 MS. SCHELLIN: Sorry about that.

24 COMMISSIONER MAY: Thank you, Paul.

25 So maybe we -- can we zoom in a bit on the image there?

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1 I'm really focused on the property in the FLUM. So if we can
2 just make a -- bring it down just a little bit. That's probably
3 good enough. Okay. So first of all, I'm somewhat comforted by
4 seeing this map which shows the future land use map mixed use
5 designation actually abutting the property. The thing that I
6 find very confusing about this is that what the Applicant showed
7 in their submission, and I think what might have been in the OP
8 report, maybe I saw it there too, but I don't recall, is the,
9 you know, for lack of a better word, the crayon version of the
10 FLUM, right, which is not so precise. It doesn't have these very
11 tight lines to it. It's the same kind of FLUM that we've seen
12 for decades, right, it's not exactly this. And when you look at
13 that map, the striped -- the area that's striped as mixed use
14 does not start where it is showing on this map. It actually,
15 you know, the uppermost or the upper left boundary of that seems
16 to be approximately the same as a line extending from Holly Avenue
17 down from that point. So if you imagine that little gray line
18 across the street in Maryland and continue that straight down,
19 that's where the mixed use designation seems to end in the FLUM
20 that was shown by the Applicant. So my question is what is the
21 correct map, I mean, what is the legally technically correct map
22 that the council approved?

23 MR. COCHRAN: Are you asking me?

24 COMMISSIONER MAY: Yeah. Yeah.

25 MR. COCHRAN: Okay.

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1 COMMISSIONER MAY: If you don't know, that's okay.

2 MR. COCHRAN: I would have to refer that -- since it's
3 a council adopted plan, I would have to refer it to counsel at
4 the council.

5 COMMISSIONER MAY: I don't think we have to go all the
6 way back to the city council to get an answer to that. I mean,
7 there has to be -- it has to be established somewhere in the
8 policy. Maybe somebody else in the Office of Planning.

9 MR. COCHRAN: We've always used the -- for the decades,
10 for 40 years that I've been working with the comprehensive plan
11 since I was a volunteer for neighborhood organizations, we viewed
12 the fuzzier, the more crayon like or blob map, as representative
13 of the FLUM and even the policy map.

14 COMMISSIONER MAY: Right.

15 MR. COCHRAN: This is our OP GIS interpretation of
16 that.

17 COMMISSIONER MAY: Okay. All right. Well, and I --

18 MR. COCHRAN: So take from that what you will, but it
19 seems like that would be the more generalized map, especially
20 when you look at what the comprehensive plan says you're supposed
21 to do with the map.

22 COMMISSIONER MAY: Yeah. I mean, I assumed it was the,
23 you know, the what I call the crayon map, which is the same
24 version of this that's been published in conjunction with the
25 comprehensive plan for decades. It changes, you know, with every

1 revision, but it is a pretty general looking map. It's not as
2 precise as what we see here. And unfortunately, it doesn't help
3 make the case because the area that's striped as mixed use or -
4 - yeah or the higher density zones, it doesn't actually abut the
5 property, and it stops, like I said before, like a whole property
6 away from it. So I mean, I don't want to keep making a big deal
7 of this. I understand that we have flexibility to interpret the
8 soft lines of the comprehensive plan, but it really is helpful
9 to see the property actually, you know, mapped correctly and
10 consistently so that we understand how soft we have to think of
11 those lines.

12 MR. COCHRAN: Okay.

13 COMMISSIONER MAY: So - and this is not a criticism of
14 you or anybody else in the Office of Planning staff or the
15 Applicant. Just, you know, we wind up in this place where I
16 spotted something that didn't make sense, and now I'm trying to
17 make sense of it. So whatever you can do to help me make sense
18 would help me. The next question I have is you made reference
19 to four-story buildings in the immediate context. Did I hear
20 that correctly?

21 MR. COCHRAN: That's correct.

22 COMMISSIONER MAY: So what four-story buildings are you
23 aware of?

24 MR. COCHRAN: Well, I'm not allowed to show any video,
25 but I'm looking over my shoulder at Google Maps and there

1 immediately adjacent to the northwest property is what I count
2 as a four-story building.

3 COMMISSIONER MAY: Right. Okay. So that's the
4 Eastmont, which does have four levels. But if you, you know, I
5 don't know what it would be considered from a zoning perspective,
6 because on the north side of it, it's only three stories showing.
7 Right? So it -- and the grade there is such that it may all be
8 a completely below grade level on that fourth level. I just
9 wanted to understand which one you were talking about. You know,
10 how it's defined in zoning doesn't really mean that much to, you
11 know, normal human beings, but it is a -- it was a question B
12 because if there was a four-story, a true four-story above grade
13 building in that immediate context that I wasn't aware of, then
14 I'd like to know about that. So I think you've answered my
15 questions. Yeah, I think that's it. Thank you.

16 CHAIRPERSON HOOD: Okay.

17 Commissioner Imamura, any questions of the Office of
18 Planning?

19 COMMISSIONER IMAMURA: Thank you, Mr. Chairman, and
20 thank you, Commissioner May, for articulating the grade change
21 there. So I think we have to be careful about calling things
22 out as three-story or four-story.

23 My question for Mr. Cochran is if he can help temper
24 kind of my concern around the neighborhood conservation area.
25 I've asked this question before. It's the one statement that

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1 always kind of gets me -- gives me a little bit of heartburn in
2 seeing where changes occur, it will typically be modest in scale.
3 So given what matter-of-right might be, how can we justify or
4 argue that it might be modest in scale with the surrounding
5 properties?

6 MR. COCHRAN: Okay. The name of the map is the
7 neighborhood conservation area. It's not the block conservation
8 area. On balance, when you look at the overall Takoma
9 neighborhood, there are existing taller buildings and there are
10 several more that will be coming soon. Some are by-right, some
11 the Zoning Commission has approved. It's a mixed use
12 neighborhood, so we look at the overall pattern, not just the
13 pattern on the block, and balanced it out.

14 COMMISSIONER IMAMURA: All right. Thank you, Mr.
15 Cochran. I appreciate that. Appreciate your response.

16 That's all I have, Mr. Chairman.

17 CHAIRPERSON HOOD: Thank you.

18 And, Mr. Cochran, in your report, Mr. Cochran, you
19 mentioned that, I think it's the last page or maybe -- no, maybe
20 it's next to the last, remember where you talked about the small
21 area plan. Is that in process, are they revisiting it? I know
22 there was a Takoma small area plan. Are they revisiting it again,
23 are they updating it, or is there another one coming, or what's
24 going on?

25 MR. COCHRAN: I don't know the answer to that. I'd be

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1 happy to get back to you. Wait a minute. I just learned that
2 there is not one.

3 CHAIRPERSON HOOD: There's not one. So they're --

4 MR. COCHRAN: Not one now.

5 CHAIRPERSON HOOD: So they're working. Is that in
6 process? Since you can get the answers like that.

7 MR. COCHRAN: No, there's not one in process.

8 CHAIRPERSON HOOD: Okay. Okay. Great. Okay. Thank
9 you. That's all I had. Let's see. And thank you, Mr. Cochran,
10 for your report.

11 Ms. Brown, do you have any questions of Office of
12 Planning, Applicant?

13 MS. BROWN: No, sir, we do not.

14 CHAIRPERSON HOOD: Okay. Mr. Jones -- no, the ANC.
15 I'm sorry.

16 Commissioner Palmer, Commissioner Yeats, you have any
17 questions of the Office of Planning? Okay.

18 ANC COMMISSIONER YEATS: I do. I do, yes, Mr. Chair.

19 CHAIRPERSON HOOD: Commissioner Yeats. Okay. You
20 changed your venue, but go right ahead.

21 COMMISSIONER YEATS: I'm doing school pickup, so you'll
22 see there's a small child right here next to me.

23 CHAIRPERSON HOOD: Right, right.

24 COMMISSIONER YEATS: Volunteer civil servants. We do
25 the best we can. I would just ask the Office of Planning, in

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1 our resolution for the Historic Preservation Review Board, we
2 cited buildings within a quarter mile or a half mile or less that
3 were largely the same size as this building, including 318 Tudor
4 Street, N.W., 300, 308 Carroll Street, N.W., 218 Vine Street,
5 N.W., 235 Carroll Street, N.W., 343 Cedar Street, N.W., 314
6 Carroll Street, N.W., 7054 (audio glitch), 53 Spring Place, N.W.,
7 that are all largely the same size and massing as this and either
8 have been approved by zoning and HPRB and are under construction
9 or are already built. Is OP aware of those buildings and is the
10 assessment of the size of those buildings largely accurate?

11 MR. COCHRAN: I don't know the designations of all of
12 those sites, so I'm certainly aware of some of them, but I don't
13 know that I'm aware of all of them.

14 ANC COMMISSIONER YEATS: That's all I have, Chair.

15 CHAIRPERSON HOOD: Commissioner, we appreciate it and
16 we appreciate your service in picking up that young person. I
17 know they had a great day in school. Tell them we all said hello.

18 ANC COMMISSIONER YEATS: I will, no problem. And they
19 might make another appearance later. Fair warning.

20 CHAIRPERSON HOOD: Sounds good. We would love to have
21 them. Okay. Let's go to Commissioner -- I'm sorry, Everybody's
22 a commissioner.

23 Mr. Jones, you may be a commissioner, but Mr. Jones,
24 you have a cross-examination of OP?

25 MR. JONES: If I'm allowed, I would like to reiterate

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1 that indeed there are no above grade four-story buildings amongst
2 the Eastmont Cooperative. And as far as I know, there's not any
3 single zoning in the Takoma neighborhood that allows for more
4 than six -- that allows for six stories and 60 feet like the RA-
5 3 zoning allows. And I want to ask, am I incorrect about that?

6 CHAIRPERSON HOOD: I like the way you made that into a
7 question, so thank you.

8 Mr. Cochran?

9 MR. COCHRAN: I have been going with the ocular proof
10 to get at that. I have looked at buildings and counted stories.
11 I admit I have not done the grade related analysis for it.

12 MR. JONES: I don't have any other questions.

13 CHAIRPERSON HOOD: Okay. Thank you, Mr. Jones, and
14 thank you, Office of Planning, for your report.

15 Ms. Schellin, let's bring up the A- -- well, if it's
16 convenient for Commissioner Yeats, I know he's on duty taking
17 care of business right now. Is he at a place where he wants to
18 do his report? Okay. Good. And Commissioner --

19 ANC COMMISSIONER YEATS: I'm happy to testify.

20 CHAIRPERSON HOOD: Okay. So I'm going to let both of
21 y'all, whatever you all are doing, I'm going to let the ANC go
22 right ahead at this time, because when I looked at your letter,
23 it looks like everybody on the commission has authority to come
24 in front of us, so we're glad it's you two. So you all may begin.

25 ANC COMMISSIONER YEATS: Okay. I will go first and

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1 then I will yield to Commissioner Palmer. Greetings. My name's
2 Evan Yeats. I'm the advisory neighborhood commissioner for 4B204
3 in Takoma and was the commissioner for 4B01 prior to this year.
4 The proposed project at 7050 Eastern Avenue, N.W., where Elm
5 Garden is, and has been in my single member district. I'm also
6 a neighbor living just a quarter mile away from the proposal. I,
7 along with Commissioner Palmer and others, are authorized to
8 testify on behalf of the commission in this project. This project
9 offers our community the opportunity to avoid displacement, avoid
10 the loss of naturally occurring affordable housing, and build new
11 affordable housing to serve our neighborhood. Our commission
12 considered this project in September and October of 2022 and
13 unanimously supported this project, and I urge the Zoning
14 Commission to join us.

15 ANC 4D had three public meetings to hear feedback from
16 the community, and our feedback was consistently positive. We
17 engaged in extensive feedback from the community in small group
18 meetings, on social media, and via email. I heard from neighbors
19 and elected officials across the community, both D.C. and
20 Maryland, including from one resident in Eastmont who reached out
21 in October but did not offer an opinion on the project at that
22 time. I'll also just note that the Eastmont buildings are locked
23 and you are unable to knock the doors. I know because I've run
24 for election in this community three times.

25 I know our notice amply reached neighbors and

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1 community. We routinely hear from community members of all ages.
2 The Historic Preservation Review Board also considered this
3 project at two meetings and approved it after hearing
4 overwhelmingly that it's consistent with the Takoma community and
5 existing neighboring buildings. The proposal at Elm Gardens is
6 the result of a partnership between the tenant association and a
7 nonprofit developer to build an attractive new building with
8 extensive community benefits. Our commission has consistently
9 supported more affordable housing adjacent to high quality
10 transit, and this project meets both our commission goals and the
11 District's goals in those areas. It will also offer significant
12 benefits to the neighborhood beyond housing as well. It will
13 significantly improve pedestrian conditions along an important
14 route to the Metro that is currently a narrow sidewalk directly
15 adjacent to the street. It will also mitigate runoff problems
16 that occur due to a current impermeable surface parking lot that
17 will be eliminated.

18 In addition, the project is compatible with both the
19 comprehensive plan and the Commission's goals, both of which seek
20 to produce more housing, particularly affordable housing,
21 adjacent to the Takoma Metrorail stations. The site's currently
22 zoned for both RA-1 and MU-4, but the proposed map amendment to
23 RA-3 provides additional housing in accordance with the Rock
24 Creek East Area element that calls for infill housing around the
25 Takoma Metro as "appropriate" and calls to "concentrate economic

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1 development activity and new housing, including affordable
2 housing around the Takoma Metro station area," which is literally
3 adjacent to this building.

4 I want to take a moment and recognize my neighbors at
5 Eastmont, who I've heard from on this project. I recognize that
6 there are eight units that may have compromised views or light
7 and four units that may have improved views or light. But the
8 tenants of Elm Gardens are my constituents as well, and ensuring
9 that they and our future neighbors have safe, affordable, and
10 attractive housing with access to robust public transit is
11 critical. I also know that if this map amendment does not
12 succeed, that what our community will face will be far worse.
13 Recent abuses of the TOPA process by for-profit companies have
14 resulted in substantial displacement, construction without
15 engagement with the community, a loss of naturally affordable
16 housing, and reduced opportunities for transit adjacent
17 affordable housing. To pull up the ladder of access to our
18 community by preventing the development of new affordable housing
19 is exclusionary. Allowing a heckler's veto in this case will
20 result in the displacement of working people in D.C. who require
21 affordable housing. I thank the Commission for their time and I
22 welcome any questions.

23 CHAIRPERSON HOOD: Thank you. If you have a moment, I
24 know you've got a lot of things going on. Looks like Commissioner
25 Palmer also as a young person. So if you have a moment, let me

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1 go to Commissioner Palmer. And we like to see those young people
2 too if you all don't mind.

3 So Commissioner Palmer?

4 ANC COMMISSIONER PALMER: Mine just left the scene, so
5 apologies. But they like to rush in like the little chaos
6 tornadoes that they are.

7 CHAIRPERSON HOOD: And so if you have any testimony -
8 -

9 ANC COMMISSIONER PALMER: Yes, I do. Thank you. I
10 wasn't clear that you were calling on me to testify, so thank
11 you so much. Thank you to the members of the Zoning Commission
12 and staff for taking time to hear from witnesses today about Case
13 No. 22-33. My name is Erin Palmer. I am a Takoma resident, the
14 elected advisory neighborhood commissioner for Single Member
15 District 4B02 in Takoma and chair of Advisory Neighborhood
16 Commission 4B's housing justice committee.

17 I am here to express strong support for the proposed
18 map amendment and NHP Foundation's proposal for the property.
19 Advisory Neighborhood Commission 4-B's housing justice committee
20 was created in February 2020 on the value that housing is a human
21 right and all D.C. residents are entitled to safe, stable, and
22 secure housing. The commission seeks to do our fair share
23 regarding deeply affordable housing within our commission
24 boundaries and maximize affordable housing within the commission
25 area. Representatives from NHP Foundation and the Elm Gardens

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1 Tenant Association presented to commissioners in the community
2 at Advisory Neighborhood Commission 4B's September 28, 2022
3 meeting and to members of the commission's housing justice
4 committee and the community on October 5th, 2022. The commission
5 considered and voted on two resolutions in support of the proposal
6 to the Historic Preservation Review Board and the Zoning
7 Commission at the commission's public meeting on October 24th,
8 2022.

9 I have served as a commissioner for more than four
10 years and as chair of the commission's housing justice committee
11 for more than three. And in that role, I have considered and
12 weighed in on many development proposals throughout the
13 commission area, as well as at Walter Reed. We have considered
14 by-right proposals with minimal affordable housing, proposed map
15 amendments with significant detail on secured financing, as well
16 as proposed map amendments with almost no detail, housing
17 preservation and Housing Production Trust Fund projects, voucher
18 housing proposals, and more. This project provides notable,
19 expansive, and important benefits, particularly with regard to
20 affordable housing due directly to increased density.

21 It is exactly the type of project we look for and want
22 more of across the city. The proposed map amendment and increased
23 density allow the following: this project will replace a 36-
24 unit apartment building with a 110-unit dedicated affordable
25 apartment building. These 110 units will be 90 to 95 percent

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1 affordable, with the average of all rents no higher than 60
2 percent of median family income for a minimum of 40 years. It
3 is only not 100 percent affordable to allow current over income
4 tenants to remain, and those units will revert to affordable
5 housing if vacated.

6 This project proposes 11 permanent supportive housing
7 units desperately needed in D.C. for neighbors formerly without
8 homes and includes an on-site service provider to support these
9 tenants. As the District struggles to end homelessness and
10 engages in encampment evictions, these units are precious and
11 literally save lives. This is a tenant opportunity to purchase
12 act zero displacement project. All tenants will have the right
13 of return, as discussed. This is the embodiment of tenants
14 exercising their rights for long term affordable dignified
15 housing, a prospect that the District celebrates and promotes.
16 This project replaces underutilized 36-space surface parking lot
17 with a 23-space subterranean parking garage. As has been well
18 documented and researched, surface parking lots are one of the
19 least efficient, most costly, most climate harmful land uses.

20 This project makes additional strides toward meeting
21 our environmental goals through modern green building standards.
22 It is adjacent to a transit hub, providing high quality robust
23 transportation access. Allowing greater density and maximizing
24 affordability along transit corridors is essential to mitigate
25 climate change, as well as to provide transit amenities to

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1 neighbors across the socioeconomic spectrum. This project is not
2 just expansively affordable, tenant empowering, and green, it is
3 attractive and full of amenities. We often struggle with attempts
4 to cheap out on affordable housing, which impacts the dignity of
5 residents. And instead, what we're seeing here is an effort to
6 expand affordable housing in a manner that respects the residents
7 that will live there.

8 The residents at 7050 Eastern will live in a good
9 building. When we talk about every D.C. resident being entitled
10 to safe, stable, and secure housing, this is what we mean. In a
11 city where we've seen encampment clearings and bulldozing of our
12 unhoused neighbors, abuse of housing voucher recipients, and
13 dilapidated and dangerous public housing, this project is a
14 dream. I'm happy to support it and look forward to welcoming
15 current and future neighbors to Takoma. Thank you so much.

16 CHAIRPERSON HOOD: Thank you, Commissioner Palmer and
17 Commissioner Yeats.

18 Commissioner Yeats, if you have that young person, if
19 you can hear me, can you just have them go on the screen and wave
20 at us? I do this all the time, especially with young people.
21 Commissioner Palmer's young person has left.

22 ANC COMMISSIONER YEATS: Can you wave?

23 CHAIRPERSON HOOD: You want to wave at us? I'll tell
24 you what I tell everybody. I hope you're doing well in school.
25 And what I tell everybody is tell your teacher to watch the video

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1 and see that you were on the hearing with us. So we're glad to
2 have you and hopefully your teacher may consider and give you
3 extra credit for being here. So thank you for all you all do.
4 And if you can convey that to your young person too, Commissioner
5 Palmer.

6 ANC COMMISSIONER YEATS: I will.

7 CHAIRPERSON HOOD: Okay. All right. Commissioners,
8 any questions of either one of our commissioners?

9 Commissioner May?

10 COMMISSIONER MAY: No, I don't. I think, I mean, I
11 heard there was an attempt -- there was some connection with the
12 residents of the Eastmont. But it was -- they did not engage
13 very directly, like one person, something like that.

14 ANC COMMISSIONER YEATS: Yeah. Mr. Jones reached out
15 in October and I corresponded with him. He didn't express an
16 opinion one way or another at the time to me. I did hear from
17 him later in February and March in opposition though.

18 COMMISSIONER MAY: Okay. All right. Thank you.

19 CHAIRPERSON HOOD: Okay and thank you.

20 Commissioner Imamura?

21 COMMISSIONER IMAMURA: No questions. Just want to
22 thank both of them for ensuring young people participate in the
23 process, so.

24 CHAIRPERSON HOOD: All right. I too want to thank both
25 of you all for your comments, and I appreciate you all letting

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1 me know the interaction with Eastmont. I do have some questions
2 for them when we get to them.

3 Let's see, Ms. Brown, do you have any questions of
4 either one of the commissioners? It's funny, then the camera
5 goes out. You have any questions, Ms. Brown?

6 MS. BROWN: No, sir.

7 CHAIRPERSON HOOD: Okay. And who am I missing?

8 Oh, Mr. Jones, do you have any questions of either one
9 of the commissioners?

10 MR. JONES: Yes, I do. I have a question for both. Do
11 either of you personally remember in your outreach, any outreach
12 that could be thought of asking for feedback for this project
13 rather than simple promotion or coercion to support this project?

14 ANC COMMISSIONER YEATS: Yeah. I will say that I
15 routinely welcome feedback in all venues, but I'll also just say
16 that we specifically set aside time at each one of our public
17 meetings to hear community comments or concerns. We opened the
18 -- at the housing justice committee meeting, we opened up the -
19 - before we had even made up our mind about it, part of why we
20 split this project over two meetings was to allow the developer
21 to present at one month, then allow a month for feedback. And
22 then the commission waited. A lot of commissions, a lot of times
23 hear from a developer that presents, and then we -- then they
24 present a resolution immediately, they've already made up their
25 mind, but we split this over two meetings in part to allow for

1 that community feedback to take place. And I heard from multiple
2 people in feedback. I heard back from Historic Takoma about the
3 view impact on the historic Cady-Lee House, which we determined
4 that there was no impact. I heard from Councilmember Peter Kovar
5 in Takoma Park, who was concerned about runoff into the Takoma
6 Park residents on Eastern Avenue, which I think it was determined
7 that this would actually improve the runoff situation for those
8 community members. We welcomed a lot of feedback and I went and
9 looked into those as they came to me. MR. JONES: Well,
10 there is implicit understanding of public feedback for ANC
11 meetings for people who are familiar with them. What I'm asking
12 you is for people who aren't, which I wasn't, did you give any
13 indication that there was a opportunity for feedback rather than
14 simple promotion or support for this project? Because to clarify,
15 there was an air of inevitability that I feel you intentionally
16 put forth and may have discouraged, I suppose you are talking
17 about the time I called to ask for recordings of previous
18 meetings, people from actually giving feedback to the project.

19 ANC COMMISSIONER YEATS: I'll just say that I came even
20 in March to hear the feedback. I mean, (audio glitch) individual
21 if (audio glitch) there (audio glitch). But I would just say
22 that my commitment is to (audio glitch).

23 MR. JONES: I think Commissioner Yeats should try
24 turning his video off and speaking, it might be --

25 CHAIRPERSON HOOD: Yeah. Try to turn on the video

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1 because I know you're moving. And I would ask, Mr. Jones, if we
2 can just make sure we get a question in that. I know you have a
3 long one, it was long.

4 Mr. Yeats, or Commissioner Yeats, could you repeat what
5 you were saying?

6 ANC COMMISSIONER YEATS: Yeah, by and large, I would
7 just say that I can't speak to the error, but I always believe
8 that we (audio glitch) for every project in our community. We
9 will come in and listen to it. We take it to the developers, we
10 evaluate it. It shapes our resolutions. It often shapes what
11 community benefits we ask for from various developers. So I
12 can't speak to the error, but I think that we're very receptive
13 and open to feedback through all kinds of channels. When I looked
14 at the Eastmont meeting, they said that they only learned about
15 it because of the ANC's Twitter outreach. We reach -- like this
16 is how we use every single channel at our availability, right,
17 to try and reach people in the community all the time and engage
18 them in local government. I believe in civic engagement. I've
19 done this work voluntarily for four years and I look forward to
20 continuing to engage with you this month and with all the
21 neighbors there as we go forward.

22 MR. JONES: I don't have any more questions.

23 CHAIRPERSON HOOD: Let me just ask a quick question to
24 the commissioners. There were two people in Takoma for years
25 that I have not seen in a while, I think Faith Wheeler and Sarah

1 -- I don't remember their names. Those names sound familiar?

2 ANC COMMISSIONER PALMER: Yes, we are familiar with
3 them. Sarah Green.

4 CHAIRPERSON HOOD: Sarah Green.

5 ANC COMMISSIONER YEATS: I would just say that they're
6 part of the Historic Takoma group that I heard from on this
7 project that expressed support for going forward with this
8 project.

9 CHAIRPERSON HOOD: Okay. Well, tell them we send our
10 regards and we say hello. So thank you.

11 ANC COMMISSIONER YEATS: I'll be happy to do that.

12 CHAIRPERSON HOOD: Okay. All right. Commissioners,
13 thank you both, and thank you for all the work that you all do.

14 Let's go on, Ms. Schellin. I think we're going now to
15 persons who are in support.

16 MS. SCHELLIN: Okay. Let me get to that part. Robbie
17 Saclarides. John Welsh. I think he was part of the Applicant's
18 group. I don't think he'll be testifying. Is that correct, Ms.
19 Brown?

20 MS. BROWN: Yes, that's correct.

21 MS. SCHELLIN: Okay. Katja Schulz from Elm Gardens.

22 MS. SCHULZ: I'm here.

23 MS. SCHELLIN: Okay. Deborah Jacobson from Elm Gardens
24 Tenants' Association. Karen Edwards, Elm Gardens Tenants'
25 Association.

1 MS. EDWARDS: Yes. Hello. Am I here? Hello. Yes.
2 Hello. Hi.

3 CHAIRPERSON HOOD: Hold tight. Hold tight. We're
4 trying to get everybody up. We can hear you.

5 MS. EDWARDS: Oh, I'm so sorry.

6 CHAIRPERSON HOOD: That's all right.

7 MS. SCHELLIN: That's the only proponents.

8 CHAIRPERSON HOOD: Okay. Let's go with Ms. Schulz, and
9 then we'll go with Ms. Jacobson. Ms. Schulz, you may begin. You
10 have three minutes.

11 MS. SCHULZ: Okay. Thanks. My name is Katja Schulz,
12 and I'm a resident of Elm Gardens, and I'm a member of the Elm
13 Gardens Association -- Tenants' Association board. And thank you
14 very much, Commission, for giving me this opportunity to testify.
15 I strongly support the petition for rezoning, and I have submitted
16 two letters of arguments in favor into the record. I think that
17 the Elm Gardens project is a rare opportunity for Takoma and for
18 D.C. to snatch a valuable site away from for-profit developers,
19 and I'm proud to be part of these efforts. And this map amendment
20 -- if this map amendment is denied, we fear that the current
21 tenants will be displaced after all that we've gone through with
22 TOPA over the last couple of years.

23 And we're all very anxious about having to find new
24 homes in the current very tight rental market in D.C. For me
25 personally, it will be the third time that I'm being displaced

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1 in D.C. due to a building being renovated or sold. First, I was
2 priced out of Capitol Hill, then Mount Pleasant, and now it looks
3 like it may happen again here in Takoma. I'm over 60 and at
4 least a handful of my Elm Gardens' neighbors are older than I
5 am. We too are hoping to age in place here in affordable
6 apartment in Takoma. I have read every single letter in
7 opposition, and I think I have a pretty good understanding of
8 what's at stake for the members of the Eastmont Cooperative.
9 There are costs associated with any development. With two moves
10 and many other inconveniences, the current Elm Gardens' residents
11 are prepared to incur some of these costs. I acknowledge that
12 the residents of the eight cooperative apartments that will be
13 shaded by a new building will be burdened significantly. I love
14 sunshine too. The commissioners will have to weigh this burden
15 against the benefits of saving 31 Elm Gardens' households from
16 displacement and providing 74 additional affordable units in our
17 beautiful neighborhood. Thanks for your time.

18 CHAIRPERSON HOOD: Thank you. Hold tight. We may have
19 some questions.

20 Ms. Jacobson, and then we'll go to Ms. Edwards. You're
21 on mute. Can you unmute yourself?

22 MS. JACOBSON: Thank you. I'm sorry about that.
23 Technology, it's a thing. Hello. My name is Deborah Jacobson.
24 I'm the president of the Elm Gardens Tenants' Association, and
25 I'm here on behalf of the tenants' association to strongly support

1 the zoning amendment. I'd like to tell you a little bit of the
2 story from our point of view. In late 2021, the tenants here
3 got the news that our building was being sold. This was
4 incredibly frightening. All of us are afraid of being displaced.
5 Change is scary. Changes to your home are even more so. We're
6 a diverse group of tenants. I do have the demographic breakdown.
7 This building is 42.9 percent African-American, 28.6 percent
8 Hispanic, 25 percent Caucasian, and 3.6 Asian. So we are a
9 diverse group of tenants in a building that was not only under
10 rent control, but where our landlord didn't really raise the
11 rents and has become de facto affordable housing, which many of
12 us, including me personally, desperately need.

13 I am a long-term Takoma resident. I've lived in this
14 particular studio apartment for 18 years and I'm hoping to stay
15 here for many more. And there is no way that I can afford to
16 live at market rate prices in D.C. All of us wanted to protect
17 where we live, so we formed a tenants' association and exercised
18 our TOPA rights. We decided not to pursue going co-op. Some
19 residents said it had been tried before and they had found that
20 the building did not have enough apartments to make it financially
21 viable, so instead we solicited proposals from developers. There
22 was not a lot of interest. In the end, only two developers
23 submitted proposals. There was the original buyer who said that
24 the building was not financially viable as it stands, and his
25 plan was to buy us out, kick us out, demolish the building, and

1 build new market rate, non-rent-controlled apartments.

2 And then there was NHP. NHP agreed that the building
3 as it stands is not financially viable, but their plans to
4 construct a new one would be dedicated to affordable housing, not
5 just for the current residents, but also by providing many more
6 affordable apartments for people who had similar needs to us,
7 needs like close access to the Metro. And with the new density
8 in the apartment, it would provide amenities and services that
9 we cannot currently support in our building, like having a
10 community space, having on-site management, and NHP promised
11 resident services like coaching and training programs for
12 academic or economic success.

13 We talked to representatives from other buildings that
14 NHP owned in D.C. and reports of them were stellar, saying they
15 keep their promises, NHP are responsive and truly dedicated to
16 their tenants and they run buildings that are net positive for
17 the entire neighborhood around them. When the time came for the
18 tenants' association to vote, it voted 85 percent in favor of
19 proceeding with NHP and their plan. All of us here at Elm Gardens
20 are proud to take this frightening event and turn it into a
21 positive by adding much needed affordable housing density to our
22 community. This is what makes communities stronger, and we urge
23 the Zoning Commission to grant this amendment application so that
24 we can move forward in doing exactly that. Thank you very much.

25 CHAIRPERSON HOOD: Thank you again. If you can hold

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1 tight, we may have some questions for you.

2 Karen Edwards, Ms. Edwards.

3 MS. EDWARDS: Hi. Can you hear me?

4 CHAIRPERSON HOOD: Some -- can you speak up?

5 MS. EDWARDS: How about now? Can you hear me now?

6 CHAIRPERSON HOOD: Yeah. Now we can hear you.

7 MS. EDWARDS: Okay. My name is Karen Edwards, and I
8 am also a member of the Elm Gardens Tenants' Association, and I
9 am in support of this proposal. Like my fellow resident
10 mentioned, this was extremely a frightening experience to hear
11 that our building was going to be sold and with some sketchy
12 offers that we were presented. NHP came in with a great offer
13 that would help us as tenants and made us feel more secure and
14 also the greater neighborhood around us. I was extremely
15 concerned about receiving an offer of \$20,000 to move out. And
16 as my neighbor Katja mentioned, I also have had to move several
17 times. I had to move during the pandemic, and I was extremely
18 concerned about having to find housing and how expensive it would
19 be, given how expensive it is to live in D.C. And so I decided
20 to join the association so that I could learn more about the
21 process, and I'm here to say that I support this proposal, and I
22 hope that -- and I'm happy that you are considering it. I'm a
23 little nervous. That's why my voice sounds a little shaky. Thank
24 you.

25 CHAIRPERSON HOOD: Well, you did just fine, and I just

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1 want you to know that I'm nervous every time I get on here, so I
2 just want you to know that.

3 All right. So I do have a question. I thank you both,
4 Ms. Schulz and Ms. Edwards, but I do have a question for President
5 Jacobson. Have you had a conversation with, I guess, the
6 leadership, I will call it, over at Eastmont?

7 MS. JACOBSON: I personally have not. At the meeting
8 that NHP had with Eastmont last week, we did have a board
9 representative there, Eldridge Allen. He is not at this meeting
10 particularly, but we did have a board representative there.

11 CHAIRPERSON HOOD: Okay. Because I see that he wrote
12 -- I thought I recognized the name. He wrote a letter in support.
13 Let me look back at what he said. Okay. I don't have any further
14 questions. Let me see if my colleagues have any.

15 Commissioner May?

16 COMMISSIONER MAY: I do not have any questions, but I
17 really do appreciate your testimony.

18 CHAIRPERSON HOOD: And Commissioner Imamura?

19 COMMISSIONER IMAMURA: No questions. Just really
20 refreshing to see so many people participate in the process. So
21 thank you.

22 CHAIRPERSON HOOD: So, Ms. Jacobson, I will ask another
23 question. You mentioned about the diversity. Do you have --
24 and I appreciate Mr. Simon for explaining that to me, but you
25 also brought out what he said about the diversity. Do you all

1 have any seniors over there as well?

2 MS. JACOBSON: Seniors, we have some. I do not have a
3 breakdown of percentages of that, I'm afraid.

4 CHAIRPERSON HOOD: I saw Ms. Schulz raising your hand.
5 Certainly, Ms. Schulz, do you have --

6 SCHULZMS. SCHULZ: So I'm also 60, so I think I can at
7 least a little bit. And there are at least a handful of people
8 who are -- like my direct neighbor here, Ms. Lynette Jackson. I
9 know she's a little bit older than I am. I haven't asked her
10 for her birthday. And then Mr. Gibbs, and there's at least, I
11 think Lynette and I are the only seniors in building A, but
12 building B and C has additional seniors, so. And Ms. Lynette
13 has been here for like 30 years. She's been here like almost
14 since the building was first built. Yeah. So have the Gibbsses.
15 I believe they've been here since the '70s.

16 CHAIRPERSON HOOD: Okay. So when I say seniors, I'm
17 not talking about people like us because we're seniors too, but.
18 I'm 59, I'm still a senior. I'm talking about the people who
19 may have a little more difficulty than we do, like 85 and, you
20 know, 80, 85, and 90 because when you start talking about
21 computers, most of them don't touch them. And guess what?
22 Society is going to something -- and I'm not going to touch too
23 if I live long enough. That's what I'm kind of -- I appreciate
24 your comments.

25 SCHULZMS. SCHULZ: We have a few. We're not majority

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1 senior by any means, but we have a few. And those that are here
2 that are at that age have been here for a long time.

3 CHAIRPERSON HOOD: Okay. Thank you. Thank you. Well,
4 thank you both -- I mean, thank all three of you for your
5 testimony.

6 Let me see if others have any question. Ms. Brown,
7 does the Applicant have any across?

8 MS. BROWN: No, sir, no cross.

9 CHAIRPERSON HOOD: And, Mr. Jones, do you have any
10 cross of either of the witnesses?

11 MR. JONES: No, no, nothing. Thank you.

12 CHAIRPERSON HOOD: Okay.

13 Thank you all again for taking time to come and give
14 us your testimony. Thank you very much.

15 All right. Ms. Schellin, I guess we can go to the
16 party in opposition unless you have more people of proponents.

17 MS. SCHELLIN: Did you do cross by everybody? I'm
18 sorry. Did you ask all of the parties?

19 CHAIRPERSON HOOD: Yes, I did, because I know if I
20 didn't, you and Ms. Lovick would straighten me out. So yes, I
21 did.

22 MR. YOUNG: What about the ANC?

23 MS. SCHELLIN: Okay. I wasn't sure if you asked the
24 ANC.

25 CHAIRPERSON HOOD: Oh, wait a minute. You're right.

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1 You're right. Thank you all for reminding me.

2 MS. SCHELLIN: Okay. I didn't hear. Okay.

3 CHAIRPERSON HOOD: Okay. Did they leave? Hopefully
4 they didn't leave.

5 MS. SCHELLIN: We can always bring them up if you ask
6 them quickly.

7 CHAIRPERSON HOOD: Yeah, let's bring them back up and

8 --

9 MS. SCHELLIN: ANCs.

10 CHAIRPERSON HOOD: Oh, let me ask the ANC first. Does
11 the ANC have any cross of those witnesses?

12 ANC COMMISSIONER YEATS: No cross at this time, Chair.

13 CHAIRPERSON HOOD: Okay. Thank you. All right.

14 MS. BROWN: You asked Mr. Jones already, right?

15 CHAIRPERSON HOOD: Yeah. I just -- no, I was going to
16 ask him now. Mr. Jones, he said no. Right?

17 MR. JONES: Yes, I said no. Thank you.

18 CHAIRPERSON HOOD: Okay. Thank you, Mr. Jones, and
19 thanks, everybody.

20 MS. BROWN: Okay. Sorry.

21 CHAIRPERSON HOOD: All right. No problem. Thank you.

22 MS. SCHELLIN: Let's see.

23 CHAIRPERSON HOOD: Let's go to opposition.

24 MS. SCHELLIN: Now you're ready for the opposition.

25 CHAIRPERSON HOOD: Opposition party, yes.

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1 MS. SCHELLIN: Okay. So we have George Smith from
2 Eastmont.

3 CHAIRPERSON HOOD: Is that a party, the only party --
4 do we have another party -- only party we have is Mr. Jones.

5 MS. SCHELLIN: Oh, I'm sorry. We're going to do the
6 party first. I'm sorry. Woof, it's been long night already.
7 I've got terrible thunderstorms here, so.

8 CHAIRPERSON HOOD: All right. Yeah, let's go to Mr.
9 Jones.

10 MS. SCHELLIN: I misheard.

11 CHAIRPERSON HOOD: Okay. All right. So Mr. Jones,
12 this is your time now. I'm not sure how much time that he has.
13 I'm sure he doesn't need the 45 minutes. But if you do, you have
14 it.

15 MS. SCHELLIN: It was 30 minutes that the Applicant
16 took.

17 CHAIRPERSON HOOD: Thirty minutes. And if you need all
18 that time, you have it. But if not, I'll take it back. So you
19 go ahead. Mr. Jones.

20 MR. JONES: I don't. I have a presentation. Am I able
21 to present that myself or is it --

22 CHAIRPERSON HOOD: Is it in the record?

23 MR. JONES: Yes, it's in the exhibits.

24 CHAIRPERSON HOOD: Okay. Okay. Good. Yeah. If we
25 can bring it -- I don't know.

1 Can we do that, Mr. Young? Can you send it -- can you
2 bring it up, Mr. Young, because it's in the -- what exhibit is
3 it? Do we know?

4 MR. YOUNG: I can bring it up. It's just going to take
5 me a minute to get it --

6 CHAIRPERSON HOOD: Okay. He's going to bring it up for
7 you, Mr. Jones.

8 MR. YOUNG: I need to know what exhibit it is.

9 MR. JONES: It is Exhibit --

10 CHAIRPERSON HOOD: Let me look and see too. I saw it.

11 MS. SCHELLIN: Part of your party status application?

12 CHAIRPERSON HOOD: Was it 37?

13 COMMISSIONER MAY: It's Exhibit 34.

14 CHAIRPERSON HOOD: 34? Okay.

15 MR. YOUNG: Yes, 34. Thank you. And 34A.

16 COMMISSIONER MAY: Ms. Schellin, the commissioners
17 received an email directly to us, and I forwarded it to you. It
18 looked like you two were copied on it, but I believe it has to
19 go into the record, so.

20 MS. SCHELLIN: Okay. I'll take a look at it. If it
21 just came today for today's case, it can't be accepted unless
22 they request it from you guys.

23 COMMISSIONER MAY: Yeah, okay. I don't know if it's
24 been requested, but it came from Councilmember Janeese Lewis
25 George. Commissioner Hood, you received it too.

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1 CHAIRPERSON HOOD: Okay. Did it just come?

2 COMMISSIONER MAY: Yes.

3 CHAIRPERSON HOOD: Okay. We want to make sure we put
4 that in. Yeah, I want to put -- make sure that goes on record
5 unless we have any objections. I don't see it though, but anyway,
6 I guess it'll get here.

7 COMMISSIONER: I don't have any objection. But I sent
8 it to Ms. Schellin.

9 CHAIRPERSON HOOD: No objections.

10 Okay. Could you send that out, Ms. Schellin, because
11 I don't have it yet?

12 COMMISSIONER MAY: You received it directly by email
13 to your Zoning Commission email address. But we should look at
14 it from the record.

15 CHAIRPERSON HOOD: Thank you, Commissioner May. So
16 anyway.

17 All right. While Ms. Schellin is doing all that, Mr.
18 Jones, you may begin your presentation.

19 We're waiting -- we're waiting, hold on I'm sorry. I'm
20 getting confused. We're waiting for your PowerPoint to come up.

21 MR. JONES: And there was guidance about project versus
22 zoning. I do refer to the project in reference of a demonstration
23 of the scale that the zoning would allow.

24 CHAIRPERSON HOOD: I'm not going to rule you out of
25 order on that. I've tried to stay within the legal bounds of

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1 what my counsel tells me, but it never seems to work. So I just
2 don't -- I try it and see how far it goes, but it's your testimony.
3 The floor is yours.

4 MR. JONES: Okay. Thank you. Thank you. I'm Jeremi
5 Jones from one of the 49 households next door represented on a
6 petition I submitted. We consider the proposed map amendment to
7 be entirely unfair and detrimental to us and it would also be
8 contrary to the comprehensive plan. Next slide please.

9 We live on one of the most unique blocks in the city.
10 We are five to seven, depending on how you want to count. It
11 looks like seven in the overhead view. We're seven apartment
12 buildings squeezed in sideways together against a concrete wall
13 and the Maryland border on one side. And by squeezing sideways
14 together, I mean, we're facing each other and not facing the
15 street. Next slide please?

16 That means 114 households all share less than 400 feet
17 of a single narrow sidewalk. It's a sidewalk that's only six
18 feet wide and it's interspersed with obstacles. And these
19 deficiencies are mentioned in the DDOT report for this case.
20 Next slide please?

21 Without even alleys between our seven buildings, the
22 Applicant wants to more than double the height and triple the
23 size of its building. That would effectively wall us in,
24 completely eliminating both direct sunlight and a view of
25 absolutely anything out of the windows of a section of our units,

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1 including the sky. Next slide please?

2 Our cooperative is made up overwhelmingly of black and
3 Latino homeowners. Granting the Applicant permission to massive
4 upgrades and available living standards at a direct cost to our
5 own undermines our stake in the city. Next slide please?

6 In fact, there is a similar nearly all affordable 150-
7 unit residence adjacent to the lot west to us, adjacent to us to
8 the west. By the nature of its lot, it avoids encroaching on
9 neighbors. Next slide please? Next slide please?

10 So currently, both sides of the Takoma tract
11 demonstrates successful residential integration in keeping with
12 the comprehensive plan. The comprehensive plan includes elements
13 about neighborhood integration. On the west side, it's all mid-
14 century buildings built, garden style apartments, as they've been
15 described, of similar height, similar density. Same with the
16 west side, with much more density of three multi-family buildings
17 blending in perfectly together, none encroaching on each other.
18 Similar height, similar density. Next slide please?

19 In contrast, the proposed construction, only allowable
20 with a map amendment, will completely overtake our residences.
21 Next slide please?

22 The Applicant references the Historic Preservation
23 Review Board for approval as an example of significant community
24 support. However, the board's review was narrow in scope and our
25 noncontributing structures were not a factor in approval. In

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1 fact, the head of Historic Takoma explicitly expressed her
2 disappointment with the size of the map amendment during the
3 hearing. Next slide please?

4 All four of our lots are in the same moderate density
5 area next to the upcoming Metro PUD. The construction proposal
6 implies that the Applicant has -- views itself as an extension
7 of that PUD up to and between our residents. And we already went
8 over the either misrepresentation or misunderstanding of what
9 exactly the lots were -- are theirs, because they had circled two
10 entire lots that didn't belong to them and a third of the Metro
11 parking lot. Next slide please?

12 I guess I can skip this because it's the project, but
13 I'll show you that with this type of density, a developer like
14 EYA builds in lots of buffers to surrounding residences because
15 that type of density is inherently encroaching. It's inherently
16 detrimental if it's too close. But with the developer's plan to
17 sneak up that level of development in between our properties, it
18 completely negates that type of mitigation and it's completely
19 inappropriate to be that close to us. Next slide please?

20 This proposal would also further racial inequity. It
21 would permanently deprive existing black and Latino residents of
22 essential quality of life features we currently enjoy. It would
23 reward a process where the entire surrounding black and Latino
24 neighborhood was intentionally disregarded in order to secure the
25 property, and it would mirror historical injustices where

1 minority neighborhoods are undervalued and disproportionately
2 burdened with the costs of public good initiatives. To put that
3 into real world terms, the Metro lot has two sides to it, a south
4 side and north side. On one -- one side of the Metro lot has
5 condos, market rate buildings, single-family homes, and vegan
6 food retail. Right now they're getting more condo buildings as
7 neighbors that are equal in density and size. Two of them are
8 building right now. Our side of the Metro is the one with black
9 and Latino occupied co-ops and rent stabilized apartments. This
10 proposal -- we're getting a proposal to wall us in and shut us
11 out from the neighborhood or enclose and overshadow us. And
12 that's housing justice, I'm told by the person who supposedly
13 represents us, who lives in one of those condos, just to be clear.
14 Next slide please?

15 So once again, the proposed action would be
16 qualitatively unfair to existing residents, robbing us of the
17 modest quality of life benefits we reasonably took for granted.
18 No one in the history of available Zoning Commission records has
19 ever even asked for an RA-1 to an RA-3 jump, let alone in the
20 middle of a residential block and probably on the worst lot in
21 the city to do this, on a block with seven apartment buildings
22 squeezed together sideways against a concrete wall, not a single
23 alley between. Their entire argument hinges on bringing
24 essential benefits to an area close to the Metro. Those benefits
25 are already here because there's an entire neighborhood already

1 here full of people who were intentionally ignored throughout
2 this entire process until they couldn't ignore us anymore. All
3 they're offering is to take those benefits away from us, to make
4 it less joyous to live in our homes, more hazardous to leave our
5 homes. And if other people want to enjoy those benefits, there
6 are vacancies right now on our -- on this naturally affordable
7 block. There's availability in the 150-year nearly all
8 affordable income restricted building right next to us, not to
9 mention the massive developments with IZ units going up all around
10 Takoma. Ask our commissioner, he has an entire list. The urgency
11 to upend, diminish, and overtake our existing almost entirely
12 black and Latino neighborhood simply doesn't exist, and all of
13 local policy agrees. Out of fairness and right, this map
14 amendment should not be approved. Thank you for -- I'd like to
15 thank the Zoning Commission and staff for their time.

16 CHAIRPERSON HOOD: Thank you, Mr. Jones. Let me ask -
17 - I really only have one or two questions. Let me ask you like
18 this, the residents who are -- my concern is the residents who
19 wrote letters of opposition. I think I got this from one of
20 them. They're much older. They're not in their 50s and 60s,
21 they're more in their 80s; is that a correct assessment?

22 MR. JONES: I only know one confirmed age, so I don't
23 want to speak out of turn, 90 is one of them. I mean, just being
24 casual, I would say yes, they're all undeniably senior citizens
25 of undeniable senior age.

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1 CHAIRPERSON HOOD: Okay. So one of the things that -
2 - most everything else I see, with exception of the question of
3 the comp plan issue, which my colleague, Commissioner May, has
4 really been on, and harped on that, and I think really has some
5 valid points to that, but my biggest issue, I think everything
6 else other than what Commissioner May has brought up and
7 Commissioner Imamura, my biggest thing is the racial equity.
8 You've heard from those in the other facility, the -- what is
9 it, it's not Elm Street, I've got too many things on my mind.

10 MR. JONES: Elm Garden.

11 CHAIRPERSON HOOD: Elm Garden. Thank you. I was going
12 to say Elm Street. You heard them explain to me how they're
13 racially diverse. And they also -- basically the way I heard
14 it, even though it wasn't exactly said like this, was what about
15 our racial equity as well. So you know, for me, I'm hearing what
16 you're saying, but I'm also trying to balance what they're saying
17 and also looking at what can happen there as a matter-of-right,
18 which would in turn displace them. So I want you to help me see
19 it your way and help me figure out if they meet the zoning
20 regulations with the exception of question mark about the comp
21 plan and the racial equity, if you were in my shoes and, not your
22 position, if you were in my shoes, how would you grapple with
23 that?

24 MR. JONES: I don't know if I can do that. If I'm
25 allowed to say how I see it is that they bought this building

1 with affordable housing protection funds. They bought -- they
2 got a letter from -- a letter of support from someone who lives
3 in a previous building they did where they preserved existing
4 affordable housing and renovated it. They've done that with
5 other buildings in this area. This is a building that got a
6 glowing write-up in the Washington Post for a renovation about
7 20 years ago. So it is a valued building and the building exists,
8 it's populated and no one has to be displaced if it doesn't have
9 to be destroyed.

10 CHAIRPERSON HOOD: But there is a potential
11 displacement which would possibly happen, even though I don't
12 like the way it was presented, but it's real, it's the reality
13 of it. It is a potential displacement, but I'm not going to put
14 that on you.

15 I will see if my colleagues have other questions.

16 Commissioner May?

17 COMMISSIONER MAY: I don't have any other questions.
18 I do appreciate your presentation and your involvement. It's
19 unfortunate that for whatever reason, you did not engage earlier.
20 We've gotten a flavor of why that might have happened. But I
21 mean when -- I guess I do have a question. When did you first
22 learn about this project, at what point?

23 MR. JONES: I think it was late October of -- somewhat
24 late October. I was researching my ANC commissioner for the
25 ballot right before the November election. So I looked him up

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1 on Twitter, saw that he was promoting this project with an air
2 of inevitability, like I said. And that's how I first heard it.

3 COMMISSIONER MAY: And you're not familiar with the ANC
4 and what they do?

5 MR. JONES: I wasn't then. I mean, I am now kind of.

6 COMMISSIONER MAY: Yeah. But up to that point, you
7 weren't. How long have you been in that building?

8 MR. JONES: I moved in in October of 2021.

9 COMMISSIONER MAY: All right. That's it for me.

10 CHAIRPERSON HOOD: Okay.

11 And Commissioner Imamura, any questions?

12 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. No,
13 just a comment to thank Mr. Jones for time and effort you put
14 into preparing your testimony tonight. Thank you for
15 participating in the process too. I think that's important,
16 trying to shape the outcome of this potential map amendment.
17 That's all I have, Mr. Chairman.

18 CHAIRPERSON HOOD: Thank you.

19 And, Mr. Jones, did you galvanize the residents in the
20 Eastmont? Did you help galvanize the residents who sent those
21 letters? I'm just curious. Not that that's a qualifier. I'm
22 just curious.

23 MR. JONES: Well, my neighbor noticed my letter to the
24 review board, George Smith, and he has been here longer than I
25 have, so it was more his connection with the neighbors that really

1 got us to connect about what was going on.

2 CHAIRPERSON HOOD: Okay. All right. Let's see if
3 there are other questions.

4 Ms. Brown, does the Applicant have any cross?

5 MS. BROWN: I just have -- yes, I have just a couple
6 very quick questions. I'm sorry, let me turn my video on. Did
7 your attorney for the condo or cooperative get the notice that
8 we sent?

9 MR. JONES: I'm not aware.

10 MS. BROWN: Did he make any representation at the
11 community meeting on March 28th?

12 MR. JONES: I think that he -- I think that he attended.
13 I mean, I'm not trying to be evasive, it's just like I haven't
14 been here long.

15 MS. BROWN: Okay. Okay. And did you share when you
16 first learned of this historic preservation meeting -- how did
17 you learn of it again?

18 MR. JONES: I don't remember.

19 MS. BROWN: Okay. And then you -- did you attend the
20 HPRB meetings?

21 MR. JONES: Yes. I didn't know how to sign up to
22 testify then, just the first one. I didn't know when the second
23 one was or that there was a second one so soon.

24 MS. BROWN: Understood. I mean, you got your letter
25 in, but yeah. Okay. Thank you. Those are all my questions.

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1 CHAIRPERSON HOOD: Thank you.

2 Either Commissioner Palmer or Commissioner Yeats, you
3 have any cross?

4 ANC COMMISSIONER YEATS: I just have one question and
5 I want to ask Mr. Jones to take it in the spirit of generosity,
6 because as a volunteer who does this community service and has
7 essentially no budget for anything, we outreach on social media,
8 we outreach on the web, we post to local news blogs when we do
9 meetings. It gets coverage in local media when we do something
10 that's interesting. Like I just want to ask you how else would
11 you like us to notice the community in a way that like we could
12 do routinely to make sure that people are aware because I'm always
13 looking for that information and I would welcome anything.

14 MR. JONES: Just a sense of a conversation, a two-way
15 conversation rather than a here we come to force our will, we've
16 figured out everything ourselves.

17 ANC COMMISSIONER YEATS: I appreciate it, but if you
18 have any feedback, I'll --

19 MR. JONES: On an interesting project. What are your
20 thoughts?

21 CHAIRPERSON HOOD: Okay.

22 Commissioner Yeats, did you get your answer?

23 ANC COMMISSIONER YEATS: Yes. I have no more
24 questions. Thank you, Mr. Jones. I really appreciate it.

25 CHAIRPERSON HOOD: And Commissioner Palmer, did you

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1 have any questions?

2 ANC COMMISSIONER YEATS: Commissioner Palmer had to go
3 off camera to deal with some kid stuff, so I'm going to cover
4 for the both of us, and I'll let you know if you need to come to
5 her.

6 CHAIRPERSON HOOD: Okay. I got you. Thank you very
7 much.

8 All right. So I want to thank you, Mr. Jones. We will
9 -- oh, I got everybody, so okay. Thank you, Mr. Jones. We
10 appreciate you taking the time to give us a PowerPoint and put a
11 lot of work into it and all the work you've done. You now know
12 about the ANCs. ANCs don't get paid, but sometimes you got to
13 reach out. They reach back. And I heard you loud and clear,
14 and I'm sure Commissioner Yeats did as well. So thank you.

15 MR. JONES: Thank you.

16 CHAIRPERSON HOOD: All right. Let me bring back up the
17 Applicants. And let's do -- I thought I would have -- I will
18 tell you, Mr. Brown, frankly, I thought I would have more
19 questions. But as I went through the hearing and kind of saw
20 what's going on --

21 MR. YOUNG: Chairman Hood?

22 CHAIRPERSON HOOD: Yes?

23 MR. YOUNG: You have to go to individuals.

24 CHAIRPERSON HOOD: Oh, thank you. I must be trying -
25 - and there's no game on tonight, so I don't know what I'm trying

1 to hurry up for.

2 Commissioner May, you want to say something?

3 COMMISSIONER MAY: I was going to say the same thing
4 persons in opposition.

5 CHAIRPERSON HOOD: Oh, okay. I thought we were
6 finishing. Okay. Thank you all. Keep me honest. It's been a
7 long day. Okay.

8 MS. SCHELLIN: Now you're doing it.

9 CHAIRPERSON HOOD: I'm following your lead. Okay.
10 Let's bring up those in opposition.

11 MS. SCHELLIN: Yes. And I think that we only have one
12 person undeclared. Do you want to include that person too?

13 CHAIRPERSON HOOD: Yeah, if we have enough space, let's
14 bring them up too.

15 MS. SCHELLIN: In the list if we have enough?

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: Okay. All right. So let me get back.
18 George Smith. Shirley Douglas. Now, She's an older -- an elderly
19 lady who may be on with Michelle Clark. So if you see Michelle
20 Clark, she's my next person, so you can bring her up, and they
21 should be together. Linda Gray, Brenda Jackson, Andre Harris.
22 Do we still have room? Vivette Davidson.

23 CHAIRPERSON HOOD: Yeah, I think you do if Ms. -- well,
24 we're taking Ms. Brown --

25 MR. YOUNG: You can take as many as you want, I believe.

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1 CHAIRPERSON HOOD: Oh, okay. Go right ahead.

2 MS. SCHELLIN: As many as we want?

3 CHAIRPERSON HOOD: Okay. I'll tell you what? Don't
4 bring too many up because then I won't remember. Let's stop here
5 so I won't get confused.

6 MS. SCHELLIN: Stop here? Okay.

7 CHAIRPERSON HOOD: Yeah, yeah. Who was the first person
8 you called?

9 MS. SCHELLIN: Mr. George Smith.

10 CHAIRPERSON HOOD: Okay. Let's begin with Mr. Smith.
11 And we will hopefully -- yeah, let's begin with Mr. Smith, and
12 I'm going to call you as I see the names on the screen.

13 MR. SMITH: Okay. I hope you can hear me.

14 CHAIRPERSON HOOD: Can you speak up just a little
15 louder?

16 MR. SMITH: Okay. Sure. Thank you for this
17 opportunity. I'm George Alan Smith, a nearly 20-year resident
18 of the Easement Cooperative located directly next to the property
19 that the Applicant seeks to have rezoned. Thank you also for
20 your useful racial equity tool. I am encouraged to note that
21 the Zoning Commission firmly believes that community outreach and
22 engagement efforts must start at the inception of any
23 redevelopment plan before zoning action is filed with the Zoning
24 Commission. Because residents of the Eastmont Cooperative were
25 not part of the inception of the proposed redevelopment for 7050

1 Eastern Avenue, I must oppose the Applicant's request for a
2 rezone. Had genuine engagement occurred with our neighbors who
3 live at 7050 Eastern Avenue, we might have collectively developed
4 a plan that would be mutually beneficial. Unfortunately, that
5 interaction did not occur.

6 The Applicant's intent to spot zone for a medium
7 density building in the middle of moderate density buildings that
8 have existed for over half a century shows complete disregard for
9 its immediate neighbors. The Applicant's proposal suggests an
10 interest in racial equity. But what's perplexing is that the
11 Applicant's proposal is sure to disturb the over 90 percent black
12 and brown people who live in the buildings that would be most
13 affected. Residents in our block are living in buildings that
14 are constructed within the parameters of the current law, RA-1.
15 In responses to the required racial equity tool, counsel for the
16 Applicant informs us that since August of 2022, the Applicant
17 worked closely with a single member representative from ANC 4B
18 to ensure the proposed plans for the site were discussed with
19 community stakeholders.

20 I must inform you that the single member representative
21 never met with us, the immediate neighbors of the 7050 property,
22 while he had discussions with the Applicant over the past seven
23 months. He did, however, attend the only meeting that we have
24 had with the Applicant, which occurred last week, but clearly,
25 after the Applicant submitted its request for a rezone long after

1 the inception of the redevelopment plan. The Applicant's counsel
2 suggests that the Applicant is committed to balance for Elm
3 Gardens Eastmont in the desires of the D.C. administration. The
4 Applicant's mere request to change the existing law to
5 accommodate an oversize building for our small block of moderate
6 density homes is an inherently imbalance. What's actually
7 balanced is the size of the buildings that exist now.

8 We are not against affordable housing in D.C. What we
9 are against is the attempt to change current law that existing
10 buildings in our block were erected under, RA-1, including the
11 7050 building that was just renovated a few years ago. I
12 respectfully request a denial of the Applicant's interest in a
13 spot rezone. Doing so otherwise would be an affront to the black
14 and brown homeowners whom the District claims it wants to protect.
15 Our more senior residents are fearful of losing their daily sun
16 for health and sustenance, which could contribute to depression.
17 Our very own single member district representative is not
18 protecting our interests. With open hearts, we are asking you,
19 commissioners, to uphold the spirit of the Zoning Commission and
20 allow the current laws to do what they are designed to do, protect
21 us. Thank you for this opportunity.

22 CHAIRPERSON HOOD: Thank you. Hold tight. And I
23 appreciate you staying within the time limit, because I know it's
24 getting long for everyone. You've been here a while and we want
25 to get you out of here. So thank you. And don't go anywhere.

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1 We may have some questions.

2 I'm going to go by who I see on my screen. Let me go
3 to -- I'm interested in the Clark, Michelle Clark. I see there's
4 three people there, I don't know if all three are testifying, but
5 I'll turn it over to the Clarks. You're on mute.

6 MS. CLARK: Can you hear me now?

7 CHAIRPERSON HOOD: Yeah, we can hear you now. If you
8 can speak up just a little bit.

9 MS. CLARK: Oh, I'm sorry. First, I just want to start
10 off with the question you've been asking all night, how many
11 seniors are living here. And off the top of my head that I can
12 count that are over 65, there are 14. And the 90-year-old one
13 is right here with me. So with that being said, I just --

14 CHAIRPERSON HOOD: I have to say -- I have to say this.
15 If you didn't tell me she was 90, I would have never known.

16 MS. CLARK: Doesn't she look good? Oh, which one is
17 the 90-year-old, is that what you were going to say?

18 CHAIRPERSON HOOD: Oh, no, no. I won't say that. Nope,
19 not me.

20 MS. CLARK: Okay. So you know, I'm just going to be
21 short about it. But yes, there are a lot of seniors living here.
22 I'm, oh, 40-plus years I've been here. Oh, we have another.

23 UNIDENTIFIED SPEAKER: I've been here 33 years.

24 MS. CLARK: She can't get up right now. Her knees, you
25 know.

1 Okay. I'm sorry. If they're interested in building
2 something that's --

3 CHAIRPERSON HOOD: Can you stay right in that mic,
4 because we can't hear you. When you turn your head, we can't
5 hear you. There we go.

6 MS. CLARK: Okay. I'm sorry about that. All right.
7 I just wanted to ask if the Applicant is interested in building
8 something new next door that they design a home for the Elm
9 Gardens tenants similar to the size of the buildings on our block
10 and that affect current zoning laws for our very small section
11 of land nestled between a rise train platform and a Maryland
12 border. And whatever they build, it is my sincere wish that the
13 apartment will go to the people who actually need them. Thank
14 you. That's all I want to say.

15 CHAIRPERSON HOOD: Thank you. Is that all? Okay. I'm
16 sorry. Keep right on going.

17 MS. DOUGLAS: My name is Shirley Douglas. I moved into
18 Eastmont in 1973. I've been very happy here. I have the best
19 neighbors in the world, but I am so troubled about a six-story
20 building. My apartment is on the back of the building, and my
21 porch will be in the back of your new building. And it terrifies
22 me that I won't be able to sit on my balcony and enjoy my flowers
23 that I plant every year. The quality of life will certainly not
24 be the same for me. So I certainly hope that you all will
25 reconsider because you've got to think of others, not yourself

1 all the time. Thank you.

2 CHAIRPERSON HOOD: Thank you. Anybody else in that
3 household? Okay. All right. I'm going to go on to Ms. Jackson
4 -- and thank you, all the Clark members.

5 Ms. Jackson? Brenda Jackson? Yeah, there you are.

6 MS. JACKSON: Hello. Can you hear me?

7 CHAIRPERSON HOOD: Yes, we can hear you now. Yes.

8 MS. JACKSON: My name is Brenda Jackson. I am 71 years
9 old. I thank you that you gave me this opportunity to speak.
10 I'm here to express my concerns and the reasons why the current
11 zoning regulations should not be changed and the proposal for
12 Case No. 22-33 should not be approved. The Eastmont Co-op is
13 adjacent to the proposed property in question. I'm sure you are
14 aware that we are not renters, but homeowners and taxpayers in
15 the District of Columbia. The current zoning regulations protect
16 the safety and welfare of the current D.C. residents, which I am
17 one. I object to this rezoning, and also the main reason is
18 because it would be a negative effect on me.

19 I also live on the back side of the building of 7056
20 and the new building would block all of my air circulation,
21 sunlight, and also with me having plants on my balcony. I moved
22 to Eastmont in the month of February of 1984. I've been here
23 for 39 years. During those days, there was less traffic, less
24 air pollution, less noise pollution, and less crime. Life was
25 good and living was easy. In fact, life is still good and easy

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1 living here at Eastmont Cooperative. My unit would suffer a lot.
2 I sent photos in. I don't know if you're able to show the photos
3 or not to show what the building actually looks like where my
4 unit is located.

5 CHAIRPERSON HOOD: Was it part of your testimony?

6 MS. JACKSON: Yes.

7 CHAIRPERSON HOOD: Okay.

8 MS. JACKSON: Three pages of that is photos.

9 CHAIRPERSON HOOD: Mr. Young, can we pull Ms. Jackson's
10 exhibit up please, right quick?

11 MS. JACKSON: Photo 1 will show --

12 CHAIRPERSON HOOD: I'm going to stop the clock because
13 -- and we can stop the clock as well.

14 MS. JACKSON: Okay. Thank you.

15 MS. SCHELLIN: Exhibit 61.

16 CHAIRPERSON HOOD: Okay.

17 Ms. Jackson, you can tell them where to go and you may
18 continue.

19 MS. JACKSON: Photo 1, right after this page. Okay.
20 Photo 1 shows the building that I lived in, 7056. You'll see an
21 asterisk with the square around it. That's my unit, 107, facing
22 the current building, which isn't blocking my view. I receive
23 excellent flow circulation of air. I'm able to sit on the
24 balcony, breathe fresh air, watch the birds, that you can see the
25 trees in there, the various kinds of birds that come in different

1 seasons of the year. I can do my bird watching, enjoy nature.
2 Well, putting up another building, I won't be able to -- I'm sure
3 they're going to knock those trees down. Those trees are on the
4 other side of the property, so I wouldn't be able to do any
5 birdwatching. My unit also receives natural light, excellent
6 sunlight, which improves energy efficiency, reduces my
7 electricity consumption, improves the quality of life for me.

8 I want it to be on the record and let it be known I am
9 not against affordable housing. When I moved to D.C., there was
10 rent control. And when the owners of our building wanted to
11 sell, we decide to form a co-op under the organization called
12 Muscle, which was very beneficial to me and helped me as a single
13 mom. I have several reasons for objecting this new construction,
14 as everybody has said. New buildings produce dangerous emissions
15 that pollute our air. Oversized building would be detrimental
16 to a lot of our health. The building of this magnitude, it
17 creates a visual barrier for us and for me, especially where my
18 unit is located, because everybody on that particular side is at
19 least 16 units on that side. Can you go to number 2 for me,
20 please, photo 2? Thank you. I'm right above --

21 CHAIRPERSON HOOD: Ms. Jackson? Ms. Jackson, I'm going
22 to ask you to give me your closing thought. I brought that up -
23 -

24 MS. JACKSON: Okay.

25 CHAIRPERSON HOOD: -- but you had three minutes. Okay.

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1 MS. JACKSON: All right. So my closing thought is that
2 due to all the new construction, which will create dust, dirt,
3 air, as we know, polluting the air. There's going to be a lot
4 of commercial vehicles up and down the street, a lot of
5 construction vehicles, and our parking lot is off the street. So
6 I'm concerned that a lot of the construction workers will use our
7 property, which is private property, to put their vehicles over
8 there too. But the main thing is I'm very concerned about the
9 dirt, the grime, and the dust, because my HVAC unit is also on
10 the other side of the building. It will get clogged up. My air
11 is going to be affected, my air conditioner won't be working.

12 And I would just like to say that in conclusion, thank
13 you for letting me express my concerns, my objections to the size
14 of this building, the magnitude is way too large for this
15 particular community where we live, and I hope that you will
16 consider taking my comments into consideration as you make your
17 decision and you will not approve the rezoning for this huge
18 building that would affect my life. And also I'm thinking about
19 the people that work at home. All that noise is going to
20 interfere with their work schedules. They won't be able to work
21 and do what they need to do. I'm happy to be retired at 71, but
22 I'm still thinking about my neighbors who do still work. Thank
23 you very much, and have a good evening.

24 CHAIRPERSON HOOD: All right. Thank you, Ms. Jackson.

25 Let's go to Andres Harris.

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1 MR. HARRIS: Good evening. Can you hear me?

2 CHAIRPERSON HOOD: Yes.

3 MR. HARRIS: Hi. My name is Andres Miguel Harris, and
4 I'm a homeowner in the Eastmont Cooperative. And I'd like to
5 bring attention to the Committee that our initial letter of
6 opposition represented 49 households, many of them seniors, as
7 you've seen in our cooperative. And these are some of the reasons
8 we oppose the map amendment. First is safety. Even one of the
9 letters in support of this project agrees that there are traffic
10 and safety issues on our block already. Sidewalk is narrow and
11 people often have to walk out into the street. There's already
12 significant traffic and I've already felt unsafe walking to the
13 Metro from cars pulling out of the seven apartment buildings on
14 this small block. A 300 percent increase in capacity on the
15 adjacent lot will exacerbate these issues and hinder our access
16 to public transportation.

17 Second is size. The height of buildings allowed under
18 RA-3 is an encroachment to the neighbors. It would allow them
19 to construct the tallest building in the neighborhood, resulting
20 in zoning that would allow constructions that dwarf our unit and
21 don't meld with the rest of the block. We purchased our homes
22 based on the current zoning, and allowing buildings of this size
23 would significantly cut off our natural light, decrease our
24 quality of life, and decrease the value of our homes.

25 Regarding the light, the developer met with us last

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1 week to show a shadow study that show that our homes will be
2 blocked from sunlight a vast majority of the day, with our units
3 being in shade in 10:00 a.m., 1:00 p.m. until 4:00 p.m. So that
4 means that during the winter, we would only receive a total of
5 about 30 minutes of sunlight a day. And those shade studies are
6 in Exhibit 40A.

7 The developers also told us during our meeting that
8 they bought a building that they believe is only worth \$2 million
9 for over \$7 million, and that their financial situation is why
10 they need to build a property vastly out of scale with the rest
11 of the block. And we don't believe that it's fair that the costs
12 of poor investment decisions from a developer should be
13 shouldered by the people that have happily lived here, many of
14 them for decades. This Commission is the only body that us as
15 homeowners and residents can turn to. Our ANC commissioner who
16 attended the meeting with us did not address or speak to any of
17 our concerns.

18 The Historic Review Board only was concerned about the
19 facade facing Maryland, and the developers never directly reached
20 out to us until we began this campaign. On behalf of the Eastmont
21 Cooperative and all the other neighbors and homeowners whose
22 quality of life would be impacted by this unprecedented leap to
23 such a high density zoning, I implore the Commission to deny the
24 developer's request for a map amendment. Thank you very much.

25 CHAIRPERSON HOOD: Thank you. If everybody can just

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1 hold tight, we may have some questions.

2 Let's go to Linda Gray.

3 MS. GRAY: Can you hear me?

4 CHAIRPERSON HOOD: Yes.

5 MS. GRAY: Okay. Thank you very much. I don't want
6 to repeat what other people have said, but I am an owner of the
7 Eastmont Cooperative. We established it ourselves in 1986 as the
8 tenants' association and purchased the property from Dreyfuss
9 Brother. Our model has yielded us 37 years of success. We
10 organized without the use of developers. We raised the money for
11 a down payment, took out a loan from the National Cooperative
12 Bank, and paid off the blanket mortgage in less than 30 years.
13 We are extremely proud of what we've been able to accomplish. We
14 are especially proud of the fact that our elderly who are original
15 owners are now aging in place both affordably and comfortably.
16 As a market rate cooperative, Eastmont is the epitome of
17 affordable housing. Based on our record of success, we fully
18 support affordable housing.

19 I personally have shared our model with the mayor and
20 two city council members because we know it works and should be
21 replicated. There have been several plans for community
22 development and neighborhood improvement. The Eastmont
23 Cooperative has participated in those conversations over the
24 years, which include the Metropolitan Bike Trail and right-sized
25 development for this community. And we've had many engagements

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1 with our former ANC, Sarah Green, who I know has always been for
2 right-sized development.

3 Based on the views of the community and the approved
4 Rock Creek East comprehensive plan, which includes Takoma, the
5 Applicant's proposal, we feel, violates stated policy that
6 governs development and new construction in the area, mainly RCE
7 111 (indiscernible) low or moderate density neighborhoods, and
8 policy RCE 112, design compatibility. Again based on the policy
9 of Rock Creek East comprehensive plan and the current zoning laws
10 that have been established to protect communities such as ours,
11 we ask for your strong consideration to our opposition of the
12 proposal for Case No. 20-33 (sic). Thank you very much for
13 listening to our concerns as homeowners.

14 CHAIRPERSON HOOD: Thank you. If you could hold tight,
15 we may have some questions.

16 I think the only other person I didn't hear from is
17 Vivette Davidson. Vivette Davidson? There you go. You're
18 unmuted now.

19 MS. DAVIDSON: Can you hear me?

20 CHAIRPERSON HOOD: Can you speak up?

21 MS. DAVIDSON: Can you hear me?

22 CHAIRPERSON HOOD: Can you speak up a little bit more?

23 MS. DAVIDSON: Okay. Can you hear me now?

24 CHAIRPERSON HOOD: Yeah, that's fine. We will -- yes.

25 MS. DAVIDSON: Okay. My name is Vivette Davidson. I'm

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1 president of the Eastmont Cooperative. And I just wanted to
2 state that I certainly appreciate the need for affordable
3 housing, but this request to change the existing zoning is too
4 massive. And as neighbors for almost 40 years, we do wish that
5 the residents of the Elm Garden Apartments had come to us. We
6 would have gladly given assistance as much as possible. We would
7 have shared the resources that we used to organize and perhaps
8 our guidance would have would have led them to affordable housing
9 as homeowners, as we are, without developers and without being
10 displaced.

11 Eastmont has worked very hard to purchase and maintain
12 our property. We're asking the Office of Zoning to protect the
13 value of our property and the people in the community. To change
14 the zoning would change the character of our community, leading
15 to more traffic, safety issues, and noise, as well as reduction
16 in our property values. The height of the building would
17 interfere with the lighting. The building of 110 units with 25
18 parking spaces would present a huge problem. Where would the
19 additional units and their visitors park their cars? The street
20 is very narrow and traffic is already a problem. I ask that you
21 please listen to our issues of concern when making your decision.
22 Respectfully submitted.

23 CHAIRPERSON HOOD: Okay. Did I hear from everybody,
24 Ms. Schellin, in this group?

25 MS. SCHELLIN: Yes.

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1 CHAIRPERSON HOOD: Yes. Okay. So I'm going to say
2 something because one thing I don't do is make sure I put anybody
3 on promised land or raise any false hopes. And I'm not saying -
4 - I don't know how this is going to end up. But two things, a
5 number of things that go on, and I'm sure my counsel will correct
6 me, the Supreme Court has said that we cannot regulate views.
7 We've heard that enough on the Zoning Commission. I've been
8 hearing it for years. So I just want to make sure that we're
9 understanding what we're looking at. And actually, you all are
10 talking about a building. I understand what you all are talking
11 about, but we're not talking about -- we can't -- to some degree,
12 we're not talking about a building. There's no structure before
13 us. So I want you to understand we're talking about a rezoning.
14 So I just want to put that out there as well.

15 But I get it. So there are some things that we have
16 to look at, density, whether this zone is going to be adversely
17 affected, whether -- racial equity. You know, there are a number
18 of things that we have to look at in totality of the land use as
19 opposed to a structure. So I want to make sure that's clear as
20 well. But, you know, I think everybody brings up some valid
21 points. But here's our thing. And I'm going to ask anyone, just
22 one of you, this question. I think you've heard me ask someone
23 else that in the -- Mr. Jones. So you've heard the other Elm -
24 - what is it again, somebody help me. I got so much stuff.

25 COMMISSIONER MAY: Elm Gardens.

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1 CHAIRPERSON HOOD: Elm Gardens. I don't know why I
2 keep want to say on Elm Street, but Elm Gardens. And then we
3 have Eastmont. So you heard Elm Gardens. When I came into this
4 hearing, I was behind Eastmont and I still am. I'm behind
5 everybody. But I heard Eastmont. It felt like disenfranchised
6 racial equity. But Elm Gardens spoke up to me tonight in this
7 hearing and said what about our racial equity, we're going to be
8 displaced. So I just need to know from one or two people. And,
9 Mr. Smith, I'm going to call on you first. Tell me how -- what
10 decision do I make when I have racial equity on one side, racial
11 equity the other side, and you all are talking about a building,
12 a building that's not before us like it was HPRB. We have a
13 different set of rules and regulations we have to go by. Other
14 than the consistency issue of the comp plan and, you know, the
15 moderate to medium, or whatever the -- other than that and other
16 than racial equity, as far as I see it in the merits of this
17 record, the courts will say that they fall right in line for the
18 most part. So help me get to where you are and I'm going to
19 start with you, Mr. Smith, briefly. You're on mute. I still
20 can't hear you. You're still on mute. No. If not, I'll come
21 back to you.

22 I see Mr. Harris turn -- and I'll get one of the young
23 ladies if they want to say something too. I see Mr. Harris, if
24 you want to respond to my -- help me with that insight.

25 MR. HARRIS: So hearing your questions, something that

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1 comes to mind is something that you said during the developer's
2 presentation tonight. You know, they're talking about
3 displacement as a possibility. You know, that if we do this --
4 if we don't do this, this will happen, if we do do this, this
5 won't happen. And I think the direct harm to the people that
6 already live here in the Eastmont Cooperative and has for decades,
7 is not a possibility. If this is zoned for higher density than
8 our block can handle, then that is, you know, directly going to
9 cause harm no matter who builds a RA-3 size building there.

10 CHAIRPERSON HOOD: But you all won't be displaced,
11 right? You might -- the views -- which the Supreme Court has
12 already given us direction, and you can verify that, you don't
13 have to take my word for it. I've heard it enough. But the
14 views we can't regulate, so. But you all are not going to be
15 displaced. Elm is saying -- I'm just going to call him Elm,
16 forgive me, is going to say they're going to be displaced.

17 MR. HARRIS: My main concern with an RA-3 is not so
18 much the views as much as the density. So I think that especially
19 with our senior citizens who, you know, already have enough
20 mobility access as it is, having that amount of density in between
21 our buildings, in between us and the Metro, would be detrimental.

22 CHAIRPERSON HOOD: Okay. All right. Thank you.

23 Mr. Smith, are you ready?

24 MR. SMITH: I've still got mute. You still can't hear
25 me?

1 CHAIRPERSON HOOD: No. You're unmuted now, so.

2 MR. SMITH: Okay. Okay. That's fantastic. So I wasn't
3 anticipating your question, but I -- as one of our neighbors
4 pointed out earlier, that building there was renovated about 20
5 years ago. It was featured in an article. And so if we're
6 concerned about the people being displaced who are in there, why
7 can't we just keep them in the building they're in, right? The
8 foundation actually purchases buildings and I think renovates
9 them. They don't necessarily have to destruct the building and
10 build something massive that's out of character for this
11 particular block with its -- the specialness of it. I think,
12 you know, we've described all of that for you. So you know, I
13 don't think they have to be displaced. They can continue to live
14 in the building they're in with the support of the foundation.
15 If they are committed to the affordable housing of those people
16 who are in there, they won't have to be displaced, and they might
17 have to take a loss, but it will be one for their team, right?
18 If they're that committed to keeping those people housed, they
19 can keep them right there next door to us, the people who we have
20 lived harmoniously with for quite some time.

21 CHAIRPERSON HOOD: Okay. Let me ask either Clarks or
22 Ms. Jackson, one of you could just -- if you want to expound on
23 that, I wanted to give you opportunity. If not, I'll keep moving.

24 MS. JACKSON: What I want to say, when they -- when I
25 moved here in 1984 and even further down closer past the '90s,

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1 the owner of that building put up the automatic gate so people
2 wouldn't be parking over on that off-street parking lot, but
3 people was always knocking it down so he eventually took it down.
4 I could see with a new building that magnitude is going to look
5 out of kilter in our community. If people don't have enough
6 parking in the new building, where do you think they're going to
7 come? Right over to our community because we don't have a gate
8 to block our parking. We have off-street parking. We have
9 assigned parking spaces, but we also have problems sometimes with
10 people doing that now, parking in our spaces, and we're told to
11 call the police, you know, to have those cars removed. And I
12 agree with George, you know, why can't they just stay in place
13 where we live harmoniously for so long as neighbors? And I don't
14 understand why that foundation thinks they just have to have a
15 huge building with limited amount of parking. I hear 25 parking
16 spaces, 110 units, which, you know, you know if they have company
17 where they're going to come, right over to Eastmont because we
18 have --

19 CHAIRPERSON HOOD: Okay. I've got you.

20 MR. SMITH: I'd like to add one other comment if I
21 might.

22 CHAIRPERSON HOOD: Mr. Smith, let me do this because
23 I'm asking questions. I want to get my colleagues' questions.
24 I want this to be a collegial thing between us because we have a
25 process. You may get that out in a moment.

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1 Let me go to Commissioner May, any questions of this
2 panel?

3 COMMISSIONER MAY: No, I don't, but I found their
4 testimony very (audio blank).

5 CHAIRPERSON HOOD: Okay.

6 And Commissioner Imamura, any questions of this panel?

7 COMMISSIONER IMAMURA: No, Mr. Chairman. Just
8 appreciate everybody providing their input tonight to shape the
9 outcome decision in this case. But I do want to highlight
10 specifically the fact that I earlier said that, you know, it's
11 nice to have young people participate in the process, but I am
12 equally inspired by Ms. Douglas and her participation tonight.
13 So thank you, Ms. Douglas, you are an inspiration, so thank you
14 very much.

15 CHAIRPERSON HOOD: Okay.

16 Mr. Smith, I'm going to give you a half a minute.

17 MR. SMITH: Yeah, and it won't take long. No, I just
18 wanted to remind us that the comprehensive plan encourages, you
19 know, maintaining buildings, not necessarily destructing them.
20 And I know that the Applicant seems to be committed to the
21 comprehensive plan just like we are. And so if it's, you know,
22 encouraging the fact to maintain buildings in this plan, we could
23 go about starting that or maintaining that piece of the
24 comprehensive plan by keeping the building as is.

25 CHAIRPERSON HOOD: Okay. So I know people have put

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1 their positions out there. Do you think it's worthy to continue
2 to have a conversation from the Eastmont group, to have us --
3 continue to have a conversation with the Applicant? I'm just
4 asking that because I may ask for that. But if you all don't -
5 - if it's a nonstarter, ain't no sense in me asking.

6 MR. SMITH: Well, it depe- -- well, I can't speak for
7 the cooperative, but if they can't make adjustments and if they
8 feel like they have to have an R-3 zone, I'm not sure where the
9 compromise could be, right, because they're starting from a place
10 of building something massive that's just completely out of
11 character for our small area with the challenges that have been,
12 you know, clearly articulated.

13 CHAIRPERSON HOOD: Okay. I got you. All right.

14 Let's see if the Applicant have any questions on this
15 panel. Ms. Brown?

16 MS. BROWN: Sorry, I can't hit the unmute button fast
17 enough. No questions.

18 CHAIRPERSON HOOD: Okay.

19 And the ANC, Ms. Palmer -- Commissioner Palmer and
20 Commissioner Yeats, any questions of this panel?

21 ANC COMMISSIONER YEATS: Yeah, I have one very general
22 question and then some specific ones, if I may. I would just
23 ask the neighbors at Eastmont what they would say to the 10 or
24 11 people who might be currently without housing, who would move
25 into permanent supportive housing into this development?

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1 CHAIRPERSON HOOD: Is that directed to anybody or --

2 ANC COMMISSIONER YEATS: Anybody who wants to answer.

3 CHAIRPERSON HOOD: Okay. Somebody want to answer that?

4 ANC COMMISSIONER YEATS: We know that there are
5 vouchers out there and there are not enough voucher homes for
6 people, and this would offer 10 or 11 units for people who are
7 currently homeless.

8 MR. JONES: I can answer that. I would like to speak
9 to --

10 CHAIRPERSON HOOD: Mr. Jones. Mr. Jones, you are a
11 party.

12 MR. JONES: Oh, I'm sorry.

13 CHAIRPERSON HOOD: This is -- and here's the thing.
14 Let me just say this. I'm not difficult. But the courts look
15 at everything we do.

16 MR. JONES: I'm sorry.

17 CHAIRPERSON HOOD: And if this -- if I don't run
18 according to a propose, we might have to come back and all have
19 another hearing. So, Mr. Jones, let the panel answer that. We
20 appreciate you though.

21 Okay. Anybody want to ask Commissioner Yeats'
22 question?

23 ANC COMMISSIONER IMAMURA: Well, I'm not sure if I
24 understood it correctly, but it seems to me as though the
25 foundation is finding places for the residents to live. So

1 there's being sort of temporarily -- or the proposal is to have
2 them temporarily displaced. So it sounds like they're, you know,
3 involved in relocation services. And so that might be a question
4 for the foundation.

5 COMMISSIONER MAY: If I can just interrupt. Let me
6 interrupt for a second here. The question was about people who
7 might move into the building who are not in Elm Gardens right
8 now. It wasn't about people who are there right now. But I also
9 don't think that it's really a fair question because you're asking
10 these folks who are impacted by this neighboring project to, you
11 know, to solve the homelessness problem in the city. And I don't
12 think that's fair to ask of them or any other individuals in a
13 proceeding like this. That's my opinion, but Mr. Chairman, it's
14 up to you or it's up to the ANC commissioner to withdraw the
15 question.

16 ANC COMMISSIONER YEATS: I'm happy to withdraw the
17 question. I was just following Chair Hood's lead to think through
18 these properties as we do.

19 COMMISSIONER MAY: It's a good policy question, but I
20 don't think it's really fair to ask that of them.

21 MR. SMITH: Appreciate that.

22 ANC COMMISSIONER YEATS: The only question that I have
23 then is just because there's been concerns about the ANC's
24 notification engagement process and just say are there people on
25 this panel who are politically engaged to know where to find ANC

1 notices and have done so before and have engaged with the ANC?

2 MS. JACKSON: Before you were elected, we used to meet
3 at the -- on Georgia Avenue at the police precinct of Ward 4. So
4 you're doing something entirely different when you have to
5 remember the community has aging people who may not have access
6 to IT or may not even be able to afford internet. So I attended
7 a lot of meetings at the police station for Ward 4 on Georgia
8 Avenue, Mrs. Shirley Douglas and I. We didn't miss hardly any
9 of them.

10 ANC COMMISSIONER YEATS: Yes, ma'am. We've continued
11 to meet at the police precinct until COVID happened. Yes, ma'am.

12 MS. JACKSON: And we also received letters in the mail.
13 We also had mailings twice yearly, which I saved all of mine and
14 everything too.

15 ANC COMMISSIONER YEATS: In my term -- I would actually
16 direct this time Ms. Gray. Ms. Gray, have you engaged with ANC
17 4B in the past and come to our events that you found out through
18 our notice procedures?

19 MS. GRAY: For many, many years. I think in my
20 testimony, I expressed that we worked with EYA when they first
21 came onboard. You were not the ANC commissioner. I worked for
22 many years, 25 years, on the Metro bike trail before you were
23 elected. And we worked on many projects with our former ANC,
24 Sarah Green. And to your point, because you did make a comment
25 about our doors are locked, but every single door has a doorbell

1 to each and every unit. And we did have an ANC to come to our
2 property when needed to get in touch with somebody to spread the
3 word about certain things. So there is not -- there's nothing
4 difficult about getting in touch with us.

5 ANC COMMISSIONER YEATS: Ms. Gray, have you been to
6 events that I have hosted for community input?

7 MS. GRAY: Since you have been there, no. And I think
8 you know why, because I was running for office.

9 ANC COMMISSIONER YEATS: You did not attend the one for
10 the Metropolitan bike trail?

11 CHAIRPERSON HOOD: Let's do this. Let's do this.

12 MS. GRAY: No.

13 CHAIRPERSON HOOD: Commissioner Yeats, Ms. Gray.
14 Commissioner Yeats. I don't know Commissioner Yeats, but I know
15 Ms. Gray and others, and I want you all know I'm not new to this.
16 I do know Ron Austin, who used to be the chair of 4B, so I've
17 been around a while too. So let's not -- let's go back to the
18 zoning issues and not about who comes to meetings, who doesn't
19 come. And I appreciate all that because some of us do ANC, some
20 of us don't. Some of us do civic associations, some of us don't.
21 But tonight we're talking about this proposed map amendment, so
22 let's --

23 ANC COMMISSIONER YEATS: I had no choice but to respond
24 to the testimony when it impinged the work we do. But I
25 appreciate it, and I have no further questions.

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1 CHAIRPERSON HOOD: Okay.

2 All right. And Mr. Jones, do you have any questions
3 of this panel?

4 MR. JONES: Yes. I would like to directly address the
5 question you asked about displacement. There was something about
6 --

7 CHAIRPERSON HOOD: Mr. Jones, the question of this
8 panel, not my question.

9 MR. JONES: I don't have any questions directly to the
10 panel, no.

11 CHAIRPERSON HOOD: Okay. All right. Well, thank you.

12 Ms. Schellin -- and thank you all for your testimony.
13 We greatly appreciate it. I know we're all passionate about
14 what's going on. So what I will tell everybody is always make
15 sure you're helping us to see it your way because we have
16 regulations that we have to go by when we're analyzing these
17 cases. Everybody's not going to be happy. Sometimes I make
18 decisions that I'm not happy, so I just want to make sure that
19 we all know that. So we appreciate your testimony.

20 And let's bring up the other group, Ms. Schellin.

21 MS. SCHELLIN: We have Susan Miller. William Hurd, and
22 Mr. Hurd is caller number 6. Boris Heinlein. Margaret Williams,
23 and I believe Ms. Williams is caller number 4. Mary Roseby. And
24 last is James Bradley. He's undeclared and I believe he would
25 be caller number 7. And that is the end of the list.

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1 MR. YOUNG: Sharon, I didn't see call-in user number
2 6. Do you know what the first digits of the number is?

3 MS. SCHELLIN: 202-549. Did he hang up?

4 MR. YOUNG: I don't see that number on here anymore.

5 MS. SCHELLIN: It looks like a few of them have.
6 Actually, caller 6 and 7 are both off now.

7 MR. YOUNG: No, 7 I brought in.

8 MS. SCHELLIN: Oh, okay. You did, okay.

9 MR. YOUNG: Yeah, and 4.

10 MS. SCHELLIN: 4. Okay. So he must have hung up then.
11 Okay. That's it then.

12 CHAIRPERSON HOOD: All right. Thank you. Let's go
13 with Susan Miller first.

14 MS. MILLER: Good afternoon, and I thank you for the
15 opportunity to speak. I am an owner/resident at Eastmont
16 Cooperative, and I am opposed to the development. I don't want
17 to rehash anything that everyone else has said, but I think one
18 of the points that hasn't really been discussed here is the fact
19 that the residents in the Elm development, they are renters and
20 not owners. There is no guarantee that these people will come
21 back. The people at Eastmont are established residents who own
22 their property. So while I can be -- while I understand and I
23 have empathy and sympathy for the residents at the unit next
24 door, their roots aren't as deep as the residents of Eastmont.
25 And the only thing I want to reiterate, and I'm going to speak

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1 to what Andres said, is that according to the developer, I believe
2 it was, the gentleman's name was Abdul, at the meeting that we
3 had on the 28th of March at Eastmont, said that they bought a
4 building that was valued at \$2 million for \$7 million. And the
5 only motivation to build this was to call it affordable so that
6 they could get grant money from the city, and the only way to
7 make good on their investment is off the backs of the residents
8 who have been here.

9 There was also a point that a study determined that the
10 view at the Cady-Lee was not obstructed. If you understand the
11 neighborhood, the Cady-Lee stands at a higher elevation, so the
12 Cady-Lee actually overlooks everything. No, that building
13 wouldn't obstruct the view of the Cady-Lee because the Cady-Lee
14 sits on higher ground. And I yield my time back to the
15 Commission.

16 CHAIRPERSON HOOD: Thank you. Ms. Miller, if you can
17 hold tight, we may have some questions for you.

18 Let's go to Mr. Hurd, and then I'll go to the callers.

19 MR. HURD: Thank you very much. Yeah, I was on the
20 phone and then I got on my computer, so that's why there was some
21 confusion. So I am opposed to the development. I'm a resident
22 of Eastmont Cooperative. I've lived here for about 20 years.
23 I'm 47, which makes me one of the younger residents here, and
24 probably one of the newer residents of Eastmont. So I wanted to
25 just point out a few things. I'm glad that NHP is concerned

1 about, you know, predatory developers coming in and, you know,
2 that's why we're zoned in a certain way. Another developer would
3 not come in and build a building of that size if we keep the
4 current zoning, if we keep the law the way it is. NHP has
5 promised something to the Elm Gardens residents that they weren't
6 sure that they could deliver. So any --

7 CHAIRPERSON HOOD: Hold on one second. Hold on one
8 second. If everybody can mute. Some reason, I don't know if
9 that's you, Mr. Hurd, moving papers around, but somebody's moving
10 a lot of papers around. If you can just mute, that way we can
11 hear Mr. Hurd without any interruption, so thank you. I'm sorry,
12 Mr. Hurd. You can continue.

13 MR. HURD: Okay. Sure thing, yeah. So if there's any
14 inconvenience to the Elm Gardens residents, it was caused by NHP
15 and not, you know, not being sure that they could deliver on
16 their promises. They have to actually change the law in a big
17 way to build the project. Parking is an issue on the street.
18 There would be more residents on this block and fewer parking
19 spaces. It's already difficult sometimes to pull out. I can't
20 -- I drive a small car and I can't always see around the corner,
21 and I've gotten into accidents many times when I pull out, and
22 that's only going to get worse.

23 About engaging with the Eastmont Cooperative, you know,
24 we're all here now. I mean, there's about 15 of us here. That's
25 about a third of the residency. You know, when we find out about

1 something, we're going to show up. So we obviously, you know,
2 efforts that were made to engage us were not enough and now we
3 know about it, and we're here now, and we're talking about it.
4 We're fully engaged in the process. And I think that's all I've
5 got. Thank you letting me share tonight.

6 CHAIRPERSON HOOD: Okay. Thank you. Hold tight. We
7 may ask some questions.

8 We'll try to go to the caller, first three numbers are
9 909, caller 7. First three numbers, not the area code now, but
10 the first three numbers of the number is 909.

11 MS. SCHELLIN: That's Mr. -- that's Bradley.

12 CHAIRPERSON HOOD: Oh, okay. You know their names.
13 I'll let you call.

14 MS. SCHELLIN: I'm not sure. Let me check.

15 CHAIRPERSON HOOD: The other callers, Ms. Schellin,
16 seem to have left.

17 MS. SCHELLIN: Oh, yeah. 909 is James Bradley. He
18 just needs to unmute himself.

19 CHAIRPERSON HOOD: Thinking he's on the phone. Hit
20 star 6.

21 MS. SCHELLIN: He's unmuted.

22 CHAIRPERSON HOOD: Okay. Mr. Bradley, you may begin.
23 Mr. Bradley, you may begin. Star 6.

24 MR. YOUNG: Looks like he's unmuted, so I'm not sure.
25 Now he just went back on mute.

1 CHAIRPERSON HOOD: Okay. He's unmuted now. Mr.
2 Bradley? Do you want to hang up and call right back?

3 Ms. Schellin, can we find the other person that -- do
4 we see the other person that dropped off?

5 MS. SCHELLIN: I will check the other two callers. Has
6 Susan Miller already spoken?

7 MS. MILLER: Yes, I already.

8 MS. SCHELLIN: She did. Okay. Let me check the other
9 two callers. It looks like James Bradley may have hung up and
10 going to try to call back. Let me check these other two callers,
11 see if they're on the list.

12 (Pause.)

13 MS. SCHELLIN: No, sir. They seem to just be listening
14 in. Those numbers were not registered.

15 CHAIRPERSON HOOD: Okay. Well, we tried, and I think
16 we've got everybody that you have up now. So 909 is not
17 registered.

18 MR. BRADLEY: Hello.

19 CHAIRPERSON HOOD: Yeah, there you go.

20 MS. SCHELLIN: Oh, he's back. Yeah.

21 MR. BRADLEY: Hello. Can you hear me?

22 CHAIRPERSON HOOD: Yeah, we can hear you now. Good.

23 MR. BRADLEY: Thank you. I've been trying to get
24 through to this for quite some time really, because I've been on
25 ever since 4:37.

1 CHAIRPERSON HOOD: Well, the floor is yours now.

2 MR. BRADLEY: Thank you. Yeah, my name is James
3 Bradley. I'm a 44-year resident of the Eastmont. With the
4 exception of the first eight years when I rented from the Dreyfuss
5 Brothers, I've been a part of the co-op since '87. And I'm 71,
6 going on 72 in three months. So to make a long story short, my
7 basic concern and my reason for opposition is I don't understand
8 the procedure in which this whole thing was done in the first
9 place. It looked like the developers in question went into the
10 process of getting everything done, and it looks like right now
11 everybody's trying to play it to us like, you know, if we show
12 opposition, we could be aiding into the displacement of some
13 people.

14 How come we were not engaged in advance before these
15 moves started? It looked like we've only been aware of this
16 whole thing going down since October of last year, after things
17 had already been more or less sealed. So my whole problem, in
18 addition to everything that the other members of the co-op have
19 offered, particularly George Smith, Linda Gray, and others, et
20 cetera, is that the way the whole thing has been done. It was
21 kind of like to me, kind of backdoor type, and I always have a
22 problem with venues like that.

23 CHAIRPERSON HOOD: All right. Well, thank you for --

24 MR. BRADLEY: You think --

25 CHAIRPERSON HOOD: Yeah, we can hear you. Are you

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1 finished?

2 MR. BRADLEY: Yes. At this point, yes.

3 CHAIRPERSON HOOD: Okay. Good. Hold tight. We may
4 have some questions for you.

5 Ms. Schellin, I think that's everyone.

6 Commissioner May, you have any questions of this panel?
7 You're on mute, Commissioner May.

8 COMMISSIONER MAY: I do not.

9 CHAIRPERSON HOOD: Okay.

10 And Commissioner Imamura, any questions?

11 Okay. All right. I don't have any questions as well.

12 Ms. Brown, do you have any questions of this panel?

13 MS. BROWN: No, sir.

14 CHAIRPERSON HOOD: Okay.

15 And Commissioner Yeats, I think you have taken
16 Commissioner Palmer as well.

17 ANC COMMISSIONER YEATS: No, Chair, no questions.

18 CHAIRPERSON HOOD: And, Mr. Jones, party in opposition
19 Jones, do you have any questions of this panel?

20 MR. JONES: No questions. Thank you.

21 CHAIRPERSON HOOD: Okay. Mr. Jones, I'm going to --
22 you've been trying to make a point. I'm going to do that. I
23 know it's out of order, but I'm going to do that now.

24 MR. JONES: Oh, I don't want to be too out of order,
25 but I wanted to --

1 CHAIRPERSON HOOD: That's all right.

2 MR. JONES: -- speak again to your displacement
3 question. I want to build on something both you said and George
4 said. There was something I suspected before coming into this
5 hearing that you confirmed, that the city would not let anyone
6 be displaced, their displacement is not contingent upon the
7 developer. And like George said, the proposition that NHP has
8 put forth already guarantees a move from this building, they only
9 offer a return to the building. I don't -- I could be wrong,
10 but I don't think being in this specific place is an essential
11 part of the displacement question, but either way they will have
12 to move from this place either way. So if the two options of
13 NHP preserving the housing as it is would allow them to stay in
14 place, or moving on to another owner will restart the protections
15 of TOPA unless I'm mistaken. And there will be once again
16 reintroduced options to determine how someone is housed, just
17 like it is now. Like I said, NHP isn't keeping --

18 CHAIRPERSON HOOD: Okay. Mr. Jones, you actually have
19 provided testimony, so now I'm going to show you what happens
20 when I do that.

21 MR. JONES: Okay. Sorry.

22 CHAIRPERSON HOOD: No, that's all right. Stay on,
23 because now I've got to go through the cross.

24 Ms. Brown, do you have any cross to that last statement?

25 MS. BROWN: No, sir, I do not.

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1 CHAIRPERSON HOOD: Okay. Thank you.

2 ANC Commissioner Yeats, do you have any cross to that
3 last statement?

4 ANC COMMISSIONER YEATS: No. It's almost time for me
5 to put kids to bed, so no.

6 CHAIRPERSON HOOD: Okay. Good. Thank you.

7 Who am I missing? Okay. So thank you, Mr. Jones. We
8 get it. We appreciate it. Thank you.

9 All right. Ms. Schellin, let's bring back up the party
10 -- I mean, I'm sorry, bring back up the Applicant.

11 Ms. Brown, do you have a long rebuttal and do you have
12 a lot of rebuttal?

13 MS. BROWN: I think we can get through it in 10 minutes.

14 CHAIRPERSON HOOD: Okay. Then, you know, we have to
15 do cross on rebuttal, so go right ahead.

16 MS. BROWN: I'll try to -- you know, and I'll try not
17 to beat a dead horse on some of these issues, but what I've been
18 hearing this evening, and I'm going to direct my questions to Mr.
19 Abdul-Malik and Mr. Simon, but just as a preface to my question,
20 we understand that the notice issue was very important to the
21 neighbors. We understand that, you know, if we had to do it over
22 again, and maybe I'll ask this question -- you know, we could
23 have done a better job perhaps, and that's why we deliberately
24 delayed the hearing in this. So we've heard loud and clear that
25 that was an issue for the Eastmont community. But if I could

1 direct a question to Mr. Abdul-Malik. You attended the meeting
2 at the Eastmont on March 28th, correct?

3 MR. ABDUL-MALIK: I did. That's correct.

4 MS. BROWN: And their attorney was present?

5 MR. ABDUL-MALIK: He was, correct.

6 MS. BROWN: And did he acknowledge getting the notice
7 of all the letters that we sent to him?

8 MR. ABDUL-SALIM: He did, that's correct.

9 MS. BROWN: And our earliest letter would have been
10 with the notice of intent --

11 MR. ABDUL-SALIM: Correct.

12 MS. BROWN: T-- t your knowledge? Yeah. Okay. All
13 right. And if you had to do it over again, would you -- were
14 you too reliant on the ANC process or would you do things
15 differently?

16 MR. ABDUL-SALIM: I wouldn't say we were too reliant
17 on the ANC process. I think we followed the rules, and we
18 followed the rules to the letter of the law. And in this
19 instance, I guess the only reliance that we would have had is
20 that from all of the stakeholders in the community, had someone
21 told us that there was an unwritten rule that we should do our
22 best to try and get notices into buildings that were locked, we
23 would have probably pushed back and maybe have tried to come up
24 with something more unique. But in this instance, there was no
25 indication from anyone that we had spoken to about any customary

1 but unwritten and unofficial rules in order for us to be able to
2 go into people's buildings unannounced and uninvited in order to
3 deliver information.

4 MS. BROWN: Thank you.

5 Let me switch to the light and air issue in a number
6 of apartments or units in the Eastmont that are going to be
7 affected, and maybe this is best to direct to you, Mr. Simon.
8 There were shadow studies done which represent the RA-3
9 development volume that you shared with the neighbors. Could you
10 tell me what the difference is between the current building and
11 --

12 MR. SIMON: Sure.

13 MS. BROWN: -- (audio glitch) RA-3 envelope?

14 MR. SIMON: Yeah. I mean, obviously it's a larger
15 building so there is an impact. But what we were looking at when
16 we reviewed these was will the co-op's buildings get light during
17 the day, and the answer is yes. And I think that's true basically
18 almost every time during the year. And again, this is based off
19 of a proposed building which is not before the Commission, and
20 in some instances that proposed building actually improves the
21 light and air conditions for some of the units. So you know, we
22 presented that study that was done by our architect. We gave
23 that to the co-op and, you know, I mean, yes, there is an impact,
24 but is it completely detrimental? I don't -- you know, in my
25 mind, they're still getting some light during the day, so.

1 MS. BROWN: And then the difference between the side
2 yard requirement in the RA-1 versus the RA-3, if you're aware of
3 that and what you're doing about that to try to preserve as much
4 as you can?

5 MR. SIMON: Yeah, correct. RA-3 does not require a
6 side yard, whereas RA-1 does, and I believe it's 10 feet. Our
7 proposed development, even though again it's not before you, we
8 have maintained that 10-foot setback of the side yard, and also
9 the proposed development is setting back from Eastern Avenue 25
10 to 35 feet. We have offered to put that covenant on the land to
11 maintain that in perpetuity. You know, we discussed that with
12 Eastmont. So that's what the current proposed design is. We
13 are maintaining a setback. The existing setback is slightly
14 larger for the side yard. We would be willing to discuss
15 maintaining that in perpetuity as well if, you know, the Eastmont
16 Co-Op would like to enter into discussions about that. But in
17 the design, we're aware of the mass and scale of the building,
18 and we took that into consideration when we were designing the
19 proposed building.

20 MS. BROWN: Okay. And you heard the discussion about
21 the pedestrian and traffic issues, and how do you respond to that
22 in light of the DDOT report?

23 MR. SIMON: Well, the DDOT report to me doesn't seem
24 like it's going -- and this is DDOT's own analysis. You know,
25 they're talking about 8 additional car trips and I think 36

1 additional pedestrian trips per hour during peak times. And
2 again, you have to understand that was done based off of the max
3 RA-3 allows, which is a larger building than what we're proposing.
4 So we would imagine the impact would be less than that. You
5 know, we have agreed to and will agree to improve the sidewalk
6 based off of DDOT's recommendations in front of our building as
7 required by DDOT. You know, so we will work with them through
8 that process and do what is recommended by them.

9 MS. BROWN: And the front of the building as proposed
10 is going to be set back 25 and 35 feet?

11 MR. SIMON: Correct. So that's going to be a very --
12 unlike the blank wall we have now that has a 10-foot setback and
13 it's not very pedestrian friendly, this -- you know, we're
14 basically making a pedestrian plaza almost on our own, you know,
15 land. In order to do the DDOT setback, it would be a 4-foot tree
16 box and a 6-foot sidewalk. And we're happy to do that, you know,
17 obviously for our, you know, piece of the -- for our frontage.

18 MS. BROWN: Okay. And let me switch gears a little
19 bit. You heard the testimony from Mr. Harris that this was an
20 investment decision and it was the way to maximize your profit,
21 I guess. Could you explain how that works and all the things
22 --

23 MR. SIMON: Yeah. First off, we're a nonprofit
24 developer, so we're not in this to make a profit. The TOPA
25 transaction -- the way the TOPA transaction works, we had to

1 match an existing offer. So we had no control over the price we
2 paid to acquire the building. Okay? And so we agreed to do that
3 so we could preserve these affordable units. But the only way
4 to make a deal financially viable is to come to the Zoning
5 Commission to get a map amendment to upzone this so we can get
6 the density on the site that we can then redevelop to make it
7 financially viable based off of the purchase price we had to
8 match under TOPA. Otherwise, they were out of, you know, Elm
9 Gardens was out of options. The contract that we were matching
10 was going to give them about \$20,000 to go away, and they were
11 going to -- they would be before the Zoning Commission asking for
12 a very similar thing except they were going to be putting market
13 rate units on the site, because that's what that purchase price
14 equates to. It's based off of market rate rents. It was going
15 to be market rate condos or market rate apartments. You can't
16 have the grants that the current project has and make that
17 purchase price make any sense. So you know, that is part of
18 the TOPA process, you know, you have to match whatever the
19 contract is.

20 MS. BROWN: And you've been through the TOPA process
21 many times?

22 MR. SIMON: The firm has, yes, and Mansur can speak to
23 that because he has been the one that's done a lot of those deals.
24 The difference here is that, you know, this site is -- when you're
25 looking at what the District is trying to do, this site checks

1 so many boxes. It's right next to the Metro. You know, it's
2 ripe for having additional density put on it, which we, as you
3 know, I'll leave that up to you, but that was what the FLUM, you
4 know, was saying. So you know, this checks -- it's next to the
5 Metro. It's already a naturally occurring affordable building.
6 The District is also putting emphasis on net new units, so not
7 only are we going to preserve the 36 units that are there, any
8 additional affordable units are net new units, and that's really
9 what gets funding priority through the District. And that's what
10 we're looking at. We're looking at putting a building on this
11 site that is sustainable, that is service enriched, and that will
12 be available to a larger number of people for the foreseeable
13 future.

14 You know, as a nonprofit, you know, these deals don't
15 make cash flow. They operate at break even, you know, and we
16 would have to put an affordability covenant on the project for
17 at least 40 years after it was developed. And NHPF, the
18 foundation, is not in the business of buying and selling real
19 estate. We're in the business of preserving and creating
20 affordable housing for the long term.

21 MS. BROWN: Thank you. So let's go to the RA-2 zoning
22 and talk a little bit about why that moderate density residential
23 doesn't work. Did you do the calculations on what the GFA would
24 be and how many units it might generate?

25 MR. SIMON: Yeah. I mean, roughly, we did calculations

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1 based off that, and it would get you somewhere in the range of
2 50 to 60 units. The problem there is, you know, you have existing
3 36 units, so you know, only having 20 net new units is less
4 attractive to the District to fund this. You know, because of
5 the existing rents, there's going to be a gap in the financing
6 that the District has to fund, and it's a competitive process
7 too. So we have to come -- we're coming to them with a project
8 that is viable, that is attractive because it's next to the Metro,
9 we're creating net new units, which is one of the big priorities,
10 you know, and so, you know, with the 58, you know, units, or
11 whatever it is, the ask from the District is too high per unit.
12 It's almost to the point where they wouldn't even look at it
13 because it's past their underwriting standards. So that's really
14 what was guiding us as far as the density that we needed. It's
15 what the District would fund, because this project's going to
16 require a subsidy. You know, even though we have a loan causing
17 tax credit, both the state and federal tax credits, the rents are
18 not going to support the whole development of the project, you
19 know. So we're going to be going to the District and asking for
20 soft funds to fill that gap, and we have to make it competitive.

21 You know, the District knows about this project. We've
22 talked to them about it. They're excited about it. They would
23 like to even see it come through. And I don't know if you are
24 familiar with the tax credit world, but they'd like to see it
25 come through as a 9 percent transaction, which is -- there's two

1 kinds of allocations, the competitive one, which is the 9 percent,
2 and the 4 percent, which is if you get bond financing, you'll
3 get the tax credits. They wanted to see this come through as a
4 9 percent transaction. They even offered to do a discretionary
5 basis boost, which I won't get into what that means, but basically
6 they found that this project has a lot of value and it checks
7 all the boxes.

8 MS. BROWN: Okay. And so you've probably then just
9 answered the question. The other question on my list is what
10 one of the Eastmont residents said is why can't you keep the
11 existing building?

12 MR. SIMON: For that reason, it's because we came in
13 as a TOPA purchaser, and even as you heard in the testimony from,
14 you know, Ms. Davidson, they were going to -- the other contract
15 that we matched, they weren't going to keep the tenants in place.
16 They were not going to maintain this building. They were going
17 to tear it down in a few years and build something bigger that
18 was market rate or condos. Just the purchase price doesn't make
19 sense with the existing rents is what it comes down to.

20 MS. BROWN: Thank you. Do you have anything else,
21 Michael, that you want to mention, or Mansur?

22 MR. MALIK-BROWN: Yeah. One final thing just to kind
23 of put a bow on this. I think we appreciated the dialogue that
24 we had with Eastmont, especially being able to hear about the
25 history and how the co-op was formed. One of the things I want

1 to make sure I call attention to and I'll put a sight line on is
2 at that time the co-op was aided by a District program which they
3 referred to as Muscle. Muscle doesn't exist today, but instead
4 the tools that we have today in order for us to be able to prevent
5 displacement because real estate is based on highest and best
6 use, of which the highest and best use of this site would be
7 market rate, whether it be condominiums or rental units, we have
8 to utilize the tools that we have at our discretion, and those
9 tools include the comprehensive plan as well as the District
10 being able to provide other types of subsidy in order to fund
11 the gaps necessary to make sure that affordable housing in non-
12 affordable areas gets built.

13 So in this instance, the work that occurs around the
14 city using the TOPA law is one that allows the District to remain
15 diverse, both racially and economically, and allows us to be able
16 to utilize those tools so we don't displace vulnerable residents,
17 which includes the folks in Elm Gardens.

18 MR. SIMON: I would add that, you know, Elm Gardens,
19 and this is in the testimony from Mr. Eldridge as well, so I'll
20 keep it brief, but they did look at all the different options
21 and then, you know, for them and this circumstance, pursuing, you
22 know, development as a rental property is what made sense
23 financially because they weren't in a situation where they could
24 come up with the equity required to take out the seller basically.

25 MS. BROWN: Great. Thank you both.

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1 And thank you, Mr. Chairman. That concludes our
2 rebuttal testimony.

3 CHAIRPERSON HOOD: I want to thank you both. Let's
4 see.

5 Commissioner May, you have any questions?

6 COMMISSIONER MAY: No, I do not. Thank you.

7 COMMISSIONER MAY: Commissioner Imamura, you have any
8 questions?

9 Okay. I don't have any questions.

10 Ms. Schellin, can we bring up the ANC? Commissioner
11 Yeats, you have any cross on rebuttal.

12 COMMISSIONER YEATS: No, Chair. I just, in terms of
13 rebuttal, all I would say is --

14 CHAIRPERSON HOOD: You don't get to rebut.

15 COMMISSIONER YEATS: That's what I thought, but you
16 just said do you have any cross and rebuttal? And so I --

17 CHAIRPERSON HOOD: No, no. That's with technology. I
18 said cross on rebuttal.

19 COMMISSIONER YEATS: On rebuttal. Then I'm all good.
20 I hope everybody gets to go have a beer soon. That's all I have.

21 CHAIRPERSON HOOD: All right. Thank you.

22 And let me see. Who am I missing? Oh, Mr. Jones, do
23 you have any cross on rebuttal?

24 MR. JONES: Yes. I'm hearing from my end that our
25 lawyer did not confirm that they got the notification. In fact,

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1 he said that it went to a management company that we no longer
2 use. So I just want to ask whether -- what type of confirmation
3 that you got for that. Did the lawyer receive these?

4 MR. SIMON: You might want to ask him directly at the
5 meeting. I asked counsel if he had received the notices and he
6 said yes in the affirmative.

7 MR. JONES: Okay. It's also my understanding that no
8 type of District program was used when forming this co-op, so I'd
9 also like to ask where did you hear that?

10 MR. ABDUL-MALIK: Can you repeat the question? You
11 said no type of District --

12 MR. JONES: Funding program.

13 MR. ABDUL-MALIK: With regard to?

14 MR. JONES: (Indiscernible) co-op.

15 MR. ABDUL-MALIK: Michael, did the Elm Gardens Tenant
16 Association explore a co-op?

17 MR. SIMON: That's what I've been told, yes, is they
18 explored the co-op model and that that wasn't going to work for
19 this situation.

20 COMMISSIONER MAY: That was not the question. The
21 question was the Muscle program. Mr. Jones, you're asking where
22 they learned that the Eastmont used the "Muscle program" to
23 acquire their building; is that right?

24 MR. ABDUL-MALIK: That's what's been told to us, that
25 Eastmont used the Muscle program in order to develop their

1 cooperative.

2 COMMISSIONER MAY: Who told you that?

3 MR. ABDUL-MALIK: It was just said by Ms. Gray. It was
4 also said at the Eastmont tenant meeting that we attended on the
5 28th.

6 COMMISSIONER MAY: Okay. I think that's what Mr. Jones
7 was asking, right?

8 MR. SIMON: I believe that it was mentioned in one of
9 the letters as well, that they used a certain -- I mean, there
10 was an acronym, but I just don't recall what it was.

11 MR. JONES: Okay. Sorry. Could be mistaken. Also
12 what would happen if you sold the building, sold the property?

13 MR. SIMON: Well, we would --

14 MR. JONES: Are you able to sell the property?

15 MR. SIMON: We would assign the TOPA rights back to,
16 you know, to the tenants' association, and then we could in theory
17 put the building up for sale, but they could go back through the
18 TOPA process. And I've never had to do this, so I don't know if
19 this is for certain, so Mansur, correct me if I'm wrong, but,
20 you know, I would imagine they would end up in a very similar
21 place to where they were when we came and stepped into the
22 transaction, which is why we've discussed about them potentially
23 being displaced. And I think that you heard that from the
24 testimony of multiple members of the tenants' association.

25 MR. ABDUL-MALIK: That's correct. The property is

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1 still valuable because of its location and because of its
2 underutilization. So as Ms. Jacobs said in her testimony, there
3 were two potential offers. One was NHP, the other was existing
4 contract buyer, which they offered \$20,000 per resident for them
5 to move out. That's an indication of the intentions of the
6 contract purchaser to increase the density and turn this into
7 market rate housing, whether it be for sale or rental, in order
8 to justify the purchase price that was on the property.

9 MR. JONES: So why is -- does this count as a question?
10 Why is significant sums actually used to leave and come back not
11 the same thing as an offer to have your move paid for and a
12 guarantee to come back?

13 MR. SIMON: Well, I think what you're referring to is
14 the relocation process. We've entered into a developer agreement
15 with the tenants' association, right? So we have certain
16 responsibilities that we've agreed to with them, and one of those
17 is, we will relocate them and they all have the right of return.
18 There's also the Relocation Act that we have to abide by as well.
19 So you know, what's going to happen is all the existing tenants
20 that are there when we're ready to relocate them will be relocated
21 off-site for the period of construction. They all have the right
22 of return regardless of what their income levels are, which we
23 explained I think in our testimony. You know, yes, it's going
24 to be a -- proposed that it's a 100 percent affordable building,
25 but there are some over-income tenants. We'd factor that in,

1 once those tenants leave, it will be rented to, you know, a
2 qualifying tenant. So we are paying for the temporary relocation,
3 which is not a permanent displacement, and yes, they're being
4 moved from their building, but so that they can be brought back
5 to the replacement building. So I don't think that's the same
6 kind of displacement that the racial equity analysis is talking
7 about.

8 MR. JONES: How long would their relocation be paid for
9 if they refuse to return?

10 CHAIRPERSON HOOD: Let me ask this, Mr. Jones. Did
11 they mention that on rebuttal? If they did, I didn't hear it,
12 but they could have mentioned it, because this is cross on
13 rebuttal.

14 MR. JONES: I'm sorry. Okay. Then I'll ask what were
15 the obstacles for mailing the direct papers as residents,
16 homeowners, and tenants directly?

17 MR. SIMON: Carolyn, do you want to -- I mean, was that
18 a rebuttal question?

19 MS. BROWN: It was a question, I think, that, Michael,
20 you and Mansour answered. And really, I think, Mansour, you did
21 answer it about what's legally required and the practices in your
22 -- so if you have anything you want to -- if you want to respond
23 to the question.

24 MR. ABDUL-MALIK: I think my response stood from before.

25 MR. SIMON: I do believe that the program that was

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1 referenced in one of the letters was the Home Purchase Assistance
2 Program, so.

3 MR. JONES: You said that -- you said that the doors
4 were locked. Did you attempt to directly mail the adjacent
5 resident?

6 MR. ABDUL-MALIK: No, we didn't attempt to mail the
7 adjacent resident. That's what I stated in my original statement.

8 MR. JONES: Okay. Well, that's all the questions I
9 have.

10 CHAIRPERSON HOOD: Okay. Thank you, Mr. Jones.

11 Ms. Brown, do you have a closing?

12 MS. BROWN: Just some very brief comments. I don't
13 envy the Commission having to balance what you have before you,
14 namely the direct effects of this potential loss of affordable
15 units to the Elm Gardens racially diverse community versus the
16 indirect effects on the Eastmont community. And it is a balancing
17 act and it's a difficult choice, but I think balancing all the
18 factors that you have to consider, namely the comprehensive plan,
19 the affordable housing by Metro, I think that on balance, the RA-
20 3 district is what is best for this site. It's what accomplishes
21 the city's goals, the housing goals that are the critical need
22 for affordable housing. So I think that our testimony of record
23 and our submissions to the record fully support that, and we
24 would ask for you to act favorably on the application.

25 CHAIRPERSON HOOD: Okay. Thank you, Ms. Brown, and to

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1 your team. And I want to thank everybody who testified,
2 proponent, opponent, undeclared, and everybody who participated
3 in this process. What I do -- what I would say, Mr. Malik --
4 and let me see, I wrote your name. Let me see, I haven't called
5 your name. Mr. Malik and others, and Mr. Simon. Mr. -- is it
6 Mansur or Malik?

7 MR. ABDUL-MALIK: Mansur.

8 CHAIRPERSON HOOD: Oh, Mr. Mansur. Okay. Excuse me.
9 Mr. Mansur and Mr. Simon. I will say that -- and Ms. Brown -- I
10 will say that I'm always hopeful. I know they can continue to
11 have discussions, but if you all don't think, after the answer I
12 got from Eastmont, you all don't think it's -- no, I'm not going
13 to say that. I'd like for you all to still reach out to Eastmont.
14 Mr. Simon mentioned something that you possibly could, you know,
15 if it's approved or whatever, that you could possibly pull back
16 and -- continue that collaboration, while you might not agree all
17 the way, but let's see if you can close the gap as much as you
18 can close the gap. And I appreciate you, Ms. Brown, for saying
19 that this is a hard decision because it is.

20 And Ms. Schellin, I'm going to ask that Vice Chair
21 Miller also reads this record. He said he would. I think it's
22 going to be crucial because there's only three of us, and who
23 knows which way another one may go. And we need that fourth
24 Commissioner, really that fifth one, but we have to wait on that
25 one, but we can get the fourth commissioner to participate as

1 well.

2 And I'm going to ask Commissioner May, does he have
3 anything else he would like to see?

4 COMMISSIONER MAY: I agree with you, Mr. Chairman.
5 It's worth making another effort. You know, I understand the
6 burden's on the Applicant in terms of (audio glitch) viable
7 project to deliver the benefits (audio glitch), but if there is
8 room, as Mr. Simon suggested, that maybe (audio glitch) side yard
9 on that --

10 CHAIRPERSON HOOD: Commissioner May. Commissioner May,
11 I think what you're saying is very important, but you're going
12 in and out a little bit.

13 COMMISSIONER MAY: Okay. I don't know what's going on
14 with my microphone lately. I think I need an equipment upgrade.
15 Anyway. Mr. Simon suggested, for example, that the side yard
16 might be increased. Maybe there are other things that might be
17 done with the building to lessen the impact on Eastmont neighbors.
18 You know, many of the concerns that were brought up have to do
19 with the site construction, which is not really something that
20 we consider in cases like this. And you know, some of the other
21 issues, I mean, I'm not really concerned about parking impacts
22 because of, you know, our -- or what's proposed here would be,
23 whatever is developed would be considered to be consistent with
24 our parking regulations. So I don't think that's an issue from
25 my perspective. But I do think, you know, I'm still a little

1 troubled by the mapping of this, and I think one of the reasons
2 why I'm troubled is that, you know, when we look generously at
3 the blurring of the lines on the FLUM, it really is based on the
4 idea that the massing of the project, or one of the underlying
5 conditions is the massing of the project, it's a good fit for
6 the neighborhood or is sufficiently mitigated by what could
7 happen. And I don't have that same, you know, warm feeling here,
8 especially when we see, you know, how close this building might
9 be to, or this project might be to abutting neighbors at the
10 Eastmont.

11 And again, you know, we've heard, I think, very moving
12 testimonies from the people who live there about how this would
13 have an impact on them, and not just diminish their living
14 experience right now, but also diminish their property values.
15 So I just, I feel like, you know, if there is anything more that
16 can be done to help make peace with the Eastmont neighbors, I
17 think it would go a very long way to being able to see an approval
18 of this, because I'm not fully convinced yet I can get there.
19 And that's it.

20 MR. SIMON: Commissioner May, we will take that under
21 consideration. We appreciate that, and I will reach out to the
22 Eastmont Co-op again.

23 COMMISSIONER MAY: Yeah.

24 CHAIRPERSON HOOD: And Mr. Simon, if the doors are
25 locked, do what we have to do to get in there. Okay?

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1 MR. SIMON: Yes, sir.

2 CHAIRPERSON HOOD: All right.

3 Commissioner Imamura.

4 MR. SIMON: Well, within reason, Mr. Chairman.

5 CHAIRPERSON HOOD: Well, yeah, within reason now.

6 Don't just do -- no, no, yeah, you're right. Thank you,
7 Commissioner May.

8 Commissioner Imamura?

9 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I know
10 that the design solution perhaps that you all -- conceptual
11 design that you might have developed already, you feel like that
12 might be the complete project or complete design solution there,
13 but sometimes in the additional effort, you'll find a better
14 outcome. So Mr. Simon, I appreciate your saying your willingness
15 to go back to Eastmont and see with genuine intent and positive
16 intent, but that also requires Eastmont to move from their
17 position as well. So both parties need to know going into that
18 conversation that you need to move your position, at least a
19 little bit, to reach some type of consensus.

20 But I think there is some minor modifications,
21 adjustments, refinements if you will, design refinements. Even
22 though we're not talking about a project here, but really
23 essentially it's an exercise in massing, that's all this is. So
24 I think there's some additional refinements that you can make,
25 but again, my comment to Eastmont is you also need move from your

1 position as well, so -- in order for this to work. So it's not
2 an all or nothing proposition either side.

3 So that's all I have, Mr. Chair.

4 CHAIRPERSON HOOD: Thank you, Commissioner Imamura, and
5 my sentiments exactly. I agree with your comments. We all need
6 to move from where we are, so thank you for saying that and that's
7 what we're looking for, and we will make the decision to the best
8 of our ability, and I appreciate that.

9 I have to say this again, Ms. Brown. Nobody has ever
10 told us it's rough. These are rough, but one thing I know about
11 this Commission, we're up to the task. We're going to do our
12 best for the best interest of the city.

13 So Ms. Schellin, I know you have some dates.

14 MS. SCHELLIN: Yes. I didn't hear that the -- did the
15 Commission ask for anything? I know Ms. Brown was taking notes,
16 so I didn't really hear anything --

17 CHAIRPERSON HOOD: Collaboration.

18 MS. SCHELLIN: -- other than to go back. Collaboration,
19 right. That was the only thing I heard. So I would ask the
20 Commission, do you want to put this on for the last meeting of
21 this month, which is April 27th, or the first meeting in May,
22 which is May 11th, two weeks after that?

23 CHAIRPERSON HOOD: Let me ask. Is everybody here the
24 first week in May -- I mean the first meeting in May?

25 COMMISSIONER MAY: Yes.

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1 CHAIRPERSON HOOD: Okay. All right. Let's do the
2 first meeting in May, give everybody some time, because two weeks
3 is quick.

4 MS. SCHELLIN: Okay. So it's not two weeks from now
5 that the meeting is. I'm saying that they're two weeks apart,
6 those two meetings.

7 CHAIRPERSON HOOD: Oh, well, let's do it the latter,
8 the last one.

9 MS. SCHELLIN: Yeah. So that's one, two, three -- so
10 the first meeting is three weeks away and the second meeting, the
11 first meeting in May, would be five weeks. So you want to go
12 for the May meeting. That's what I'm seeing head shakes.

13 CHAIRPERSON HOOD: The first meeting -- our first
14 meeting in May, yes.

15 MS. SCHELLIN: First meeting in May. Okay. So then
16 if the Applicant, and, I believe it was, the Elms, is that
17 correct, the other building, the collaboration, I'll just say
18 that, they'll know who that is, if they could all get together
19 and submit that each of the sides, just one letter from the co-
20 op, so we're not opening the record for everybody, to submit a
21 letter reporting back on that meeting, and I guess that would be
22 the president or the board of directors, whoever the
23 representative for the other building is, if they could submit
24 that letter by 3 p.m. on May 2nd.

25 And Ms. Brown, if you could submit a draft order also,

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1 say, by May 9th, and the ANC too. I'm assuming you're going to
2 have them in that meeting also, Ms. Brown. Okay. So they too
3 can weigh in and submit something if they choose to do so, they
4 can follow up by May 2nd also.

5 MS. BROWN: I'm sorry. Just to clarify, it's not just
6 the Eastmont Cooperative that's filing a report on May 2nd, it's
7 also the Applicant?

8 MS. SCHELLIN: Right.

9 MS. BROWN: Thank you.

10 MS. SCHELLIN: About how your meeting went.

11 MS. BROWN: Yes. Yes, correct.

12 MS. SCHELLIN: So I don't know who the person is that's
13 in charge of -- is it Eastmont, is that what you said, Eastmont?

14 CHAIRPERSON HOOD: Eastmont.

15 MS. SCHELLIN: So whether it's the president, whoever
16 is in charge of the homeowners' association, whatever, one
17 representative. We don't want to have the record open for
18 everybody. So it's the representative from there that will submit
19 the letter, the ANC, the Applicant, and also Mr. Jones will be
20 at that meeting also since he's a party.

21 CHAIRPERSON HOOD: Correct. And he's at Eastmont, so
22 I'm sure they can cover it.

23 MS. SCHELLIN: And all of those, they can all submit
24 letters, because they're parties, except for Eastmont, but that's
25 who you're meeting with, and they too can submit a letter.

1 MS. BROWN: And there's no response to these May 2nd
2 submissions by the parties?

3 MS. SCHELLIN: Yes. Yes, the parties can then respond
4 to the letters, so only the parties can then respond by 3 p.m.
5 on the 9th.

6 CHAIRPERSON HOOD: All right. So anything else? We
7 all on the same page?

8 MS. BROWN: Yes.

9 MS. SCHELLIN: Put this on for May 11th.

10 CHAIRPERSON HOOD: Okay. Let me just say -- announce
11 -- thank you. Let me announce, the Zoning Commission will be
12 meeting again on Monday, 23-03, this is the William C. Smith and
13 Company. We'll be on these same platforms, same time at 4 p.m.
14 I want to thank everyone for your participation tonight. You can
15 follow what we're going to do. We have the date set for our
16 meeting in May, our first meeting in May. Any questions, you
17 can follow with the office. I want to thank everyone for their
18 participation tonight. And with that, have a great evening and
19 a great weekend. Good night.

20 (Whereupon, the above-entitled meeting was adjourned.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public hearing

Before: DCZC

DATE: 04-06-23

PLACE: Teleconference

was duly recorded and accurately transcribed under my direction;
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