



Committee of 100 Comments on the Proposed 2022 Wesley Theological Seminary Campus Plan (ZC Case No. 22-13)

June 9, 2022

The Committee of 100 on the Federal City (C100) provides these comments to the proposed 2022 Campus Plan submitted by the Wesley Theological Seminary (the Seminary). As we see it, the main issue before the Zoning Commission is whether the proposed construction of a 659-bed student apartment building complies with the Campus Plan provisions of the DC Zoning Regulations, specifically the restrictions on commercial use. The Seminary proposes to enter a ground lease with a for-profit entity – Landmark Properties – which in turn will build and manage the apartment building, in the process providing a revenue stream to the Seminary. Landmark intends to lease an overwhelming majority of the beds (more than 500) to students attending American University, a separate, unaffiliated institution located next to the Seminary. The legal/policy issues described below will set a precedent for all colleges and universities located within the District.

The Seminary claims that the arrangement will allow the Seminary to “Thrive in Place.” It is apparent that financial necessity drives the proposal. However, the Seminary has not made its financials available to the public, which means that neighbors and the Commission cannot assess the Seminary’s real financial position. As a religious institution, the Seminary is not required to file a 990 with the IRS, which would at least provide a picture of the Seminary’s financials.

C100 recognizes that the Seminary has been a respected member of the Spring Valley community ever since it relocated to Spring Valley 63 years ago. C100 hopes that a path can be identified that will assure the continued existence of the Seminary in Spring Valley.

The threshold issue is whether the arrangement with Landmark Properties constitutes a commercial use that complies with the Campus Plan provisions of the DC Zoning Regulations, specifically Subtitle X, Sections 101.3(a) and (b) and 101.4. These requirements are triggered by the arrangements with a for-profit entity that are not predominantly designed to support the educational needs of the Seminary. Section 101.3(a) provides that there shall be a demonstrated and necessary relationship between a commercial use and university functions. As noted above, the Seminary is asking the Commission to accept this need on faith.

Section 101.3(b) requires that the total floor area of all commercial uses, including basement and cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area. According to the proposed Campus Plan, the gross floor area of the campus, including the new dormitory, will be more than 400,000 SF, with the new dormitory taking up more than 300,000 SF. Thus, the commercially owned dormitory will take up approximately three-quarters of the campus’

gross floor area. Even taking into consideration the relatively small portion of the new dormitory that will be reserved for Wesley students, the amount will be far above the 10 percent limit.

Section 101.4 states that the campus plan process “shall not serve as a process to create general commercial activities *or* developments unrelated to the educational mission of *the applicant*” (i.e., the Seminary). The arrangement with Landmark will in large part provide apartments for American University students, not Seminary students. Section 101.4 bars not only “general commercial activities” but also “developments unrelated” to the Seminary’s mission. The fact that the dormitory for AU students may help the Seminary’s *bottom line* does not make it part of the Seminary’s *mission*.

C100 believes that the unambiguous language of Section 101.4 prohibits this proposal. If the Seminary wishes to pursue the project, the Seminary must, at a minimum, seek a use variance. During discussions with neighbors, the Seminary released a cursory two-page “zoning analysis” prepared by Holland & Knight. The opinion relies in part on precedent from Z.C. Order No. 05-40C, which permits the Seminary to house a small number (no more than 87) non-Wesley graduate students in its dormitories. However, the scale of the proposed use dedicated to AU students here is substantially different from that in the earlier case. The earlier Zoning Order provides no precedent on which the Seminary may rely. Significantly, in discussing the permissibility of the proposed dormitory use, the Holland & Knight memo relies on the general statement in Subtitle C (Uses) rather than Subtitle X (Campus Plans). Section 11 DMR C-200.2(j)(2) defines education, college and university uses as including “dormitories,” without the qualifier in Subtitle X that “uses” mean those of an applicant, not a third party.

In the event the Commission deems the proposed Campus Plan does not conflict with the commercial use provisions of the Zoning Regulations, we recommend that the Commission direct the Seminary to reach agreement with affected neighbors on measures ensuring that the proposed use will not be objectionable to these neighbors.

Sincerely,



Kirby Wining, Chair

Committee of 100 on the Federal City