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June 17, 2022

BY IZIS

Mr. Anthony J. Hood, Chairman
D.C. Zoning Commission
One Judiciary Square
441 4th Street, N.W., Second Floor
Washington, D.C. 20001

Re: Zoning Commission Case No. 22-13
Application of The Wesley Theological Seminary of the United Methodist Church
for Approval for a Campus Plan to Thrive in Place (2022-2032)
4500 Massachusetts Avenue, N.W.
Square 1600, Lots 6 (818 and 819), 7, 8 and 9.

Dear Chairman Hood and Members of the Commission:

As requested by the Commission at the conclusion of the June 13, 2022 Public Hearing, enclosed please find the Closing Statement of the Applicant, including:

1. Statement of Rev. Dr. David McAllister-Wilson directly responding to the Commission's question concerning the relationship of the proposed Campus Plan dormitory project to the educational mission of the Seminary; and
2. Statement of Applicant's Counsel.

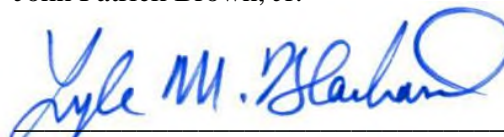
Under the Commission's Rules and as specifically instructed, no response to this Closing Statement is authorized or expected from any other Party.

Thank you for your consideration.

Sincerely,
GREENSTEIN DELORME & LUCHS, P.C.



John Patrick Brown, Jr.



Lyle M. Blanchard

Enclosures

4876-7136-0805.v1

ZONING COMMISSION
District of Columbia
CASE NO.22-13
EXHIBIT NO.42

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2022, the foregoing letter and enclosures was delivered via electronic mail to the following:

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John Patrick Brown, Jr., Esq.



Zoning Commission Case No. 22-13
Applicant's Closing Statement
Rev. Dr. David McAllister-Wilson

The name of Wesley Theological Seminary's ("WTS") Campus Master Plan, "Thrive in Place" is meant literally. This is Wesley's opportunity to remain in Washington and fulfill the mission which brought us here. As was attested by ANC Commissioner Pemmerl, we went through a comprehensive process of consultation with our neighbors, culminating in the unanimous qualified endorsement of our plan. Even those in opposition testified they wanted Wesley to remain. Some offered their own ideas how that could be achieved. We had already carefully considered all those schemes. None of them provide nearly the resources to help Wesley subsidize students, retain and attract teachers, maintain programs, allow the construction of a new dorm and demolition of obsolete dorms as the Campus Plan now before the Zoning Commission. Without this form of direct economic subsidy to Wesley, it is unlikely Wesley can remain in the District.

The question was raised in the hearing about the way in which the construction of a dorm with the majority of occupants projected to be American University ("AU") students is related to the educational mission of the seminary in particular. I believe this crucial issue must be addressed in the following larger context:

Wesley was established 140 years ago as a small seminary in rural Maryland, but its identity, legacy, mission, continued growth, leadership and success are built upon and inexorably linked to and derived from its presence in Washington, D.C.

Seminarians require substantial economic subsidy to complete their education, which is at a level similar to the requirements for M.D.s but with an average starting income of \$40,000 per year. Either the education needs to be heavily subsidized or the seminarians graduate with massive student debt with no way to pay it back. Otherwise, the only type of person who could reasonably enter the seminary are those from wealthy families which is not healthy for society as a whole, and would in particular affect aspiring pastors and ministers who are of color. Our ability to address racial equity in upper northwest on this campus is unique and is in compliance with the Comprehensive Plan and the Campus Plan provisions of the regulations.

This seminary has a long history of providing pastors, ministers and those who wish to serve to the District of Columbia. Being in the District of Columbia is critical to that mission.

The programs offered at the Seminary that greatly depend on our location in Washington include: The Community Engagement Institute, the Center for Public Theology, the Center for Church Leadership, the African-American Church Studies Certificate and the Heal the Sick Certificate. The seminary also offers its "National Capital Experiences for Seminarians" ("NCES") program, which provides seminarians opportunities for immersion programs in the nation's capital.

For 2022, the NCES program offered “Faith, Politics, and the Public Square, “which involved engagement with public officials, political figures, advocates and activists, and theological reflection on the issues and structures of public life, such as public discourse, social identity, the uses of power and violence.” The NCES program also offered “Advocacy and Action in the Public Square,” a week-long immersion program where students engaged policy experts, public servants, faith-based advocacy groups, community activists, pastors, and media representatives on practical strategies for faithfully engaging in the public square. Location within the nation’s capital is also an important component of WTS’ Faith and Public Life Immersion (“FPLI”) program, which is offered through the Center for Public Theology. Taking full advantage of the seminary’s location in Washington, D.C., participation in the FPLI program involves engagement with Congressional policy experts and public officials on issues related to the intersection of Christian theology and political life. Program participants have even had occasion to engage with representatives at the United States Institute of Peace, which has its headquarters in Washington, D.C.

In addition, and in cooperation with the American University School of International Service, WTS and AU have two joint Masters programs with AU’s School of International Service in International Development and Peace and Conflict Resolution. These dual degree programs uniquely combine graduate theological education with the theoretical and practical study of international peace and conflict resolution or international development. Through these dual degree programs, WTS students are permitted to take AU courses while paying the seminary’s hourly tuition. Conversely, AU students are permitted to register for seminary courses on a comparable basis. Additionally, WTS dual degree participants have access to AU libraries and fitness facilities.

A dorm with American University and Wesley students furthers this educational mission of WTS. The following are more specific points supporting the application:

1. This land has been an academic hilltop community for 120 years - since it was bare ground and nothing around. The construction of this purpose-built student residence hall continues that academic mission of this property. And it frees a number of housing units in the neighborhood by relocating many more students within the campus precincts. Once again in accordance with Comprehensive Plan policies relating to housing and affordable housing. It is a good urban planning approach to “town and gown” regions like this.

2. But with respect to the institutions on this land, it was the vision of two Methodist Bishops to locate AU and Wesley to this spot. It was part of an even larger vision of a Methodist center that included the Metropolitan United Methodist Church and later, Sibley Hospital. The culmination of that vision was the establishment of the School of International Service at AU and relocation of Wesley at the same time by Bishop G. Bromley Oxnam who chaired the boards of both institutions and is buried in our chapel. The long vision was to foster the socially progressive aims of the denomination. For our part, this has meant Wesley has become a premier center for urban ministry and public theology (what we now call “community engagement”). And we have deliberately worked to become a robust “majority minority” community. This “majority/minority” community best serves the District of Columbia by being located in the District of Columbia. Wesley has a distinguished track record of providing pastors, ministers and service-oriented graduates to the people of the District of Columbia. Thrive in Place retains Wesley as a wellspring of racial equity in Washington, an expressed goal of the District's Comprehensive Plan and incorporated into the Campus Plan process through 11-X DCMR Section 101.11.

3. What are the implications for Wesley's mission itself? As the Commission indicated, in recent years churches have made use of the economic value of their property in furtherance of their mission. For instance, while a number of our graduates develop church property as senior housing or homes for the formerly homeless, our mission is to teach future pastors and non-profit leaders to have that kind of theological vision and provide the practical skills to make that possible. Our mission is education. In the language of our faith, we teach people to fish. So, the economic return of this transaction, which will be channeled into student scholarships, will enable more students, in particular those with modest means to prepare for a lifetime of ministry in this learning laboratory of DC. Almost by definition, graduate theological students are lower income and will remain so. Wesley will continue to heavily subsidize their housing. And, as I testified, it will place us securely amongst those institutions outside the District where these incredibly talented and needed people may go instead.

4. How do the AU students in the dorm intersect Wesley's mission objectives about beyond the economic value proposition? I return to our placement on this hill, having purchased the property for \$10 from AU. This was a token amount because Wesley and AU are sister institutions. For most of our history, we shared phone service and steam. For all of our history, we have had shared degree programs. We expect this dorm will draw us even closer to AU programmatically and it is natural some of those students will be in the joint programs mentioned earlier. And, there are always some AU undergraduates considering ministry who may simply move into our degree programs and stay in their rooms! In fact, this could become an element of student recruitment for both schools. We will welcome all residents to participate in the activities of the seminary community. Not proselytizing in any way, but with the natural hospitality of a seminary. They would receive preferential consideration for enrollment in our programs. The proposed availability of this dorm for A.U. students is not a transactional master lease of space. All students in the building, Wesley and AU, will be held accountable to the same code of conduct. In significant ways, Wesley will benefit from the occupants of this building the way university-related divinity schools, like Duke and Candler, benefit from the connection to their host university.

In summary, all the resources that are derived from this unique opportunity are related to the educational mission of WTS. The new dorms will provide modern housing for Wesley students for the foreseeable future; a means to subsidize the education of all our students so they are not left with crushing debt when they graduate from the seminary; a means to give back to the community and the District; continue our joint programs with AU; and very significantly foster racial equity as a "majority/minority" community remaining in the District of Columbia.

I suggest this case has precedents on a number of other questions that were raised. But on this question of AU students living in this dorm, it need not be considered a precedent itself because it is so unusual. One cannot imagine a similar set of circumstances in the District.

Zoning Commission Case No. 22-13
Applicant's Closing Statement

John Patrick Brown, Jr.

1. Permitted Campus Uses

a. The Proposed Dormitory is not a commercial use under ZR16

The proposed dormitory **is not** a commercial use (ancillary, incidental or otherwise), but rather is a specifically designated college/university education use that is permitted on the Seminary campus by special exception under the campus plan regulations of Subtitle X § 101, and is aligned with and in direct support with WTS' educational mission "to equip persons for Christian ministry and leadership in the church and the world, to advance theological scholarship, and to model a prophetic voice in the public square."

Under ZR16, a dormitory is expressly stated as being a type of facility that falls within the "Education, College/University" use category. As stated in Subtitle B § 200.2(j)(2), this particular use category may include, but is not limited to, "accessory athletic and recreational areas, **dormitories**, cafeterias, ancillary commercial uses, multiple academic and administrative buildings, or sports facilities." Emphasis added. The plain language of the definition clearly shows that a dormitory is a completely separate use from any [ancillary] commercial uses that may also fall within the Education, College/University use category. Clearly, the proposed dormitory is not a type of [ancillary, customarily incidental, or primary] commercial use, but rather the proposed dormitory **is** a permitted campus use. The ownership structure and financing mechanism used to construct and operate the proposed dormitory has no bearing whatsoever on the fact that the building will be occupied in every way as a dormitory. Under ZR16, and specifically the campus

plan provisions by which the Commission is reviewing the proposed WTS campus plan, the proposed dormitory will be constructed and continually operated as “a residence hall providing rooms for individuals or for groups...,”¹ and will not in any way resemble a commercial use within the parameters of ZR16.

The proposed private construction and operation of the building as part of this Campus Plan, does not make the proposed dormitory a commercial use. In all respects, it will be a “dormitory” under ZR16. The Seminary confirmed this specific question with the Zoning Administrator (“ZA”) in December 2019. As part of that discussion, the Applicant described the partnership between WTS and Landmark, as well as the occupants of the proposed dormitory being comprised of WTS and non-WTS students. Upon evaluation, the ZA concluded that “a new **student residence project** which includes units featuring private baths and kitchens, and offering occupancy to [non-WTS] students, can be considered a **dormitory** use, pursuant to the Zoning Regulations,” subject to the review by the Zoning Commission under the Campus Plan process.

b. Limited intent of commercial use provisions under Subtitle B § 200.2(j)(2) & Subtitle X § 101

The references to “ancillary commercial use” in the Education, College / University use category definition, and the campus plan provisions relating to commercial uses are inapplicable to the proposed dormitory use. This is made clear by a review of the legislative history leading to the adoption of ZR16. The current language of the campus plan provisions first appeared in the zoning regulations when the Commission adopted ZR16 in March 2016, which followed a multi-year effort of detailed analysis of every aspect of the zoning regulations. As part of that analysis, the Commission, with support from the Office of Planning (“OP”), evaluated permissions related

¹ See Merriam-Webster definition for “dormitory.”

to ancillary campus uses. The guidance provided on this topic clearly reveals that the Commission was focused on limiting non-residential uses on campuses when it adopted the campus plan regulations. This is consistent throughout the entire record related to the adopted of ZR16. For example, prior to initiating its review of the actual text for ZR16 (Z.C. Case No. 08-06A), the Commission, with support from OP and various stakeholder working groups, evaluated a wide range of concepts relating to specific areas of the zoning regulations, including “campus/institutional” uses. *See* Z.C. Case No. 08-06-7.

As part of its evaluation of the campus/institutional concept, the Commission and OP specifically analyzed the regulation of ancillary campus uses. In its November 19, 2008, report to the Commission, OP states “[l]arge hospital complexes often contain medical offices, gift shops, restaurants, and other uses otherwise not allowed in residential zones. Universities are packed with student serving businesses and university related office buildings. Even large churches can have book stores.”² The focus on ancillary non-residential uses is continued in OP’s supplemental report entitled “Institutional Uses in Residential Zones Worksheet.”³ Indeed, the Commission’s deliberations related to this issue are entirely focused on the regulation of non-residential uses on campus, and make no mention of a dormitory as part of those deliberations.⁴ Consequently, the Commission’s focus on non-residential uses as related to its evaluation of commercial uses on campuses was carried forward during the adoption of ZR16.⁵ This clearly demonstrates that the specifically referenced dormitory use is distinguished from any commercial use. The language of the current campus plan regulations, and the legislative history supporting said regulations, clearly

² *See* Z.C. Case No. 08-06-7, Exhibit 4 at pg. 15-16.

³ *See* Z.C. Case No. 08-06-7, Exhibit 39 at pg. 5.

⁴ *See* Z.C. Case No. 08-06-7, transcripts for December 11, 2008 and February 23, 2009.

⁵ *See* Z.C. Case No. 08-016A, Exhibit 2 at pg. 14.

are intended to limit non-residential uses such as offices, retail and service, and eating and drinking establishments on campuses, and are not intended to apply to WTS' proposed dormitory.

As was noted during the testimony and hearing, the opposition's assertion of a commercial dormitory or commercial apartment building are totally misplaced and without support in ZR16.

c. **Ground lease / ownership structure does not make proposed dormitory a commercial use**

Regardless of the ownership structure and ground lease mechanism being used by WTS to construct the proposed dormitory, the building will remain a dormitory use under the zoning regulations that is directly aligned with and in support of WTS' housing needs and academic programming. The proposed dormitory will replace currently outdated on-campus student housing facilities with modern and flexible housing options that will meet the varied needs of its students and their families, and will allow WTS to thrive in place in its current location through ground lease rent that will allow WTS to maintain the operations, educational programming and generous scholarships necessary to achieve its mission in face of recent declines in enrollment. Unlike institutions that may have healthier endowments or that offer programs that historically lead to higher incomes (such as law and medical schools), WTS' ability to continue to subsidize its educational programs and housing costs through ground lease rent from the proposed dormitory is critical for students pursuing a theological degree for a career path in Christian ministry and leadership in the church.

Further, the fact that the proposed dormitory will house American University ("AU") students does not change the proposed dormitory use to some other commercial use under ZR16, nor does it undermine its relationship to WTS' mission. The proposed dormitory will provide housing to WTS students and immediate family members, and students attending immediately

adjacent AU. Non-WTS students were previously allowed to reside on the WTS campus under prior Commission campus plan approvals. Pursuant to Z.C. Order No. 03-40B, the Commission approved a modification to the WTS campus plan “to permit an increase in the amount of housing to be leased to non-WTS graduate students.” Specifically, the Commission permitted up to 55 non-WTS students to reside on the WTS campus (approximately 32% of the total approved 172 beds). A year later, pursuant to Z.C. Order No. 03-40C, the Commission approved another modification to the WTS campus plan to allow up to 87 non-WTS students to reside on-campus (approximately 51% of the total approved 172 beds). These non-WTS students paid rent for the ability to reside in existing WTS dormitories, and WTS used that rent to maintain the operations and educational programming necessary to achieve its mission. The fact that WTS received rent from non-WTS students, in accordance with approvals granted by the Commission, to support its mission did not make the existing WTS dormitories a commercial use. This is exactly what is proposed in the subject application, the only exception being that Landmark will construct the proposed dormitory and will own the improvement for the term of the ground lease. This creative, but increasingly utilized ownership structure, does not make the proposed dormitory a commercial use, nor does it change the land use pattern that already exists on the WTS campus. WTS students and immediate family members, and non-WTS students (now solely restricted to AU students) will continue to reside on the WTS campus, and the rent received from students residing on-campus will help WTS sustain its operations and educational programming within the District. It is critical to note that the Seminary’s current and proposed Campus Plan specifically prohibit the sale or lease of its property to AU. WTS agreed to this substantial restriction at the specific request of the immediate neighbors and community.

The proposed dormitory being occupied by a greater percentage of non-WTS students compared to what is currently permitted, and WTS now receiving its rent payments through Landmark for the term of the ground lease does not change the fact that the proposed dormitory is a use that falls within the “Education, College/University” use category and is not a general or ancillary commercial use under ZR16.

d. Other campus plan ground lease precedent

The Commission has recent experience with development being undertaken on a campus pursuant to a ground lease between an institution and a third party. Specifically, pursuant to Z.C. Order No. 16-18A, the Commission approved the new MedStar medical/surgical pavilion on the campus of Georgetown University (“GU”), which is nearing completion. In accordance with the Commission’s approval, MedStar is constructing the new medical/surgical pavilion on a portion of the GU campus under the terms of a long-term ground lease. Similar to the arrangement between WTS and Landmark for the proposed dormitory, GU will continue to own the land upon which the new medical/surgical pavilion is constructed, and MedStar will own and operate the actual improvement. The fact that GU and MedStar are using a ground lease whereby GU will receive rent from MedStar does not make the new medical/surgical pavilion a commercial use under ZR16. The use is a hospital, which is permitted in the zone underlying the GU campus and is related to the GU medical program. Similarly, despite the ground lease / ownership structure between WTS and Landmark, the proposed dormitory is an education, college/university use that is permitted by special exception under the campus plan process and is related to the WTS’ student housing program and academic and religious mission.

As a part of this structure, the Commission wanted to understand the tax implications to the District. Upon recordation of the ground lease, the building and land in this situation would

be subject to taxation by the District of Columbia. Therefore, the District will not suffer an economic disadvantage by virtue of this arrangement and, in fact, the District will be advantaged as the land and building which are presently tax-exempt will be taxed.

2. Applicability of Inclusionary Zoning (“IZ”)

The Seminary has never asserted that the proposed dormitory is exempt from IZ. It is also important to note that a dormitory or student housing project that fails to satisfy the language of the IZ exemption under Subtitle C, §1001.6(c)⁶ is not prohibited under the Zoning Regulations. It simply means the student housing is subject to all applicable IZ requirements under ZR16 and Department of Housing and Community Development (“DHCD”) IZ administrative regulations. Indeed, the language of this particular IZ exemption contemplates that a dormitory may house students from the institutional campus upon which it is located, as well as students from another institution.

The Seminary believes IZ is best addressed during further processing, after receiving further guidance from the Commission on the proposed campus plan and has a chance to discuss certain administrative aspects of the IZ regulations with DHCD when dealing with a student dormitory, particularly one that would be limited to WTS and AU students under the Commission’s campus plan order.

The Seminary is fully aware of the IZ regulations as they relate to the occupancy profile of the proposed dormitory, and will be fully prepared to discuss the specifics of how the dormitory will satisfy applicable provisions of the IZ regulations with the community and the Commission during further processing. Until then, it is important to note that nothing related to the proposed

⁶ “[h]ousing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff.”

dormitory can be constructed until the Applicant successfully completes further processing on the proposed dormitory.

Beyond IZ, the Seminary's Campus Plan will have a positive impact on affordable and housing availability in the immediate neighborhood that have been specifically championed by SV-WHCA. Most recently, SV-WHCA has specifically urged the Commission to better utilize the campus plan process to help address the District's affordable housing crisis, stating:

*"[t]he campus planning process also provides an opportunity for this Commission to address affordable housing. Take for example, American University. As the growth in undergraduate enrollment outpaces the supply of on campus housing, we are losing affordable units in our neighborhood to university master leasing programs. So, in our campus planning process and as we consider the future of rent control, we must be as vigilant in safeguarding affordable housing as we are in mandating affordable housing through inclusionary zoning."*⁷

In this respect, Wesley agrees with SV-WHCA and NLC that this proposed campus plan provides an opportunity to help address the issue of affordable housing, as well as other issues. The proposed dormitory has real potential to attract students that are currently residing in nearby single-family homes and multi-family developments, some of which might be affordable. Notably, this is also something that is expressly encouraged in the Education Facilities Element of the Comprehensive Plan, which states:

*"[e]ncourage the provision of on-campus student housing in order to reduce college and university impacts on the housing stock, especially the affordable housing stock, in adjacent neighborhoods. Consider measures to address the demand for student housing generated by non-District institutions with local branches."*⁸

⁷ See Z.C. Case No. 19-10, Valor Development, LLC, Planned Unit Development, Testimony of SVWHCA, dated October 10, 2019 at Exhibit 213.

⁸ Policy EDU-3.3.4: Student Housing (10-A DCMR 1214.9).

3. Commitment to Diversity, Equity, Inclusion and Social Engagement

Significantly, this Campus Plan and Wesley Seminary’s educational and religious mission are founded upon and committed to supporting racial equity, resiliency and local community engagement and programs.

The Seminary embraces, lives and professes its commitment to Diversity, Equity, and Inclusion.

The mission of Wesley Theological Seminary (“**Wesley**” or “**the Seminary**”) is to prepare persons for Christian ministry, to foster theological scholarship, and to provide leadership on issues facing the church and the world. Our aim is to nourish a critical understanding of Christian faith, cultivate disciplined spiritual lives, and promote a just and compassionate engagement in the mission of the church to the world.

At all levels, the Seminary is diverse, including students, faculty, administrators, staff, Board of Governors, and the Christians and persons of other faiths that it touches and serves. The Seminary’s student body demonstrates its diversity by race, sex, age, religion, national origin and sexual orientation. 58% of students are women, 41% men, 34% Black, 41% White, 9% Asian, and 5% International. Its student range in age from the early twenties to seventy or older. More than 60% of the students are ages 30-59 with nearly 25% ages 40-49. Over 30 different religious denominations are represented from the United States and abroad. The physical and financial resources resulting from this Campus Plan will directly support its students and their diversity.

Locally, the Seminary has deep and strong ties with the community. At least 200 alumni are District of Columbia residents who are deeply committed to the City and the lives of its residents through its churches and non-profit organizations.

The Seminary's commitment to our community and other local communities is the mission of its Community Engagement Institute under the leadership of Lorena M. Parrish, P.h.D., Associate Professor of Urban Ministries. The Institute's training and programs are broad and provide resources locally and beyond, including:

- Center for Public Theology
- Community Engagement Fellows Program
- Heal the Sick Program

4. Conclusion

On the basis of the foregoing and the record in this case, it is respectfully submitted that the criteria has been met for the Commission's approval of the requested Campus Plan.