

The Committee of 100

on the Federal City



May 9, 2025

Mr. Anthony J. Hood, Chairman
DC Zoning Commission
One Judiciary Square
441 4th St. N.W., Second Floor
Washington, D.C. 20016

Re: Z.C. Case No. 23-08(1)
Wesley Seminary's Proposed Campus Plan

Dear Chairman Hood and Members of the Commission:

The Committee of 100 on the Federal City (C100) offers these comments in response to Wesley Seminary's (Wesley's) Proposed 2022-2032 Campus Plan (the Plan). The principal feature of the Plan (other than the demolition of three structures, two of which are outdated and unused) is a proposal by Wesley to enter into a 99-year ground lease with a for-profit developer (Landmark Properties) under which Landmark would construct, own, manage and profit from a seven-story, 659-bed, luxury apartment building on the Wesley campus. According to Wesley, approximately 570 of the 659 residents of the apartment building would be American University (AU) students, not Wesley students, faculty or staff.

Background.

Since previous versions of the Plan raised issues that the Zoning Commission (the Commission) found to be insurmountable, Wesley proposed two text amendments which purport to address these concerns. Specifically, the text amendments would exempt Wesley from two fundamental zoning regulations – one requiring new residential developments to set aside a specific amount of affordable housing (as set forth in 11-C DCMR §1001 et seq) and another prohibiting other than incidental use of campus property for commercial purposes (as set forth in 11-X DCMR §101.3). C100 previously argued that any proposal to exempt Wesley from these central zoning requirements should be subject to strict scrutiny and pass a high hurdle, and that the text amendments fail to clear that hurdle. The relief requested clearly is extraordinary.

Nonetheless, the Commission approved the text amendments. At this stage, C100 will focus our comments on the text amendment that addresses Wesley's commitment to provide inclusionary zoning (IZ) in Ward 3.¹ Affordable housing and expansion of IZ are high on C100's priority list. IZ is an issue in this case due to the fact that most of the tenants in the apartment building will be AU tenants rather

¹ The text amendment is codified at 11C DCMR §1006.10.

than Wesley students. In fact, a plausible case can be made that almost all of the tenants will be AU undergraduates. As Wesley states, there is a clear exemption from the generally applicable IZ requirements for housing developed by or on behalf of a local college or university exclusively for its students. Just as clearly, that exemption does not apply here.

C100 has two major concerns which, unless addressed, should result in the rejection of this element of the proposed Plan. Specifically, the Plan is far too vague and the proposed financial contribution toward IZ is far too low. The Commission should understand that these problems are of the Commission's making, as it approved the text amendments that allow Wesley to circumvent the Zoning rules. We agree with the Office of Planning that, at the public hearing on May 12, Wesley should provide more details on the evaluation of alternate ways of meeting its off-site IZ requirements and a mechanism by which an evaluation of the program could be provided to a District agency.² However, we disagree with OP's suggestion that final evaluation be deferred until Further Processing.³ We do not believe that is what the wording of the text amendment calls for. In addition, resolution of the IZ issue, which is central to the case, should not be delayed further.

The IZ Plan Is Too Vague.

Wesley's March 5, 2025, submission does not demonstrate an "alternate means" for IZ outside of the Wesley campus as called for in the text amendment, but rather, offers only vague speculation over how IZ in Ward 3 might be produced; nor does it put forth anything reflecting an "enforceable condition" that the IZ text amendment specifically requires.

Unless and until Wesley shows it has specifically addressed these issues, the Commission would be in violation of its own regulations were it to approve Wesley's proposed Plan in its present form. And without a demonstration of compliance with new Section 1006.10, the Zoning Administrator would be precluded from granting a Certificate of Occupancy to Wesley's proposed commercial campus residence.

The Commission is neither obligated nor permitted to cave to Wesley's inability to show "alternate means" of complying with the IZ requirement. Also, the IZ requirement lacks the "enforceable conditions" required by the text amendment. On both accounts, the Plan fails to solve a problem of Wesley's and the Commission's making. Even a cursory review of Wesley's "Proposed Ward 3 Inclusionary Zone Revolving Fund" shows the proposal falls far short of anything that could possibly constitute a concrete, enforceable plan. The search for opportunities to piggyback on other Ward 3 developments is not documented except for one outreach. In that case, it is not surprising that the developer was unwilling to disrupt a project that is already underway and where a 12 percent developer-funded IZ commitment has already been approved.

With respect to the proposed arrangement with Local Initiatives Support Corporation (LISC), no sites, projects or timelines are identified. Will the Wesley funds be used to supplant affordable housing requirements that already apply to a development? Will the Wesley funds be used for other than the direct cost of building affordable units? Will the Wesley funds be spent on acquisition costs, the construction of affordable units, or indirect(administrative) costs? How will units be administered and preserved over time with income eligibility checks? Wesley states that the proposed \$8 million

² Exhibit 85, p. 4,

³ Id.

contribution should be sufficient to subsidize at least the minimum level of required IZ over time.⁴ However, details are lacking.

Also, there is no mention of whether DHCD will monitor compliance with the affordable housing units financed through LISC. The Revolving Fund notion Wesley puts forward is so speculative and *in futuro* as to lack sufficient enforceability for the Commission to approve, much less enable the Zoning Administrator to issue a Certificate of Occupancy for the apartment building on Wesley's campus.

The Financial Contribution Is Grossly Insufficient.

The IZ text amendment provides that Wesley may make a financial commitment to facilitate the construction of new off-site affordable housing. The amount of off-site IZ shall be no less than the amount required under Subtitle C §1003.1 or §1003.2 as applicable, which Wesley admits is 10 percent in this case. The text amendment provides that the off-site IZ requirement can be satisfied by requiring Wesley to make a financial contribution, deemed sufficient by the Commission, to an organization that will facilitate the construction of new affordable housing reserved for households at or below 60% of median family income for rental units or at or below 80% of median family income for ownership units. Wesley proposes to meet this minimum requirement through an \$8 million payment to LISC, which Wesley says is a nationwide affordable housing community development corporation.

This proposal has several weaknesses. First, the proposed contribution is way too low. Wesley claims that the math supporting an \$8 million contribution is set forth on page 77 of the Plan. According to Wesley, a 10% minimum IZ requirement would result in 22,435 SF of IZ if it applied to the residence on its campus. They claim that an \$8 million fund would result in 24,615 SF of IZ, based on the cost of building the residence on its campus (\$325 per square foot (SF)). However, they have informed the community that this cost is based solely on the residence's construction costs. Even if the \$325 per SF estimate for construction is correct (and we believe a higher per SF cost would be more realistic), that number does not reflect an all-in cost of building a project with an IZ component. Patrick McAnaney, Vice President for Development at Somerset Development, an affordable housing in developer, at a presentation before C100 on April 23, 2023, described the costs of building affordable housing as including: the cost of the land; construction costs (hard costs); design, permitting and legal costs (soft costs); developer fees; and capital costs (equity costs and interest). The inclusionary zoning analysis on page 77 of the Plan only takes into consideration construction costs. Therefore, the cost of 10% IZ is way too low. Significantly more than \$8 million is needed to cover the cost of even 10% IZ.

Further, given the extraordinary relief granted to Wesley through the text amendments, Wesley should be required to produce more than the 10.97 percent IZ set forth in the proposal. We are astonished that Wesley seems to say that they should be given credit for not claiming the 20% IZ bonus. Wesley is getting far more than a 20% bonus since they couldn't build one square foot of new construction without the text amendment rule changes. Further, a seven-story building is far higher than would be permitted for apartment buildings in the RA-1 zone where the proposed apartment building would be located.⁵

⁴ Exhibit 82, p. 79.

⁵ Low to moderate residential, which certainly doesn't contemplate a 7-story building.

Conclusion.

For all of the reasons set forth above, we believe the Commission should reject the IZ component of the Plan. We agree with the Office of Planning that, at the public hearing on May 12, Wesley should provide more details on the evaluation of alternate ways of meeting its off-site IZ requirements and a mechanism by which an evaluation of the program could be provided to a District agency. However, we disagree with OP's suggestion that final evaluation of the issues surrounding IZ should be deferred until Further Processing. We do not believe that is what the wording of the text amendment calls for. In addition, resolution of this issue, which is central to the case, should not be delayed further. Wesley's handling of IZ has come up before the Commission four times, dating back to March 2022.⁶ Let's not kick the can further down the road.

Thank you.

Shelly Repp

Chair, Committee of 100

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⁶ ZC Case No. 22-13.