

# NEIGHBORS FOR A LIVABLE COMMUNITY

## Spring Valley – Wesley Heights Citizens Association

August 22, 2025

Mr. Anthony J. Hood, Chairman  
D.C. Zoning Commission  
441 4<sup>th</sup> Street NW, 2<sup>nd</sup> Floor  
Washington, D.C. 20001

### **RE: Zoning Commission Case No. 23-08A – Wesley Theological Seminary Campus Plan Further Processing, New University Housing**

Dear Chairman Hood and Members of the Commission:

Wesley Theological Seminary submitted an application to the D.C. Zoning Commission for a Further Processing of a Campus Plan on August 8, 2025. The application is egregiously deficient under ***Subtitle X, Section 101.8*** and ***Subtitle Z, Subsection 302*** for the following reasons:

1. A significant error in the Z.C. Notice of Final Rulemaking in Z.C. Case No. 24-09, which took effect on July 25, jeopardizes the Commission's July 31, 2025 approval of Wesley's Campus Plan (Z.C. Case No. 23-08(1)); Campus Plan approval is a prerequisite for filing a Further Processing application.
2. Wesley has failed to comply with the ***Subtitle Z, Section 302*** public notice requirements for the filing of a Further Processing; instead, Wesley is circumventing the intent of the rules that that it had unsuccessfully petitioned to waive.
3. The application fails to meet the requirements of ***Subtitle Z, Section 302.10*** and is, therefore, incomplete.

We do not raise these procedural issues cavalierly. This filing also identifies steps the Commission could take to cure the procedural problems in this case. **Until these procedural issues are resolved, Wesley's Further Processing application is premature, should not have been processed, and is not ready for Commission review.**

1. ***A significant error in the Final Order for Z.C. 24-09 has put in jeopardy the Commission's approval of Wesley's Campus Plan.***

The Commission's review and approval of the Wesley Campus Plan (Z.C. Case No. 23-08(1)) was dependent on the Commission's approval of a text amendment to ***Subtitle X, Section 101***. The

Notice of Final Rulemaking includes the following text amendment language for ***Subtitle X, Section 101.5***:

“University housing exclusively for use by Wesley Theological Seminary and American University students, faculty, and staff on Square 1600, Lot 819 shall not be subject to the **commercial use or activity restrictions** in this section if approved by the Zoning Commission as part of a Campus Plan.”<sup>1</sup>

This language varies significantly from the text amendment language published in the Notice of Proposed Rulemaking which included the following text amendment language for ***Subtitle X, Section 101.5***:

“University housing exclusively for use by Wesley Theological Seminary and American University students, faculty, and staff on Square 1600, Lot 819 shall not be subject to the **commercial use restrictions** in this section if approved by the Zoning Commission as part of a Campus Plan.”<sup>2</sup>

The Commission took final action in the text amendment case on February 27, 2025. Transcripts and recordings of this meeting indicate the Commission made **no change** in the language that had been published as part of the Notice of Proposed Rulemaking.

Moreover, the Notice of Final Rulemaking, which took effect on July 25, 2025, stated that “based on the case record, the public hearing testimony, and the post-hearing submissions received, the Commission stated that it wanted to adopt OP’s (the Office of Planning) suggested revisions” to the Subtitle X text amendment. OP’s revisions submitted to the Commission on December 13, 2025 amended the text as follows:

“University housing exclusively for use by Wesley Theological Seminary and American University students, faculty, and staff on Square 1600, Lot 819 shall not be subject to the **commercial activity use restrictions** in this section if approved by the Zoning Commission as part of a Campus Plan.”<sup>3</sup>

Note that OP struck any reference to the word “***activity***” in the text amendment that later appears in the Notice of Final Rulemaking. The transcript and recording of the Commission’s December 19, 2024 deliberations on the text amendment indicate the Commission accepted and approved the language proposed by OP for the ***Subtitle X*** text amendment. In its draft Order for Z.C. Case No. 23-08(1), Wesley’s references to the ***Subtitle X*** text amendment language demonstrate that even Wesley understood that the Commission approved the amended OP version that was later published as the Notice of Proposed Rulemaking, not the language included the Notice of Final Rulemaking.<sup>4</sup>

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<sup>1</sup> Z.C. Notice of Final Rulemaking, Z.C. Case No. 24-09, Exhibit No. 73, Page 25.

<sup>2</sup> Z.C. Notice of Proposed Rulemaking, Z.C. Case No. 24-09, Exhibit No. 64, Page 4, published in the D.C. Register, January 17, 2025, Volume 72/3

<sup>3</sup> OP Supplemental Report, Z.C. Case No. 24-09. Exhibit No. 60, Page 1.

<sup>4</sup> Applicant’s Proposed Draft Order, Z.C. Case No. 23-08(1), Exhibit 106, Pages 19, 35.

**If the language in the Notice of Final Rulemaking is correct, the Commission’s Notice of Proposed Rulemaking also would have been deficient. This would be indicative of a seriously flawed rulemaking proceeding – so flawed as to justify a new public hearing in the rulemaking case. Alternatively, if the language in the Notice of Final Rulemaking is not correct and was changed prior to publication, the Commission should explain how such a serious breach occurred in order to ensure public confidence and trust in the administration of the zoning process.**

The Commission is at fault for (a) filing an inaccurate Notice of Proposed Rulemaking or (b) filing an inaccurate Notice of Final Rulemaking. Either way, this error has consequences for Wesley’s Further Processing application and must be cured before the Commission can proceed with accepting this application. In approving Wesley’s Campus Plan on July 31, 2025, the Commission acknowledged that the *Subtitle X* text amendment had taken effect on July 25, 2025 with the publication of the Notice of Final Rulemaking. Given the error in the Notice of Final Rulemaking or, alternatively, in the publication of the Notice of Proposed Rulemaking, the *Subtitle X* text amendment would not have been valid at the time of the Commission’s approval of the Campus Plan. *Subtitle X, Section 101.8* is clear in stating that approval of a campus plan is a prerequisite for the filing of a Further Processing.

If the Notice of Final Rulemaking is in error, as we suggest in this filing, the Commission should publish a new Notice of Final Rulemaking. Once the rule takes effect, the Commission should then consider taking final action (again) in the Campus Plan case and, upon approval, accept an application for Further Processing after the *Subtitle Z* public notice requirements have been met. Alternatively, if the Notice of Final Rulemaking is correct, the Commission should file a corrected Notice of Proposed Rulemaking and reopen the text amendment case.

## **2. *Wesley has failed to comply with the Subtitle Z public notice requirements.***

*Subtitle Z, Section 302.6* requires Wesley to serve a written Notice of Intent (NOI) to the public, including the affected ANC(s) at least 45 days prior to filing a Further Processing application. The purpose of the NOI is to provide information to affected residents and their ANCs about the “significant aspects” of the Further Processing application and ensure a dialogue on those “significant aspects” so as to shape the Further Processing application **prior** to the application being filed. The timeline is so important for ensuring public engagement that the rules even specify that the NOI should not be served in August when most residents are focused on summer activities. The regulations also state the applicant should appear at the relevant ANC public meetings during this 45-day period.

***Subtitle X, Section 101.8* makes it clear that approval of the Campus Plan is a prerequisite for filing a Further Processing. Based on this linkage of Campus Plan approval to the Further Processing in the zoning regulations, the 45-day requirement for sending the NOI should not take effect until the Campus Plan has been approved by the Commission, especially given the intent of the rules.**

Wesley petitioned the Commission to waive the *Subtitle Z* NOI requirement on December 20, 2024 – the day after the Commission voted to approve text amendment language in Z.C. 24-09. This waiver request was denied by the Commission on January 9, 2025.

Wesley filed its application for Further Processing on August 8, 2025 – just 8 days after the Commission voted to approve its Campus Plan. Wesley cited in its application that it had served a written NOI on May 20, 2025 – 73 days before the Campus Plan application was approved and 81 days prior to filing its Further Processing application. There is no record of Wesley appearing before the ANC's to discuss the “significant aspects” of the Further Processing application before it was filed.

Hearings in the Campus Plan case continued and the Commission was still seeking additional filings in that case at the time the NOI was sent. Upon learning that Wesley filed a Further Processing application on August 8, residents advised us that they did not have a recollection of receiving the NOI. Even ANC 3D02 Commissioner Tricia Duncan, who represents the neighbors who live closest to Wesley and has represented ANC 3D02 in the Wesley case before the Zoning Commission, informed us in writing that she never received an NOI. (*See Attachment A*)

We do not question that Wesley sent the NOI on May 20; but, as one neighbor who only recently discovered the NOI in a pile of mail, told us: “It had no context because the Commission had not yet taken action on the Campus Plan.”

Wesley's intent in filing the NOI on May 20 was to speed up the process by denying the public the opportunity to engage with Wesley and their ANC's on the wide range of issues that are subject to review in this case during the Further Processing stage. Although Wesley may be able to argue that it has met the technical requirements of *Subtitle Z*, that would be a false argument in that Wesley's intent was to circumvent the rules that it had unsuccessfully petitioned to be waived. By circumventing the rules and serving its NOI so prematurely on May 20, Wesley, in effect, secured the waiver the Commission had denied.

Wesley was not in a position on May 20 to provide even general information about the wide range of issues to be covered during the Further Processing. The only issue cited in Wesley's May 20, 2025 NOI is a proposal to contribute an unspecified contribution to a non-profit organization to meet its off-site Inclusionary Zoning requirements. After Wesley's dissemination of the NOI, an inordinate number of complex issues (10) were designated by the applicant for the Further Processing because Wesley was unable to address these issues during the Campus Plan process. **None** of these ten issues were included in Wesley's NOI. The range and complexity of the issues in the Further Processing case justify the time for public engagement following Campus Plan approval that the *Subtitle Z* rules provide.

Office of Zoning (OZ) staff volunteered advice to Wesley's legal counsel in a January 9 e-mail that the NOI could be sent prior to campus plan approval. (*Attachment B*) Wesley, however, is ultimately responsible and accountable for following the regulations no matter what advice is offered by OZ staff. Under Wesley's interpretation of the rules, an NOI for a Further Processing could be served at any time – even at the time a Campus Plan application is filed, even though, as in Wesley's case, it may take years for the Campus Plan case to be decided.

Wesley's NOI is deficient in its timing and – **because it was so premature** – it was deficient also in its content. Consequently, we ask the Commission to direct Wesley to adhere strictly to the *Subtitle Z, Section 302* rules and consistent with the intent.

**3. Wesley's application for Further Processing is incomplete and should not be processed.**

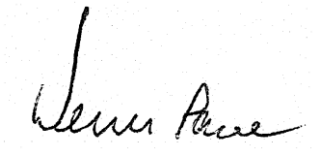
Based on a preliminary review of the Further Processing application submitted by Wesley Seminary on August 8, at least two critical elements are missing that lead us to conclude the application is not complete and, therefore, should not be processed under **Subtitle Z, Section 302.2** of the Zoning Regulations.

First, **Subtitle Z, Section 302.4** requires that the application include the name, address, and signature of each owner of property included in the area to be developed or the owner's authorized agent. Based on the case record in Z.C. 23-08(1), two property owners are involved in the Further Processing of new university housing on the Wesley Campus. Wesley will continue to own the land in the area to be developed; Landmark Properties will own the building in the area to be developed. The Further Processing application has only been signed by Wesley's authorized agent.

Second, **Subtitle Z, Section 302.10(g)(3)** requires that the Further Processing application include a parking study before it can be processed. **The application does not include a parking study.** In fact, the record in Z.C. Case No 23-08(1) indicates that Wesley failed to meet the requirements for parking studies during the term of its 2012-2020 Campus Plan.

On behalf of Neighbors for a Livable Community (NLC) and the Spring Valley-Wesley Heights Citizens Association (SVWHCA), thank you for the opportunity to present these matters to the Commission.

Sincerely,



Dennis Paul, President  
Neighbors for A Livable Community

S/William F. Krebs  
DC Bar No. 960534  
Interim President and Counsel  
Spring Valley-Wesley Heights Citizens  
Association  
Counsel, Neighbors for a Livable  
Community

Attachments

cc: Sara Bardin, Director  
Office of Zoning

Maximilian Tondro, Chief  
Equitable Land Use Section  
Office of the Attorney General for the  
District of Columbia

## ATTACHMENT A

### **E-Mail From ANC 3D02 Commissioner Tricia Duncan Reporting That Wesley's NOI Was Not Received**

The following is an e-mail exchange between ANC 3D02 Commissioner Tricia Duncan, who represented ANC 3D before the Zoning Commission in the Wesley Campus Plan case, and Blaine Carter, a resident of Spring Valley, a constituent, and a member of the Board of Directors of Neighbors for a Livable Community (NLC). IN the e-mail exchange, Commissioner Duncan reports that an NOI from Wesley on the Further Processing case was not received.

Original message -----

From: Blaine Carter <bcarter@capitolcrossingadvisors.com>

Date: 8/15/25 1:44 PM (GMT-05:00)

To: "ANC 3D Office (ANC 3D)" <3d@anc.dc.gov>

Cc: Dennis Paul <dennis.paul@verizon.net>, Alma Gates <ahg71139@aol.com>, WILLIAM KREBS <w\_krebs@msn.com>, Josie Scholz <jtscholz@msn.com>

Subject: Wesley Capus Plan - Further Processing - NOI

Trish,

I am writing to inquire whether ANC 3 D ever received a Notice of Intent regarding the Further Processing of the Wesly Campus Plan? If so when and what did the ANC receive? Please advise.

**Blaine D. Carter**

**From:** "Duncan, Tricia (SMD 3D02)" <3D02@anc.dc.gov>

**Date:** August 18, 2025 at 8:54:52 AM EDT

**To:** Blaine Carter <bcarter@capitolcrossingadvisors.com>

**Subject: Fw: Z.C. Case No. 23-08(1); Application for Further Processing of a Campus Plan**

Hi Blaine,

The only thing I have received is this application from Wesley regarding the Further Processing, but it looks like your team was copied here too.

Tricia

## ATTACHMENT B

### **Zoning Staff Advice To Wesley Counsel On NOI Timing**

**From:** Schellin, Sharon (DCOZ)

**Sent:** Thursday, January 9, 2025 6:28 PM

**To:** John Patrick Brown Jr. <JPB@gdllaw.com>

**Cc:** Lovick, Hillary (DCOZ) <hillary.lovick@dc.gov>; ANC 3D Office (ANC 3D) <3D@anc.dc.gov>; Elkins, Chuck (SMD 3D01) <3D01@anc.dc.gov>; ANC 3E Office (ANC 3E) <3E@anc.dc.gov>; Hall, Amy (SMD 3E02) <3E02@anc.dc.gov>; Gianinno, Alexandra (SMD 3E06) <3E06@anc.dc.gov>; Carney, Diego (SMD 3E07) <3E07@anc.dc.gov>; Ghosh, Rohin (SMD 3E08) <3E08@anc.dc.gov>; Will Clarkson <wclarksonv@gmail.com>; Dennis Paul <nlc.washdc@gmail.com>; w\_krebs@msn.com; tmfsmith@rcn.com; Ozberk, Erkin (DDOT) <erkin.ozberk1@dc.gov>; Brown-Roberts, Maxine (OP) <Maxine.BrownRoberts@dc.gov>; Giordano, Cynthia A. <Cynthia.Giordano@saul.com>; Lawson, Joel (OP) <joel.lawson@dc.gov>; Steingasser, Jennifer (OP) <jennifer.steingasser@dc.gov>

**Subject:** ZC Case 23-08(1) (Wesley University - Campus Plan)

Pat,

Please note that the Commission does not have a meeting scheduled on January 16<sup>th</sup> in which to rule on your letter submitted at Ex. 74 and there is not enough time to vote to hold a Special Public Meeting. Therefore, the motion was presented to the Chairman to rule on the following two waiver requests:

1. Subtitle X, Sec. 101.16 to allow the processing of the pending Campus Plan and further processing together; and
- 2.) Subtitle Z, Sec. 302.6 for a 45-day notice of intent for further processing.

Waiver request 1.) relating to the above-referenced case, has been DENIED. The Chairman, on behalf of the Commission, ruled that the Zoning Regulations are go be followed, i.e., the Campus Plan must be approved prior to any Further Processing cases being filed.

Waiver request 2.) relating to filing a future Further Processing, has been DENIED. The Chairman, on behalf of the Commission, ruled that the Zoning Regulations are go be followed, i.e., the 45-day NOI must be sent prior to submitting the application.

From a procedural perspective, I don't believe there is anything that would prevent you from sending out your NOI prior to the Campus Plan being approved as long as it clearly states that Wesley can and will only submit the application to file the Further Processing if the new pending Campus Plan before the Commission is approved. **If I am incorrect on this, I will ask our legal counsel to weigh in.**

**Sharon S. Schellin**

**Secretary to the Zoning Commission**

**Office of Zoning** | *District of Columbia Government*

441 4th Street, NW | Suite 200-S | Washington, DC 20001

(202) 727-0340 (direct) | (202) 727-6072 (fax)

[www.dcoz.dc.gov](http://www.dcoz.dc.gov) | [sharon.schellin@dc.gov](mailto:sharon.schellin@dc.gov)