

# NEIGHBORS FOR A LIVABLE COMMUNITY

## Spring Valley – Wesley Heights Citizens Association

September 12, 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 – Follow Up To August 22 NLC-SVWHCA Filing On Wesley Further Processing Procedural Issues**

Dear Chairman Hood and Members of the Commission:

An August 22, 2025 filing from Neighbors for a Livable Community (NLC) and the Spring Valley-Wesley Heights Citizens Association (SVWHCA) (**Exhibit 6**) in the above-referenced case raised three objections to the Further Processing application filed by Wesley Theological Seminary. Although Wesley characterized these objections in a September 5, 2025 filing (**Exhibit 10**) as “factually and legal incorrect” and “generally baseless,” the Office of Zoning (OZ) has agreed with the merit of two of the three objections and taken specific actions to resolve them.

**First, the Office of Zoning concurred with our objection that the Notice of Final Rulemaking for Z.C. Case No. 24-09 was in error.** NLC-SVWHCA contacted OZ staff on August 15 about this substantive error. Commission staff advised NLC-SVWHCA on August 21 that the error was made for “clarity” suggesting it was intentional. (**Attachment A**) NLC-SVWHCA submitted a filing on August 22 in this case to inform the Commission about the error. We were informed by OZ staff that a “corrected” Order would be published; an Errata was published on September 5 correcting the error that we identified and, importantly, clarifying the effective date of the text amendment.

The text amendment was critical to the Commission’s approval of the Wesley Campus Plan (**Z.C. Case No. 23-08(1)**). Approval of the Campus Plan is a prerequisite for the filing of the Further Processing application that is the subject of this case. With three different law firms representing and participating in this case on Wesley’s behalf, we are surprised that a community association was the entity that reported this error to OZ and the Commission instead of the applicant.

If we were aware of the error in the **Notice of Final Rulemaking** prior to the Commission’s July 31, 2025 deliberations in the Campus Plan case, we would have filed a motion with the Commission to

delay final action until the language was corrected to protect the integrity of the process and safeguard the legitimacy of the Commission's decision in the case.

In a subsequent filing to the Commission on September 5, Wesley sought to minimize the language change calling it a "minor typographical error." This error was anything but "minor" and clearly not "typographical" given the e-mail response from OZ/Commission staff explaining why the text amendment language had been altered in the *Notice of Final Rulemaking (Attachment A)*. The language change was substantive. For example, if the error was allowed to stand, it would have an adverse and prejudicial effect on our legal rights in this case, including our right to appeal the Commission's decision in *Z.C. Case No. 23-08(1)*.

**Second, the Office of Zoning concurred with our objection that Wesley's Further Processing application was incomplete and did not meet the requirements of Subtitle Z, Section 302.10 because it did not include a required parking study. (Attachment B)** We were advised by OZ Director Sara Bardin that OZ cancelled the public hearing in the case pending the filing of a parking study by the applicant. The applicant was informed on August 26 and then filed a "Parking Memorandum" on August 27 (*Exhibit 7*).

Although we do not agree that the submission is a parking study, we agree with OZ that this is a matter to be adjudicated by the Commission when assessing the quality of the evidence submitted by the applicant in this case. The Further Processing case is about more than building new housing; Wesley is also seeking to eliminate a surface parking lot used primarily by commuter students who will not take up residence in any new or existing university housing on the Wesley campus. Wesley has an opportunity now to conduct a legitimate site-specific and data-driven parking study to support its case.

Our third objection for the Commission's consideration has significance beyond this case and would apply to any Campus Plan Further Processing case: and that is the 45-day public notice required **prior** to filing a Further Processing application, as stipulated in *Subtitle Z, Section 302.6*. As we stated in our August 22 filing to the Commission, we do not question that Wesley sent a Notice of Intent (NOI) on May 20 that it planned to file a Further Processing at some date in the distant future.

**Does sending an NOI 73 days before the Campus Plan case is even decided by the Commission meet the requirements for a timely NOI under Subtitle Z, Section 302.6, especially when Subtitle X, Section 101.8 makes it clear that the approval of the Campus Plan is a prerequisite for filing a Further Processing? What is the point of the NOI if it is not timely? We do not believe the NOI requirement for the Further Processing has been met when the NOI is made simultaneously with the Commission's consideration of the initial Campus Plan case. This is the issue before the Commission.**

Wesley has argued that it has met the technical requirements of the *Subtitle Z* rules; we argue that Wesley has not met the requirements because the NOI was not timely. This explains why the NOI recipients, including ANC 3D, had no recollection of receiving it.

We are not raising this issue to delay this case; we have only asked that Wesley be required to follow proper procedures, as outlined in the Zoning Regulations. The point of the NOI is to provide opportunities for Wesley to engage with affected neighbors prior to submitting its application. We

acknowledge that the November 24 hearing date may provide opportunities for Wesley to work with the ANC's **and engage with the neighbors** on its Further Processing application, **if** it chooses to do so. Wesley has time to mitigate the damage caused by sending the NOI prematurely by engaging fully with the opposition in this case. Up to now, Wesley has committed its energies to working with the ANC's over the neighbors who do not support its proposal.

No matter how the Commission chooses to resolve the matter, Wesley's action in this case is reason for the Zoning Commission to tighten up the ***Subtitle Z*** NOI rule if the rule is to have any relevance in the Campus Plan process.

**Given Wesley's recent comments in its September 5 filing to the Commission (*Exhibit 10*), we feel it is important also to raise one other critical procedural issue with Wesley's application that requires the Commission's attention – and that is the absence of Landmark Properties as one of the applicants included on the Further Processing application.**

The record in *Z.C. Case No. 23-08(1)* includes testimony from Wesley that Landmark Properties will own the proposed university housing on the campus through a ground lease. In fact, Landmark's role in this project is what required the related text amendments. Wesley argues differently now in its September 5 filing (*Exhibit 10*) that Wesley "will at **all** times remain the record owner of **all** the property within its campus boundaries."

***Subtitle Z, Section 302.4*** requires an application to include the name, address, and signature of each owner of property included in the area to be developed. Property law recognizes and defines real property as including both the land as well as "permanent features above and below it, such as buildings, trees, and mineral deposits."<sup>1</sup> If Landmark is to own the building (and be subject to appropriate taxes), as Wesley has testified previously, Landmark should be included with Wesley as an applicant in this case.

The Further Processing of the Medstar Georgetown University Hospital (*Z.C. Case No. 16-18A*), which also involved a ground lease agreement, is a precedent. Although Georgetown University owns the land, Medstar owns and operates the hospital. **Both Georgetown University and Medstar are included as applicants on the Further Processing application.** The Further Processing application in the Georgetown University Hospital case also points to Medstar as being the user of the property.

Based on this precedent, Landmark should be considered an applicant in the Further Processing case along with Wesley and subject to direct cross examination by parties in the case. **Opposition parties will be adversely impacted when issues specifically related to Landmark's ownership and operation of the university housing are not addressed directly by Landmark during the Further Processing case, including as part of a cross examination.**

Finally, Wesley uses some overwrought language in its September 3 and September 5 filings to object to our objections. Wesley accused NLC-SVWHCA of not properly serving filings in this case. Wesley's counsel should know NLC-SVWHCA is not currently a party in the above-referenced Further Processing case and that the rules only require parties to serve filings. Per Wesley's request, however, NLC-SVWHCA will share this and future filings with Wesley as a courtesy.

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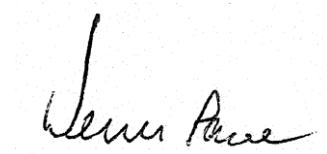
<sup>1</sup> Legal Information Institute, Cornell Law School, Real Property.

Wesley also questions our “true interests and objectives” in this case. NLC and SVWHCA have been very transparent in our filings to the Commission over the last four years: our “interests and objectives” are to protect affected neighboring property owners, including Spring Valley residents and American University (AU), from objectionable conditions stemming from Wesley’s housing scheme – a scheme that relies on AU students to boost Wesley’s revenue through a **commercial partnership** that is not in character with the surrounding neighborhoods.

We appreciate other comments in Wesley’s September 5 filing recognizing NLC-SVWHCA’s long history of engagement in Wesley’s Campus Plans dating back to 2005 as well as Wesley’s observation that “NLC-SVWHCA has demonstrated detailed knowledge of the proposed Further Processing issues.” We are still in the process of reviewing the application and hope Wesley will choose to engage with us in the coming weeks for further discussion.

Thank you for your consideration.

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: Mr. John Patrick Brown  
Greenstein Delorme & Luchs, P.C.  
[jpb@gdllaw.com](mailto:jpb@gdllaw.com)

Ms. Sara Bardin, Director  
Office of Zoning

# ATTACHMENT A

## E-Mail Communication With Commission Staff on Error In Final Notice of Proposed Rulemaking (Z.C. Case No. 24-09)



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### RE: BZA Appeals Question Related To Z.C. 24-09

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**From** Schellin, Sharon (DCOZ) <sharon.schellin@dc.gov>

**Date** Thu 8/21/2025 3:37 PM

**To** Thomas Smith <tmfsmith@rcn.com>

I have checked and was advised that it was done for clarify; however, I will revise and issue a “corrected” order (probably next week because I have too much to do this week that I am not sure I will even finish). 😊

**Sharon S. Schellin**

**Secretary to the Zoning Commission**

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

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

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**From:** Thomas Smith <tmfsmith@rcn.com>

**Sent:** Wednesday, August 20, 2025 2:48 PM

**To:** Schellin, Sharon (DCOZ) <sharon.schellin@dc.gov>; Reid, Robert (DCOZ) <robert.reid@dc.gov>

**Subject:** RE: BZA Appeals Question Related To Z.C. 24-09

**Importance:** High

**CAUTION:** This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to [phishing@dc.gov](mailto:phishing@dc.gov) for additional analysis by OCTO Security Operations Center (SOC).

Sharon, Thanks for the update.

To help you and the legal staff, the text in the Final Order for the Subtitle X text amendment differs from the text in the Notice of Proposed Rulemaking included in the case record at Exhibit 64. And there is no indication in the Feb. 27 ZC meeting transcript that the Zoning

Commmission took action to change the Subtitle X text amendment language published in the NPRM.

I hope this is helpful.

Tom Smith

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Schellin, Sharon (DCOZ)" <[sharon.schellin@dc.gov](mailto:sharon.schellin@dc.gov)>

Date: 8/20/25 12:30 PM (GMT-05:00)

To: [tmfsmith@rcn.com](mailto:tmfsmith@rcn.com), "Reid, Robert (DCOZ)" <[robert.reid@dc.gov](mailto:robert.reid@dc.gov)> Subject: RE: BZA Appeals Question Related To Z.C. 24-09

Tom,

I will forward your concerns about this error to our legal department for their review.

Thanks,  
Sharon

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# ATTACHMENT B

## E-Mail Communication With Office of Zoning



Dennis Paul <nlc.washdc@gmail.com>

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### Office of Zoning/Zoning Commission Procedural Errors

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Bardin, Sara (DCOZ) <sara.bardin@dc.gov>  
To: Dennis Paul <nlc.washdc@gmail.com>

Tue, Aug 26, 2025 at 10:08 AM

Hello Mr. Dennis:

I apologize for not getting back to you sooner. While the Commission's ruling will ultimately rule all matters related to cases before it, I'd like to share the following:

- According to the ZC Secretary, after Tom Smith raised the issue last week and following consultation with OZ's Legal Division, it was decided that a Corrected Order will be issued. This is expected to appear in next Friday's D.C. Register.
- The ZC Secretary has informed the Applicant:
  - They must submit a parking study, which was inadvertently omitted during their initial submission.
  - The hearing scheduled for November 24<sup>th</sup> will be cancelled and rescheduled once the parking study is added to the record.

Your submission has been included in the record and will be reviewed by the Commission at the appropriate time.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Sara

**Sara Bardin**

**Director**



Office of Zoning | District of Columbia Government