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November 4, 2024

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: Applicant's Pre-Hearing Submission
Z.C. Case No. 24-09
Petition for Text Amendments to Subtitle C, §1006.6(c) and
Subtitle X, §101 ("Petition")

Dear Chairman Hood and Members of the Commission:

On behalf of The Wesley Theological Seminary of The United Methodist Church ("Wesley"), we respectfully submit this Pre-Hearing Submission. First, Wesley expresses its appreciation to the Commission for its patience in granting the continuance of this hearing. This additional time allowed Wesley to continue to work productively with the interested parties, including ANC 3E and OP which produced the alternative text amendment proposal more fully discussed and set forth below. In particular, this accommodated the schedule of ANC 3E which was unable to meet in October. This application is now scheduled for formal consideration by both ANC 3D and ANC 3E on November 6, 2024.

The proposed text amendments cannot be viewed in isolation, but as the first phase of a two-step process that has evolved to facilitate the Thrive in Place Campus Plan for Wesley. Beginning in early 2022 and continuing through 2024, the Zoning Commission has undertaken an exhaustive review of Wesley's original Campus Plan (ZC 22-13) which was replaced by a parallel PUD (ZC 23-08) and parallel new Campus Plan (ZC 23-08(1)). Numerous public hearings, including testimony and extensive filings, both for and against, informed the Commission both on the substance and procedure of Wesley's plan to remain and thrive for the long-term on its campus. Two key issues arose during the proceedings: (1) IZ application to the proposed dormitory given that the occupants included AU students which is at odds with the current IZ exemption text that limits the exemption to housing developed by a university "exclusively for its students, faculty and staff" (emphasis added); and (2) whether the opening of the dormitory to AU students for the purpose of generating revenue for Wesley's educational mission, renders the dormitory a commercial use that is not

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permitted by Subtitle X, §101.3 of the campus plan regulations. From the Commission deliberations, a text amendment approach arose as the preferred, if not only, way to proceed.

The specific text amendments offered in the original Petition are set forth below. They are intended to be narrow and site specific to Wesley and to avoid establishing any broader precedent. Also importantly, the text amendments are not self-executing. They only become effective upon approval of Wesley's new campus plan to include the proposed dormitory as well as a forthcoming off-site IZ alternative. However, ongoing consultations with ANC 3E indicated its desire to include a commitment to offsite IZ in the text amendments and ultimately to a suggestion that existing offsite IZ provisions in Subtitle C, §1006 would be a better fit for accomplishing this than the original Subtitle C, §1001.6(c) IZ exemption provision. Both ANC 3E and Wesley met with OP to review this alternative approach which led to its inclusion in this submission for Commission review.

As a result, Wesley is requesting Zoning Commission consideration of both the original text amendments and, as needed, the alternative text amendment initiated in consultation between Wesley, ANC 3E and OP. If required, Wesley requests consideration of the ANC 3E alternative by emergency rulemaking. For both, the text amendments and the alternative are provided as follows with some additional rationale for each.

IZ ISSUE

ORIGINAL PROPOSED TEXT AMENDMENT FOR C, §1001.6(c)

Revise 11-C DCMR §1001.6(c)

1001 APPLICABILITY

1001.6 The requirements of this chapter shall not apply to:

- (c) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff, **or housing developed on Square 1600, Lot 819 exclusively for Wesley Theological Seminary and American University students, faculty or staff if approved by the Zoning Commission as part of a campus plan**; and

Also indicated above, IZ currently exempts dormitories which traditionally have been sited on a university campus and house only the students of that university. In fact, the IZ regulations promulgated by DHCD, prohibits student eligibility for IZ participation. The rationale was that IZ units and student housing is not a good mix for either students or public lottery IZ occupants. Wesley and its development partner, Landmark Properties, previously proposed a private affordable housing program for the new dormitory to be supervised by DHCD. However, given, a lack of support for

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this program, Landmark is now offering to subsidize Ward 3 specific off-site IZ with an \$8 million contribution which represents the cost of compliance with IZ for the new dorm. Although the original text amendment is silent on off-site compliance – leaving that issue for Wesley’s new required campus plan, Wesley through Landmark is committed to providing \$8 million of direct support for offsite Inclusionary Zoning in Ward 3.

Alternative Proposed IZ Text Amendment

Subtitle C, Sec 1006

1006 OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING SUBTITLE C, CHAPTER 10-14

1006.1 The Board of Zoning Adjustment is authorized to permit some or all of the set-aside requirements of Subtitle C, §1003 to be met by off-site construction upon proof, based upon a specific economic analysis, that compliance on-site would impose an economic hardship.

1006.2 Among the factors that may be considered by the Board of Zoning Adjustment in determining the existence of economic hardship are:

- (a) Exceptionally high fees in condominium developments that cannot be reduced to levels affordable to eligible households; (b) The inclusion of expensive and specialized social or health services in a retirement housing development or a development that principally provides housing for the disabled, if such services are not severable from the provision of housing and render units in the development unaffordable to eligible households; or (c) Proof that continuation of the existing rental inclusionary development is no longer economically feasible, when the owner wishes to change the property’s use to a non-residential use or to a use meeting the exemption requirements of Subtitle C, §§ 1001.5 and 1001.6(b)-(c).

1006.3 An applicant who has demonstrated the existence of economic hardship shall further demonstrate that the off-site development:

- (a) Is located within the same census tract as the inclusionary residential development;
- (b) Consists of new construction for which no certificate of occupancy has been issued;
- (c) Is at a location suitable for residential development;

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- (d) Has complied with or will comply with all on-site requirements of this chapter as are applicable to it;
- (e) Has not received any development subsidies from Federal or District Government programs established to provide affordable housing;
- (f) Will provide inclusionary units with gross floor areas for each unit type of not less than ninety-five percent (95%) of the gross floor area of the off-site market-rate unit types, and of a number no fewer than the number of units that would otherwise have been required on-site; and
- (g) Will not have more than thirty percent (30%) of its gross floor area occupied by inclusionary units.

1006.4 The requirement of Subtitle C, §1006.3(a) may be waived upon a showing that the off-site development is owned by the applicant, is located in the District of Columbia, and meets all the other requirements of Subtitle C, §1006.3.

1006.5 Inclusionary units permitted to be constructed pursuant to this section shall not be counted toward any set-aside requirement separately applicable to the off-site development or to any other inclusionary residential development.

1006.6 No order granting off-site compliance shall become effective until a covenant running with the land, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of Zoning Legal Division, has been recorded in the land records of the District of Columbia by the owner of the off-site development for the benefit of the District of Columbia. A draft covenant, executed by the owner of the off-site property, shall be attached to an application for relief under this section.

1006.7 The covenant shall bind the owner and all future owners of the off-site development to:

- (a) Construct and reserve the number of inclusionary units allowed to be accounted for off-site, in accordance with the plans approved by the Board of Zoning Adjustment and the conditions of the Board's order;
- (b) Sell or rent, as applicable, such units in accordance with the provisions of this chapter and the IZ Act for so long as the off-site development remains in existence;

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- (c) Neither apply for nor accept any development subsidies from Federal or District Government programs established to provide affordable housing;
- (d) Acknowledge that the owners are legally responsible for the set-aside requirement accepted as if the requirement had been imposed directly on the off-site development; and
- (e) Not request special exception or variance relief with respect to the obligations accepted or its own obligations under this chapter.

1006.8 Upon the recordation of the covenant, the set-aside requirements permitted to be accounted off-site shall be deemed to be the legal obligation of the current and future owners of the off-site development. All dwelling units as are required to be reserved in the off-site development in accordance with the Board of Zoning Adjustment's order shall be deemed inclusionary units for the purposes of this chapter and the IZ Act.

1006.9 No application for a certificate of occupancy for a market-rate unit on the inclusionary development shall be granted unless construction of the off-site inclusionary units is progressing at a rate roughly proportional to the construction of the on-site market-rate units.

1006.10 **The requirements of Subtitle C, §§ 1006.1 - 1006.3(a), may be waived for off-site inclusionary units located in Ward 3 or financial subsidies therefor that are substantially equivalent, but not less than Subtitle C, §1003.2 requirements for housing developed on Square 1600, Lot 819 exclusively for Wesley Theological Seminary and American University students, faculty and/or staff as a condition to a Campus Plan and subject to the requirements of Subtitle C, §§ 1006.5 - 1006.9.**

Commercial Use Issue Amendment

COMMERCIAL ISSUE

Throughout this process there has been uncertainty and dispute about whether a dormitory on one campus housing students from two immediately adjacent schools is a permitted campus use or a restricted "commercial use." Wesley has argued that the dormitory is on its face a residential use providing direct support for its unique educational mission and needs. Having heard the arguments from all sides, the Commission appears to prefer to use this specific text amendment to recognize the unique circumstances and exercise its discretion in the contested case Campus Plan process. Wesley includes the portion of the Original Text Amendment here that deals with the commercial use issue:

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Add new provision 11-X DCMR §101.5

101 CAMPUS PLANS

- 101.3 Any commercial use customarily incidental to a university use in an R, RF, or RA zone, or as an adjunct use to a university building, shall be subject to the following conditions:
- (a) There shall be a demonstrated and necessary relationship between the use and the university functions;
 - (b) The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area; and
 - (c) The commercial use shall be located so that it will not become objectionable to non-university residential neighbors due to hours of operation, noise, parking, loading, lighting, trash, or other operational characteristics that are not customarily associated with a residential use.
- 101.4 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 or that would be inconsistent with the Comprehensive Plan.
- 101.5 **A dormitory providing housing exclusively for Wesley Theological Seminary and American University students, faculty, and staff on Square 1600, Lot 819 shall not be subject to the commercial activity restrictions in this Section if approved by the Zoning Commission as part of a campus plan.**

Wesley Support for Ward 3 Off-Site Inclusionary Zoning

Wesley, as part of the proposed dormitory project, has committed to providing \$8 million dollars to support much needed, overdue and difficult to achieve Inclusionary Zoning in Ward 3. As will be detailed more fully in the Campus Plan process, this contribution will exceed the applicable 8% set aside requirement for this project under Subtitle C, §1003. 2. Significantly, this amount will likely exceed 10% or greater of the required set aside and will be made without seeking or realizing any of the 20% FAR IZ Bonus that any other developer would be entitled to achieve. Also, Wesley will not request or exercise any reduction in the IZ requirement based on the anticipated 90 beds exclusively for Wesley students, faculty and staff on the campus that would be exempt under Subtitle C, §1006.1(c).

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Wesley is working closely with Local Initiatives Support Corporation ("LISC"), a well-established and District government recognized affordable housing organization to formulate a plan to identify Ward 3 affordable housing opportunities and establish a program to deploy the Wesley funding to directly support existing and/or new affordable projects. A preliminary proposal, "Ward 3 Housing Equity Fund (Preserving, Producing and Protecting Ward 3 Affordable Housing) from LISC is attached as Exhibit A.

Comprehensive Plan Analysis

Wesley provided a Comprehensive Plan ("Comp Plan") analysis through a racial equity lens as required by the Zoning Commission's Racial Equity Tool with the original Application submission. Similarly, OP has provided its own detailed analysis in its set down report. The results of the Wesley analysis continue to be applicable to the proposed text amendment, which has not been modified from its original submission. A summary of the analysis is provided below.

Racial Equity Analysis

The proposed text amendment was evaluated for its consistency with the Comp Plan, including the Future Land Use Map (FLUM), Generalized Policy Map (GPM), and relevant policies of the Rock Creek West Area Element and other Citywide elements in the Application submission. See Exhibit 2C. The evaluation includes a summary of community outreach, demographic data, and outcomes that advance racial equity. The text amendment is found to be not inconsistent with the Comprehensive Plan and does not require a Zoning Map amendment. It advances numerous policies within the Rock Creek Park Area Element and Citywide Elements, particularly those under the Land Use, Transportation, Housing, and Educational Facilities Elements. Furthermore, any potential inconsistencies are outweighed by other Comp Plan policies or competing considerations.

When analyzed through a racial equity lens, the text amendment creates favorable outcomes for all District residents, namely by increasing opportunities for housing, and affordable housing for Ward 3 residents, and relieving affordability and accessibility pressures on the surrounding neighborhoods.

Community Outreach and Engagement

The community outreach and engagement section of the analysis highlights the efforts made to involve the community in the planning process. As detailed in the analysis, the Applicant has had over 40 meetings with the community and ANCs, and continues to meet as necessary to discuss the provision of affordable housing in Ward 3. The analysis provided in the Application submission includes a summary of past and present racial discrimination and harm to the community, as well as community participation and outreach efforts. See Exhibit 2C. In particular, the legacy of racially restrictive covenants have had a lasting impact on Ward 3, resulting in the Planning Area's majority white population. The community's priorities and the impact of the zoning action on these priorities

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are also discussed. The text amendment aims to address the community's concerns and priorities, particularly those related to affordable housing and accessibility.

Disaggregated Data Regarding Race and Ethnicity

This section provides disaggregated data regarding race and ethnicity to evaluate the impact of the proposed text amendment on different racial and ethnic groups. The data is analyzed through a racial equity lens to ensure that the text amendment creates favorable outcomes for all District residents. The analysis provided by the Office of Planning (“OP”) shows that the text amendment will increase opportunities for housing and affordable housing, particularly for Ward 3 residents, and relieve affordability and accessibility pressures on the surrounding neighborhoods.

Zoning Commission Evaluation

The Zoning Commission evaluates the proposed text amendment to ensure it is not inconsistent with the Comprehensive Plan. The Applicant provided this evaluation in the Application submission, demonstrating that the text amendment would result in several positive outcomes that include: student housing; affordable housing for Ward 3 residents; family-sized housing in the dormitory; stormwater infrastructure; LEED Gold Certification; enhanced landscaping; provision of a new neighborhood playground; and proximity to retail, neighborhood services, and amenities along the Wisconsin Avenue corridor.

In conclusion, the proposed text amendment significantly advances racial equity by aligning with Comp Plan policies and allowing the Applicant to address longstanding disparities in Ward 3. Through extensive community outreach and engagement, the Applicant has ensured that the voices and concerns of historically marginalized populations are heard and addressed. The amendment promises increased housing opportunities, particularly affordable housing, which will alleviate pressures on surrounding neighborhoods and enhance accessibility. By fostering an inclusive community and addressing the legacy of racially restrictive covenants, the text amendment sets a precedent for equitable urban development and promotes a more diverse and integrated community in the District.

Hearing Witnesses:

Wesley respectfully requests thirty minutes for its presentation, including the following witnesses:

1. Rev. David McAllister-Wilson, President Wesley Theological Seminary
2. Brandice Elliott, Director of Planning Services, Holland & Knight, Expert Witness for Comprehensive Plan Analysis
3. Representative of Local Initiatives Support Corporation



GREENSTEIN DELORME & LUCHS, P.C.

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Thank you for the Commission's assistance with this Petition.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.

A handwritten signature in blue ink, appearing to read "J. P. Brown, Jr.", written over a horizontal line.

John Patrick Brown, Jr.

A handwritten signature in blue ink, appearing to read "Lyle M. Blanchard", written over a horizontal line.

Lyle M. Blanchard

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2024, the foregoing Applicant's Pre-Hearing Submission was filed in IZIS and delivered via electronic mail to the following:

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John Patrick Brown, Jr.

Note: As a courtesy, the Certificate of Service includes all the Parties in the related Z.C. Case No. 23-08(1).

EXHIBIT “A”

Ward 3 Housing Equity Fund

Preserving, Producing, and Protecting Ward 3 Affordable Housing

A LISC Proposal



Together with residents and partners, LISC helps forge resilient and inclusive communities of opportunity across America—great places to live, work, visit, do business and raise families.

LISC's Model

LISC is:

- A certified Community Development Financial Institution (CDFI) by the U.S. Treasury Department
- Nonprofit 501(c)(3)
- S&P rated



Pool Public and Private Dollars

We raise funds from philanthropies, corporations and financial firms, federal, state and local governments and through the capital markets.

We also generate income through our lending services and fund management.



Work With Local Partners

Through a network of local offices and community-based partners across the country, we provide grants, loans, equity and technical assistance.

We also lead advocacy efforts on local, regional and national policy.



Support People and Places

By investing in housing, businesses, jobs, schools, public spaces, safety, youth, health centers, grocery stores and more, we catalyze opportunities in communities nationwide.

LISC's National Impact Since 1979

Across 38 local offices

We create opportunities
for people to thrive.



506,300 affordable homes for
more than a million people



515 schools and early childhood
centers for **124,000+** students



452 fields and recreational
spaces for more than
745,000 kids



130 Financial Opportunity Centers®
in more than **30** urban and rural
markets nation-wide serving tens
of thousands of people annually



210 food and health-related
projects, including clinics
and grocery stores serving
thousands of families

Plus 100s of other
retail, arts and
community projects

LISC DC

\$557 Million Invested

\$3.3 Billion Leveraged

LISC DC is one of LISC's longest standing offices. Founded 1980, our local office is an investor, capacity builder, and convener that works with partners to bring local neighborhood ideas to life.



Housing

Oramenta Gardens



**Community Centered
Economic Inclusion**

Anacostia



**Convening &
Capacity Building**

Blue Line Corridor

15,000+ Homes

Affordable homes built
and/or preserved

3.7 Million Square Feet

Of commercial,
retail and community
space

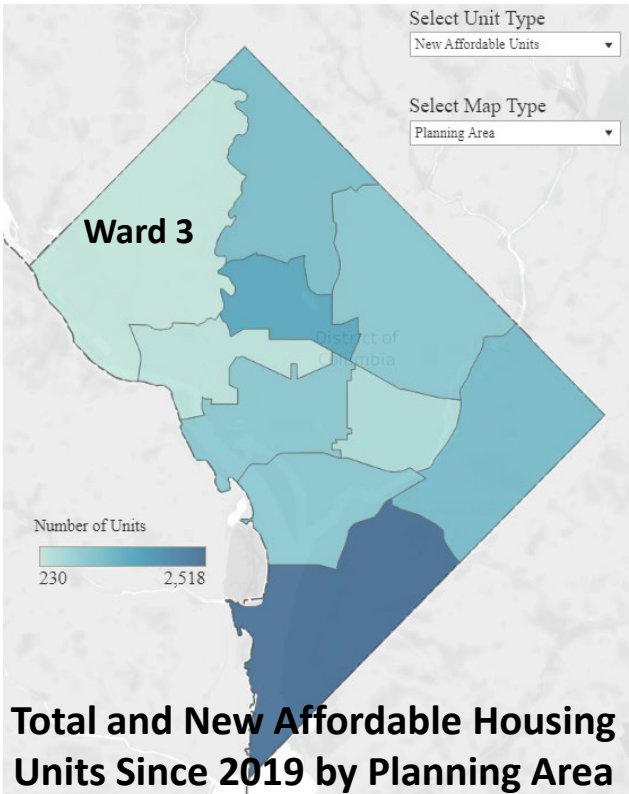
National Network



District Affordable Housing Goals

Mayor's Plan

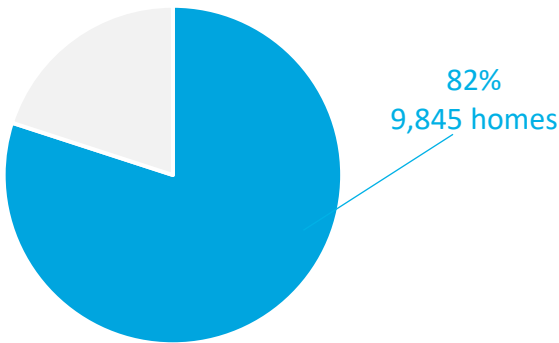
In 2019, DC Mayor Muriel Bowser released an ambitious plan to build 36,000 housing units in the city, including 12,000 affordable housing units by 2025.



District's Progress to Date

DC has already reached 82% of the District-wide affordable housing goal

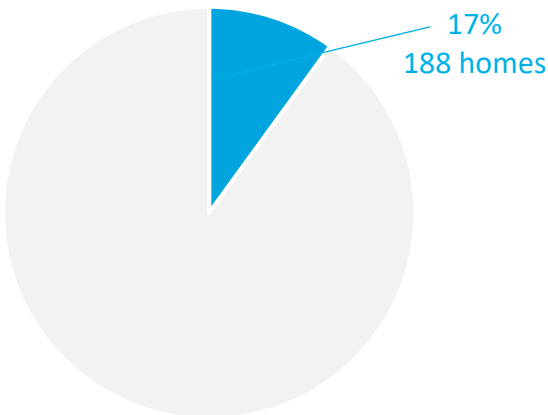
DC Affordable Homes



West of Rock Creek Falls Short

Rock Creek West remains far below the city's aspiration, sitting at just 17% of the hoped for 1,600 units

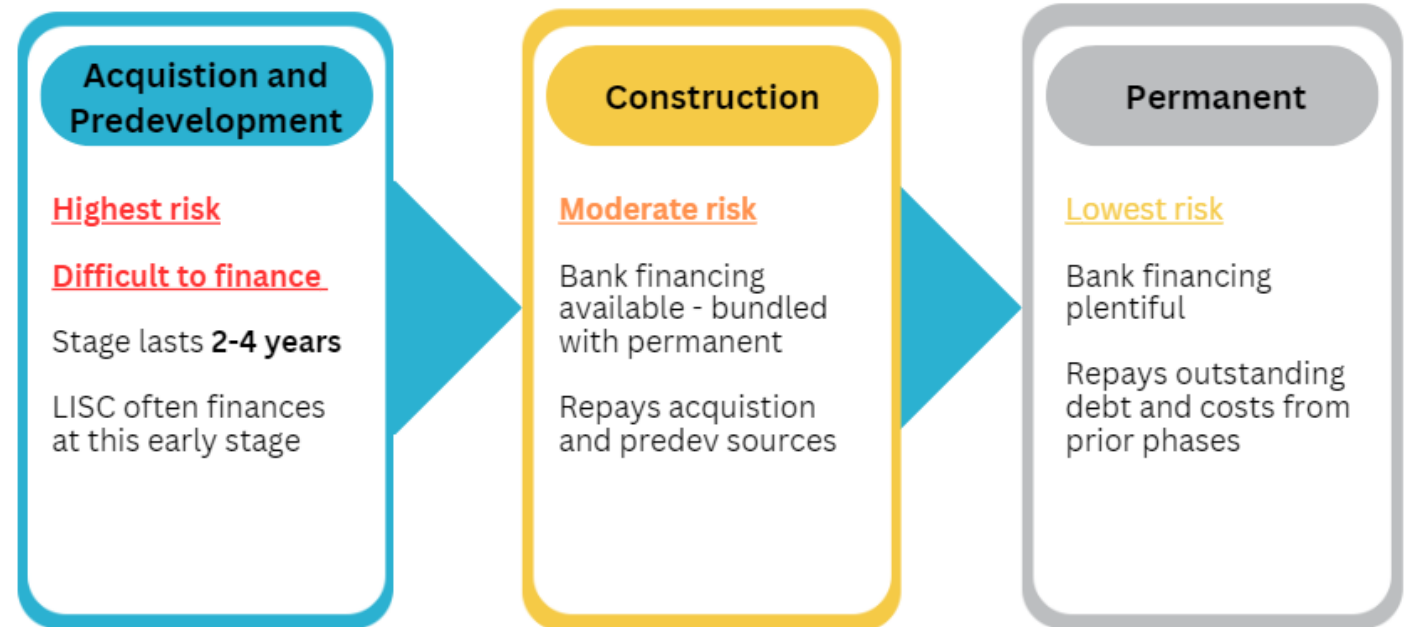
West of Rock Creek Affordable Homes



Affordable Housing Challenges

1. Cost of Land
2. Competition from market-rate developers
3. The length of time it takes to finance and develop an affordable housing project
4. High Interest rate environment and increasing construction costs

Phases of Affordable Housing Development Finance



Proposal: Ward 3 Revolving Housing Fund

Concept

The Ward 3 Revolving Loan Fund will offer flexible, low-cost capital to support the production and preservation of affordable housing in Ward 3.

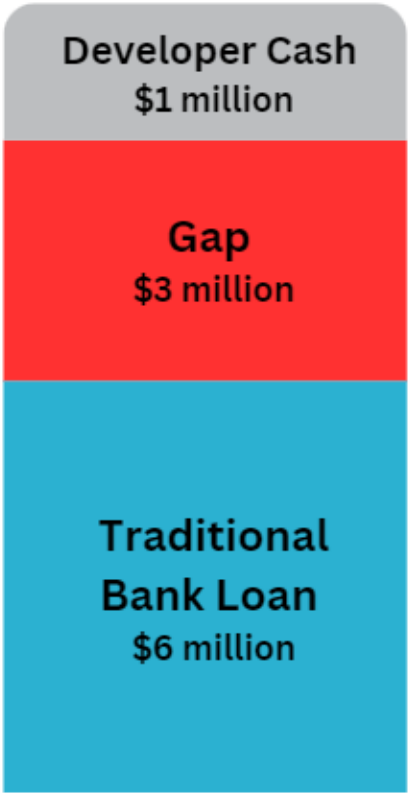
The key recipe is to blend charitable funds, with private capital, to add catalytic investment into affordable housing.

Legacy

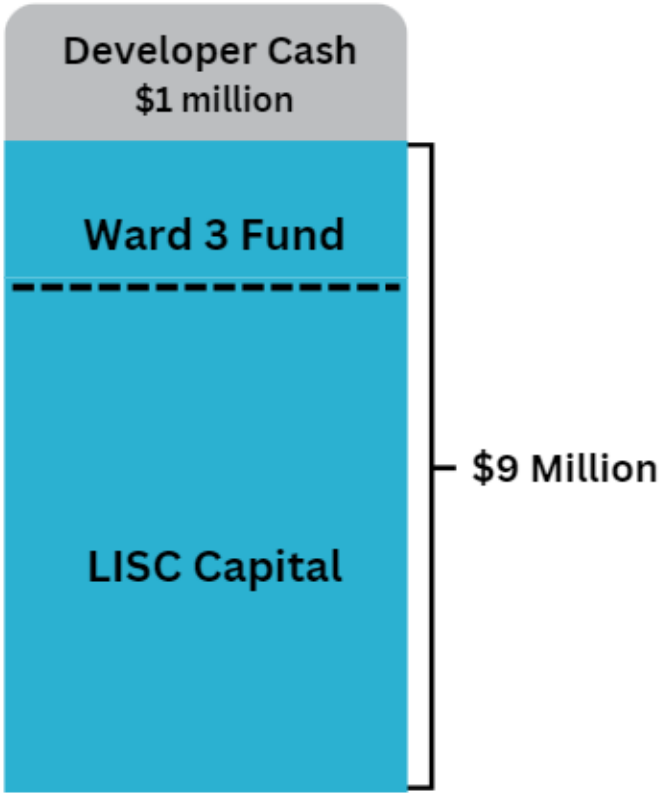
As investments are repaid, LISC will re-invest the funds into future projects.

A Fund such as this will create a multiplier effect, supporting hundreds of affordable homes in Ward 3.

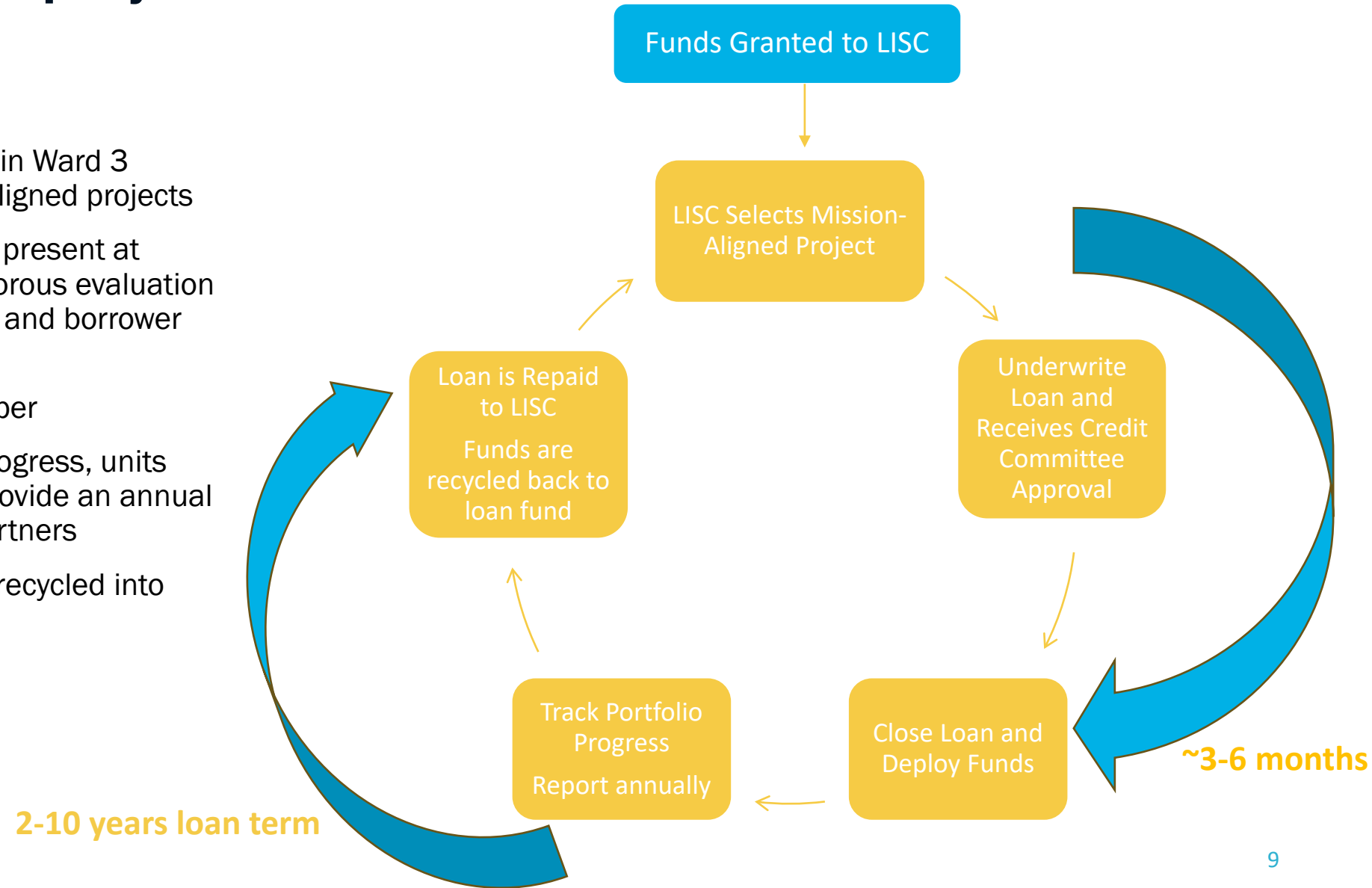
Acquisition Sources Now



Acquisition Sources With Fund



Ward 3 Housing Equity Fund Mechanics



Core Elements of the Ward 3 Housing Equity Fund

***Most projects will receive DHCD Construction financing, with stringent affordability requirements- exceeding IZ standards:**

- 40 year affordability term, with a preference for permanent affordability (90% of projects pursue permanent affordability)
- All new construction units affordable at 50% AMI and below
- Preference for 2 and 3 bedroom units

Baseline Requirements

(If not exceeded by aforementioned requirements)

Green Standards

Meet or exceed Green Standards, and standards for healthy housing

Geographic Footprint

All projects must be within Ward 3, with a preference for projects in the ANC 3E footprint

Affordability Covenant

Units must remain affordable for 10 years

*Preference for longer affordability, see note above

Affordability Requirement

New Construction: All units must be affordable at 60% AMI and below

Preservation: Half of all units must be 80% AMI or below

*Preference for deeper affordability, see note above

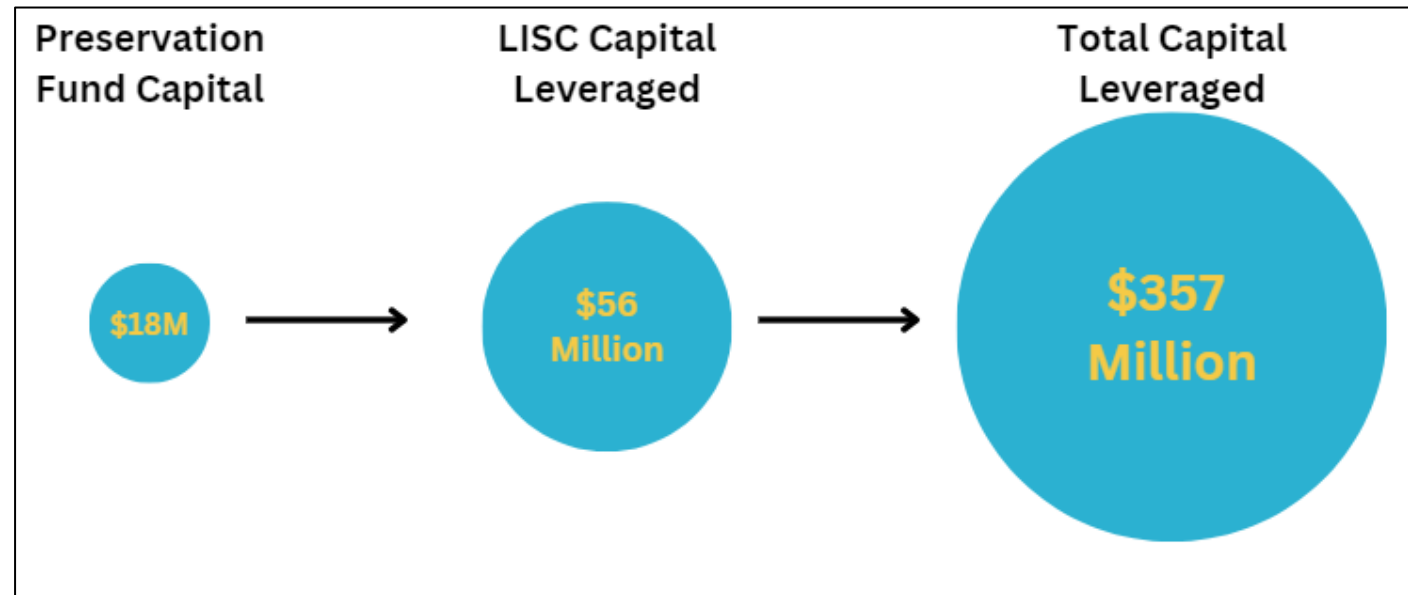
Case Study: LISC-DHCD Housing Preservation Fund

Preservation Fund

For 6 years, LISC has served as Fund Manager for [\(DHCD\) Preservation Fund](#), a \$50 million loan fund. Since 2018, 1,044 affordable apartments have been preserved.

An Ongoing Legacy

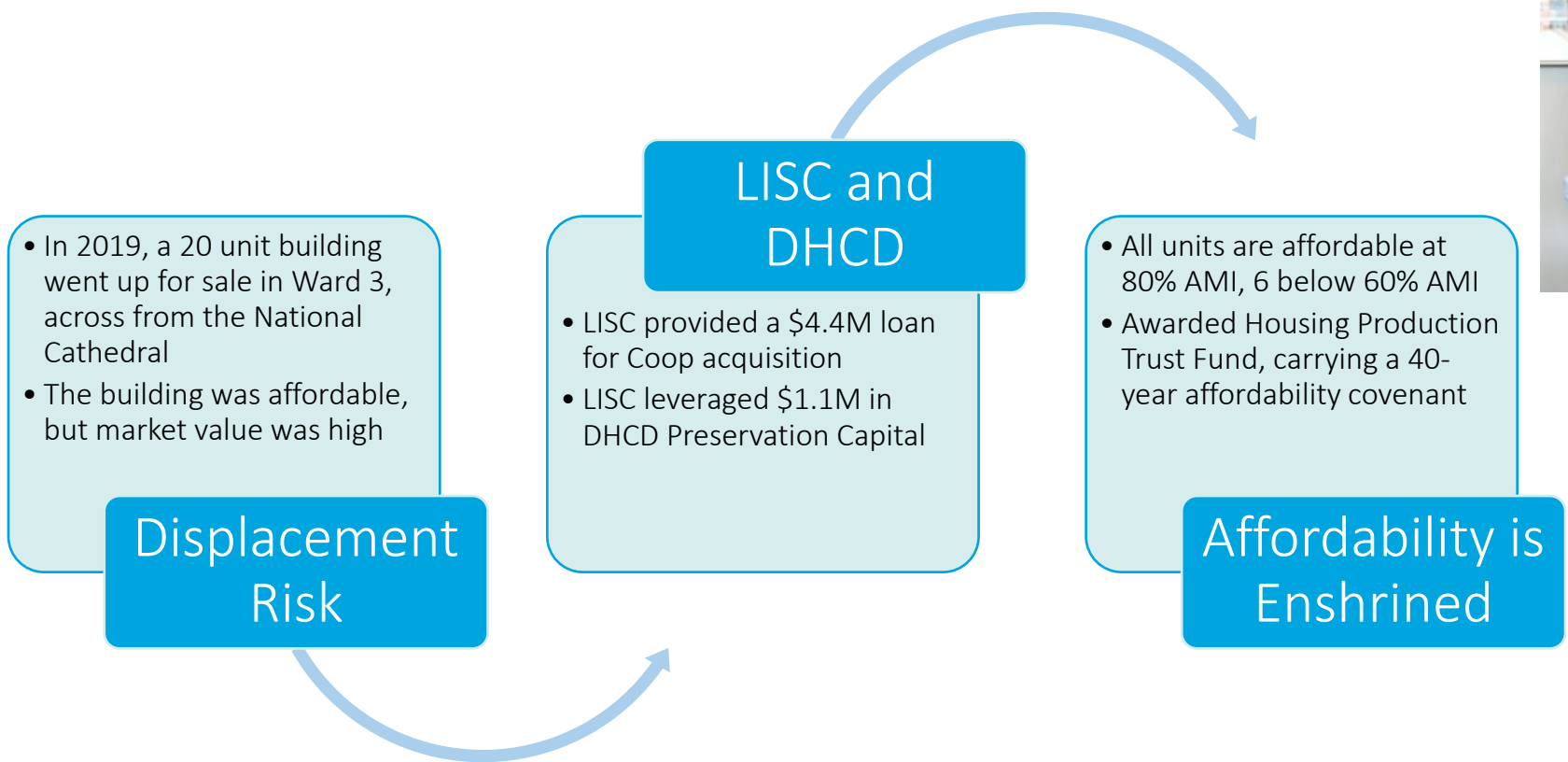
To date we have recycled 33% of the Funds in order to finance new projects. **For every \$1 million invested, 58 affordable homes have been created or preserved- and counting!**



Ward 3: Building Momentum for Affordable Housing Equity



Project Profile: 3218 Wisconsin Avenue Cooperative



Project Profile: So Others Might Eat (SOME), 2607 Connecticut Ave

- Housing in thriving neighborhoods helps low income residents thrive.
- In 2022, a developer decided to offload a nearly complete project at the Woodley Park metro
- LISC provided a \$3 million loan to support SOME's acquisition of the 23 homes
- All homes are deeply affordable, 0-30% AMI, and they are Permanent Supportive Housing
- SOME is partnering with Woodley House to provide supportive services to residents

