Advisory Neighborhood Commission 3D
Government of the District of Columbia

November 6, 2024

Chairman Hood and Members of the Commission
Zoning Commission of the District of Columbia
441 4th Street NW
Washington, DC 20001

RE: Wesley Theological Seminary Text Amendments, Case #24-09

Dear Chairman Hood and Members of the Commission:

At a duly noticed monthly meeting of Advisory Neighborhood Commission 3D, our Commission voted to provide you the following recommendations regarding Wesley Theological Seminary's (Wesley) proposed text amendments:

SUMMARY RECOMMENDATION:

ANC3D recommends that the Zoning Commission approve these text amendments. This letter lays out ANC3D's reasoning in detail. We request that the Zoning Commission give "great weight" to ANC3D's explanation and justification for this recommendation.

INITIAL PROCEDURAL MATTERS:

Relationship to Previous Cases

It is our understanding that this rulemaking process is separate from the previous proceedings related to Wesley's proposed construction of a dormitory to house both Wesley and American University students, namely Cases #22-13, #23-08 and #23-08(1) which involved a campus plan and a Planned Unit Development.

We therefore want to make sure, out of an abundance of caution, that the results of our previous reviews of this project are made part of this rulemaking effort. This will make our previous comments available should they become relevant to your Commission's decisions regarding these text amendments and should your Commission's decisions be challenged in any subsequent proceedings. Therefore, we have attached to this letter all of our previous letters to your Commission in these previous cases and ask that they be made part of the record for this rulemaking proceeding, Attachment A.

Objectionable impacts on the nearby neighborhood:

Despite the recent redistricting, ANC3D still represents the closest neighbors to Wesley and therefore our neighborhood is especially sensitive to the possibility of any objectionable impacts from the building of this dormitory on the campus. There will certainly be impacts on the neighborhood from the building of this dormitory and the housing of more students to the campus. However, through extensive negotiations with the neighborhood, under the auspices of the Community Liaison Committee, Wesley

has committed to a number of actions that we believe will mitigate these impacts. Therefore, we have concluded that the building of the dormitory will not have such objectionable impacts on the neighborhood that we should oppose this project. In particular, Wesley has adjusted the size and the orientation of the proposed dormitory so as to decrease its visibility from the few nearby homes where it will be visible at all. While the new building will still be visible to a few homes, this visual impact compares very favorably to that of campus buildings on the nearby American University and George Washington Mount Vernon campuses.

The presence of more students on the Wesley campus will, of course, bring more students onto nearby public sidewalks, but unless such students are noisy as they return to the dormitory in the late hours of the night, we would not characterize students' walking on sidewalks as an objectionable impact on the neighborhood. For instances of misbehavior, American University has a code of conduct that deals with such situations off campus. We have asked Wesley to add a provision to its student code of conduct to cover any adverse impacts on neighbors.

While having more students and parking places on campus will lead to more traffic being generated, Wesley's agreement to keep that traffic off the nearby residential street, University Avenue, will greatly reduce any such impact. In addition, it is unlikely that these students will generate enough traffic to have a serious impact on Massachusetts Avenue traffic, especially because American University provides free transportation via a shuttle bus to the Tenleytown metro station. This shuttle bus is available to Wesley students as well.

Inclusionary zoning has also been a matter of serious discussions during the development of these plans. We believe that the general agreement stimulated by our sister ANC, ANC3E, to have Wesley make these investments off campus rather than attempt to provide these benefits to students living in this dormitory is the best course of action. While Wesley is still finalizing its plans for this investment, we believe these matters can be satisfactorily resolved during the campus plan process that would follow any approval of these text amendments.

THE PROPOSED TEXT AMENDMENTS

Case for these Amendments:

Wesley's proposed text amendments are a welcome change from its previous stance. These proposed text amendments are unambiguous about the relief that Wesley is seeking, making an up or down vote by the Zoning Commission more clear-cut than the requests asking the Commission to interpret the zoning regulations broadly enough to encompass Wesley's unique situation.

We say "unique" because it is highly unlikely that there is any situation like Wesley's elsewhere in the District of Columbia. In this case, the Wesley and American University campuses are directly adjoining, having once been one property. The two institutions have a common purpose—the education of students, and from a land-use point of view in terms of the potential impact their buildings and students have on the neighborhood, the two campuses are, effectively, one large tract of land. These two adjoining institutions when viewed together already result in large buildings that we see on our horizon as well as students on our sidewalks, in our local rental units, and in our local shops. This proposed dormitory is so close to American University that university students living in this dorm would probably be closer to some of their classrooms than is the case for some of the students living in the University

dorms. It is therefore just common sense from a land-use point of view to look at these two adjoining campuses even though institutionally they need to have separate campus plans.

American University has approximately 5000 students for whom it cannot offer housing on its own campus. These excluded students live all over the area, but many of them in our neighborhood, including the high rises along Massachusetts Avenue. These American University students, many of whom are from other parts of the United States and other countries thereby occupy housing that otherwise might house DC residents, including DC's teachers, police officers, retired persons and numerous other working District residents who find it very difficult to find housing. Frankly, we wish American University would take more responsibility for housing its own students, and we are therefore happy to see a proposal from Wesley that would begin to relieve this burden on the neighborhood and the District's housing stock.

In summary, campus plans are, essentially, a process by which educational institutions can add more buildings such as dormitories to their property. We believe the appropriate focus of the interaction between the institution and its neighbors in the development of these campus plans is whether these additions will have an objectionable impact on the surrounding neighborhoods. In this case, we conclude that dormitories are exactly the kind of building which nearby residents expect to see on educational campuses, and given both the location of this proposed dormitory and the very large amount of green space between our residential neighborhood and the proposed building, it is hard to find anything objectionable about it. In addition, the construction of this dormitory will provide a considerable benefit to our neighborhood by moving more university students onto a campus and to the District as a whole by making more housing available to long-term District residents rather than short-term students from around the country.

The Wording of these Text Amendments

Wesley has chosen to write the proposed text amendments in a way that makes it clear that this exception to the zoning regulations applies only to a specific portion of Wesley's property and only for housing. This reduces our concerns that we had previously about Wesley's PUD proposal which we feared opened up the possibility of additional development on the campus in the future with limited input from the neighborhood. We see no problems with the actual wording of the text amendments.

.

Finally, we would like to address the Office of Planning's Setdown Report with regard to racial equity. While we are confident that the OP carried out the racial equity review in a diligent manner, we believe the required analysis does not capture the racial contribution of Wesley Seminary– the makeup of its student body and their contribution, upon graduation, to racial equality of our city. The demographics of Wesley's student body is majority minority and their students often go on to serve in churches within the District. Wesley's "thriving in place" is important to the city in a way beyond the immediate campus and affects the much larger community in a very positive manner.

NEIGHBORS' REMAINING CONCERNS:

Members of Neighbors for a Livable Community (NLC), two of whom live on University Avenue, but not close enough to the Wesley campus to be able to see the proposed dormitory, have raised concerns, some of which we want to address. We would also note that the Spring Valley Neighborhood

Association, a party in the zoning case (23-08), and other neighbors have expressed their support for the proposed project. There is now open dialogue between the NLC and some ANC3D Commissioners. Even though we disagree with the NLC, we ask that the Zoning Commission carefully consider the points that this organization is making since they feel so strongly about them.

The Proposed Dormitory is "Too Big"

It is clear that at the base of NLC's objection to this dormitory that this new building would increase the density of the buildings on campus and therefore in the neighborhood. However, "too big" is a comparative term. One needs to ask, why do they consider it "too big"? In terms of the American University students whom the University currently can accommodate on its own campus, the dormitory could justifiably be made even bigger. In terms of the possible objectionable impacts of a dormitory this size on the neighborhood, as we have indicated, our analysis has concluded that there is no objectionable impact, despite the building's size. The fact that there is so much green space on the campus between this dormitory and the neighborhood also cuts against any argument that neighbors did not expect the campus buildings to expand to take up so much of the property. Therefore, we cannot find a basis to agree with NLC that this dormitory is "too big."

Precedent for Further Construction at Wesley

One of these issues is that in some way these text amendments might set a precedent for the construction of yet another building on the Wesley campus that could be deemed "commercial." We understand that Wesley has no such intent to build a second building. In addition, these text amendments are explicitly applicable to only that portion of the campus on which this dormitory will be built. Therefore, once the dormitory is built, additional "commercial" buildings are not, in our view, a serious concern.

Precedent for Other Universities in the District

NLC members have told us they are concerned that a specific carve-out permitting an institution to build something otherwise not allowed under the current zoning code would create a dangerous precedent for the Zoning Commission and would open the door for other institutions to seek a similar course of action. We believe the Wesley case presents a unique situation of two adjoining campuses that justifies these text amendments. We believe the Zoning Commission has the flexibility to evaluate any future proposals on a case-by-case basis. Every case needs to be judged on whether approving a text amendment would better serve the District or harm it. In this case, ANC3D believes this project is unique and is in the best interest of the District. In this regard, your Commission may want to include wording in its order to explain the unique basis for this one exception to the zoning regulations in the case of Wesley along the lines we have presented in this letter.

Are these text amendments necessary for Wesley to "thrive"?

Because some NLC members are concerned about the above-discussed potential precedent-setting nature of these text amendments, they speculate that Wesley really does not need to construct this dormitory to "thrive" or even "survive" on this campus. They feel that there must be some other

solution that Wesley could pursue that would obviate the need to construct this dormitory. We do not have any special insights into Wesley's internal deliberations, but we do have the following observations.

- This is the third iteration of Wesley's effort to make it possible for them to "thrive" in the current conditions. It is clear that Wesley has already been seriously seeking viable alternatives.
- It is public knowledge that seminaries, such as Wesley, are having a difficult time financially because of changes in the demand for this type of graduate education. Absent a rich benefactor's coming to Wesley's rescue, we find it credible that Wesley needs to find a sizeable, steady in-flow of money in order to remain on this campus.
- There is speculation that Wesley could somehow become "affiliated" with American University and thereby solve its financial problems. Of course, we cannot rule out this possibility, but this is not what we are hearing in our discussions with American University senior management. In fact, we are hearing the opposite. This is understandable because American University is itself currently undergoing some financial difficulties and is not flush with money to take on the task of rescuing Wesley Seminary or adding to the size of their property. We have been told that in the past, when American University has been asked whether it would like to purchase the Wesley campus, the purchase price mentioned has not come close to the market value of the property.
- Some suggest that Wesley will never leave this campus because it would have to move far out of the city and would find such a location so incompatible with its mission that it would have to close. We are not experts in the real estate market, but we suspect that Wesley's beautiful and large campus, a rarity in Ward 3, would sell for a large price on the open market and that with those funds, Wesley could find another location where they could "thrive." Just as an example to make this point, we note that many former office buildings downtown have lost much of their value and might be bought or rented for a reasonable price. While we are sure that Wesley would be reluctant to give up its spacious campus for a downtown location, its educational mission could perhaps be undertaken quite adequately at such a downtown location. Many out-of-town universities have found such downtown locations suitable "satellite campuses" for their Washington-based operations, and Wesley might also. In short, if Wesley is forced to leave, we seriously doubt that it would have to close because of the large sum it could receive for its property and the range of possible locations to which it could move if forced to do so.
- Most importantly, if Wesley were to find that it had to leave and sell the property, it is our assessment that almost all of the Spring Valley neighbors would be unhappy to have lost Wesley. Wesley has been a good neighbor, and it is unlikely that the large area of green space adjoining the neighborhood would survive. Some NLC members, some of which are adjacent neighbors, have stated that if Wesley were to leave and convey the property to another party, they do not have these same concerns. Our discussions with other neighbors leads us to believe that they do not share NLC's lack of concern.

OUR CONCLUSIONS

We have taken all of the neighborhood views very seriously and have concluded as follows:

Other Viable Alternatives for Wesley:

We cannot rule out the possibility that there are other viable alternatives for Wesley, especially since we have no experience in running a seminary, and we are not privy to all the discussions between Wesley's management and its Board. However, it does appear that Wesley has been trying very hard to find a solution to their problems, and we can only assume that they have conducted a very serious investigation of alternatives, especially after NLC and Spring Valley Wesley Heights Citizens Association raised objections to the original proposal for this dormitory in the draft campus plan several years ago. In short, we are not prepared to condition our review of these text amendments on the basis of speculation that there might be a reasonable alternative that has not yet surfaced but might somehow emerge in the future.

Wesley's existence threatened if it were to leave:

Once again, we have never run a seminary and therefore must be modest in our predictions of what would happen to Wesley if it were to have to leave its current campus.

We believe it is dangerous for a neighborhood to assume that a property owner is "bluffing" when they say they will need to sell the property unless they are allowed to develop it in a manner that the neighborhood finds objectionable. We are reminded of a very painful example of our neighborhood's over-confidence that the threat of an institution's leaving was not serious. In the Palisades, not many years ago, the local Safeway store served as an anchor for many other local businesses. In addition, its large parking lot afforded easy parking for all of the surrounding businesses. Safeway proposed building a new store with residences above it. The neighborhood argued effectively for the status quo, and thereafter, Safeway left and sold the property to a Continuing Care facility, which eliminated the parking for the neighborhood businesses. While this new institution is likely to be very nice, it certainly will not serve as an anchor for the business district of the Palisades and parking for these other Palisades businesses has become problematic as a result.

In short, Institutions do leave. The property they own can be very valuable and allow the institution to put its assets to other uses. While we all hope that Wesley would not leave under any circumstances, we do not believe we should condition our review of these text amendments on such a hope and a prayer.

Would possible future development be objectionable:

Most, if not all, the neighbors like the open green space that the Wesley campus affords the neighborhood and have found Wesley, as an institution, to be an excellent neighbor. We at ANC3D believe the neighborhood is well served by ensuring Wesley's ability to "thrive in place" on the current campus, especially since, in our view, the construction of this dormitory that would house both Wesley and American University students would NOT have an objectionable impact on our neighborhood.

For all the above reasons, ANC3D recommends that the Zoning Commission approve the text amendments that Wesley has proposed, and because of the time constraints on Wesley now

that this process has taken several years, we urge the Commission to make its decision as expeditiously as possible.

Sincerely,

Tricia Duncan

Tricia Duncan, Chair

ATTACHEMENT A

June 3, 2022

District of Columbia Zoning Commission
Office of Zoning
441 4th Street NW #200
Washington, DC 20001

RE: Comments on the Application by Wesley Theological Seminary for Approval of its Draft Campus Plan (2022-2032) [Case 22-13]

Dear Members of the Zoning Commission:

During a publicly noticed, regular meeting of ANC3D on June 1, 2022, with a quorum of 6 Commissioners present, ANC3D voted to submit this letter to the Zoning Commission regarding Wesley Theological Seminary's 2022 Campus Plan.

Summary

ANC3D offers qualified support for Zoning Commission approval of the 2022 Campus Plan developed by Wesley Theological Seminary subject to the requested conditions and concerns described in this letter. We have reviewed the plan fully, been closely engaged in the Community Liaison Committee (CLC) process and held robust discussions with neighbors and stakeholders regarding questions and concerns. We have worked with stakeholders and the Seminary to negotiate a series of Proposed Conditions, all of which we urge the Commission to include in its final order. In this letter we describe ANC3D's involvement in the Campus Planning process, highlight key issues and summarize our conclusions and recommendations. Our comments focus principally on the proposed new dormitory to serve Wesley Seminary and American University students, as this is the aspect of the plan that will most impact the neighborhood.

ANC3D Involvement in Campus Planning Process

Wesley Seminary's campus is bordered by two 3D single member districts (SMDs):

- 3D02 (Spring Valley), represented by Commissioner Elizabeth Pemmerl
- 3D07 (American University), represented by Commissioner Christian Damiana

Commissioner Pemmerl has attended all but one of the CLC meetings held in 2021 and 2022. Other Commissioners have also joined the meetings and been engaged in the CLC process.

The Campus Plan has been a regular topic at ANC3D meetings:

- The Seminary presented on the proposed Campus Plan at ANC3D meetings held on February 3, 2021, November 3, 2021, and March 3, 2022. The presentations included detailed renderings of the proposed new construction. Representatives from the dormitory developer, Landmark Properties, and from the Seminary's transportation consultant, Gorove Slade, participated in the presentations and answered questions from the community.

- Commissioner Pemmerl provided updates on the Campus Plan progress and process at ANC3D meetings held on June 6, 2021, December 8, 2021, January 5, 2022, February 2, 2022, and May 11, 2022. In her updates, the Commissioner encouraged neighbors to participate in CLC meetings and to provide feedback to ANC3D on the proposed plan.

Copies of all materials presented at ANC meetings are available at anc3d.org.

Public Engagement

Wesley Seminary engaged with neighbors and stakeholders regularly during its Campus Planning process, primarily via CLC meetings. CLC meetings were open to all. The meetings were consistently attended by residents living in properties neighboring the Seminary campus and by board members from the Spring Valley Neighborhood Association, the Spring Valley-Wesley Heights Citizens Association and Neighbors for a Livable Community. Relevant documents were posted on the Seminary website for review during the process. The draft Plan and this letter incorporate many comments made by neighbors and stakeholders.

Issues of Interest to ANC3D

The Seminary, ANC3D Commissioners and stakeholders discussed many issues during the Campus Planning process. ANC3D focuses its commentary in this letter on those issues deemed most significant and impactful to the Zoning Commission's review of the draft Campus Plan.

1) Objectionable Impacts

Does the Campus Plan create possible objectionable impacts to neighboring properties?

A. Size and Location of Proposed Dormitory

ANC3D commends the Seminary for positioning the proposed dormitory on its campus in a location intended to limit impacts on the immediate neighbors. We also commend the Seminary for its commitment to maintain a large amount of green space on campus (see Proposed Condition # 20). The Seminary's green space is enjoyed by all neighbors – especially those with sleds on a snow day. The green space is critical to controlling stormwater runoff for Spring Valley and supports the District's tree canopy goals.

Neighbors raised questions about the mass of the proposed dormitory, its height, and the number of beds. The size of the dormitory will alter the character of the Wesley Seminary campus. The dormitory will be visible from most residential homes on University Avenue and will increase pedestrian, bicycle, and vehicular traffic in the immediate area. During the CLC meeting process the Seminary made design changes to the dormitory in response to neighbor concerns, including reducing the size and orientation of the top-most floor and changing the location of windows. Despite these changes and the Conditions the Seminary has proposed, the number of students living in the dormitory does risk causing objectionable impacts to neighbors, particularly in the form of pedestrian and vehicle traffic. More specific details on those issues are included below, but to generally mitigate the risks of this building on the community, ANC3D:

- strongly encourages the Seminary to additionally reduce the size of the dormitory and reduce the number of beds prior to further processing, and

- will examine the dormitory building closely at the time of further processing when more details will be available. Should objectionable impacts be found at that stage, ANC3D will raise them with the Seminary and, if necessary, with the Zoning Commission.

ANC3D also notes that the dormitory, when constructed, will be located adjacent to two proposed new buildings on the American University campus as recently approved by the Zoning Commission in ZC Order No. 20-31. We believe the neighborhood impacts of three large new buildings concentrated in this residential area must be considered in their totality. ANC3D urges the Zoning Commission to take this wider view as the Seminary and American University plans separately progress.

We hope and expect increased collaboration between American University and Wesley Seminary during further processing of each institution's campus plan, as further detailed in this letter.

B. Student Behavior

In this draft Campus Plan, the Seminary proposes that residents will be subject to a code of conduct imposed by Wesley's student covenant or American University's Code of Conduct – as applicable – and the Landmark Code of Conduct (see Proposed Condition #18). As part of its recent campus plan, American University committed to fully and frequently informing students of the University's expectation that students adhere to the Student Code of Conduct and District of Columbia laws and that the university would take appropriate action when students deviate from the Code. The Seminary has committed to work closely with the Wesley CLC and ANC3D to monitor the effectiveness of its enhanced program and to seek adjustments as possible improvements become apparent.

ANC3D believes the suggested approaches are sufficient to mitigate possible impacts to neighbors caused by objectionable student behavior when they are on and off campus.

C. Matters of Traffic and Parking

1. Exiting Vehicles on University Avenue

The Campus Plan Proposed Condition #26 restricts vehicles from using the University Avenue exit during peak hours, defined as 6:30 am – 9:30 am and 4:00 pm – 7:00 pm. ANC3D supports more robust limitations on the University Avenue exit – ideally emergency and limited service and delivery vehicles only, consistent with the proposed University Avenue entrance provisions detailed in Proposed Condition # 25, which are very limited. Limiting use of the University Avenue exit will decrease potential adverse impacts on the Seminary's immediate neighbors. It will also reduce the number of vehicles accessing Massachusetts Avenue via Wesley Circle, which is a dangerous intersection for pedestrians: the soft right turn onto Massachusetts Avenue means vehicles frequently ignore the crosswalk, and the left turn on Massachusetts Avenue is extremely awkward due to the angle of the intersection and the close proximity of the traffic light at Massachusetts and 46th Street Northwest. Flowing traffic out via the primary Massachusetts Avenue driveway is strongly preferred by ANC3D.

ANC3D emphasizes the importance of the traffic monitoring survey committed in the Campus Plan conditions, to be completed each of the first two years in which the dormitory is occupied as specified in Proposed Condition #23. We request that the survey results are shared with ANC3D in a timely fashion.

2. Left Turn on Massachusetts Avenue

The conditions propose that traffic existing from the Massachusetts Avenue exit will be right-turn only. ANC3D supports evaluation of a permissible left turn from this exit. We ask the Zoning Commission to include in its order a requirement that the Seminary work with the District Department of Transportation (DDOT) to assess the feasibility of a left turn from this exit for those traveling northwest on Massachusetts Avenue, per Proposed Condition # 24. A left turn out of the Massachusetts Avenue exit would prevent vehicles from having to travel southeast on Massachusetts Avenue and around Ward Circle in order to access Massachusetts Avenue to travel northwest, which creates unnecessary additional traffic for Ward Circle, an area already burdened with heavy vehicle and pedestrian flow. There are also environmental implications of extending the distance the exiting vehicles must travel. ANC3D acknowledges that heavy Massachusetts Avenue traffic at certain times of day would make this left turn challenging; DDOT could consider limiting a left-turn option to off-peak hours.

If the left turn is permitted, the Seminary should consider signage to alert drivers of the crosswalk and HAWK signal just north of the Seminary exit.

3. For-Hire Vehicles

A complaint ANC3D hears from the public is the frequent violation of DC's traffic laws by vehicles-for-hire that stop in the travel lanes on both Nebraska Avenue and Massachusetts Avenue near the American University campus to pick up and discharge their passengers. Vehicles often stop with little warning and travel very slowly as they look for their customers, presenting safety issues. These vehicles then snarl traffic around the already-congested area of Ward Circle.

A significant increase in the number of students living on the Wesley Seminary campus will exacerbate this problem. Thus we support Wesley's Proposed Condition #31, which would provide dedicated pick-up and drop-off locations in the dormitory parking area and we urge Wesley to take whatever steps are necessary to inform vehicle-for-hire companies to display these on-campus pick-up and drop-off locations.

D. Pedestrian Flow and Safety

ANC3D reiterates its support for installation by DDOT of a sidewalk on the southeast side of University Avenue from Massachusetts Avenue to Rodman Street and is pleased with Wesley's Proposed Condition #43, which pledges Wesley's support. The need for a sidewalk at this location was first identified in DDOT's Rock Creek Far West Livability Study. Support for sidewalks in 3D, and specifically in this location, is consistent with the position expressed by ANC3D in its letters to DDOT dated September 2019, December 2020 and January 2021. During the campus planning process, concerns were expressed about stormwater runoff issues for residents living downhill from the Wesley Seminary campus, primarily on Massachusetts, Tilden and Upton Streets. ANC3D will encourage DDOT to implement water runoff mitigation strategies when the sidewalk is constructed, such as the use of permeable pavers.

E. Periodic Assessment of Campus Plan Performance

ANC3D emphasizes the importance of the Seminary holding at least thrice-yearly meetings of the Community Liaison Committee, as committed in Proposed Condition #41, to be held for the duration of the Campus Plan term.

Additionally, ANC3D appreciates the Proposed Condition #42 that requires Wesley to make presentations at ANC3D meetings, twice a year on a mutually agreed upon schedule, regarding campus plan performance. We expect those presentations to include discussion of appropriate metrics and data arrived at in collaboration with the CLC. The ANC meetings will reach a wider audience compared to the CLC meetings and provide Commissioners and community members the opportunity to make suggestions to the Seminary on policies and operations that continue to ensure objectionable impacts are adequately mitigated. This condition is consistent with a request made by this Commission to American University during its recently completed Campus Planning process.

2) Applicable Regulations

Is the proposed Campus Plan consistent with District of Columbia municipal regulations?

A. Commercial Use

During the Campus Planning process, a topic of frequent discussion at CLC meetings was if the proposed dormitory was consistent with the District's commercial use provisions (11-X DCMR 101). Specifically, stakeholders asked if the ownership structure of the proposed dormitory (a 99-year ground lease from the Seminary to Landmark Properties) and the intended use (the Seminary expects that the majority of residents will be American University students) are in violation of the commercial use provisions for colleges and universities.

The Seminary provided their legal analysis on these topics to all stakeholders and ANC3D researched these topics. The most compelling points from ANC3D's perspective are as follows:

- The dormitory will provide housing to Wesley students and to American University students. Housing Wesley students supports the Seminary's educational mission as required by 11-X DCMR 101.4. Therefore, there is a demonstrated relationship between the building's use and Seminary's functions, as required by 11-X DCMR 101.3(a).
- The Campus Plan under which Wesley Seminary currently operates permits residency of non-Wesley graduate students in Wesley dormitories, as detailed in Zoning Commission Order No. 05-40C. Therefore, precedent exists for this type of dormitory use.
    - The existing order limits the number of non-Wesley students living on the Wesley Campus to 87. The proposed dormitory use would significantly increase this number, but no guidance can be found in Zoning Commission regulation that establishes what an acceptable number of students would be in this scenario.
- On the subject of ownership structure, we are not aware of Zoning Commission regulations that prevent a university from entering a ground lease with another party. Precedent exists for this scenario: the recently constructed hospital on the Georgetown University Campus is owned by MedStar Health and subject to a ground lease between MedStar and Georgetown (see Zoning Commission Case Number 16-18A).

ANC3D emphasizes that the proposed dormitory should be reviewed carefully by experts from the appropriate District agencies as there is a possibility of new precedents being set by this ownership structure and use case.

3) Other Topics

A. Community Playground

ANC3D supports the Seminary's plan to fund and construct a neighborhood playground for children of campus residents and for the neighborhood (see Proposed Condition # 21). This is a welcome amenity and ANC3D looks forward to working with the Seminary and stakeholders to make it a reality. ANC3D encourages the Seminary to commit in its conditions to a timeline for completion.

B. Collaboration with American University

Given the two institutions share a property line and that the majority of residents in the Seminary's proposed dormitory will be American University students, it was particularly disappointing to ANC3D that the Seminary and American University had no public collaboration in the creation and submission of their respective Campus Plans. Coordination on issues of security across the two campuses, parking, and traffic (including enforcement of the off-campus parking prohibition), campus life and pedestrian flow would benefit both institutions, students and the surrounding neighborhoods. We address some of the specific issues that need coordination at several points in this letter. We would very much appreciate the assistance of the Zoning Commission in encouraging collaboration between American University and Wesley, by whatever means the Zoning Commission finds appropriate.

Of particular interest to stakeholders in the Seminary Campus Plan process is the issue of the fence separating the two campuses. Today, only limited pedestrian flow between the two campuses is permitted for students. Allowing students to freely move through the gate located at what is now the back of the Seminary parking lot and which will be directly adjacent to the new dormitory would permit students living in the new dormitory to easily access American University for classes or other purposes. Without this access point, these students will instead have to walk down the Seminary exit to Massachusetts Avenue, then towards the American campus, at significant inconvenience to the students.

The fence between the two properties was constructed thirty years ago, by agreement among American University, ANC3D and the neighborhood and officially made part of the American University Campus Plan at that time. We are prepared to take up this issue as soon as all parties are ready to do so. We request that Zoning Commission instruct the two institutions to reach agreement on pedestrian flow between the campuses, in consultation with the neighborhood.

Conclusion

ANC3D offers qualified support for the 2022 Wesley Seminary Campus Plan, subject to the requested conditions and concerns described in this letter. Commissioner Elizabeth Pemmerl is authorized to act on behalf of this Commission in all matters before the Zoning Commission related to the Wesley Seminary 2022 Campus Plan.

Sincerely,

Benjamin Bergmann, Chairman

September 7, 2022

District of Columbia Zoning Commission
Office of Zoning
441 4th Street NW #200
Washington, DC 20001

RE: Comments on Additional Materials Submitted on September 1, 2022, by Wesley Theological Seminary in Support of its Draft Campus Plan (2022-2032) [Case 22-13]

Dear Members of the Zoning Commission:

During a publicly noticed, regular meeting of ANC3D on September 7, 2022, with a quorum present, ANC3D voted to approve this letter regarding additional materials submitted by Wesley Theological Seminary on September 1, 2022, in support of its Draft Campus Plan [Case 22-13].

ANC3D appreciates the opportunity to comment on the new materials from Wesley Theological Seminary. In summary, the changes to Wesley's Plan allow ANC3D to strengthen its support for the Plan, and we urge the Zoning Commission to approve it. The details of our comments follow.

First, ANC3D reaffirms the comments it sent to you on June 3, 2022 (Exhibit 22). In that letter we supported Zoning Commission approval of the 2022 Campus Plan developed by Wesley Theological Seminary subject to the requested conditions and concerns described in that letter, especially dealing with the size of the building and with traffic.

Wesley's Response to ANC3D Concerns

ANC3D is pleased that Wesley is agreeing to our request that they incorporate several additional elements into their Plan during further processing. We urge the Zoning Commission to make clear in the Commission's order your strong interest in seeing these issues addressed. The matters of the highest interest to the ANC are:

- "Evaluate options for reducing the design, size, massing and number of beds in the New Dormitory to further mitigate any potential objectionable conditions." (See Condition 16.)
- "Further limit the use of University Avenue for exiting vehicles. In consultation with DDOT, the Seminary will request that use of the University Avenue driveway be closed for exiting vehicles 24/7 and that only limited service, delivery and emergency vehicles

can enter and exit the Campus from University Avenue." (See Conditions 26 & 27. It appears that these two conditions could be combined for the sake of clarity.)

- "In conjunction with the expanded limits on the use of University Avenue, the Seminary will encourage DDOT to allow left turns by vehicles leaving the Campus at Massachusetts Avenue during agreed time periods with appropriate signage." (See Condition 25.)

ANC3D is also pleased that, as Wesley notes, these commitments are in addition to several others that they have already made, following the recommendations of ANC3D and the community. One of these commitments relates to the new sidewalk on University Avenue. (See Conditions 23 & 46) As we noted in our letter of June 3, 2022, we continue to recommend that the sidewalk be designed with long-term storm water mitigation in mind. A commitment to storm water mitigation can easily be included in Condition 23.

Comments on Wesley's "Thrive in Place" and Educational Mission

In its September 1st submission, Wesley wrote extensively about its objective to "Thrive in Place" and its relationship to its educational mission. We have the following comments:

As we understand the zoning regulations, the primary purpose of requiring the preparation of campus plans by institutions such as Wesley is to ensure the protection of the surrounding residential area from objectionable impacts. We believe it is important for the Zoning Commission to understand that there is near-unanimous general agreement in the neighborhood that we are better off with Wesley as a neighbor than without them and thus we want them to stay. The alternatives are all much worse. This campus plan will allow Wesley to remain in its present location and fulfill its mission objectives by continuing to be able to subsidize the tuition and living expenses of students who otherwise would not be able to attend.

There is also general agreement that neighborhoods are better off when students live on a campus rather than in the neighborhood. Our ANC has several academic institutions within or close to its borders including American, Georgetown, and George Washington (Mount Vernon campus), so we can therefore speak from experience. The approval by the Zoning Commission of this new dormitory would, in our view, provide a significant benefit to the larger ANC3D community in this regard, by helping Wesley thrive in place and providing needed housing for students.

It would be very sad indeed if the Zoning Commission were to find that it had to apply these Zoning Regulations, which were written to protect neighborhoods like ours, in a way that actually unintentionally results in harming the neighborhood. We therefore hope the Zoning Commission will approve this revised campus plan which incorporates changes responsive to our previously expressed concerns.

Thank you for the opportunity to comment. Commissioner Elkins will represent ANC3D in any further proceedings on this matter.

Sincerely,

Benjamin Bergmann, Chairman

Advisory Neighborhood Commission 3D
Government of the District of Columbia

November 2, 2022

District of Columbia Zoning Commission
Office of Zoning
441 4th Street NW #200
Washington, DC 20001

RE: Letter from Applicant in Case 22-13 of October 27, 2022 Re a PUD application

Dear Members of the Zoning Commission:

At a duly-noticed, regularly scheduled meeting of Advisory Neighborhood Commission 3D, with a quorum (5) present, the Commission voted to submit the following letter to the Zoning Commission:

On October 27, 2022, the Applicant, Wesley Theological Seminary, presented a letter to the Zoning Commission suggesting that it pursue an alternative procedural path for approval of the dormitory that has been the subject of their campus plan application. Consistent with our letter to the Zoning Commission (Exhibit 54), we favor the construction of this dormitory for the reasons stated in that letter and, provided that the commitments to the community in the current draft campus plan carry over to the PUD application, we support the applicant's proposed effort to develop a PUD application for consideration by the Zoning Commission.

ANC3D's representatives will be happy to work with the Applicant in the development of this PUD application and will, if the application goes forward, be prepared to address community concerns and the ANC's recommendations for the approval or disapproval of the resulting application.

Sincerely yours,

Ben Bergmann, Chair

Advisory Neighborhood Commission 3D
Government of the District of Columbia

September 6, 2023

Zoning Commission
441 4th Street NW
Washington, DC 20001

Re: Cases #23-08 and 23-08(1) Wesley Theological Seminary PUD and Campus Plan

Dear Chairman Hood and Members of the Zoning Commission:

At a duly noticed meeting of Advisory Neighborhood Commission 3D on September 6, 2023, the Commission voted to send you the following comments on the PUD and Campus Plan applications of the Wesley Theological Seminary.

First, ANC3D requests a waiver of the requirement that we submit our comments 7 days before the hearing in order for our representative to testify and participate in the hearing. The timing of our regularly scheduled monthly meeting prevented us from meeting this deadline by a few days.

Secondly, on the merits of the case, as your Commission is aware, Wesley proposes to construct a large student housing building on its campus. The land on which this building will sit is to be rented to a for-profit business entity that will construct and operate the building, leasing the apartment units to students of both Wesley Seminary and American University. After an in-depth review of this case, ANC3D finds that the proposed PUD, together with the associated Campus Plan provides an appropriate balance between the flexibility requested and the amenities provided, and is not likely to impose impacts on the neighborhood, after the proposed mitigation measures are undertaken, that would be so objectionable as to merit our opposition to this project. Therefore, subject to the resolution by the Zoning Commission of the serious legal issues that have been raised, ANC3D recommends approval of this application.

JURISDICTION

Together with American University, Wesley Theological Seminary ("Wesley") was redistricted from ANC3D to ANC3E as a means of reducing the size of ANC3D by two Commissioners. ANC3E is across Massachusetts Avenue from the Seminary. However, the Spring Valley neighborhood of ANC3D is immediately adjacent to the campus of the Seminary and is therefore an affected ANC3D and an automatic party to this proceeding along with ANC3E. In addition, residents of Spring Valley are likely to be most affected by development on the campus because of their proximity to the campus. Therefore, representatives of ANC3D have been actively engaged in both the Campus Plan and the PUD discussions throughout the process.

THE CONSULTATION PROCESS

ANC3D's Role

Many individual neighbors participated in the extensive discussions of this project and expressed a variety of views. This letter transmits the views that the ANC Commissioners reached at the conclusion of the process.

ANC3D previously submitted comments on Wesley's proposed campus plan (Case #22-13) in June 2022 and September 2022. We have attached these comments to this letter for the convenience of the Zoning Commission and parties to this new case.

During the intervening period Wesley appropriately continued to use the Community Liaison Committee (CLC) as the principal means for consulting with the immediate neighbors about this project and its possible impacts and has addressed a number of the issues raised in ANC3D's previous letters. ANC3D participated actively in the CLC meetings, and worked to make the process as full and participatory as possible. ANC3D also heard several presentations on Wesley's plans at its monthly regularly-scheduled meetings and then held a special two-hour Town Hall on August 14th to make sure that our Commissioners heard and understood all of the concerns of the neighborhood about this project.

The Role of Other Parties

It is important to note that during the months-long review and negotiations involving this application, Neighbors for a Livable Community, and the Spring Valley Wesley Heights Citizens Association actively engaged with the CLC process and the ANC. The NLC and the SVWH Citizens Association prepared detailed materials spelling out their concerns and did an analysis of previous PUD cases involving educational institutions, which was very informative. The Commission may recall that this pre-hearing engagement has not always been the case, but we want the Commission to know that the process worked well this time.

BALANCE BETWEEN THE FLEXIBILITY REQUESTED AND THE AMENITIES OFFERED

We find that there is a good balance between the flexibility requested and amenities offered in this PUD application for the following reasons.

Green Space

We are especially cognizant of the large amount of green space that is proposed to be protected from development. This green space is very important to our neighbors, especially those living on University Avenue. Wesley has placed this new dormitory at the far end of their campus as close to the other large nearby dormitory buildings of American University, thereby giving University Avenue residents as much distance between the dormitory and their houses as possible. We understand that the FAR allocations for an educational institution such as Wesley would allow them, if there were no other buildings on the site, to build approximately 2.3 dormitories this size on their campus. Wesley has chosen to protect its neighbors instead by placing it far away from its neighbors' residences and preserving the green space so that the campus will continue to be so attractive and almost park-like

when viewed from University Avenue. This action by Wesley is especially remarkable when their campus is compared to, for example, American University's campus, which has buildings immediately adjacent to neighborhood residences.

Advantages of having students live on a campus

We are particularly sensitive to the complaints of our constituents to the adverse impacts that sometimes result from having students living in rental units in our neighborhood. While most students are well behaved, there are sometimes exceptions to that rule, and their presence in the neighborhood then becomes all too apparent and the disturbances difficult to mitigate.

One of the major amenities that this proposed dormitory would provide is the likelihood that this will decrease the number of AU students living in the neighborhood. Everything else being equal, it is good to have students living with other students, on campus, rather than forcing them to live in a residential neighborhood in order to be close to their classes. AU is required to provide housing for only 67% of its undergraduates and none of its graduate students. This means that approximately 5000 or more American University students must find housing elsewhere, many of them in our neighborhood. Because most students are not wealthy, a significant number of them compete directly with other District residents for scarce lower-cost apartments.

Of course, we do not know what percentage of the AU residents in the new dormitory will come from housing in our neighborhood in contrast to those coming from housing further away. However, the student behavior and competition for low-cost housing issues would be the same no matter from where in the larger community this new dormitory draws its student residents. We therefore consider Wesley's providing on-campus housing for approximately 600 (12%) of these American University students who currently must live off campus to be a significant net benefit both for our neighborhood and for the larger community.

Other Amenities

We note that NLC and SVWHCA has expressed concern that the amenities offered are not "targeted to ANC3E, where the PUD is located, which is required by Subtitle X, Section 305.4 of the PUD zoning regulations." [Page 26 of Exhibit 25, the pre-hearing submission]. While it is true that most of the amenities are targeted to residents of Spring Valley, which is in ANC3D, this decision by Wesley seems appropriate given the actual location of the PUD geographically. The regulation appropriately uses the word "should" instead of "shall," and the intent of the regulations is clearly to suggest that benefits should be targeted to the neighborhoods immediately adjacent to the PUD, which in this case is ANC3D, not ANC3E.

Finally, we are appreciative of the creation of the playground for neighborhood children, a community meeting space, and the construction of much needed sidewalks.

In summary, we believe that the flexibility that Wesley is asking for is well balanced by the amenities provided to the community.

OBJECTIONABLE IMPACTS

The Size of the Building

Because some neighbors have expressed concern that the dormitory is just "too big", the ANC has tried to parse this concern into specific potential impacts on the neighborhood rather than focusing on just the size of the building alone. Certainly, the addition of a dormitory this large on the Wesley campus will have some impacts on the neighborhood, and we have striven to evaluate whether these impacts are serious enough to rise to the level of "objectionable impacts" under the Zoning Regulations that might preclude the approval of this application by the Zoning Commission. We have concluded that the traffic, parking, lights, noise, and related impacts, while serious, are likely to be successfully mitigated by the actions Wesley proposes. These include a reduction in the size of the building, adequate parking on campus, closure of the University Avenue exit to most traffic, new sidewalks, and orienting the housing units so that most of the light will shine away from University Avenue. In addition, Wesley has shown that the actual visual impact of the building on nearby neighbors will be small, despite its size.

Increase in the number of students

There will definitely be more students walking on the sidewalks on the edge of our neighborhood and occasionally likely making too much noise in some cases, but we do not believe these problems rise to the level of justifying opposition to this project and can be mitigated by enforcement of the student codes by both institutions.

Parking

ANC3D is aware that ANC3E has suggested that there is too much parking in the new dormitory. The 363 parking spaces in the new building first replace the 143 spaces that Wesley will lose by the elimination of surface parking. In the past, these spaces have been used by not only the current resident students, but non-resident students and visitors to the Seminary as well. If one were to subtract this number of spaces from the 363 spaces proposed, the remaining spaces would approximate 1 space for every three residents.

While some adjustment in the number of parking spaces might be appropriate, it is important to note that parking by students on the adjacent residential streets of Spring Valley has been a major concern over the years. The increase of students resulting from the building of the proposed dormitory could, unless accommodated by adequate parking provided on campus, exacerbate this friction between the nearby campuses and our neighborhood and could result in an objectionable impact.

In summary, while neighbors of the facility have correctly raised serious questions about the potential impacts of the new facility, we have concluded that, with the mitigation steps that Wesley has proposed, these impacts are likely to be small enough so as not to warrant denial of this application by the Zoning Commission.

LEGAL ISSUES

ANC3D's Overall Position regarding the Legal Issues

The NLC and the SVWHCA have raised some thoughtful and well-researched legal issues whose resolution is fundamental to the approval of this PUD application. In particular, they have

presented arguments that:

- The PUD does not meet the purposes and evaluation standards of Section 300.1 and Section 304.
- Wesley is seeking no relief in development standards that could not be achieved through the Campus Plan process
- Section 303.1 limits the flexibility under the PUD process to development standards and specifically prohibits using the PUD process to get flexibility for uses.
- Wesley is using the PUD process to circumvent the intent and purposes of the Zoning Regulations which is inconsistent with Section 300.2.

We urge the Zoning Commission to examine these legal concerns closely. However, ANC3D has chosen not to take a position on the cogency of these arguments because we are not experts in the zoning regulations or the interpretation of previous PUD cases. We see these matters as falling squarely within the expertise of the Zoning Commission itself and we look to the Commission to address them directly.

Neighborhood Impact Aspects of these Legal Issues

We do have a few comments with regard to the neighborhood impact aspects of this particular case if the previous PUD cases and zoning regulations were to be applied to the Wesley case in the manner that has been suggested by NLC and SVWHCA:

Changing the character of the site

One of the arguments that that has been raised is that this new dormitory should not change the character of the site. It is true that this dormitory is larger than any other building on the Wesley campus, but we believe it is also relevant that it consists of student housing—a type of building normally found on educational campuses. Anyone who buys a house next to a residential educational institution should expect to see such buildings. If this were an office building, or as one person suggested, a casino, then certainly there would be a serious concern about the changing of the characteristics of the site. However, we conclude that while the size of the dormitory should be addressed in terms of any impacts which the building's size itself imposes on the neighbors, we cannot concur with the argument that student housing which is this large changes the character of the Wesley site. In that regard, we note the further argument that this building, if built, would constitute "73 percent of Wesley's developed usable square footage on the property" [Page 12 of Exhibit 25, the pre-hearing submission], but this is because the Wesley campus is currently remarkably "under built" when compared to other educational campuses in our area, including the adjoining American University campus. If building out an educational institution's property more fully were to be considered an unacceptable change in the character of the campus, then Wesley would be penalized for having provided the community with a view of an under-built campus all these years. That would be unfair, in our view.

Compatibility with near-by buildings

Another concern that has been raised is that some of the previous PUD/campus cases, especially case # 06-11 (George Washington University) involved locations at the edge of the campus and the

proposed buildings/uses were similar to nearby buildings/uses at that location—in that case, commercial uses. It has been argued that in the Wesley case, the building is not so compatible. We do not agree with this argument. Wesley's proposed building is not commercial in nature (requiring a zoning change), but rather student housing. We also note that Wesley has chosen to place this dormitory as close as possible to other large dormitories (in this case on the adjoining American University campus), so that, as in Case # 06-11, like uses are close to each other. In addition, as in the George Washington case, these nearby properties are not all owned by the applicant. In short, we believe the Wesley application to be very similar to the approved George Washington application in its compatibility with the surrounding buildings.

Income production

Another concern raised was that this dormitory was designed to bring income for Wesley which they could then invest in their educational mission. It is no secret that many Universities derive income from their dormitories. This seems entirely appropriate. In fact, in the George Washington University case (#06-11), the university was explicit in saying they wanted to create the PUD in order to increase university income and devote the income to their educational mission. Therefore, once again, the George Washington and Wesley cases are parallel.

COLLABORATION BETWEEN WESLEY AND AMERICAN UNIVERSITY

During the approval process of their respective Campus Plans, Wesley and American University have both refrained from engaging in each other's campus plan. However, these two institutions have cooperated in the past, and if this new dormitory is built, it will of course be important for Wesley and American University to collaborate about a number of matters. These matters include security, parking enforcement, traffic, and pedestrian flow between the two campuses. We suggest that the Zoning Commission encourage this collaboration, and ANC3D will do the same.

CONCLUSION

In summary, ANC3D, having examined this case in great detail and has concluded that the flexibility and amenities offered are in balance and that there are not like to be objectionable impacts from the project that are serious enough for us to oppose this application. Subject to a resolution by the Zoning Commission of the legal issues raised by NLC and SVWHCA, ANC3D recommends the approval of this project.

Sincerely,

Tricia Duncan

Tricia Duncan, Chair

ANC3D WESLEY SEMINARY PUD/CAMPUS PLAN TESTIMONY

Greetings Chairman Hood and members of the Commission.

I do not intend to read verbatim the entire written submission filed by ANC3D today, but I ask this commission to take that submission and this oral testimony with great weight. I'm going to use my time here to highlight issues.

The biggest elephant in the room is the PUD itself and whether it is a legal pathway for Wesley to build this project– specifically, Wesley leasing property on their campus so a private company can construct and operate student housing for their students *as well as* the students of a neighboring institution. ANC3D studied this question in-depth, thanks to the thorough work of the NLC and Spring Valley Wesley Heights Association, and discussed the merits of these arguments during many public meetings including at the CLC, ANC3D regular meetings, and an ANC Special Meeting held on August 14. ANC3D was unanimous in its conclusion on this question and that is: we are not zoning experts, and we are not going to weigh in one way or another on this issue. We trust the Zoning Commission to make a legally sound judgment on this question.

If the Zoning Commission finds the PUD/Campus Plan to be an appropriate path for Wesley to proceed, then ANC3D, after a multi-year, in-depth review of this case with a lot of neighbor involvement, finds that the proposed PUD and associated Campus Plan provides an appropriate balance between the flexibility requested and the amenities provided. In addition, the building is not likely to impose impacts on the neighborhood that would be so objectionable as to merit our opposition to this project.

While it may be the opinion of some, that as far as PUDs go, that this proposal doesn't have a lot of amenities, we looked at the issue a different way, deciding that the flexibility requested by Wesley to be minor– setback relief with the adjacent campus, no density or zoning changes, and private management of student IZ housing– thus making the balance of amenities offered commensurate, in our view.

After listening to all our constituent feedback, both in public meetings and in private, we find the following amenities to be the most beneficial:

- The taking of the remaining open green space on the campus off the table as far as further development; this no-build buffer zone is important for our neighborhood;
- A major increase in on-campus housing for students,
- The sidewalks and public space improvements on University Ave;
- The very restricted use of the University Ave driveway, thereby protecting the nearby neighbors from the additional traffic;
- The guarantee of free neighborhood use of campus meeting rooms;
- A playground for neighborhood children; and
- Low campus development density.

Regarding concerns raised about the size of the building, in response to community feedback Wesley reduced the building in size and oriented the rooms in a direction that will minimize light reaching the surrounding neighbors. Wesley's decision to place the dormitory on the border with AU, directly across the property line from AU's Leonard Hall, minimizes the visual impact on neighboring properties and blends it in with similar student residential buildings.

Wesley also proposes to locate the building on top of an existing parking lot which should minimize additional storm water runoff. While I acknowledge that some impacts, such as increased foot traffic, may arise, the proposed mitigation measures and the commitment to maintaining green space should mitigate these effectively.

Neighbors for a Livable Community and the Spring Valley Wesley Heights Citizens Association are critical of the fact that ANC3D did not accept their proposed changes to the draft letter considered at our September meeting. However, ANC3D felt obligated to review these comments on their merits and not just who sent them in.

We read the comments from NLC, taken as a whole, as an effort to parse the zoning regulations and previous PUD cases to find reasons why Wesley's effort to change the status quo should not be approved—a status quo that NLC has described as a campus that is "pastoral" in nature. It is a beautiful campus that presents a park-like atmosphere to its University Avenue neighbors and there is nothing wrong with wanting that to stay the same. In fact, many residents in Spring Valley have told us they love the green space of this property.

However, zoning regulations are not about preserving the status quo. They are instead designed to manage change. Zoning regulations exist in order to allow a landowner to make reasonable improvements to his property, despite objections from neighbors, while at the same time preventing him from doing something that would harm his neighbors' properties.

As property owners it is natural to want to maintain the status quo around our properties. Afterall, we bought out property with a knowledge of how our neighbors were using their property, and it is human nature, for some, to be skeptical of change. But we live in a city; people naturally want to improve their properties, and it is not the role of the zoning regulations to block that change, but in fact, to facilitate reasonable changes within a system that protects the nearby neighbors at the same time.

So ANC3D looked at how Wesley wants to improve their property, and we asked, what harm, if any, will this do to our neighborhood. And we looked to the neighbors' comments to help us make that determination, *especially* the comments of the NLC and Spring Valley Wesley Heights Citizens Association because they have been most vocal. They summarize the objectionable impacts they foresee in Attachment B of their pre-hearing submission in this case (Exhibit 25). We urge the Zoning Commission to take a close look at those two pages of text. We had a hard time finding any actual statement of harm to the neighborhood. We read that there would be more students, that the campus would be fundamentally altered, that the FAR doubles, that the building would represent 73% of the developed space, that the penthouse could be seen from University Avenue (barely), that there was no stormwater management plan yet, (which of course, will be addressed and required under any building permit) that the increase of students meant more noise and traffic and safety issues (but without addressing the mitigating steps Wesley proposes).

Of course, with more students on campus, the neighborhood will notice them. But after examining all the potential objectionable impacts that this proposed PUD would have, we had to conclude, to be fair, that none of these impacts is serious enough to rise to the level of being "objectionable" under the zoning regulations that should prevent this project from being undertaken.

In short, while one can make lots of technical and legal arguments for why Wesley's application doesn't fit nicely within one's reading of the regulations or previous cases, if we take the purpose of the zoning regulations to heart—that is to allow property owners to improve their properties just so they do not adversely impact their neighbors– this proposal by Wesley should be allowed to go forward.

ANC3D also recognizes some differences with ANC3E. They have expressed concerns about the number of parking spaces, but 3D didn't specifically weigh in one way or another on total number of parking spaces. We would like to point out that the existing lot has over 100 spaces and the parking lot is often quite full, but we wouldn't object if the parking were to be reduced somewhat, but not so much as to drive the students to park on neighborhood streets. Fewer cars, means less traffic.

ANC3E also has expressed concern over the IZ implementation. ANC3D did not receive much feedback from constituents about the IZ housing except to express that this building is most appropriate for students only instead of being open to a wider scope of possible IZ applicants.

This concludes my oral testimony and I will be happy to respond to any questions you may have about our review of these applications.

Tricia Duncan, Chairman
Advisory Neighborhood Commission 3D
Commissioner ANC3D02
5109 Klingle St NW, Washington, DC 20016
202-288-5498; 3D02@anc.dc.gov

September 27, 2023

Zoning Commission
441 4th Street NW
Washington, DC 20001

RE: Supplemental Submission for Wesley Seminary cases # 23-08 and #23-08(1)

Dear Chairman Hood and Members of the Commission:

I have reviewed the supplemental submissions to the record in these cases from the Applicant, the Office of Planning, and ANC3E and wish to provide the following supplement comments:

It is clear that Inclusionary Zoning (IZ) has become a major issue in these cases. While ANC3D did not enunciate a detailed position on this aspect of the case, we did hear from constituents that this building is most appropriate for students only instead of being open to a wider scope of possible IZ applicants. This desire on the part of the neighbors is exactly what Wesley is proposing. As a neighborhood whose history includes restrictive covenants, it seems only appropriate that we endorse ways to increase the diversity of the neighborhood, especially racially and economically, and the Wesley proposal provides such an opportunity.

Our colleagues in ANC3E have suggested that the Zoning Commission reject Wesley's proposal and instead develop regulations that would deal with exceptions to the citywide IZ rules. I believe that the recent submissions from the Applicant and the Office of Planning show that ANC3E's approach may not be either necessary or the best course of action for the following reasons:

- As the Applicant points out, DHCD already has regulations that deal specifically with special cases such as Wesley's situation. The regulations allow DHCD to work out the specific aspects of such special cases on a case-by-case basis. Because each such special case would be different, this seems to be an appropriate approach rather than trying to lay out, in a complex regulation more detailed specifications to meet each special case ahead of time.
- If further rulemaking were warranted, it would seem that such rulemaking should take place at DHCD, and not before the Zoning Commission, since DHCD has the specialized experience and expertise in this area.
- The Office of Planning's supplemental submission clearly demonstrates that DHCD is prepared to be quite specific in their arrangement with Wesley regarding the structure and implementation of the program. In short, it seems that DHCD has this matter well under control, and that Wesley is quite willing to accept their oversight.
- Any rulemaking by the Zoning Commission would be unlikely to provide relief for Wesley on a timely basis. However well intended, other's desire for IZ rulemaking effectively amounts to a recommendation to kill the Wesley project. Any rulemaking on such a popular topic as IZ could take 1 or 2 years to complete, and then Wesley would have to seek approval under these new

regulations, which could take additional year or more. To be frank, Wesley would likely no longer be around to seek such relief by the time such a new regulatory framework became available. Hence, further rulemaking by the Zoning Commission, even if deemed necessary, cannot be considered a helpful response to Wesley's application in the present case and is just a roundabout way of saying "no".

Like probably all of our neighbors, we prefer the status quo at Wesley. Why wouldn't we? Wesley's campus is a beautiful green space, almost like a park that we have enjoyed for years. However, when Wesley came forward with its proposal to build this dormitory, ANC3D had to make a decision. Either we could look hard to find as many legal and regulatory reasons as possible to try to stop this proposal or we could instead thoroughly evaluate whether Wesley's proposal would have objectionable impacts on the neighborhood. In other words, would the neighborhood suffer if Wesley were to proceed to build this dormitory? We choose to conduct the impact examination not only because that is what we are best equipped to do as a neighborhood Commission, but also because we felt that this was the right thing to do out of respect for an institution like Wesley which has been a good neighbor to us for the past 60 years.

Therefore, we listened carefully to all of the neighbors and examined all of their concerns, and although we concluded that there would be some impacts, primarily from having more students walking up and down the nearby public sidewalks, we concluded that these impacts were not serious enough for us to oppose this application. Consequently, if the Zoning Commission concludes that it can legally approve this application under the zoning regulations, then we believe the Commission should do so. Initiating IZ rulemaking is not, we believe, the right answer.

While these supplemental comments are required to be summited at a time that occurs between ANC3D monthly meetings and therefore have not been put to a vote of the full Commission, I intend to submit them for endorsement by the full ANC3D Commission at our next monthly meeting on October 4, 2023.

Sincerely yours,

Tricia Duncan

Tricia Duncan
Commissioner SMD 3D02

Commissioner Tricia Duncan (AND 3D02)
and
Commissioner Chuck Elkins (ANC 3D01)
Advisory Neighborhood Commission 3D

November 29, 2023

Zoning Commission
441 4th Street NW
Washington, DC 20001

RE: American University filing re Case 23-08 (Wesley Theological Seminary PUD)

Chairman Hood and Members of the Zoning Commission:

We commend American University for its straight-forward answer submitted by Wesley Seminary in this case. We note with interest that the University has not considered the Wesley proposed dormitory to be of such serious concern to the University that it has undertaken an assessment of the impact of the dormitory on the University's campus and community. We believe this provides the Zoning Commission helpful insight into the University's thinking about the seriousness of any potential impact on the University's own campus plan.

In addition, we can envision a future in which the Zoning Commission could allow American University to count the beds in this new Wesley dormitory that are occupied by AU undergraduates to count toward fulfillment of AU's 67% undergraduate housing requirement under AU's own campus plan. AU has indicated that this 67% requirement currently limits the number of undergraduates that American can admit each year, leading to a significant loss of potential revenue. ANC3D is on record as wanting to see more AU undergraduates living "on campus" rather than in the neighborhood. We can therefore foresee our full ANC Commission supporting the concept that students who live only a few feet away from the AU campus boundary should be allowed to count as living on the AU campus thereby helping the University meet its 67% requirement. This would provide the University considerable flexibility (but within its overall enrollment cap), which it does not have now, to admit undergraduate students who want to attend AU, without the constant fear that it will inadvertently overrun its capacity to house 67% of these undergraduates on campus.

The Zoning Commission now has information on the record from the two institutions, American University and ANC3D, which would potentially be most adversely impacted by the Wesley development. In the case of ANC3D, as you know, we focused especially on identifying any potential adverse impact of this development on the nearby neighborhood. We concluded in our September 6, 2023 letter to the Commission that this project "is not likely to impose impacts on the neighborhood, after the proposed mitigation measures are undertaken, that would be so objectionable as to merit our

opposition to this project." Given the size of this project, this is a noteworthy conclusion, and we now see that the University is not taking a position of opposition to the project. We would suggest that this is likely a rare occurrence for the Zoning Commission where an immediately adjacent institution and the most impacted ANC, confronted by a project this size, do not raise objections to a project. In our view, the Commission should seriously consider this fact as it contemplates next steps.

We note the suggestion in one of the recent submissions to the docket that perhaps the Zoning Commission, and by implication, the neighborhood, could have become tired of working on the Wesley proposal. This is not a good reason to deny Wesley's application instead of granting Wesley a continuance until the end of January as requested so that Wesley can consider additional legal alternatives. Having put in many hours of work on this project, ANC3D is nevertheless not tired of trying to help our neighbor, Wesley Seminary, find a way in which they can continue to "thrive in place." We therefore bring to your attention our reaction to American University's statement contained in Wesley's latest submission and our support for Wesley's desire to build this dormitory and urge the Commission to grant the requested continuance.

Sincerely yours,

Tricia Duncan, Chair

Chuck Elkins

Advisory Neighborhood Commission 3D
Government of the District of Columbia

December 6, 2023

Zoning Commission
441 4th Street NW
Washigton, DC 20001

Dear Chairman Hood and Members of the Commission:

At its duly-advertised monthly meeting ANC3D reviewed the letter signed by ANC3D Commissioners Duncan and Elkins in their letter to you of November 29, 2023 (Exhibit 70). The full ANC3D voted 6-0-1 to fully endorse the points made in Commissioners Duncan and Elkins' letter and asks that the views expressed in that letter be given great weight by the Zoning Commission.

In addition, because their letter was written quickly in order to have it available to the Zoning Commission for its November 30th meeting on the subject, these Commissioners and certainly the full Commission did not have the opportunity to consider the Wesley's submission of American University's statement in depth. For this reason, we would now add the following comments:

While it would, of course, be desirable, to have a joint proposal for this dormitory from both American University and Wesley Seminary, as was expressed by some of the Zoning Commission members, we nevertheless urge the Zoning Commission not to make the non-existence of such a joint proposal an impediment to approval of the Wesley proposal. American University has many matters it is confronting at this time and the fact that the University has not come forward to co-sponsor the project, in our view, should not be held against Wesley's proposal. American University is fully aware of the campus plan process and could ask the Zoning Commission to be heard on this matter if it wished.

We believe that one of the interests on the part of Zoning Commission members to have American University actively engaged was to help answer certain questions about the proposal, such as whether or not the need for off-campus housing of American University students is sufficient to support the building of this dormitory. However, there are other sources of some of this information. For example, American University has a total enrollment this fall of 11,106 students. AU has enough beds on campus for only 4682 of these 11,106 enrollees.[1] The rest of the students—approximately 6400 students must find housing off-campus. Exactly which of these 6400 off-campus students would choose to live on the Wesley campus right across the property line from the AU campus instead of elsewhere in the community, we cannot say. However, Wesley/Landmark would only have to recruit approximately 1 out every 13 of these 6400 off-campus students to fill the AU portion of the proposed dormitory. This recruitment goal does not appear to be especially difficult. In short, while we are not experts in rental housing, we believe Landmark's assertion that they have studied the market and believe this dormitory will be successful seems credible.

[1] American University's report to the CLC on November 28, 2023

For our part, we would welcome having 500 of American's students living "on campus" rather than in housing elsewhere in the District, including in our neighborhood, so as to free up rental housing for other District residents--housing which is in short supply.

Finally, there has been concern expressed about the need for these two institutions to work cooperatively with each other, should this dormitory be built, in such areas as easy access between the two campuses, security, and off-campus parking enforcement. While such cooperation will of course be needed, we have no doubt that if the dormitory is built and 500 of American University's students are living on the Wesley campus, the students will demand, and the university will respond affirmatively, to work with Wesley to ensure the welfare of these students. While this collaboration can await the actual building of the dormitory, the Zoning Commission could usefully provide encouragement to both institutions to begin working together on these matters as soon as the dormitory is approved.

Thank you for opportunity to address the submission of the American University statement and its implications for the Wesley application. We hope that the Zoning Commission finds these views helpful.

Sincerely yours,

Tricia Duncan

Tricia Duncan, Chair

[1] American University's report to the CLC on November 28, 2023

Advisory Neighborhood Commission 3D
Government of the District of Columbia

May 1, 2024

District of Columbia Zoning Commission
441 4th Street NW
Washington, DC 20001

Re: Wesley Seminary Cases #23-08 and 23-08(1)

Dear Chairman Hood and Members of the Commission:

At our monthly meeting on May 1, 2024, Wesley Seminary presented its proposed text amendment together with its recent submission to the Zoning Commission.

We have written many times on the subject of the Wesley proposal to build a dormitory to house both its own students and those of American University. We will therefore simply summarize our views on this matter below:

1. Status Quo: Together with probably all of the other parties to this case and the neighbors of Wesley, we like the campus as it is now and would like it to stay as it is. In particular, residents benefit from the vast green space the Wesley campus provides. However, Wesley has informed us that this is not financially possible and that the only reasonable approach to their continuing to stay on this campus is to build this dormitory. We do not have a basis to doubt Wesley's statement of its financial condition.

2. Impacts on the Neighborhood: We have looked closely at the likely impacts on the neighborhood. There will be some. In particular, there will be more students on our neighborhood's sidewalks. However, this building seems least impactful visually from the surrounding neighborhood and is strategically located right next to two tall AU buildings. Overall, we did not find the likely impacts so objectionable as to warrant our opposition to this dormitory.
3. Vehicular exit from the Campus: We continue to support Wesley's proposal to have vehicles exit the campus onto Massachusetts Avenue rather than University Avenue because keeping cars on major vehicle arteries makes good traffic engineering sense. We realize that currently that will mean that vehicles wishing to head toward Maryland will need to go around Ward Circle, but the number of vehicles involved should not be so large as to interfere with existing traffic on Ward Circle. In addition, Wesley has committed to working with the District Department of Transportation in seeking the possibility of allowing left hand turns from that exist, at least during non-rush hour times.

4. The Text Amendment: The applicability of the proposed text amendment is unambiguously limited to the Wesley property. Wesley could have written it so that it appeared to be District-wide by, for example, having the amendment applicable only to two institutions which have

immediately adjoining campuses. We know of no other educational institution that would qualify under these criteria. We find the text amendment satisfactory for proceeding to proposed rulemaking for public comment.

5. Inclusionary Zoning: We appreciate the initiative of ANC3E in suggesting that Wesley provide financial support for affordable housing elsewhere in Ward 3. We actually find this a much more satisfactory response to the need for affordable housing in Ward 3 than Wesley's original proposal. While Wesley has not yet settled on a particular option, the Seminary has provided several viable options, all of which appear to us to be desirable outcomes. We would expect that Wesley will have reached a final decision on a satisfactory option by the time the rulemaking on the text amendments would be coming to a close.

For all of the above reasons, ANC3D continues to support Zoning Commission approval of this project.

We do have reservations regarding a recent proposal by some to require Wesley to build a fence along its property near University Avenue. Such a fence would exclude neighbors from the beautiful grounds which represent the largest area of green space in the neighborhood. We believe most students leaving the campus via University Avenue would be headed immediately toward nearby Massachusetts Avenue and not into the neighborhood, thereby limiting almost all of the impact to this main artery which will be affected, as we have noted in previous letters, no matter which exit from the campus is used by students walking out of the campus.

Sincerely,

Tricia Duncan

Tricia Duncan
Chairman