

Statement of Thomas M. Smith (As Revised)
Former Chair, Advisory Neighborhood Commission 3D
Zoning Commission Case No. 24-09:
Wesley Theological Seminary Text Amendments
November 18, 2024

Chairman Hood and Members of the Commission: My name is Thomas Smith. I served 10 years on ANC 3D – six as Chair – representing Wesley Seminary and Wesley’s neighbors. In that capacity, I worked successfully from 2010-2012 to bridge disagreements between neighbors and Wesley on construction of what is known as the New Residence Hall along University Avenue. Wesley claimed that this new student housing would secure Wesley’s future at the site.

Wesley first announced its intent to partner with a student housing developer in 2016 during my ANC tenure. In what should sound familiar, Wesley said at the time that housing AU students at the Seminary would secure its future. Although I no longer reside in Spring Valley, I have been volunteering to advise neighbors based on my 40 years of political and community activism in the city.

At her request, I also advised ANC Commissioner Elizabeth Pemmerl, one of my successors, in this case. Commissioner Pemmerl was designated as the lead ANC 3D Commissioner for the case. ANC 3D testified before this Commission in 2022 offering “qualified support” for the Landmark project. In its report to the Commission, ANC 3D called on Wesley to mitigate objectionable impacts on the neighbors, including “reduce the size of the dormitory and reduce the number of beds.” ANC 3D also called on the Commission to “take a wider view” and consider the neighborhood impacts of the Landmark building and two additional dormitories approved as part of the 2021 -2031 American University Campus Plan “in their totality.” (*Z.C. Case No. 22-13, Exhibit 22*). For the Commission’s reference, the ANC 3D letter is attached.

Neighbors' concerns expressed in this case about commercial encroachment are not theoretical. During my ANC tenure, in 2011, AU's proposed Campus Plan proposed the development of a commercial business zone on its East Campus adjacent to Wesley Heights and Westover Place. After strong opposition, AU withdrew the proposal; but that experience prompted ANC 3D and neighborhood associations to advocate for tighter limits on commercial uses on a college campus as part of the 2016 Zoning Regulation Rewrite. The 2016 regulations were carefully crafted to protect the neighborhood from commercial uses on college campuses, like the proposed new Landmark building.

As this text amendment process has evolved in recent months, I have thought about how I might consider this application if I was still the neighbors' ANC representative. The Campus Plan rules, the IZ rules, the PUD rules – none of them have worked for Wesley in this matter. ANC 3D Commissioners now involved in this project have told neighbors that zoning falls outside ANC 3D's lane. ANC 3D cannot submit an informed recommendation to this Commission if it does not appreciate the extraordinary relief that is being sought by virtue of filing a text amendment application. It is unclear whose views are being represented by ANC 3D – whether it's the residents' views or just the preferences of individual Commissioners – none of whom are directly impacted by Wesley as a consequence of the last round of ANC redistricting.

The relief being sought by Wesley through the text amendments is extraordinary. In the absence of any evidence in the record to justify the relief being sought, what is it that makes Wesley so special that this issue is still before the Commission after nearly three years of hearings and deliberations? Is it because Wesley is a seminary with a religious affiliation? The public has the right to expect that a Campus Plan zoning application is reviewed without religious bias. Is it Wesley's threat to leave the property – one that it has made on previous

occasions over the last 20 years? The Zoning Commission should not engage in spot zoning simply to enable an educational institution to monetize the value of its property when its scheme is so blatantly contrary to the city's rules.

Is it fear that the neighborhood would lose green space if the property is purchased for new housing development? But, isn't more housing in Ward 3, including affordable housing, a District policy priority? This case should be reviewed within the context of the zoning regulations, not speculation on how the property might be used in the future.

The text amendments are not being offered to correct an inequity or error in the zoning regulations. They are being proposed to undo what neighbors fought for: to limit the scope of commercial activity on residentially zoned land available for university education use. They are being proposed to secure more cash for Wesley and to help a national student housing developer gain a foothold in the Washington, D.C. market. Contrary to OP's reasoning, everything you do is a precedent. If you can't approve this project under the Campus Plan rules, the PUD rules, the IZ rules – with all the zoning mechanisms for seeking relief in place – then you should be wary of spot zoning text amendments and the unintended consequences you cannot even begin to anticipate that neighbors – long after you have moved on – will have to deal with months or years into the future. Thank you.

ATTACHMENT

Advisory Neighborhood Commission 3D

Government of the District of Columbia



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,

A handwritten signature in blue ink, appearing to read 'Benjamin Bergmann', with a stylized flourish at the end.

Benjamin Bergmann, Chairman