

NEIGHBORS FOR A LIVABLE COMMUNITY

Washington, D.C.

Oral Testimony Of Blaine Carter
On Behalf Of Neighbors For A Livable Community
Zoning Commission Case No. 24-09:
Wesley Theological Seminary Text Amendments
November 18, 2024

My name is Blaine Carter. I am a Spring Valley resident; serve as a Board member of Neighbors for a Livable Community (NLC); and work in the commercial real estate industry. NLC opposes the text amendments that are the subject of this case. Wesley says the relief provided by these text amendments is needed because the Landmark project is “unique.” There is nothing “unique” about a project that is such a serious breach of the zoning regulations, including the Subtitle B use definitions – one of several zoning issues not addressed by the text amendments.

The Commission is being asked to change the zoning rules so Wesley’s land can be used for Landmark’s commercial speculation. Landmark is seeking to exploit the zoning process to operate a profit-making business not permitted on a college campus.

The Landmark property is a commercial activity not permitted under the Campus Plan rules. In July, 2022, then Zoning Commissioner Peter May said it best: **“It would be a commercial operation within the campus. This action would clearly set a precedent for that.”** (Transcript, July 14, 2022) Pages 22-23). During deliberations in October 2022, he added: **“It’s a sort of work around – and end around – to get around the regulations and limitations within the Zoning Regulations when it comes to campus plans. But, it’s also a way around the zoning regulations that would normally apply for an apartment building of that size.”** (Transcript, October 13, 2022)

The new Landmark operation will constitute 72 percent of the developed space on the Wesley campus. Wesley students play a *de minimis* role in this building. This building may enhance Wesley's revenue; but it is a bonanza for Landmark. Housing AU students is not part of Wesley's mission. As Commissioner May said, Wesley's sole objective in housing AU students is "to provide income." Contrary to assertions made by Wesley, the Landmark development does not comply with the educational uses permitted under *Subtitle B* use definitions because AU's students are not enrolled at Wesley.

OP's report last week said the purpose of the Campus Plan text amendment is to clarify that the Landmark project is not a commercial use. This contradicts OP's own Setdown Report which said: **"Wesley has conceded that the ground lease to a private developer to construct and operate the dormitory which would include non-Wesley students is considered a commercial use and would not meet the requirements of Subtitle X, Section 101.3(b)."** We would add it also would not comply with *Subtitle X, Section 101.4*, which states clearly: **"The campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the education mission of the applicant."**

A commercial activity is a commercial activity – no language can change that fact. You can call a horse a cow, but you're in for a surprise when you try to milk it. If the Landmark project is not a commercial activity, the proposed text amendment is unnecessary. The Commission could have made that determination two years ago in *Z.C. Case No. 22-13*. Commissioner May's comments are illustrative of why the Commission did not make that determination.

Landmark is seeking to leverage the District's Campus Plan rules – with Wesley's help – to compete directly with AU's student housing program. A recent filing by AU states clearly that AU is

not partnering with Wesley or Landmark and that it is focused on its own housing program, including changing its housing policies to require students to live on campus for two years.

The 2016 Campus Plan regulations were crafted very carefully and skillfully – with extensive legal analysis and community input. If the Commission is determined to change its rules, you should be expected to assess whether all colleges and universities in the District of Columbia need more flexible use of their land to allow commercial uses not permitted in the 2016 Zoning Regulations.

The Wesley and OP alternative text amendments have turned this hearing process upside down. Wesley's initial text amendment would exempt Landmark from providing any IZ. This is unacceptable. But, the public has had no time to examine or assess the alternatives. The Zoning Regulations include timelines for public notice and review for a reason. Throwing alternative text amendments into the pot at the 11th hour does not make for a transparent or fair process.

Zoning regulations should be predictable. Spot zoning, like that proposed by these text amendments, is anything but predictable. Approval of these regulations will undermine both the Campus Plan and IZ rules and serve as a precedent in any case in which an applicant offers vague assertions of a financial need to justify such significant changes in the rules.

NLC calls on the Commission to reject these text amendments.