



401 9th Street, NW

North Lobby, Suite 500

Washington, DC 20004

Tel 202.482.7200

www.ncpc.gov

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United States Senate
The Honorable Rand Paul

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Committee on Oversight and
Accountability
U.S. House of Representatives
The Honorable James Comer

Mayor
District of Columbia
The Honorable Muriel Bowser

Chairman
Council of the District of Columbia
The Honorable Phil Mendelson

Executive Director
Marcel Acosta

IN REPLY REFER TO:
NCPC File No. ZC 24-09

February 7, 2025

Zoning Commission of the District of Columbia
2nd Floor
Suite 210
441 4th Street, NW
Washington, DC 20001

Members of the Zoning Commission:

Pursuant to delegations of authority adopted by the Commission, I found that the proposed Text Amendment for the United Methodist Church Wesley Theological Seminary located at 4500 Massachusetts Avenue, NW, Washington, DC is not inconsistent with the *Comprehensive Plan for the National Capital* and would not adversely impact any other identified federal interests. A copy of the Delegated Action of the Executive Director is enclosed and available online at www.ncpc.gov/review/archive/2025/2/ as part of the February 2025 meeting materials.

Sincerely,

Marcel Acosta
Executive Director

Enclosures

cc: Anita Cozart, Director, DC Office of Planning



Delegated Action of the Executive Director

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| PROJECT Text Amendment for the United Methodist Church Wesley Theological Seminary 4500 Massachusetts Avenue, NW Washington, DC | NCPC FILE NUMBER ZC 24-09 NCPC MAP FILE NUMBER 74.30(06.00)45964 DETERMINATION Approve comments to the Zoning Commission of the District of Columbia REVIEW AUTHORITY Advisory per 40 U.S.C. § 8724(a) and DC Code § 2-1006(a) |
| REFERRED BY Zoning Commission of the District of Columbia | |

The Zoning Commission of the District of Columbia has referred proposed text amendments to Subtitle C, Section 1006 and Subtitle X, Section 101 of the Zoning Regulation for review and comment by NCPC. The proposed text amendments are intended to enable the Wesley Theological Seminary to enter into a ground lease agreement with a commercial developer to construct new student housing on its campus. The proposed text amendments are limited to the Wesley campus, and to be implemented, the housing will have to be approved by the Zoning Commission through further processing of the campus plan.

The area covered by the proposed text amendment is the Seminary's campus located north and west of the intersection of Massachusetts and Nebraska Avenues at Wesley Circle. The 8.77-acre site is bounded by Massachusetts Avenue on the northeast, American University's main campus to the southeast and southwest, and University Avenue on the northwest. Subtitle C § 1001.6(c) (Inclusionary Zoning or IZ) exempts housing within the campus from the IZ Regulations. Wesley proposes to continue the exemption, while also housing students from American University. Wesley states that the amendment is necessary to permit the dormitory which would allow Wesley to meet its mission and obligation of providing theological education and serving District residents. Other amendments proposed for Subtitle X would clarify that the use of the dormitory by both Wesley and AU students, faculty and staff is not considered a commercial use.

The proposed text amendments apply narrowly to the Wesley campus. The text amendments would not apply to any federal property. The closest federal property is the Nebraska Avenue Complex, which is administered by the General Services Administration and formerly occupied by the Department of Homeland Security. This property is approximately a quarter of a mile away, and the development of the Wesley campus with housing would not impact the Complex. Ward Circle Park, administered by the National Park Service (NPS), is also a quarter of a mile away. It also would not be impacted. No other federal interests have been identified with the potential for impacts. The project is located outside the L'Enfant Plan Boundary, and any future development would comply with Height Act.

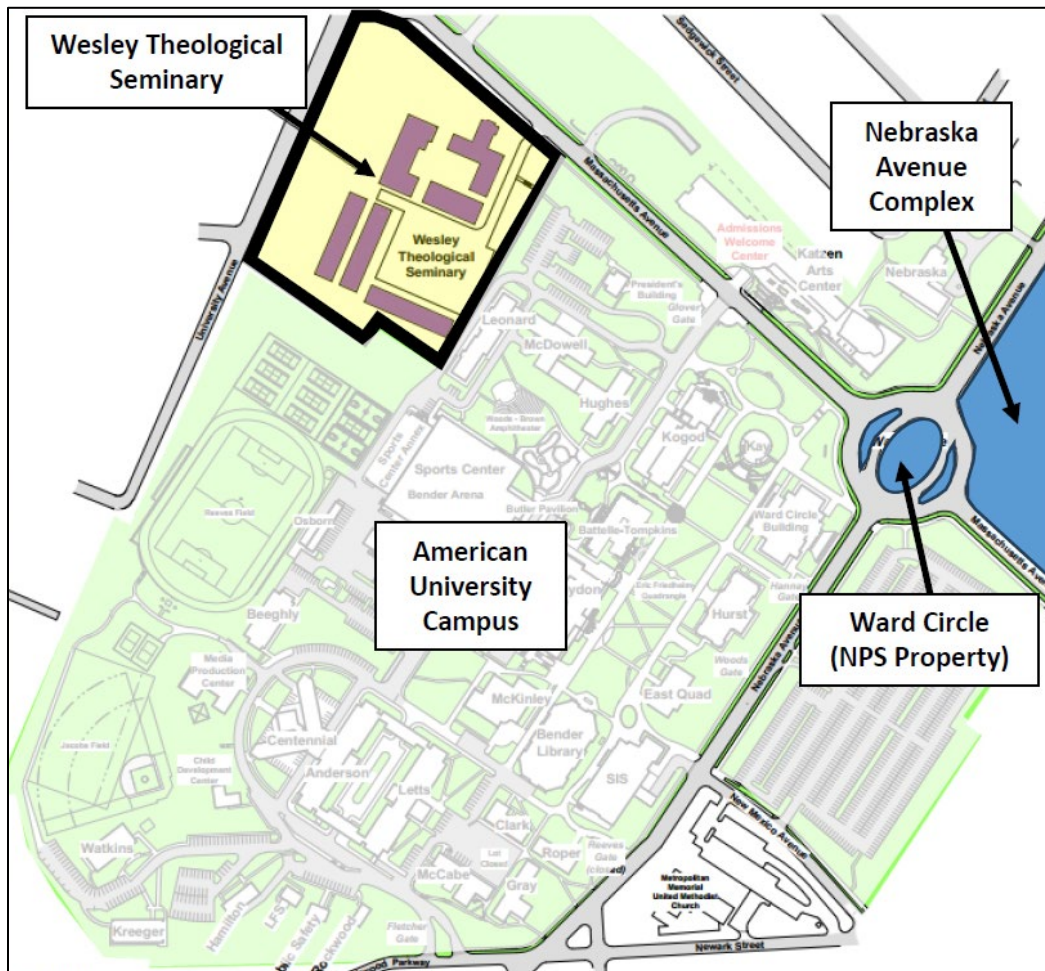


Figure 1: Boundary map of Wesley Campus

Two local community groups – Neighbors for a Livable Community and Spring Valley – Wesley Heights Citizens Association – submitted joint comments to NCPC regarding the proposed text amendment. In particular, the comments relate to potential adverse impacts based on inadequate coordination and public engagement; stormwater management; and potentially-affected nearby federal property. NCPC reviewed the comments and determined they do not constitute impacts to the federal interest, as described below.

- *Federal Elements of the Comprehensive Plan:* Comments suggested the Zoning Commission should have considered the Federal Elements as part of their deliberations. It is the role of NCPC, as the federal planning agency, to evaluate consistency with the Federal Elements of the Comprehensive Plan. Those findings are transmitted to the Zoning Commission through this report.
- *Stormwater Management:* Comments suggested that potential stormwater impacts from future development constitute a federal interest. Any future development is required to comply with the District's stormwater management regulations. These type of specific issues

are addressed during the site and building design stage, with review by District agencies for projects on private property.

- *Nebraska Avenue Complex (NAC)*: Comments suggested the proposed Wesley Campus development could impact the value of the NAC, which is located over a quarter of a mile away. Upon review, staff determined that the kind of proposed residential development, at some distance from federal property, is unlikely to have impacts on the NAC or NPS land. New residential development is common across the District in proximity to federal properties without adverse impacts.
- *Impacts to American University*: Comments suggested potential impacts to American University. NCPC does not have any jurisdiction over American University. Rather, the District of Columbia oversees all future University development and campus plan updates.
- *District of Columbia Zoning Commission Public Engagement*: Comments expressed concerns about the Zoning Commission's public engagement process. Local land use development is administered by the District of Columbia. NCPC does not have jurisdiction over the Zoning Commission process. As a reminder, NCPC has an advisory role in the review of text and map amendments.

In summary, campus development is addressed through the District's planning and zoning process. While staff appreciates the submitted comments, none were identified as federal interests. Therefore, staff finds the proposed text amendments do not appear to be inconsistent with the policies set forth in the Federal Elements of the *Comprehensive Plan for the National Capital* nor would they impact any other identified federal interest.

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Pursuant to delegations of authority adopted by the Commission on April 1, 2021, and per 40 U.S.C. § 8724(a) and DC Code § 2-1006(a), I find the proposed Text Amendments to Subtitle C, Section 1006 and Subtitle X, Section 101, would not be inconsistent with the policies set forth in the federal elements of the *Comprehensive Plan for the National Capital* nor would it adversely impact any other identified federal interest.



Marcel Acosta
Executive Director

1-30-2025

Date

NEIGHBORS FOR A LIVABLE COMMUNITY

Washington, D.C.

Spring Valley – Wesley Heights Citizens Association WASHINGTON, D.C.

January 24, 2025

Ms. Teri Hawks Goodmann, Chair
National Capital Planning Commission
401 9th Street NW, Suite 500 N
Washington, D.C. 20004

Re: NCPC File No. ZC 24-09: Text Amendment for the Wesley Theological Seminary of the United Methodist Church

Dear Members of the Commission:

Neighbors for a Livable Community (NLC) and the Spring Valley – Wesley Heights Citizens Association (SVWHCA) respectfully file these comments jointly in the above-referenced text amendment case before the National Capital Planning Commission (NCPC) in lieu of testifying. It has been noted that the above cited case is currently listed under “Exceptions.” Given the information provided herewith, it is requested that the NCPC move NCPC File No. ZC 24-09 to Delegated Items where it will receive more thorough attention.

The proposed text amendments to *Subtitle C, Section 1006* and *Subtitle X, Section 101* of the District of Columbia Zoning regulations that are the subject of this case provide unparalleled regulatory relief in the Wesley Campus Plan case (*Z.C. Case No. 23-08(1)*). The effect of the text amendments is to establish precedent for commercializing the use of land now designated for educational use.

The National Capital Planning Act authorizes NCPC to review and make recommendations to the D.C. Zoning Commission (ZC) in text and map amendment cases. NLC and SVWHCA recognize the advisory role played by NCPC in this process. On the surface, this case may seem to have limited federal interests. Although NCPC would not ordinarily have purview in a Campus Plan zoning case, this text amendment case is unique because it is intended to facilitate approval of Wesley Theological Seminary’s 2022-2032 Campus Plan application. (Background information on the case can be found in Appendix A.)

NLC and SVWHCA believe this case is of interest to NCPC for the following reasons:

1. Although text amendments are required to be consistent with the Comprehensive Plan, the action taken by the D.C. Zoning Commission (ZC) did not include a review of the

- Comprehensive Plan, including the potential impact of the text amendments on Federal Elements of the Comprehensive Plan;
2. The proposed text amendments are not consistent with the Federal Elements, particularly the Federal Environment Element due to stormwater-related issues;
 3. The proposed text amendments could undermine the value of the federally owned Nebraska Avenue Complex (NAC), the former headquarters of the U.S. Department of Homeland Security, located just 3,000 feet from the Wesley site; the General Services Administration (GSA) is now seeking to sell the NAC;
 4. The *tortious interference* that will result from the proposed text amendments will cause economic harm to AU, which is among the few congressionally chartered universities in the U.S. and which is not a party to the text amendment case and not cooperating with Wesley's attempt to interfere with AU's on-campus student housing program;
 5. The limited public engagement in Z.C. 24-09 engineered by the D.C. Zoning Commission does not meet the federal government's interest in the "appropriate and orderly development" of the region.

Our objective is not to rehash the arguments that our groups have raised before the D.C. Zoning Commission; but rather to point out that the action taken in this case by the D.C. Zoning Commission is of federal interest because it undermines the Comprehensive Plan and the District's zoning processes. The process used by Wesley in this case to amend the Zoning Regulations, which were deliberately changed in 2016 to protect communities from commercialization of university campuses will establish a zoning precedent and become an option open to all institutions in the District of Columbia. Because the regulatory relief provided through the proposed rulemaking is stunning in its breadth, this precedent will have a longer-term effect on federal interests. This is the proverbial camel's nose under the tent which has often resulted in unintended consequences.

1. The D.C. Zoning Commission deliberations in Z.C. Case No. 24-09 did not include an assessment of the Comprehensive Plan.

The record of the D.C. Zoning Commission deliberations in this case on December 19, 2024, demonstrate clearly that the ZC did not even reference the Comprehensive Plan in its review of the text amendments, including their potential impact on federal interests. Consistency with the Comprehensive Plan was a major issue in the case, as the case record documents. Specifically, the proposed text amendments are inconsistent with the Land Use (LU) and Educational Facilities (EDU) Elements of the Comprehensive Plan. NLC and SVWHCA also have raised concerns about environmental issues addressed in the Comprehensive Plan.

The D.C. Zoning Regulations set two criteria for the ZC to consider when evaluating text amendments: (1) consistency with the Comprehensive Plan; and (2) Consistency with existing District policies.

The failure of the Commission to consider issues tied to the Comprehensive Plan, including Federal elements, is an issue that should be of concern to NCPC, considering a member of the National Park Service is on the Zoning Commission to oversee and protest federal interests.

2. The proposed text amendments are not consistent with the Federal Environment Element of the Comprehensive Plan.

A major issue in this case raised consistently by NLC and SVWHCA is the impact of stormwater management. The federally owned NAC along with the neighboring institutions, like AU and Wesley, contribute to severe water run-off in the area with significant impacts on neighboring homes and the overall quality of the region's water systems. The proposed commercialization of the Wesley Campus made possible by the text amendments approved by the ZC will further aggravate stormwater management issues. *Section C* of the Federal Environment Element indicates that the federal and local governments share responsibility for the region's environment, especially policies related to water resources. *Section C* states:

“The federal government, along with state and local authorities, has a responsibility to help ensure that the region’s water supply is protected from contamination, and that the future water supply is adequate for federal facility operations, private sector activities, and general public consumption.”

Prior to taking action on the proposed text amendments, the ZC should have assessed the impact of its action on the environmental issues that have been raised in this case, as reflected in the Comprehensive Plan, including the Federal Environment Element. Wesley has failed to provide a stormwater management plan as part of this case or the Campus Plan case.

3. The proposed text amendments may undermine the value of the federally owned NAC Complex now looking to be sold by the GSA.

Located only 3,000 feet from the Wesley campus, the federally owned NAC site is on the market most likely for purchase by a private developer. The commercialization of Wesley's property that is designated by the D.C. Office of Planning in the Future Land Use Map (FLUM) for educational purposes has the effect of devaluing the NAC property. If commercial developers can take advantage of the special exceptions for land use by colleges and universities, as is the case in Z.C. 24-09, there is no reason to purchase nearby land that would be subject to the more rigid rules applicable for the commercial development of private property.

4. Z.C. 24-09 will cause economic harm to AU, a congressional chartered university.

As a congressionally chartered university, AU enjoys a symbolic stamp of approval from the federal government. As **President Lyndon B. Johnson** stressed the significance of a congressional charter in 1965 when he said, ***“Federal charters should be granted on a selective basis and meet a national interest standard.”*** In fact, only five other universities in the U.S. can boast of a congressional charter. On a practical basis, a congressional charter adds value to an institution because of its official recognition by the U.S. government.

Z.C. 24-09 is a unique case because it would enable Wesley Seminary to enter into a ground lease with Landmark Properties, a commercial developer of luxury student housing. Landmark would build, own, and operate new student housing on the Wesley Campus for AU students. Although this case has been before the ZC for three years in the three different iterations – the latest being the zoning

amendment case now before the NCPC – AU has steadfastly indicated it is not a party to the project, is not cooperating with either Wesley or Landmark on the project, and plans to continue to invest in on-campus housing to meet AU students’ needs. In fact, AU has advised ANC 3E that it does not support this project.

AU has reported a decline of 500 undergraduates in the 2024-2025 academic year. The decline in enrollment and increasing deficits has resulted in financial and even programmatic cutbacks. AU can ill afford to lose revenue from student housing. Wesley is seeking to boost its treasury by targeting AU students. It may seem like a sound financial strategy for Wesley, but it is akin to a hostile raid on AU’s revenue base. In its zeal to boost Wesley financial prospects, the Zoning Commission action will impact AU’s finances causing even more potential financial strain for AU.

The Zoning Commission did not consider as part of its deliberations the impact of its action on American University.

5. The ZC did not follow its own practices in this case for public engagement in text amendment cases jeopardizing the federal government’s interest in the “appropriate and orderly development” of the region.

NLC and SVWHCA are deeply troubled by the ZC’s use of the text amendment process in this case to circumvent the zoning regulations. But, we are even more concerned about the limited opportunities for public engagement and participation in this case. The Zoning Commission appears to have diverted from its routine procures for public notification in text amendment cases.

Zoning Commission Chairman Anthony Hood noted at the November 18 public hearing that text amendments are “normally” an issue for ANCs citywide. *(Page 39, November 18, 2024 Transcript.)* ANCs city-wide were not notified of this text amendment case. This case was limited to two ANCs when the rule changes have implications for any neighborhood in proximity to a college campus – which would involve more than the two Ward 3 ANCs (ANC 3D and ANC 3E). The citywide impacts are demonstrated also through the participation of the Committee of 100 in this case.

Limiting the scope of public engagement by the ANCs on a city-wide basis in this process has limited the review of the potential impact of the amendments on federal interests.

Given these concerns, NLC and SVWHCA encourage NCPC to advise the ZC that it should conduct a more comprehensive review of the proposed text amendments that considers the federal interests in:

- An assessment by the ZC on the consistency of the text amendments with the Comprehensive Plan, including the Federal Elements with specific attention to the Federal Environment Element;
- An assessment of the impact of the text amendments on AU precisely because it is a congressionally chartered university and, consequently, its financial well-being is of national interest;
- A market review of the impact of the text amendment on the sale of the federally owned NAC; and

- An expanded notification of ANC's city-wide specifically for public comments on potential city-wide impacts, particularly on federal interests that might stem from the ZC's approval of the text amendments.

Thank you for this opportunity to submit these comments. Following is information about NLC and SVWHCA for your background.

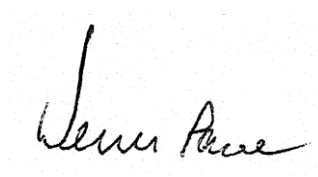
About Neighbors for a Livable Community (NLC)

Neighbors for a Livable Community (NLC), a D.C. non-profit corporation registered with the D.C. Department of Licensing and Consumer Protection (DLCP), formerly the D.C. Department of Consumer and Regulatory Affairs (DCRA), was established in 1987 by concerned neighbors of American University (AU) and Wesley Theological Seminary to protect the quiet, long-established neighborhoods surrounding the two institutions, including Spring Valley, American University Park, Fort Gaines, the Palisades, and Wesley Heights. As specified in its Articles of Incorporation, NLC is organized and operated for the promotion of social welfare, particularly (a) to promote the planning and use of the campuses of American University and Wesley Theological Seminary and other campuses within the District of Columbia to be consistent with the stability and serenity of the neighboring residences and residential communities in which they are located; and to promote and preserve the campus of the Wesley Theological Seminary in such a manner that the Seminary is able to serve its function and fulfill its educational mission in a manner which is compatible with the residential communities that surround it in recognition that the campus is located in a residentially zoned area on land that is subject to a special exception. NLC has been actively involved in zoning issues in the community, including the Wesley Theological Seminary and AU campus planning process, for decades. The organization also participated in zoning cases involving Sibley Hospital expansion.

About the Spring Valley – Wesley Heights Citizens Association (SVWHCA)

The Spring Valley-Wesley Heights Citizens Association (SVWHCA) was established as a neighborhood association in 1952 and incorporated in the District of Columbia with the Corporations Division of the DC Department of Consumer and Regulatory Affairs (DCRA). The SVWHCA represents residents of Spring Valley, including those who own properties adjacent to the borders of Wesley Theological Seminary. SVWHCA has been recognized as a party in many zoning cases impacting the Spring Valley and Wesley Heights neighborhoods, including all previous Wesley Theological Seminary and AU Campus Plan cases. The Association has continued throughout the years to be involved in a wide range of land use issues as advocates for neighborhood interests, including historic designation, campus planning, other zoning issues, and alcoholic beverage licensing.

Sincerely,



S/William F. Krebs
DC Bar No. 960534
Interim President and Counsel

Dennis Paul, President
Neighbors for A Livable Community
Dennis.paul@verizon.net

Spring Valley-Wesley Heights Citizens
Association
Counsel, Neighbors for a Livable
Community
w_krebs@msn.com

Cc:

Appendix A: Background On Z.C. Case No. 24-09

Appendix B: Impact Of Text Amendments On American University

Appendix C: Z.C. 24-09 And The D.C. Comprehensive Plan

APPENDIX A: Background On Z.C. Case No. 24-09

In proposing these text amendments, Wesley's stated objective is to "thrive in place" by creating a new revenue stream dependent on AU, a congressional chartered university in the District of Columbia. Wesley would enter into a ground lease agreement with Landmark Properties, a commercial developer of off-campus luxury student apartment buildings, for construction of new student housing on Wesley's campus for American University (AU) students. Although Landmark's housing will be located on the Wesley Campus, it is intended to target AU students who are otherwise likely to live on AU's campus.

The D.C. Zoning Commission (ZC) acknowledged the linkage between the Wesley Campus Plan zoning case and the text amendment case as part of deliberations in **Z.C. 24-09** on December 19, 2024. Wesley wants the revenue from housing AU students on its campus because its own on-campus student population has declined steadily over the last 19 years as has the demand for on-campus housing by its students. American University is not a party in the case or a willing partner in the project.

Moving forward with these text amendments that are linked directly to the AU campus and its student body without AU's active engagement and outside the scope of AU's own Campus Plan is inappropriate and constitutes undue intervention by the Zoning Commission into AU's business operations. The Zoning Commission has an opportunity to impact AU's student housing or other university functions through AU's Campus Plan zoning process. The text amendments amount to an outrageous intrusion into AU's operations and may directly affect its recently approved Campus Plan.

The D.C. Zoning Commission action in this case represents an inappropriate use of the text amendment process.

The Notice of Proposed Rulemaking (NPRM) published by the D.C. Zoning Commission on January 17 is an acknowledgement by the Commission that the student housing project proposed by Wesley as part of **Z.C. 23-08(1)** – which will be owned, leased, and operated by Landmark Properties – is a commercial enterprise not permitted under the current zoning rules. The text amendments are intended to shield Wesley from the **Subtitle X** commercial restrictions on the use of its property. It is the commercial nature of the project that triggers **Subtitle C** Inclusionary Zoning (IZ) requirements. The **Subtitle C** IZ rules would not otherwise be applicable if the proposed housing was related specifically and in its entirety to the educational mission of the applicant. The Zoning Commission is seeking to amend the **Subtitle C** rules specifically to enable Wesley to comply with an IZ requirement, but the amendment fails to establish any standards that would apply to Wesley.

As NLC and SVWHCA have stated in this matter before the Zoning Commission, it cannot be reasonably disputed that the effect of Wesley entering into a ground lease agreement with Landmark, a commercial developer, is to monetize its land and transform the allowable student housing use into a commercial activity marketed and targeted to a population with no connection to the Seminary.

As Zoning Commissioner Gwen Wright acknowledged during the December 19 ZC deliberations, IZ would not be required for student housing on the Wesley Campus if the housing was intended for the exclusive use of Wesley students, as would be customary. Those comments underscore the reality that there is nothing "traditional" about the Wesley-Landmark proposal.

What makes this project unique is that Wesley and Landmark are building student housing for American University, which is not cooperating in the project and has stated clearly that it does not need the housing for its students. Instead, Wesley and Landmark are engaged in what could be described as a “hostile taking” of the AU student housing market.

As the economics of university education evolve, universities are identifying opportunities to partner with developers on housing projects for their students. The District’s Campus Plan zoning regulations (*Subtitle X*) could be an impediment in the future to these types of partnerships for any university in the District of Columbia. As the record demonstrates, this case is a missed opportunity for the Zoning Commission to examine the Campus Plan rules in light of the new financial strains confronting all colleges and universities and the role that student housing plays in the overall finances of a university. As a rule, student housing pays for itself in short-order provided there are students to occupy the beds. Wesley does not have that critical mass and therefore must turn to the student population of another institution.

Rather than serve as a fix for a deficiency in the Campus Plan and IZ regulations applicable to all universities in the District, the proposed text amendments are, as Zoning Commission Vice Chair Robert Miller acknowledged, designed to create a “special carve out” in the zoning regulations that would “allow for this use (e.g. the Wesley-Landmark housing project) with this text amendment.” (*Page 21, December 19, 2024 Zoning Commission Transcript, Z.C. 24-09*)

In his statement of support to “move forward” with the text amendment at the December 19 deliberations, Commissioner Miller said he did not want to “speculate” whether the text amendments were necessary for Wesley to “thrive in place.” He added that the Commission did not have the economic information in the record “to make that determination.” (*Pages 20-21, December 19, 2024 Transcript*) Yet, Commissioner Miller’s rationale for moving forward was that the revenue stream to be generated by “non-Wesley residents in this facility” was necessary to support Wesley’s ability to “stay where they are” – despite already having acknowledged that the record did not support this conclusion.

The Commission action also circumvents the standards for special exception or variance relief within the existing regulations that the applicant could seek as an alternative to the proposed text amendments. Throughout this process, the Commission has never probed Wesley for a reason why the relief it seeks cannot be obtained through the existing zoning processes.

As the Commission’s December 19, 2024 deliberations indicate, the Commission’s sole focus was the impact on Wesley’s ability to secure approval of its Campus Plan – not its consistency with the Comprehensive Plan; its impact on the neighbors, American University; the overall longer-term viability of the project; or the impact such action may have in the short- and long-term on other colleges and universities located in the District and the surrounding neighborhoods.

In its NPRM and in its deliberations on December 19, 2024, the Zoning Commission failed to outline a cogent or reasoned rationale for its action to “move forward” in this case. That has resulted in new text amendment language that is significantly different from that which was the subject of the Commission’s November 18 public hearing. This language is so favorable to Wesley and Landmark as to jeopardize the interests of neighborhood property owners for a predictable and balanced set of zoning

standards to ensure the objectives of the zoning and campus plan processes are met and that the outcome is consistent with the D.C. Comprehensive Plan.

Only Commissioners Miller and Wright offered specific rationale for moving forward with the text amendments. The other two Commissioners participating in the deliberations said they either had nothing else to add or agreed with their colleagues. Nevertheless, the Zoning Commission's decision to move forward on the proposed text amendments is not grounded in the record. The Commission even took action in this case on December 19, 2024, without first reviewing the specific language of the text amendment that it approved. The Commission did not have the benefit of public comments on the language prior to it being published in the January 17 NPRM.

The Zoning Commission's approval of the text amendments will adversely impact public confidence in the integrity of the zoning process and the D.C. Comprehensive Plan.

Wesley's text amendment proposal is nothing more than an end-run around the 2016 Zoning Regulations after three years of debate about the Landmark project before the Commission – now in three separate, but nearly identical, cases. The text amendments would provide Wesley **and** Landmark a special privilege available to no other college/university in the District – and perhaps at the expense of another university. Wesley and its commercial partner, **Landmark Properties, are seeking text amendments to leverage the Campus Plan rules to divert potential housing revenue from AU to Landmark.** The Zoning Commission is being asked in this case to make an unprecedented substantive change in the zoning rules – rules that were established precisely to protect against the type of development on university-owned land that Wesley and Landmark are proposing.

The Wesley-Landmark project has been labeled by the Zoning Commission as “unique,” hard,” and “unconventional” when, in fact, it is simply and unambiguously not permitted under the Zoning Regulations of the District of Columbia. **The spot zoning made possible by the proposed text amendments is a subterfuge for the commercialization of a university campus and a corporate give away.**

The Wesley-Landmark project is a revenue enhancement measure for Wesley and a huge financial bonanza/sweetheart deal for Landmark Properties. The Zoning Commission's role is to regulate land use, not to take extraordinary measures to bolster Wesley's revenue stream, especially through a land use give away, or to create an economic windfall for a private developer, like Landmark. The Commission also should not be party to enabling potential litigation stemming from the Wesley/Landmark project's *tortious interference* with AU's business operations.

APPENDIX B: Impact of Text Amendments On American University

The proposed text amendments would undermine American University, especially its on campus housing program and its revenue base at a time of financial turmoil at AU.

The Wesley-Landmark housing project that is the subject of the text amendments in this case have been before the Zoning Commission for nearly three years. The project was first proposed in Wesley's 2022-2032 Campus Plan (***Z.C. Case No. 22-13***). The Commission did not approve the campus plan because the Wesley-Landmark housing project did not comply with the ***Subtitle X*** Campus

Plan regulations. The Zoning Commission instructed Wesley to resubmit the project as a Planned Unit Development (PUD). Wesley resubmitted its Campus Plan as a PUD (*Z.C. Case Nos. 23-08/23-08(1)*); but again the Commission did not approve the application because the Landmark building for AU students on Wesley's campus did not comply with the PUD requirements.

Over the past three years, AU consistently said that it was not cooperating with Wesley on the project and that it would house its students on its own campus. In an even more recent statement, AU acknowledged that it. In that filing, AU stressed that it “is addressing a rapidly changing enrollment environment with evolving student demographics and educational preferences that demand new approaches.” (*Exhibit 24, Z.C. Case No. 24-09*).

AU has reported a decline in student enrollment this year matching nationwide trends.

During the Zoning Commission's December 19, 2024 deliberations Commissioner Wright's rationale for moving forward with the text amendments relied on the geographic proximity of Wesley and AU. She stated it “makes a lot of sense to provide housing on a piece of land that can support two institutions that happen to be next door to each other, both of which have on-campus students who need housing and it just makes sense for the institutions to collaborate.” (*Pages 21-22, December 19, 2024 Transcript*).

Although Commissioner Wright's comments may make sense from a planning perspective, they do not reflect the reality of the record in this case which demonstrates time and again that **AU and Wesley are not collaborating on the project**. AU and Wesley may be neighbors but they are separate institutions with their own separate Boards of Trustees, management staff, and Campus Plans. AU is not an applicant in this case; and AU has indicated as part of the record in this case that it has no need for the new housing being proposed by Wesley and Landmark. (*Exhibit 24, Z.C. Case No. 24-09*).

The Zoning Commission did not consider as part of its deliberations the impact of its action on American University.

Since this case began, AU has reported a decline in its undergraduate enrollment and increasing deficits requiring financial and even programmatic cutbacks. AU can ill afford to lose revenue from student housing. Wesley is seeking to boost its treasury by targeting AU students. It may seem like a sound financial strategy for Wesley, but it is akin to a hostile raid on AU's revenue base. In its zeal to boost Wesley financial prospects, the Zoning Commission action will impact AU's finances causing even more potential financial strains for AU.

AU's current financial state – which is experiencing the same financial alarms going off on campuses across the country – raises new concerns about the viability of the Landmark-Wesley project, as proposed. The potential for Wesley's project to succeed has been hindered further by new AU housing policies that would severely limit the number of AU students eligible to live in the new Wesley-Landmark building. The success of the Wesley project relies on AU, its student housing policies, and the preferences of AU's upperclassmen. If the ZC is prepared to grant the breadth of regulatory relief for this project to be approved, it has an equal responsibility to the public and to all the parties involved, especially the surrounding impacted neighborhood, to evaluate the project's potential for success as part of this text amendment case. That was sorely missing in the Commission's December 19 deliberations.

Appendix C: Z.C. 24-09 and the D.C. Comprehensive Plan

The Zoning Commission deliberations on December 19, 2024, did not include any discussion of the text amendment's consistency with the D.C. Comprehensive Plan or Federal elements of the Comprehensive Plan despite this being a major issue in this case.

Specifically, the proposed text amendments are inconsistent with the Land Use (LU) and Educational Facilities (EDU) Elements of the Comprehensive Plan.

The **Land Use (LU) Element** emphasizes the importance of retaining neighborhood character.

- The Wesley-Landmark commercial luxury student housing will increase the intensity of use by housing nearly 5 times as many AU undergraduates as Wesley graduate-level seminary students on Wesley's campus.
- The text amendments would enable Landmark Properties to build, own, and operate a commercial building that (a) would not be permitted as a matter of right under the current underlying zoning on the site; (b) would not be consistent with the Future Land Use Map (FLUM) or the Generalized Policy Map; and (c) is not in harmony with District zoning policy or the underlying RA-1 zoning designation for the site.
- It would also introduce the commercialization of the Wesley Campus which is adjacent to R-1-A housing stock in Spring Valley and is NOT zoned for commercial uses.

LU – 2.3 stresses that the District should maintain institutional land use compatibility with the surrounding residential neighborhoods and references the changes in the 2016 Zoning Regulations, such as the addition of **Subtitle X, Section 101.4** (which Wesley now seeks to amend), as the means for the District to “ensure land use compatibility.” *LU – 2.3.1* stresses that the District should prevent encroachment of inappropriate commercial uses into residential neighborhoods. *LU - 2.3.7* stresses that institutions should ensure that their use conforms to the underlying zoning of the site particularly to protect neighborhood interests in the future if the land is sold (e.g. “monetized”).

LU – 2.3.8 states the District should limit non-conforming uses by institutions; Landmark's use of Wesley's land would be non-conforming.

- The text amendments would result in commercial use of land adjacent to residential neighborhoods not permitted under the 2016 Zoning Regulations.
- Landmark luxury student housing is not needed by Wesley to house Wesley's students.

The **Educational Facilities (EDU) Element** of the Comprehensive Plan focuses on the relationship between the educational institutions and the residential neighborhoods that surround them. The Comprehensive Plan **Educational Facilities Element** also emphasizes the importance of universities being “good neighbors” and on limiting new developments to those that are “compatible with surrounding neighborhoods.” *EDU – 3.3.2* discourages university actions that would adversely

affect the character or quality of life in surrounding residential areas. The expansion of commercial operations on the Wesley Campus has potential adverse impact on the future of the residential neighborhood immediately adjacent to Wesley. Weakening an anchor institution, like AU, is likely to have an even greater adverse impact on the adjacent neighborhood. Taking housing revenue that might be otherwise paid to AU will have an adverse financial impact on AU.