

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

+ + + + +

MONDAY

OCTOBER 2, 2023

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT E. MILLER, Vice Chair  
JOSEPH IMAMURA, Commissioner  
TAMMY STIDHAM, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

DENNIS LIU, Esquire  
HILLARY LOVICK, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on October 2, 2023

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case Nos. 23-08 and 23-08(1) - Application of Wesley  
Theological Seminary of the United Methodist Church . . . . 3

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1 P-R-O-C-E-E-D-I-N-G-S

2 (4:00 p.m.)

3 CHAIRMAN HOOD: Okay. Good afternoon, ladies and  
4 gentlemen. Today's date is October the 2nd, 2023, and the time  
5 now is 4:00 pm. This is a continuation of Zoning Commission,  
6 Case No. 23-08(1) and Zoning Commission Case No. 23-08. Case No.  
7 23-08(1) is Wesley Theological Seminary of the United Methodist  
8 Church, 2023 through 2033, excuse me, Campus Plan at Square 1600,  
9 Lots 6 (A&T Lots 818 & 819), 7, 8 & 9.

10 And the second case that we're hearing simultaneously  
11 is Zoning Commission Case No. 23-08, Wesley Theological Seminary  
12 of United Methodist Church. First stage of the (indiscernible)  
13 PUD is Square 1600, Lot 6(A&T Lots 18 and 19) 7, 8 & 9.

14 And again, today's date is October the 2nd, 2023.  
15 Joining me are Vice Chair Miller, Commissioner Imamura and  
16 Commissioner Stidham as well as Office of Zoning Staff, Ms. Sharon  
17 Schellin and Mr. Paul Young and our Officer of Zoning Legal  
18 Division, Ms. Hilary Lovick.

19 Again, we have started this case previously and we're  
20 going to pick up and I'm going to ask all the other opening  
21 statements that I've done in the past to be incorporated with  
22 previous hearings.

23 So with that, Ms. Schellin, are there any preliminary  
24 matters?

25 MS. SCHELLIN: I'm not aware of any preliminary matters

1 for this evening other than as we get to each party, if they have  
2 any experts, then we'll need to address those at that time.

3 CHAIRMAN HOOD: Okay. Thank you. Let's bring the  
4 party in support up and Ms. Schellin will work with us on the  
5 timing.

6 MS. SCHELLIN: Yes, that'll be Mr. Clarkson and I  
7 believe he was only going to take five to ten minutes. Right  
8 now, the party in opposition at this point has 63 minutes and 15  
9 seconds plus the time that Mr. Clarkson takes.

10 So if Mr. Young could please put the clock up so we'll  
11 know exactly how much time the party in opposition will have in  
12 addition to the time I just stated?

13 CHAIRMAN HOOD: Okay. Good afternoon, Mr. Clarkson.  
14 You can begin when you're ready.

15 MR. CLARKSON: Thank you, Mr. Chairman. And I had a  
16 colleague from my group in the party, Darry Allen, who was  
17 going -- I'm only going to speak about 3E or four minutes, and I  
18 was wondering if he could speak directly after me. If not, then  
19 he can testify, but I believe he signed up as -- to testify as a  
20 community member.

21 MS. SCHELLIN: Is he part of your group?

22 MR. CLARKSON: He was. He was part of --

23 MS. SCHELLIN: So sure, we --

24 MR. CLARKSON: He was part of our group last time, and  
25 I --

1 MS. SCHELLIN: Okay. We can --

2 MR. CLARKSON: Right.

3 MS. SCHELLIN: -- bring him up. Sure.

4 MR. CLARKSON: Okay. And I'll be very brief,  
5 Commissioner.

6 MS. SCHELLIN: But his name was Darry Allen? Frederick  
7 Darry Allen?

8 MR. CLARKSON: Yes.

9 MS. SCHELLIN: Okay. He's up.

10 MR. CLARKSON: Great. Okay. I'll get going. Chairman  
11 Hood and Commissioners, my name is William Clarkson and I'm  
12 testifying on behalf of the Spring Valley Neighborhood  
13 Association. SVNA is composed of residents of Spring Valley, the  
14 neighborhood bordering Wesley Theological Seminary, and the  
15 association has been an active participant in the Seminary's  
16 Community Liaison Commission -- Committee.

17 Furthermore, SVNA has also had the privilege of  
18 participating as a party in multiple Zoning Commission cases  
19 affecting the neighborhood and we are thankful for the  
20 opportunity to take part in these important proceedings.

21 We believe the seminary has continued to make a  
22 concerted, good faith effort to proactively engage with community  
23 stakeholders regarding this proposal and to address concerns  
24 raised by individual neighbors with respect to potential  
25 objectionable impacts.

1           We also appreciate the great efforts made by our  
2 elected ANC 3D representatives to keep neighborhood residents  
3 informed and for working to foster meaningful and substantive  
4 dialog among the various stakeholders and community interests  
5 involved here.

6           SVNA supports the seminary's application subject to the  
7 proposed conditions and appreciates the seminary's ongoing  
8 efforts to address community concerns. In particular, SVNA  
9 strongly supports the seminary's commitment to construct a  
10 community -- easily accessible community playground along  
11 University Avenue and also to appreciate the seminary's support  
12 and willingness to construct a new sidewalk on University Avenue,  
13 leading to Massachusetts Avenue between Rodman Street.

14           Moving forward, it will be very important for the  
15 seminary to continue to work with the involved community  
16 stakeholders, including adjacent neighbors, to ensure that it  
17 follows through on its commitments to mitigate any adverse  
18 impacts from this proposal.

19           Similarly, the seminary must continue to work with its  
20 nearby neighbors, the affected ANCs and others involved to ensure  
21 that there is ongoing, meaningful, transparent and substantive  
22 dialog and coordination between all the groups. And I would note  
23 as far as neighbors, that would include individual resident  
24 property owners as well as other adjacent neighboring  
25 institutions, including American University.

1           We think this kind of ongoing communication and  
2 collaboration is essential to making this proposal work and just  
3 for fostering engagement down the road.

4           In conclusion, we'd like to thank the Zoning Commission  
5 for allowing us to participate as a party in this case and for  
6 its ongoing efforts to reach a solution that meets everyone's  
7 objectives. Thank you.

8           CHAIRMAN HOOD: Thank you, Mr. Clarkson. Let's see if  
9 Mr. Allen -- Darry Allen, are you ready as part of the party?

10           MR. CLARKSON: He may be on mute still.

11           CHAIRMAN HOOD: Yeah, I see. Yeah, he's still on mute.  
12 He unmute. You can unmute yourself. If you hover over the mute  
13 and unmute button, you should see it down below, bottom of the  
14 screen.

15           So Mr. Clarkson, if we're not able to get him -- oh,  
16 there he is. There he is. There we go.

17           MR. ALLEN: Do you have me now?

18           CHAIRMAN HOOD: Yeah. We can hear you now, yes.

19           MR. ALLEN: Okay. And I don't see my picture, but --

20           CHAIRMAN HOOD: Well, if you hover over where it says --

21           MR. ALLEN: -- that's all right.

22           CHAIRMAN HOOD: -- start video or stop video.

23           MR. ALLEN: That's okay. As long as you can --

24           CHAIRMAN HOOD: Start video --

25           MR. ALLEN: -- hear my voice.

1 CHAIRMAN HOOD: Yeah, but we like to see you too, but  
2 if you can hit "start video/stop video." But if not, go right  
3 ahead.

4 MR. ALLEN: How do I do that?

5 CHAIRMAN HOOD: Down the bottom of the screen where you  
6 hit the mute and unmute button.

7 MR. ALLEN: Oh, start video. Okay.

8 CHAIRMAN HOOD: Yeah. There you go.

9 MR. ALLEN: Got it. Hopefully that does it. There.  
10 Great. Whoops. Almost. Well, let me just -- oh. Okay. Great.  
11 Thank you, Mr. Chairman, and thank you for your forbearance just  
12 now on technical stuff.

13 I'm Fredrick Allen. I have been a close neighbor of  
14 Wesley for 47 years, first living on University Avenue directly  
15 across the street from the seminary and now living two blocks  
16 away. When I first moved there, my hair was completely brown.  
17 I have been part of the Wesley Community Liaison Committee during  
18 the past several years and I'm speaking today as part of the  
19 Spring Valley Neighborhood Association team.

20 I submitted my testimony for the first round of this  
21 hearing, and I'm going to just ask if you can read that and I  
22 will speak it very, very quickly just in summary on the theory  
23 that if my talk is shorter, that you will appreciate it. You  
24 remember more of what I have to say.

25 So I -- if the Commission decides that this building

1 is allowable as part of a PUD Campus Plan, then we can talk about  
2 the other considerations and I think that the conditions that  
3 Wesley has proposed are generally pretty good. They've met many  
4 of the neighborhood concerns and requests.

5           But there are two particular, two or 3E particular,  
6 items that I want to talk about and in particular, take issue  
7 with what you heard last time from ANC 3E and those concern  
8 measures to address impacts on University Avenue.

9           I should note that ANC 3E did not participate actively  
10 in the CLC, at least during the discussions about the conditions,  
11 and it doesn't represent the neighbors in Spring Valley,  
12 including on University Avenue.

13           So on the subject of parking, ANC 3E has suggested that  
14 the number of spaces be reduced. Parking on adjacent streets,  
15 especially University Avenue by nonresidents, has been a hot  
16 issue for many years, several decades. The neighbors on the CLC  
17 worked on this issue with Wesley, and I believe that Wesley is  
18 proposing an appropriate number of parking spaces to address the  
19 concerns. And I urge you not to reduce Wesley's proposed parking  
20 spaces.

21           Similarly, the neighbors on the CLC worked with Wesley  
22 on the issue of ingress and egress from the campus, and Wesley,  
23 in turn, worked with DOT to develop the plan that is in the Wesley  
24 proposal. I urge you not to change Wesley's plan on this point,  
25 particularly as it affects University Avenue.

1                   And the last point I want to make concerns the fence.  
2 ANC 3E wanted you to mandate that the fence around American  
3 University be opened up by Wesley. This fence goes -- the history  
4 of this fence goes back about 30 years. It's a long history. It  
5 was constructed by an agreement between the neighbors, ANC 3D and  
6 American University, and was incorporated in a BZA order at the  
7 time. I was one of the people who negotiated it, and I signed  
8 it on behalf of the neighborhood organization that I headed at  
9 the time.

10                  This negotiated fence has solved the problem of parking  
11 and litter in the neighborhood streets, particularly on  
12 University Avenue. It's worked well. My request to the Zoning  
13 Commission is to let the neighbors and the relevant institutions  
14 renegotiate, as appropriate, any changes and please don't try to  
15 impose a solution. I think together that those of us who are  
16 most closely involved can probably come up with the best solution.

17                  So I'll stop right there. And thank you very much for  
18 your time and attention.

19                  CHAIRMAN HOOD: Okay. Thank you both very much.

20                  Mr. Clarkson, this concludes the party in support?  
21 Okay. Okay. All right. Thank you, very much.

22                  MR. CLARKSON: Yes, thank you.

23                  CHAIRMAN HOOD: I appreciate your testimony, you both.  
24 I will tell you that, Mr. Darry Allen, I appreciate your long  
25 involvement in this process and I do agree with you about the

1 renegotiating and let them work it out. I like that. You get  
2 better outcomes when you have people that are involved as opposed  
3 to some of us who live way across town somewhere else trying to  
4 help put some mandates on something.

5 Mr. Clarkson, I have a new question. I'm going to be  
6 probably be asking quite a bit because recently I have been  
7 informed -- you know, I live here. I live here in the city and  
8 I see a lot of people when I'm out and about in my travels. One  
9 of the things that I've been hearing and this has -- not  
10 necessarily this case. I'm going to be asking this of a lot of  
11 people in different cases. Do you think the Zoning Commission  
12 solicits or listens, not necessarily agrees or does what somebody  
13 thinks, do you think we solicit and want community input?

14 MR. CLARKSON: Absolutely.

15 CHAIRMAN HOOD: Okay.

16 MR. CLARKSON: I mean, I don't have the statute in  
17 front of me, but I think that -- we're here right now and so I  
18 think the Zoning Commission definitely wants to hear from the  
19 community stakeholders, particularly those that could be directly  
20 affected by the impacts of a project.

21 CHAIRMAN HOOD: Okay. Thank you. And I want to ask a  
22 question not just in this area, but citywide, because I want to  
23 put that -- all that myth that I keep hearing out there to rest.  
24 It's very irritating when people say that this Commission, and I  
25 know this Commission. I've been on this Commission, 25 years.

1 That's one of the things that we want to do is hear input. We  
2 don't cut anyone off. So I'll leave it at that. So thank you  
3 for being the first one to answer that question.

4 And Mr. Darry Allen, I --

5 MR. CLARKSON: Well, thank you.

6 CHAIRMAN HOOD: -- haven't seen you as much, but  
7 obviously from what you were in previously, you already have had  
8 input, so I appreciate, again, what you've done.

9 Let me see if my colleagues have any questions.

10 Commission Stidham, you have any questions?

11 COMMISSIONER STIDHAM: Sorry. I had a little trouble  
12 coming up. No. No questions for me, sir. Thank you.

13 CHAIRMAN HOOD: Okay. Commissioner Imamura, you have  
14 any questions?

15 COMMISSIONER IMAMURA: -- Clarkson. Thank you, Mr.  
16 Darry Allen for your comments. I think that certainly resonates  
17 with me, let those negotiate who are closest to the issue.

18 CHAIRMAN HOOD: And Vice Chair Miller, you have any  
19 questions?

20 VICE CHAIR MILLER: Thanks, Mr. Chairman. But I thank  
21 the witnesses, Mr. Clarkson and Mr. Allen, for your participation  
22 in this case and your active involvement in the community for  
23 many years. And my hair was brown when I first started this work  
24 as well. But are you -- in the -- on the question of that fence  
25 gate, are you in negotiations or -- at this point with either

1 Wesley or AU, or both, on that? Have you proposed a solution or  
2 that's something that you think will be worked on if there's that  
3 ongoing collaboration which you've called for?

4 MR. CLARKSON: I think --

5 MR. ALLEN: That is a very good question.

6 MR. CLARKSON: Yeah, I --

7 MR. ALLEN: -- and we've wanted to be in those  
8 discussions, but since it involves -- it has to involve American  
9 University because American University owns the fence, they built  
10 it. It's just on their side of the property. So they have to  
11 be part of that discussion and, as you know, they have not  
12 participated in any of these discussions, at least involving us.

13 So that's still in the future. I think that that is,  
14 you know, not something any of us are happy about, but that's  
15 just what it is.

16 MR. CLARKSON: And I would just like to add, I  
17 completely agree with what Darry said and would just like to add  
18 that moving forward, it's critical that AU, as well as other  
19 affected neighboring institutions, be involved in any  
20 negotiations or discussions that happen. I mean, I just think  
21 that's common sense, but I think it's really, really critical  
22 here.

23 VICE CHAIR MILLER: Yeah, I agree and so I appreciate  
24 you bringing that to our attention. You know, on the surface of  
25 it, when some have suggested that that fence be reopened between

1 the campuses now that there's going to be an AU presence on the  
2 Wesley campus. And just on the surface, it was presented as --  
3 the reopening was presented as a way to prevent maybe some of  
4 the litter and activity going down, having to go down to  
5 University Avenue to connect between the two for those who are  
6 trying to get from Wesley to AU or back and forth.

7 So on the surface, just from my own standpoint, it  
8 seemed to make some sense to have an intra campus connection  
9 rather than them having to go into the neighborhood to connect.  
10 So I didn't know about the pedestrian -- I mean, about the litter  
11 and parking issues as a result that led to the fence being put  
12 up initially or partially led to the fence being put up, so I'm  
13 glad you're involved and I think that is an issue that should be  
14 worked on.

15 And just conceptually, it seemed to make sense to have  
16 an inter campus connection rather than people having to go into  
17 the into the University Avenue neighborhood to get from one to  
18 the other. Do you have something to say, Mr. Allen?

19 MR. ALLEN: Yeah. I agree with you entirely. And, in  
20 fact, in the 30 years since that fence was put up, an awful lot  
21 of new people have moved into the neighborhood and because that's  
22 solved the problem, they're not aware that there was even a  
23 problem before. But it has done that, and so that's why it has  
24 to be done carefully, but I think we can.

25 VICE CHAIR MILLER: Okay. Well, thank you very much

1 for that testimony and your participation and on -- in the past  
2 and now and ongoing. Thank you.

3 MR. ALLEN: Thank you.

4 CHAIRMAN HOOD: -- others have questions. If you all  
5 would just hold tight for a moment. Mr. Brown, who's representing  
6 the Applicant? Mr. Brown, you have any -- oh, there you are.  
7 You all are -- there you go.

8 MR. BROWN: Chairman Hood, we do not have any questions  
9 for both these witnesses. We appreciate the time they  
10 participated in this process going back several years.

11 CHAIRMAN HOOD: Okay. All right. All right. All  
12 right. Let's go to ANC 3E, Commissioner Bender. Chair Bender,  
13 do you have any cross?

14 COMMISSIONER BENDER: No. Thank you, Mr. Chair.

15 CHAIRMAN HOOD: Okay. Let's go to ANC 3D. Chair  
16 Duncan, you have any cross?

17 COMMISSIONER DUNCAN: No cross.

18 CHAIRMAN HOOD: Okay. Thank you. And let's go to NLC,  
19 Spring Valley, Wesley Heights Citizens Association. Ms. Gates  
20 is their representative. Ms. Gates, do you have any cross?

21 MS. GATES: The first question I have is for Mr. Allen,  
22 and it does regard the fence. If the fence were taken down today,  
23 what would happen?

24 MR. ALLEN: Well, that's, of course, speculation. But  
25 I don't see any -- you know, if you're talking about taking the

1 whole fence down, but I don't see any reason why it wouldn't  
2 breed the same conditions that there were before the fence was  
3 put up.

4 I think that the crux of the negotiations has got to  
5 be -- or the renegotiations has got to be how exactly it is done,  
6 what are the details of it. And that's -- I can't really speak  
7 to that right now because that will involve some discussion.

8 MS. GATES: Well, if you were to put a gate in the  
9 fence that would allow free passage between the two institutions,  
10 would that make a difference or would the same conditions exist?

11 MR. ALLEN: Well, if you say, would it make a  
12 difference, the answer is yes. It would make some difference,  
13 but I go back to what I said just a moment ago. This is a  
14 complicated issue and it deserves full discussion by all of those  
15 who are involved. American University has its own interest in  
16 the fence beyond what it does for the neighborhood. It protects  
17 their security as well.

18 MS. GATES: Thank you. I think that's a very important  
19 point.

20 Mr. Clarkson, in your list of, I guess, praises for 3E,  
21 you didn't mention their position on zoning issues. Do you  
22 support them?

23 MR. CLARKSON: With respect to 3E? Which specific  
24 positions? I don't think I referenced 3E in particular. I  
25 referenced appreciation for ANC 3D which --

1 MS. GATES: I'm sorry. I misunderstood you. Then I  
2 have no questions other than to ask if you all -- you did not  
3 testify about this, but you've spoken about it many times at CLC  
4 and other meetings and it has to do with if the current plan is  
5 not approved, would -- and Wesley were forced to leave its current  
6 site and sell the property to a developer, is it true that you're  
7 concerned about having to have affordable-- maybe having  
8 affordable housing in the neighborhood?

9 MR. CLARKSON: Could you -- I guess, could you be more  
10 specific as to what I've -- I guess you think I've said in the  
11 past outside of these -- this particular proceeding or is that a  
12 relevant question? I --

13 CHAIRMAN HOOD: So, Ms. Gates, if -- Ms. Gates, if this  
14 is not pertaining to this, and a lot of times I don't chime in,  
15 but I know my legal counsel. I get schooled on this quite a bit  
16 for years, but if he didn't testify to it and it's something that  
17 he said in another proceeding, it's not germane here.

18 So reference to -- make it applicable to this  
19 proceeding.

20 MS. GATES: Okay. Thank you, Mr. Chair. The other  
21 question that I have for you, and maybe for Mr. Allen as well,  
22 is about the negotiations you're discussing. When would those  
23 negotiations take place?

24 MR. ALLEN: -- you're talking about?

25 MS. GATES: Whatever it is you're negotiating.

1                   MR. ALLEN: Well, the only renegotiation I talked about  
2 with the fence and the answer to that question is as soon as all  
3 the relevant people are ready to have those discussions.

4                   MR. CLARKSON: And I would just add to that. As soon  
5 as the relevant stakeholders are ready, but also as soon as it's  
6 appropriate based on this proceeding. The results of the  
7 proceeding.

8                   MR. ALLEN: Yeah. Yes, absolutely.

9                   MR. CLARKSON: Meaning the Zoning Commission's order  
10 or ruling on this proceeding.

11                  MS. GATES: But is that before or after the Commission  
12 has decided, ruled?

13                  MR. CLARKSON: Decided rules?

14                  MS. GATES: No, has ruled on this case?

15                  MR. CLARKSON: Well, I think it depends, but I do think  
16 that any discussions need to involve all the stakeholders, as Mr.  
17 Allen testified to, at the appropriate time.

18                  MR. ALLEN: And I also believe that it is highly  
19 unlikely that American University will engage in such discussions  
20 ahead of a decision from this Commission.

21                  MS. GATES: But do you feel that deserves a modification  
22 of some sort to the Campus Plan?

23                  MR. CLARKSON: To the current campus -- to the current  
24 Campus Plan or are you --

25                  MS. GATES: No, you're talking about in the future now.

1 Since AU isn't entering into this discussion, Mr. Allen has said  
2 it will have to take place when everyone can discuss.

3 MR. CLARKSON: At the appropriate time, yes. I'm not --  
4 Darry can speak for itself himself, but I think it would -- you  
5 would want those discussions to take place at the appropriate  
6 time.

7 MS. GATES: But that wasn't my question. My question  
8 was whether or not you feel this would require another hearing.

9 MR. ALLEN: Well, I certainly hope that it can be done  
10 by the parties themselves. You know, the neighbors, the relevant  
11 institutions, and that they can just go ahead and, you know,  
12 figure it out.

13 MS. GATES: Okay. Thank you. End of questions.

14 CHAIRMAN HOOD: -- Ms. Gates and also I want to thank  
15 you, Mr. Clarkson, as well as Mr. Darry Allen. We appreciate  
16 your coming down and providing testimony. Thank you, very much.

17 MR. CLARKSON: Thank you, very much.

18 MR. ALLEN: Thank you.

19 CHAIRMAN HOOD: Ms. Schellin, do we have a list of  
20 those who are in support?

21 MS. SCHELLIN: How many would you like up at a time?

22 CHAIRMAN HOOD: Let's break 3E up, so my screen -- we  
23 can kind of keep -- see everybody.

24 MS. SCHELLIN: Okay. Let me get to -- if Mr. Brown  
25 would be around? Steven Karcha (phonetic), I think was part of

1 the Applicant's team; is that correct?

2 MR. CLARKSON: Mr. Karcha is.

3 MS. SCHELLIN: And how about Eric Lee?

4 MR. CLARKSON: Yes, he's for Landmark Properties. He's  
5 part our team.

6 MS. SCHELLIN: Okay. All right. Then we have no  
7 proponents to testify in 23-08. If you'll bear with me and let  
8 me check to see if, by chance, someone signed up under the other  
9 case. I believe David McAllister Wilson was also part of the  
10 Applicant's team --

11 MR. CLARKSON: That's correct.

12 MS. SCHELLIN: Is that correct, Mr. --

13 MR. CLARKSON: Yes.

14 MS. SCHELLIN: So there are no proponents. So we're  
15 ready to go to the party in opposition. And I did check, there  
16 are -- they were proffering no expert witnesses, so they are  
17 ready to go.

18 CHAIRMAN HOOD: Okay. And let's bring up Ms. Gates and  
19 Ms. Gates -- how much time does Ms. Gates have, Ms. Schellin?

20 MS. SCHELLIN: They have a total of 70 minutes and  
21 33 seconds.

22 CHAIRMAN HOOD: Okay. Ms. Gates, whenever you're  
23 ready, you may begin.

24 MS. GATES: Mr. Chairman, Mr. Smith is going to begin.

25 CHAIRMAN HOOD: Okay. Do we have Mr. Smith up? Okay.

1 All right. Mr. Smith, whenever you're ready, you may begin.

2 MR. SMITH: Okay. Let me just start my video. There  
3 we are. Thank you. Actually, Mr. Chairman, there are 3E of us  
4 testifying. It's myself, Blaine Carter and Alma Gates.

5 CHAIRMAN HOOD: Okay. I think -- do we have Mr. Carter  
6 up as well? Okay. We have everybody up, so Mr. Smith, you may  
7 begin.

8 MR. SMITH: Thank you, Mr. Chairman. My name is Tom  
9 Smith. I represented the Spring Valley neighborhood, including  
10 the Wesley campus on ANC 3D for ten years from 2007 to 2017. I  
11 chaired ANC 3D) for five of those years and as a local activist  
12 for forty years, I worked on Campus Plans for AU, Georgetown, GW,  
13 Mount Vernon and Wesley.

14 I'm joined by former ANC Commissioner Alma Gates, a  
15 lifelong D.C. resident who served on ANC 3D for ten years,  
16 including as chair and was a member of the Zoning Regulations  
17 Review Task Force charged with revising the 1958 zoning  
18 regulations, and by Mr. Blaine Carter, a 33-year resident on  
19 University Avenue in Spring Valley who has worked for 40 years  
20 in the commercial real estate industry. His work has included  
21 PUDs that have come before this Commission.

22 We are testifying on behalf of neighbors for a livable  
23 community and the Spring Valley Wesley Heights Citizens  
24 Association in opposition to Wesley's Campus Plan and PUD  
25 applications. We have consulted in this case with the Office of

1 the Attorney General on use regulations and with the Committee  
2 of 100 on IZ regulations.

3 The stakes in this case are high because of the  
4 precedent it could set and because Wesley has threatened that it  
5 will vacate its current site if this application is not approved.  
6 It was in 2017 during a meeting of Wesley's Community Liaison  
7 Committee that Wesley's president and counsel first announced  
8 Wesley's intention to enter into a ground lease with a commercial  
9 developer to provide housing primarily for American University  
10 students on the Wesley campus.

11 Even then NLC and SVWHCA representatives expressed  
12 concerns about the commercial nature of this project, its  
13 inconsistency with the zoning regulations and the lack of AU's  
14 active engagement. We testified not after one or two years of  
15 meetings with Wesley, but nearly six years of discussions with  
16 Wesley.

17 At the September 11th hearing and with its September  
18 22nd supplemental filing, Wesley seems intent on confusing and  
19 misrepresenting the issues in this case. Mr. Chairman, you cut  
20 through the verbal gymnastics of Wesley's testimony when you  
21 asked Dr. David McAllister Wilson, what was the central issue in  
22 this case. His response was, "The financial component."

23 This case is all about the money. We could discern no  
24 viable path in the zoning rules for the Zoning Commission to  
25 approve Wesley's Campus Plan and PUD applications. Wesley's plan

1 to enter into a ground lease with Landmark Properties, a  
2 commercial developer, to build, manage and operate a student  
3 apartment building to be known as The Standard at Wesley and  
4 targeted the students who are not enrolled at Wesley, falls far  
5 beyond what is permitted by the Campus Plan, PUD and Inclusionary  
6 Zoning regulations. First slide, please?

7 At the core of this case, both last year in ZC 22-13,  
8 Wesley's failed Campus Plan case, and again this year is Subtitle  
9 X, Section 101.4, which says, "The Campus Plan process shall not  
10 serve as a process to create general commercial activities or  
11 developments unrelated to the educational mission of the  
12 Applicant."

13 This language does not reference use categories or zone  
14 classifications. Its focus is on general commercial activities  
15 and developments. Although not defined in the zoning  
16 regulations, the dictionary defines a "commercial activity" as  
17 "any business related activity that involves making money or  
18 providing a service."

19 Federal statute adds more clarity in 28 U.S.C. 1630(D),  
20 which states, "The commercial character of an activity shall be  
21 determined by reference to the nature of the course of conduct  
22 or particular transaction or act, rather than by reference to its  
23 purpose."

24 The Landmark development is a commercial activity that  
25 is not a permissible use of Wesley property under Subtitle X,

1 Section 101.4 of the Campus Plan rules.

2 Because the development is intended primarily to house  
3 AU students, not Wesley students, The Standard at Wesley cannot  
4 be considered an educational use as defined in Subtitle B, Section  
5 200.2(J) and is not consistent with Wesley's educational mission.

6 Housing specifically targeted for Wesley students would  
7 not require a 300,000 square-foot 659 bed structure rising more  
8 than 75 feet in height on the highest elevation of the Wesley  
9 campus. Wesley testified in hopes to overcome what it calls the  
10 "bureaucratic concerns" of the Campus Plan rules by applying for  
11 a PUD, but the PUD is not an appropriate vehicle for the relief  
12 that Wesley is seeking.

13 Subtitle X, Section 303.1 of the current PUD  
14 regulations limits the flexibility available through the PUD  
15 process to development standards, not use rules. The PUD rules  
16 cannot be used to provide relief from Campus Plan use constraints.

17 If we think of the zoning regulations as a series of  
18 traffic lights, the green lights are a matter of right rules that  
19 require no action by the Commission. The yellow lights are the  
20 rules that give the Commission discretion and require a judgment  
21 based on a set of standards. According to the D.C. Court of  
22 Appeals, the Commission only needs to demonstrate that there is  
23 a rational connection between the facts found and the choice  
24 made. Then there are the red lights, rules that provide specific  
25 direction to the Commission. These are the thou shalt not rules

1 of the zoning regulations.

2 Subtitle X, Sections 101.4 and 303.1 are the red lights  
3 in the Campus Plan and PUD rules. These rules were added to the  
4 2016 zoning regulations and had the effect of codifying the  
5 precedent set in the 2006 GW Campus Plan and PUD case, that the  
6 PUD process cannot be used to obtain relief from the use  
7 constraints in the Campus Plan rules.

8 If these prohibitions were not enough, Subtitle X  
9 Section 300.2 of the PUD rules states clearly, "The PUD process  
10 may not be used to circumvent the intent and purposes of the  
11 zoning regulations, such as the use constraints outlined in the  
12 Campus Plan rules." Another red light.

13 The city's Subtitle C Chapter 10, Inclusionary Zoning  
14 Rules also present an obstacle for approval of this application.  
15 IZ rules do not apply to dormitories, but they apply in this case  
16 because the Landmark building is not a traditional dormitory. It  
17 is a luxury student apartment building.

18 Wesley is misleading the Commission about the scope of  
19 the relief that is required from the IZ rules to establish its  
20 private IZ program. Wesley is asking the Commission to provide  
21 relief only from the set aside requirements in Subtitle C, Section  
22 1003 of the IZ rules.

23 Wesley would have you believe the only issue with its  
24 IZ proposal is whether to base the amount of required IZ on the  
25 number of beds instead of, as the rules require, the residential

1 Gross Floor Area. But Wesley should be seeking relief from all  
2 of Subtitle C, Chapter 10, because as the D.C. Department of  
3 Housing and Community Development said in its comments to OP,  
4 "Wesley's proposal would technically not be IZ and it would  
5 require the Zoning Commission to exempt this project from the IZ  
6 Regulations."

7 Wesley also is asking the Commission to provide IZ  
8 relief under the PUD authority granted in Subtitle X, Section  
9 303.13, but that section only covers relief for issues in which  
10 special exception approval is required. Subtitle C, Section 1007  
11 specifies that relief from the IZ rules requires a variance, not  
12 a special exception. Moreover, the IZ rules are also use rules  
13 and as we already noted, the PUD process does not give the Zoning  
14 Commission authority to provide relief through the PUD process  
15 for use rules.

16 Subtitle X, Section 303.14 further limits Zoning  
17 Commission Action on variances as part of the PUD process to area  
18 variances for additional height and density. Another red light  
19 activated.

20 All of these red lights are sufficient reason for the  
21 Zoning Commission to reject this application. We could end our  
22 testimony here because Wesley's rebranding of its Campus Plan as  
23 a PUD is, as Wesley has acknowledged, nothing more than an end  
24 run around the Campus Plan and IZ rules, which is not permitted  
25 under the PUD rules. This is a significant breach of the zoning

1 regulations that, if approved, will inevitably have unintended  
2 consequences. Next slide, please?

3 Wesley's September 11th presentation before the  
4 Commission both misrepresented and omitted critical facts in this  
5 case. Ms. Brandice Elliott testified that Wesley was not  
6 requesting use flexibility, but that is exactly what Wesley is  
7 seeking through the PUD process.

8 Also, one of Wesley's first slides in their  
9 presentation promised an update on enrollment for the fall  
10 semester, but there were no numbers. Enrollment numbers are a  
11 factor in assessing whether Wesley can even fill the 90 beds in  
12 the 659-bed Landmark building that are being set aside for its  
13 use. Wesley's IZ proposal relies on this 90-bed projection, but  
14 is this projection reasonable? Next slide, please?

15 Based on the numbers provided by Wesley for fall 2022,  
16 Wesley had 452 students total. Of those 452 students, only 267  
17 were master's level students. That's important in this case  
18 because these 267 would be the only Wesley students who attend  
19 classes on campus throughout the academic year and potentially  
20 could occupy Wesley's on campus housing. The other 185 are  
21 doctoral students who only come to the campus for a two-week  
22 period when the master's level students are on break.

23 Based on a 267 student count, 62 percent of Wesley's  
24 master level students would be needed to fill 90 beds at The  
25 Standard, plus the 76 beds in Wesley's 2014 residence hall.

1 That's 166 beds, a significant number for a school known as a  
2 commuter school.

3 Wesley testified that it cannot even fill its existing  
4 90- bed reduced capacity this fall and has not been able to fill  
5 its on campus housing since 2014. Given Wesley's 53 percent  
6 decline in master's level enrollment since 2007, how can Wesley  
7 reasonably argue that its students will occupy 90 beds in the new  
8 Landmark development? The numbers don't add up. Next slide,  
9 please?

10 Wesley also misrepresented why has filed for a PUD.  
11 Ms. Elliott testified on September 11th that the Zoning  
12 Commission suggested the PUD process as a way of overcoming  
13 obstacles related to compliance with Subtitle Section 101.3(A).  
14 Next slide, please?

15 Section 101.3(A) was never an issue in this case. This  
16 section of the Code permits ancillary commercial services on a  
17 campus, like a coffee shop or a convenience store. Wesley spent  
18 a good deal of its testimony on September 11th telling you that  
19 The Standard Wesley is not a commercial apartment building  
20 because of its location on a college campus. So why would they  
21 need relief from a regulation that actually permits commercial  
22 uses on a campus? But the Landmark development also is not an  
23 ancillary commercial use under rules. Next slide, please?

24 Wesley also cherry picks language in the Subtitle B,  
25 Section 200.2(J) use definitions to argue the Landmark

1 development can be categorized as a dormitory and thus, a  
2 permitted use. Contrary to assertions made by Wesley, the  
3 Landmark development does not even comply with the educational  
4 uses permitted under Subtitle B use definitions. Wesley ignores  
5 the full scope of the regulatory language, which links the  
6 permitted educational use to the students who are engaged in  
7 "general or specialized study, leading to a degree," at that  
8 institution. AU students living in The Standard are not enrolled  
9 at Wesley and will not receive a degree from Wesley. Another  
10 red light.

11           In testimony on September 11th and again in its recent  
12 supplemental filing, Wesley insisted the Landmark building is a  
13 dormitory because the zoning administrator said so. Ms. Elliott  
14 testified the ZA gets the last call. She seems to have forgotten  
15 the Zoning Commission's role in this process. In his emails, the  
16 ZA added many conditions for his conclusion, but said  
17 unequivocally that the Zoning Commission will be the ultimate  
18 arbiter. The ZA's email is far from the definitive judgment that  
19 Wesley would have the Zoning Commission believe.

20           ANC 3E probably said it best, that the ZA basically  
21 defined "dormitory" based on the Applicant's claims about what  
22 constitutes a dormitory, a definition that, conveniently for  
23 Wesley, does not distinguish between a dormitory and an apartment  
24 or other housing arrangements.

25           Despite Wesley's misleading and irrelevant reference

1 to ZC Case No. 23-01, the IZ rules and the Rental Housing Act  
2 include definitions for dormitory that are relevant in this case  
3 as ANC 3E has noted. The IZ rules define a dormitory as providing  
4 housing exclusively for a university's own students, faculty or  
5 staff. The Rental Housing Act defines a dormitory as a building  
6 owned by an institution of higher education, in which at least  
7 95 percent of the units are occupied by presently matriculated  
8 students of the institution of higher education. The Standard  
9 Wesley fits neither of these definitions.

10 All of this seems intended to distract from the major  
11 issue in this case both last year and again this year, and that  
12 is Subtitle X, Section 101.4. That's the issue that Wesley does  
13 not want to discuss and never referenced in its September 11th  
14 testimony.

15 Wesley also pointed to the 2006 GW Campus Plan and PUD  
16 Order as a precedent to argue that its use of the PUD process is  
17 appropriate. Nothing in the rules prevents a university from  
18 seeking a campus-wide PUD, but the GW Campus Plan PUD Order  
19 outlined a set of guidelines for the Zoning Commission to assess  
20 whether a campus-wide PUD is appropriate. Next slide, please?

21 A campus-wide PUD is appropriate, according to the GW  
22 Order, when the campus is a large site with multiple building  
23 types and complex site planning. Next slide, please?

24 Transportation and urban design issues. That's a  
25 campus-wide PUD is appropriate, according to the GW order when

1 the campus is a large site with multiple building types and  
2 complex site planning, transportation and urban design issues.  
3 Can we have the next slide, please? There it is.

4 GW's was a 39-acre Campus Plan and PUD that included a  
5 text amendment, a map amendment, and 16 new development projects  
6 in a high density neighborhood over the span of twenty years. By  
7 contrast, Wesley proposes no map amendment, no text amendment,  
8 and only two new building projects, one of which would only be  
9 5,267 square feet on an 8-acre campus outside the city center  
10 core in an RA-1 zone.

11 The GW order also said that a consolidated PUD, which  
12 Wesley is proposing, would not be appropriate in a Campus Plan  
13 and PUD because it would not allow for the two-stage review  
14 process mandated for the Campus Plan. The GW order also stressed  
15 that the PUD should be consistent with the present character of  
16 the site. The only reason Wesley is seeking a campus-wide PUD  
17 is because they are proposing a 300,000 square-foot building as  
18 part of a commercial partnership with Landmark.

19 Unlike the GW PUD, Landmark's consolidated PUD is  
20 inconsistent with the character of Wesley's campus targeted to  
21 students from another university and not permitted under the  
22 Campus Plan rules. All of the markers indicate the Wesley PUD  
23 does not meet the standards for an appropriate campus-wide PUD  
24 cited in the precedent setting GW case. Another red light. Next  
25 slide, please?

1 Wesley also cited previous zoning cases authorizing  
2 Wesley to house AU graduate students in Wesley residence halls  
3 as a precedent of its commercial partnership. As ANC 3D chair  
4 at the time, I worked directly with Mr. Brown, Wesley's counsel,  
5 and the neighbors on this issue. Wesley said it was facing an  
6 unexpected budget deficit that could lead to layoffs due to a  
7 sharp enrollment drop. This housing must be made available to a  
8 strictly limited number of graduate students, significantly less  
9 than 100, and only on a temporary basis until 2019, when Wesley  
10 would be required to file a new Campus Plan.

11 In its September 11th testimony and supplemental filing  
12 in this case, Wesley again sought to divert attention from the  
13 commercial nature of its Campus Plan proposal in order to avoid  
14 and distract from the central issue in this case, and that is  
15 Wesley's attempt to commercialize its property for purposes of  
16 monetizing the value of its land in order to create a new revenue  
17 stream for Wesley and added profits for Landmark properties. But  
18 the current zoning regulations are an obstacle that, despite  
19 Wesley's efforts to sidetrack and deflect, still shine a bright  
20 red light on this case.

21 Now, let me turn to Mr. Blaine Carter.

22 MR. CARTER: Yes. Can you -- I just make sure. Can  
23 everybody hear me? Y

24 MS. GATES: Yes.

25 CHAIRMAN HOOD: Yeah, yeah.

1                   MR. CARTER: Good. My name is Blaine Carter. Given  
2 my background in commercial real estate, Wesley's argument that  
3 the Landmark development is not a commercial activity has no  
4 merit. The distinctions being made by Wesley between a commercial  
5 use and a residential use are simply not germane in this case.  
6 Multi-unit properties that serves residents for president -- for  
7 tenants like that proposed by Wesley are a commercial activity  
8 for the developer and landlord.

9                   In real world practice, a commercial residential  
10 property is any residential property in which a lessor or  
11 proprietor receives payment, in any form of exchange, for the use  
12 of any residential dwelling. This case is not about an activity  
13 in a commercial zone or in a residential zone. It's not even  
14 about commercial versus residential use categories. The zoning  
15 use classification does not define the activity. The nature of  
16 the activity defines the activity as the federal definition  
17 states.

18                   This is a case about commercial activities on a college  
19 campus. When Landmark enters into individual lease agreements  
20 with its residents, most of whom are AU students, this is a  
21 commercial activity no different than any other transaction for  
22 a commercial residential apartment building, except that this is  
23 taking place on Wesley's campus between a commercial developer  
24 and students who are not enrolled in that institution.

25                   Housing also creates -- also ceases to be an

1 educational use under the zoning regulations when it is occupied  
2 primarily by non-Wesley students. Now, this is why Landmark, a  
3 nonprofit company, will be paying taxes on the property like any  
4 other for-profit apartment building owner. When Wesley enters  
5 into a ground lease with Landmark, this too can constitute a  
6 commercial activity.

7 Wesley points to a Georgetown University ground lease  
8 to argue that the Zoning Commission has not viewed a ground lease  
9 as a college -- on a college campus to be a commercial activity,  
10 but the commercial activity proposed by Wesley and Landmark is  
11 not comparable to Georgetown's ground lease. That ground lease  
12 was with MedStar Georgetown Medical Center, a wholly owned non-  
13 for-profit subsidiary of MedStar, Inc. to operate the Georgetown  
14 University Hospital, a teaching hospital whose mission is to  
15 train Georgetown University medical students.

16 Without a doubt, the activity in the Georgetown case  
17 is an educational use and not a general commercial activity, and  
18 is consistent with the educational mission of Georgetown  
19 University and consequently does not conflict with the Campus  
20 Plan rules. By contrast, Landmark is a for-profit commercial  
21 development, general contractor and operator and the purpose of  
22 Landmark development is to provide housing for students who are  
23 not even enrolled at Wesley. Next slide, please?

24 Wesley also seems to distract from the commercial  
25 nature of this project by stressing the Landmark Standard at

1 Wesley is not an apartment building. This is how Landmark  
2 describes its Standard building brand. The Standard is an  
3 apartment building on the philosophy that student housing should  
4 be elegant and provide an unrivaled experience with furnished  
5 luxury apartments and resort style amenities, residents  
6 experience a high quality of life and a new standard of living.

7 Landmark is not in the business of building dormitories  
8 on college campuses. It appears that all of their student  
9 apartment buildings are located off campus. In this case, The  
10 Standard of Wesley would also be off campus for its primary  
11 audience, the AU students, but it would be located on Wesley  
12 property in order for Wesley to capitalize on the location  
13 adjacent to AU and its larger AU student market. Next slide,  
14 please?

15 Landmark's criteria for investing in student apartment  
16 buildings, as posted on the website, states that the company's  
17 development targets are universities with enrollment greater than  
18 10,000 students.

19 MR. SMITH: Next slide, please?

20 MR. CARTER: That's AU --

21 MR. SMITH: Next slide, please?

22 MR. CARTER: Yeah. Sorry. That's AU not Wesley.  
23 Landmark looks for land within 3 miles of the targeted university.  
24 That's Wesley. By approving this application, the Zoning  
25 Commission will remove any limits on the commercial activities

1       permitted on a campus, including all the constraints outlined in  
2       the Campus Plan rules. Approval of this application will have  
3       significant consequences, not just for our neighborhood, but any  
4       neighborhood where a college or university is located.

5           If the Commission approves its application in order for  
6       a university to establish a new revenue stream that is generated  
7       by and dependent on students from another university, then no  
8       commercial activity on the campus is off limits. Why not a sports  
9       facility built and owned around the sports franchise? Why not a  
10      tennis club or a pool club built and managed by a commercial  
11      operator? Why not an office building?

12           Once the Zoning Commission goes down this road, how  
13       does it make distinctions between what is permissible and what  
14       is not? In short, by approving these applications, the Zoning  
15       Commission would be amending the Campus Plan rules without a  
16       public hearing and misusing the PUD process. If the objective  
17       of -- is to change a Campus Plan PUD and IZ zoning regulation,  
18       the Commission should undertake a forward looking regulatory  
19       proceeding, not through this case.

20           Wesley says it's objective in filing this PUD is to  
21       thrive. Although Dr. McAllister Wilson told you that this  
22       application is about the financial component, Wesley has not been  
23       transparent about its finances in this process. At one time,  
24       Wesley published a financial statement as part of its annual  
25       report, but no longer follows this best practice. What we know

1 of Wesley finances is that gifts and grants are the largest in  
2 history. Wesley has confirmed that the growth of its operating  
3 budget has exceeded the rate of inflation for the period of 2005  
4 to 2023 despite a steady decline in enrollment. And we know from  
5 the US Department of Education and Carnegie Foundation data, that  
6 Wesley endowment valued at about \$36.6 million as of the end of  
7 the financial year -- fiscal year '21, grew 31.8 percent from the  
8 previous year. The data shows the overall value of the endowment  
9 was \$24 million greater than the median endowment of similar  
10 institutions.

11           Based on the record in this case, we don't know what  
12 it will take to satisfy Wesley's desire to thrive in its location.  
13 But Wesley has upped the ante in this case by relying on an all  
14 too familiar threat to sell its property. Wesley's threat to  
15 relocate is not a new one. The thrive in place soundbite that  
16 Wesley uses in this application was preceded by another theme,  
17 ensuring Wesley's sustainability in its current location.

18           To thrive in place, Wesley now proposes to transform  
19 its campus from an institution educating graduate level seminary  
20 students from a commercial housing village for undergraduate  
21 students not enrolled at Wesley. There is no precedent in zoning  
22 case history, and there are no zoning regulations that can justify  
23 this project. Next slide, please?

24           We would like Wesley to stay at this location, but as  
25 then Zoning Commissioner Peter May said to the Commission last

1 July about the Wesley Campus Plan, "I don't think it's our job  
2 to find a way to save this institution in this location. I  
3 appreciate the creativity, but I don't think that it works within  
4 the bounds of the zoning regulations."

5 The most disturbing aspect in this case is that Wesley  
6 is setting up Landmark to compete with AU to house AU students  
7 and to gain a competitive advantage in the marketplace. No wonder  
8 AU is not cooperating.

9 From the time Wesley first announced its plan six years  
10 ago, neighbors have pressed both AU and Wesley to collaborate on  
11 this project. We even raised the issue before the Commission  
12 during AU's Campus Plan proceedings in 2021. As ANC 3E testified  
13 on September 11th, AU and Wesley representatives had a tense  
14 exchange at last month's ANC 3E meeting over the Landmark  
15 development, demonstrating yet again that AU is giving a cold  
16 shoulder to Wesley's proposal. This should be a red light for  
17 the Commission.

18 Wesley's proposal has been described as imperfect but  
19 innovative. There's nothing innovative about a plan that  
20 requires a Zoning Commission to throw out the city's Campus Plan,  
21 PUD and IZ regulations. This proposed PUD is not a typical PUD  
22 nor is this a typical Campus Plan that fits within the 2016 zoning  
23 regulations and its private IZ program has no precedent. That  
24 does not compare favorably with the 2006 GW Campus Plan PUD  
25 proposal that is cited by Wesley as a precedent for this case.

1           To get the Commission to yes, in this case, Wesley and  
2 Landmark would have us think there are no issues with this  
3 application yet there are at least seven major evidentiary  
4 conflicts in this case that the Commission is being asked to  
5 ignore.

6           One, Wesley says that the Landmark building is a  
7 dormitory and yet Landmark markets the products as apartment  
8 buildings. Two, Landmark and Wesley are planning this building  
9 to house AU students yet AU refuses to cooperate, collaborate or  
10 engage on the project. 3E, Wesley says the Landmark development  
11 is not a commercial activity, but it is -- that it is an  
12 educational, but it certainly does not qualify as an educational  
13 use under the zoning regulations.

14           Four, Wesley testified in this case it is seeking a PUD  
15 to overcome obstacles in Subtitle X, Section 101.3, which permits  
16 ancillary commercial uses on college campus when the real  
17 conflict for these applications is still a year later with  
18 Subtitle X, Subsection 101.4, which does not permit general  
19 commercial activities or development unrelated to the educational  
20 mission of the Applicant.

21           Five, to add even more confusion, Ms. Elliott tells you  
22 at the one-hour mark in the September 11th hearing that zoning  
23 relief is being sought because the Landmark development is not  
24 related to the educational mission of the Applicant. Meanwhile,  
25 she says Wesley is not seeking use flexibility through the PUD

1 process when that is exactly what Wesley is seeking.

2 The IZ rules prohibit full-time college and university  
3 students from participating in the city's IZ program and Subtitle  
4 C, Chapter 10, Section 1000.6(C) is clear in saying the  
5 dormitories do not require IZ, but the Landmark building requires  
6 IZ which is intended for commercial housing market.

7 If the proposed building is not a commercial activity,  
8 then IZ should not be on the table or in the mix. Meanwhile,  
9 Landmark is proposing a private IZ program that even the D.C.  
10 Department of Housing and Community Development, and the  
11 Committee of 100 and ANC 3E say is not IZ.

12 Finally, seven. Landmark's privately administered IZ  
13 program bypasses the IZ rules on the basis that this commercial  
14 project does not, in Wesley's words, lend itself to the city's  
15 IZ requirements because its commercial activities are directed  
16 at students, students who are not even enrolled at Wesley, the  
17 Applicant in this case.

18 As part of its application, Wesley proposed it's  
19 creating a new private IZ program and then testifies it is  
20 exceeding the standards of this new program, yet the standards  
21 do not even exist in the current regulations. Meanwhile, OP's  
22 September 22nd supplement report appears to suggest another end  
23 around the current -- another end around the current zoning  
24 regulations that would establish a new affordable housing program  
25 for students without benefit of an open and transparent

1 rulemaking proceeding.

2 We agree with ANC 3E that using a single phase  
3 consolidated PUD is not the way to change the zoning regulations,  
4 especially given that such a change in trying to assist students  
5 could actually have the effect of reducing students' eligibility  
6 for financial aid from schools, government and other private  
7 sources.

8 I don't know how to say this other than to say that the  
9 applications is a mess. Despite six years of meeting with Wesley,  
10 we learned a lot of new information at the September 11th hearing.  
11 Wesley testified at September 11th hearing that the housing  
12 capacity had suddenly shrunk from the 166 beds it acknowledged  
13 of last year's Campus Plan to 90 beds. That that was news to us  
14 despite all the meetings and questions over the year.

15 It has been a difficult at times to get straight answers  
16 from Wesley. For example, we asked Wesley on multiple occasions  
17 for information about the occupancy history of its own on campus  
18 housing. Just a few weeks before the 11th, September 11th,  
19 hearing, Wesley responded by telling us that the housing records  
20 have been erased from its computer network. To me, it was a dog  
21 ate my lunch and homework excuse.

22 Although all religious institutions these days are in  
23 a state of change, for purposes of this application, Wesley should  
24 be treated like any other Applicant. The applicable zoning  
25 regulations in this case are not ambiguous, yet the arguments put

1 forward by Wesley in this case are disingenuous and in some cases  
2 boldly at odds with the zoning regulations. Now, let me turn to  
3 Alma Gates.

4 MS. GATES: My name is Alma Gates. The PUD process is  
5 not appropriate in this case because Wesley's proposal does not  
6 meet the purposes of the PUD process as outlined in Subtitle X,  
7 Section 300.1. The Wesley PUD does not seek any flexibility in  
8 building controls such as height and density that could not be  
9 achieved through the Campus Plan process. The Landmark  
10 development is not of higher quality and it will not result in a  
11 project superior to matter-of-right standards as required in the  
12 PUD rules. Next slide, please?

13 The architectural design of The Standard squanders an  
14 opportunity to draw from Wesley's more contemplative and  
15 restrained architectural vocabulary in favor of a boilerplate  
16 building typical of Landmark buildings that could be located  
17 anywhere. The architecture for The Standard at Wesley is not  
18 consistent with higher quality development as required in  
19 Subtitle X, Section 300.1 nor does it qualify as a public benefit  
20 under Subtitle X, Section 305.5(A) of the PUD rules. Next slide,  
21 please?

22 The proposed Landmark development is not compatible  
23 with Wesley's campus or consistent with the present character of  
24 the site. The Landmark building will be ten times larger than  
25 the largest building currently on the Wesley campus. At 75 feet,

1 it will be roughly 45 to 50 feet taller than the existing tallest  
2 building on the campus. Its size and scale have been driven by  
3 Landmark's profit expectations from housing AU students.

4                   Contrary to OP's analysis, there is no architectural  
5 compatibility between the new building and the existing buildings  
6 on the campus. The inappropriate height, bulk and density are  
7 further aggravated by the treatment of the building skin. Other  
8 buildings on Wesley campus are one to 3E stories tall with Gable  
9 or hip roofs that might be considered a nod to the surrounding  
10 neighborhood homes. The Elderkin Bell Tower and the iconic statue  
11 of Christ have been the dominant architectural features on the  
12 Wesley campus since its founding. That will change under this  
13 proposal.

14                   Because it is a consolidated PUD, the building layout  
15 is also an issue for review at this time. Landmark testified on  
16 September 11th there would be study areas on each floor of the  
17 building. They are not reflected in the layout provided by Wesley  
18 at Exhibit 24K. It appears the Commission is being asked to  
19 approve an incomplete design as part of the consolidated PUD  
20 process.

21                   Wesley's meager public benefits proposal would not  
22 effectively balance the relief this project requires. Wesley  
23 fails to offer a commendable number or quality of meaningful  
24 public benefits as required by the PUD rules. As both DDOT and  
25 OP indicate, the TDM measures and public improvements proposed

1 by Wesley as amenities are required to mitigate impacts of the  
2 Campus Plan PUD application and cannot be considered a public  
3 benefit under Subtitle X, Section 305.50.

4 Wesley offers community meeting space as a benefit when  
5 it has been providing meeting space for the community dating back  
6 at least 10 years. Wesley argues that the PUD will relieve  
7 pressures on the neighborhood rental housing stock by relocating  
8 AU students living in the neighborhood to Wesley's campus. This  
9 is rhetoric, not a tangible, quantifiable or measurable benefit  
10 as required by Subtitle X, Section 305.3.

11 Wesley has introduced no data to support its argument  
12 that students are creating rental housing pressures in the  
13 neighborhood. Students are part of the commercial rental market  
14 in the neighborhood. The number of vacant apartments that are  
15 currently available at the Berkshire and Avalon apartment  
16 buildings, just one block from the AU campus, suggests there is  
17 no pressure on the rental housing stock in the vicinity of Wesley  
18 or AU. Contrary to ANC 3E's report, complaints about students  
19 living in the neighborhood surrounding AU and Wesley are minimal.  
20 When a complaint is made, AU has moved quickly and effectively  
21 over the last 10 years to address the complaint.

22 Wesley offers preserving green space as a benefit.  
23 Wesley is providing no more greenspace than has always been  
24 available. Choosing not to develop the campus beyond what is  
25 needed to meet Wesley's educational mission hardly qualifies as

1 a public benefit.

2 Wesley suggests the work of its graduates also should  
3 be considered a public amenity within the PUD evaluation  
4 standards, yet Wesley acknowledges that this benefit is not  
5 quantifiable as required by the PUD rules. The churches, schools,  
6 businesses and other organizations where Wesley students and  
7 graduates choose to work benefit from that work just as any  
8 employer benefits from their employees.

9 The proposal includes no public benefits targeted to  
10 ANC 3E where the PUD is located, which is required by the rules.  
11 This is also inconsistent with the implementation element of the  
12 Comprehensive Plan. Wesley argues its IZ beds will be a public  
13 benefit. Although Wesley argues it is providing more IZ than  
14 required, it is unclear whether Wesley's private IZ offer matches  
15 the requirements of the current IZ program.

16 In any case, the Wesley program assumes a variance from  
17 the existing IZ regulations. As ANC 3E has noted, DCHD has raised  
18 questions as to whether Landmark would be able to fill the IZ  
19 units. Section 305.5(G)(1) of the PUD rules states that,  
20 "Affordable housing provided through IZ shall not be considered  
21 a public benefit except to the extent that it exceeds requirements  
22 under existing zoning."

23 Wesley has provided no information to assess its offer  
24 against the existing zoning requirements. Also, The Standard at  
25 Wesley will not create more affordable housing options for Wesley

1 or AU student. Based on Landmarks testimony in this case, the  
2 cost of housing at The Standard will be as high as the existing  
3 commercial residential market at the high end of on campus housing  
4 available at AU. Wesley has advised neighbors that Wesley  
5 students' cost to rent at The Standard will be higher than renting  
6 at Wesley's 2014 residence hall.

7 Wesley proposes a neighborhood playground as a PUD  
8 benefit that will equal half a tennis court in size. Wesley  
9 committed in 2011 to build a new playground as a condition of an  
10 amended 2006 Campus Plan for its students' families that would  
11 be available also for Spring Valley families. Wesley never met  
12 this obligation.

13 In the interim as ANC 3E said in testimony on September  
14 11th, the city has invested in an improved and expanded playground  
15 at the Friendship Recreation Center just two blocks from the  
16 Wesley property and easily accessible to Spring Valley residents.  
17 The proposed playground meets the standards for a public benefit,  
18 but we are troubled by the prospect of an already economically  
19 privileged neighborhood gaining exclusive access to a private  
20 playground, as a public benefit of the PUD process.

21 A benefits package targeted to the economically  
22 privileged neighborhoods surrounding Wesley may not be the best  
23 that could be achieved through this proposal. We feel strongly  
24 that Wesley should develop a more innovative benefits package  
25 that examines how Wesley can best contribute to addressing the

1 big issues in the City, such as housing and health care equity  
2 and the challenges of dealing with the homeless crisis.

3 The Landmark development also poses unacceptable  
4 impacts on the surrounding neighbors, as defined in the PUD rules  
5 and objectionable conditions as defined in the Campus Plan rules.  
6 First, the size and scale of the Landmark development is both  
7 unacceptable and objectionable, especially for residents who live  
8 closest to the campus. OP even said the building would be so  
9 big as to block resident's views of AU buildings further away and  
10 actually considered that a benefit. Next slide, please?

11 Wesley claims that The Standard will be nestled within  
12 other Wesley buildings at the far end of the hilltop is  
13 disingenuous.

14 MR. SMITH: Next slide, please? Keep going, Alma.  
15 Keep going, Alma.

16 MS. GATES: As those images show, the only place a  
17 building of this size fits on the campus is on the hilltop where  
18 it is being proposed. "Nestled" --

19 MR. SMITH: Next slide, please?

20 MS. GATES: "Nestled" is not a word that's properly  
21 describes the sighting of the building.

22 MR. SMITH: Next slide, please?

23 MS. GATES: Second, the Campus Plan and PUD proposals  
24 are objectionable on the basis of the number of students. With  
25 the addition of the 659 beds at The Standard at Wesley, Wesley

1 will have an on campus housing capacity of 735 beds, although the  
2 vast majority of students living on campus will not be enrolled  
3 at Wesley and will not count against Wesley's student cap, yet  
4 this project will have the effect of nearly tripling the number  
5 of students at Wesley, resulting in a much greater intensity of  
6 campus activity, including noise and traffic, and will certainly  
7 impact property owners in the adjacent residential neighborhood.

8           This increased intensity of use of the campus will  
9 exacerbate safety issues stemming from ingress and egress from  
10 Wesley's entrance/exit on Massachusetts Avenue. Although DDOT  
11 has warned of increased driving to the site stemming from an  
12 excessive amount of parking, it has proposed only to study these  
13 matters at some future date and there is no plan to mitigate  
14 these impacts.

15           Third, the D.C. Department of Energy and Environment  
16 has warned of the significant storm water issues on the site.  
17 Wesley has not submitted a detailed plan to mitigate those  
18 impacts, despite the long history of stormwater problems that are  
19 unique to the site and the Spring Valley neighborhood downstream.

20           This is a consolidated PUD not the first stage review,  
21 and the zoning standards required that unacceptable outcomes and  
22 objectionable conditions be mitigated in advance of zoning  
23 approval not just delegated to a government agency for resolution  
24 at some future date.

25           DOEE has suggested that Wesley consider using permeable

1 pavers to address stormwater concerns as part of the new sidewalk  
2 infrastructure by DDOT. DDOT testified that permeable pavers are  
3 not part of its inventory for contracted services, but DDOT's  
4 policies do not prevent the Zoning Commission from requiring  
5 Wesley to implement preemptive mitigation measures to prevent  
6 potential stormwater damage.

7                  Fourth, the consolidated PUD will alter the character  
8 of the Wesley campus which will impact and create objectionable  
9 conditions for Wesley students. Wesley Students will be  
10 outnumbered nearly 3-to-1 and made to feel like visitors on their  
11 own campus. The addition of AU students to the Wesley campus  
12 will likely affect the overall diversity of the campus.

13                  Wesley's enrollment is 41 percent white, 34 percent  
14 African-American, 9 percent Asian, and 5 percent international  
15 students. AU student enrollment is 56 percent white, 12 percent  
16 Hispanic, and 8 percent African-American.

17                  The most recent rankings by U.S. News and World Report  
18 shows that AU's diversity ranking has declined significantly over  
19 the last year. The overwhelming majority of students living on  
20 the Wesley campus will be AU undergraduates, not the graduate  
21 level seminary students at the heart of Wesley's Mission.

22                  When AU proposed entering into a master lease with  
23 Wesley in 2015 to house AU undergraduate students on Wesley  
24 campus, Wesley students complained that undergraduates would  
25 disrupt Wesley's learning environment. We find it significant

1 that the two elected ANC 3E Commissioners representing students  
2 living both at Wesley and AU, voted to oppose this application.

3               Fifth, in its report, ANC 3D cites numerous  
4 objectionable impacts; security, parking enforcement, traffic and  
5 pedestrian flow affecting surrounding neighbors and Wesley Campus  
6 residents that will require cooperation with AU to mitigate.  
7 However, there is nothing in Wesley's proposal that would  
8 mitigate any of these concerns, and AU is not cooperating at this  
9 time.

10               Wesley's application also is inconsistent with the Rock  
11 Creek West area element of the Comprehensive Plan for  
12 institutional uses, managing institutional land uses and zoning  
13 and design measures. These are outlined in detail in our written  
14 testimony as Exhibit 42. ANC 3D's detailed analysis of Wesley  
15 applications, especially their work on Wesley's proposed IZ  
16 program, including the fact that allowing IZs to students  
17 involves a change to the zoning regulations, has contributed  
18 significantly to identifying the critical irregularities with  
19 Wesley's project.

20               The Zoning Commission must give great weight to those  
21 issues and concerns raised by 3E, but more importantly, they are  
22 deserving of great weight. By contrast, ANC 3E reported it was  
23 not capable of weighing in on the zoning issues in this case. So  
24 there is nothing for the Commission to give great weight.

25               Wesley's threat to relocate has prompted ANC 3D

1 representatives to warn us that a developer could purchase the  
2 site for higher density housing and change the character of the  
3 neighborhood. We also were warned at a community meeting by a  
4 party in this case that the City might use the site to build  
5 affordable housing.

6 We also want to acknowledge the Office of Planning for  
7 its Racial Equity Analysis, a peace analysis is gladly valued and  
8 will help community groups better understand how to apply a racial  
9 equity lens to projects like that proposed by Wesley.

10 Although Wesley has promoted the Landmark development  
11 as a way to create more affordable housing, nothing that has been  
12 presented by Landmark or Wesley provides reasonable assurance  
13 this goal could be achieved. Despite Wesley's testimony in this  
14 case, we doubt that many AU students would qualify for a housing  
15 subsidy based on parents' income levels.

16 According to information from the U.S. Department of  
17 Education, the median family income of students attending  
18 American University is \$155,300. That is double the U.S. median  
19 income. 67 percent of AU students come from the top 20 percentile  
20 of family income levels. 50 percent come from the top 10  
21 percentile.

22 A private student targeted IZ program will not alter  
23 the racial disparities in Rock Creek West as Wesley seems to  
24 suggest. OP concluded that white people are likely to benefit  
25 more than any other racial or ethnic group from this project.

1 The pool of students eligible for a housing subsidy is determined  
2 by the institutions through their admissions, policies and  
3 practices. Wesley's IZ program is unlikely to impact and  
4 (indiscernible) students through the diversity of students and  
5 Rock Creek West because they already would have been accepted and  
6 enrolled at the university.

7 Regardless of Landmark's IZ program, AU is an  
8 institution of mostly wealthy white students, according to U.S.  
9 Department of Education data. AU's percentage of white students  
10 is increasing and exceeds the national average on campuses. The  
11 percentage of African-American students at AU is declining and  
12 is now 40 percent lower than the national average on campus.

13 It is the AU demographic that this luxury apartment  
14 building is intended to serve, not Wesley students. If Wesley  
15 was serious about offering students affordable housing, Wesley  
16 and Landmark would propose more IZ units and consider opening its  
17 IZ program to any eligible college student in D.C., not just to  
18 AU and Wesley students. Let me turn now to Tom Smith.

19 MR. SMITH: In conclusion, although dormitories are an  
20 allowable use on campus property, The Standard at Wesley is not  
21 a dormitory. It is a commercial apartment building for AU  
22 students on the Wesley campus that will be built, managed and  
23 leased by a nationwide commercial developer. Wesley's role in  
24 the process is limited to banking the funds that come from the  
25 ground lease with Landmark. Subtitle X, Section 101.4 makes it

1 clear that The Standard is not a permitted educational use and  
2 its application is not consistent with the Campus Plan rules.  
3 Next slide, please?

4           Former Zoning Commissioner May said it most  
5 succinctly. "My inclination is that this kind of use, and call  
6 it commercial use, is just not supportable with a campus,  
7 particularly a campus of this size, where it's going to become  
8 this huge component within that very small campus, and it's just  
9 there to provide income. It's a sort of workaround, an end  
10 around, to get around the regulations and the limitations within  
11 the zoning regulations when it comes to Campus Plans. But it's  
12 also a way around the zoning regulations that would normally  
13 apply for an apartment building of that size."

14           The Landmark development also does not meet the  
15 purposes or standards for a PUD and does not comply with PUD  
16 rules. The proposed Landmark/Wesley commercial venture is also  
17 incompatible with the existing Wesley campus. The PUD process  
18 cannot provide the relief from the Campus Plan use rules that  
19 Wesley is seeking.

20           If approved by the Zoning Commission, the Wesley Campus  
21 Plan and PUD would set a new precedent that would threaten the  
22 integrity of land use on every campus in the city by enabling  
23 universities to expand the commercial use of their campus  
24 property, all justified on the basis of generating a new revenue  
25 stream for the university unrelated to the university's own

1 students and educational mission.

2           Although regulations may not always provide the  
3 flexibility we might like, regulations do more than just manage  
4 change. They bring about order and predictability, and through  
5 that a sense of fairness and equity. Changing regulations by  
6 exception without a public hearing, which is what Wesley is asking  
7 you to do, eliminates the voice of the public in the zoning  
8 process. Running all the red lights in this case would bring  
9 chaos, particularly to the Campus Plan and IZ regulations, but  
10 also undermine the integrity of the zoning process as a whole.

11 Next slide, please?

12           To get to yes on Wesley's applications, the Zoning  
13 Commission has to run quite a few red lights. That's not because  
14 of some fault with the zoning regulations or neighborhood  
15 opponents. It's because Wesley designed a faulty proposal that  
16 puts its interest in the financial component ahead of the public  
17 interest, the city zoning regulations and its own educational  
18 mission. Next slide, please?

19           For all the reasons we have cited in our pre-hearing  
20 filings and in our testimony tonight, and NLC and the Spring  
21 Valley/Wesley Heights Citizens Association strongly encourage the  
22 Commission to reject Wesley's Campus Plan and PUD applications.  
23 That concludes our testimony. Thank you, very much.

24           CHAIRMAN HOOD: Okay. Thank you NLC and Spring Valley  
25 Citizens. Thank you both for your presentation. I will start

1 off by saying this. I really appreciate the PowerPoint. While  
2 I may -- you know, like everything else, I may not agree with  
3 all of it and how it's presented, but I think it brings some very  
4 valid points which I want to continue to discover as we continue  
5 to move through this process.

6           But I also want to make two points right quick. I  
7 noticed that it's always referred to that the Zoning Commission  
8 recommended us to go to -- let me back up. Commissioner May set  
9 this down, this particular case right here. He sat this now. So  
10 I know previously when we dealt with this, we all said,  
11 "No, come back." Possibly somebody was mentioning that it  
12 possibly could be a PUD or file another Campus Plan amendment and  
13 I think that's what ANC 3E was mentioning, but I want to make  
14 sure the record is clear.

15           Commissioner May set this case down for us to move  
16 forward in this. He was for it and I want to do the background  
17 and find out. I stand to be corrected if he didn't, but I believe  
18 he did because I know previously we all had some issues with  
19 moving forward. So when you presented -- so he did set it down.  
20 Thank you. Thank you. That's what I need to know.

21           So the issue is when you present something to the  
22 Commission, we have two new members. Make sure we present it  
23 all. Don't just give us a piece of it which works to your benefit  
24 or to what your position is, which is normal, but help us, and  
25 I'm just saying this, help us to help you because I think in this

1 presentation you actually bring out some very good points.

2 And also one of the problems that I have is when you  
3 mention the Zoning Commission said PUD, go back and look at the  
4 transcript. Anthony Hood said we're not making -- I'm not making  
5 a recommendation. So if you're going to present it, present at  
6 all. Don't just present what goes to you.

7 Now, running the red lights. Are you all familiar, and  
8 I'm asking you this Mr. Smith and Ms. Gates. Are you all familiar  
9 that the Zoning Commission has already done something similar to  
10 this at another campus? Are you all familiar --

11 MR. GATES: Are you are you talking about GW?

12 CHAIRMAN HOOD: No. You can use that one too, but no  
13 I'm not talking about GW. I'm talking about -- well, I don't  
14 want to put another campus out there, but are you all familiar  
15 that this has already been done?

16 MR. SMITH: Mr. Chairman, we're only aware of one Campus  
17 Plan, full Campus Plan PUD, and that's the George Washington  
18 campus. We're not aware of another. And you know, as we did  
19 submit a filing maybe about a month, two months ago, in which we  
20 looked at PUD cases over the span of, oh, I can't remember how  
21 many years, but it was quite a long, long time, even going back  
22 to the '70s and the only campus-wide PUD that we were able to  
23 find was the GW Campus Plan PUD.

24 CHAIRMAN HOOD: Okay. All right. I'll settle for  
25 that, but let me ask you this.

1                   MR. SMITH: Mr. Chairman, if I could add one other  
2 thing --

3                   CHAIRMAN HOOD: Sure.

4                   MR. SMITH: -- if I might?

5                   CHAIRMAN HOOD: Sure.

6                   MR. SMITH: I do appreciate your comments and actually,  
7 in some of our earlier filings, our pre-hearing filing, we did  
8 indeed mention the fact that Commissioner May, while he brought  
9 up the issue of the PUD, also said, though he wasn't sure that  
10 it would work and we quoted that from the transcript.

11                  And you had a very similar comment that we quoted from  
12 the transcript that's in our pre-hearing filing. And actually,  
13 we're reacting to what Wesley has provided in -- not only in  
14 their meetings with the neighbors, because initially one of the  
15 things that the neighbors were told was that the Zoning Commission  
16 told them that you all would approve a PUD and so therefore,  
17 that's why they're moving forward with the PUD.

18                  We tried to correct them, but I think that they also  
19 made it very clear in their testimony that one of the reasons  
20 why they were seeking the PUD was because they were directed  
21 by -- they feel they were directed by the Zoning Commission to  
22 do so. We don't agree with that. We don't think you directed  
23 them. We do think that it was an opportunity that was laid out  
24 for them. But at the end of the day, they need to go back and  
25 assess whether it works or not and they're the ones that came

1 forward with the PUD and should be -- take that responsibility.

2 CHAIRMAN HOOD: Thank you. I'm going to go back and I  
3 specifically remember myself specifically saying I'm not going  
4 to recommend anything to anybody. You just bring it to us and  
5 we'll deal with it.

6 MR. SMITH: Right.

7 CHAIRMAN HOOD: I'm going to have that for this record  
8 because I think it's important that we not, and I said this then  
9 that's why I have such heartburn with recommending things,  
10 because exactly what I thought was going to happen comes back and  
11 flies in our face now. So I don't recommend -- no, I'm not  
12 talking about you Mr. Smith or anybody else, but I'm just saying  
13 and speaking for the record.

14 I specifically said and I'm going to ask Ms. Schellin  
15 to pull that transcript for me so I can remember because I  
16 specifically said I don't make recommendations. Let's just bring  
17 it down and we deal with it because that's --

18 MR. SMITH: Mr. --

19 CHAIRMAN HOOD: -- what --

20 MR. SMITH: Mr. Chairman --

21 CHAIRMAN HOOD: -- is happening is --

22 MR. SMITH: -- I'm happy --

23 CHAIRMAN HOOD: Hold on. Let me finish.

24 MR. SMITH: I'm happy --

25 CHAIRMAN HOOD: Let me finish.

1                   MR. SMITH: -- to provide that to Ms. Schellin.

2                   CHAIRMAN HOOD: Well --

3                   MR. SMITH: We've looked and we could probably save her  
4 a lot of time and show her exactly what you said, which is what  
5 you just said. So --

6                   CHAIRMAN HOOD: Okay. And that's my point.

7                   MR. SMITH: -- if that -- if we can we can be helpful,  
8 we'll be happy to do that.

9                   CHAIRMAN HOOD: I appreciate that. Because here's my  
10 problem Mr. Smith, and Ms. Gates and others, is that when it  
11 comes back and we have opposition and people rely on something  
12 that we said, which was -- sometimes I believe is taken out of  
13 context. So anyway, I'll leave at that because I just hate when  
14 stuff comes back to us like that.

15                  I do think that you all bring up some very useful  
16 arguments, but let me ask this, and I appreciate the PowerPoint.  
17 Actually, an excellent PowerPoint and I'm not sitting here  
18 blowing smoke because there are some things that I am going to  
19 probably push back on the Applicant.

20                  What ways do you all recommend, because I've heard  
21 another process? Let me ask you this. We got to this process.  
22 You all didn't like the -- well, nobody liked the first process.  
23 We got here to this and now they're still up. So what happens,  
24 and I don't know what other process it could be, which I've heard  
25 some recommendations from 3E and others. If we get to another

1 process, whatever that may be, will there still be red lights?  
2 Because I can tell you, it seems like every time I've been  
3 involved with American University in my tenure, and even though  
4 it's not about American, it's about Wesley, but it's always red  
5 lights. It's always red lights about trying to do something in  
6 this area, in these areas.

7                   And I listened to Ms. Gates' description of disparities  
8 of African Americans and it seems like the more stuff that we  
9 push back on the harder it's getting for people that look like  
10 me to even come over in that area, even just to come to visit.  
11 So what -- that's not necessarily a question, but do you have a  
12 response to my dissertation?

13                  MR. SMITH: If you are -- are you talking about what  
14 could be done for Wesley or are we talking about what -- I'm not  
15 sure what you're asking --

16                  CHAIRMAN HOOD: That's all right.

17                  MR. SMITH: -- Mr. Chairman.

18                  CHAIRMAN HOOD: That's all right.

19                  MR. SMITH: I'm sorry, but I just -- it sounds like  
20 there's lots of pieces there, and I will say this. I mean, I  
21 think that there are -- if the issue for Wesley is about revenue,  
22 if we're looking at a revenue issue, there are ways for, and  
23 we've identified some of those in our pre-hearing statement,  
24 there are ways for Wesley to identify -- ways for Wesley to raise  
25 additional revenue within the limits that are -- of the zoning

1 regulations. I think the problem here with this case is the  
2 Landmark element on Wesley's property. That's the problem.

3 And if we're looking at -- you had suggested -- at one  
4 point in time there was a suggestion, I think, from Commissioner  
5 Miller, that AU build this building or that this be part of the  
6 Campus Plan and one of the options might be for Wesley to actually  
7 sell its land to AU and AU to build a building, but I doubt that  
8 you would build a building with Landmark. They would build it  
9 for themselves as, you know, most colleges and universities  
10 would, you know.

11 And I think that the idea that was raised at the last  
12 hearing -- oh, and that is why we raised it during the AU Campus  
13 Plan because, if you all recall, this was -- it was known what  
14 Wesley was going to do when AU applied for their last Campus  
15 Plan, which is just a couple of years ago. And we encouraged  
16 the Commission, and AU and Wesley as part of that process to sit  
17 down and resolve this.

18 If we're talking about how do we bring more minority  
19 students to the university, I wish I had an answer for that. If  
20 I did, I would be, you know, at a much higher pay grade than what  
21 I am. But I think at the end of the day, it starts with admissions  
22 policies and practices, but we also have to look at what's going  
23 on nationally in the national trends.

24 CHAIRMAN HOOD: Right. And I --

25 MR. SMITH: I don't --

1                   CHAIRMAN HOOD: And I will say this; I know you all  
2 have done some homework, but I don't know if we've all done  
3 complete -- because I do know that this process, and I know this  
4 very personally, in another city, another state, that this  
5 process, exactly what's being programmatic here, is done because  
6 I know that, and I'm just saying this, maybe we need to redo what  
7 we're doing because I know that other areas are doing exactly  
8 what's being prescribed here even though our regulations are  
9 strict and to the point where they are.

10                  All right. That's really all I have right now. I'm  
11 still thinking this thing through, but I appreciate the  
12 candidness and I will see how this goes. All right. Thank you.  
13 Mr. --

14                  MS. GATES: Mr. Chair?

15                  CHAIRMAN HOOD: Yes?

16                  MS. GATES: I also think one of the major issues here  
17 is the fact that if DCHD's proposal is enacted, it will be a  
18 change to the zoning regulations without a public hearing.

19                  CHAIRMAN HOOD: So Ms. Gates, and that's another  
20 question. You know, I don't believe in not hearing from the  
21 public. I think at least my record speaks for itself and I'm  
22 sure others on here as well not just me since I've been around.  
23 So, you know, even though I think there's an unfair shake out  
24 there that this Commission does not hear from the public that is  
25 ever so far away from the truth as it could ever be.

1           Now, we might not agree with you. Now, that's a  
2 different -- that's a whole other piece that if we don't agree  
3 with you or if it doesn't come out your way or whoever is  
4 presenting to us, then yes, you probably do feel like we don't  
5 we don't hear from you, but I can assure you that's a question I  
6 want to ask this party. I'm going to ask you Ms. Gates and Mr.  
7 Smith, after my colleagues have asked their questions. That's  
8 my final question I'll probably ask you, I think.

9           So let me -- and I appreciate that Ms. Gates. Let me  
10 ask, Commissioner Imamura. You have any questions?

11           MR. CARTER: Mr. Chairman? Mr. Chairman, could I just  
12 interject one quick thing where you said --

13           CHAIRMAN HOOD: Sure.

14           MR. CARTER: -- you know, that this kind of model is  
15 being done around the country. There's no doubt that universities  
16 are moving towards some type of privatization of student housing.  
17 They're trying to get out of the dorm business, but they are  
18 doing it on their campus with their students, not somebody else's.  
19 I do not believe that they are building dorms for another  
20 institution. They're building dorms on their campus. I don't  
21 know what the terms are in terms of the ground lease or whatever.  
22 There's no doubt that this product is out there, this student  
23 housing apartment project, this evolution away from a dormitory  
24 is happening, but universities are doing it for their own  
25 educational students enrolled in their universities.

1 CHAIRMAN HOOD: So --

2 MR. CARTER: Thank you.

3 CHAIRMAN HOOD: -- Mr. Carter --

4 MR. CARTER: Yeah.

5 CHAIRMAN HOOD: -- I appreciate that. I'm going to  
6 look into that because the reason I know, I just paid for  
7 something today off of campus so I know all about that. That's  
8 what I'm saying. And I know what's going on, but that is another  
9 element, like what you just mentioned, for their own students --

10 MR. CARTER: Yep.

11 CHAIRMAN HOOD: -- and I appreciate it. I did have a  
12 question for you --

13 MR. CARTER: All right.

14 CHAIRMAN HOOD: -- but I'll let my colleagues go first.  
15 I have to -- I got to find my question, but I'm going to come  
16 back to you. Thank you. Commissioner Imamura, you have any  
17 questions or comments?

18 COMMISSIONER IMAMURA: I do. Thank you, Mr. Chairman.  
19 Thank you, Ms. Gates, Mr. Carter and Mr. Smith, for your  
20 compelling presentation. I do share the Chairman's comments  
21 that, you know, the Zoning Commission, the structural framework  
22 is set up to encourage and support public and community comment  
23 and input so I think just by the mere fact that the 3E of you  
24 are here today, is a good example of that.

25 Ms. Gates, I just want to make a comment about your

1 part of the presentation. On Slide No. 12, it had the perspective  
2 of a bird's eye view of the campus. It was a terrific  
3 illustration of what this proposed dorm might look like and your  
4 comment about, you know, its architectural vocabulary, the  
5 incongruent with the existing campus architecture.

6 I think that that's probably a fair assessment but  
7 remember, it's not just in the boundaries there. It's also within  
8 the context of AU's campus as well. So urban design isn't really  
9 defined by necessarily edges. So we can see what -- AU's campus,  
10 the height of those adjacent buildings compared to what this  
11 proposed dorm might look like.

12 So my comment is, just remember that when you're  
13 looking at architectural design, urban design, that you consider  
14 the entire context and not just based on the property lines.

15 The comment, Mr. Carter, you and I have not always seen  
16 eye-to-eye on things, but I do appreciate your remarks today and  
17 your persuasive argument. I would add that, this is for  
18 everybody, that the dorms today are very different in the way  
19 dorms were designed and thought about, you know, 20 years ago.

20 MR. CARTER: Absolutely.

21 COMMISSIONER IMAMURA: So --

22 MR. CARTER: Absolutely.

23 COMMISSIONER IMAMURA: -- you know, dorms today, you  
24 know, apartment style, right. As you said, this is to recruit,  
25 incentivize, potential students and so they have a different set

1 of expectations. But at the end of the day, we do know that it's  
2 serving a dormitory purpose, so to house students.

3 Now, it's debatable whose students. We know that AU  
4 is a significant component of this proposed project. But I do  
5 appreciate that you share my thought on the new concept of what  
6 dorms are for students on campus.

7 I would ask -- here's my question, Mr. Carter.

8 MR. CARTER: Yep.

9 COMMISSIONER IMAMURA: In order to make this more  
10 palatable. Are there any additional benefits that you think  
11 might balance this out? You know, I'm glad you asked that because  
12 I sat down and was trying to think of what kind of benefits I  
13 would want in the neighborhood and what really came to my mind  
14 and this -- we touched on it. You know, I don't know that our  
15 neighborhood or ANC E which had a list of benefits, they had a  
16 thoughtful list of benefits. I don't know that either ANC really  
17 needs that much public benefit and our suggestion was the city  
18 needs more public benefits and that, you know, in terms of  
19 developing the public benefits, we go beyond the ANC --

20 MR. SMITH: It froze.

21 MR. CARTER: -- think the lack of sidewalks there. So  
22 I would like to think out of the box in public benefits. What  
23 could Wesley do for the city in terms of the biggest challenges?  
24 And what comes to mind for me is the homeless problems. I mean,  
25 you know, we have seen -- you know, the homeless are ingenious

1 in that most of the homeless encampments end up on public parks  
2 that are federal, not D.C. so the federal D.C. authorities can't  
3 really do too much enforcement.

4                   But homelessness is a problem. You know, I don't know.  
5 I wish I had an answer, but the big answer is I'm not looking  
6 for benefits inside of my ANC so much as Wesley, with its mission,  
7 what could the public benefits be to the city at large?

8                   COMMISSIONER IMAMURA: All right. Thank you, Mr.  
9 Carter. I appreciate that response.

10                  Mr. Smith, I'll offer the same question to you as well.  
11 Are there any additional benefits that you might think about that  
12 would balance this out?

13                  MR. SMITH: Well, I don't have anything new to add that  
14 Blaine has not already said. We had quite a lot of discussion  
15 within our two groups about this issue and bottom line, we felt  
16 that the -- what would make this more palatable is if the building  
17 was smaller in size and that it would address the mission of  
18 Wesley Seminary and be limited to Wesley students. We felt that  
19 that would be would basically eliminate almost all the  
20 objectionable impacts.

21                  Now, that doesn't -- I'm sure that's not what you want  
22 me to say, but, you know, and we did have a lot of data. To  
23 Blaine's credit, Blaine took the lead within our groups about  
24 talking about the importance that we should not be looking at  
25 benefits that were exclusively for the neighborhoods around

1 Wesley, but rather looking citywide at what kind of difference,  
2 what kind of intellectual power, could Wesley bring to the table  
3 in order to address some of these problems? So --

4 COMMISSIONER IMAMURA: Well, thank you, Mr. Smith. I  
5 think that's an interesting approach, and I think there's a lot  
6 of moving parts to this. And certainly if it were just for Wesley  
7 students, you're right, we may not even be here, but it sounds  
8 as if that may not pencil out for Wesley. So that's why we're  
9 here. All right. Thank you both. Ms. Gates, thank you as well.  
10 Mr. Chairman.

11 MR. CARTER: Commissioner Imamura, could I just  
12 interject one thought? And this is this is a very rough estimate.  
13 One thing that hasn't come up is the financial kind of  
14 implications at play on a project like this. Now, I'm just going  
15 off with some very rough metrics. But if you've got a 300 square-  
16 foot student apartment building, construction costs have to be  
17 in the range of \$300 a square-foot, furnishings, soft costs.  
18 Okay. Well, you know, okay. We can go down to \$250. You know,  
19 it's in -- we're talking something in the range of almost \$100  
20 million.

21 So weigh that against what kind of public benefits  
22 could be brought to bear. This is a project that will, I would  
23 say, easily cost a hundred million. So that's something -- again,  
24 let's -- maybe I'm off \$10 million. Who cares? You know, you're  
25 still talking about a considerable amount of money. And so how

1 much of that should be allocated to some kind of innovative public  
2 benefit?

3 COMMISSIONER IMAMURA: I certainly think the -- outside  
4 the box is what your approach is and I think, Mr. Carter, I  
5 certainly appreciate that point of view. So thank you, very  
6 much.

7 MR. CARTER: Yep.

8 COMMISSIONER IMAMURA: And, again, thank you, the 3E  
9 of you, on your presentation.

10 Mr. Chairman, I don't have any further questions.

11 CHAIRMAN HOOD: Commissioner Stidham, you have any  
12 questions for the opposition?

13 COMMISSIONER STIDHAM: I think Commissioner Imamura  
14 actually stole my question, but I don't believe he asked Ms.  
15 Gates the answer to that question. So if you did, I somehow  
16 missed it, but, Ms. Gates, that's the same question to you  
17 regarding what you see as an appropriate public benefit that  
18 would outweigh the impacts to the community from this  
19 development.

20 MS. GATES: As I testified --

21 CHAIRMAN HOOD: Let me ask everybody --

22 MS. GATES: As I testified --

23 CHAIRMAN HOOD: -- to mute because we're getting  
24 feedback. So if everybody would mute except for Ms. Gates we  
25 should be good. Now, I'm getting ready to mute.

1 MS. GATES: As I testified, I agree with my colleagues  
2 a hundred percent. The big issues in the city need to be looked  
3 at carefully.

4 COMMISSIONER STIDHAM: Okay. Thank you. No more  
5 questions for me. Thank you.

6 CHAIRMAN HOOD: Thank you. Okay. Vice Chair Miller,  
7 any questions or comments?

8 VICE CHAIR MILLER: -- Chairman, and thank you, Tom  
9 Smith, Elma Gates and Blaine Carter for your testimony on behalf  
10 of the party in opposition to this case. I'm not sure I really  
11 have any questions at this time. I do have a few comments. Well,  
12 I guess one question I will ask, since it was just stated that a  
13 smaller building might help mitigate adverse impacts, it's my  
14 understanding that in general, with maybe one exception, that the  
15 project that's being proposed meets the height and density, that  
16 there's no that there's not relief being asked for from the height  
17 and density limits in this particular zone for the -- in this  
18 Campus Plan.

19 I think there's a notch -- there's a setback that's not  
20 being -- that provided quite the length that's otherwise  
21 required, but I think that's being done to mitigate on the other  
22 side, not being closer to the neighborhood. But in general,  
23 would you agree that the height and density -- that relief is not  
24 being -- one of the areas of relief being requested here is not  
25 height and density in the underlying RA-1 zone or under the

1 existing regulations? Would you admit -- would you concede that?

2 MS. GATES: Was that question for me?

3 VICE CHAIR MILLER: I was looking at you, Ms. Gates,  
4 even though I don't know if you could see that I was looking at  
5 you, but anyone can answer that, whoever you want to.

6 MS. GATES: Well, of course, a smaller building,  
7 housing fewer students would have less impact, and that also  
8 would probably require a reduction in the parking. However,  
9 Wesley today cannot fill all --

10 VICE CHAIR MILLER: That wasn't my question. My  
11 question was about the relief from the height and density limits.  
12 Would you concede that they're not asking generally for relief --

13 MS. GATES: Oh, yes.

14 VICE CHAIR MILLER: -- from any height and density  
15 limits that are in this underlying RA -- I think it's an RA-1  
16 zone.

17 MS. GATES: Yes, it is. Yes, I would agree with that.

18 VICE CHAIR MILLER: Okay. That's really what I wanted  
19 to establish for the public's benefit as part of this dialog.

20 MR. SMITH: Commissioner Miller, if I --

21 VICE CHAIR MILLER: I --

22 MR. SMITH: -- can add --

23 VICE CHAIR MILLER: Sure.

24 CHAIRMAN HOOD: -- something to that, if you don't  
25 mind? I think, obviously, we wrestled with that a great deal in

1 terms of trying to formulate our own view because, you know, as  
2 you know, if this was a regular Campus Plan case, a regular Campus  
3 Plan in case, that building would be permitted under the Campus  
4 Plan rules. There would -- you know, it would not be in conflict  
5 with the Campus Plan rules and Wesley could easily get a special  
6 exception for the little notch that it is requesting on the AU  
7 side. And it really has nothing to do with the neighborhood. It  
8 really has to do with the design of that building that it needs  
9 it on that AU side.

10                   The problem with us, though -- not with us, but the  
11 problem that we had when we looked at this whole proposal as a  
12 whole is that it was hard to even get to that point because of  
13 all the obstacles in the rules that come before you even look at  
14 something like the height and density, you know, and that also  
15 raises the question of why a PUD?

16                   I mean, part of the reason for a PUD is because you  
17 need the relief for height and density, and that is not required  
18 in this case and that's why we said that the only reason that  
19 the PUD is being requested has to do with the Landmark element,  
20 which is Section 101.4 of the Campus Plan rules about general  
21 commercial activities and the educational mission.

22                   So yeah, we could look at that in a very, you know,  
23 isolated way, but there's a larger there are larger issues here  
24 that you can't look at these little pieces. Even the public  
25 benefits package, we debated about whether to even talk to you

1 all about the public benefits package because it would require  
2 you to ignore all the other, what we've referred to as the red  
3 lights in this plan, but we thought, okay, we have a  
4 responsibility to look at this in totality and to come back to  
5 you with our comments both on the public benefits package as well  
6 as what we thought were the objectionable conditions and  
7 unacceptable outcomes under the PUD and Campus Plan rules, so.

8 VICE CHAIR MILLER: No, I understand where you're  
9 coming from. I read --

10 MR. SMITH: Had --

11 VICE CHAIR MILLER: I read --

12 MR. SMITH: Had it been an RA-1 zone, it would not be  
13 permitted, but it would be permitted on a campus, but it would  
14 not be permitted in an RA-1 zone. So if you were looking at an  
15 apartment building in a RA-1 zone, this would not be permitted.

16 VICE CHAIR MILLER: You know, I understand where --  
17 I've read all of your written comments and I've listened carefully  
18 to all of your testimony today, and I understand that there are  
19 these threshold questions which you've raised, which we began to  
20 deliberate in the last case. And some of us, I'll just speak  
21 for myself, just disagree with the statement that that it's --  
22 that this dormitory is not a residential use. I think it is a  
23 residential use. I agree it's a unique residential use. I think  
24 it's unique to this case. I don't think it sets a precedent. I  
25 think it is related to the educational mission.

1           I'm not going to get into deliberations. We started  
2 that in the last case. We'll go -- if we get to deliberations,  
3 we'll have plenty of opportunity to elaborate and enunciate our  
4 views on that, but I disagree with the -- where you come out,  
5 although I understand where you're coming out on the fundamental  
6 questions, that it's not that this dormitory was not of  
7 residential use. I think it is, and I think it is related to  
8 the educational mission of Wesley.

9           I agree that it's a unique situation and there may not  
10 be another case where this would -- where this could even begin  
11 to be decided as a precedent for a variety of reasons which we  
12 discussed at the end of deliberations and I'm not going to go  
13 into that at this point.

14           I'll just make a further -- I'm not asking any  
15 questions at this point. The other comment I would make in terms  
16 of the red lights. I guess I disagree with the red light  
17 characterization. I think the Zoning Commission has a lot more  
18 discretion than you give us, that you are saying that we do in  
19 this in this case.

20           I think we have the discretion to make some  
21 determinations about those threshold questions to make a  
22 determination about whether the cumulative public benefits in  
23 this case of retaining a religious institution, a long -- that's  
24 been there for decades to allow it to thrive in place, really  
25 just to stay in place, I think, as may be the case, but their

1 testimony was to thrive in place.

2 I think the -- that public benefit of a religious  
3 institution being able to stay in the very high cost District of  
4 Columbia when so many have had to leave, the preservation of  
5 green space that might not otherwise be preserved under an  
6 alternative plan that would allow Wesley to thrive or move, and,  
7 I mean, all the good works that -- and the mission that Wesley  
8 does, has done, for decades and will continue to do for the  
9 District and the affordable housing proffer.

10 It is unique, a privately administered IZ program  
11 although I know that, and there's testimony and there's written  
12 comments in the record, how DHCD has affordable housing covenants  
13 for non-IZ programs throughout the District of Columbia for areas  
14 where IZ didn't apply or for other reasons and there's a lot of  
15 documentation as to how that affordable housing covenant in this  
16 case would be detailed and all the IZ standards would be adhered  
17 to other than, other than that it's going to be an all student  
18 or their related families' population.

19 And that's a big exception, but that's -- but all of  
20 the income set aside is being exceeded. In fact, they increased  
21 it further based on the last hearing last month. They've deepened  
22 the affordability level since last month as a result of testimony  
23 that there should be more affordable housing. I think that is a  
24 public benefit.

25 I recognize that we disagree on the threshold question

1 whether it should even be allowed in this type of Campus Plan/PUD  
2 case without amending the IZ regulations. That's a whole -- and  
3 I'm sure we'll get -- we'll have more of a dialog with 3E about  
4 that since they directly address that issue, but I think it is --  
5 there are unique aspects to this case where I think we can find  
6 a way to get to yes instead of always throwing up red lights in  
7 these types of cases.

8 So I'll just leave it at that. Mr. Chairman, I thank  
9 you for your testimony. I look forward to further dialog with  
10 you as we go forward.

11 CHAIRMAN HOOD: Okay. Thank you, Vice Chair. Let me  
12 ask this question and I'm going to ask this question, and I'm  
13 not trying to avoid Mr. Smith or Ms. Gates, but I'm going to  
14 ask -- I don't see Mr. Carter that much. I'm going to ask Mr.  
15 Carter. Do you think that the Zoning Commission allows for  
16 public participation?

17 MR. CARTER: I believe so.

18 CHAIRMAN HOOD: Okay.

19 MR. CARTER: I believe so. I don't know how much weight  
20 is given to the public participation, but --

21 CHAIRMAN HOOD: (Indiscernible).

22 MR. CLARKSON: -- I think there's some public  
23 participation.

24 CHAIRMAN HOOD: So let me -- and I'm going down this  
25 line with everybody. I could call -- our policy, Ms. Gates, and

1 other times, Mr. -- but I want to get to the public in opposition.  
2 But Mr. Carter, since I have you, you said you don't know how  
3 much weight that it gives. And do you do you quantify weight  
4 with whether or not they -- whether the Commission goes along  
5 with whatever your position is or not? Is that how you quantify  
6 weight?

7 MR. CARTER: No, that wouldn't be fair. You know,  
8 that's a good question.

9 CHAIRMAN HOOD: Because I will tell you that sometimes  
10 my colleagues, no disrespect to any of them, all these years  
11 sometimes they don't agree with me --

12 MR. CARTER: Yeah.

13 CHAIRMAN HOOD: -- and I have to vote. So, you know,  
14 so that's -- you know, I want to make sure that that is reigned  
15 in because everyone has heard -- you know, we might not always  
16 agree, as the vice chair and I sometimes always don't, but we  
17 work well together. We might not always real topics and I'm  
18 looking forward to our deliberation.

19 Let me -- any other questions? Any of my colleagues,  
20 any other questions or comments? And I'm not -- Ms. Gates and  
21 Mr. Smith, I'm not evading you all because I know I'll see you  
22 all again, but that will be a question I'll give you at a later  
23 time. I'm going to get you to public.

24 All right. Let me go to the -- Mr. Brown, do you have  
25 any cross of the party in opposition?

1 MR. BROWN: Mr. Chairman, no cross.

2 CHAIRMAN HOOD: Okay. Chair Bender, do you have any  
3 cross of the party in opposition?

4 COMMISSINOER BENDER: No cross.

5 CHAIRMAN HOOD: Okay. And Chairman Duncan, do you have  
6 any cross party and opposition?

7 COMMISSIONER DUNCAN: No cross.

8 CHAIRMAN HOOD: Okay. And Mr. Clarkson, do you have  
9 any cross of the party in opposition?

10 MR. CLARKSON: For Ms. Gates, please?

11 CHAIRMAN HOOD: Okay. Go right ahead.

12 MR. CLARKSON: Ms. Gates, you stated in your testimony  
13 with respect to the proposed playground that, quote, "We are  
14 troubled by the prospect of an already economically privileged  
15 neighborhood gaining exclusive access to a private playground as  
16 a public benefit of the PUD process."

17 Has Wesley represented that the proposed playground  
18 would be private, granting exclusive access to a single  
19 neighborhood? Is there any evidence of that that you're aware  
20 of, of Wesley making that representation as you asserted in your  
21 testimony?

22 MS. GATES: Mr. Smith, do you want to take that?

23 MR. SMITH: Actually, yes. In several meetings  
24 that we've had over the course of the last two years with Wesley,  
25 that is the way this has been portrayed --

1 MR. CLARKSON: And --

2 MR. SMITH: -- that it would be -- that it would be a  
3 playground exclusively for the use of Spring Valley families.

4 MR. CLARKSON: So you're stating on the record that  
5 that Wesley has represented to you or your organization, that  
6 only families from the adjoining neighborhood would have  
7 exclusive -- they would have exclusive access to the neighbor --  
8 to the proposed playground? No one else in the public would have  
9 access to it? It would be solely designated for the residents  
10 of one neighborhood?

11 MR. SMITH: And --

12 MR. CLARKSON: That's your stating, that Wesley made  
13 those representations?

14 MR. SMITH: I think I think our testimony was pretty  
15 clear and what I just said, which is not quite what you fed back,  
16 what I said was that these were not -- I didn't say these were  
17 private conversations between our groups and Wesley. I said they  
18 were part of the Wesley CLC meetings that had been held, all  
19 those 16, 17 meetings that Wesley cites that is held with  
20 community members and I think you were at most of those, as I  
21 recall --

22 MR. CLARKSON: Yeah, and that's --

23 MR. SMITH: -- as I was and --

24 MR. CLARKSON: Right.

25 MR. SMITH: -- as Mr. Gates was and as Mr. Carter was.

1 MR. CLARKSON: So --

2 MR. SMITH: So that is that is our understanding, Mr.  
3 Clarkson. If there's a different understanding, we're very happy  
4 to be corrected.

5 MR. CLARKSON: Well, I think it's a pretty important  
6 point if you're stating and you're claiming and your testimony,  
7 written and oral, before the Commission, that the playground is  
8 only going to be -- that that only the residents of a single  
9 neighborhood are going to be allowed to use the playground.  
10 Because based on my review of the record, (indiscernible), that's  
11 not the case.

12 MR. SMITH: Actually, I --

13 MR. CLARKSON: And so it's interesting to hear that  
14 you're claiming otherwise.

15 MR. SMITH: Actually, Mr. Clarkson, our understanding  
16 is that Spring Valley Neighbors Association (indiscernible), and  
17 however, you know, as we've pointed out to you and to Wesley and  
18 anybody else who participated in those CLC meetings, we pointed  
19 out exactly what's in our testimony, that Wesley had committed  
20 to do this some years ago and was required to do it as part of  
21 their Campus Plan and did not follow through.

22 And so as you may recall, one of the things that --

23 MR. CLARKSON: Well, I just got -- I'll ask you another  
24 question.

25 MR. SMITH: Excuse me. I didn't --

1                   MR. CLARKSON: May I --

2                   MR. SMITH: -- finish, Mr. -- can I finish?

3                   MR. CLARKSON: Can I ask a question?

4                   MR. SMITH: Can I finish though?

5                   MR. CLARKSON: Yeah. I'd like --

6                   MR. SMITH: You had asked me the question.

7                   MR. CLARKSON: I'd like to ask another question if

8 that's --

9                   MR. SMITH: Well, let me finish my question.

10                  MR. CLARKSON: -- okay.

11                  MR. SMITH: Let me finish the answer to your question.

12 Okay? The -- and what --

13                  CHAIRMAN HOOD: Let me just interrupt. I was having a

14 problem getting my mouse to come from the top screen down to the

15 bottom screen, so that's why I didn't say anything. But what I

16 would like for you all do is ask a question.

17                  MR. CLARKSON: Yeah.

18                  CHAIRMAN HOOD: Once it's answered, then let's -- both

19 of you all, just let each other -- hear each other out. Ask a

20 question and then go to the next question.

21                  MR. SMITH: Yeah. Okay. I --

22                  MR. CLARKSON: May I --

23                  MR. SMITH: -- would like to just --

24                  MR. CLARKSON: -- go to the next question, Mr.

25 Chairman?

1                   MR. SMITH: -- wrap it up by saying -- let me just wrap  
2 it up, Mr. Clarkson, by saying to you that we stand on what's in  
3 our testimony and in our pre-hearing statements and in our --  
4 both the written testimony that we submitted, the oral testimony,  
5 we submitted the pre-hearing statement that we've submitted.

6                   It's been an issue of great concern that, look, I  
7 was chair of the ANC 3D when this issue of a neighborhood  
8 playground first came up. It's something that probably preceded  
9 your involvement with Spring Valley Neighbors Association. We  
10 worked very hard to get that in the Campus Plan with Wesley, but  
11 it was always supposed to be as an adjunct to Wesley having a  
12 new playground for itself.

13                  The focus on this and I'm not saying that they're not  
14 using it for themselves this time. We don't really know, but  
15 the focus that we've been told in this process has been that this  
16 is a playground for the surrounding neighborhood. This --

17                  MR. CLARKSON: But for just exclusive -- providing  
18 exclusive access for the surrounding --

19                  MR. SMITH: I think I've already answered your  
20 question.

21                  MR. CLARKSON: So you referenced the previous Campus  
22 Plan case, ZC 0540A and how you, in your capacity chair when you  
23 are the ANC, as well as I believe that Spring Valley/Wesley  
24 Citizens Association, worked hard to negotiate that playground  
25 condition that's in the order. Is that accurate?

1 MR. SMITH: Yeah. It's one of many provisions in  
2 that --

3 MR. CLARKSON: Right. So that's accurate? So --

4 MR. SMITH: -- record. We were -- you know --

5 MR. CLARKSON: Are --

6 MR. SMITH: -- the -- what's important to remember is  
7 that 0540A which is the one you're referring to --

8 MR. CLARKSON: And the --

9 MR. SMITH: -- was the one in which -- are you saying  
10 0540B now?

11 MR. CLARKSON: No, I'm saying 0540A that's cited in  
12 the --

13 MR. SMITH: 0540A --

14 MR. CLARKSON: Yeah.

15 MR. SMITH: -- was basically the redo of their Campus  
16 Plan. This is when they had already been approved for a Campus  
17 Plan, came back several years later, said it was far more  
18 ambitious than they could afford and wanted to scale back and  
19 wanted to build what was the -- what became the 2014 new dorm,  
20 the new residence hall, and which actually turned out to be quite  
21 controversial in the neighborhood.

22 But we worked very closely -- I worked very closely  
23 with Wesley and with the neighbors to reach consensus on that and  
24 bring it forward to the Zoning Commission and it was approved,  
25 but the -- and they did include the playground, but then not too

1 long after that was when Wesley came forward and look, we can't  
2 fill our dorms. We need to we need to open this up to other  
3 graduate students.

4 MR. CLARKSON: Are you -- with regard to working hard  
5 to negotiate and include that labor playground provision, are you  
6 aware that it included the following language regarding the  
7 development requiring the seminary to remain open to further  
8 discussions with ANC 3D and the Spring Valley/ Wesley Citizens  
9 Association to develop a system of controlled community access  
10 for the playground to avoid parking and noise impacts on the  
11 University Avenue side of the campus associated with potential  
12 community use of the playground?

13 MR. SMITH: The issue -- at the time, one of the major  
14 concerns --

15 MR. CLARKSON: Do you recall that language? That's all  
16 I'm asking; yes or no.

17 MR. SMITH: At the time when this issue first came up  
18 about the playground, there was great division within the  
19 neighborhood. There were some residents --

20 MR. CLARKSON: I'm just asking if you recall that  
21 language.

22 CHAIRMAN HOOD: Let's -- I think.

23 MR. CLARKSON: (Indiscernible).

24 CHAIRMAN HOOD: I think -- let's actually just -- let  
25 me just interrupt. I think that's a yes or no answer, but I know

1 Mr. Smith wants to give us the history. So let's --

2 MR. CLARKSON: Yeah.

3 CHAIRMAN HOOD: -- figure out -- let's kind of condense  
4 it because that's a yes or no answer. Do you recall?

5 MR. SMITH: I don't have -- I assume that Mr. Clarkson,  
6 what he's saying is correct, that he's reading it. I don't have  
7 it in front of me, but --

8 CHAIRMAN HOOD: Okay.

9 MR. SMITH: -- it would be consistent with the division  
10 within the neighborhood at the time, over the playground where  
11 there were some folks that wanted it at any cost and other folks  
12 that were concerned about parking and other issues related to the  
13 playground. This was a way to work to build consensus and that's  
14 what we did. And, you know, I think the ANC -- ANC 3D at the  
15 time worked very hard on it, not just me, but other members of  
16 the Commission, including Ms. Gates, who was on the Commission  
17 at the time and worked to build that consensus a that's how we  
18 used to do things on the ANC, to work closely with the neighbors  
19 to build that consensus.

20 MR. CLARKSON: Thank you. So I just have one question  
21 regarding parking, actually and, Ms. Gates, you can answer this  
22 because it was in your written or oral testimony. In your  
23 testimony, you noted that DDOT has warned of increased driving  
24 to the site stemming from an excessive amount of parking. Is it  
25 NLC's and the SVWHCA's position that Wesley is proposing too many

1 parking spaces for the proposed building?

2 MS. GATES: I don't think we've taken that kind of  
3 position. We're just stating what DDOT's position was.

4 MR. CLARKSON: Thank you. No further questions.

5 CHAIRMAN HOOD: Okay. Thank you. Thank you all. We  
6 appreciate your involvement and your testimony and your  
7 presentation to us. So let's go now -- does anybody need like a  
8 3E-minute break?

9 Okay. Let's take a 3E-minute break. Why don't we do  
10 this. Let's come back at 7:25. Yeah, that's a little more than  
11 3E minutes. Let's give them 'til --

12 VICE CHAIR MILLER: Six twenty-five?

13 CHAIRMAN HOOD: What did I say, 7:00? No, don't come  
14 back at 7:25. Come back at 6:25. Thank you, Vice Chair. Come  
15 back at 6:25. Thank you.

16 (Pause.)

17 CHAIRMAN HOOD: Okay. While we're waiting on Vice  
18 Chair Miller, Ms. Schellin, can we start bringing up four or five  
19 people that we have or whoever we have? There may be more.

20 MS. SCHELLING: Four who are registered to testify. So  
21 there's only four in opposition, and then we'll move to rebuttal  
22 testimony. So if Mr. Brown wants to start getting ready, I'll  
23 call those four. Let's see. We have Robert Scholz, Josie Scholz,  
24 Shelly Repp and Rohin Ghosh.

25 CHAIRMAN HOOD: Okay. Thank you.

1 MS. SCHELLIN: That's it.

2 CHAIRMAN HOOD: We'll start with -- okay. Thank you,  
3 Ms. Schellin. We will start with Ms. Scholz and then Robert  
4 Scholz or Bob Scholz, and then we'll go to Shelly Repp, Ms. Shelly  
5 Repp. And who else was the last person?

6 MS. SCHELLIN: It was Rohin Ghosh although I don't see  
7 her on. She did submit written testimony, though.

8 CHAIRMAN HOOD: Okay. We'll call for her when they get  
9 finished just to make sure she's not on.

10 MS. SCHELLIN. Okay.

11 CHAIRMAN HOOD: We'll do one last call.

12 Okay. Ms. Scholz.

13 MS. SCHOLZ: Me, Josie or my husband, Bob?

14 CHAIRMAN HOOD: We can start with you unless --

15 MR. SCHOLZ: Well, I'm on if --

16 MS. SCHOLZ: Okay.

17 MR. SCHOLZ: I'll start.

18 CHAIRMAN HOOD: Okay. Go right ahead.

19 MR. SCHOLZ: Well, good afternoon. I'm Bob Scholz. I  
20 was born and raised in D.C. and have recently retired as a civil  
21 engineer working in the DMV and real estate development. In  
22 1980, I bought our house at 3900 University Avenue directly across  
23 from Wesley's exit drive onto University Avenue. Here my wife  
24 and I raised our family and we hope to remain here in age and  
25 place.

1           We have had good relations with Wesley throughout these  
2 43 years, yet my wife and I oppose Landmark's proposed development  
3 of The Standard, a luxury apartment building with resort style  
4 amenities at Wesley. We support the arguments made by the NLC  
5 and the Spring Valley Wesley Heights Citizens Association  
6 opposing Wesley's proposal. I think these five are the most  
7 important arguments against the project.

8           First, there is no demonstrated need for additional  
9 residential housing for students of Wesley. This scheme is to  
10 monetize Wesley's property so as to avoid the hard job of annual  
11 fundraising to support a non-profit. Second, the plan places  
12 commercial development on campus land establishing a precedent.  
13 Third, with a 99-year lease, there are long term uncertainties  
14 and risks to the neighborhood. Fourth, AU has avoided engagement  
15 with Wesley on this project, yet AU's collaboration and  
16 participation is essential to the project's success.

17           And fifth and finally, there are large negative impacts  
18 to our residential property and two neighbors. Evidently, the  
19 ANC 3D Commissioners who approved of this development were not  
20 living on University Avenue or the east side of Spring Valley in  
21 the 1980s, when a negotiation between AU and the Spring Valley  
22 residents resulted in the establishment of a perimeter fence  
23 separating a AU's campus from the neighborhood.

24           My written submission elaborates on these five points.  
25 Respectfully, I request that you deny Wesley's 2023 Campus Plan

1 PUD application. This concludes my oral testimony.

2 CHAIRMAN HOOD: Thank you. You can hang around. We  
3 may have some questions. Okay. Ms. Scholz?

4 MS. SCHOLZ: Just a minute. I get -- can you hear me?  
5 Okay?

6 MR. SCHOLZ: Yes.

7 MS. SCHOLZ: Hi. I'm Josie Scholz. My husband, who  
8 just spoke, and I have lived for 40 plus years and raised our  
9 family across the street from Wesley. I spoke at the Zoning  
10 Commission hearing last year in opposition to Wesley's '22 Campus  
11 Plan and I speak again today in opposition to their '23-'33 Campus  
12 Plan PUD.

13 My words give me no pleasure as Wesley is a good  
14 neighbor and institution, but I agree with my husband and the  
15 opposition arguments made by the NLC and SVWHCA, also agree with  
16 the concerns expressed by ANC 3E.

17 In contrast, I do not support the position taken by my  
18 ANC 3D. When their letter of support was read to our latest ANC  
19 meeting, I was stunned into silence as I had made my concerns  
20 about the project known at many meetings. An ANC may not always  
21 express the views of all its constituents.

22 In this case, some neighbors concern that -- have  
23 concern that this project will place nearly 600 more students,  
24 almost tripling Wesley's current student population and nearly  
25 doubling Wesley's maximum student camp on the Wesley campus and

1 on the neighborhood side of this long standing AU neighborhood  
2 perimeter security fence.

3 I understand Wesley's need to thrive in place, but I  
4 want to share a few project issues that worry me, some of which  
5 you've heard in detail already before, but I'll be brief.  
6 Violating 2016 Zoning and PUD directives. Number two,  
7 overpowering the low rise campus architectural style and  
8 coherence. Number 3E, putting their own grad students in the  
9 minority to house a new majority of AU undergraduates.

10 Number four, competing with and proceeding without the  
11 cooperation of AU. And finally, number five, diverting from  
12 practices that could be expected of a religious institution such  
13 as Jason F. McLennan, an architect associated with the new Yale  
14 Divinity School Living Village student housing project says,  
15 "Facilities, especially at a divinity school, should reflect the  
16 values of the institution."

17 What institutions do and how they do it matters. With  
18 this project, Wesley's actions speak louder than their words and  
19 indicate that in their desire to thrive, Wesley is acting to  
20 place its financial needs ahead of zoning regs, its religious and  
21 educational mission, and neighborhood and citywide interests.  
22 Thanks for listening. I encourage the Zoning Commission to deny  
23 approval of the Wesley application as it now stands. Thank you.

24 CHAIRMAN HOOD: Okay. Thank you. Hang around,  
25 hopefully, because we may have some questions for you as well.

1 I think next is Shelly Repp.

2 MR. REPP: Just a minute. I'm trying to get my video  
3 going here.

4 CHAIRMAN HOOD: Okay.

5 MR. REPP: But before I start, I hope this doesn't  
6 count against my five minutes here, I know you're going to ask,  
7 Chairman Hood, what my views are as to whether or not the Zoning  
8 Commission, you know, has been discouraging access and hasn't  
9 been listening to the people in the city here.

10 CHAIRMAN HOOD: Actually, Mr. Repp, I actually wasn't  
11 going to ask you. I saw your video --

12 MR. REPP: Yeah.

13 CHAIRMAN HOOD: -- or some of it. I hadn't finished  
14 looking at it, but I did see your video. I do stay in tune what's  
15 going on.

16 MR. REPP: Yeah, but --

17 CHAIRMAN HOOD: I want you to know that.

18 MR. REPP: -- I can --

19 CHAIRMAN HOOD: I know your position.

20 MR. REPP: I can tell you that I'm unaware of any case  
21 where the Zoning Commission has not permitted people to speak  
22 before the Zoning Commission like the Scholzs did tonight. And  
23 to the extent that people have issues, my guess is, and I'm a  
24 sports person, my guess it has to do with what the final score  
25 is at the end of the year, at the end of the season, but I don't

1 think there's any case -- I'm unaware, put it this way, of any  
2 case where the Zoning Commission has not given people the  
3 opportunity to speak their mind, so.

4 CHAIRMAN HOOD: So let me just say this. I would love  
5 to have that conversation. I'm saying this publicly. I would  
6 love for you and I to have a conversation and we can have that  
7 debate publicly, but I'd like to have a conversation with you  
8 because I got a different message and it goes to what Mr. Carter  
9 said about whether we get our way or not and because -- again,  
10 but I would love to have a conversation with you because I think  
11 that -- I'm not going to say I'm not going to use the word -- I  
12 don't want to use a strong word, Mr. Repp, of disingenuous. I  
13 just want to use the word not fair and I just leave it at that.

14 MR. REPP: Well, I would entertain that. I'd love to  
15 have that conversation with you, Chairman Hood.

16 CHAIRMAN HOOD: Let's do it and we put that on the  
17 record. We're going to do that.

18 MR. REPP: Yes, yes.

19 CHAIRMAN HOOD: You and I first, and then we can make  
20 it public. Okay. So you may begin with your testimony.

21 MR. REPP: Okay. Thank you. Good evening, and it is  
22 evening now. I was wondering whether I should say good evening  
23 or not. My name is Shelly Repp, and I am chair of the Committee  
24 of 100 on the Federal City. My comments are limited to the  
25 proposed inclusionary zoning program set forth within Wesley's

1 Campus Plan and PUD applications.

2 Wesley is requesting flexibility to implement what it  
3 calls a modified IZ program. The issue is whether Wesley's  
4 proposals can be squared with the District of Columbia zoning  
5 rules. We think not. Wesley is proposing to build a 659-bedroom  
6 structure to house students attending Wesley and American  
7 University. It is hard to see how the modified IZ program can  
8 be justified under the district's IZ rules.

9 The fundamental flaw with the proposal is that -- just  
10 a minute here -- is where the proposal can be seen upon review  
11 of the Department of Housing and Community Development's website,  
12 which clearly states under eligibility that you cannot be  
13 enrolled in a full-time college or university program. Every  
14 resident of the proposed apartment building will be a full-time  
15 student or in a few cases, a family member of a full-time student.

16 Wesley is asking for PUD flexibility. Section 1007 of  
17 the zoning regulations set forth standards for granting relief  
18 from inclusionary zoning requirements. None of the options  
19 listed apply here. D.C.'s inclusionary Zoning regulations do not  
20 apply to housing developed by or on behalf of a local college or  
21 university exclusively for its students, faculty or staff.  
22 Wesley's applications do not qualify for this exemption because  
23 the residential apartment building will most mostly house  
24 students from a different educational institution.

25 The DHCD report seems to confirm that the limited

1 exceptions to the prohibition on covering full-time students are  
2 unlikely to apply. The applications touch upon something in the  
3 nature of an eligibility process for the IZ beds. Most of the  
4 600 or so AU students projected to live in the apartment building  
5 will be undergraduate students.

6 Wesley proposes to use Pell Grant eligibility as a  
7 qualifying metric for the modified IZ program. Generally, Pell  
8 Grant eligibility for undergraduate students is based on parental  
9 income, as reported on the Free Federal Application for Federal  
10 Student Aid form.

11 It is likely that most parents will not be D.C.  
12 residents. In fact, the students themselves might not be D.C.  
13 residents. The cursory reference to the role of parental income  
14 and the fact that parents and probably the students themselves  
15 are not D.C. residents is a glaring omission.

16 DHCD's comments to OP indicate that DHCD is. Serious  
17 concerns with the ability of Wesley and Landmark to find qualified  
18 tenants for the IZ units in a building designated for college and  
19 university students. DHCD's ability to oversee and monitor  
20 Wesley's program is also questionable. A review of the Landmark  
21 website reveals no hint that the rent charge on its other  
22 properties is affordable.

23 Well, Wesley's applications do not indicate that the  
24 rents for this project will be affordable. In fact, the website  
25 promotes the luxury nature of the units. The applications contain

1 a detailed marketing and student outreach plan. However, since  
2 the only students eligible to reside in the apartment building  
3 will be Wesley and AU students, why do Wesley and Landmark need  
4 to advertise with Google ads and social media or use Craigslist?

5 The main reason why they would have to do so, to  
6 advertise, is because AU has declined to support this program as  
7 confirmed by ANC 3E. However, it would not be the IZ program  
8 they would be promoting, but the 600 or so market rate beds for  
9 AU students. The IZ marketing program is basically a sham.

10 AU's classes extend from late August through late May.  
11 We suspect the same is true for Wesley. Who will live in the  
12 apartments during the 3E months when the schools are not in  
13 session? This is not addressed in Wesley's plan. For the IZ  
14 beds, will Landmark qualify the residents using the same criteria  
15 used to qualify IZ students during the academic year? More  
16 importantly, can anyone who is not a Wesley or AU student live  
17 in the apartment building during the summer period?

18 In conclusion, Wesley has turned the regular IZ program  
19 into a pretzel. The modified IZ program proposed by Wesley is a  
20 square peg that doesn't fit in the round IZ hole. The flexibility  
21 requested is not minor. Approval of the applications would --  
22 could have citywide implications that could undermine the IZ  
23 program to the detriment of eligible DC residents.

24 Given the precedent, it could have unintended  
25 consequences beyond IZ for neighborhoods near college campuses.

1 The application should be denied. Thank you. I'm available to  
2 answer any questions you might have.

3 CHAIRMAN HOOD: Okay. Thank you. If you can hold  
4 tight, we may have some questions for you.

5 Ms. Schellin, do we have anybody else? Maybe somebody  
6 undeclared. Anybody else in opposition?

7 MS. SCHELLIN: And a look one more time for Ms. Rohin.

8 MR. REPP: He is a he, by the way.

9 MS. SCHELLIN: Oh, it's a he? I'm sorry. Thank you,  
10 Mr. Repp, for making that clarification there. I do not see --

11 CHAIRMAN HOOD: That's it? Okay.

12 MS. SCHELLIN: -- Mr. Rohin Ghosh or Ghosh --

13 MR. REPP: Ghosh.

14 MS. SCHELLIN: -- so that's the end of the public  
15 testimony.

16 CHAIRMAN HOOD: Okay.

17 MS. SCHELLIN: Thank you.

18 CHAIRMAN HOOD: All right. Thank you. And I want to  
19 thank each and every one for your testimony. I do have one or  
20 two questions I like to ask. I think it was Mr. Scholz. Yeah,  
21 it was Mr. Scholz. When you said risk and I looked in your  
22 testimony, your written testimony, you mentioned five. Things  
23 you said demonstrated need, commercial development and then you  
24 said risk to the neighborhood. That's the first one. Can you  
25 elaborate a little more on the risk to the neighborhood?

1                   MR. SCHOLZ: Well, there -- at full occupancy there  
2 will be 569 AU undergraduates on this side of the fence. Before  
3 in -- before the implementation of that fence, there was Saturday  
4 night carryings on and clean-up of trash in the morning on Sunday.  
5 I can recall with previous presidents of Wesley, Dr. Knight and  
6 Dr. Lewis, walking the streets and picking up the trash and  
7 listening to the carryings on on Saturday night. It wasn't  
8 continuous, but it was annoying when it occurred.

9                   The other things that happened, we had some -- and I  
10 can't say it was American University students, but since then we  
11 have had nothing taken from our property. Some, I believe  
12 students, maybe it was a fraternity prank or something. They  
13 removed a cast stone Japanese lantern from our garden, which has  
14 never been returned, and a -- some patio furniture was removed.  
15 Those are the impacts of the AU students that -- specific to my  
16 experience. Oh, and I a bicycle was stolen.

17                   I can't say that the theft of those was absolutely AU  
18 students, but subsequent to the installation of the fence,  
19 nothing has been removed and we've also placed a fence around our  
20 property as well.

21                   CHAIRMAN HOOD: Okay. Thank you very much. And I  
22 appreciate you also mentioning that you're not sure if it was AU  
23 students or --

24                   MR. SCHOLZ: Oh, I can't say it.

25                   CHAIRMAN HOOD: I appreciate you saying that because

1 some of the things that you just mentioned happen in my  
2 neighborhood and I know no AU students came over here and came  
3 (indiscernible) my yard which was -- one of the stolen.

4 So let me just ask you, Mr. Repp. You mentioned, and  
5 that's another point that I'm going to ask the Applicant to  
6 mention. What happens if -- if this was to go forward, I think  
7 there's a programmatic -- there's some process issues I think  
8 that the opposition has brought up for me that kind of keeps me,  
9 I'm not going to say on the fence because we're talking about  
10 the fence, but it kind of gives me pause and that's on -- in the  
11 summer.

12 Do they do they not have summer school or I'm just  
13 curious. As you said, who is going to use it in the summer?

14 MR. REPP: What, I think that's a question and American  
15 University uses some of their -- some of their dorms are occupied  
16 over the summer generally through outside groups that, you know,  
17 rent a whole dorm and is Landmark going to do that here? They  
18 certainly wouldn't be AU students. Probably wouldn't. I  
19 shouldn't say certainly. Probably wouldn't be AU students.

20 They probably, if they're sitting in a -- they're  
21 living in an IZ room, they probably -- you know, are they going  
22 to qualify these people individually for 3E months of the summer?  
23 I think it's an open question as to how it will work.

24 And before I before I go on here, I had submitted my oral  
25 testimony, you know, within the last 24 hours, and I asked, you

1 know, basically dispensation for you to admit my oral testimony  
2 of the record, but I did submit it ZC submissions.

3 CHAIRMAN HOOD: Okay. Any objections? No objection just  
4 make sure we put that in the record.

5 Mr. Repp --

6 MR. REPP: Thank you.

7 CHAIRMAN HOOD: -- so let me ask you this and try to  
8 cut to the chase, all this left face and right face, and it may  
9 be in your submission, but you know what's trying to -- you know  
10 what they're trying to do here, what's actually trying to happen.  
11 How does the committee or you, you don't even -- you probably  
12 haven't voted on the committee yet. How do you think the best  
13 approach to try to achieve this or you think it's a wash? Well,  
14 I mean, if you understand my question. What is the best way to  
15 get us to where everybody is happy? You're happy. I'm just  
16 talking about you now.

17 MR. REPP: Yeah, well, you know, first of all, I do not  
18 believe this is inclusionary zoning, and I don't think it fits  
19 under the inclusionary zoning umbrella. It would have to come  
20 under something else. And I know that the ANC 3E and the party  
21 and opposition both suggested, well, go through a rulemaking to  
22 create a new program that will authorize projects like this. I  
23 mean, that's clearly one path through this maze.

24 But this is not to me, this is not IZ. And it's not  
25 just not IZ, because this is a student residence. There's a lot

1 of other parts of the IZ program that are not -- that are being  
2 dispensed with or being worked around here and that don't -- that  
3 they're arguing are different. So this is a lot more than just  
4 relief from the fact that this is a student residence.

5 CHAIRMAN HOOD: And Mr. Repp, I appreciate that, but  
6 now I'm really confused and I'm looking forward to our one-on-  
7 one. The reason why I'm confused it's not about -- our one-on-  
8 one will not be about case specific, but in the watching video  
9 which has -- one of the things that I'm hearing from at least  
10 the committee is that we do too many text amendments. Now you're  
11 offering us that one of the things we might want to do is what  
12 3E is asking us do, is a text amendment.

13 So you see how a Zoning Commission member's job is? So  
14 I'm just saying, you all offered up, it's your thing about the  
15 text amendments, so you can see that I watched it, and now you're  
16 saying maybe we -- you say we just always -- we're always doing  
17 text amendments, but now you're offering me a text amendment.

18 MR. REPP: Well, I mean, you're not the one that's  
19 proposing these text amendments. It's the Office of Planning,  
20 largely that's offering the text amendments, so - and I'll stop  
21 there, so --

22 CHAIRMAN HOOD: All right. I'm going to leave that  
23 alone, but I really appreciate you and I'm looking forward to our  
24 conversation. Let me see if my colleagues have any questions or  
25 comments.

1 Commissioner Imamura?

2 COMMISSIONER IMAMURA: Chairman, no questions. But I  
3 want to thank Mr. and Mrs. Scholz for their input and viewpoint.  
4 Mr. Scholz, your comment about the 99-year lease, it certainly  
5 rang with me. This is how these agreements, contracts, are  
6 generally structured, but I think it's important that we still  
7 remain mindful about that as we consider which way we go with  
8 this.

17 CHAIRMAN HOOD: Thank you. Commissioner Stidham, you  
18 have any questions or comments?

19 COMMISSIONER STIDHAM: No, sir. No questions or  
20 comments, but thank you very much for your testimony.

21 CHAIRMAN HOOD: And Vice Chair Miller?

22 VICE CHAIR MILLER: -- Chairman and thank each of you  
23 for your testimony and your involvement, long involvement, in  
24 community matters.

25 Mr. Repp, I guess maybe I have one question for you.

1 You said that -- well, on the on the inclusionary zoning, which  
2 is what the focus of your testimony was, do you see the most  
3 recent submission, the supplemental hearing report, from the  
4 Office of Planning?

5 You might not have seen it. It was September 22nd,  
6 which outlined the proposed affordable housing program that would  
7 be -- the elements of a proposed affordable housing program that  
8 would be contained in a covenant that would be required prior to  
9 an issuance of a building permit.

10 You stated that it's way beyond the student population  
11 that is being asked for in -- as an exemption from the IZ program.  
12 Can you be specific as to say what it is? I mean, I see -- if  
13 these are included in a covenant, affordable housing covenant,  
14 that is a condition of our zoning order that prior to building  
15 permit that's monitored and enforced by DHCD, you know, and  
16 whether it's the set aside amount, whether it's the distribution,  
17 the even distribution throughout the building, whether it's the  
18 income levels which are being deeper than what's required for the  
19 life of the project?

20 What is it, what is what specifically, other than the  
21 whole threshold issue of that, whether IZ applies or not to a  
22 dormitory, which currently doesn't so they're doing beyond what  
23 a dormitory normally would require, what's -- you said it'd be  
24 exempt from all these other IZ standards which I thought -- which  
25 my understanding was they were trying to incorporate as many of

1 those IZ requirements within such an affordable housing covenant,  
2 obviously privately run by Landmark, but which DHCD has said that  
3 it has concerns about. But is -- thinks that it could work and  
4 could monitor enforce as they have in other situations, not in  
5 IZ situations of affordable housing.

6                   What are the specifics that you were referring to,  
7 where we're not -- where it wouldn't meet the standards and  
8 parameters of the IZ program other than that it isn't currently  
9 in the -- this type of program? I can see, they can see it's  
10 unique. What is it? What are the specifics that you were --  
11 are there specifics that you're referring to?

12                   MR. REPP: Thank you.

13                   VICE CHAIR MILLER: Thank you for your testimony. I  
14 actually haven't seen your testimony because I guess it wasn't  
15 in the record yet, so it may be there.

16                   MR. REPP: No, I mean, it -- my oral testimony is what  
17 I gave today, so you heard that and I did read the OP supplemental  
18 report, which, as you pointed out, says the main difference  
19 between the proposed program and IZ would be the full-time  
20 students would be permitted to lease these units while they are  
21 generally prohibited from participating in the IZ.

22                   But beyond that, what I was getting out was, you know,  
23 first of all, the income determinants is not going to be  
24 determined by DHCD and actually the income limits are not going  
25 to be the limits that DHCD applies. They're going to be the

1 proxy for determining -- income eligibility is going to be the  
2 Pell Grant eligibility, which is totally different. Also, it is  
3 likely --

4 VICE CHAIR MILLER: I don't know. On that point, do  
5 you know whether the Pell Grant meets the 60 percent median family  
6 income level, for example, of the IZ program? Do you know? I  
7 don't. I mean, I don't know. So you've just said that --

8 MR. REPP: You know, it could. It could, but it may  
9 not? That's all I can tell you is that --

10 VICE CHAIR MILLER: Okay.

11 MR. REPP: -- it may not. It's got its own limits as  
12 far as, you know, looking at what income is, looking at, you  
13 know, what family size is looking at, what the cost of education  
14 is. All of those things are taken into consideration and,  
15 frankly, they're not taken into consideration at all. The cost  
16 of education isn't taken into consideration at all in IZ  
17 eligibility.

18 Also, beyond that, you know, it's likely that there  
19 will be a large number of non-DC residents that will benefit from  
20 this program and that's not the case with IZ. The income also,  
21 as I did point out in my testimony, it's the income determination.  
22 It's going to be based on parental income and most of the parents  
23 here are going to be out of state, not D.C. residents.

24 Also, there will be -- the lottery that's run by  
25 the DHCD will not apply as far as I know and the role -- right

1 now, the program, IZ program, runs through DHCD at best, and I  
2 wonder whether or not DHCD has the ability to monitor these  
3 special standalone programs. But right now, at best, all they'll  
4 do is sort of monitor it from a -- so like an auditing  
5 perspective. The program will not run through DHCD. That's how  
6 I think -- VICE CHAIR MILLER: Thank you. Thank  
7 you for that response.

8 MR. REPP: Yeah.

9 VICE CHAIR MILLER: I appreciate it.

10 CHAIRMAN HOOD: Okay. Let's see if we have any  
11 questions. Give me one second. Does the Applicant, Mr. Brown?

12 MR. BROWN: We don't have any questions. We thank them  
13 for their participation.

14 CHAIRMAN HOOD: Okay. Thank you.

15 Chair Bender, do you have any questions?

16 COMMISSIONER BENDER: -- mentioned that Rohin Ghosh is  
17 one of our commissioners. He had wanted to testify, but he has  
18 a -- he's also an AU student, but he has a work commitment  
19 tonight.

20 CHAIRMAN HOOD: Oh. Okay.

21 COMMISSIONER BENDER: So his written testimony was --  
22 had to suffice.

23 CHAIRMAN HOOD: Okay. All right. Thank you.

24 COMMISSIONER BENDER: Sure.

25 CHAIRMAN HOOD: Chair Duncan?

1 COMMISSIONER DUNCAN: No cross. Thank you.

2 CHAIRMAN HOOD: Okay. Thank you.

3 Mr. Clarkson?

4 MR. CLARKSON: No cross, Mr. Chair.

5 CHAIRMAN HOOD: Okay. And Ms. Gates? Okay.

6 MS. GATES: Mr. Repp, what about this case has brought  
7 the Committee of 100 to the zoning table.

8 MR. REPP: As I just went through, our -- my testimony  
9 was really solely focused on the IZ program and how this fit or  
10 doesn't fit under the IZ program and we have a long history, as  
11 I think Chairman Hood knows and Commissioner Miller knows. We  
12 have been defending and promoting the District's IZ program for  
13 a long time. So that's what brought the Committee of 100 to this  
14 case.

15 MS. GATES: Is the traditional IZ program compatible  
16 with a student dormitory?

17 MR. REPP: No, and I sort of went through this in  
18 response to Commissioner Miller's question. So, you know, I  
19 stand by what I said. It doesn't -- it's not compatible for all  
20 the reasons I just went through, so.

21 MS. GATES: You may have gone through this as well.  
22 It's the selection of recipients by the DHCD based on a lottery  
23 of eligible DC residents key to the IZ program? How will  
24 Landmark's program differ?

25 MR. REPP: I believe that the lottery is key to D.C.'s

1 program and I also believe that, you know, that D.C. residents  
2 should benefit. Whatever the subsidies are that are being  
3 provided here, they should go to D.C. residents and not to not  
4 to others. You know, the -- we shouldn't be trying to turn  
5 ourselves into a pretzel in order to benefit people from non-  
6 D.C. residents honestly.

7 MS. GATES: So this is yes or no. Are you saying that  
8 non-D.C. residents should not be allowed to have participated in  
9 the IZ program?

10 MR. REPP: Well, they don't participate in the  
11 traditional program. As far as this program, I don't think --  
12 I'm not saying -- I don't -- you know, I think it's for the Zoning  
13 Commission to determine whether or not to open up this program  
14 to non-D.C. residents. And I think it is bad, bad precedent to  
15 allow that to happen and I'll stop there.

16 MS. GATES: Okay. Can you explain more about how a  
17 student qualifies for a Pell Grant?

18 MR. REPP: Sure. The Pell Grant is determined, you  
19 know, a parent for undergraduates, and most of these people  
20 will -- you know, the AU students, will be undergraduates. For  
21 undergraduates, they apply for a Pell Grant and a student loan,  
22 for that matter too, you know, on this federal phone -- the  
23 federal form, the FAFSA form.

24 And on that form for undergraduates, and most of these  
25 people are going to be undergraduates, it's parental income that

1 determines whether or not you're eligible for the federal  
2 financial aid, which is what this is all about, federal financial  
3 aid under the Pell Grant program.

4                   Undergraduates, it's parental income that's determined  
5 and the -- and what's -- they calculate -- it's a complicated  
6 form that's got -- the number of questions varies from time to  
7 time. They're trying to reduce it, but I think it's at least 20  
8 to 25. The number of people in the household, the family members  
9 in college, the cost of attendance and then there's a  
10 determination about what the family can pay. It's called the  
11 expected family contribution. I think actually that name may  
12 have just changed, and then this is fed into a computer to come  
13 up with whether or not you qualify for a Pell Grant.

14                   And if you qualify for a Pell Grant, you can get federal  
15 aid, a Pell Grant, which is a grant. It's not -- you don't have  
16 to pay it back. You get of -- up to seven -- I think it's, in  
17 the coming years, seventy-3E ninety-five. Seven thousand 3E  
18 hundred ninety-five dollars you get a Pell Grant.

19                   Now if you get -- if you had a lesser -- if you have a  
20 lesser need, it's a lower amount and there's a bottom floor. But  
21 it's all determined by this -- in this calculation that a  
22 government contractor runs through the numbers, probably using  
23 artificial intelligence these days, so.

24                   MS. GATES: In my testimony tonight, I said the  
25 following, "According to information from the U.S. Department of

1 Education, the median family income of students attending  
2 American University is \$155,300." Does that sound like eligible  
3 students for a Pell Grant?

4 MR. REPP: If you have an income of that large, you  
5 would not be eligible for a Pell Grant. So, but that's just the  
6 average income of -- from whatever, wherever you got -- whatever  
7 your source was, the average income of American University  
8 students. And I'm sure there are people with less means.

9 And there are, and I know from -- there are people  
10 that, students, that attend American University that receive Pell  
11 Grants. The question is, you know, would they also -- if they  
12 didn't, if they if they didn't if they didn't receive the Pell  
13 Grant, would they be eligible for -- or regardless of whether or  
14 not they received the Pell grant or not, the question is would  
15 they be eligible for the IZ program if they were D.C. residents?  
16 And that I can't tell you, so.

17 MS. GATES: Okay. Are you aware the OP supplemental  
18 report notes the main difference between the proposed student  
19 affordable housing program outlined by DCHD and IZ would be full-  
20 time students would be permitted to lease these units while they  
21 are generally prohibited from participating in IZ?

22 MR. REPP: Yeah, I think I've already answered that  
23 question. So, you know, I think there -- there clearly are  
24 differences more than just the fact that the -- there are students  
25 that would be have -- students who would be eligible for the --

1 for whatever this program is called, this modified IZ program.

2 MS. GATES: Okay. You mentioned that American  
3 University has declined to support the Landmark apartment  
4 building. Can you relate the basis for this statement?

5 MR. REPP: Sure. I have heard from actually from  
6 President Burwell. This was in the summer of 2022, so last year.  
7 She was asked directly, actually by me, as to whether -- you  
8 know, what a AU's position was and clearly she was unhappy with  
9 this program. She said they're not working with, you know,  
10 Wesley. They have their own -- they have their own program that  
11 they're working on. And that's what she said back in the summer  
12 of '22, even this year.

13 And I know that Ms. Duncan was at a meeting just in  
14 June in which somebody else, I think -- actually, I think it was  
15 Ms. Duncan asked the same question of Cory Peterson, who is the  
16 vice president for public affairs. But sitting right next, right  
17 next, to Mr. Peterson was Seth Goldman, who is the EVP, executive  
18 vice president, of American University and basically they said  
19 or he -- that -- Cory Peterson said the same thing. And he said  
20 also the same thing before ANC 3E when this came up at ANC 3E a  
21 couple of months ago.

22 MS. GATES: Thank you. Based on your almost 50 years  
23 in working with helping students pay for college, what do you  
24 think is behind the Wesley proposal and American University's --  
25 I think you just answered that. Thank you.

1                   MR. REPP: I'll quickly try to answer. Actually, let  
2 me try to answer it because I think the answer here is staring  
3 us, everybody, in the face. American University is concerned  
4 about its own Campus Plan, which was approved, what, a year or  
5 two ago and in which they have five -- they were authorized  
6 between 500 and 700 new beds for their dormitories. They want  
7 to fill those beds.

8                   Frankly, dormitories are money raisers for colleges and  
9 which is obvious from what Wesley is trying to do. They're trying  
10 to -- Wesley and Landmark want to build this dormitory. The  
11 dormitory, the profits from this dormitory, will be split between  
12 Landmark and Wesley so that there's enough money in this deal for  
13 them to -- for the two parties to share. And actually, they're  
14 also going to be paying Wesley's -- Landmark's going to be paying  
15 taxes.

16                  So American University wants that -- to get that  
17 revenue for itself. It doesn't want the revenue from AU students  
18 to be going to another university and a for-profit developer. To  
19 me, that's the obvious answer that's staring everybody in the  
20 face.

21                  MS. GATES: As we learned, the Wesley campus is now  
22 part of ANC 3E. Do you listen to or attend their meetings?  
23 Aren't there two AU students on ANC 3E? Did they offer any  
24 comments or opinions during the ANC discussion of the Wesley  
25 proposal?

1                   MR. REPP: Yes, I listened to almost all of the  
2 presentations before ANC 3E. There are -- right now there are,  
3 based on the student population of Wesley and American  
4 University, there are two commissioners within -- two  
5 commissioners of -- at ANC 3E that are students at either or  
6 residence of either of those two campuses.

7                   The both -- there are there -- yeah, there are the two  
8 that were elected. These were elected representatives of the  
9 student body of American University. There are two of them.  
10 They both voted for the ANC 3E resolution. In fact, one of them,  
11 the person that Rohin Ghosh, who couldn't attend here because  
12 he's got a work engagement, he's the initial drafts person for  
13 the ANC 3E resolution.

14                  MS. GATES: Okay. So just to be clear, they oppose  
15 this proposal?

16                  MR. REPP: Yes. The ANC resolution was -- by a vote  
17 of 6-to-0-to-1. There was one person that wasn't there and one  
18 person that abstained because he didn't listen to the -- he wasn't  
19 there during the discussion. But both of the AU students voted  
20 for the resolution, which opposed the applications from Wesley.  
21 Once again, these are the elected representatives of American  
22 University students.

23                  MS. GATES: Okay. Wesley students would not be eligible  
24 for IZ yet Wesley is including them in the pool. What do you  
25 think is behind this?

1                   MR. REPP: This is a -- Wesley has voluntarily decided  
2 to include the -- its own students in the pool, in the modified  
3 IZ pool. I could only speculate, and I did bring this up at a  
4 meeting, but I didn't get a straight answer coming back, but I  
5 think the reason for this is it basically -- by including the  
6 Wesley students, which they don't have to include, they can they  
7 can deal with the rent for the -- this residence on their own.

8                   Whatever the housing charge is, their own through a  
9 separate deal with Landmark or through -- but by including them  
10 in the pool what they're doing is reducing the number of American  
11 University students that would be subject to any lower rent that  
12 would come out of this program, and it's a way around. It's a  
13 way around the program.

14                   Basically, this program provides housing for American  
15 University students mostly. And by making this change in the  
16 eligibility, basically, their need -- what the end result is that  
17 the -- the number of students of AU students that could possibly  
18 benefit from this reduced -- any reduced rent would be less.  
19 Lower.

20                   CHAIRMAN HOOD: Let me just say, and actually, Mr.  
21 Repp -- I let him answer that, but he said in his own words  
22 speculative. A lot of which -- the way you're forming those  
23 questions, he's speculating and what we're trying to find is  
24 facts. He's giving us what his opinion is and what he thinks.  
25 But let's stick to the merits of this case and to -- what, you

1 know, because somebody else may read something and think  
2 something different.

3 So if we can make it more case specific and stay with  
4 the merits of the case, I think that would be more helpful to us  
5 to see it your way. You may continue. Okay.

6 MS. GATES: Thank you, Chairman Hood. This is my last  
7 question. Do you feel the proposals by Wesley and DCHD are an  
8 end run around the zoning regulations that would enact zoning  
9 changes without the required public rulemaking process?

10 MR. REPP: Well, the answer to that is a simple yes.  
11 I mean, as ANC 3E has suggested, as the party in opposition has  
12 suggested, I mean, this is IZ -- I don't think this program fits  
13 under IZ. It's clear to me, it's clear to me, that this doesn't  
14 fit under IZ and that if there's a way to be found here, if  
15 there's a path through this maze, it should be done through  
16 rulemaking.

17 MS. GATES: Thank you. Thank you.

18 MR. REPP: Okay. Thank you and thank you all and thank  
19 the last panel. We appreciate your -- let me see. Vice Chair,  
20 let me go to -- for one of the panel?

21 VICE CHAIR MILLER: Yeah. I'm sorry to prolong --

22 CHAIRMAN HOOD: Hey, no problem. Go ahead.

23 VICE CHAIR MILLER: -- this, Mr. Chairman. Just one  
24 follow up question to Mr. Repp. You made a point about this  
25 proposal would open up IZ benefits to non-D.C. residents. Do you

1 not consider the students who live here nine months a year or  
2 the two ANC commissioners who represent their populations on ANC  
3 E residents of the District of Columbia?

4 MR. REPP: Well, I believe that the ANC commissioners  
5 are formal residents of D.C. Most students --

6 VICE CHAIR MILLER: What does that mean?

7 MR. REPP: I mean, they don't vote. They vote in  
8 wherever they come from. They don't vote -- I mean, but I believe  
9 these commissioners, they vote in D.C. Their D.C. residents.

10 VICE CHAIR MILLER: So voting registration should be  
11 a --

12 MR. REPP: They're legal -- they're voting legal  
13 residents of D.C. Most college students that live in D.C. are  
14 not legal residents of D.C. They're legal residents of whatever  
15 state they come from, which is where they vote. Some of them  
16 vote in D.C., but most of them don't.

17 VICE CHAIR MILLER: Okay. Thank you.

18 CHAIRMAN HOOD: Okay. All right. Thank you. We  
19 appreciate this last panel and we appreciate all your testimony  
20 to us.

21 Let's go to rebuttal by the Applicant then we'll have  
22 closing. I mean, we'll have cross on rebuttal, if any, and then  
23 we will have closing and then we'll see how we're going to be  
24 going forward. So let's bring back up the team, the Applicant's  
25 team. And Mr. Brown, how much time do you need for rebuttal? I

1 don't know how much more we can get out of this case, but how  
2 much more time do you need for rebuttal?

3 MR. BROWN: I indicated to Ms. Schellin that we needed  
4 15 to 20 minutes.

5 CHAIRMAN HOOD: Okay. In that case, whenever you're  
6 ready to begin. And let me just say this. The opponents --  
7 well, you may not be ready for that now, but I do -- well, I'll  
8 wait until you finish. You all may begin.

9 MR. BROWN: I'm interested in your guidance, Mr.  
10 Chairman.

11 CHAIRMAN HOOD: Okay. Well, what I wanted to do and  
12 you all have already done this. They have -- I thought it was a  
13 very good PowerPoint presentation. I don't know where my  
14 colleagues are, but there was some red lights. I don't agree  
15 with all the red lights, some of them, I think, are caution  
16 lights, not red lights. They had some -- I really like the way  
17 they said it. There was some issues, some questions in here,  
18 and I probably would need to go through each one again. I was  
19 doing it as Mr. Smith and Ms. Gates were doing their presentation  
20 and Mr. Carter. I think it was Carter, but anyway, there's some  
21 questions on here I want the Applicant to respond to.

22 But you know what, I may just have you respond to the  
23 whole presentation because you have that right to do that. So  
24 why don't we just wait until the end and I'll mention that. So  
25 go ahead with your cross -- I mean, with your rebuttal and then

1 we'll do that on cross on rebuttal?

2 MR. BROWN: Well, we're going to try to respond to the  
3 critical issues. Not everything bears responding to. I'll let  
4 Ms. Elliott start first with the IZ and we'll move from there.

5 MS. ELLIOTT: IZ? Okay.

6 MR. BROWN: Well, you want to --

7 MS. ELLIOTT: I have --

8 MR. BROWN: No, don't go.

9 MS. ELLIOTT: It's all right.

10 MR. BROWN: Well, let --

11 MS. ELLIOTT: Let's talk IZ. All right. Good evening,  
12 Mr. Chair, and members of the Commission. So we'll start on the  
13 topic of inclusionary zoning. The Applicant will comply with all  
14 of the District regulations, and they will be required by the  
15 order, if it's -- to comply with the order, if it is approved by  
16 the Zoning Commission. OP has provided a supplemental report at  
17 Exhibit 47 of the record which outlines the student affordable  
18 housing program that would be implemented by Wesley and supported  
19 by DHCD.

20 If you've looked at that submission, you would find  
21 that there are a lot of similarities with traditional IZ. For  
22 example, you know, having the same finishes with a market rate  
23 versus an affordable unit. There are, you know -- they, DHCD,  
24 would be able to approve the final location as well as the --  
25 excuse me. Just a moment. They would approve the location of

1 the units and then also the distribution of the units. That was  
2 the word that I couldn't remember.

3 Now something has come up concerning DCMR. There's  
4 been a lot of discussion about whether or not full-time students  
5 can qualify. The way the regulations read and this is DCMR 6-  
6 1041.06 titled "Ineligibility of Students," and how that reads  
7 is, "Notwithstanding Section 2-1402.21 a person enrolled as full-  
8 time student in a college or university shall not be eligible to  
9 apply to rent or purchase an inclusionary unit unless the annual  
10 income of his or her parent or guardian would qualify under the  
11 eligibility standards established by the mayor or unless the  
12 student is part of a household that otherwise qualifies for the  
13 inclusionary unit."

14 And so what this DHCD program would do is offer  
15 students, full-time students, a path forward for qualifying for  
16 IZ units and that was one of the big takeaways from this program  
17 that OP provided at the end of the report. It says that they  
18 would also be restricted to both Wesley and AU students, while  
19 IZ is generally available to all qualified applicants and it  
20 gives priority to D.C. residents first and then D.C. workers.

21 So it's a program that works for this unique situation,  
22 and ultimately, it's better than what the regulations would  
23 require for a matter-of-right development. We end up with a  
24 higher percentage of affordable housing and deeper levels of  
25 affordability, as well as the Applicant has outlined in their

1 statement. So it's better than what the regulations would  
2 require. All right. So I can move on to some of the other  
3 statements.

4 All right. So another item that has been discussed is  
5 really who has the authority to determine what the appropriate  
6 use category is for a use. Now, we did meet with the zoning  
7 administrator, again, just to verify the conformation that was  
8 received a couple of years ago and we're generally in the same  
9 place that we were at that time.

10 The regulations at Subtitle B, Section 201.4  
11 specifically state that the zoning administrator shall determine  
12 a category or categories for a use based on consistency with  
13 Subtitle B, Chapter 2. And so that's why we went to the zoning  
14 administrator to just receive confirmation that this is a use  
15 that can be considered a dormitory and then also an example of  
16 an educational and residential use.

17 It's really -- it's not intended to slight the Zoning  
18 Commission and their authority. Ultimately, the Zoning  
19 Commission gets to decide whether this is approved or not and so  
20 it does come down to you, but these are the directions that the  
21 zoning regulations give us so we're following those.

22 In terms of the definition, we we've heard a few  
23 different takes on that this evening. You know, we've been  
24 accused of cherry picking the definition to suit our purpose.  
25 That's not the case at all. And there have also been some

1 inaccurate interpretations concerning the definition of  
2 "dormitory."

3 So for example, it's been claimed that Subtitle C,  
4 Section 1001.6(C) defines the dormitory. And just to -- if you  
5 don't have your regulations in front of you, those are the  
6 inclusionary zoning regulations. This section does not define  
7 what a dormitory is.

8 Subtitle C, Chapter 10 establishes IZ requirements, and  
9 more specifically, the section provides exemptions to IZ and  
10 1001.6 states that the applicability requirements of the chapter  
11 "shall not apply to housing developed by or on behalf of a local  
12 college or university exclusively for students, faculty, or  
13 staff."

14 And so this means that university housing that does not  
15 exclusively house students, faculty or staff from that university  
16 is subject to IZ requirements. The section is not intended to  
17 be read as a definition. Definitions are located in Subtitle B  
18 of the zoning regulations, and furthermore, the provision stands  
19 for the proposition that there can be a dormitory that does not  
20 house students, faculty and staff for one institution inclusively  
21 I'm sorry, exclusively. That's the list. So the regulations do  
22 not prohibit that students from multiple universities inhabit a  
23 dormitory.

24 This is important because the zoning regulations are  
25 really meant to be read kind of like a story in an order. It's

1 like if you're if you're doing a book report, you can't just read  
2 a couple of paragraphs and put that -- you know, submit your book  
3 report to the teacher, at least not without the teacher noticing.  
4 Some of you may have been through this. The zoning regulations,  
5 they have to be read in a particular order in order to maintain  
6 their integrity and to not lose some of -- to not lose the purpose  
7 and intent of those regulations. And so that is how -- that's  
8 how this works.

9                   So while dormitory is not explicitly defined in the  
10 regulations, it's provided as an example of a permitted use under  
11 the education, college and university use category. So they are  
12 intended to be occupied by students and faculty attending or  
13 working at a college or university. And then they are also  
14 examples found under the residential use category, which  
15 includes, among other examples, multiple dwelling units and  
16 dormitories. Dormitories are residential and not commercial  
17 uses. And since the dormitory is an example of a residential  
18 use, it of course, has to meet the criteria of a residential use  
19 which includes a 30-day minimum stay.

20                   Well, it's not -- let's see. I think I have some  
21 duplicate information here. The dormitory is only permitted in  
22 the R zones in this case with the approval of a special exception  
23 by the Zoning Commission in conjunction with the Campus Plan. So  
24 this is not a use they can just, you know, proliferate everywhere.  
25 It requires the approval of the Zoning Commission in order to

1 exist. So this is not a use that can, you know, occur without  
2 your consent. Okay.

3 And then we're going to talk about process a little bit  
4 here because there's also been some debate as to whether or not  
5 this is going through the correct process, and so I just want to  
6 reiterate. I know that we have discussed this in our submissions.  
7 We have also discussed this at the previous hearing.

8 But essentially, at the public hearing for Zoning  
9 Commission 22-13, which was the previous Campus Plan, the  
10 Commission remarked that they were not sure that a "sufficient  
11 connection had been made between the building, how it was  
12 conceived, how it will operate, and the educational purpose of  
13 the seminary," and that is language that was taken from the  
14 transcript.

15 So it wasn't so much -- it was a question about that  
16 relationship between the use and the university, because in  
17 Subtitle X, Section 101.3(A), states, "There needs to be a  
18 demonstrated and necessary relationship between the use and the  
19 university functions." And in the absence of a very clear  
20 relationship, it was suggested that the PUD process might be  
21 appropriate.

22 We have identified another case where that was the  
23 process used in order to permit a similar situation. So in full  
24 Subtitle X, Section 300.2 states that "While providing for  
25 greater flexibility and planning and design, it may be possible

1 under conventional zoning procedures, the PUD process shall not  
2 be used to circumvent the intent and purposes of the zoning  
3 regulations or result in a condition that's inconsistent with a  
4 Comprehensive Plan or PUD process," and this case is not  
5 circumventing the intent and purposes of the zoning regulations.  
6 The intent is to allow a dormitory as part of the Campus Plan,  
7 and the conditions of the Campus Plan require that relationship  
8 and use of the university functions. The PUD provides the  
9 flexibility to address that requirement.

10                   How much more time should I?

11                   MR. BROWN: You've got plenty of time.

12                   MS. ELLIOTT: Okay.

13                   MR. BROWN: (Indiscernible).

14                   MS. ELLIOTT: All right. So there has also been a  
15 question raised concerning the relief that has been requested  
16 with this PUD. The Applicant is not requesting any flexibility  
17 from height and density requirements of the zone and minimal  
18 flexibility concerning the rear yard and IZ program have been  
19 requested.

20                   So ultimately, the proposed IZ program will be  
21 administered by DHCD as we've discussed and as such, the enhanced  
22 IZ proffer of what amounts to about 11.8 percent IZ resulting in  
23 a total of 70 beds, 39 of those beds at sixty percent MFI, 20 of  
24 those beds at 50 percent MFI and 11 at 30 percent MFIs sufficient  
25 for the PUD. And I would just reference Exhibit 46 if you wanted

1 to see that proffer in the record.

2 It's also been suggested that a variance rather than  
3 special exception relief is required from the IZ provisions.  
4 This is another part of the zoning regulations that sort of has  
5 to be read sequentially in order to understand them. So Subtitle  
6 C, Section 1007.1 authorizes the BZA to grant partial or complete  
7 relief from the set aside requirements as long as the owner can  
8 demonstrate that it would deny them economically viable use of  
9 the property.

10 The second provision Subtitle C, Section 1007.2 sort  
11 of builds on that saying that when an Applicant is requesting  
12 relief from the IZ set aside requirements and the offsite location  
13 requirements, that a variance is required.

14 So in addition to that, Subtitle X, Section 303.13, if  
15 we skip forward to the PUD regulations, that authorizes the Zoning  
16 Commission to approve special exemption relief as part of a PUD  
17 from any of the provisions for which a special exception approval  
18 is required. So the Applicant has requested relief from set  
19 aside requirement of Subtitle C, Section 1003 via a special  
20 exemption which is allowed -- I feel like I should have drawn a  
21 diagram for you -- which is allowed under Subtitle C, Section  
22 1007.1, which allows for the partial or complete relief of the  
23 set aside standards and then is further permitted by the PUD  
24 flexibility standards to request this relief by special  
25 exception.

1           In this case, I think it's really important to point  
2 out that the set aside is actually greater than what would be  
3 required by the zoning regulations for standard development.  
4 We've already pointed this out. A standard development would  
5 require a minimum of eight percent IZ and again, this is at 11.8  
6 percent.

7           So I think that that addresses some of those main  
8 points. And I want to save time for other folks to address some  
9 of the other questions, but I'm available if there is anything  
10 else. Thanks.

11           Let's do Eric.

12           MR. BROWN: We're going to -- Eric?

13           MR. LEE: Hi, Commissioners. Eric Lee here from  
14 Landmark properties. I just wanted to further address some of  
15 the comments made about the IZ program. We did not propose using  
16 Pell Grants as a sole eligibility metric for the IZ program. We  
17 simply used Pell Grants as a barometer to gauge potential demand  
18 for the IZ units. The Federal government requires universities  
19 to publish the number of students that receive Pell Grants and  
20 so we know from that publicly available information, there are  
21 students at American University on Pell Grants, right. And so  
22 we just simply use that as a barometer of demand to know that  
23 there are, you know, despite what may be the median income  
24 statistics on American University, there are a significant, over  
25 a thousand, students at AU that receive Pell Grants and therefore

1 are likely to be eligible for D.C.'s other criteria.

2 As stated previously, the IZ program itself would be  
3 administered with the ACD and, you know, students who apply to  
4 it have to meet all the other eligibility requirements of D.C.'s  
5 program, right. So I just wanted to clarify that we just look  
6 at Pell Grants as a barometer of demand, not as a qualifying  
7 criteria for eligibility for IZ.

8 And I guess another just tidbit to hit on real quick  
9 that was mentioned previously, in American University's Campus  
10 Plan they did propose building some additional on campus housing  
11 beds. If you look at that Campus Plan and the amount of beds  
12 proposed in combination with the number of beds that we are  
13 proposing, you still don't even get close to housing all of the  
14 American University's students as, you know, published in  
15 publicly available data.

16 So I just think it's important to note that even if  
17 this project were to be approved and AU were to build their  
18 additional beds, there would still be thousands of students  
19 seeking housing from AU in addition to Wesley seminary, so thank  
20 you.

21 MR. WILSON: I'm David McAllister Wilson, the president  
22 of Wesley, and I thank the Commissioners for their time this  
23 evening. I won't try to address all of the statements and I  
24 might say mischaracterizations that were said tonight. Instead,  
25 I want to address some of the bigger issues. First of all, yes,

1 the monetary aspect of this proposal is important to us, but it's  
2 not all about the money. It's also about the ability to house  
3 our students. It was observed that our enrollment has gone down.  
4 That is true because of COVID, because of a continued backlog of  
5 Visa applications that our embassies overseas for international  
6 students, and especially for the poor quality of our two old  
7 dorms. One dorm is already closed and decrepit. Another one is  
8 almost there and there are changing student needs over the last  
9 few years.

10                   The demand for student housing is now more like that  
11 which Landmark is proposing. Our housing is now filling up again.  
12 Carol Hall is full. The new residence hall is almost full. We  
13 are not a commuter student school as stated. We are a mix of  
14 residential and commuter with some commuters staying several  
15 nights a week.

16                   Also, our doctoral students stay for extended periods  
17 of time and when you have a summer session. This project would  
18 allow us to compete with other seminaries for students who really  
19 want to come to D.C. and we are certain that we will meet the  
20 need and fill those spaces. And by the way, not all of the Wesley  
21 students will qualify for IZ because the priority in this program,  
22 as stated earlier, is for D.C. residents. Not all of our students  
23 are D.C. residents.

24                   Somebody suggested that perhaps we could work to raise  
25 more money. I must tell you, the starting salary of a typical

1 Wesley graduate is \$45,000 a year. And so we raise a lot of  
2 money to make it possible for students to study here and work  
3 here and the majority of the proceeds in this program will be  
4 going to help support scholarships for those students.

5 The reason is also for us to remain in D.C. Mention  
6 has been made in this meeting about some of the larger issues  
7 across the city, including ethnic diversity. As I testified  
8 earlier, Wesley is a majority minority community and that is not  
9 accidental. We work at that. Our faculty, students and alumni  
10 work on the issue of inclusion, affordable housing and  
11 homelessness, and a number of other issues all across the city.

12 If we step back then from this, it's been over six  
13 years that we've worked with the community, culminating in the  
14 reigning endorsement of ANC 3D. We rely on our own legal experts,  
15 as we just testified, and government agencies, to deal with the  
16 complicated legal questions that arise.

17 And I recognized in my opening remarks at the last  
18 meeting that this is unusual, but it is not a precedent. Instead,  
19 this allows us to continue our ministry and mission in this city.  
20 It allows students to move from the neighborhood to the academic  
21 precincts of this ground, and it increases the amount of green  
22 space.

23 It seems to me that all of those satisfy the fundamental  
24 work of urban planning, which is the job of this Zoning  
25 Commission, and we appreciate the work of the Commission.

1                   MR. BROWN: Mr. Chairman, that ends our rebuttals, I  
2 believe.

3                   CHAIRMAN HOOD: All right. Thank you very much. Let's  
4 see if we can -- if we have any other questions.

5                   Commissioner Imamura, any more questions on the  
6 rebuttal?

7                   COMMISSIONER IMAMURA: Mr. Chairman, if you'll allow,  
8 if you don't mind coming back to me as I (indiscernible).

9                   CHAIRMAN HOOD: Okay.

10                  Commissioner Stidham, do you have any questions on --

11                  COMMISSIONER STIDHAM: I do, and more of a clarification  
12 on what was said regarding meeting student -- changing students'  
13 needs. I believe I heard you say that the set asides that you're  
14 going -- the rooms that you're going to set aside that would meet  
15 the IZ requirements if there was an IZ requirement would be for  
16 D.C. residents only? So they would need to be D.C. residents,  
17 students who are at Wesley or D.C. residents only, that then  
18 would qualify financially for dorms? Did I hear you correctly?

19                  MR. BROWN: Well, let me ask Eric to respond.

20                  MR. LEE: It would be the students -- yeah, we obviously  
21 still have to modernize the covenant with DHCD and, you know, and  
22 their proposal or their proposal with OP. You know, that would  
23 have to be done before they even get a building permit. But our  
24 initial thinking is that we would prioritize D.C. residents.

25                  CHAIRMAN HOOD: Let me do this because even when we ask

1 questions of others, let's mute because there's so much noise and  
2 back feed. A lot of feed. Okay.

3 MS. SCHELLIN: I think they may -- if we could ask the  
4 Applicant if they have more than one computer on or more than  
5 one sound device on because --

6 CHAIRMAN HOOD: No, I don't think --

7 MS. SCHELLIN: -- they're the only ones --

8 CHAIRMAN HOOD: I think that's it. I think --

9 MR. LEE: Commissioner Stidham's --

10 CHAIRMAN HOOD: Yeah, I think that's it. You got to --

11 MS. SCHELLIN: Was it just her?

12 CHAIRMAN HOOD: Yeah.

13 MS. SCHELLIN: Okay.

14 CHAIRMAN HOOD: Because we had that problem earlier and  
15 once we all muted, we don't hear it again. So let's all mute  
16 and then Commissioner Stidham, when they go back to ask your  
17 other question, just unmute and then mute again. Okay. Thanks.

18 MR. LEE: Yeah, apologies. I'll start over again. We  
19 are -- we still have to work through the actual specific covenant  
20 with DHCD. And again, their proposal would be that that would  
21 have to be done for the issuance of building permits. So we look  
22 forward to doing that. But our initial thinking is that  
23 prioritization would be given to students from the D.C. area and  
24 then D.C., and then D.C. residents. I.e., students that become --  
25 maybe not from D.C., but become residents of D.C. after moving

1 here. But initial priority given to D.C. residents who are also  
2 from the D.C. area. Again, we still have to -- we do still have  
3 to work through the specifics of that with DHCD.

4 COMMISSIONER STIDHAM: So they would be -- so the  
5 priority is for D.C. area; is that correct? I'm sorry. I'm  
6 confused by what you just said. Maybe you could restate.

7 MR. LEE: I think we're seeing the same thing, yeah.  
8 D.C. Yes, we are -- we would prioritize the D.C. residents.

9 COMMISSIONER STIDHAM: And how's the enrollment at  
10 Wesley now who are D.C. residents, how many of those do you feel  
11 like are in need of housing since they are local?

12 MR. LEE: I don't have the number right in front of me,  
13 but a number of our students currently, and especially our Carroll  
14 Hall, are -- had been D.C. residence and they have moved here in  
15 order to study, many of them with their young children. And I'm  
16 thinking especially of several mothers and families right now  
17 living in Carroll Hall that I know to come from primarily across  
18 the Anacostia. But it would just the anecdotal, I don't have  
19 the numbers.

20 CHAIRMAN HOOD: Well, can you give some the numbers  
21 (indiscernible)?

22 COMMISSIONER STIDHAM: Yeah.

23 MR. LEE: Yes.

24 CHAIRMAN HOOD: Yeah.

25 COMMISSIONER STIDHAM: I think it's rather unclear the

1 educational use. I think that's where I continue to struggle to  
2 understand; one, if it would be successful if you have the numbers  
3 and two, the actual, you know, requirement for educational use  
4 at Wesley period and not any other use. So --

5 MR. LEE: Yes.

6 CHAIRMAN HOOD: Yeah.

7 COMMISSIONER STIDHAM: -- that's it for me for right  
8 now, Mr. Chair.

9 CHAIRMAN HOOD: Okay. I'll go next. Let me just ask.  
10 I think Ms. Elliott mentioned about there's another case. Is it  
11 already in the record, the other case that's similar to this and  
12 we don't have one that is an exact match, do we know where one  
13 is? Probably -- well, I probably pretty much know the answer to  
14 my question, but I'm just curious and were provided the one that's  
15 close to this for the record?

16 MS. ELLIOTT: No, that case is already in the record.  
17 It's a George Washington case, 06-11-0612. I thought I had  
18 figured out which one you might be referencing, but I think that  
19 the Campus Plan area is -- the boundary is not correctly shown  
20 on the Office of Zoning's map because it was modified to exclude  
21 properties for PUD. So I don't know if that's the one.

22 CHAIRMAN HOOD: If that -- you -- well, I don't want  
23 to put that university out there because I don't want them to  
24 have any issues, but I can tell you that I know it was something  
25 similar. I may be -- I may have it reversed, you know what I'm

1 saying, with the opposite way, but I will check with counsel on  
2 that.

3 So I saw the GW case. I saw that, but like in the  
4 other jurisdictions that are doing something similar -- well, I  
5 don't know if we can even find anything that even mirrors that.  
6 But if we could, let's look and see. I'm just curious.

7 MS. ELLIOTT: Sure.

8 CHAIRMAN HOOD: Let's just look and see what's out  
9 there, because I do know this. I've learned this in recent years.  
10 Education, and I'm sure you all know this better than I do and  
11 the way I was educated and the way some other people were educated  
12 is totally different. It's totally -- the whole make up is  
13 totally different and we have to adapt to change because I spoke  
14 to some folks in the University of Maryland, and I'm sure Mr.  
15 Repp will be interested in this, and they basically said,  
16 especially we're talking about pop-ups.

17 And I know I'm digressing a little bit, but those young  
18 people in that class got on me about pop-ups in the District of  
19 Columbia, and they're saying that we're messing up housing for  
20 them, but that was some years ago, about three or four years ago.  
21 But the key is those are the people not for tomorrow, but for  
22 today and I'll leave with that.

23 That's really all I have. I think this case for me has  
24 been beat. I just need to come up with some rationales of why  
25 this is the way it's moving. Also, as I've asked earlier, Mr.

1 Brown, if you could respond to the PowerPoint presentation  
2 specifically to the -- some of the comments that that Spring  
3 Valley and NLC neighbors, Neighbors for Liberal Community had  
4 mentioned, I think that would be very helpful.

5 You don't have to respond now. I'd like for you to  
6 give me a short bullet point, soundbite version of responding to  
7 them. Okay?

8 MR. BROWN: Right now?

9 MR. LEE: No.

10 CHAIRMAN HOOD: No, not -- no.

11 MR. BROWN: Okay. Now no?

12 CHAIRMAN HOOD: Definitely not now. Definitely not.

13 MR. BROWN: Yeah, we'll be happy to do that. I think  
14 that would be helpful.

15 CHAIRMAN HOOD: Okay. Thank you. And let me go to --  
16 let me give -- let me go to Vice Chair Miller. Vice Chair --

17 UNIDENTIFIED SPEAKER: His screen is frozen.

18 CHAIRMAN HOOD: He's frozen? Okay. Well, you ready,  
19 Commissioner Imamura?

20 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I have  
21 just some comments for our deliberation, but Commissioner Stidham  
22 had asked the other questions that I shared an interest in. And  
23 I guess I do have one question. It might be for either Dr.  
24 McAllister Wilson or Mr. Lee. It seems as if, you know, no matter  
25 whether it's this case or perhaps another, you know, PUD, scale

1 size, mass is always an issue and always a concern in the  
2 community.

3 And you know, there's an architectural aspect to it,  
4 but there's also a formula for the financial aspect of it to what  
5 actually pencils out, so I'm curious. This is where people come  
6 to the Commission with the final solution, but they don't often  
7 tell us how they got there. What were the iterations, what were  
8 the machinations that they went through that did and didn't work  
9 out, that panned out or didn't pan out, and this is why we've  
10 arrived here?

11 So my question is, are we at the very -- are we at the  
12 leanest part that we can be architecturally in order for this to  
13 pencil out for the school, and for Landmark and for the community?  
14 Can we go smaller? Can we go shorter, or is this it and tell me  
15 why?

16 MR. WILSON: I can speak a little bit about the  
17 iterations we took. When we first started community engagement  
18 on this project, years ago actually, the building itself was  
19 bigger than it is now. It also had some different orientations,  
20 different massing, different stepping. It kind of seems lost in  
21 the shuffle now, but, you know, over a period of years we actually  
22 worked with our architecture team to adjust the massing of the  
23 building, to have a stepped in particular ways to make it less  
24 visible, to reduce the size of the building, to reduce, you know,  
25 the top floor units, particularly when they're visible from the

1 neighborhood.

2 So and I -- and your question makes a lot of sense as  
3 well, right, because you need to --

4 COMMISSINOER IMAMURA: I get that. The architecture  
5 part of it, I get. I'm trying to get the, you know, is this --

6 MR. WILSON: Yeah.

7 COMMISSIONER IMAMURA: -- where pencils out?

8 MR. WILSON: Yes, is my --

9 COMMISSIONER IMAMURA: This is it.

10 MR. WILSON: Yes, it's my answer to the question.

11 COMMISSIONER IMAMURA: All right. Thank you, Dr.  
12 McAllister Wilson. That's what I was looking for.

13 MR. WILSON: Thank you.

14 COMMISSIONER IMAMURA: All right. Mr. Chairman, I  
15 don't think I have any other questions and it looks like we have  
16 Vice Chair Miller back, so I'm interested in his questions.

17 CHAIRMAN HOOD: So before we go to Vice Chair Miller,  
18 I think that question, Commissioner Imamura, I think is very  
19 important and he's right. I didn't know if you wanted to push  
20 it because I'm actually interested in it, but right now let me  
21 hold off on that and go to Vice Chair Miller.

22 VICE CHAIR MILLER: Chairman, I apologize. There's  
23 some general connectivity issue which is happening here, so I'll  
24 be quick while I'm here. I appreciate my colleagues' questions.  
25 I appreciate the Applicant's response, rebuttal presentation and

1 September 22nd Exhibit 37 exhibit which had some concluding  
2 arguments and responded to some of the concerns by both the  
3 Commission and community about a few issues including enhancing  
4 the affordable housing proffer, establishing the Ombudsman, which  
5 the Chairman suggested, and you got the Office of Tenant Advocate  
6 there and providing a detailed roof plan with the solar panels  
7 and roof -- green roof. There are two questions. So I think  
8 I'll look forward to getting maybe the soundbite's concise  
9 responses to the questions that have been asked by my colleagues.

10           My question is what is the status of the draft  
11 affordable housing covenant with DHCD since that is a major  
12 component of the public benefits associated with this Planned  
13 Unit Development, the affordable housing component? What is the  
14 status of that? I realize we can put into our order all of the  
15 components that Office of Planning has suggested, even  
16 recommended, even without that draft language.

17           I don't expect to have a finalized executed agreement  
18 before we would be making a decision, but we are -- we, I think,  
19 are going to require that covenant to be a condition of the order  
20 and prior to the issuance of any building permit for this project  
21 if we get to that point.

22           So what is the status of that draft covenant,  
23 affordable housing?

24           MR. BROWN: Mr. Miller, the draft of the covenant was  
25 sent by us to DHCD and DHCD is reviewing it. It's a complete --

1 Mr. Miller, I think we lost you.

2 UNIDENTIFIED SPEAKER: Go ahead and answer.

3 MR. BROWN: A complete draft document has been sent -  
4 to --

5 CHAIRMAN HOOD: Let's make sure he -- let's make sure  
6 he's still here because I don't want you to have to answer that  
7 again.

8 MR. BROWN: Yeah.

9 CHAIRMAN HOOD: Vice -- I'm sorry. Commissioner  
10 Imamura?

11 COMMISSIONER IMAMURA: I'll take the Vice Chair, but  
12 thank you, Mr. Chairman. While we wait for Vice Chair Miller  
13 though, he did bring up a great point that was part of my set of  
14 questions was the Office of Tenant Advocate. It just shows that  
15 notices will actually be posted in the new dorm, but I'm curious,  
16 have you all actually had conversations with that agency?

17 You know, this is a one-of-a-kind all of D.C. if this  
18 is to be approved. So I don't feel that it's enough to just say,  
19 here's the agency telephone number. I think there ought to be a  
20 better partnership and cooperation, and collaboration that  
21 they're part of this conversation. So have you all had  
22 conversations?

23 MR. BROWN: Numerous conversations with DHCD. So --

24 COMMISSIONER IMAMURA: Not DHCD, the Office of Tenant  
25 Advocacy.

1                   MR. BROWN: Well, the Officer Tenant Advocate is --

2                   COMMISSIONER IMAMURA: Specifically that office.

3                   MR. BROWN: No.

4                   COMMISSIONER IMAMURA: Not DHCD, but -- broadly, but  
5 specifically that office.

6                   MR. BROWN: No.

7                   COMMISSIONER IMAMURA: Okay.

8                   MR. BROWN: But isn't the Office of Tenant Advocate  
9 within the umbrella of DHCD?

10                  COMMISSIONER IMAMURA: It isn't.

11                  MR. BROWN: No? Okay. But I mean, we can certainly  
12 have that discussion with the Office of Tenant Advocate, but our  
13 discussions with the DHCD have been extensive.

14                  COMMISSIONER IMAMURA: Because I think the ombudsman  
15 component of this is really important for the students and I've  
16 said that before and so I want to see that follow through. All  
17 right. We've got Vice Miller back. Thank you, Mr. Chairman,  
18 for your indulgence.

19                  CHAIRMAN HOOD: Okay. Vice Chair Miller, are you  
20 ready? He's getting ready to answer your question.

21                  VICE CHAIR MILLER: Okay.

22                  MR. BROWN: Vice Chairman Miller, could you --

23                  UNIDENTIFIED SPEAKER: Draft covenant.

24                  MR. BROWN: Draft covenant. Mr. Miller, are you back?

25                  VICE CHAIR MILLER: I am here.

1                   MR. BROWN: All right.

2                   VICE CHAIR MILLER: Even if I'm not visible, I can hear  
3 you with choppiness, so go ahead.

4                   MR. BROWN: Well, your question was and the answer is  
5 the DHCD draft covenant has been sent back to DHCD for their  
6 review and we're waiting to hear back from them, but we sent them  
7 a full draft of the document.

8                   VICE CHAIR MILLER: You're going to be submitting  
9 something, right in response to the questions? You're going to  
10 be getting something in writing in response to the rebuttal  
11 questions; is that correct, Mr. Chairman?

12                  CHAIRMAN HOOD: Yeah, I had asked them to respond to  
13 the PowerPoint and then I also want to add to that, if they can  
14 respond to Commissioner Imamura's -- he was going down the path,  
15 the lean and seeing if we've exhausted -- and I like that. I  
16 want to know that too. Maybe along with him, I don't know if he  
17 wants to go in more detail, but I do. I want to go in more  
18 detail. I want to know, have we done that.

19                  VICE CHAIR MILLER: At the time that we get that  
20 submission, it was my point if we can get whatever draft, even  
21 if it's just a draft that you've submitted to -- that hasn't --  
22 that DHCD hasn't sent back. If we can get that into the record  
23 with your submission, I think I would -- that would be helpful  
24 to me. Thank you.

25                  MR. BROWN: Certainly.

1 CHAIRMAN HOOD: Okay. Any other questions, colleagues?  
2 All right. Let me try to go through a rebuttal here. Let me  
3 pull that screen up. Okay.

4 Chair Bender, you have any questions, any cross on  
5 rebuttal?

6 COMMISSIONER BENDER: I just -- just a couple. I'm  
7 trying to get at exactly how much what percentage IZ you guys  
8 are, you folks, are offering and I thought I heard you, whoever  
9 testified about that, say 11.8. Was that -- is that correct?

10 MR. KEILER: Yes.

11 MR. BROWN: Yes.

12 MR. KEILER: I believe that is.

13 COMMISSIONER BENDER: Okay. Could you walk me through  
14 how you calculated that? And this is based on number of beds,  
15 right?

16 MR. KEILER: That is correct. I mean, in student  
17 housing, because, you know, we typically lease by the bedroom as  
18 opposed to, you know, the (indiscernible) number of beds.

19 COMMISSIONER BENDER: So could you walk me through the  
20 calculation?

21 MR. KEILER: I think it's just -- I think we're at --  
22 and maybe the number quoted was incorrect, but I believe we're  
23 at -- we proposed 70 beds of IZ at varying income levels divided  
24 by 659. So that's how --

25 COMMISSIONER BENDER: Yeah. So when I divide 70 --

1                   MR. KEILER: -- (indiscernible).

2                   COMMISSIONER BENDER: -- by 659, I get 10.6 percent.

3 Is my calculator wrong?

4                   MR. KEILER: Yeah, so that is off the total number of  
5 beds that -- you're absolutely correct.

6                   COMMISSIONER BENDER: And that's how you figure it out,  
7 right?

8                   MR. KEILER: It's the percentage of total number of  
9 beds. The 11.8 number came if you subtracted out the Wesley  
10 replacement beds from the total calculation, but I guess that's  
11 kind of semantics. We apologize for the percentage issue. It  
12 is --

13                   COMMISSIONER BENDER: (Indiscernible).

14                   MR. KEILER: -- 70 beds.

15                   COMMISSIONER BENDER: Yeah, that's -- 70 beds out of  
16 659 is 10.6 percent, not 11.8 percent. And I --

17                   MR. KEILER: And again, that -- yeah, that's off the  
18 total number of beds not backing out the Wesley replacements.  
19 But yes, that's exactly --

20                   COMMISSINOER BENDER: But that's how we calculate  
21 typically percentage of IZ. Okay. The only other question I  
22 have for you is you talked about how you've got, I think, a fair  
23 number of Wesley students or D.C. residents. How many AU students  
24 or D.C. residents?

25                   MR. KEILER: I don't have that number off the top of

1 my head.

2 COMMISSIONER BENDER: Do you have any indication of it?

3 MR. KEILER: Well, not specifically. I mean, we --  
4 we've been working off of publicly available information, right,  
5 which does -- which generally reflects where students are coming  
6 from when they start school, but that doesn't preclude students  
7 from becoming D.C. residents once they start school, right, which  
8 obviously happens. There are, you know, American University  
9 students on the ANC, so.

10 COMMISSIONER BENDER: Right. Do you have any votes  
11 they got?

12 MR. KEILER: No, sir.

13 COMMISSIONER BENDER: In one case, it was one vote.  
14 But, all right. I'm sorry. I'm testifying. I don't have any  
15 further questions.

16 CHAIRMAN HOOD: Thank you, Chair Bender, for cutting  
17 yourself off. I appreciate that.

18 All right. Let's see if we have any -- let me go to  
19 Chair Duncan. Do you have any cross on rebuttal?

20 COMMISSIONER DUNCAN: I have no -- I have no questions,  
21 but I might be able to shed light on -- I don't know the exact  
22 number of AU students who vote in the District of Columbia, but  
23 the vote for ANC is often very, very low because when you have  
24 to get through the candidacy to get on the ballot, the students  
25 are not here. It's a problem.

1                   So even if the Commissioners were elected with just one  
2 vote, I think there was a flip of a coin with one of them. It's  
3 because the process is not working for students. I'll just throw  
4 that in.

5                   CHAIRMAN HOOD: Okay. Thank you very much.

6                   Mr. Carson?

7                   MR. CARSON: No questions.

8                   CHAIRMAN HOOD: Okay. And Ms. Gates, any cross on  
9 rebuttal? Ms. Gates?

10                  MS. GATES: I'm sorry. I forgot to push the button.

11                  CHAIRMAN HOOD: Okay.

12                  MS. GATES: I'd like to read the section that was  
13 referred to on educational use because I think the comments given  
14 were misleading. This is something --

15                  MR. BROWN: This is rebuttal, Mr. Chairman.

16                  CHAIRMAN HOOD: Since you want to read -- you're going  
17 to read and then you're going to ask a question, right?

18                  MS. GATES: I'm going to ask a question.

19                  CHAIRMAN HOOD: All right, thank you.

20                  MS. GATES: It's the correct definition. This is  
21 Subtitled B, Chapter 2, Use Categories, J. Does education,  
22 college and university state, "An institution of higher  
23 educational or academic learning providing facilities for  
24 teaching and research, offering courses of general or specialized  
25 study leading to a degree and authorized to grant academic

1 degrees?"

2 I think the implication -- isn't the implication of  
3 this that the educational use is allowable at the institution  
4 provided they are there to get a degree or is it just general  
5 education, as I think you sort of implied?

6 MS. ELLIOTT: So this -- the category doesn't -- I  
7 think I know where you're going with this, but I don't want to  
8 assume. The second part of this though is (J)(2) where it reads  
9 that the examples of uses permitted in this category include  
10 dormitories, cafeterias and the like. So dormitories are an  
11 example of a permitted use in this category.

12 MS. GATES: That's right. And the dormitory that --  
13 the use as an educational institution is based on the fact that  
14 the people attending -- isn't it based on the fact that the people  
15 attending are there to get a degree?

16 MS. ELLIOTT: The category for education, college,  
17 university does not specify that only -- that it's only that use  
18 if it's only, you know, providing for their students. I think  
19 that's what you're -- you are trying to distinguish that because  
20 the dormitory would be providing housing to both Wesley and AU  
21 students, that this use is not permitted because of the AU, the  
22 attendance of the students. And I think that's where you're  
23 going --

24 MS. GATES: Okay.

25 MS. ELLIOTT: -- with this argument and the regulations

1 do not make that distinction.

2 MS. GATES: They don't make that distinction except for  
3 the fact that they do sort of require a degree at the end of the  
4 process. And that is the reason you're in that dormitory at that  
5 university.

6 MS. ELLIOTT: Well, I think for any question that there  
7 is concerning the use, we do have an interpretation also from the  
8 zoning administrator clarifying that the use is permitted. That  
9 this is considered a dormitory, it's a permitted use under the  
10 education and residential use categories, and that a dormitory  
11 is a permitted use.

12 MS. GATES: Well, even though we say -- if we agree  
13 that we're a dormitory, it is a commercial -- the transaction  
14 between students and Landmark is a commercial transaction. They  
15 are not there to get a degree. They are there to find a place  
16 to live.

17 MS. ELLIOTT: No, it's not a commercial use. This is  
18 defined as a dormitory. We have clarification from the zoning  
19 administrator indicating that it is a dormitory. And if you  
20 review the interpretation, the very last bullet point of that  
21 actually states that regardless of how the financials work on  
22 this project, it doesn't change the underlying use, the use is a  
23 dormitory.

24 MS. GATES: But Mr. Elliott, wouldn't you agree that  
25 we -- no one but a little group was there speaking with the zoning

1 administrator so we don't know what questions he was asked to get  
2 that definition or agreement.

3 MS. ELLIOTT: His statement is provided in the record.

4 MS. GATES: Well, yes. I've read it, but I think it  
5 indicates that he may have been fed information to get to that --

6 CHAIRMAN HOOD: Ms. Gates, Ms. Gates. Ms. Gates, let's  
7 not speculate.

8 MS. GATES: Okay. Okay.

9 CHAIRMAN HOOD: Maybe you all can have a meeting, but  
10 let's not speculate. That's a lot of speculation. I've allowed  
11 a lot of it so you can get your questions out so you can get to  
12 the point, but let's not speculate because it's in -- it is in  
13 the record.

14 MS. GATES: Thank you. My last question is, are there  
15 any studies that show students want to move back on to the campus?

16 MR. KEILER: Could you clarify your question, please,  
17 Ms. Gates?

18 MS. GATES: Yes, I think you said that there were  
19 thousands of students who would not be able to be housed at AU  
20 because of the numbers of beds they planned to build.

21 MR. KEILER: That's right.

22 MS. GATES: Are there -- and then so I'm asking you,  
23 is there any -- have any studies been done in this particular  
24 case?

25 MR. KEILER: Well, I mean, we've conducted our own

1 independent demand analysis, sure, but if you're talking about  
2 some sort of third-party study, the answer would be no. I would  
3 say that, you know, as it has been pointed out from our website,  
4 I mean, we are a purpose-built student housing owner, operator,  
5 developer, manager and this is our bread and butter.

6 And what we've seen across the country over a number  
7 of years is that students want to be close, as close as possible  
8 to the academic institutions for which they go. You know, I can  
9 provide some specific data about our portfolio, but again, we  
10 have not conducted any sort of third-party independent study.

11 MS. GATES: But have you conducted any study? Did  
12 you collect any data?

13 MR. KEILER: Yes. As I mentioned, we've conducted our  
14 own internal demand analysis.

15 MS. GATES: And what did it show?

16 MR. KEILER: That there are, just from a pure number  
17 of standpoint, right, from publicly available data from American  
18 University, their most recent Campus Plan, the information they  
19 filed to the federal government, which is available on iPad, that  
20 there are thousands of American University students that are  
21 unable to be housed on AU's campus.

22 MS. GATES: But is there any information there that  
23 says they want to be housed on the campus?

24 MR. KEILER: Again, our experience as a purpose-built  
25 student housing company --

1 MS. GATES: Is there any -- would you just answer my  
2 question? Is there any information that indicates the thousands  
3 of students you refer to want to be housed on either Wesley or  
4 AU's campus?

5 MR. KEILER: Our own internal demand analysis.

6 MS. GATES: Pardon?

7 MR. KEILER: Our own internal demand analysis.

8 MS. GATES: But that is based on government reports,  
9 correct?

10 MR. KEILER: Well, no. And, you know, our independent  
11 market studies. I mean, walking around campus, walking into  
12 competitive properties, you know, walking up and down Mass  
13 Avenue, standing at Wesley Circle myself sometimes.

14 MS. GATES: So you've been interviewing --

15 MR. KEILER: Analysts on our team --

16 MS. GATES: If you've been --

17 MR. KEILER: -- et cetera.

18 MS. GATES: Have you been interviewing AU students?

19 MR. KEILER: Anecdotally, sure. Yeah.

20 MS. GATES: Anecdotally?

21 MR. KEILER: I mean, we did not Commission like a formal  
22 survey of American University students. As I have said, we never  
23 conducted a third-party independent demand study. We conducted  
24 our own internal demand study. But yes, that included talking  
25 to AU students who obviously wanted to be, consented to be, talked

1 to. So I mean, there's probably, you know, some small  
2 conformation bias there that you try and adjust for.

3 MS. GATES: Thank you. I also had the same question  
4 for Dr. McAllister Wilson, about how many -- or for you, how many  
5 students are D.C. residents.

6 MR. WILSON: I answered earlier that I would get that  
7 information. I didn't know --

8 MS. GATES: Correct.

9 MR. WILSON: -- off the top of my head.

10 MS. GATES: Thank you. I'm through.

11 CHAIRMAN HOOD: Okay. Thank you very much, Ms. Gates  
12 and thank everyone.

13 Mr. Brown, we need a closing. We don't need a -- we  
14 don't need the whole story told again, but we -- you can go ahead  
15 and give us a closing.

16 MR. BROWN: Mr. Chairman, we'd be -- and more efficient  
17 if we gave you a written closing with the documents? You've  
18 asked for certain things. I'd like to make a checklist to make  
19 sure that we're all in agreement.

20 CHAIRMAN HOOD: Okay. Do we need to do that now? Ms.  
21 Schellin, did you take a list or who took a list? Okay. Let me  
22 start the list off. The PowerPoint; I asked you respond to that.

23 MR. BROWN: Yes.

24 CHAIRMAN HOOD: I asked a little more, and I'm going  
25 along with my colleague Commissioner Imamura about making sure

1 that we, I think, exhausted everything. I believe that's where  
2 you were going, Commissioner Imamura. I'm not sure. Yeah, if  
3 we can get that and anybody else ask for anything? That's my  
4 list.

5 Commissioner Imamura and then I'll come to you, Vice  
6 Chair.

7 COMMISSIONER IMAMURA: Yes, I'd like verification and  
8 confirmation about your engagement with the Office of Tenant  
9 Advocate. Not just the fact that you've reached out, but what  
10 is that dialogue. So I'd like confirmation on that.

11 UNIDENTIFIED SPEAKER: I'm sorry you broke up there for  
12 a second.

13 COMMISSIONER IMAMURA: Yeah. Sorry. So --

14 UNIDENTIFIED SPEAKER: Was that Office of Tenant  
15 Advocate? I apologize.

16 COMMISSIONER IMAMURA: Right? Yes. I'd like  
17 confirmation and verification that you held the conversation, not  
18 just that you reached out to them to notify them of this project,  
19 but I'd like to know what the summary is and the outcome of that  
20 conversation, if they're willing to participate, willingly  
21 participate, as ombudsman, on behalf of the students.

22 CHAIRMAN HOOD: Okay. And let's go to -- let me --  
23 before I come to you, Vice Chair, Commissioner Stidham?

24 COMMISSIONER STIDHAM: I think we also had asked for the  
25 number of Wesley students that are D.C. residents.

1                   COMMISSIONER IMAMURA: Yes. If I could add on to that,  
2 Mr. Chairman. Commissioner Stidham is absolutely right. I think  
3 a resounding theme here. You know, the Commission tries endeavors  
4 to make data driven decisions here. These are information --  
5 this is information and data that I believe the Applicant should  
6 have readily available, how many students are D.C. residents.  
7 That should be at the fingertips. How many are eligible?  
8 Otherwise, then it's just conjecture.

9                   So give us the hard data. You've done your homework  
10 already. You just have to show us the work. So please show us  
11 the work. Thank you, Mr. Chairman.

12                  CHAIRMAN HOOD: Okay. Thank you. Vice Chair Miller?

13                  VICE CHAIR MILLER: I had asked for the latest draft  
14 Affordable Housing Covenant that has been -- the latest draft of  
15 Affordable Housing Covenant whether it's submitted or back from  
16 DHCD, the latest draft and the status of completing that.

17                  I hesitate to add anything. I think this was answered  
18 at the previous hearing or maybe tonight when I was -- lost  
19 connectivity. Can some -- if they could just in closing remind  
20 us what the response was to the Office of Planning and the  
21 Department of Energy and Environment's strong encouragement for  
22 a net zero building, what the response was. I think you answered  
23 it at the September 11th hearing if not tonight. Maybe Imamura --  
24 Commissioner Imamura seems to be nodding his head. I don't know  
25 if he's just in agreement that he wants to let (indiscernible)

1 what the response, written response is, or maybe, you know, what  
2 the response was.

3 COMMISSIONER IMAMURA: Thank you, Vice Chair Miller.  
4 No, I'd like to see that reiterated. I do think we addressed  
5 that in the September 11th hearing about the building pursuing  
6 LEED gold, that there were some logistics that were too much to  
7 overcome to reach the net zero. So maybe those can be enumerated.

8 VICE CHAIR MILLER: So that's it for me, Mr. Chairman,  
9 and I appreciate my colleagues' request, which I think will be  
10 helpful to moving forward.

11 CHAIRMAN HOOD: Okay. I'm also being prompted. I  
12 think we've discussed this because there's a new word -- there's  
13 a word I looked up after the last hearing called Zernick  
14 (phonetic). Maybe I'm pronouncing that wrong. That's what  
15 happens when you do something for so long and then remember how  
16 I said things start changing after about four or five hours?  
17 We're almost at that stage, so I'm going to hurry up and this,  
18 but I understand. Let me see. I'm being messaged.

19 Did we ask for do ask for American University D.C.  
20 students? Is that -- did we ask for -- well, I don't -- that's  
21 what I'm being proffered. Okay.

22 COMMISSIONER STIDHAM: The question, Chair, about D.C.  
23 residents that are AU students, I think we were told they didn't  
24 know.

25 CHAIRMAN HOOD: Okay. Okay.

1                   COMMISSIONER STIDHAM: Which I think just highlights  
2 there's still the question about AU participating in housing. If  
3 you don't know those numbers, how can you -- how are you sure  
4 that you will accommodate that?

5                   CHAIRMAN HOOD: Okay. What I would suggest, Mr. Brown,  
6 is that some of those points would maybe ensure that you give us  
7 all the information possible, because if not, once we start  
8 deliberating, we'll come -- we'll have to go back and do it again.  
9 So I would just -- I would say more is enough, if that makes  
10 sense. Most of the time I would say less is best, but in this  
11 case, more. Not too much more now. We've got enough of it.

12                  MR. BROWN: We'll get it just right, Mr. Chairman.

13                  CHAIRMAN HOOD: All right. That's right. I know  
14 you will, Mr. Brown. I know you will.

15                  All right. Any other follow-up questions or comments?  
16 All right. So Ms. Schellin, I'm going to close this. Do we need  
17 to do any dates or anything?

18                  MS. SCHELLIN: And I just want to remind Mr. Brown  
19 that, you know, the closing is not responded to so that's why  
20 you should do it tonight. And since you're not, anything that  
21 you submit, they have -- the parties will have an opportunity to  
22 respond to. So basically, you are choosing not to do a closing.  
23 So just want to put that out there.

24                  MR. BROWN: Yeah.

25                  MS. SCHELLIN: So --

1 MR. BROWN: That's fine.

2 MS. SCHELLIN: -- with that --

3 MR. BROWN: We understand.

4 MS. SCHELLIN: With that -- okay. So just keep that  
5 in mind. So you're not doing the closing. So how much time do  
6 you think you need to provide what has been requested because  
7 this is a one vote case since there's no map amendment attached  
8 to it and the Campus Plan is a one vote case. So they will both  
9 have just one vote.

10 MR. BROWN: Yeah.

11 COMMISSIONER STIDHAM: Sorry, let me just interject.  
12 But the proffers process has to happen, so --

13 MS. SCHELLIN: Right.

14 COMMISSIONER STIDHAM: -- we've got to give it 28 days.

15 MS. SCHELLIN: Right. I understand that --

16 COMMISSIONER STIDHAM: I was just putting that out  
17 to --

18 MS. SCHELLIN: -- but I need to know -- I got that. I  
19 just to know --

20 COMMISSIONER STIDHAM: Okay. Good.

21 MS. SCHELLIN: -- how much time they need.

22 UNIDENTIFIED SPEAKER: They're discussing.

23 MR. BROWN: Yeah, we want to get it right. Three weeks.

24 MS. SCHELLIN: Okay. That works out well. So as our  
25 counsel spoke about, you guys need to go through the proper

1 process for the PUD. So that starts tonight. So in seven days  
2 you'll provide your first response. And then once the -- the  
3 parties will have an opportunity to respond. So that's separate.  
4 That's a separate process from these documents being due.

5 So what was asked for will be due by 3:00 p.m. on  
6 October 23rd and the parties will have until 3:00 p.m. October  
7 30th to respond. Three p.m. October 30th. And then we can put  
8 this on for consideration by the Commission at our November 9th  
9 public meeting. And that way we'll have time to go through or  
10 you guys will have time to go through the proper process also  
11 which is spelled out in the regulations.

12 MR. BROWN: Yes.

13 CHAIRMAN HOOD: Okay. Are we all on the same page?  
14 Any questions? All right. I want to thank --

15 MS. SCHELLIN: If we could have all of the parties, the  
16 Applicant must do it. If any of the other parties would like to  
17 provide draft findings, facts, conclusions of law or the cases,  
18 if we could have those also by 3:00 pm October 30th, that would  
19 be great.

20 CHAIRMAN HOOD: All right. Do we have anything else  
21 for this case, Ms. Schellin?

22 MS. SCHELLIN: No, sir.

23 CHAIRMAN HOOD: All right. I want to thank everyone  
24 for your participation tonight. The Zoning Commission will be  
25 meeting again on October the 5th, 2023, on these same platforms.

1 Zoning Commission Case No. 23-07, 701 Michigan Ave, Michigan,  
2 LLC. That'll be our case.

3 I want to thank everyone for their participation  
4 tonight and again, you can to follow us as stated by Ms. Schellin  
5 and with that, I hope everyone has a great evening. Thank you,  
6 very much. Good night.

7 MR. BROWN: Thank you.

8 MR. CLARKSON: Thank you.

9 (Whereupon, the above-entitled matter went off the  
10 record at 8:30 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 10-02-23

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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Julie Souza