

September 8, 2023

**BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

Case Numbers 23-08 and 23-08(1)

**APPLICATIONS BY THE WESLEY THEOLOGICAL SEMINARY OF THE UNITED
METHODIST CHURCH FOR A CAMPUS PLAN (CASE NO. 23-08)
AND A PUD (CASE NO. 23-08(1))**

STATEMENT IN OPPOSITION BY THE COMMITTEE OF 100 ON THE FEDERAL CITY

The Committee of 100 on the Federal City submits these comments in opposition to the above referenced applications (the “Applications”) submitted by The Wesley Seminary (“Wesley”). Our comments are limited to the proposed Inclusionary Zoning (IZ) Program set forth within each Application. Wesley is requesting flexibility to implement what it calls a “modified IZ program.”

Wesley is proposing to build a 659 bedroom/bath structure to house students attending Wesley and The American University (AU). As explained below, it is hard to see how the proposed IZ Program can be justified under the District’s generally applicable IZ Program. The fundamental flaw with the proposal can be seen upon review of the Department of Housing and Community Development’s website, which clearly states under “Eligibility” that: “You cannot be enrolled in a full-time college or university program.” Every resident of Wesley’s proposed apartment building will be a full-time student (or a family member of a full-time student).

DC’s Inclusionary Zoning regulations do not apply to housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff.¹ Wesley’s Applications do not qualify for this exemption because the residential apartment building will house mostly students from a different educational institution. The legal issue here is that Wesley’s Applications cannot be squared with the District of Columbia’s IZ rules.

Additional concerns are described below:

- The premise of Wesley’s request for flexibility is that inclusionary zoning requirements are not a good fit with student housing. They have been found to work together in at least one other case. AU manages a student dormitory (The Frequency) at 4000 Brandywine Street under a master lease. The Zoning Commission has ruled that The Frequency is

¹ DCMR, Title 11, Subtitle C, Chapter 6, §1001.6(c).

considered to be “on campus” housing.² Nonetheless, a limited number of units in the building are leased through DC’s regular IZ Program administered by DHCD.

- While the Applications touch upon something in the nature of an eligibility process for the IZ beds, there is no discussion of what the rents will be and whether they will be “affordable.” A review of the Landmark website reveals no hint that the rent charged on its other properties is affordable. Wesley’s Applications do not indicate that the rents will be affordable. In fact, the website promotes the luxury nature of the units.³ Does Landmark see the rents as being any different from the rents on the market-rate units? Landmark’s inability to make that commitment would be evidence of the sham nature of this IZ proposal.
- Wesley claims that they have voluntarily agreed that the proposed IZ Program shall apply to the relatively small number of Wesley students who will reside in the apartment building. In essence, it is waiving the exemption that would apply to its own students. This is hardly a concession. It is likely that most, if not all, of the 66 bedrooms that Wesley states will be subject to the modified IZ program will be used for Wesley students, all of whom will be graduate students not eligible for Pell grants (Wesley does not enroll undergraduate students). But the reason why Wesley is performing this IZ exercise in the first place is that approximately 600 of the student residents will not be Wesley students. Thus, by waiving the exemption for its own students, Wesley is trying to find a way to circumvent the application of IZ to the 600 residents who are AU students. The IZ proposal is basically a sham.
- The proposal contains a detailed marketing and student outreach plan. However, since the only students eligible to reside in the apartment building will be Wesley and AU students, why do Wesley and Landmark need to advertise with Google ads and social media (Facebook, Instagram and Twitter are mentioned), or use Craigslist? While we agree that some advertising may be needed to make AU students aware of the program, the main reason why they would have to advertise is because AU has declined to support this program. However, it would not be the IZ program they would be promoting, but the 600 or so market-rate beds. For this reason also, the IZ program is a sham.
- The Applications state: “The Project’s set aside aims to exceed the District’s standard minimum requirement of eight (8%) percent of the net residential gross floor area of the base building and ten percent (10%) of the penthouse gross habitable space.... The Project will set aside approximately ten percent (10%) or 66 of the total 659

² Z.C. Order No. 20-31, p. 94

³ On August 28, 2023, Landmark Properties announced that it had broken ground on a student residence, The Mark Tallahassee, serving Florida State University (FSU). The following is a description of the property in Landmark’s press release: “The Mark boasts 30,000 square feet of thoughtfully programmed amenity spaces across its three buildings. A 8,900 square-foot rooftop clubhouse opens to an 9,000 square-foot outdoor pool deck with pool, sun shelf, spa, ample lounge seating and gathering areas including grill station, fire pits and a jumbotron, offering residents an elevated experience with expansive views while the state-of-the-art fitness center with cardio, free weight, functional training equipment along with tanning and sauna amenities, overlooks Doak Campbell Stadium. Residents will also have access to a 24-hour study lounge, collaboration spaces for working or socializing, and bike storage.”

bedroom/bath units.”⁴ For projects of less than 85 feet in height, which we assume is the case here, the standard minimum requirement is ten percent.⁵ More importantly, PUDs approved by the Zoning Commission recently offer around fifteen percent (15%) IZ.

- Most of the 600 or so AU students projected to live in the apartment building will be undergraduate students. Wesley proposes to use Pell grant eligibility as the qualifying metric for the modified IZ program. Generally, Pell grant eligibility for undergraduate students is based on parental income, as reported on the federal FASFA form. It is likely that most parents will not be DC residents. In fact, the students themselves might not be DC residents. The cursory reference to the role of parental income, and the fact that the parents and probably the students themselves are not DC residents, is a glaring omission. The modified IZ program being proposed is not a good fit with DC’s IZ program. Despite OP’s protestations to the contrary, Wesley’s proposal would set a precedent that could have the effect of turning the IZ program into a financial aid program, in the process diverting resources intended for lower income DC residents.
- DHCD’s comments to OP indicate that DHCD has serious concerns with the ability of Wesley/Landmark to find qualified tenants for the IZ units in a building designated/restricted for college/university students.⁶ DHCD’s ability to oversee and monitor Wesley’s program is also questionable.
- AU’s classes extend from late August through late May. We suspect the same is true for Wesley. Who will live in the apartments during the three months when the schools are not in session? This is not addressed in Wesley’s plan. For the IZ beds, will Landmark qualify the residents using the same criteria used to qualify IZ students during the academic year? More importantly, can anyone who is not a Wesley or AU student live in the apartment building during the summer period?

Conclusion

In asking for PUD flexibility, Wesley has turned the regular IZ program into a pretzel. In short, the modified IZ program proposed by Wesley is a square peg that doesn’t fit in the round IZ hole. The precedent could have city-wide implications that could undermine the IZ program to the detriment of eligible DC residents. There is a way to include DHCD administered IZ units as part of a student residence program, but this isn’t it. The Applications should be denied.

Respectfully submitted,

Shelly Repp
Chair, Committee of 100
202-494-0948; chair@committeeof100.net

⁴ Wesley Application, Exhibit 98, p. 2.

⁵ DCMR, Title 11, Subtitle C, Chapter 6, §1003.1.

⁶ OP Hearing Report, p. 44.