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June 27, 2005

BY HAND DELIVERY

Ms. Carol Mitten
Chair, Zoning Commission
Office of Zoning
441 4th Street, NW
Suite 210 South
Washington, DC 20001

**ZONING COMMISSION
District of Columbia**

CASE NO. 05-02
EXHIBIT NO. 13

Re: Zoning Commission Case No. 05-02; Residential Recreation Space (RRS) Text
Amendment; 801 Virginia Avenue, S.E.

Dear Ms. Mitten and Members of the Commission:

We recently purchased a site on 8th and Virginia Avenue, S.E. near the Navy Yard and are currently developing plans to construct a mixed-use retail, office and residential project on it. Because our site is relatively small, we anticipate that we will only be able to include 15-18 residential units and approximately 3200 sf of retail space in our project.

In addition to being small, our site is subject to the Eighth Street Southeast Neighborhood Commercial Overlay District and the Capitol Hill Historic District. As a result of the property being mapped with the Eighth Street Overlay, we are required to devote 50% of the ground floor to retail uses and, in addition, the otherwise applicable FAR in the C-3-A zone is reduced by twenty-five percent from 4.0 to 3.0 and allowable building height is reduced from 65 feet to 45 feet. On top of these restrictions, our project is burdened with a fifteen percent (15%) residential recreation space (RRS) requirement.

To attempt to comply with this RRS requirement, we would be obligated to incur additional expense to (i) install a special elevator which opens in more than one direction and extends to the roof, (ii) pave and landscape a roof terrace, (iii) provide additional structural loading capability to locate a public terrace at the second floor level and (iv) take 2 egress stairs to the roof. Not only would we incur such costs during the construction of the project but, after we sell the residential units, each unit owner would be obligated to pay the on-going costs for liability insurance, maintenance, repair and replacement of such RRS facilities. Whether or not an individual condo unit owner makes use of this rooftop terrace, the unit owner would pay additional condo fees for such facilities none the less.

In addition to cost implications, we believe the RRS requirements are inappropriate, unfair and outdated for the following reasons.

(1) It is fundamentally unfair to require us, simply because we are developing a project on land that is zoned C-3-A, to provide residential recreation space while our competitors who are developing projects on land that is residentially-zoned have no such requirement.

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(2) We take exception to the suggestion implied by the Office of Planning report that we should seek a variance (or under the proposal advanced by OP, a special exception) from the BZA until some study by the D.C. Department of Parks and Recreation is completed. A BZA proceeding will take time and money, neither of which are in great supply for a project of the small size as ours. The very large number of variances from the RRS requirements that have been granted by the BZA, as documented in the OP report, clearly show that these regulations are burdensome, costly, inappropriate, outdated and/or unnecessary.

(3) Having reviewed the OP report on the RRS regulations, it appears to us that the real impacts of the RRS requirements were apparently not understood when they were adopted in the 1970s. Furthermore, the OP report gives no evidence that they were based on careful study or analysis. As the OP Report states, it appears that the RRS issue "did not receive much discussion at the time." Thus, whether there was much of a rationale for such requirements in the late 1970s, there is no compelling rationale for them in the 21st century.

For the reasons set forth above, we strongly recommend that the Zoning Commission:

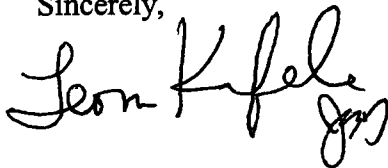
(A) give serious and immediate consideration to the elimination of all RRS requirements;

(B) conduct a further public hearing or notice of rulemaking if the notice of the current proceeding is determined to be insufficient to consider the immediate elimination of the RRS program; and

(C) take immediate action, as an interim step if the Commission is unable to immediately eliminate these requirements, to reduce the RRS requirement to five (5) percent of the GFA devoted to residential uses in all zones in which the current RRS requirement is ten (10%) percent, fifteen (15%) percent or twenty (20%), including of course our site which is zoned ES/C-3-A.

We appreciate your consideration of these views and recommendations.

Sincerely,

A handwritten signature in black ink that reads "Leon Kafele" with a stylized flourish at the end.

ICP PARTNERS

By: ICP Partners

Leon Kafele

Managing Director

cc: Ms. Ellen McCarthy
Mr. Joel Lawson