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September 15, 2014

BY ELECTRONIC FILING

Anthony Hood
Chairperson, D.C. Zoning Commission
Office of Zoning
441 4th Street NW, Suite 210
Washington, DC 20001

Re: Z.C. Case No. 14-04: Application of Professional Associates and the International Finance Corporation ("Applicant") for Approval of a Consolidated PUD Applicant's Posthearing Submission

Dear Chairperson Hood and Members of the Commission:

In response to the direction received from the Zoning Commission at the July 31, 2014 public hearing, the Applicant provides the following responses.

I. Revised Plans

In response to the Commission's request, the Applicant has re-examined the proposed rooftop embellishment along K Street and concluded that a narrower embellishment would not be appropriate for the building design. Therefore, the Applicant proposes to eliminate the rooftop embellishment from the design of the Project. Attached as Exhibit A are plans that illustrate the removal of the proposed embellishment.

As a result of the removal of the embellishment, the Applicant proposes to lower the front portion of the roof structure to minimize its visual impact. This results in a roof structure of unequal heights. The Applicant requests flexibility to accommodate this variation as a part of the PUD. Plans and elevations of the revised roof structure are included in Exhibit A.

Finally, also included in Exhibit A are plans that illustrate the impact of locating the parking entrance off of the northern part of the private alley, via the K Street service road. As shown on the plans, the ramps associated with this location adversely impact the lobby and retail space in the ground floor and mezzanine level of the building. The proposed ramp location off 21st Street, by contrast, allows for both a suitable lobby entrance and adequate retail space by taking advantage of the grade change to place the part of the retail space on a mezzanine level over the parking ramp. (For the Commission's convenience, plans illustrating the impact of locating the parking entrance off the southern part of the alley, via 21st Street, are also included.) Again, the Project's garage cannot be connected to the existing IFC headquarters garage because security concerns would preclude the use of the IFC parking entrance by non-IFC personnel. Therefore, the proposed curb cut and parking entrance from 21st Street is the best—and only—feasible option for the Project, and DDOT supports this location as set forth in its report.

II. Housing Linkage and TDRs

The Applicant continues to maintain that the requirements of housing linkage do not apply to this PUD. Notwithstanding the intent of the D.C. Council in creating the housing linkage legislation, the Zoning Regulations exempts projects that are developed pursuant to the DD Overlay—whether they are projects within the DD Overlay itself or projects that support the priorities of the DD Overlay through the purchase of TDRs—from the linkage requirements, because these projects have already subsidized District housing and other priorities. Specifically, Section 2404.4(c) states that no housing linkage is required for a PUD that is subject to the provisions of the Downtown Development Overlay District ("DD Overlay").

However, recognizing the important policy considerations of housing linkage, the Applicant agrees to contribute the full amount required under the Zoning Regulations (**$2,639,582.00**) as if housing linkage applied for the additional 0.49 FAR gained through the PUD. The housing linkage calculation is set forth in Exhibit B. This is significantly more than the amount proposed at the public hearing.

The Applicant continues to request, however, that the Commission grant flexibility from the requirement to also purchase TDRs for that same 0.49 FAR. Without this relief, the Applicant would be required to devote an additional estimated $600,000 to the purchase of TDRs, for a total financial requirement of over $3.2 million. The requirement for a PUD in a receiving zone to provide both housing linkage and purchase TDRs is a significant financial cost that inequitably burdens development projects subject to both regulatory regimes. The significant financial burden of both housing linkage and TDRs strongly discourages the use of the PUD process on sites within receiving zones, thereby depriving the District as a whole and the immediate neighborhood of the design review, project amenities, and public benefits that would otherwise be generated through more PUDs in receiving zones. **For this Project, which is a complex financial deal between the Applicant and IFC, the additional financial burden of TDRs threatens to jeopardize the ability for the Project to move forward**. The Applicant also believes that requiring both housing linkage and TDR contribution is inconsistent with the Council's original intent in approving the housing linkage legislation.

A. Reduction of TDR Cost

As OP has noted, there is past precedent for accounting for the combined financial impact of housing linkage and TDRs. In a 2007 alley closing case, the D.C. Council approved the reduction of the housing linkage requirement associated with the alley closing based on the fact that the related project required the purchase of TDRs. In that case, OP only reduced the linkage requirement by one-half of the value of TDRs. In fact, OP has made a similar accommodation in this PUD (see Exhibit 23, Final OP Report, July 22, 2014 at 5). However, reducing the TDR cost by only one half does not make sense, because the housing and other public benefits created by a downtown project have a direct relationship to the amount of the TDRs that are generated by that project. The linkage requirement should be adjusted by the full value of the purchased TDRs. Consequently, although we acknowledge that OP's calculation has credited the cost of the TDRs in this case by $300,000, we respectfully request that the Commission credit the Applicant for $600,000, which is the full value of the TDRs

B. Use of the Zoning Commission's PUD Authority

In this case, if the Commission does not believe that it has the authority to modify the housing linkage requirement, we request that the Commission relieve the Applicant of the financial burden associated with the TDR requirement by utilizing its authority under Chapter 24 to approve a 5% increase in density of a PUD. (In this case, the 5% increase would be granted over the matter of right density of 10.0 that is permitted under the DD Overlay. Please note that the PUD site has already vested TDRs to the maximum of 10.0.) Thus, the Commission can eliminate the requirement to purchase TDRs for the additional 0.49 FAR gained through the PUD by instead approving that density increase under its 5% discretion for PUDs.

Under Section 2405.3, the Commission has the authority to approve an increase of up to 5% in the maximum floor area ratio of a project when such increase is essential to the successful functioning of a project and is otherwise consistent with the purposes and evaluation standards for PUDs. Here, the additional 0.49 FAR that is needed to construct the Project is within the Commission's 5% discretion. The additional density is required to provide the IFC with enough additional office space to accommodate its space needs and develop a building that integrates with the existing IFC headquarters from an operational and design perspective. Specifically, the Project is designed to seamlessly connect with the existing IFC headquarters starting at the second floor. A smaller building would either lack the direct floor to floor connections of the proposed PUD or result in a shorter building that would not be visually compatible with the existing IFC headquarters.

C. Summary

Therefore, for the foregoing reasons, the Applicant respectfully requests that either (a) the Commission require OP to acknowledge the full value of the purchase of the required TDRs in its calculation of the housing linkage fee, thereby reducing the total housing linkage contribution of $2,639,582 by the cost of the TDRs required for 0.49 FAR of density (approximately $600,000), or (b) the Commission approve the additional 0.49 FAR gained through this PUD pursuant to Section 2405.3, rather than through Section 1709.24, in which case the Applicant agrees to provide the total housing linkage contribution of **$2,639,582.00** as set forth in Exhibit B.

The Applicant believes that the above proposal, which will deliver over $2.6 million to the production of affordable housing in the District of Columbia, represents a fair and equitable compromise that balances the District's interests with the conflicting language and priorities of the underlying regulations.

III. CBE and First Source Agreements

In light of the significant financial cost associated with housing linkage as well as the other benefits and amenities agreed to with ANC 2A, the Applicant is unable to commit to either a CBE or First Source Agreement.

Conclusion

The team looks forward to the Commission's decision at the September 29, 2014 public meeting. If you have any questions regarding this application, please feel free to contact Phil Feola at 202-721-1114 or David Avitabile at 202-721-1137.

Sincerely,

Phil Feola

David Avitabile

Exhibits:

Tab A – Revised Plans
Tab B – Housing Linkage Calculation
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CERTIFICATE OF SERVICE

On September 15, 2014, I caused a copy of the foregoing letter and enclosure to be delivered by electronic, hand or by U.S. Mail to the following:

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