



DONOHUE & STEARNS, PLC

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Via IZIS

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: Z.C. Case No. 16-13 JS Congress Holdings, LLC
Affordable Housing Proffer

Dear Commissioners:

Introduction

On behalf of JS Congress Holdings, LLC, the applicant ("Applicant") in the above-referenced matter, we submit herewith a revised affordable housing proffer for its planned unit development ("PUD") and related map amendment applications. As described in greater detail below, the Applicant proposes to partner with Habitat for Humanity to construct off-site affordable units that will be larger and at a deeper affordability level than can otherwise be provided on site. The Applicant will provide half of its Inclusionary Zoning ("IZ") requirement on-site (four percent of the total residential square footage). The remaining required IZ units, plus an additional four percent of the total residential square footage of the PUD, will be located off-site. The Applicant also submits an updated draft PUD order reflecting the revised affordable housing proffer.

Background

By letter dated January 26, 2017, the Applicant requested postponement of the Commission's proposed action on the PUD and related map amendment applications (originally scheduled for January 30, 2017), so the financial impact of its 12 percent affordable housing proffer could be analyzed more thoroughly. As part of its post-hearing submission, and in response to Commission comments, the Applicant increased the amount of affordable housing to 12 percent, with approximately six percent of the net floor area, or 2,845 square feet, set aside for households earning no more than 50 percent of the area median income ("AMI") and the remaining six percent (2,813 square feet) set aside for households earning no more than 80 percent of AMI. Based on comments received at the hearing, the Applicant believes that the

increased affordable housing proffer to 12 percent, together with the other benefits and amenities, brings into balance the additional height (90 feet) and density (6.0 FAR) achieved through the PUD process. While the Applicant's initial analysis suggested that the project could absorb the cost for that increased subsidy on site, a more thorough fiscal study demonstrated that the project would not be viable. The Applicant therefore proposes an alternative means to achieve a of minimum 12 percent affordable housing proffer, of which eight percent will be provided off site.

Revised Affordable Housing Proffer

The Applicant has entered into a Memorandum of Understanding ("MOU") with Habitat for Humanity of Washington, D.C. ("D.C. Habitat"), a non-profit affordable housing provider, to assist in the construction of five residential units, each with an average size of 900 net square feet and an average of two bedrooms. Both D.C. Habitat and the Applicant intend to build larger, three-bedroom units, if possible, and are investigating sites that can maximize the number of bedrooms and the square footage of the units. The Applicant will make a contribution of at least \$125,000 for each of those five units, or a total of at least \$625,000. The proposed off-site units will be located within Ward 6 or Ward 5, and will be made available to households earning no more than 50 percent of AMI. A copy of the MOU is attached as Exhibit A.

The following chart compares the previous affordable housing proffer with the current revised proposal. Relevant sheets from the architectural drawings have been updated to reflect these changes and are attached Exhibit B.

	Min. IZ Requirement	Jan 12, 2017 Proffer	Current Revised Proffer
Total PUD Residential (incl. PH)	46,344 sf	46,344 sf	46,344 sf
Required IZ @ 8% GFA	3,708 sf	3,708 sf	3,708 sf
Provided @ 80% AMI	3,501 sf	2,813 sf	1,815 sf on-site (1/2 of req. IZ)
Provided @ 50% AMI (PH req.)			
On-Site	207 sf	2,845 sf	--
Off-Site IZ	--	--	1,893 sf (incl. PH)
Off-Site Add'l Proffer	--	--	2,607 sf
Total Affordable sf	3,708 sf	5,658 sf	6,315 sf
Percentage of GFA	8%	12% of GFA	13.6% GFA
Increase in 50% AMI sf	---	13 times	21.7 times
Average Unit Size On-Site		680 sf	605 sf
One bedroom		5	3
One bedroom plus den	N/A	1	0
Two bedrooms		1	0
Average Unit Size Off-Site			900 sf (min)
One bedroom	---	---	0
One bedroom plus den	---	---	0
Two bedrooms (min)	---	---	5

The revised affordable housing proffer is modeled after the PUD approved by the Commission in Z.C. Case No. 15-01. There, the developer had an IZ requirement of 15,494 square feet, of which one-half (7,747 square feet) would be provided off-site through an MOU with DC Habitat. In the event that the off-site housing would not be ready for occupancy by the time the developer sought a certificate of occupancy ("C of O") for the PUD, the developer would be required to satisfy the entire IZ requirement on site in order to obtain the C of O for the PUD. Here, because the Applicant's project is not financially viable if the entire IZ requirement reverts back to the PUD site, the Applicant and D.C. Habitat have agreed to the following benchmarks to ensure a reversionary clause is not necessary: (i) the Applicant will pay \$625,000 to D.C. Habitat no later than October 31, 2017; (ii) DC Habitat will have the off-site housing location(s) under its control prior to the issuance of the PUD building permit, which the Applicant anticipates can be issued by the end of March 2018; and (iii) the off-site housing units will be completed and available for occupancy prior to the issuance of the PUD certificate of occupancy. In the event this last benchmark is not achievable, the Applicant will return to the Commission for a modification of the PUD order.

Flexibility from Off-Site IZ Requirements

In order to achieve the superior affordable housing proffer described above, the Applicant seeks flexibility from the off-site IZ requirements without meeting certain pre-requisites of 11 DCMR § 2607, as follows:

- Section 2607.1 – the Applicant will not be required to demonstrate that compliance on-site would impose an economic hardship;
- Section 2607.2(a) – the off-site development will not need to be located in the same census tract;
- Section 2607.2(b) – the off-site units may not consist entirely of new construction as required by section 2607.2(b), but may also include the renovation of an existing structure;
- Section 2607.5 – the Applicant will not be required to submit a draft covenant executed by the off-site development owner as part of the PUD application.
- Section 2607.9 – the Applicant will provide the IZ unit generated by the penthouse square footage in the off-site development instead of on the PUD site. The penthouse generates only 207.2 square feet of IZ space, which is to be devoted to a household earning no more than 50 percent of AMI. Because this small amount of space is less than what is required for a housing unit, the Applicant proposes to consolidate this square footage in the off-site development.
- The off-site units will not be included in the off-site development's calculations for IZ compliance. That is, the five off-site IZ units will be subtracted from the overall unit count of the off-site development. For example, if the proposed off-site development

will have 10 units, the development would be considered to have just five units and would not trigger IZ.

Coordination with Office of Planning

The Applicant has worked with the Office of Planning ("OP") over the past several weeks to ensure this proposal would be an acceptable alternative under the PUD and IZ regulations. OP has made the following recommendations, to which the Applicant agrees:

Unit Type: The offsite affordable housing units, whether IZ, penthouse-related or proffered additional units, will be single-family residences or flats.

Location: The offsite affordable units shall be located in Ward 5 or Ward 6, with a preference given to a location within one mile of the PUD site.

- If the units are located within Advisory Neighborhood Commission ("ANC") 6C, 6A, 6E, 5D, or 5E, there would be no need to return to the Commission for further approval.
- If the units are located in ANCs other than those listed above, the Applicant shall return to the Zoning Commission for consideration on the consent calendar pursuant to 11-Z DCMR § 703.

The locational preference is designed to ensure that the affordable units are introduced to neighborhoods with higher housing costs so that the affordable units help diversify the housing choices in a particular neighborhood and do not concentrate lower-income households in a particular area, consistent with the goals of the IZ program.

Conclusion

The Applicant believes this alternative housing proffer exceeds the purposes and goals of the IZ requirements and affordable housing in general by providing significantly more low-income units at a larger size that can accommodate families with children. We look forward to the Commission's consideration of this revised proffer as part of its deliberations on the applications on April 24, 2017.

Respectfully submitted,

DONOHUE & STEARNS, PLC

By: 
Mary Carolyn Brown

Attachment

cc: Joel Lawson, OP
Stephen Cochran, OP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Applicant's Revised Affordable Housing Proffer and updated draft PUD order were served by email this 10th day of April, 2017, on the following:

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By: 
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