

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

**PREHEARING SUBMISSION**

**Z.C. Case No. 18-03**

**DANCING CRAB PROPERTIES, LLC**

**4611-4615 41<sup>st</sup> Street, NW  
Square 1769, Lots 1 & 2**

**CONSOLIDATED PUD AND  
ZONING MAP AMENDMENT**

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**July 3, 2018**

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**CERTIFICATION OF COMPLIANCE**  
**WITH SUBTITLE Z § 401 OF THE ZONING REGULATIONS**

The undersigned hereby certifies that, in accordance with Subtitle Z § 401 of the Zoning Regulations, ten (10) copies of the architectural drawings and two (2) copies of all of the other below information were filed with the Zoning Commission on July 5, 2018 and, in accordance with Subtitle Z § 401.5, the application shall not be modified less than twenty (20) days prior to the public hearing.

<b><u>Subtitle Z</u></b>	<b><u>Description</u></b>	<b><u>Page/Exhibit</u></b>
401.1(a)	Information requested by the Zoning Commission and the Office of Planning	Submitted herewith
401.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Exhibit B
401.1(c)	Outlines of witness testimony and resumes of expert witnesses	Exhibits C and D
401.1(d)	Additional information introduced by the Applicant	Submitted herewith
401.1(e)	Reduced plan sheets	Exhibit A
401.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Exhibit E
401.1(g)	Estimated time required for presentation of Applicant's case	Exhibit B
401.3(a)	Names and addresses of owners of all Property within 200 feet of the subject property	Exhibit F
401.8	Report by Traffic Consultant	To be submitted no later than 30 days prior to the hearing

Respectfully submitted,

HOLLAND & KNIGHT LLP



Jessica R. Bloomfield

**LIST OF EXHIBITS**

<b><u>Description</u></b>	<b><u>Exhibit</u></b>
Updated Architectural Sheets	A
List of Witnesses and Estimated Time Required For Presentation of Applicant's Case	B
Outlines of Testimony for Witnesses	C
Resumes of Expert Witnesses	D
List of Maps, Plan or Other Documents Readily Available Which Will Be Offered Into Evidence	E
List of Names and Addresses of All Owners of Property Within 200 feet of the Site (plus two sets of labels submitted separately)	F

## **I. INTRODUCTION**

This Prehearing Statement and accompanying documents (the “Prehearing Submission”) are submitted by Dancing Crab Properties, LLC (the “Applicant”) in support of its application to the Zoning Commission for the District of Columbia for approval of a consolidated planned unit development (“PUD”) and a related Zoning Map amendment from the MU-4 District to the MU-5-B District for property located at 4611-4615 41st Street, NW (Square 1769, Lots 1 and 2) (the “Site”). This application is submitted in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations.

The Site has approximately 6,855 square feet of land area and is presently improved with two two-story buildings most recently operated as The Dancing Crab restaurant and bar and the Tenley Bar and Grill. The Site is bounded by private property to the north and south, a 15-foot wide public alley to the east, and Wisconsin Avenue and 41<sup>st</sup> Street, NW to the west.

The Applicant requests a PUD and Zoning Map amendment to rezone the Site from the MU-4 District to the MU-5-B District, which is consistent with the policies set forth in the Comprehensive Plan for the Site. The Site is designated as mixed use Medium Density Residential and Moderate Density Commercial on the Comprehensive Plan Future Land Use Map, and is designated as a Main Street Mixed Use Corridor on the Comprehensive Plan Generalized Policy Map. The proposed MU-5-B District is consistent with those designations. A detailed discussion of the project's compliance with the Comprehensive Plan is included in the record at Exhibit 2F.

The Zoning Commission considered this case for set down at its June 11, 2018, public meeting and voted to schedule the case for a hearing. At that meeting, the Zoning Commission requested the additional information set forth below. This Prehearing Submission provides information in response to the Zoning Commission’s requests and information in response to the Office of Planning (“OP”) setdown report filed on June 1, 2018 (Exhibit 10). As is set forth below, this Prehearing Submission also meets the filing requirements under 11-Z DCMR § 401, and accordingly the Applicant requests that the Zoning Commission schedule a public hearing on the application.

**II.  
INFORMATION REQUESTED BY THE ZONING COMMISSION**

At its public meeting of June 11, 2018, the Zoning Commission voted to schedule a public hearing on the application, with certain questions and requests for information. A chart indicating the Applicant’s response to the Zoning Commission’s comments on the application follows.

<b>Comments from the Zoning Commission</b>	<b>Applicant’s Response</b>
Confirm whether the building is eligible for Residential Parking Permits (“RPP”), and if it is, confirm whether the building will restrict residents from obtaining RPPs.	The proposed building will have a 41 <sup>st</sup> Street, NW address. The 4600 block of 41 <sup>st</sup> Street on which the Site is located is not currently in the RPP database, and given the commercial nature of the block it is unlikely that the block will be added to the RPP database in the future. Thus, residents of the project would not be RPP-eligible.
Provide information available regarding any proposed development plans for the other properties on the block within which the Site is located.	The Applicant is not aware of any other property owner’s development plans for the block. Based on our review of public records on the Office of Zoning website, no BZA or Zoning Commission applications are pending or have recently been filed for the properties on the block.

<p>Provide more detailed views/renderings showing the building's front entrance.</p>	<p>Attached hereto as Sheet A-5.2 of the architectural drawings (<u>Exhibit A</u>), is a close-up rendering showing a view of the building's front entrance.</p>
<p>Provide more information on the rooftop space, including the type of lighting that will be used, hours of operation, and solar panels. Provide additional views/renderings showing different elements of the rooftop space.</p>	<p>The penthouse will be operated as an extension of the bar/restaurant located on the building's ground floor. The hours of operation for the rooftop restaurant/bar are unknown at this time and will ultimately be determined based on the operator and as approved by ABRA.</p> <p>The rooftop will have downward facing lighting in order to minimize light spillage to adjacent properties. Additional renderings showing the proposed penthouse and roof deck are attached hereto as Sheets A5.3 and A5.4 of the architectural drawings (<u>Exhibit A</u>).</p> <p>As shown on the updated penthouse plan and penthouse landscape plan (Sheets A-1.8 and L1.2 of <u>Exhibit A</u>, respectively) a total of approximately 620 square feet of solar panels will be provided on top of the penthouse. The solar panels will be less than 2 feet in height above the roof of the penthouse. The Applicant will update and submit all relevant building elevations and sections showing the penthouse with the solar panels on top prior to the public hearing on this case.</p>
<p>Ensure that the requested design flexibility language is consistent with the language of Z.C. Order No. 17-19.</p>	<p>The Applicant requests the following areas of design flexibility, which language is generally consistent with the final language in Z.C. Order No. 17-19. The language regarding building materials (#2) and exterior configurations (#6) is exactly the same as the language in Z.C. Order No. 17-19:</p> <ol style="list-style-type: none"> <li>1. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration of the building;</li> <li>2. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction;</li> <li>3. To provide a range in the number of residential dwelling units of plus or minus 10% from the number depicted on the approved Plans;</li> <li>4. To make refinements to the garage configuration, including layout, number of parking spaces, and other elements, so long as the number of parking spaces provided is at least the</li> </ol>

	<p>minimum number of spaces required by the Zoning Regulations;</p> <ol style="list-style-type: none"> <li>5. To vary the location, attributes, and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;</li> <li>6. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, or any other changes that do not significantly alter the exterior design to comply with the District of Columbia Building Code;</li> <li>7. To locate retail entrances in accordance with the needs of the retail tenant(s) and to vary the façades as necessary within the general design parameters proposed for the Project and to vary the types of uses designated as “retail” use on the PUD Plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)), and to vary the size of the ground floor retail space;</li> <li>8. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans; and</li> <li>9. To vary the sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below LEED Gold v.4.</li> </ol>
<p>Clarify whether the proposed Inclusionary Zoning subsidy levels go beyond the minimum required by the Zoning Regulations.</p>	<p>The Zoning Regulations require the Applicant to dedicate 8% of the residential gross floor area in the building to households earning up to 60% of the Median Family Income (“MFI”). The Applicant proposes to increase the amount of gross floor area dedicated to IZ units in the building to 12% of the residential gross floor area, and to maintain the required subsidy level of 60% MFI. Thus, where 2,300.96 square feet of IZ units are required at 60% MFI, the Applicant is proposing to provide 3,451.44 square feet of IZ units at 60% MFI.</p>



	<p>In addition, the Zoning Regulations require the Applicant to dedicate 8% of the penthouse habitable space described in 11-C DCMR § 1001.2(d) to households earning up to 50% of the MFI, to be provided in the base building. The Applicant proposes to increase the amount of gross floor area dedicated to IZ units in the building generated by the penthouse habitable space to 12% of the penthouse habitable space, and to maintain the required subsidy level of 50% MFI. Thus, where 140.32 square feet of IZ units are required at 50% MFI, the Applicant is proposing to provide 210.48 square feet of IZ units at 50% MFI.</p> <p>Thus, the total amount of proposed gross floor area dedicated to IZ units in the building will be greater than the minimum required by the Zoning Regulations (2,442 square feet of gross floor area is required at 50% and 60% MFI combined, whereas the Applicant proposes to provide 3,662 square feet of gross floor area at 50% and 60% combined). The subsidy levels proposed (50% and 60%) meet the subsidy levels required by the Zoning Regulations.</p>
<p>Provide more information on the proposed mural on the southern building façade.</p>	<p>At the request of the ANC, the Applicant proposes to install a mural on the building’s south façade. The approximate dimensions and location of the mural are shown on the South Elevation drawing at Ex. 2C. The Applicant is working with the ANC to determine the subject matter and artist for the mural, and will provide more detailed information at or prior to the public hearing.</p>

**III.  
INFORMATION REQUESTED BY THE OFFICE OF PLANNING**

The following chart indicates the Applicant’s response to the comments raised in the OP setdown report.

<b>Comments from the Office of Planning</b>	<b>Applicant’s Response</b>
<p>Confirm that the number of IZ units will remain consistent as currently proposed.</p>	<p>The Applicant proposes to dedicate the following:</p> <ul style="list-style-type: none"> <li>i. A minimum of 12% of the residential gross floor area to on-site IZ units, which results in two two-bedroom units reserved for households earning up to 60% MFI; and</li> <li>ii. A minimum of 12% of the penthouse habitable space to on-site IZ units, which results in one one-</li> </ul>

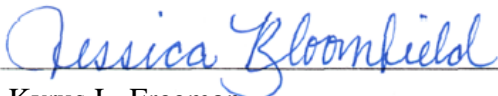
	<p>bedroom unit reserved for households earning up to 50% of the MFI.</p> <p>The Applicant is fully committed to providing this amount of gross floor area, number of units, and subsidy level for the IZ units, despite its request for flexibility to provide a range in the total number of residential units of plus or minus 10%.</p>
<p>Provide updated details on the amenities package and continue to work with OP, other agencies, the ANC, and other community groups to develop a full benefits/amenities list that is commensurate with the flexibility requested.</p>	<p>The Applicant is in the process of finalizing the project's public benefits and amenities, and will continue to work with OP, other District agencies, ANC 3E, and other community stakeholders throughout the process. The Applicant will submit a full benefits and amenities list that is commensurate with the flexibility requested prior to the public hearing.</p>
<p>Provide material samples.</p>	<p>The Applicant will provide samples of all proposed building materials at the public hearing.</p>

**IV.  
CONCLUSION**

This Prehearing Submission along with the original application meets the filing requirements for a consolidated PUD and related Zoning Map amendment, as required by Subtitle X, Chapter 3 and Subtitle Z of the Zoning Regulations. For the foregoing reasons, the Applicant respectfully requests that the Zoning Commission schedule a hearing on the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:   
 Kyrus L. Freeman  
 Jessica R. Bloomfield