

July 21, 2022

**VIA IZIS**

Anthony J. Hood, Chairman  
Zoning Commission for the District of Columbia  
441 Fourth Street, NW, Suite 200S  
Washington, DC 20001

**Re:** Z.C. Case No. 21-18: Dance Loft Ventures LLC (“**Applicant**”) Application for a Consolidated PUD and related Zoning Map Amendment for 4608-4618 14th Street, NW– **Applicant’s Draft Proffers and Conditions**

Dear Chairman Hood and Commissioners:

Pursuant to the requirements of Subtitle X, Sections 308.8 and 308.10, the Applicant hereby submits its list of proffers and corresponding conditions of approval. Set forth below is a chart outlining the proffers for the above-referenced project and the corresponding draft conditions that is both specific and enforceable.

Public Benefits	
Proffer	Condition
<p><b><u>Superior Urban Design and Architecture (11-X DCMR § 305.5(a))</u></b>: The Project reflects superior urban and architectural design. For instance, the Project’s urban design emphasizes the pedestrian nature of 14th Street, N.W. in the vicinity of the Property and provides large setbacks at the rear for the surrounding properties. The Project has high quality façade materials and finishes, four “front” façades, and balconies or patios for approximately 58 units.</p>	<ol style="list-style-type: none"> <li>1. The Project shall be constructed in accordance with the plans submitted April 15, 2022 as Exhibit 525B, as modified by plans submitted May 4, 2022 as Exhibit 755A2-755A6 and May 26, 2022 as Exhibit 795A, and the guidelines, conditions, and standards herein (collectively, the “<b>Approved Plans</b>”).</li> <li>2. The Property shall be rezoned from the MU-3A zone to the MU-5A zone. Pursuant to 11-X DCMR § 311.4, the change in zoning shall be effective upon the</li> </ol>

<p><b>Site Planning and Streetscape Plans (<i>id.</i> § 305.5(c), (f)):</b> The benefits of the Project’s site plan and efficient land utilization are reflected in the Project’s overall density, introduction of residential uses on underutilized lots located near transit, the absolute number of new residential units provided, introduction of income-restricted housing, and , the arts-related use on the property. In addition, the Project places parking and loading in a garage with access only from an alley via existing curb cuts.</p>	<p>recording of the covenant required pursuant to Condition [E.1].</p>
<p>3. In accordance with the Approved Plans, as modified by the guidelines, conditions, standards, and flexibility herein, the Approved PUD shall have:</p> <ul style="list-style-type: none"><li>• A maximum building height of approximately 66 feet, 8 inches;</li><li>• Approximately 113,546 square feet of GFA;</li><li>• Approximately 101 residential units, 11,277 square feet of GFA of arts/entertainment/assembly use, and 1,888 square feet of GFA of retail and related uses; and</li><li>• Approximately 40 parking spaces (including parking spaces in a stacked mechanical garage).</li></ul> <p>4. The Project shall have the following flexibility from the Approved Plans in the following areas:</p> <ul style="list-style-type: none"><li>a. <u>Interior Components</u>: 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 as shown on the Approved Plans;</li><li>b. <u>Exterior Materials – Color</u>: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the Approved Plans;</li><li>c. <u>Exterior Details – Location and Dimension</u>: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the Approved Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;</li><li>d. <u>Number of Units</u>: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%) and accordingly adjust the type and location of affordable units to reflect the final unit mix of the Project, provided the location and proportionality of affordable units are consistent with Sheets A.12-A18 of Exhibit 525B of the Approved Plans;</li></ul>	

- e. Parking Layout: To make modifications to the parking configuration, including layout and number of parking spaces and the size and number of garage levels constructed, including to provide a range in the number of vehicle parking spaces plus or minus ten percent (10%), so long as the number of automobile and bicycle parking spaces is at least the minimum number of spaces required by the Zoning Regulations.
  - f. Streetscape Design and Projections into Public Space: To vary the location, attributes, and general design of the approved streetscape and projections into public space to comply with the requirements of, and the approval by, the DDOT Public Space Review Division or the Public Space Committee;
  - g. Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are compliant with the DC signage regulations;
  - h. Sustainable Features: To vary the approved sustainable features of the Project and the amount, location and type of green roof, solar panels, planted canopies, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, provided (i) the total number of points achievable for the Project does not decrease below the minimum required for EGC+, (ii) the Project achieves a minimum GAR of 0.3, and (iii) the Project includes a minimum of 1,500 square feet of roof area (which may be vertical space) containing solar panels and related equipment and adjacent space;
  - i. Commercial Uses: To vary the uses of the non-residential spaces of the Project for any use allowed in the MU-5A zone, subject to the requirements to Conditions [B.13 and B.14] below.
5. The Applicant shall perform the construction of the Project subject to the conditions set forth in the form of (or substantially similar to the) CMP at Exhibit 795B or such other Construction Mitigation Plan agreed upon in the Applicant's discretion by the Applicant and interested neighbors provided such other Plan requires the Applicant to (a) provide a point of contact, phone and email, that neighbors can contact with any questions or concerns about the Project's construction; (b) provide notice in advance to impacted neighbors of any planned electrical or water shut offs; and (c) complete pest abatement on the Property before beginning substantial demolition of the existing buildings on the Property.

<p><b><u>Housing in Excess of Matter-of-Right Development (<i>id.</i> § 305.5(f)(1))</u></b>: The Project includes a greater number of housing units than could be developed on the Property as a matter-of-right.</p>	<p>6. <b><u>For the life of the Project</u></b>, the Project shall dedicate approximately 91,909 square feet of GFA to residential use, subject to the flexibility contained herein.</p> <p>7. <b><u>For the life of the Project</u></b>, the Applicant shall reserve the equivalent of no less than sixty-six percent (66%) of its residential units as affordable housing units, of which affordable units, twenty-two percent</p>
<p><b><u>Affordable Housing in Excess of Inclusionary Zoning Requirements (<i>id.</i> § 305.5(g))</u></b>: The Project also reserves sixty-six percent (66%) of its residential units as</p>	

<p>affordable housing units, of which affordable units, twenty-two percent (22%) shall be reserved at 30% MFI, twenty-two percent (22%) shall be reserved at 50% MFI, and twenty-two percent (22%) shall be reserved at 60% MFI. Finally, the Project includes twenty-four 3-bedroom units, of which sixteen (16) are reserved as affordable.</p>	<p>(22%) shall be reserved at 30% MFI, twenty-two percent (22%) shall be reserved at 50% MFI, and twenty-two percent (22%) shall be reserved at 60% MFI.</p> <p>8. <b><u>For the life of the Project</u></b>, the Applicant will provide twenty-four 3-bedroom units, of which sixteen (16) are reserved as affordable (subject to the flexibility noted herein).</p> <p>9. <b><u>For the life of the Project</u></b>, the affordable units in the Project shall be generally in accordance with the following chart, subject to the flexibility noted herein (including without limitation Condition A.4(d)), provided that the Applicant shall use reasonable efforts to maintain 67 affordable units on an absolute basis without exceeding 70% of the units being affordable: [<i>see chart below</i>]</p>
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Residential Unit Type	Residential Units	MFI	Affordability Control Period	Tenure
Total	Approx. 91,909 square feet of GFA (= approximately 101 units)	Varies	N/A	N/A
Market Rate	34% of residential units (= approximately 34 units)	Market Rate	N/A	N/A
22% @ 30% MFI	22% of residential units (= approximately 22 units)	30% MFI	Life of Project	Rental
22% @ 50% MFI	22% of residential units (= approximately 23 units)	50% MFI	Life of Project	Rental
22% @ 60% MFI	22% of residential units (= approximately 22 units)	60% MFI	Life of Project	Rental

<p><b><u>CBE and First Source (id. § 305.5(h))</u></b>: The Applicant committed to enter into a Certified Business Entity (“CBE”) Agreement, setting forth minimum CBE contracting and equity requirements, and a First Source Employment Agreement, setting forth minimum District-resident employment requirements.</p>	<p>10. <b><u>Prior to the issuance of a building permit for the Building</u></b>, the Applicant shall provide the Zoning Administrator with evidence that the Applicant has executed a First Source Employment Agreement with DOES and a Certified Business Enterprise Agreement with DSLBD.</p>
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<p><b><u>Environmental and Sustainable Benefits:</u></b>  <b><u>EGC+ (id. § 305.5(k)):</u></b> The Project includes innovative sustainable design elements and achieves appropriate levels of environmental certification, given the mix of multiple uses. The Project has been designed to meet net zero energy targets while exceeding environmental design standards at the EGC+ level. Specific sustainable benefits in the Project include solar panels and electric vehicle charging stations.</p>	<p>11. <b><u>Prior to the issuance of a final certificate of occupancy for the Project,</u></b> the Applicant shall provide the Zoning Administrator with evidence that the Project has or will achieve the requisite number of prerequisites and points necessary to secure EGC+ certification or higher from Enterprise. <b><u>Within two (2) years after the date of issuance of the first Certificate of Occupancy for the Project,</u></b> the Applicant shall provide the Zoning Administrator with documentation showing such certification.</p>
<p><b><u>CaBi Station (id. § 305.5(p)):</u></b> The Applicant committed to expanding a nearby CaBi station from 11 spaces to 19.</p>	<p>12. <b><u>Prior to the issuance of the first Certificate of Occupancy for the Project,</u></b> the Applicant shall provide the Zoning Administrator with evidence that it has funded and installed two (2) 4-dock Capital Bikeshare expansion plates (i.e., up to eight docks total) at the Capital BikeShare station located at Crittenden Street, N.W. and 14<sup>th</sup> Street, N.W. or an alternative location determined in coordination with DDOT.</p>
<p><b><u>Uses of special value to the neighborhood (id. § 305.5(q)):</u></b> The Project retains the Dance Loft on 14 use. The retention of a locally-controlled performing arts organization fits into this category of benefits and amenities, particularly because it is woman-led.</p>	<p>13. <b><u>For the life of the Project,</u></b> no less than approximately 11,277 square feet of GFA of the Project shall be used for arts, assembly, and performing arts uses by “Dance Loft on 14” or an affiliate or reasonably comparable successor entity.</p>
<p><b><u>Neighborhood Retail Uses (id. § 305.5(r)):</u></b> Finally, the Applicant has committed to retaining approximately 1,888 square feet of GFA of non-Dance Loft retail and/or service uses.</p>	<p>14. <b><u>For the life of the Project,</u></b> no less than approximately 1,888 square feet of GFA of the Project shall be used for retail, service, eating and drinking establishment, or similar neighborhood-serving uses permitted in the MU-5A zone.</p>

**Transportation Mitigation Measures – Transportation Demand Management and Loading Management Plan**

1. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Applicant has funded and constructed the following pedestrian network improvements at the intersection of Crittenden Street, N.W. and 14th Street, N.W., subject to DDOT approval:
  - a. ADA ramps on all legs of such intersection;
  - b. New high-visibility crosswalk on the north leg of such intersection;
  - c. Assessment of condition and restriping (if necessary) of existing crossings; and
  - d. Curb extensions on all legs of the intersection, including removing parking, if any, within 25 feet of the intersection.
2. **Following the issuance of a certificate of occupancy for the Project**, the Project’s Transportation Coordinator(s) (as hereinafter defined) shall submit to the Office of Zoning for inclusion in the IZIS case record of the case documentation summarizing compliance with the transportation and TDM conditions of this Order.
3. **One year after the issuance of the final certificate of occupancy for the Project**, the Applicant shall provide to DDOT a written report evaluating the efficiency and safety of the flow of vehicles and trucks in the public alley surrounding the Property, following which DDOT may require the Applicant to implement changes, including the installation of directional controls, signage, striping, flexposts, and/or other similar changes to the alley or abutting façade, subject to the requirements of, and the approval by, the DDOT Public Space Review Division or the Public Space Committee, or other DDOT bodies with jurisdiction over such public alleys.
4. **Five years after the issuance of the final certificate of occupancy for the Project (and every five years thereafter)**, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo summarizing continued substantial compliance with the transportation and following TDM conditions in the Order, unless no longer applicable as confirmed by DDOT; provided, that if such letter is not submitted on a timely basis, the Applicant shall have sixty (60) days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter.
5. **For the life of the Project**, the Applicant shall comply with the following TDM measures:
  - a. Identify one or more “Transportation Coordinators” for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;

- b. Provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees and residents of the Project, and report TDM activities and data collection efforts to goDCgo once per year;
- c. Require each Transportation Coordinators develop, distribute, and market various transportation alternatives and options to residents and employees, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on the Project's website and in any internal building newsletters or communications;
- d. Require Transportation Coordinators to receive TDM training from goDCgo to the extent available to learn about the TDM conditions for this Project and available options for implementing the TDM Plan;
- e. Require Transportation Coordinators to subscribe to applicable and available goDCgo newsletters;
- f. Provide a copy of the Loading Management Plan ("LMP") to the Transportation Coordinator;
- g. Provide a free SmarTrip card and a complimentary Capital Bikeshare coupon good for one ride to every new resident and employee;
- h. Provide residents and retail employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments ("MWCOG") or other comparable service to the extent MWCOG does not offer carpooling matching services in the future;
- i. Satisfy the Zoning Regulations requirements' short- and long-term bicycle parking requirements by providing at least 10 short-term spaces and at least 47 long-term bicycle spaces and provide all such long-term bicycle space free of charge to residents and employees of businesses operating in the Project;
- j. Accommodate in the long-term bicycle storage room non-traditional sized bikes including cargo, tandem, and kids' bikes, with a minimum of two (2) spaces designed for longer cargo/tandem bikes, a minimum of four (4) spaces designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of fifty percent (50%) of such spaces horizontally on the floor of the storage room, all of which shall be free of charge to residents and employees of businesses operating in the Project;
- k. Permit strollers to be stored in the bicycle storage room free of charge to residents and employees of businesses operating in the Project;
- l. Install a minimum of one (1) electric vehicle (EV) charging stations and seven (7) additional spaces with EV-ready infrastructure, for a total of 20% of the proposed parking supply; and

- m. Post all TDM commitments on the Project’s website to publicize availability and allow the public to see what commitments have been promised.
6. **For the life of the Project**, for the residential component of the Project, the Applicant shall comply with the following TDM measures:
- a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile of the Property; and
  - b. Provide to all new residents welcome packets which include, at a minimum, the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home brochure, and the most recent DC Bike Map.
7. **For the life of the Project**, for the retail and related uses in the Project, the Applicant shall provide the following TDM measures:
- a. Unbundle the cost of vehicle parking from the cost to lease non-residential unit, charge only hourly, daily, or weekly rates, and refrain from offering free parking, validation, or discounted rates; and
  - b. Require the Transportation Coordinator(s) to demonstrate to goDCgo that each non-residential tenant with twenty (20) or more employees working on-site (1) complies with the DC Commuter Benefits Law, (2) participates in one of the three transportation benefits outlined in such law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), and (3) complies with any other commuter benefits related laws that may be implemented in the future (including the “Parking Cash-Out Law”).
8. **For the life of the Project**, for the arts/assembly/entertainment uses in the Project, the Applicant shall provide the following TDM measure:
- a. Provide in a visible and prominent location on the Project’s website “getting here” information with a focus on non-automotive travel modes, links to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for patrons and employees discouraging parking on-street in Residential Permit Parking (i.e., so-called “RPP”) zones.
9. **For the life of the Project**, the Applicant shall comply with the following LMP measures:
- a. Designate a loading dock manager who will: be responsible during delivery hours, be responsible for coordinating with vendors and tenants to schedule deliveries, and respond to the community and neighbors’ concerns to resolve any conflicts should they arise;
  - b. Require tenants through lease provisions or otherwise to use only the loading area for all deliveries and move-in and moveout activities and to schedule all deliveries that utilize the loading area (any loading operation conducted using a truck 20-feet in length or larger);



- c. Require the dock manager to schedule deliveries using the berths such that the dock's capacity is not exceeded, and in the event that an unscheduled delivery vehicle arrives while the dock is full, require such delivery to return at a later time when a berth will be available so as to not compromise safety or impede the functionality of the existing alley between 14th Street, N.W. and 15th Street, N.W.;
- d. Require the dock manager to schedule residential loading activities so as not to conflict with retail, dance studio, or theater deliveries and such that all residential loading is scheduled with the dock manager;
- e. Require the dock manager to monitor: inbound and outbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along 14th Street, N.W. or the existing alley except during those times when a truck is actively entering or exiting a loading berth; service vehicle/truck traffic interfacing with 14th Street, N.W. traffic during peak periods and management measures if necessary to reduce conflicts between truck and vehicular movements; and the timing of the residential, retail, dance studio, and/or theater deliveries to see if any adjustments need to be made to ensure any conflicts with the various building uses' loading activities are minimized;
- f. Prohibit trucks using the loading dock from idling and require such trucks to follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map ([godcgo.com/freight](http://godcgo.com/freight));
- g. Require the dock manager to: distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure and others from DDOT and goDCgo, to drivers as needed to encourage compliance with idling laws; post such materials and other relevant notices in a prominent location within the loading area; disseminate suggested truck routing maps to the Project's tenants and to drivers from delivery services that frequently utilize the Project's loading dock; and notify all drivers of any access or egress restrictions.

**Validity**

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Zoning Division, DCRA (the "**PUD Covenant**"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of OZ.

July 21, 2022

Z.C. Case No. 21-18: Draft Proffers and Conditions

2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.

### **OAG's Proposed Conditions**

On May 4, 2022 the Office of Attorney General (“OAG”) submitted comments in support of the Application. *See* Exhibit 761. OAG suggested two conditions: (a) that the Project’s affordable units be “Inclusionary Zoning” units even if temporarily exempt pursuant to Subtitle C § 1001.6, and (b) that if the Project’s unit count is reduced, at least 66 units in the Project remain affordable and that if the Project’s unit count is increased, the proportion of affordable units remain the same.

The Commission should not adopt OAG’s conditions because (a) the Project’s affordable units will be subject to DHCD jurisdiction, which is a typical exemption from compliance with the Inclusionary Zoning requirements and provisions under the Zoning Regulations and (b) the affordable unit count must fluctuate proportionally to the overall unit count, and in response to DHCD’s preferences for a minimum number of market-rate units in a building. Given the need for DHCD financing to construct the Project, DHCD’s minimum standards should control over a requirement to maintain a “hard floor” on the number of affordable units in the building. This situation is warranted in this case because the Project is providing such a higher-than-typical percentage of affordable housing (i.e., the Commission typically imposes such a “hard floor” in cases where the affordable unit set aside is less than fifteen percent (15%) of the overall unit count, which is not the case here where 66% of the Project’s units are affordable).

### **Conclusion**

The Applicant looks forward to the Commission’s final action on this matter. Please feel free to contact the undersigned with any questions.

Respectfully submitted,

/s/ Jeffrey C. Utz

/s/ David A. Lewis

Enclosures

CC: Hillary R. Lovick, Office of Zoning (*via e-mail only*: [Hillary.Lovick@DC.gov](mailto:Hillary.Lovick@DC.gov))

## Certificate of Service

I certify that on or before July 21, 2022 (except as noted below), I delivered a copy of the foregoing document and attachments via e-mail, hand delivery, or first-class mail to the addresses listed below.

/s/ David A. Lewis  
As Attorney for the Applicant

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