



February 16, 2018

Meridith H. Moldenhauer

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Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

**RE: BZA Application for Fulcrum Properties Group LLC
Lot 817, Square 1043 – Application for Variance Relief**

Chairperson Hill and Honorable Members of the Board:

Please accept for filing the enclosed application of Fulcrum Properties Group LLC (the “Applicant”). The Applicant requests variance relief from Subtitle U § 301.1 to establish an office use.

The application package includes the following materials:

1. Application Form;
2. Fee Calculator Form;
3. Statement of the Applicant;
4. D.C. Zoning Map;
5. Architectural Plans & Elevations;
6. Authorization Letter(s);
7. Form 135 – Zoning Self-Certification;
8. Statement of Existing and Intended Use;
9. Certification of Proficiency;
10. List of Names and Mailing Addresses of Owners within 200 Feet;
11. Surveyor’s Plat(s);
12. Statement of Community Outreach;
13. Summary of Witness Testimony;
14. Photographs of the Property; and
15. Certificate of Service for the Office of Planning and ANC.

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'MM', with a horizontal line extending to the right.

By: Meredith Moldenhauer

Certificate of Service

I hereby certify that on this 16th day of February, 2018, a copy of this Application with attachments was served, via email, as follows:

District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, DC 20024
planning@dc.gov

District Department of Transportation
55 M Street SE, Suite 400
Washington, DC 20003
Anna.chamberlin@dc.gov

Advisory Neighborhood Commission 6B
c/o Chander Jayaraman, Chairperson
6B04@anc.dc.gov

Advisory Neighborhood Commission 6B06
c/o Nick Burger, SMD Commissioner
6B06@anc.dc.gov



Meridith H. Moldenhauer

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF
FULCRUM PROPERTIES GROUP LLC**

**500 13TH STREET SE
ANC 6B**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of the Applicant, Fulcrum Properties Group LLC (“FPG” or the “Applicant”), the contract purchaser of the property located at 500 13th Street SE (Square 1043, Lot 817) (the “Property”) in support of the application for variance relief pursuant to 11 DCMR § Subtitle X § 1002.1, Subtitle U § 301.1, to permit the Applicant’s office use in a two-story building in the RF-1 zone.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the variance relief requested herein pursuant to Subtitle X § 1002.1, and Subtitle Y § 100.3 of the Zoning Regulations.

III. BACKGROUND

A. The Property and the Surrounding Neighborhood

The Property, comprised of Lot 817 on Square 1043, is a corner lot in the RF-1 Zone District. A copy of the zoning map is attached at **Exhibit A** and a copy of the Baist map is attached at **Exhibit B**. The Property is located at the southeast corner of the intersection of E St. SE and 13th St. SE and, according to Office of Tax & Revenue records, contains 1,425 square feet of land area. A satellite view from Google Earth is attached at **Exhibit C**. The Property is improved with an approximately 2,993 square foot, two-story building with basement (the

“Building”) constructed in 1924.¹ The Building was originally constructed to serve as a store. It features classic corner store architectural characteristics including commercial curtain bay windows and a corner-facing door. See Photos at **Exhibit D**. Upon information and belief, the Property has been marketed for sale for many years.



The Property is located in the Southeast portion of the Capitol Hill neighborhood. Square 1043 is bounded by E Street SE to the north, 14th Street SE to the east, G Street SE to the south, Pennsylvania Ave. SE to the southwest, and 13th Street SE to the west. The Square is comprised of a mix of commercial/retail, institutional, industrial, and residential uses. Specifically, the surrounding area contains numerous rowhouses, and a hardware store and garbage truck parking lot a few doors down to east. Watkins Elementary school is across the intersection to the northwest. The Buchanan School facility, Peterbug Shoe Repair, and a new rowhouse development are across E St. SE to the north. A Safeway supermarket is across E St. SE down

¹ DC Historical Building Permits Database; permit #4108 originally issued for construction of a brick and frame ‘store’.

the block to the east, and a number of retail stores, including a corner store/restaurant, are located within 500 feet of the Property along Pennsylvania Ave. SE to the south.

B. Traffic Conditions and Mass Transit

The Property is well-serviced by mass transit options. Multiple Metrobus lines are within walking distance, including the 30N, 30S, 32, 34, 36, PS (Skyland) routes, which are all a block away along Pennsylvania Ave. SE. Walkscore.com indicates that the area is “a walker’s paradise.” There are two Capital Bikeshare stations approximately 0.2 miles from the Property. The Potomac Avenue and Eastern Market Metrorail Stations are 0.3 and 0.5 miles from the Property, respectively.

C. Description of the Applicant and Proposed Use of the Building

Since March of 2014, the Applicant, Fulcrum Properties Group LLC, and its founding Principal and Realtor Ty Voyles, has served as a good neighbor in the Capitol Hill neighborhood from its current office location at 1328 G Street SE. The Applicant has a demonstrated history of supporting local non-profit entities in both donations and service. Between 2016 and 2017, the Applicant has given more than \$65,000 to non-profits, the vast majority to organizations that are based in or serve the Capitol Hill community.²

The Applicant’s staff has steadily grown from six to 13 employees and is now constrained in its small 1,400 square foot office. Therefore, it seeks to relocate to a larger location while maintaining a physical presence in Capitol Hill, as it is the primary community they serve and the neighborhood many of its employees reside in.

² Additionally, the Applicant makes considerable contributions to the following organizations: Anacostia Watershed Society, Capitol Hill Arts Workshop, Capitol Hill Restoration Society, Friends of the Southeast Library, Historic Congressional Cemetery, Homeless Children's Playtime Project, Little Lights, and numerous neighborhood public and charter elementary schools.

IV. NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant requests variance relief from Subtitle U § 301.1 to establish an office use. Under D.C. Code § 6-641.07(g)(3), 11 DCMR §§ X-1000.1 and X-1002.1, the Board is authorized to grant a use variance where it finds that:

With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

(Subtitle X § 1000.1); and

An applicant for a use variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

(Subtitle X § 1002.1(b))

See French v. District of Columbia Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

Applicants for a use variance must demonstrate that they will encounter “undue hardship” in the development of the property if the variance is not granted. As discussed below, and as will be further explained at the public hearing, all three prongs of the use variance test are met in this

Application as outlined below

V. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition

The unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d at 1168 (DC 1990). The Property is unusual and affected by an exceptional condition as a result of a confluence of the following factors: (1) Corner location; (2) Commercial history of Property; (3) Mixed-use nature of the Square; and (4) Small size of the lot results in non-conforming structure.

1. Corner location

The Property is a corner lot with high commercial visibility.

2. Commercial history of the Property

The building was constructed to operate as a commercial use as shown on the DC Historical Buildings Permit Database, and as evidenced by its classic corner store architectural characteristics including commercial curtain bay windows and a corner-facing door.

3. Mixed-use nature of the Square

The Property is located in Square 1043, which is comprised of properties zoned RF-1, PDR-1, and MU-4. The current uses in the immediate area continue to be mixed-use in nature, containing a hardware store and garbage truck parking lot a few doors down to the east. Also, Watkins Elementary school is across the intersection of E St. SE and 13th St. SE to the northwest. The Buchanan School facility, Peterbug Shoe Repair, and new rowhouse development is across E St. SE to the north. Also, a Safeway supermarket is across E St. SE down the block to

the east, and a number of restaurants and retail stores exist along Pennsylvania Ave. SE to the south.

4. Small size of the lot results in non-conforming structure

The Property, at 1,425 square feet is a small lot that does not conform to the 1,800 square foot minimum lot size required in the RF-1 zone.³ Additionally, the Building is approximately 2,993 square feet. As such, it is non-conforming with regard to the development standards pertaining to lot occupancy, rear yard, and pervious surface. These non-conformities will not be enlarged because no construction is proposed.

B. Strict Application of Zoning Regulations Would Result in Undue Hardship

Due to the Property's unique condition, it has been on and off of the market for many years. These unique conditions result in undue hardship because residential use of the Building is not feasible. Further, the Applicant is unable to utilize the Building as a corner store under Subtitle U § 254, because of its large size and proximity to a nearby corner store on Pennsylvania Avenue SE.⁴ In short, strict application of the Zoning Regulations would result in undue hardship, which has been demonstrated by the long-term difficulty in selling the Property.

C. No Substantial Detriment to the Public Good or Impairment of the Zone Plan

Initially, the Applicant explored options to expand their current office to allow for enough space to meet their needs. Over the past 12 months, the Applicant searched for a suitably large space that contains a conference room. They considered many options, as illustrated in the list below.⁵ However, despite this lengthy search, unfortunately no other properties were

³ The lot was created prior to 1958 Zoning Regulations and so this non-conformity is a grandfathered condition.

⁴ "Gourmet Express" a restaurant at 1302 Pennsylvania Ave. SE (Sq. 1043, Lot 122), is located approximately 350 feet from the Property. The use is defined as a "Store-Restaurant" in the Office of Tax & Revenue records, which correlates to an "Eating and drinking establishment" in ZR16.

⁵ A number of the properties were also zoned RF-1.

discovered that met the Applicant’s size, locational, and financial requirements in the Capitol Hill market.

List of Properties Considered	
Address	Reason
1. 1015 D Street NE	prohibitive due to church configuration
2. 342 13th Street NE	too small
3. 401 K Street SE	too small
4. 1411 H Street NE	too small
5. 601 Massachusetts Ave NE	too small
6. 412 7th Street SE	prohibitive parking/storage
7. 901 11th Street SE	cost prohibitive (due to building condition)
8. 1417 H Street SE	too small
9. 700 7th Street SE	cost and parking prohibitive
10. 525 2nd Street NE	too expensive and tenant occupied

After this exhaustive search, the Applicant was delighted to find that the Building is commercially designed and satisfies its size and locational requirements.

There will be neither substantial detriment to the public good nor substantial impairment of the intent, purpose, and integrity of the zone plan by approving the requested relief. First, as noted, the Property has a commercial history and design, including commercial curtain bay windows and a corner-facing door. Second, the use would have no discernable adverse impacts on neighbors. Ten of the 13 employees reside in Ward 6, and most walk or bike to work due to traffic. Similarly, the majority of all expected visitors are expected to walk or use public transportation to the Property, as has been the Applicant’s experience at its current Capitol Hill location.

Finally, as noted, the Property is a corner lot located in a split-zoned Square with a number of nearby commercial and retail uses. Due to the Property’s close proximity to other more-intensive zones, use of the Property as a small office will not harm the Zone Plan.

In sum, the Applicant seeks to establish a small office on the Property so that it may remain in Capitol Hill and continue to make contributions to the community. This outcome would have the added benefit of putting the Building to good use after long stretches of vacancy.

VI. COMMUNITY OUTREACH

Pursuant to Advisory Neighborhood Commission (“ANC”) 6B’s procedures and guidelines, the Applicant will be contacting the Chairperson, Single Member District Commissioner, and Planning and Zoning Subcommittee Chairperson for the Property shortly after the application is filed. Subsequently, the Applicant will present to the case to the ANC as soon as is possible.

VII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted,
COZEN O’CONNOR

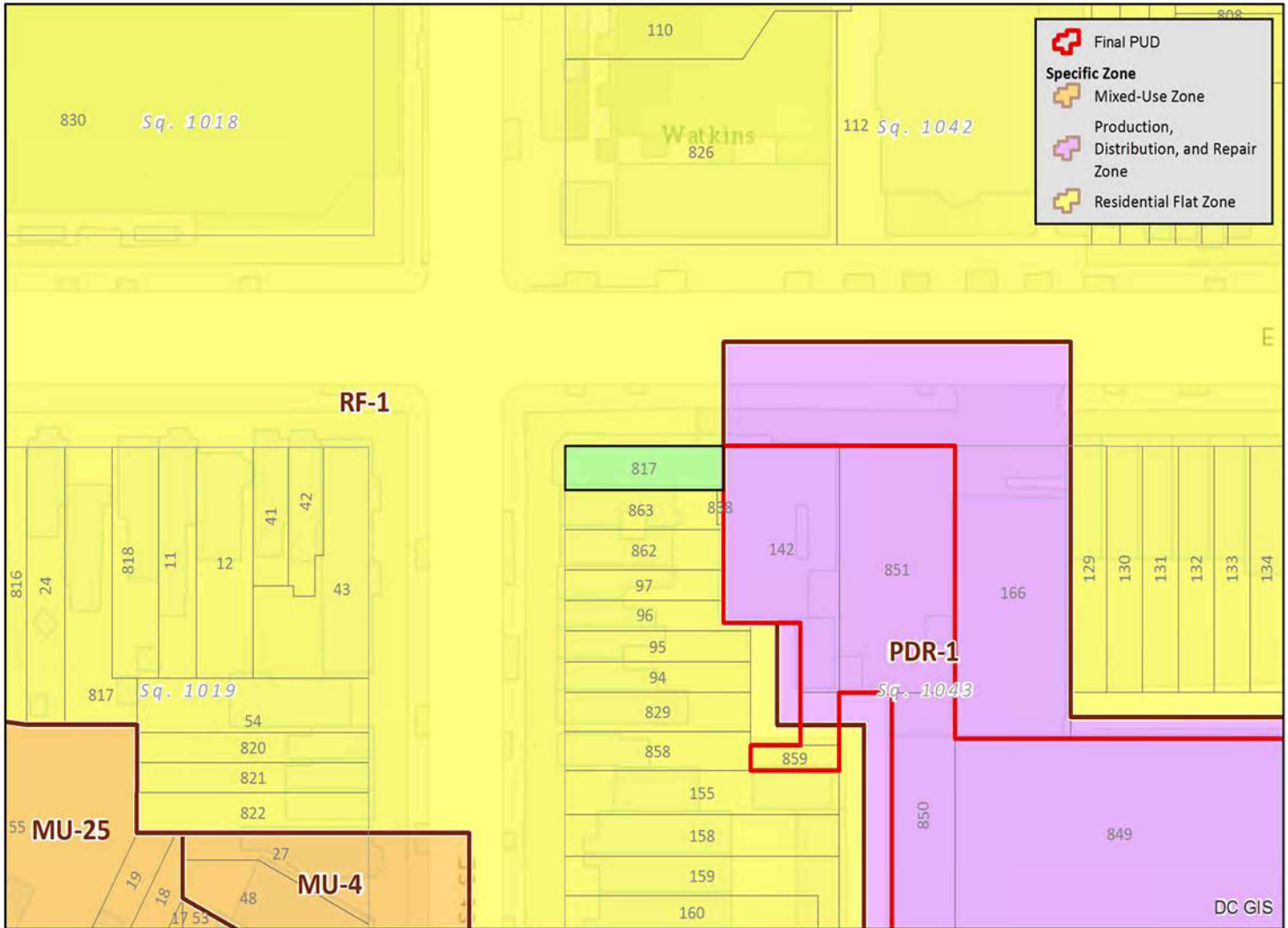


Meridith H. Moldenhauer

EXHIBIT A



Zoning Report for 0500 13TH ST SE



Zoning Data Summary

Premises Address
0500 13TH ST SE

Square/Suffix/Lot
1043 0817

Zoning District

PUDs
None

Ward
Ward 6

Council Member
Charles Allen

ANC
6B

ANC Chairperson
Chander Jayaraman

SMD
6B06

Commissioner
Nick Burger

* For a detailed explanation of zoning related terms, please refer to the DC Zoning Map glossary at

** To the extent an active PUD exists on a particular site, the PUD zoning depicts the zoning in effect for that site.

While DCOZ is committed to providing accurate and timely zoning information via the zoning map, DCOZ cannot guarantee the quality, content, accuracy, or completeness of the information, text, graphics, links, and other items contained therein. All data visualizations on the zoning map should be considered approximate. Information provided in the zoning map should not be used as a substitute for legal, accounting, real estate, business, tax, or other professional advice. DCOZ assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any upon any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein. DCOZ retains the right to change any content on its zoning map without prior notice.

EXHIBIT B

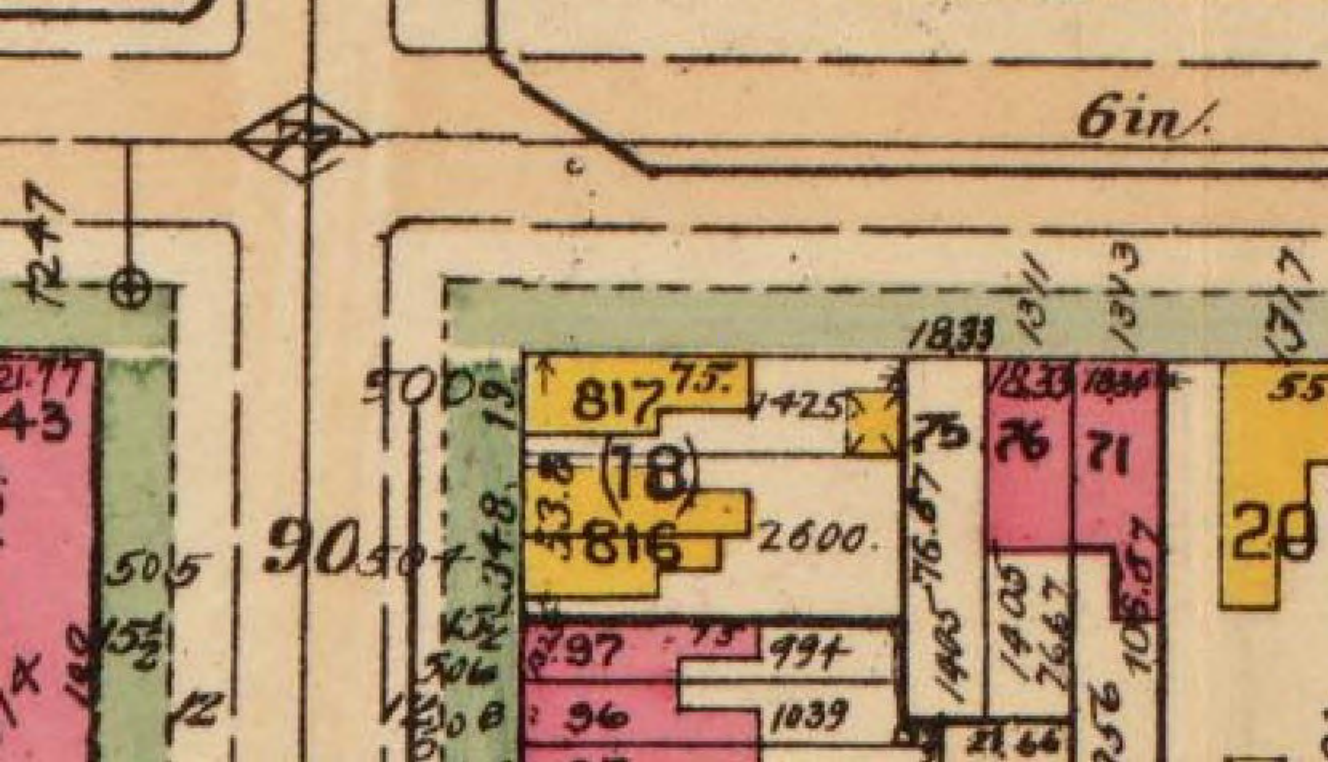


EXHIBIT C

500 13th St SE



EXHIBIT D

COMMERCIAL/RESIDENTIAL
Mixed Use

FOR SALE

500-13thStSEDC.com



A. Daniel Bouchard

202-309-2339

(CELL)

Dan@DanSellsDCVA.com

RE/MAX 100 • RE/MAX Realty Group
301-258-7757 Brokerage



13 St Se
500

SPEED HUMP AHEAD

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