

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

Application of 845 Upshur LLC
845 Upshur Street NW (Sq. 3024, Lot 0056)

STATEMENT OF THE APPLICANT

I. Introduction

845 Upshur LLC (the “Applicant”) requests approval of a special exception to facilitate redevelopment of the property located at 845 Upshur Street NW (Sq. 3024, Lot 0056) (the “Property”). The Applicant plans to redevelop the property and modify the existing structures to include a new three story addition with a mix of commercial retail and residential uses. The Applicant seeks a special exception to modify the maximum permitted lot occupancy on the Property. The special exception will allow the Applicant to build up to the permitted FAR in the MU-4 zone and provide a total of four residential units on the second and third stories of the building. The special exception is in harmony with the general purpose and intent of the MU-4 zone, the Zoning Regulations, and Zoning Maps and will not adversely affect the use of neighboring property.

II. The Property and Surrounding Area

The Property is zoned MU-4 and has a total lot size of 1,790 square feet. The Property is located within the Petworth neighborhood, just east of Georgia Avenue NW and west of New Hampshire Avenue NW and Grant Circle. The Property is currently improved with a two-story structure with total gross floor area of 1,777 square feet. The existing structure includes a commercial space on the first floor and a residential unit on the second floor.

The Property is located on the 900 block of Upshur Street NW, a popular destination in Petworth given its eclectic blend of acclaimed restaurants, bars, and shops. In addition to its restaurants, shops, and nightlife, this block also includes row home and apartment residential uses, which are common throughout the Petworth neighborhood. Neighboring properties directly to the west, east, and north of the Property include multi-story structures with a mix of commercial and residential uses.

III. Relief Requested

As part of its proposed renovation and redevelopment of the Property, the Applicant requests that the Board of Zoning Adjustment (“BZA”) approve a special exception to allow lot occupancy up to 81.3% on the second and third stories of the proposed building. Pursuant to Subtitle G, Section 404.1 of the 2016 Zoning Regulations, maximum permitted lot occupancy in the MU-4 zone is 60%. Exceptions to the development standards of Subtitle G, Chapter 4 are permitted as a special exception pursuant to Subtitle G, Section 409.1.

The general review standards for special exceptions to the development standards in the MU-4 zone are set forth in the Zoning Regulations in Subtitle X, Chapter 9 and in Subtitle G, Chapter 12. This Application meets these review standards, as follows:

- (a) The special exception will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations and Zoning Maps.**

The MU-4 zone is intended to permit moderate-density mixed-use development, provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core, and is located in low-and moderate-density residential areas with access to main roadways or rapid transit stops, and includes office employment centers, shopping centers, and moderate bulk mixed-use

centers. The Applicant proposes to redevelop and renovate the existing building on the Property with a moderate-density, mixed-use development with both commercial and residential uses. Thus, the proposed project is in harmony with the general purpose and intent of the MU-4 zone.

The maximum permitted lot occupancy in the MU-4 zone is 60% (75% IZ). The Applicant seeks a special exception to allow lot occupancy up to 81.3% on the Property. Notwithstanding this requested deviation from maximum lot occupancy, the proposed project remains in harmony with the Zoning Regulations and MU-4 zone. The project includes a total proposed density of 2.44 FAR, which is less than the permitted by-right density of 2.50 FAR in the MU-4 zone. Moreover, the proposed height of the proposed structure will be 35'-6", which is well below the maximum permitted height of 50 feet and is in harmony with the adjacent and surrounding buildings on neighboring properties. The proposed building also provides the required rear yard area of 15 feet in the MU-4 zone.

In addition, the special exception for increased lot occupancy will allow the Applicant to renovate and construct a building with the same floor plate on each of the three stories of the building. The first story of the proposed structure will include 1,455 square feet of commercial space for retail use such as a restaurant. This first story floor plate and buildout complies with all by-right provisions in the MU-4 zone. For aesthetic reasons, and in order to maximize the efficiency of the layout of the building and reduce construction costs, the Application proposes to build all three stories with identical floor plates with 1,455 square feet of space on each level. Given that the second and third

stories will include residential uses, the second and third stories will raise the lot occupancy on the Property to 81.3%.

Without this special exception, the Applicant will not be able to take advantage of the by-right density, setback, and mixed use provisions in the MU-4 zone. This not only precludes the economic viability of the project, but also would not serve the purpose and intent of the MU-4 zone to provide moderate-density mixed-use development. Moreover, without the special exception, the first floor commercial space would be impacted given that shifting the rear wall on the second and third stories into the building would impact the structural design of the building. Shifting the rear wall into the building on the second and third stories would also detract from the Applicant's intent to ensure that the proposed building volume, height, and façade is uniform with the adjacent building to the east, which shares a party wall with the existing building on the Property. Nor would shifting these rear walls into the Property serve any aesthetic or other purpose at the rear of the Property, which is landlocked and cannot be publicly accessed except along Upshur Street. Without the special exception, reduced floor area on the second and third stories would also require the Applicant to significantly shrink the residential units to a micro-unit size of less than 500 square feet per unit.

Finally, the proposed mixed use redevelopment project on the Property is particularly suitable for this location given the Property's proximity to both a major roadway (Georgia Avenue NW) and a Metrobus stop, located just steps from the front door of the Property on Upshur Street. In addition, the Georgia Avenue-Petworth Metro station is located less than a half mile from the Property and easily accessible by foot via Georgia Avenue NW. For all of these reasons, the requested special exception is in

harmony with the general purpose and intent of the MU-4 zone, the Zoning Regulations, and the Zoning Maps.

- (b) The special exception will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps.**

The special exception will not affect adversely the use of neighboring property. The Zoning Regulations of 2016 state that lot occupancy regulations are “intended to provide a primary control of the total volume of buildings on a lot” and are “intended to contribute, along with height regulations, to ensuring that buildings within a zone are generally consistent in their volume.” (Subtitle B, Section 311). Here, the Applicant’s proposed building is generally consistent in its volume, height and density with neighboring properties.

The neighboring properties along Upshur Street include a mix of commercial and residential uses with heights from one to three stories. The adjacent property to the east is improved with a three-story building with a mix of commercial and residential uses. The Applicant’s proposed building will mirror the height, volume, and rear setback of the adjacent building to the east. Furthermore, the proposed three-story building height will be in harmony with the character of mixed-use buildings and residences along Upshur Street and in Petworth in general.

The adjacent property to the west of the Property is improved with a one-story building with a commercial retail tenant that is built to the rear property line, with no setback. The proposed building on the Property is in harmony with the adjacent property to the east because the proposed building will also feature a commercial retail tenant on the first story. Moreover, the proposed residential units on the Property will further

support the commercial retail uses that currently exist in the adjacent and neighboring properties along Upshur Street.

- (c) **The proposed use will meet all applicable conditions as may be specified in Subtitle G, Chapter 12.**

Subtitle G, Chapter 12 does not include any additional conditions that would impact this Application.

IV. Community Outreach

The Applicant will reach out to ANC 4C and other affected community/civic groups, the Office of Planning, and adjacent property owners to discuss the Application with the community and address any concerns or comments that the community may have. The Applicant will submit a statement of the efforts made to contact these groups and the results of those efforts no less than twenty one days before the scheduling public hearing/meeting.

V. Witnesses

The following witnesses will appear on behalf of the Applicant at the hearing before the Board of Zoning Adjustment.

1. Matt Medvene, Applicant
2. Ryan Petyak, Architect

VI. Conclusion

For all of the above reasons and those discussed at the public hearing before the Board of Zoning Adjustment, the Applicant respectfully requests that the Board of Zoning Adjustment grant the relief sought in this Application.