

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

**APPLICATION OF
AMINTA, LLC**

**1330-1336 PENNSYLVANIA AVE SE
ANC 6B**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Aminta, LLC (the “Applicant”), the owner of property located at 1330- 1336 Pennsylvania Avenue SE, Lots 802 and 29 in Square 1044 (the “Property”), in support of the application for an area variance from the requirements regarding lot occupancy (§772.1), FAR (§771.2), and parking (§2101.1) to allow the Applicant to develop a mixed use residential structure with ground floor retail in the C-2-A District.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance relief requested herein pursuant to §3103.2 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property contains approximately 3,979 square feet of land area and is located in southeast Washington, D.C. The Property is located less than 500 feet from the Potomac Ave Metro station. The Property is a through lot¹ with approximately 94 feet of frontage along Pennsylvania Avenue SE and approximately 106 feet of frontage along G Street SE. The Property is currently improved with a multi-story commercial structure. The Applicant currently owns and operates La Lomita at the Property. La

¹ **Lot, through** - an interior lot having frontage on two (2) or more streets where the streets differ in direction by forty-five degrees (45°) or less. 11 DCMR 199.1

Lomita is a popular, family-run restaurant that has been in Capitol Hill since 1987. The Applicant seeks to remain at its current location while providing a sorely needed update to its restaurant space and adding residential units above. The Property is not located within an historic District and is not listed on the D.C. Inventory of Historic Sites.

B. Description of the Improvements in the Surrounding Area

Square 1044 is a small square bounded by G Street to the north, 14th Street to the east, and Pennsylvania to the south and west. *See* Baist Atlas Map at Tab 8. Square 1044 is split-zoned. The majority of the square has frontage along Pennsylvania Avenue and is zoned C-2-A. The small northeastern portion of the Square along 14th Street and G Street is zoned R-4. *See* Zoning Map at Tab 9. The Square is occupied by commercial uses and attached rowhouses. Across the street, at 1350 Pennsylvania SE, is a large mixed-use building with a Harris Teeter.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is located less than 500 feet from the Potomac Ave Metro with an entrance at 14th and G Street. Moreover, Metrobus routes 30N, 30S, 32, 34, 36, 39, A11, J13, K11, and M6 all pick up at the Potomac Ave Metro. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. A Capital Bikeshare station is also located at the Potomac Ave Metro (15 docks). Three Zipcar spaces are located within walking distance including 3 vehicles at the Potomac Ave Metro. Another local car-sharing program, Car2Go, reported in July 2013 that the use of the company's car-sharing service in the District had reached over 25,000 and that the fleet was expanded from 300 vehicles to 400 vehicles to accommodate increasing demand. Walkscore.com labels the property as "very walkable" with "excellent transit" and a "biker's paradise."

D. Description of the Proposed Development

As shown on the architectural plans, *see* Architectural Plans at **Tab 10**, the Applicant proposes to convert the Property from a two-story commercial structure to a mixed-use residential building with a restaurant on the first story. The first floor will continue to be occupied by La Lomita, a very well-like Mexican restaurant. The upper floors will contain 10 residential units. The Applicant will also be providing an affordable housing unit through the District's Inclusionary Zoning program.

IV. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant seeks area variance relief from the requirements regarding lot occupancy (§772.1), FAR (§771.2), and parking (§2101.1). Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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 an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of*

Columbia Bd. of Zoning Adjustment, 287 A.2d 535, 540-41 (D.C. 1972)(noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

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 Exception Situation or Condition

The phrase “exceptional situation or condition” in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. See *Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, 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 1164, 1168 (D.C. 1990).

The Property is characterized by an exceptional situation and condition as a result of a confluence of the following factors: (1) the triangular shape of the Property; (2) the Property is a narrow through lot with street frontage along G Street and Pennsylvania Avenue SE; (3) the existing nonconforming commercial FAR.

1. The Triangular Shape of the Property

Due to the Property’s location at the meeting point of G Street SE and Pennsylvania Avenue SE, the Property has an atypical, triangular shape. The Square is made up primarily of rectangular lots. The Property is the only lot on the square that is triangular in shape.

2. The Property is a Narrow Through Lot on Pennsylvania Avenue

The Property is a through lot, with considerable frontage along G Street SE and Pennsylvania Avenue SE. The Property is unique in this respect as the only through lot in the Square. The Property narrows considerably toward the western end of the Property from over 64 feet at its widest point to roughly 16 feet. The Property also abuts a public alley to the northeast, further contributing to the awkward shape of the lot. Pennsylvania Avenue SE is a very wide avenue with a width of 120 feet. Due to the extensive frontage and shape and orientation of the Lot and Square, the Property has a large public parking area to the north and a grassy, triangular, unimproved parcel to the west owned by the District.

3. Existing Nonconforming Commercial FAR

Lot 802 is currently nonconforming with respect to lot occupancy and commercial FAR. In the C-2-A Zone District, the permitted lot occupancy is 60% and the permitted non-residential FAR is 1.5 FAR. The Property is currently occupying a significant portion of the lot with two stories devoted to commercial use and nonconforming with respect to lot occupancy and non-residential FAR. As the only commercial use on the Square, the existing nonconforming nonresidential FAR is unique to the Property. Furthermore, across Pennsylvania Avenue SE to the south is a large mixed-use multistory structure with a Harris Teeter on the ground floor. Across 13th Street to the west is the Capitol Hill Commercial District

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

Strict application of the zoning regulations with respect to the requirements regarding lot occupancy (§772.1), FAR (§771.2), and parking (§2101.1) would result in a practical difficulty to the Applicant.

1. Residential Lot Occupancy (§772.1)

Under §772.1 and §2604, the permitted commercial lot occupancy is 100% and the permitted residential lot occupancy is 75%. The proposed structure has a lot occupancy throughout, both commercial and residential, of 89%. Therefore, the Applicant requests lot occupancy relief with respect to the residential floors. The 89% commercial lot occupancy on the first story is well below the 100% permitted as a matter of right. As a matter of construction and structural efficiency, the Applicant seeks to continue the 89% lot occupancy on the residential floors above. The Property is able to visually accommodate the residential lot occupancy of the proposed structure as a result of the long street frontage and ample open space in public parking to the north and west of the Property as well the entry to an alley along the northeastern portion of the Property. Furthermore, setting the building back on the residential floors would be practically difficult due to the shape of the lot.

2. FAR (§771.2)

Under §§ 771 and 2604, the total FAR permitted is 3.0 FAR, with up to 1.5 FAR being devoted to nonresidential use. The proposed structure has an FAR of 3.5. Thus, the Applicant is seeking zoning relief with respect to total FAR for an additional 0.5 FAR. The FAR relief is needed to account for the awkward triangular layout, narrowing of the Property toward the west, and inefficiency associated with the jagged property boundaries along the alley. Furthermore, the triangular shape of the lot in combination with the fire code requirements results in two redundant stairwells at the eastern end of the structure. The redundant stairwells, in combination with the elevator, trash area, and corridor, result in a core factor of 26% on the residential floors, which is greater than the maximum industry standard of 20% for this type of structure. In addition, reducing the lot occupancy by 0.5 FAR would result in an inefficient partial fourth floor and would increase the already-high core factor for the structure. Without the requested relief, the smaller floor plan would result in a reduction of the number of units to below 10

and an inability to provide an affordable unit and participate in the District's Inclusionary Zoning program.

3. Parking requirement (§2101.1)

Pursuant to §2101.1, the parking requirement at the Property is 5 parking spaces. The residential parking requirement for an apartment use in the C-2-A District is 1 space for every 2 dwelling units. The proposed structure has 10 dwelling units. Thus, the parking requirement is 5 parking spaces. It is infeasible for the Applicant to provide parking and therefore seeks parking relief for 5 parking spaces.

Providing the required parking underground or at grade is not feasible without a significant reduction in the footprint of the building. The development potential of the lot is already substantially limited by the triangular shape and narrowness of this through lot. Providing at grade parking would reduce the already limited buildable area at the Property. Thus, providing parking at grade is not feasible.

Similarly, providing underground parking would be extremely burdensome, if not impossible, for the Applicant. Underground parking at the facility would be extremely inefficient with respect to use of space and on a cost-per-parking space basis as a result of the size and dimensions of the Property. The lot's narrow configuration prevents making a multilevel underground parking structure that could accommodate the required parking spaces, drive aisles, and access ramps infeasible. The significant expense for constructing such an extensive underground parking structure would be prohibitive and unviable for all intents and purposes. Furthermore, it is the Applicant's understanding that excavation is severely limited as a result of the Metro facilities controlled by WMATA directly below the Property. Moreover, the Property does not have access to a curb cut along either G Street or Pennsylvania Avenue SE and obtaining a curb cut in this instance would be unlikely based on the location of the Property.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The proposed project allows a successful, well-liked restaurant to remain in its existing location while providing a much-needed update to the existing commercial space. Furthermore, the proposed project provides 10 additional residential units, including space for affordable residential space, in a transit-orientated location near the Potomac Ave Metro and provides a structure that is more consistent with the Moderate Density Commercial designation in the Future Land Use Map. The size of Pennsylvania Avenue supports the proposed structure. The nearby metro and exceptional proximity to available transit options mitigate parking demand generated by the project.

VI. CONCLUSION

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

Respectfully submitted

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