

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Cochran, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: March 31, 2015
SUBJECT: BZA Case 18915, 1330 Pennsylvania Ave., S.E.

I. OFFICE OF PLANNING RECOMMENDATION

OP recommends:

Denial of the following variance request:

- §§ 772.1 and 2604.2, Floor Area Ratio (FAR): (3.0 FAR permitted with IZ, including 1.5 non-residential FAR; 3.5 FAR proposed, including < 1.0 non-residential).

However, if the BZA determines that there is justification for the requested FAR relief, then OP would **not be opposed** to the following variance requests:

- §§ 772.1 and 2604.2, Residential Lot Occupancy : (75% permitted with IZ; 89% proposed)
- § 2101.1, Parking: (5 required [1 for each 1800 sf >2000 sf]; 0 proposed).

It is possible that additional zoning relief may be required, as noted on page 5 of this report.

II. LOCATION, SITE DESCRIPTION AND PROPOSAL

Applicant	Aminta, LLC				
Address:	1330 – 1336 Pennsylvania Ave., S.E.	Legal Description:	Square 3189 Lot 800	Ward /ANC	6B
Lot Characteristics:	The flat irregularly-shaped, pentagonal interior lot comprises 3,979 square feet and has frontage of 93.6 feet on Pennsylvania Avenue, S.E. and 106 feet on G Street, S.E. The lot narrows from 65 feet at its eastern end, where a portion is adjacent to 15 foot wide alley, to 16 feet at its western property line, adjacent to a public space occupying the apex of the triangular block formed by Pennsylvania Avenue, G Street and 14 th Street.				
Zoning:	C-2-A, permitting low-density commercial / mixed uses.				

Existing Development:	The existing structures on Lot 29 are residentially-occupied 2-story row houses at 1334 and 1336 Pennsylvania Avenue. A similar row house at 1332 Pennsylvania Avenue has been converted to commercial uses. Lot 802 houses La Lomita restaurant on the first floor of 1330 Pennsylvania Avenue, and offices on the second floor. The rear yard of 1330 is used for terrace seating. 1332's yard contains screened restaurant storage. 1334 – 1336's rear yards are paved and used for access to the dumpsters on 1332's yard, and for accessory parking.
Historic District:	None
Adjacent Properties:	Row Houses to east; public open space lot to west.
Neighborhood Character:	Predominantly single family row houses in an R-4 zone, but with commercial and residential buildings of up to 5 stories in the C-2-A and C-2-B zones on parts of Pennsylvania Avenue. The Potomac Avenue Metro station is one block to the east.
Project	On two through-lots, replace four two-story structures near apex of triangle with one four story building containing 10 apartments on floors 2 – 4 and, on the first floor and partial cellar, new space for the La Lomita restaurant now occupying a portion of the site. Design shows four bays in public space.

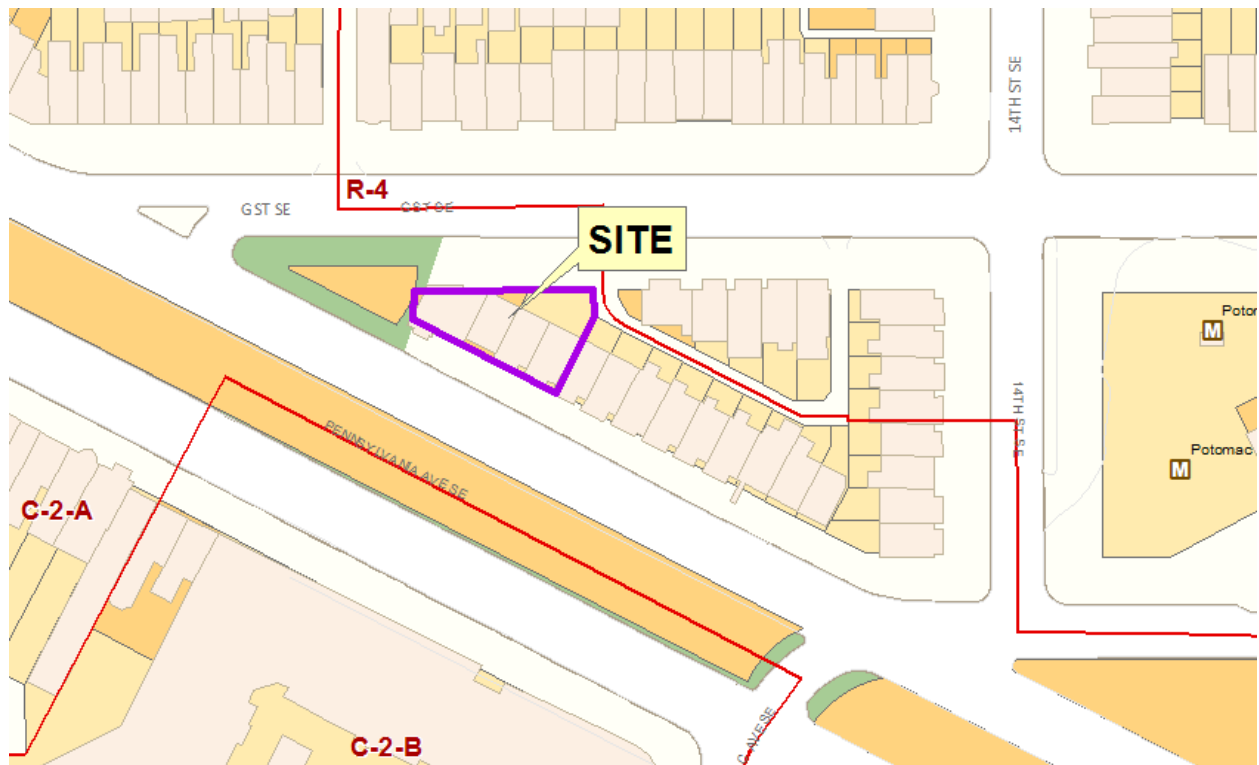


Figure 1. Site Location

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Item	Reg.	Existing	Required / Permitted	Proposed	Relief
Lot Area	none	3979	n/a	Same	Not required
Lot Dimensions	None	106' (G St.) 93.6' (PA) 16' (west) 46' (east) 15' (alley)	n/a	same	Not required
Lot Occ.	772.1 2604.2	<i>Not provided</i>	100%, non-res. 75% res. w/IZ	89% 89%	Not Required for non-residential use. + 14% Requested for residential use
FAR	771.2 2604.2	<i>Not provided</i>	3.0 FAR w/IZ (including 1.5 non-residential FAR)	3.5 FAR (< 1.0 non-res.)	+ 0.5 FAR (+16.6%) Requested for total FAR
Height	770.1	Not provided	50 ft. max.	50 feet shown. Requires ZA confirmation.	Cf. page 5 for possible additional considerations
Roof Structure	411.5	n/a	One structure, of one height $\leq 18'6''$ and $\geq 1:1$ setback	One structure of uniform 8' height with at least 1:1 setback	Not required
Vehicle Parking	2101.1	<i>n/a</i>	None for retail 5 for residential	0	Requested, for 5 spaces
Loading	2202.1	n/a	Not required	0	Not required
Rear Yard	774.1 774.11	n/a	15' from street centerline for through-lot	51 ft. 4 in.	Not required
Side Yard	775.5	n/a	If provided, ≥ 8 ft.	18 ft. 5 in.	Not required
Open Ct.	776.1	n/a	Not required	None	Not required

IV. OFFICE OF PLANNING ANALYSIS OF REQUESTED VARIANCE RELIEF

A. FAR

1. Exceptional Condition or Situation of the Property Resulting in a Practical Difficulty

The applicant has not described a unique circumstance which results in a practical difficulty pertaining to the request to exceed the permitted FAR. The applicant notes that the property possesses an exceptional pentagonal shape that narrows considerably from the eastern to the western end of the site, but has not demonstrated that a nexus exists between this condition and a practical difficulty justifying FAR relief. The applicant states that, even with the requested lot occupancy relief, the core factor for the proposed building would be 27%, rather than the more usual 17% to 20% for a typical residential site. (It is not clear whether this considers the floor area of public space projections). However, there is nothing in the case file demonstrating an exploration of alternative layouts, unit types, fewer floors, a smaller building, etc. establishing there would be a practical difficulty in developing an FAR-conforming building on the site, even with the 0.5 FAR bonus that would result from providing the required IZ unit. Simply stating there is a higher than usual core factor does not establish the necessary nexus for relief, particularly for relief from floor area ratio.

2. No Substantial Detriment to the Public Good

The applicant has established that the permitting the additional square footage would not likely result in a substantial detriment to the public good. As demonstrated, the site is bordered by adequate public space on three sides, the size is not likely to have a negative impact on nearby buildings, and its bulk would not be out of place given recent developments on the south side of the 1300 block of Pennsylvania Avenue, S.E.

3. No Substantial Harm to the Zoning Regulations

Approval of the requested FAR increase would be substantially detrimental to the intent of the zoning regulations. The applicant's suggestions that the site is too small to seek a zoning change through a PUD and inappropriate for a map amendment based on the Comprehensive Plan support denial of this FAR increase which would undercut the predictability and clarity that are essential to the integrity of the zoning regulation. OP also does not accept the argument that the requested amount of FAR relief is small. . A 16.6% increase above the maximum permitted FAR is not insignificant. A 0.5 FAR increase is not *de minimus*, especially when the proposed project would also achieve a 0.5 FAR bonus from providing an IZ unit.

As such, OP recommends denial of the requested FAR relief.

B. Lot Occupancy

1. Exceptional Condition or Situation of the Property Resulting in a Practical Difficulty

The diagrams on Sheet A.4.2 of the applicant's submission establish that for a multi-story building on this site serving both residential and non-residential uses, the narrowing of the lot on its western end constitutes an exceptional condition that, at the permitted 75% residential occupancy, there would be a practical difficulty in achieving reasonable configurations for residential units on such an irregularly shaped site. OP notes, however, that decreasing the FAR to the required amount could result in design modifications that would reduce the amount of building bulk non-conforming to lot occupancy.

2. No Substantial Detriment to the Public Good

The applicant has demonstrated that, with the public space on the western end of the block, the building effectively has frontage on three streets, that the relative openness of the context would mitigate against the building's being perceived as having overly intrusive site coverage, and, as a result, it is unlikely that granting the requested lot occupancy relief for the residential use would have a substantial impact on the public good.

3. No Substantial Harm to the Zoning Regulations

The unusual location of the site at the end of a triangular block ensures that, for a lot of this size, the residential uses will have more than adequate light and air. The location also precludes the increased lot occupancy from interfering with the light or privacy available to adjacent lots. Granting the lot occupancy relief is not likely to pose substantial harm to the zoning regulations.

C. Parking

1. Exceptional Condition or Situation of the Property Resulting in a Practical Difficulty

The diagrams on Sheet A. 4.1 of the applicant's submission demonstrate that the shape and size of the site constitute an exceptional condition that precludes the construction of a ramping system for below-ground parking, or the provision of at-grade parking, and that a practical difficulty would result if relief from the parking requirement were not granted. OP notes, however, that decreasing the FAR to the permitted amount may reduce the parking variance accordingly.

2. No Substantial Detriment to the Public Good

Granting the requested parking relief is not likely to result in a substantial detriment to the public good. The site's location one block from the Potomac Avenue metro station and the presence of several bus lines on Pennsylvania Avenue, S.E. provide alternatives to private automobile ownership. The inability for a commercially zoned site located on a street with parking meetings precludes the issuance of residential parking permits for the building's residences, thus reducing the possibility of spillover parking into the nearby R-4 zones.

3. No Substantial Harm to the Zoning Regulations

Granting the requested relief is not likely to result in a substantial harm to the zoning regulations. Given the applicant's demonstrations of unique circumstances and practical difficulty with respect to meeting parking requirements, granting relief would be consistent with the intent of the variance regulations.

V. OTHER ZONING CONSIDERATIONS

The proposed roof structures conform to height and set-back regulations. However, OP has advised the applicant that the amount of square footage in the individual rooftop lofts for the fourth floor units may exceed what the Zoning Administrator typically permits for access to private roof decks without its being counted as FAR or considered as an additional floor.

The building plans filed on March 24, 2015 showed two of the four bays projecting into public space as having an overall height exceeding 50 feet. It is not clear whether those bays contain enclosed space within top floor apartments, adding height but not square footage. OP has advised the applicant to determine with the Zoning Administrator whether the two bays would exceed the maximum height permitted within the zone, or whether the vertical extension of the proposed third floor apartment space can be considered an architectural embellishment.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

There were no other District agency comments.

VII. COMMUNITY COMMENTS

ANC 6B voted 6-0-2 on January 13, 2015 to support all requested relief.

The Capitol Hill Restoration Society's Zoning Committee voted unanimously on January 7, 2015 to support the application as long as no residential parking permits would be issued. .

The applicant has submitted a petition from 54 people, the majority of whom live in southeast Washington, supporting the requested relief.