GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustments

FROM: Andrew Altman, Director
Office of Planning

DATE: October 17, 2000

SUBJECT: BZA Application #16629 (Penn Capital LLC)
233 Pennsylvania Avenue, S.E.

BZA
Case No. 16629
Exhibit No. 29

APPLICATION

The application by Penn Capital LLC requests, pursuant to 11 DCMR 3103.2, a variance from the provision of Section 771.2 that allows commercial uses up to 1.5 FAR in the CAP/C-2-A zone.

SITE AND AREA DESCRIPTION

The subject property is located at 233 Pennsylvania Avenue, S.E. (Square 762, Lot 839) on the south side of Pennsylvania Avenue between 2nd and 3rd Streets, and southwest of the intersection of Pennsylvania Avenue and Independence Avenue. The site is currently developed with a 4-story building that is currently vacant. The ground floor of the building was formerly occupied by Sherrill's Bakery and Restaurant.

Development along the southern side of Pennsylvania Avenue consists of 2- and 3-story, brick and masonry, row-house style buildings with retail uses such as restaurants, neighborhood service grocery stores, and banks on the ground floor and office uses on the upper floors. The subject site is unique in that it is the only 4-story building on this side of the block. On the north side of Pennsylvania Avenue is the Library of Congress and its adjacent annex buildings, SunTrust Bank, the National Capital Bank of Washington, and other small office and retail uses. Beyond the area that fronts on Pennsylvania Avenue are predominantly 2- and 3-story row houses interspersed with small multiple unit housing.

PROPOSAL

The applicant proposes to renovate the existing building and convert the ground floor into a retail store, the 2nd and 3rd floors into office space, with residential use on the 4th floor. The 6,260

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square foot building will accommodate 1,750 square feet of retail space, 3,530 square feet of office space, and 980 square feet of residential space. The applicant has requested a variance to increase the commercial space up to 2.1 FAR.

ZONING REQUIREMENTS

The subject site is zoned CAP/C-2-A. The base C-2-A zone allows office, retail, and residential uses at a FAR of up to 1.5 for commercial uses and 2.5 FAR overall. The CAP (Capitol Interest District) overlay zone allows a density of up to 1.8 FAR.

ANALYSIS

This portion of Pennsylvania Avenue has always had a commercial character with a mixture of residential, office, and retail uses. The CAP overlay zone was placed on the area to regulate the uses, height, and bulk of buildings and to ensure their compatibility with the federal buildings in on Capitol Hill. In addition, the property is located in the Capitol Hill Historic District. Many of the buildings within this commercially zoned area have been converted to retail and office uses. They contain a variety of small retail and service businesses at street level which supply services to the surrounding community and office space for national associations and other groups on the upper floors.

At a FAR of 1.5 FAR, the applicant can have approximately 3,718 square feet for commercial use on the 1st and 2nd floors. Adding commercial use on the third floor increases the total commercial space to 5,280 square feet or 2.1 FAR. The 4th floor residential brings the overall FAR to 2.5. Therefore, the variance requested is for the third floor commercial space. Having the 1st floor as commercial uses and the upper as residential uses is a combination which has not been popular for locating residences due to the noise generated from truck and bus traffic, loading and unloading, and the heavy volume of pedestrian traffic along Pennsylvania Avenue. Given the commercial nature of the block, office use is a more appropriate use.

Section 1735 (w) of the Comprehensive Plan, *Ward 6 Actions to Implement the Plan: Land Use* has recommended that the Zoning Regulations be revised to establish an overlay zone for commercial corridors that would and increase the maximum commercial FAR to 3.0 as a matter of right. Further, where the proposed overlay coincides with the CAP overlay zone a FAR of up to 2.5 for non-residential uses should be allowed. The Plan also specifies the commercial corridors but did not include the commercial area along Pennsylvania Avenue between 2nd and 4th Streets. It seems that the omission of this area was an oversight as the commercial character of these areas are identical. This change in the Zoning Regulations would allow recognition of the transformation that has taken place along this corridor. Furthermore, increasing the commercial FAR will relieve some of the pressure from commercial and office uses on the adjacent residential areas.

The parking regulations require 2 parking spaces for the proposed uses. With a lot occupancy of 70 %, the only place for parking would be at the rear of the lot. To get to the rear of the property

is a circuitous route through an alley. Since only 2 parking spaces are required, on-street parking can accommodate them. Additionally, the area is serviced by the Capitol South metro station, Eastern Market metro station, and metro bus stops that are located in close proximity to the site. Since the subject property is within the Capital Hill Historic District and is a contributing building to the historic character of the district, a request to the Historic Preservation Board for a variance from the parking requirement will be appropriate at the time of Building Permit.

The subject site is within the Capitol Hill Historic District and changes to the façade are not proposed except for renovations and added signage to reflect the proposed uses. The approval of the requested increase in commercial FAR and façade renovations will not adversely impact the surrounding properties and will in fact enhance the neighborhood.

The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The subject property has an irregular shape and is larger than adjacent properties. In addition, the building is the only 4-story building on this side of the block. This unique configuration of the lot and building makes it difficult for natural light and air to penetrate into a large portion of the interior space. Because the building has common walls on two sides, light and air are filtered in only from the front and rear. Due to the turn in the middle of the building, light and air is not able to filter straight through from front to back and therefore make the 2nd and 3rd floor space not conducive to residential use. The residential portion of the building on the 4th floor is appropriate because it is approximately half the size of the 3rd floor and does not have the problem of obtaining adequate light and air.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

The strict application of providing only 1.5 FAR of commercial space would adversely affect the ability to provide adequate light and air to the residents on the 3rd floor, and could render the space somewhat unusable. Further, residential use on the 2nd and 3rd floors could be rejected owing to the building's proximity Pennsylvania Avenue and noise associated with traffic, pedestrian movements, and other commercial uses along Pennsylvania Avenue.

> **The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.**

The variance requested will not cause "substantial detriment to the public good." To the contrary, the proposed project furthers the aim of providing additional commercial space along Pennsylvania Avenue, and providing relief to the pressure on residential areas to convert to commercial uses. The proposed variance furthers the purpose and intent of the Zoning Regulations and Map by complying with the aim of providing space for commercial use in this area.

COMMUNITY COMMENTS

On October 3, 2000, ANC 6B voted to recommend approval of the requested variance, as it is consistent with the character of the area and other approvals that the ANC has supported in the past. The Capitol Hill Restoration Society recommended approval of the variance based on the fact that the office use will be compatible with existing uses, will minimize illegal commercial uses in adjacent residential areas, and they have also supported increasing the commercial FAR in the past. Councilmember Ambrose has stated that she is supportive of the requested variance. Currently, a coalition of community organizations and commercial business owners are formulating a text amendment to implement the recommendation of the Comprehensive Plan to increase the allowable commercial FAR. Both Councilmember Ambrose and the Office of Planning are supportive of such a text amendment.

SUMMARY

The proposed increase in the square footage of office space is complementary to the uses on adjacent properties. There is precedence set for increasing the commercial FAR along Pennsylvania Avenue on other properties. The requested variance will be in conformance with the Comprehensive Plan recommendation to increase the commercial intensity along Pennsylvania Avenue and at the same time lessen the pressures for commercial use in adjacent residential areas. Therefore, increasing the commercial FAR to 2.1 is appropriate.

RECOMMENDATION

The proposed increase in the intensity of commercial use has met the provisions of Section 3103.2 of the Zoning Ordinance for granting a variance. The "uniqueness" of the site is demonstrated through its shape and size that further places an undue "hardship" on the property through the inability to provide adequate light and air for residential use. Approval of this variance request will not cause any "substantial detriment to the public good" and "will not substantially impair the intent, purpose, and integrity" of the zone plan as embodied in the Zoning Regulations or Map", as it will fulfill the intent of increasing commercial space along this corridor. The Office of Planning therefore recommends that the Board of Zoning Adjustment **APPROVE** the variance requested.

AA/mbr