

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

**APPLICATION OF
POTOMAC ELECTRIC POWER COMPANY
SQUARE 603, LOTS 19 AND 809**

**BZA APPLICATION NO. 18911
HEARING DATE: MAR. 10, 2015
ANC 6D06**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of Potomac Electric Power Company (“PEPCO” or the “Applicant”) in support of its application to the Board of Zoning Adjustment (“BZA” or “Board”) for the following special exception and variance relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3104.1 and 3103.2: (i) a special exception for utility use in the CR District pursuant to section 608.1; (ii) an area variance from the public space at ground level requirements of section 633; and (iii) an area variance from the off-street parking requirements of section 2101.1. The relief requested will permit the construction of a new PEPCO distribution substation in the CG/CR District on Lots 19 and 809¹ in Square 603 (the “Site”). The substation has been designed to be compatible with the surrounding area and is not inconsistent with the Comprehensive Plan of the National Capital (“Comprehensive Plan”).

**II.
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the variance and special exception relief requested herein pursuant to sections 3103 and 3104 of Chapter 11 of the District of Columbia Zoning Regulations (“Zoning Regulations”).

¹ Lots 19 and 809 are being subdivided into a single lot of record. The subdivision process will be completed in or around March, 2015.

III. **BACKGROUND**

A. Description of the Site

The Site consists of Lots 19 and 809 in Square 603. Square 603 is located in the southwest quadrant of the District and is bounded by Q Street to the north, 1st Street to the east, R Street to the south, and 2nd Street to the west. As shown on the Zoning Map, attached as Exhibit A, the entire square is zoned CR and is located within the Capitol Gateway (“CG”) Overlay District.

The Site contains a land area of approximately 123,050 square feet and comprises almost the entire land area of Square 603. Lot 19 has been used as a towing yard with a vacant one-story building in the center of the lot and a two-story building on the west side of the lot that was used as an office for the towing company. Lot 809 is improved with a large two-story building that previously housed a flooring warehouse, a souvenir warehouse, and a bakery. The Applicant proposes to raze the existing buildings on the Site in connection with this application.

B. Description of Surrounding Area

The Site is located in the Buzzard Point area of the District and within the Capitol Riverfront Business Improvement District (“BID”). Buzzard Point extends to the southwest of the Capitol Riverfront neighborhood, which includes the U.S. Navy Yard, Nationals Park, Diamond Teague Park, and The Yards. The new DC United soccer stadium is proposed to be constructed directly south of and across R Street from the Site. The neighborhood includes a variety of different uses, including industrial, residential and commercial uses.

C. Existing Zoning

As indicated in the Zoning Map (Exhibit A), the Site is zoned CG/CR. Use as an electrical substation is permitted in the CR District only when authorized by the Board under 11

DCMR § 3104.1 as a special exception. The CR District otherwise permits a maximum building height of 90 feet, a maximum density of 6.0 floor area ratio (“FAR”), with no more than 3.0 FAR to be used for other than residential purposes, and a maximum lot occupancy of 100 percent. 11 DCMR §§ 630.1, 631.1, and 634.1. As described in more detail below, for all new development in the CR District, an area equivalent to ten percent of the total lot area shall be provided adjacent to the main entrance of the principal building to serve as a transitional space between the street or pedestrian right-of-way and the building. 11 DCMR § 633.

As shown on the Future Land Use Map of the Comprehensive Plan, attached as Exhibit B, the Site is designated as mixed-use High Density Residential/High Density Commercial. In addition, the Buzzard Point Urban Design Framework Plan (the “Buzzard Point Framework Plan”), published by the Office of Planning in July, 2014, specifically designates the Site for future use for utilities and infrastructure (see Page 4 of the Buzzard Point Framework Plan attached as Exhibit B)². The Buzzard Point Framework Plan was written to ensure that the revitalization of the Capitol Riverfront area is consistent with the aspirations and needs of nearby residents.

D. Need for the Project

The Applicant proposes to develop the Site with a new PEPCO distribution substation. A substation is an essential point in the electrical system from which power is distributed to homes and businesses. The proposed substation at the Site is necessary to support existing customers and future planned development in both the Capitol Riverfront and Southwest Waterfront neighborhoods. The area has been experiencing steady growth in residential and commercial electric demand over the past several years, as evidenced by historical operating load data extrapolations, applications for electric service, and planned new development. As a result,

² The Buzzard Point Plan has not yet been formally adopted by the city.

demand for electric power is expected to increase substantially as thousands of new residents, businesses, restaurants, and the DC United soccer stadium populate the neighborhood.

The substation will also replace aging PEPCO infrastructure that is expected to exceed its capacity in the near future. The nearest existing electrical distribution facility in the immediate vicinity of the Site is located within PEPCO's Buzzard Point Substation ("Buzzard Point Substation"), located between 1st and Half Streets, and south of S Street. PEPCO predicts that the East LVAC Distribution Network Group originating from the Buzzard Point Substation will exceed its capacity by three percent in 2017. The Buzzard Point Substation was originally constructed in the 1930s and was renovated several times since then, most recently with a life-extension project in the early 1990s, which replaced circuit breakers and relays but did little to improve the physical condition of the substation building. Further expansion of the Buzzard Point Substation would require rebuilding antiquated equipment, which is difficult to maintain and replace, and temporarily transferring load. Moreover, space on the existing property is inadequate to continue to expand the existing facility or install additional distribution feeders.

Lack of adequate distribution facilities in this area of the District creates substantial risk for southeast and southwest Washington, as long-term outages and failed equipment become increasingly likely. The Buzzard Point Substation load area is isolated and currently has minimal outside emergency ties to other substations or feeders or to alternate supply. The proposed Waterfront Substation will provide load relief for the Buzzard Point Substation and establish a robust electricity source for the area. In order to bring additional capacity to the area and improve the overall reliability of electric service so that PEPCO can better serve its customers, PEPCO needs to build a new distribution center that is centrally located in the community and in close proximity to the existing Buzzard Point Substation.

E. Project Description

The design of the Waterfront Substation has evolved since the project was originally conceived in direct response to comments from the community, the Office of Planning, the Capitol Riverfront BID, and other stakeholders. These comments have come through a variety of meetings and, more recently, a series of design charrettes. As a result, the design has dramatically changed since the original application was filed in an effort to better respond to the context on each of the four frontages of the proposed substation.

As shown on the architectural plans and elevations (the “Plans”) attached as Exhibit C, the Waterfront Substation will consist of a two-story plus cellar building with approximately 57,304 square feet of gross floor area and approximately 33,022 square feet of cellar floor area. The building will have a maximum height of 58 feet. The footprint of the substation occupies approximately 80% of the Site; however, because much of the substation is not under roof, the lot occupancy is only approximately 33% of the Site.

The goal for the substation was to develop a façade design that imparts a relatable and familiar scale. In response, façade materials include brick veneer and traditional brick detailing, masonry walls, metal panels, and large opaque windows. Through variation in massing, materials, and articulation, the façades respond to a variety of streetscapes and offer opportunities for public art and active and passive enjoyment of the public space.

The south façade has a tan brick warehouse motif with roll-up doors at the ground level that simulate loading docks and large opaque windows above. At the corner of 1st and R Streets, the massing shifts to a taller structure made of red brick with a granite base. This portion of the building is set back from the property line to provide a public space that fronts the future DC United stadium and responds to a future planned plaza across R Street. PEPCO will pursue a

large scale public art partnership in this location, along with other public space improvements and new pedestrian-oriented lighting.

The east façade incorporates the red brick warehouse structure at the corner of 1st and R Streets and a mix of tan and red brick, metal panels, and opaque windows at the corner of 1st and Q Streets. The northern portion of the façade is set back from the property line, creating a break in the building's massing and establishing a second publicly-accessible open space that includes a mix of pervious paving and plantings. This open space will enhance the landscape, encourage passive use, and provide a safe, lighted corridor at night.

Along the north façade, the streetscape transitions to a more residential character with a continuous planting strip on both sides of the sidewalk and an active façade that incorporates the tan and red brick and metal panels at various heights and setbacks. Opaque windows are located in inset bays, again establishing a rhythm that relates to the typical residential lot sizes found on nearby properties. An open court is located in the center of the north elevation, where the façade breaks to allow access to a maintenance yard. A side yard is provided along the entire north façade, enclosed with a six-foot fence. The fence will have variety in both color and porosity to avoid a monotonous and impenetrable wall at the property line.

The west elevation's massing mimics that of the east façade, with brick veneer and opaque windows. A maintenance yard and adjacent green space is located on the west side of the building. While the maintenance yard is inaccessible to the public due to the operational needs of the substation in this location, the fence runs on the east side of the green space to provide a third, visually open space on the Site. Halfway along the west façade, the building's massing breaks and transitions back to the traditional warehouse façade design. Roof heights are

exaggerated to reinforce the changes in massing and impart a complete expression of the substation as a series of separate facades knitted together to make one building.

As further described below, five parking spaces will be provided on the west side of the Site accessed from 2nd Street. Loading facilities will be provided from Q Street and will be used by passenger vehicles or light/medium trucks during maintenance of the substation and for trash collection, each of which will occur approximately once per month. The loading facility will also serve as a maintenance corridor used for heavy equipment installation and removal. This type of work will typically occur every five to ten years.

IV. **THE APPLICANT MEETS THE TEST FOR** **SPECIAL EXCEPTION RELIEF**

A. Standard for Approving Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Description of Relief Requested

Use as an electrical substation is permitted in a CR District when authorized by the Board under 11 DCMR § 3104.1 if the Board determines that the use is appropriate in furthering the objectives of the CR District. In this case, substation use at the Site will further the purposes and

objectives of the CR District, which are to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. 11 DCMR § 600.1. The CG Overlay District includes the purpose of allowing for the “continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment.” 11 DCMR § 1600.2.

Construction of the proposed substation is essential for maintaining and improving the overall reliability of electric services for customers in the surrounding area. As noted above, the Buzzard Point Substation is operating near capacity and cannot be renovated to satisfy future electric demand. Other nearby substations are similarly aging and unable to satisfy the predicted electrical demand for this area. A number of large development projects are planned or are in construction in the area that is currently served by the Buzzard Point Substation. With the pace of development in the area accelerating, it is imperative that reliable electrical capacity be in place to maintain development in this part of the District. Building the proposed substation at the Site will greatly reduce the likelihood of a long-term outage occurring due to the failure of aging equipment and will provide essential electric service for years to come.

Granting the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The design of the substation has been developed with significant input from the community, Office of Planning and other stakeholders. The building’s architectural features and open space will blend into the existing and proposed context and improve the physical aesthetic of the block. There will be no appreciable impacts on the neighborhood other than the temporary disturbance of traffic/parking restrictions associated with construction activities. Where necessary, PEPCO will

employ mitigation measures to minimize the temporary impacts, including compliance with DDOT-approved traffic control plans and performing construction in roadways during off-peak hours. In addition, PEPCO has proffered the creation of a Community Advisory Group to provide updates and address concerns during the phased construction.

V.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

Variance relief in this case is required from the public space requirements (§ 633) and the parking requirements (§ 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 unusual because of its 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 Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained at the public hearing, all three prongs of the variance test are met in this application.

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

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of*

Zoning Adjustment, 579 A.2d 1164, 1168 (D.C. 1990). The exceptional situation or condition 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. D.C. Board of Zoning Adjustment*, 320 A.2nd 291, 294 (D.C. 1974). In this case, the Site is affected by several exceptional conditions. The Site is very large, containing a 123,050 square foot lot. The Site has street frontage on all four sides and is surrounded by other industrial uses, including the Fort Lesley J. McNair Army Post to the west, a scrap metal salvage yard to the south, a building supply company to the east, and a former parking lot that has been operated by a taxicab and limousine association to the north. Residential row dwellings are located to the northeast, and the proposed DC United Stadium will be located to the south. As described above, properties surrounding the Site, in addition to both the Capitol Riverfront and Southwest communities, currently receive electric supply from the East LVAC Distribution Network Group originating from the Buzzard Point Substation, which is predicted to exceed its capacity by three percent in 2017 due to the electrical needs of current and future development in the area.

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

1. Public Space at Ground Level

Strict interpretation of the public space at ground level requirements of the Zoning Regulations would result in a practical difficulty to the Applicant that arises as a result of the Site's exceptionally large land area and the physical space that is necessary to accommodate the substation equipment. Section 633 provides the following:

633.1 – An area equivalent to ten percent (10%) of the total lot area shall be provided for all new development;

633.2 – The area for new development shall be located immediately adjacent to the main entrance to the principal building or structure on the lot, and shall serve as a transitional space between the street or pedestrian right-of-way and the building or structure;

633.3 – The area for new development shall be open to the sky or have a minimum vertical clearance of one (1) story or ten feet (10 ft.);

633.4 – The area shall be suitably lighted and landscaped for public use, and may be utilized for temporary commercial displays;

633.5 – The space shall be open and available to the general public on a continuous basis; and

633.6 – The area shall not be charged against the gross floor area of the building.

Pursuant to section 633, the Applicant is required to devote approximately 12,305 square feet of land area (ten percent of the Site) to public space. Due to the large size of the Site that takes up almost the entirety of Square 603, the ten percent public space requirement is exceptionally burdensome. The substation requires a significant amount of physical space to house the necessary equipment and still meet building and safety codes, making it practically difficult to provide large accessible open areas on the Site and simultaneously maintain and operate the substation facility. In addition, space considerations must be incorporated into the exterior space for staging of equipment in case of a system emergency.

Furthermore, the open space is intended to be a transitional area between the sidewalk and the entrance to the building (§ 633.2). In this case, however, there is no traditional “entrance” to the building, given its use as a substation and the restricted public access.

In an effort to provide the type of transitional area envisioned by § 633 and comply with the intent of the public space requirements, the Applicant is providing public open space in three locations: (i) 3,839.15 square feet along 1st Street; (ii) 1,829.71 square feet at the corner of 1st and R Streets, and (iii) 4,141.92 square feet along 2nd Street. The total amount of public space in these three areas is approximately 9,811 square feet, which is 80% of the required amount (or 8%

of the total Site). These spaces allow the building to be set back from the property line and provide a transition between the pedestrian right-of-way and the building's façade.

On the north side of the Site, PEPCO has also provided a recessed area that includes 1,846.2 square feet that is paved with hardscape and provides entry into the maintenance yard. This space is open to the public and provides further relief of the façade along the streetscape. If this space was included in the calculation of public space, the project would provide approximately 11,657 square feet, or 95% of the required amount of open space.

The Applicant has a practical difficulty in complying with the requirements because it cannot create larger or additional public open spaces on the Site due to the operational and safety considerations and the extensive amount of equipment and space necessary for the substation's use, operation, and maintenance. However, the location of the proposed public spaces relate to the context of the Site and the surrounding neighborhood and provide usable space that is consistent with the purposes of section 633. For example, the linear open space on 1st Street will provide seating and a lower scale of development in the location closest to the residential uses and the green space on 2nd Street provides visual relief and softens the west façade. Furthermore, the Office of Planning suggested that the Applicant work with the Commission on Arts and Humanities to explore opportunities to install an art piece, located at the corner of 1st and R Streets, that will become a landmark from Potomac Avenue and will provide visual interest at the street level during the day and night. The Applicant is also considering incorporating information panels at the corner of 2nd and R Streets regarding the history and use of electricity or potentially additional artistic images. Although these panels would not be located in public open space on the Site, they would provide additional visual interest for pedestrians walking down the street.

2. Parking Requirements

The Applicant requests a variance from the off-street parking requirements of section 2101.1 of the Zoning Regulations. Section 2101.1 requires that the proposed development provide one parking space for each 600 square feet of gross floor area and cellar floor area, or in this case, 151 parking spaces. However, as shown on the Plans, the Applicant will only provide five parking spaces on the west side of the Site, accessed from 2nd Street.

Given the proposed substation use of the Site, there is no space to provide the required 151 parking spaces, which would take up a significant amount of surface area or would require construction of a parking structure. Providing either facility would result in a major loss of space for the substation use, which directly conflicts with the purpose of redevelopment of the Site. The Applicant also could not locate the parking spaces within the substation building or below grade, since the entire structure, including below-grade areas, will be fully occupied with substation equipment.

As further described below, five parking spaces is adequate to serve the needs of the Site since the substation equipment can largely be left unattended, does not require on-site employees to operate on a daily basis, and will not be open to the public.

3. The Requested Relief Will Not Result in a Substantial Detriment to the Public Good Nor a Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan

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. First, with respect to the public space at ground level requirements, permitting the public to enter the Site creates safety and security risks associated with the electrical equipment and transmission/distribution lines, and the Applicant is providing

the most amount of public space as possible given these constraints. The building's aesthetics and architectural features are designed to integrate with the neighborhood setting and have been designed with input from the community, the Office of Planning, and many stakeholders. As described above, the design of the substation fits well within the context of the neighborhood and provides open spaces that will be available to the general public in appropriate locations given that context, especially as it relates to the proposed DC United Stadium to the south. Thus, the space provided is consistent with the purposes of Section 633.

Second, the five proposed parking spaces are sufficient to meet the parking needs of PEPCO employees working at the Site. The substation will be an unmanned facility with no operational crew needed on-site on a daily basis. Typically, maintenance of the substation will be accomplished by two employees working at the substation once a month. The 2nd Street access area will provide parking, if needed, during emergency situations. It will also provide spillover capacity for any other types of maintenance that may be necessary. Given the proposed use of the Site with few employees and no permitted public access, the project as proposed will not have an adverse impact on the transportation network or on parking availability in the area.

VI.

COMMUNITY OUTREACH

PEPCO has been working with the community on this project for more than 15 months. PEPCO first presented the project to ANC 6D in November, 2013, and subsequently provided revised design concepts and sought input from the ANC via email and at four additional ANC meetings.

As part of its community outreach process, PEPCO hosted numerous meetings with community groups and local stakeholders to present the project to a wide audience. These meetings included the following: (i) a substation tour with representatives of ANC 6D and the

Southwest Neighborhood Assembly; (ii) a public community meeting at the Syphax Village Community Room; (iii) a meeting with Ft. McNair to introduce the project and solicit input; (iv) numerous individual meetings and communications with the Single Member District ANC representative; (v) participation in the Southwest Waterfront AARP Chapter 4751 Community Health, Wellness and Informational Fair; and (vi) an open house community meeting at King Greenleaf Recreation Center, with invitations sent to approximately 1,000 neighbors.

In late 2014 and early 2015, PEPCO representatives met with the Office of Planning, the Capitol Riverfront BID, representatives from the DC United and various other stakeholders from Buzzard Point through the design charrettes referenced above. These design charrettes led to a reimagining of the design of the substation so that it would fit well within the neighborhood as it is envisioned to be developed in the future. PEPCO also coordinated with and invited the ANC to these design charrettes and offered to host an additional charrette to accommodate the ANC's schedule. The ANC did not participate. In an effort to seek additional input, PEPCO provided summaries of both charrettes as well as the updated design plans to ANC 6D.

Most recently, PEPCO presented the project at ANC 6D's public meeting on February 9, 2015. The ANC voted 4-0-2 to request that the Public Service Commission convene a working group to further review the substation. ANC 6D did not take a vote on the BZA application.

VII.

EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

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| <u>Exhibit A:</u> | A portion of the Zoning Map showing the Site |
| <u>Exhibit B:</u> | A portion of the Future Land Use Map showing the Site and Page 4 of the draft Buzzard Point Framework Plan |
| <u>Exhibit C:</u> | Updated Architectural Plans and Elevations for the Project |
| <u>Exhibit D:</u> | Outlines of Testimony |

Exhibit E: Resumes of Expert Witnesses

VIII.
WITNESSES

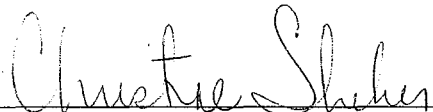
- A. Robert Andrukaitis, Manager for Special Projects, PEPCO
- B. Basil B. Allison, II, Chief Engineer, PEPCO
- C. Dale Stewart and Harry Ross, Project Architect, CORE

IX.
CONCLUSION

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

Respectfully submitted,

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