

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

Application for Square 603, Lots 19 and 809

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Nature of Relief Sought

Potomac Electric Power Company (“PEPCO” or the “Applicant”), the owner of property located at Lots 19 and 809 in Square 603 (the “Site”) submits this statement in support of its application to the Board of Zoning Adjustment pursuant to §§ 3103.2 and 3104.1 for (1) an area variance from the public space at ground level requirements of section 633; (2) an area variance from the off-street parking requirements of section 2101.1; and (3) a special exception from the utilities in a CR District requirements of section 608.1, to allow the construction of a new PEPCO distribution substation in the CG/CR District at the Site.

II. Background

The Site 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. The Site contains a land area of approximately 123,059 square feet and is zoned CG/CR. Lot 19 is currently 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 used as an office for the towing company. Lot 809 is improved with a large two-story building that presently houses three different uses: 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.

The Applicant seeks to develop the Site with a new PEPCO distribution substation. The proposed substation is needed to support existing customers and future planned developments in the Capitol Riverfront, Southwest Waterfront, and Buzzard Point areas, as well as to replace aging PEPCO infrastructure. The proposed substation will consist of a two-story plus cellar building with approximately 57,751 square feet of gross floor area and approximately 33,022 square feet of cellar floor area. The building will occupy approximately 33 percent of the Site and will rise to a maximum height of 59 feet. Six parking spaces will be provided on the west side of the Site. Loading facilities will be provided off of Q Street.

Design of the substation building responds to the higher density development to the south and east and to the residential communities to the north and west. The Applicant’s architect has sought to create a dynamic and appropriately-scaled structure that provides visual interest on all sides while also containing and screening the substation equipment and use. As a result, the proposed substation design responds to PEPCO’s functional needs, respects the current urban fabric, and will be built in anticipation of the higher-density development yet to come to southwest D.C.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than fourteen days prior to the public hearing for the present application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested variance and special exception relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

III. Burden of Proof - Variances

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

(A) Exceptional Condition or Situation

The Site is a large, rectangular, 123,059 square foot lot that is improved with several existing structures. 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 parking lot operated by a taxicab and limousine association to the north. The Site is located in the Buzzard Point area of the District, which is largely characterized by industrial land uses, and is also close to Nationals Park, the Navy Yard, and the Southwest Waterfront.

Properties surrounding the Site currently receive electricity supply from the Buzzard Point substation, which is located one block from Site, between 1st and Half Streets and south of S Street. The Buzzard Point substation was originally constructed in the 1930s and has been renovated several times, 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. The Buzzard Point substation is expected to exceed its capacity. Without construction of a new distribution substation, the area is susceptible to failing equipment and long-term outages. In order to continue to meet current customer demand and to plan for projected growth in the area, PEPCO needs to build a new substation that is centrally located in the community and in close proximity to the existing Buzzard Point substation. The construction of the proposed substation at the Site will ensure that PEPCO can meet the growing demand for electricity for decades to come.

(B) Resulting Practical Difficulty

1. Public Space at Ground Level

The Applicant will demonstrate that strict interpretation of the public space at ground level requirements of the Zoning Regulations would result in a practical difficulty. 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 12,306 square feet of land area (10% of the Site) to public space. This space is intended to be a transitional area between the sidewalk and the entrance to the building. In this case, there is not a traditional "entrance" to the building given the required restricted access for security reasons. In an effort to provide a type of transitional area, the Applicant has provided publicly-accessible open space on both the north and south sides of the proposed building. On Q Street, an open court is provided, containing approximately 1,950 square feet. On R Street, a landscaped plaza is provided, containing approximately 3,400 square feet. This plaza will be enclosed in part by an 18-inch wall that contains areas planted with native long grasses, shrubs, and other vegetation. Thus, the total amount of public space provided is 5,350 square feet. These spaces allow the building to be set back from the property line to provide a transition space between the pedestrian right-of-way and the building's façade, which is consistent with the spirit and intent of section 633.

While these spaces are open to the general public, the other landscaped areas on 1st and 2nd Streets can be available to the general public on a continuous basis, as required by § 633.5, due to safety and security concerns associated with the substation use. Opening space on the Site for public access would result in a practical difficulty by creating unsafe conditions and exposing PEPCO to potential liability.

In addition to the open space provided on the Site, the Applicant will soften the building façade with vegetated screens planted with creeping vines, allowing for living plants that grow and change seasonally to be incorporated into the building design. The Applicant will also commission an art installation at the Site.

2. Off-Street Parking

The Applicant will also demonstrate that the strict interpretation of the parking regulations will result in a practical difficulty upon the Applicant. Section 2101.1 of the Zoning Regulations requires parking as follows:

Zoning Requirement	Calculation	Parking Required	Parking Provided
1 for each 600 square feet of gross floor area and cellar floor area	90,604 sf / 600 sf	151.06 spaces	6 spaces
	TOTAL	151 spaces	6 spaces

Given the proposed substation use of the Site, there is no space to provide 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 building, since the cellar, first, and second levels are all fully occupied with necessary substation equipment. Instead, the Applicant proposes to provide six off-street parking spaces located to the west of the building. As further described below, six parking spaces is adequate to serve the needs of the Site since the substation equipment can largely be left unattended, does not require a large number of employees to operate, and will not be open to the public, as per the North American Electric Reliability Corporation's ("NERC") Requirements for Critical Infrastructure Protection Standards.

(C) No Harm to Public Good or Zone Plan

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. Allowing the public to enter the Site creates safety and security risks associated with electrical equipment and transmission/distribution lines. However, the building's aesthetics and architectural features have been designed to integrate with the neighborhood setting. PEPCO has several variations of substations within the District, and carefully considered lessons learned from constructing and operating other substations when developing plans for the proposed structure. The new substation will provide a modern design for better operations, state-of-the-art equipment, and ease of access in the event of an emergency.¹ Furthermore, the proposed 1,950 square foot setback along Q Street, plus the additional 3,400 square feet of plaza space on the south side of the Site will provide transitional space consistent with the purposes of section 633.

In addition, the six proposed parking spaces are sufficient to meet the parking needs of PEPCO employees working at the Site. The substation will not require many employees, and the building will not be open to the public. Furthermore, the Site is located approximately 0.7 miles (a 13-minute walk) from the Waterfront Metrorail station, which services the Green Line, and is located within 0.4 miles of ten Metrobus routes 74, A42, A46, A48, P6, P17, P19, V7, V8, and W13). Thus, given the proposed use of the Site with few employees and no public access, the project as proposed will not have an adverse impact on the transportation network or on parking availability in the area.

¹ See Q&A: *PEPCO to Increase Capacity with Waterfront Substation*. Available at <http://www.pepco.com/uploadedFiles/wwwpepco.com/PEPCO-QA-Waterfront.pdf>.

IV. Burden of Proof – Special Exception

Use as an electrical substation is permitted in a CR District when authorized by the Board of Zoning Adjustment 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 is appropriate in furthering the objectives of the CR District. The purpose of the CR District is 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 Capitol Gateway 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 and electric services for customers in the Buzzard Point area. The Buzzard Point substation is operating at capacity and there are no nearby substations to relieve the pressure. A number of large development projects are planned or are in construction in the area that is currently served by the Buzzard Point Substation, including approximately 500,000 square feet of retail space, 3,300,000 square feet of office space, 4,700 residential units, 700 hotel rooms, and possibly the D.C. United soccer stadium. With the pace of development in the area accelerating, it is imperative that reliable electrical capacity be in place in order to maintain economic 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. Furthermore, PEPCO designed the proposed substation with the community in mind, with the building’s aesthetics and architectural features blended into the neighborhood context.