BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Potomac
Electric Power Company

BZA Application No. 16546
Public Hearing: February 9, 2000
ANC 7D

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STATEMENT OF THE APPLICANT

I.
Nature Of Relief Sought

This is an application pursuant to 11 DCMR §3103.2, for a variance from the building height restriction and pursuant to 11 DCMR §3104.1 for special exception relief from the roof structure set back requirements at premises 3400 Benning Road, N.E. (Parcel 169-114).

II.
Jurisdiction Of The Board

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief and special exception relief pursuant to §§3103.2 and 3104.1, respectively, of the Zoning Regulations.

III.
Background Of The Case

A. Site and Vicinity Characteristics

The Applicant intends to construct an office building on what is currently a parking lot in a centrally-located portion of Parcel 169-114. The property is located at 3400 Benning Road, N.E. The property is pentagonal in shape and is bounded by

BZA
Case No. 16546
Exhibit No. 18

Board of Zoning Adjustment
District of Columbia
CASE NO.16546
EXHIBIT NO.18

Benning Road to the south, Kenilworth Avenue to the southeast, Foote Street to the northeast and Anacostia Avenue to the north and west. Beyond Anacostia Avenue lies Anacostia Park. The property has an area of approximately 3,442,704 square feet, or 79 acres. The site is one of the largest properties in single ownership in the District of Columbia.

The total area of the site serves as a substantial buffer between adjacent properties and the portion of the PEPCO property proposed to be developed in this application. Elevated Metrorail tracks run along the south side of the property between the property line and Benning Road. Anacostia Park borders the north and west property lines. To the east of the site is Kenilworth Avenue.

B. Project Description

The portion of Parcel 169-114 to be occupied by the office building consists of approximately 47,000 square feet. The proposed office building, to be constructed to a height of fifty-nine feet, four inches, and five stories, will contain approximately 200,000 square feet of gross floor area and constitutes .058 FAR on the site. The entire development of the site, including this project, is still less than 17% of the total FAR that would be permitted as a matter of right for industrial and commercial uses on this property.

As proposed and explained herein, this project is wholly consistent with the goals of the City and will be a contributor to the economic development of the area east of the Anacostia River.

The project complies with all applicable use and density provisions set forth in the Zoning Regulations for the C-M-1 District. (11 DCMR §§ 801, 841.)

C. Variance Requested

The variance requested by the Applicant in this proceeding is necessary in order to reasonably proceed with this important project. PEPCO requests this variance to potentially permit the relocation of a portion of its administrative headquarters to the Benning Road site. The remainder will be located at the Edison Place Office Building at 9th and G Streets, N.W. Due to the square footage needed to accommodate the parking, offices, and operational facilities on the Benning Road property, PEPCO has a limited amount of footprint area for the proposed office building. Subsurface soil conditions prevent and make unduly costly the provision of below-grade parking. This is particularly true where other paved areas already available for parking are underutilized. Granting of the variance would allow PEPCO to operate portions of its administrative and operational facilities at the same location.

PEPCO is reviewing the feasibility of this project with the intention of retaining its employment base in the District of Columbia in an area in need of further economic development.

Therefore, conformance with the Regulations is not practically feasible. This is an issue within the Board's jurisdiction to address.

D. Special Exception Requested

The special exception is requested by the Applicant because the large size of the lot and substantial set backs from other properties make strict compliance with the Regulations unduly restrictive and unreasonable, in light of PEPCO's desire to construct a building which can accommodate its relocation needs. Due to the size of

the lot and significant set backs provided, the proposed building was designed with the stair towers incorporated into the façade design on the north and south frontages. This design enables the stair towers to be used as an attractive architectural feature while at the same time providing for the most efficient use of the building.

Compliance with the requirements for roof structure set backs would, in this scenario, be "unduly restrictive." The purpose and intent of 11 DCMR §411 would not be impaired, and the light and air of adjacent buildings or properties would not in any fashion be impaired. This also is an issue within the Board's jurisdiction to address.

IV.
Exhibits In Support Of The Application

Before proceeding with the discussion of the merits of this application, the following additional materials are submitted:

Exhibit A:	A portion of the Baist Map showing the subject property outlined in red ink.
Exhibit B:	A portion of the Zoning Map showing the subject property outlined in red ink.
Exhibit C:	Photographs, including aerial photographs, of the subject property and surrounding properties.
Exhibit D:	Architectural plans.
Exhibit E:	Artist's rendering of the proposed building.
Exhibit F:	Outline of testimony of representatives of PEPCO.
Exhibit G:	Outline of testimony of Tom Eichbaum, KCF-SHG, Architects.
Exhibit H:	Outline of testimony of David A. Nelson P.E., Street Traffic Studies, Ltd., Traffic Consultant.

Exhibit I: Outline of testimony of a representative of Engineering Consulting Services, Ltd.

Exhibit J: Outline of testimony of Steven E. Sher, Land Planner.

Exhibit K: BZA Order No. 14336.

Exhibit L: Support letter from ANC 7D.

Exhibit M: Support letter from Marshall Heights Community Development Organization

Exhibit N: Support letter from Benning Ridge Civic Association

V.
The Applicants are Entitled to Variance Relief Under the Zoning Regulations

As set forth below, the Applicant satisfies its burden of proving conformance with the three-part test for the following requested variance:

A. The Application Meets the Requirements for Variance Relief from Subsection 840.1 of the Zoning Regulations

Section 840.1 of the Zoning Regulations provides that the height limit of buildings or structures in the C-M-1 District is 40 feet and three stories. The Applicant is proposing a maximum height of fifty-nine feet, four inches, and five stories.

As set forth below, the application meets the three-part test for area variance relief from Section 840.1 of the Regulations.

1. The Property is Affected by an Exceptional Situation or Condition.

Parcel 169-114 is affected by exceptional and extraordinary situations and conditions due to: (1) its large size (3,442,704 square feet); (2) the location of PEPCO operational equipment on the parcel; (3) subsoil conditions which make excavation for

below grade parking impractical; and (4) the proposed central location of the building. In the present case, the Applicant seeks to improve its property with an attractive office building while designing the project so that no additional areas need be paved for parking.

The size of the parcel allows PEPCO to build the building well within property lines. Despite the added height, the building will have no adverse affect on the adjacent properties or the surrounding community through blocking of light or casting of shadows. The building, even at fifty-nine feet, four inches in height, is essentially not visible beyond the site.

The subject site is unique due to its size and shape. Notwithstanding the large size of the property, the areas available for construction of an office building are limited. The presence of utility functions, roadways and other areas necessary to accomplish PEPCO's primary mission on the property constrain where a new office building can be located. If the total area needed for office space were limited to three stories, a footprint of approximately 70,000 square feet would be required. When the surface parking required for that building in a proximate location is added, a site of more than three acres is required. There are no locations suitable on the site for an office building of that floor plate with the appropriate size and depth (so as not to provide a disproportionate amount of space without windows).

In addition, due to poor soil and proximity to the Anacostia River, it is not practicable to build below-grade structured parking. Therefore, the required parking for this building, 248 parking spaces, must be provided on the surface. In a normal situation, without adverse soil conditions, parking would be provided below

grade. This results in significant additional area on the site being either devoted to the building or to surface parking. If the building were built as proposed, approximately 40,000 square feet would be devoted to the building and 70,000 square feet to its parking and loading, for a total of approximately 110,000 square feet. Without a variance, 140,000 square feet would be required.

2. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

Due to the existence of the power plant and other industrial uses on the site, any new building is necessarily limited to a relatively small portion of the available footprint of the parcel. Were a height variance not granted by this Board, it would not be feasible for PEPCO to construct the building because the construction of a below-grade parking garage is unreasonable due to poor soil conditions and operation difficulties. The only alternative would be larger floor plates, almost 70,000 feet, and additional area being paved for parking. This would result in the unnecessary loss of open space.

The Board has ruled previously that subsurface soil conditions can cause a practical difficulty. (See BZA Order No. 14336, attached hereto as Exhibit K)

3. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.

The Applicant is proposing a sensitive addition to its property on Benning Road. The office building will be set back a considerable distance from the property's lot lines and, therefore, will be virtually unnoticeable to the neighborhood.

The Applicant's project has received support from ANC 7D and other local community associations, which have noted the absence of any significant adverse impacts resulting either from the building itself or the related increase in traffic. These groups have also noted that this project will be instrumental in the economic development of the surrounding area. The proposed building would bring approximately 700 PEPCO employees to the area.

For all the above reasons, height variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent of the zone plan.

VI.
The Applicant Meets the Requirements for Special Exception Relief Under the Existing Zoning Regulations

As the Board is aware, a special exception use is a use predeemed compatible with other uses permitted in that particular zoning classification provided that the specific regulatory requirements are met. In reviewing applications for a special exception, the Board's discretion is limited to determining whether the proposed exception satisfies the requirements set forth in the appropriate section. If the Applicant meets its burden, the Board must ordinarily grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 965 (1981); *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (1973). Through the exhibits, testimony and other evidence before the Board, the Applicants will establish that they comply with all applicable provisions under the Zoning Regulations.

Based on the testimony of witnesses, the exhibits and statements presented, the Applicants will demonstrate that the proposed exception will be in complete harmony with the use, height, bulk and design of existing and neighboring structures, and in harmony with the general purpose and intent of the Zoning Regulations and Maps, and will not tend to affect adversely the use of neighboring property.

A. The Applicants Satisfy the Criteria of Section 411.11 of the Zoning Regulations.

The special exception relief required relates to the set back of the stair tower located on the roof of the proposed building. Under §411.11 of the Zoning Regulations, the Board of Zoning Adjustment may approve the location, design, number, or any other aspect of a roof structure even if it does not comply with the set back requirements of §840.3, where it would be impractical because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area that would make full compliance unduly restrictive, prohibitively costly or unreasonable. The Board has the power to approve a roof structure under §411.11, provided that the intent and purpose of the chapter and title of the Zoning Regulations are not materially impaired by the structure, and the light and air of adjacent buildings are not adversely affected.

The Applicants' inability to meet the technical set back requirements is due to design considerations and the need to accommodate stair towers along the north and south frontages of the building. This placement does not comply with the set back requirements under §840.3(b), which requires that a roof structure such as a stair tower be set back from all exterior walls a distance equal to the height of the tower

above the roof upon which it is located. It is also the preferred location for siting the building's stairways so as to make the space in the various stories most efficient taking into account the needs of the user . Full compliance with the Regulations is impractical since it would result in certain inefficiencies in use of the building due to location of the stair towers.

The result of this special exception would find the stair towers 12 feet in height above the roof of the building, not set back the required 12 feet from the edge of the roof. Due to the building's location well within the property lines, there are no adjacent structures to be adversely affected by the location of the stair towers. Nor will it be visible or obtrusive to local residents. The location of the stair tower for which relief is sought is shown on the architect's renderings attached as Exhibit J.

VI.
Witnesses

A. Representatives of PEPCO.

B. Thomas Eichbaum, KCF- SHG, architect.

C. David A. Nelson P.E., Street Traffic Studies, Ltd., Traffic Consultant.

D. A representative of Engineering Consulting Services, Ltd.

E. Steven E. Sher, Director of Zoning Services, Wilkes, Artis, Hedrick & Lane.

VIII.
Conclusion

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicants therefore request that the Board grant the application.

Respectfully submitted,

WILKES, ARTIS, HEDRICK & LANE,
CHARTERED

By _____
Norman M. Glasgow, Jr.

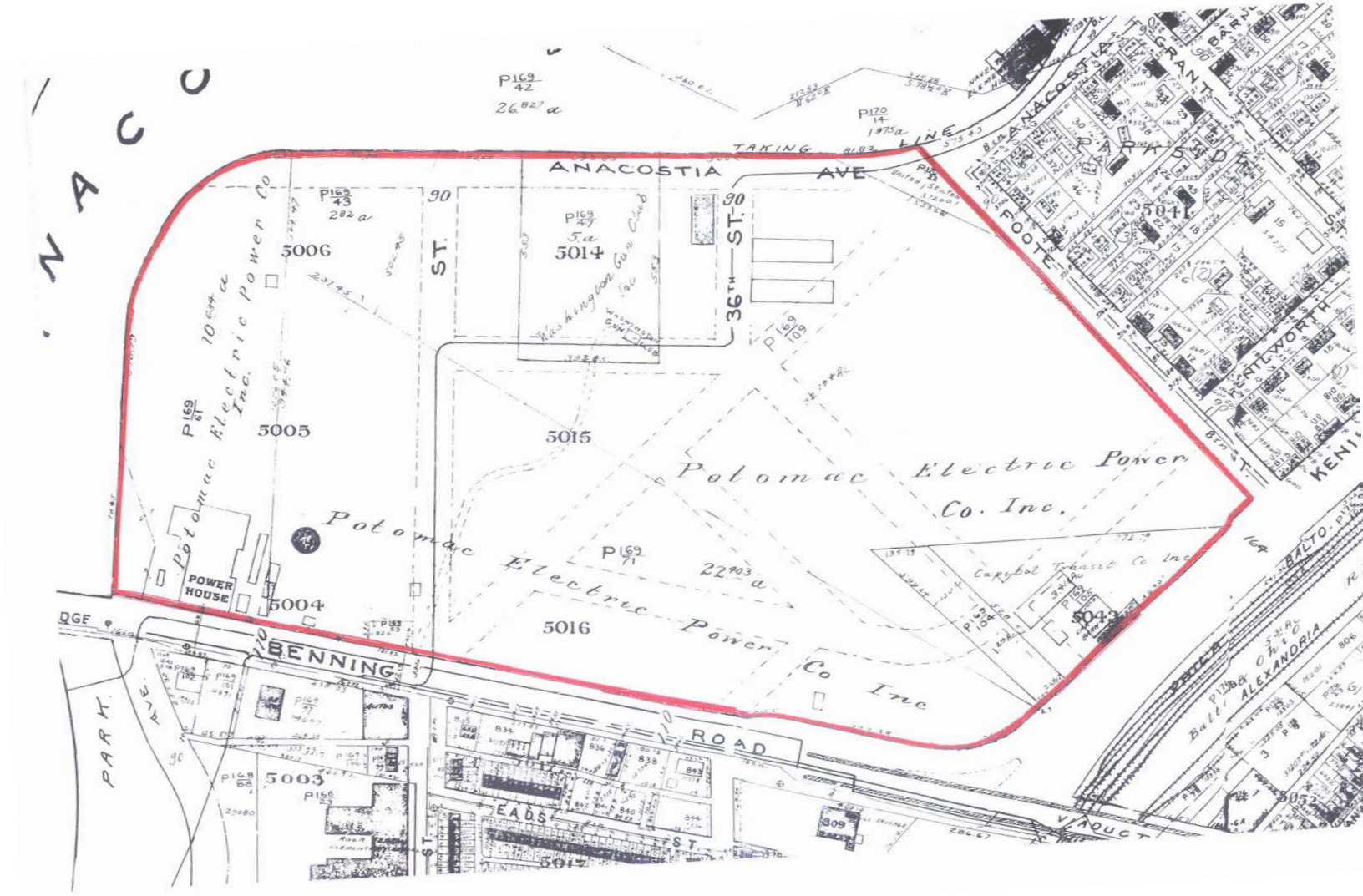
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Martin P. Sullivan

1666 K Street, N.W., Suite 1100
Washington, D.C. 20006
(202) 457-7800

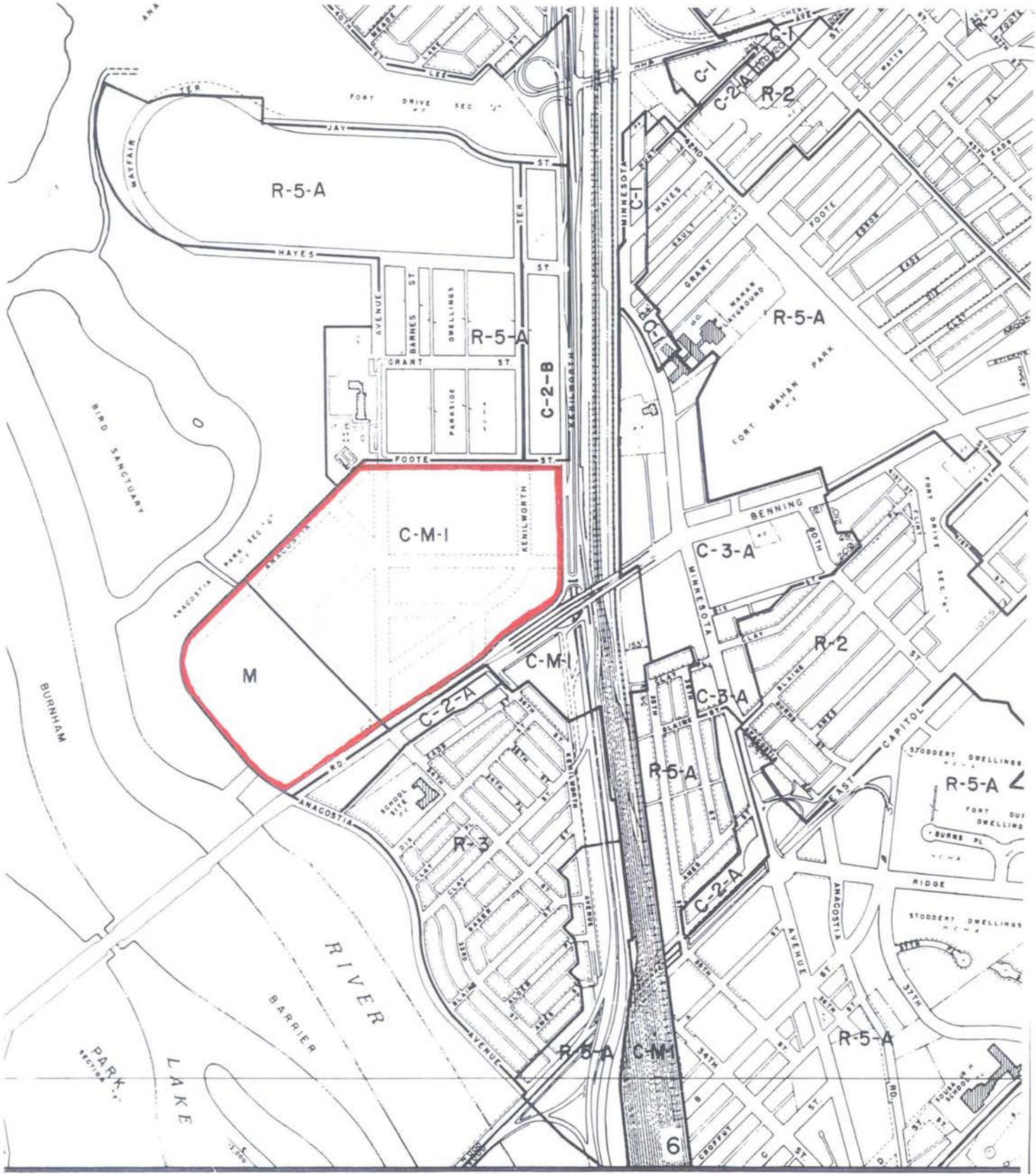
January 27, 1999

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TAKING LINE
36TH ST.
ANACOSTIA
GRANT
FOOTE
KENILWORTH
BENNING ROAD
PARK AVE
EADS ST.
VIADUCT
POWER HOUSE
Potomac Electric Power Co. Inc.
Potomac Electric Power Co Inc
Washington Gun Club Inc
Capital Transit Co Inc
Balt. & Ohio R.R.
Balt. Alexandria
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DISTRICT OF COLUMBIA

ZONING MAP

SECTION 3





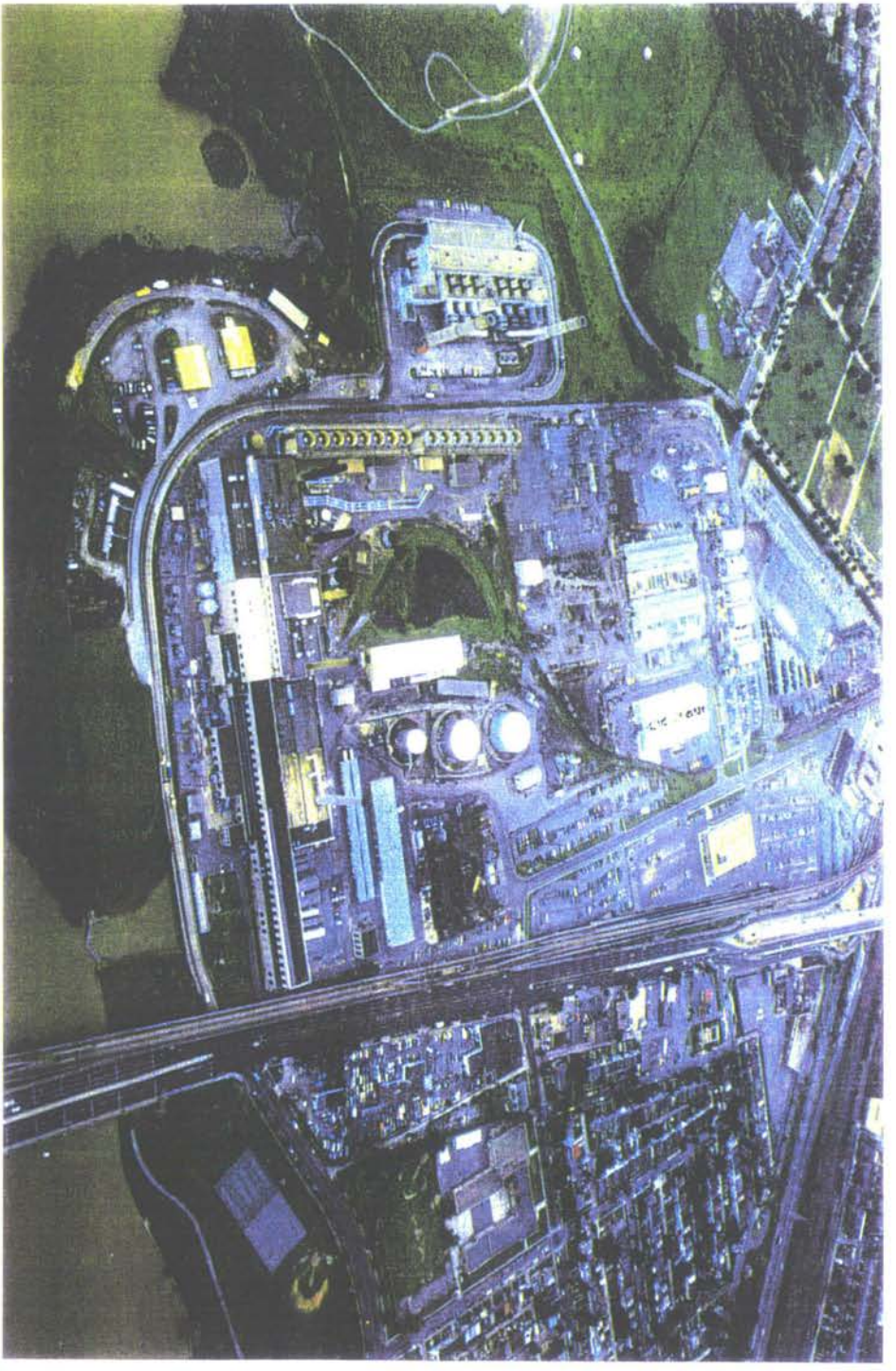
PHOTO

ADMINISTRATION BUILDING

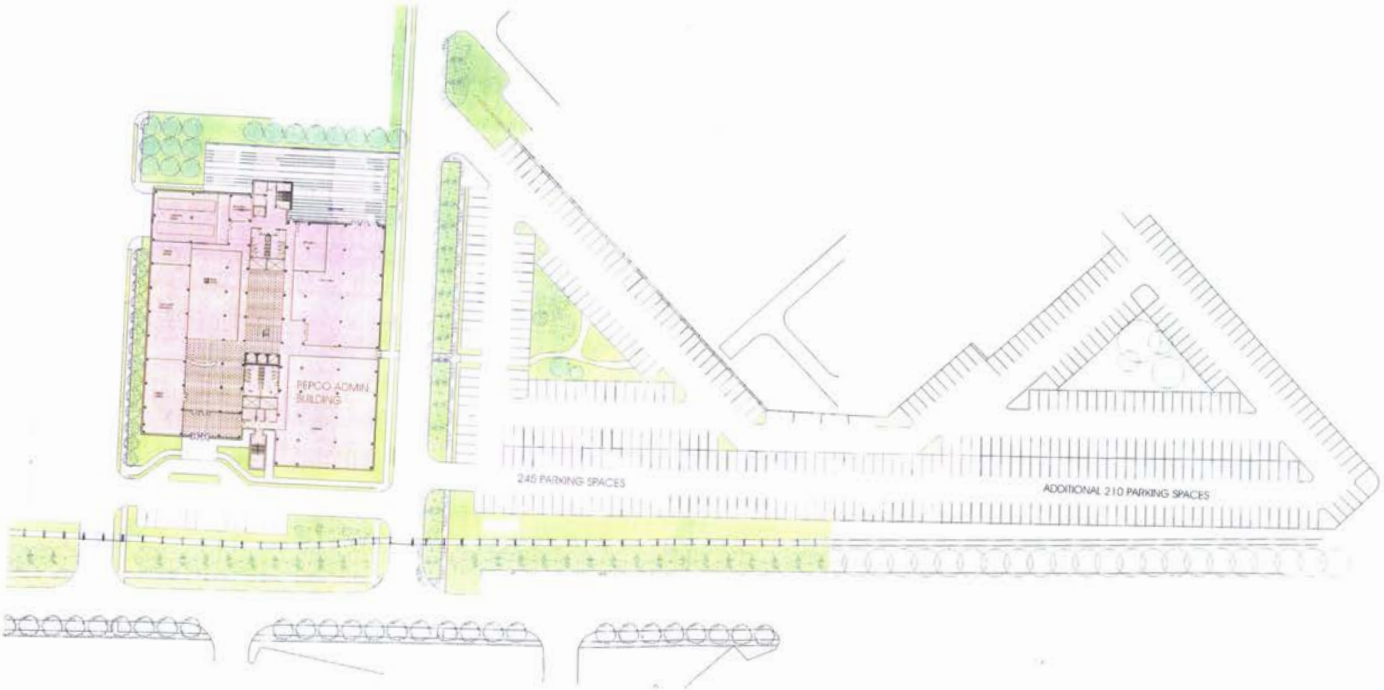






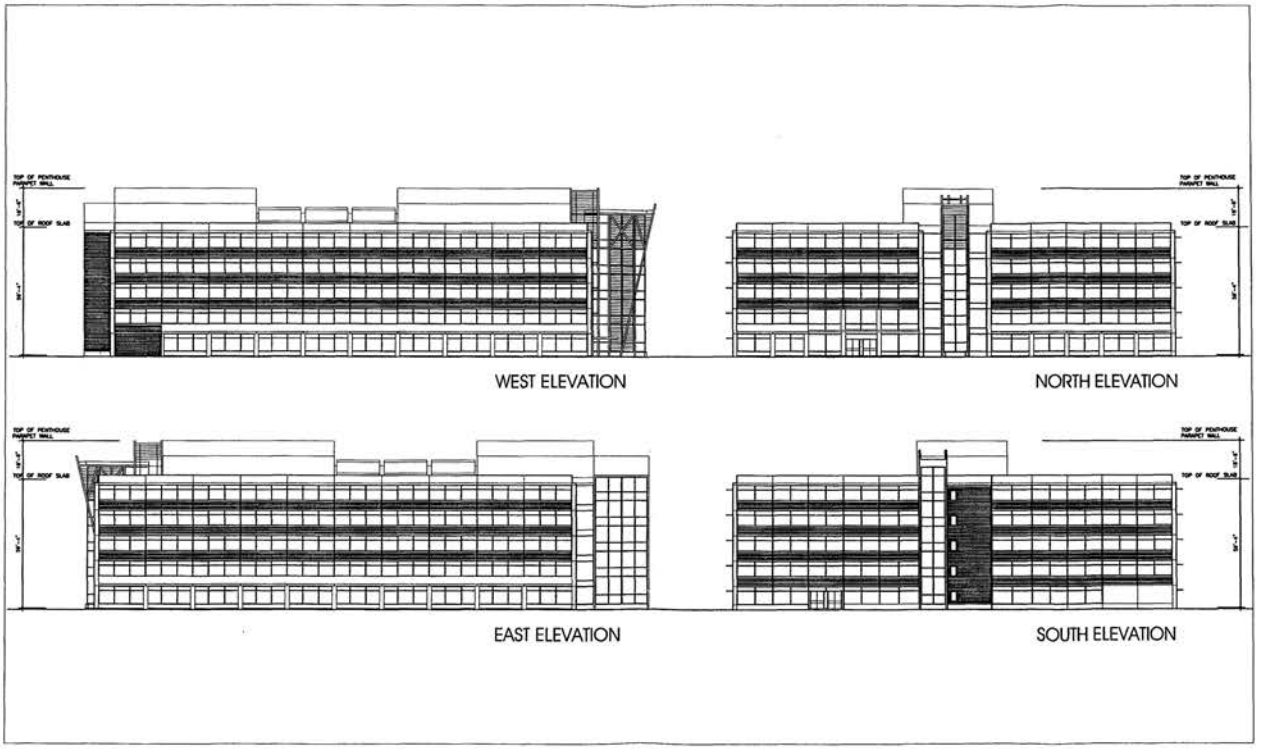






SITE PLAN SCALE 1/32" = 1'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHIINGTON D.C.

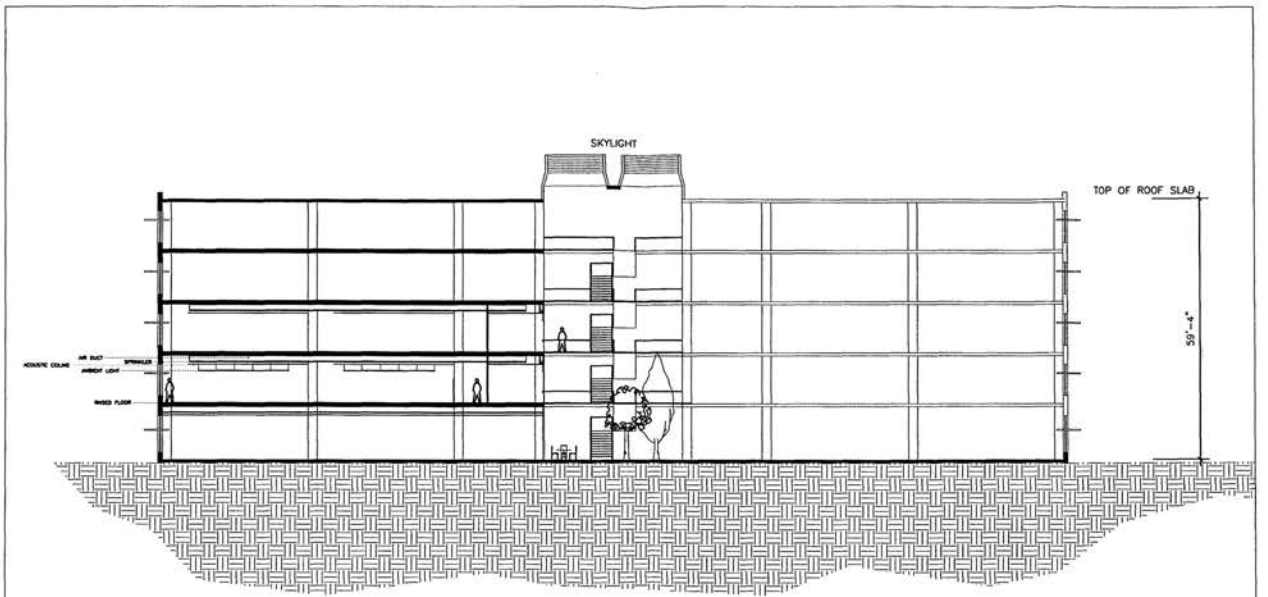


BUILDING ELEVATIONS

SCALE: 1/16"=1'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHINGTON D.C.

KCF-SHG

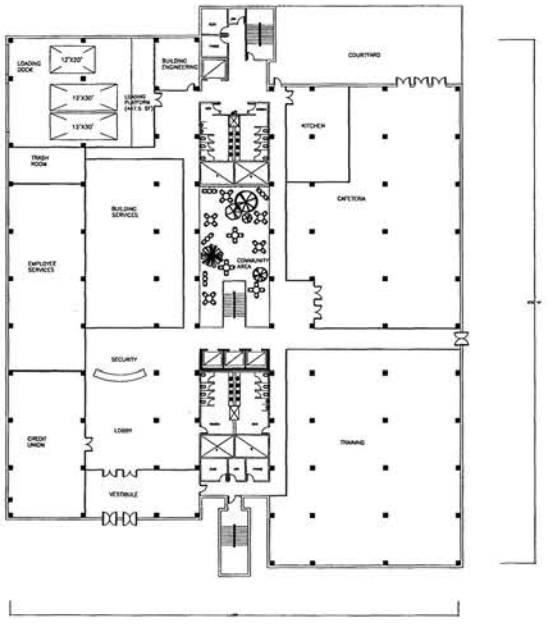


BUILDING SECTION

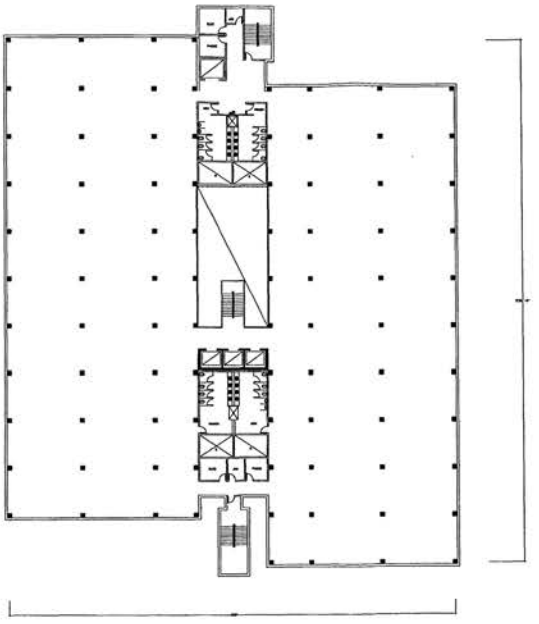
SCALE: 1/8"=1'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FASCILITY, WASHINGTON D.C.

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Solutions for the natural and built environment



GROUND FLOOR PLAN



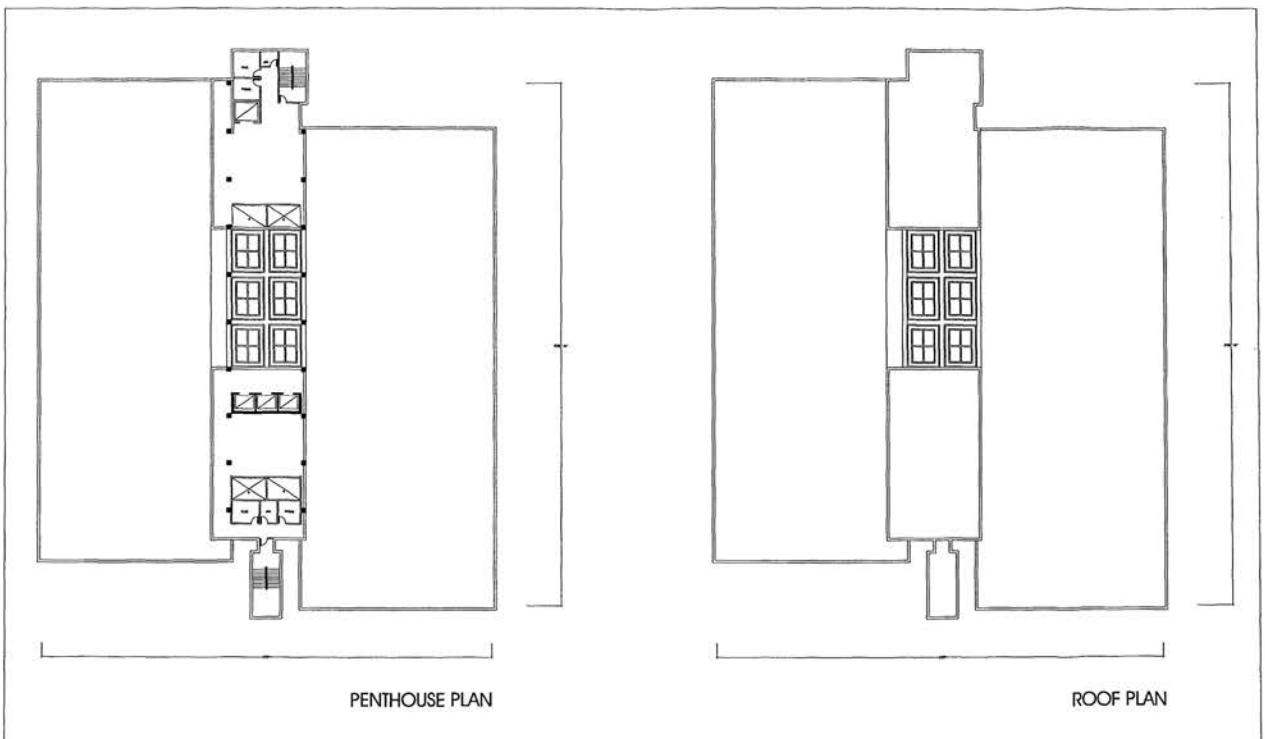
TYPICAL FLOOR PLAN

BUILDING PLANS

SCALE: 1/16"=1'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHINGTON D.C.

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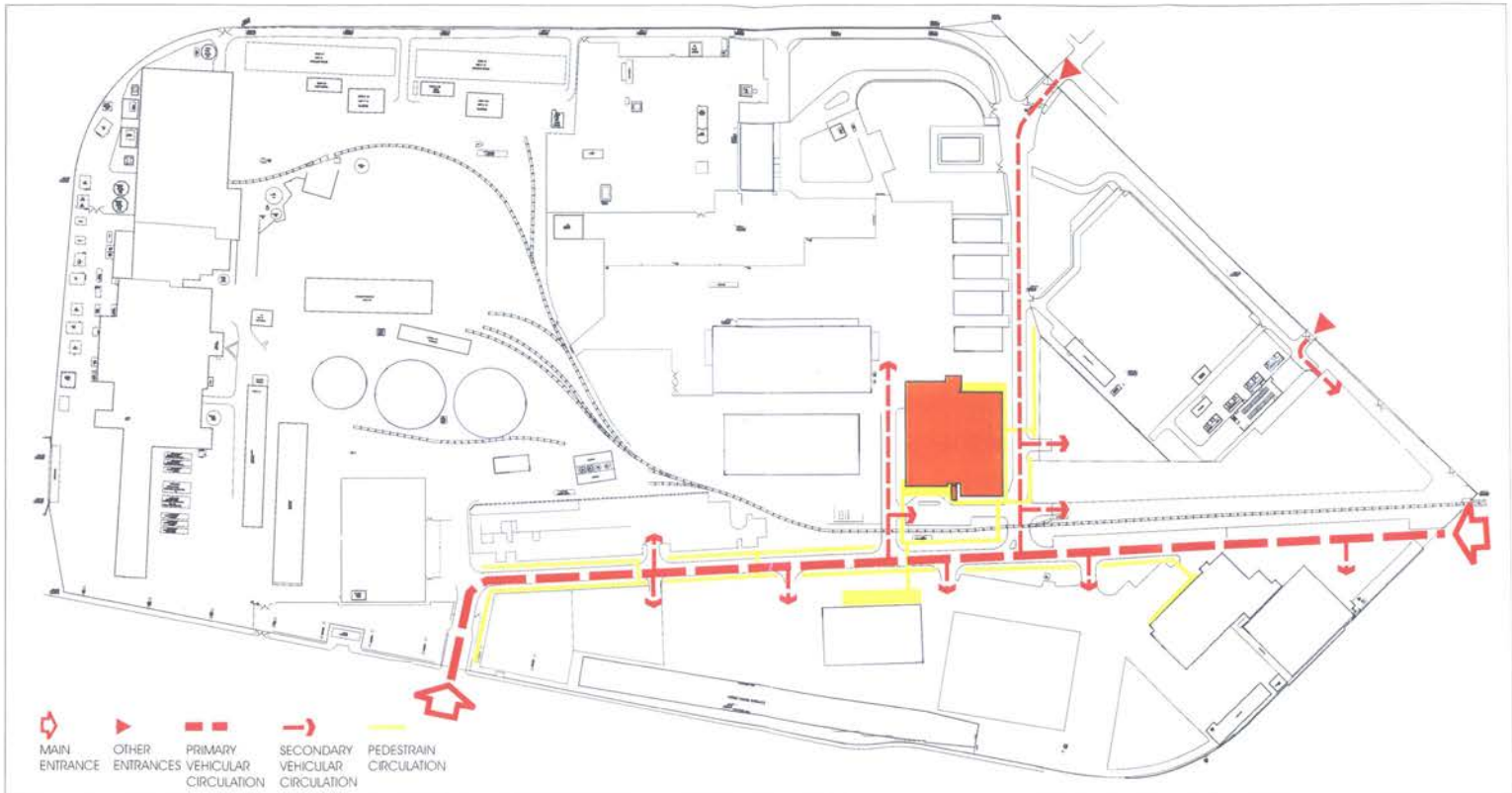


BUILDING PLANS

SCALE: 1/16"=1'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHINGTON D.C.

KCF-SHG
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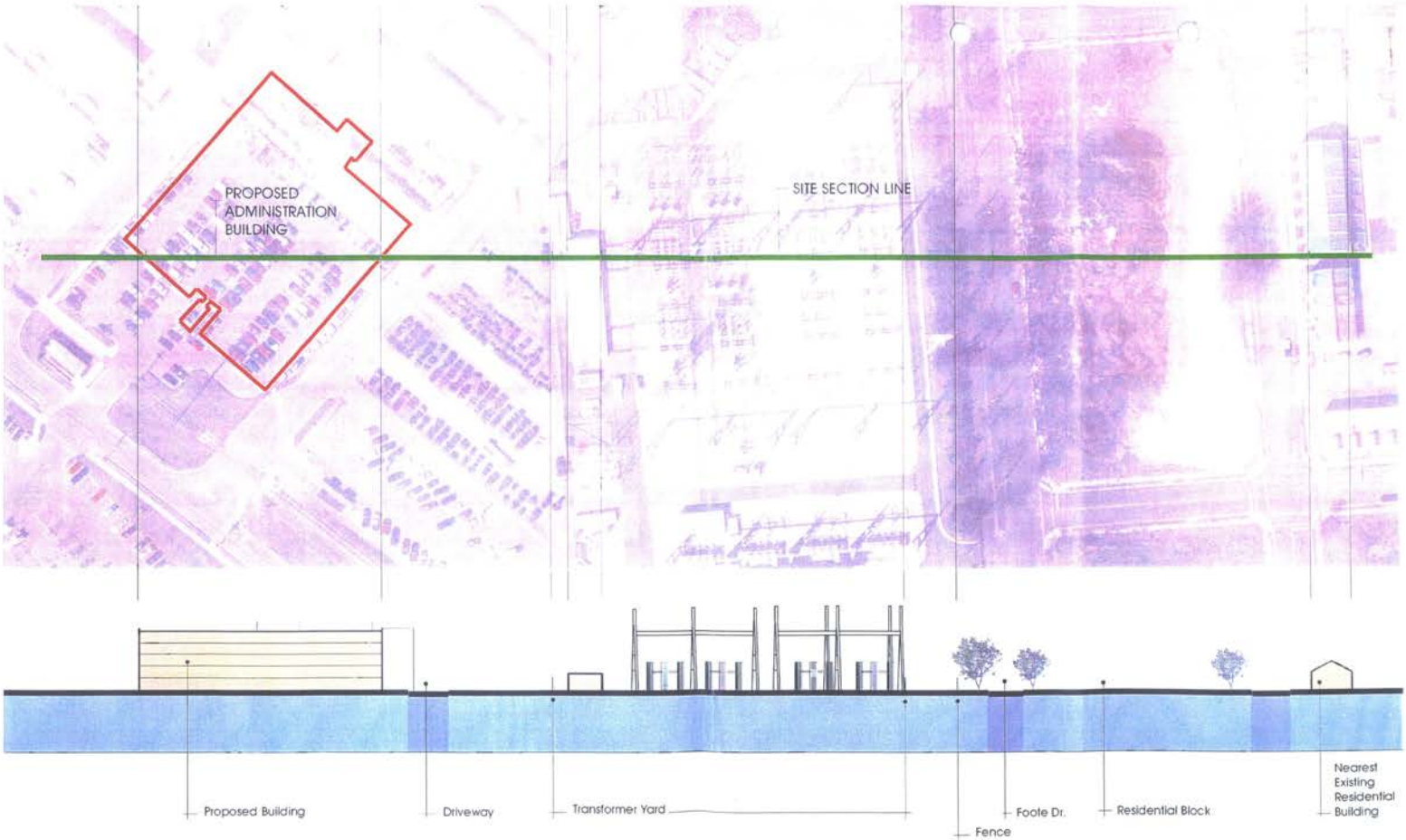
CIRCULATION

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHINGTON D.C.

KCF-SHG

A SmithGroup Company

Solutions for the natural and built environment



SITE SECTION

SCALE: 1" = 50'-0"

PEPCO ADMINISTRATION BUILDING BENNING ROAD FACILITY, WASHINGTON D.C.

KCF·SHG





F

OUTLINE OF TESTIMONY OF REPRESENTATIVES OF PEPCO

I. INTRODUCTION

II. NEED FOR PROPOSED OFFICE BUILDING

III. ECONOMIC DEVELOPMENT IN THE SUBJECT SITE AREA

IV. SUPPORT OF THE COMMUNITY

V. NO ADVERSE IMPACT



OUTLINE OF TESTIMONY OF TOM EICHBAUM, KCF-SHG INCORPORATED, ARCHITECT

I. INTRODUCTION

II. OVERVIEW OF EXISTING SITE

III. REVIEW CONSTRUCTION OF OFFICE BUILDING

IV. REVIEW PARKING FOR OFFICE BUILDING

V. PRACTICAL DIFFICULTIES

VI. NO ADVERSE IMPACT



OUTLINE OF TESTIMONY OF DAVID A. NELSON, P.E., STREET TRAFFIC STUDIES, LTD., TRAFFIC CONSULTANT

I. INTRODUCTION

II. SCOPE OF STUDY

A. Existing parking/traffic conditions
B. Impact of project on existing traffic conditions

II. METHODOLOGY

A. Field inspection of site and vicinity
B. Traffic counts

IV. CONCLUSIONS

A. No adverse traffic impact
B. Adequacy of on-site parking

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OUTLINE OF TESTIMONY OF A REPRESENTATIVE OF ENGINEERING CONSULTING SERVICES, LTD.

I. INTRODUCTION

II. OVERVIEW OF EXISTING SITE

III. REVIEW OF SUB-SOIL CONDITIONS ON THE SUBJECT SITE

IV. PRACTICAL DIFFICULTIES OF PARKING GARAGE



OUTLINE OF TESTIMONY OF STEVEN E. SHER,
DIRECTOR OF ZONING SERVICES
WILKES, ARTIS, HEDRICK & LANE, CHARTERED

I. INTRODUCTION

II. DESCRIPTION OF PROJECT

III. DESCRIPTION OF SURROUNDING AREA

IV. COMPLIANCE WITH REQUIREMENTS OF ZONING REGULATIONS FOR A VARIANCE

A. Exceptional Condition or Situation

B. Strict Application of Regulations Would Result in Practical Difficulty

C. Relief Without Substantial Detriment to Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

V. CONSISTENCY WITH THE COMPREHENSIVE PLAN

VI. CONCLUSION



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14336, of BNA Washington, Inc., as amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 4506.5), and a variance to allow attendant parking when only sixty-nine spaces are required (Sub-section 7204.4) for the proposed construction of a seven story office building in a CR District at premises 1227 25th Street, N.W. (Square 24, Lot 873).

HEARING DATE: September 25, 1985
DECISION DATE: October 9, 1985

FINDINGS OF FACT:

1. At the public hearing of September 25, 1985, the application was amended to eliminate the request for a variance from the requirement that all required parking spaces shall be accessible at all times directly from improved streets or alleys (Sub-section 7206.4 of the Zoning Regulations). The applicant opted to seek the variance to allow attendant parking.

2. The subject site, known as premises 1227 25th Street, N.W., is located on the east side of 25th Street between M and N Streets. It is in a CR District.

3. The subject lot contains approximately 37,597 square feet in land area and is currently vacant. The lot is generally 223 feet long and 124 feet wide. Due to the closing of a public alley, a 15 foot by 224 foot portion extends northward from the northeast corner of the lot.

4. The subject square is currently undergoing major redevelopment. To the south of the subject site is a large office building now under construction developed by the Oliver T. Carr Company. To the east of the Carr Company building, at the corner of 24th and M Streets, N.W. is the Westin Hotel, also under construction. The B&W Garage office building, recently approved as a Planned Unit Development, is to the north of the Westin Hotel. To the north of the B&W Garage is the U.S. News and World Report building which occupies the northern portion of the square along N

Street between 24th and 25th. To the south of the U.S. News and World Report building, along 25th Street, is the existing BNA office building, which is immediately to the north of the subject proposal.

5. The CR District extends to the north, south and east of the subject site. Rock Creek Park is located to the west of the site.

6. The applicant proposes to construct a seven-story office building on the site. The structure will have a gross floor area of approximately 112,665 square feet (3.0 FAR). The structure will occupy approximately 57 percent of the lot. A two-story underground parking garage will be provided under the structure and the alley way to the north of the structure.

7. In order to construct the building as proposed, the applicant is seeking two variances pursuant to Paragraph 8207.11 of the Zoning Regulations which empowers the BZA to grant variances where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topograhical conditions of other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to the owner of such property provided such relief can be granted without substantially 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.

8. The applicant is seeking a variance from the side yard requirements of Sub-section 4506.5. In the CR District, no side yard is required, however, if a side yard is provided a minimum width of 3 inches per foot of height of the building or 8 feet is required. In this instance, 21.28 foot side yards are required to the north and south of the proposed building. The applicant proposes to provide a 4.82 foot side on the south building frontage and a 33 foot side yard on the north side.

9. The applicant is also seeking a variance from Sub-section 7204.4 which allows attendant parking when 75 or more parking spaces are required. The applicant is only required to provide 69 parking spaces but intends to maximize the efficiency of the parking garage by utilizing attendant parking. With attendant parking, 175 spaces can be provided while only 108 can be provided without attendant parking.

10. The project architect testified that the subject site is affected by several exceptional conditions including

restrictive covenants, size of lots, open space plan and soil and rock conditions.

11. The subject site is affected by two restrictive covenants. One covenant requires that a minimum 15 foot pedestrian open space be provided to the south of applicant's proposed building. Applicant's proposed building location will provide approximately 34 feet of open space in this area. The second covenant requires a minimum 20 foot vehicular and pedestrian easement area to be located north of the proposed building. These covenants were required by the District to effectuate two alley closings. The proposed building location is in compliance with these covenants. The covenant creating the alley easement prevents movement of the building north to the degree required to provide a conforming side yard to the south.

12. The proposed structure will complement the other developments in the square. The proposed building's siting and design is part of an overall open space and beautification program that was jointly developed by the three property owners of the southern portion of the square. The same architect designed the proposed structure, the hotel and the Carr Building.

13. The Central focus of the square is on the plaza enclosed by the hotel and Carr Building to the south, the hotel to the east and the proposed structure and the hotel to the north.

14. The plaza will will include a brick paved courtyard with a fountain, benches and landscaping. A restaurant will also be located in the plaza.

15. The plaza can be accessed from three exterior walkways: 1) from the north by a walkway with a slight grade and steps located between the proposed structure to the west and the hotel to the east; 2)from the south by a walkway between the Carr Building and the hotel; 3) and from the west by the pedestrian way between the subject structure and the Carr Building. The walkways will be landscaped and/or contain fountains.

16. All pedestrian walkways and the plaza will be open to the public at all times.

17. Due to the configuration of other existing and planned structures, whose placement dictate a uniform width of the open space between buildings, a side yard is required on the southern frontage. While not required under the Zoning Regulations to provide the side yard, the applicant is nevertheless compelled to comply with the open space plan so that the distance between the Carr Company office structure and the subject structure is identical to the distance, 34 feet eleven inches, between the subject structure and the

applicant's other office building to the north. Thus, the proposed structure must be located four feet north of the south property line. This is the optimum design from an urban design perspective.

18. Although the pedestrian pathway to the south of the subject structure is only required to be 15 feet wide, this would result in an unattractively small space. The proposed walkway will have generous, elegant proportions. A portion of the plaza will also be widened by the building's set back.

19. The proposed structure and its location was subject to review by the Fine Arts Commission who approved the plans.

20. The instant case is unique in that the side yard is adjacent to open space which will remain open space. Moving the proposed structure north will enlarge the open space not create a small unusable space as would happen if another building were adjacent to the subject site.

21. The situation is also unique since the three buildings are design elements in an overall plan for the southern portion of the subject square.

22. A geotechnical engineering report prepared by Schnabel Engineering Associates stated that rock conditions affect the subject site and that movement of the building in a northerly direction approximately five feet would lessen the adverse impacts of the rock condition.

23. The request for a variance to allow attendant parking, thereby permitting 175 stacked spaces, instead of the 108 spaces that are permitted as a matter-of-right, is necessary to ensure the most efficient, safe and reasonable parking use of the site and is prompted by exceptional conditions.

24. The site is of sufficient size to accommodate the location of more than 75 parking spaces. However, because of the mix uses within the building, only 69 parking spaces are required. The gross floor area for office use may not be increased to, in turn, increase the parking requirement. If the applicant were to provide a different mix of uses that required 75 parking spaces or more, then no relief from this provision would be required.

25. The subsurface rock conditions would require costly excavations in order to provide a third parking level which could be conducted as a matter-of-right.

26. The parking garage will be accessible from an improved street via the graded and unobstructed private

alley and driveway. To the north of the subject site, the driveway will be paved in accordance with Department of Public Works standards to form an all-weather impervious surface. It will be approximately 30 feet wide. The plans comply with all other aspects of Sub-section 7206.4.

27. On-street parking in the area is limited. Stacked parking in the subject structure will lessen the demand for parking on neighborhood streets resulting in less parking congestion.

28. Spaces in the subject garage will be leased to employees on a monthly basis and visitors on an hourly basis. If there is a demand, the garage will remain open during evening hours.

29. The applicant's traffic expert estimated that of the proposed building's 400 employees, 133 will need spaces. There is no public transit which directly serves the site.

30. By memorandum dated September 17, 1985, the Office of Planning (OP) recommended conditional approval of the subject application. The OP reported that there are restrictive covenants affecting the subject site that were required by the District to effectuate two alley closings that specify that certain portions of the subject lot shall be maintained as open space and as an alley easement area on the north frontage of the applicant's site. The applicant and the two property owners to the south and east developed an overall open space plan for the southern portion of the square that dictates the provision of open areas to provide light, air and other amenities. The OP further reported to the configuration of existing structures and those under construction, whose placement dictates a uniform width of the open space between buildings, a side yard is required on the southern frontage. Also the applicant has stated that existent subsurface rock formations prevent the movement of the building in a northernly direction so as to provide the required side yard on the south side. The increase of the number of parking spaces from 108 to a 175 seems to be beneficial to the area which is not well served by mass transit. This area with the on-going building boom is rapidly losing the existing surface parking lots. Also in Zoning Commission Case No. 82-5, in a report from the Department of Public Works to the Zoning Commission, the Department favored attendant parking and stated that:

> Devoting a substantial area to parking in high density, high cost areas can be an inefficient and uneconomical burden for developers looking to maximize already limited building space, while at the same time meeting other design and access requirements.

In addition, parking garages in these zones, which are designed for commercial buildings nearly always utilize attendant parking arrangements. The increased efficiency of attendant parking reduces to a large degree the need for inflexible design standards, which are essential for self parking facilities where public safety considerations must be paramount.

31. In the opinion of the Office of Planning the requested relief can be granted without detriment to the public good because the use of the building conforms to uses permitted in the CR District and to the other uses in the square. Also, the building's height, bulk, design and scale seem to be compatible with neighboring properties. The project implements the previously mentioned open space plan for the southern portion of the block. The Office of Planning was of the opinion that the property qualifies under Paragraph 8207.11 of the Zoning Regulations for the area variance. Based on the previously stated facts and analysis of this report, OP recommended approval of this application with the condition that the stacked parking be provided through attendants as required in Sub-section 7204.4. The Board concurs with the reasoning and recommendation of the OP.

32. By memorandum dated September 12, 1985, Advisory Neighborhood Commission 2A reported its support for the subject application for the reasons that the building to the north of 1227 25th Street is owned by the same party that owns 1227 25th Street and the two sites are separated by an alley and will be so separated after the construction of the office building at 1227 25th Street. The purpose of the shift is to improve the open space provided as part of the Westin hotel and office development; and the applicant is seeking to provide greater than the minimum parking required by a building of the size and use proposed for 1227 25th Street and will maximize the use of this space by having the parking managed by an attendant. The Board concurs with the reasoning and recommendation of the ANC.

33. Letters of support for the subject application were submitted to the record by the Oliver T. Carr Company, the Kaempfer Company and the Westin Hotel.

34. At the public hearing, a member of the Residential Action Coalition (RAC) testified to their opposition to the subject application. RAC argued that a practical difficulty or basis for hardship had not been demonstrated. RAC reported that it had examined the square to see the rock formation and determined that there is no more practical difficulty attached to that land than to other sites. Also, the closing of the alley and the restrictive covenants were self imposed and do not represent a hardship. Further, the parking variance should not be granted since it would increase traffic on 25th Street beyond its capacity. RAC

further argued that the north side of the site was required by the City Council to be landscaped as a condition of the alley closing. Finally, the application requires additional relief from the Zoning Regulation's to have trailer truck entrances in the C-R zone and it should not be next to an entrance to a parking garage.

35. The Board in addressing the concerns of RAC finds that the applicant has established that the subject site is affected by unique characteristics and that a practical difficulty has been demonstrated. The Board in other similar applications has concluded that rock formations constituted a practical difficulty. Also, the Board notes that the test herein is a practical difficulty not a hardship. The Board also finds that the parking variance requested will benefit the neighborhood by lessening the demand for off-street parking in the neighborhood. The issue of landscaping the area north of the subject structure is not within the jurisdiction of the Board if the covenant has been violated then another tribunal should address it. As to additional relief needed, the Board finds that this is the province of the Zoning Administrator. If RAC is of the opinion that the Zoning Administrator has omitted an area of relief, RAC may appeal the decision of the Zoning Administrator.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a variance from the side yard requirements (Sub-section 4506.5) and a variance to allow attendant parking when only 69 spaces are required (Sub-section 7204.4). The granting of an area variance requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met its burden of proof.

The Board concludes that the site is affected by several extraordinary or exceptional conditions including sub-surface soil and rock conditions, size of lot, open space plan and restrictive covenants affecting the subject site. These restrictive covenants were requires by the District to effectuate two alley closings that specify that certain portions of the subject lot shall be maintained as open space and as an alley easement area on the north frontage of the site.

The Board further concludes that the requested variances can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED SUBJECT to the following CONDITIONS:

1. The pedestrian promenade providing access from 25th Street on M Street shall be constructed in accordance with the plans marked as Exhibit No. 12 in the record.

2. All public spaces shall be illuminated from sunset to sunrise.

VOTE: 3-0 (William F. McIntosh and Charles R. Norris to grant; Patricia N. Mathews to grant by proxy; Carrie L. Thornhill not voting, not having heard the case; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 12FEB 1996

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14336order/LJPL

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7D Advisory Neighborhood Commission
Government of the District of Columbia

Mailing Address:
Post Office Box 64052
Washington, DC 20029-4052

Street Address:
5140 Nannie Helen Burroughs Ave., NE
Third Floor
Washington, DC 20019

January 19, 2000

Jerrily R. Kress, FAIA
Director
Board of Zoning Adjustments
441 4th Street NW
Washington, DC 20001

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Vice Chair
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Rita Jackson, Elect, SMD06
Delano A. Foster, SMD07

Re: BZA Application No. 16546
Potomac Electric Power Company (PEPCO)
Benning Road Office Construction

Dear Jerrily R. Kress:

Advisory Neighborhood Commission ANC 7D (Commission), during its regular monthly meeting on January 13, 2000, considered the Potomac Electric Power Company (PEPCO) proposal to construct an office building on its existing site located at 3400 Benning Road, NE. The Commission notified the impacted communities in its December 1999 newsletter of the date, time and the issues to be considered. PEPCO requested *"variance from the maximum height permitted in a C-M-1 District, and special exception for roof setback,"* pursuant to Sections 3103.2 and 3104.1 and Sections 840.1 and 411.11 of the Zoning Regulations, respectively. A response to PEPCO's application, as required, is noted herein.

Action by the Commission

It was the decision of the Commission to support PEPCO's request for the height variance and roof setback to construct the new office building on its site at the Benning Road electric generating plant. A quorum was duly noted, and by a majority vote, three Commissioners voted in favor and one not in favor. The favorable vote was indicative of the will and majority of the interested constituents, and in the best interest of the communities impacted, as a whole. PEPCO provided evidence of traffic impact studies conducted to support its conclusion on the minimal effects of the new office and personnel driving into the area on the neighboring communities.

PEPCO Commitments

PEPCO concurred and committed, as a good neighbor, to support and partner with the impacted communities and the Commission, in response to the following requests of the Commission:

- PEPCO will advocate, along with the ANC7D, to ensure that residents in the communities adjacent to the PEPCO Plant and their employees, for adequate and safe ingress and egress to and from the roadways near the PEPCO plant; support and partner with ANC7D before and during the upcoming DPW activities to repair the Kenilworth Avenue bridge at Burroughs Avenue; support community needs related to the proposed roadway construction along the Kenilworth Avenue corridor - Benning Road, Kenilworth Avenue, Kenilworth Terrace and Foote Street. The objective is to ease the burden of the additional traffic that is likely to occur from the increase in the Power Plant personnel from 300 to a level that is expected to exceed 1,000 employees; and, provide relief from the planned building and road construction.

- PEPCO committed to provide adequate notice to the community, and directly to the ANC7D, about employment opportunities that may come available at the PEPCO Benning Road site and at its other facilities

- PEPCO committed to sponsor, through the ANC7D, a community-based learning project to help educate the children within the boundaries of ANC7D on issues involving environmental concerns and problems.

The Commission respectfully recognized the ongoing interest in health and real life issues of air pollutants associated with the normal business of the PEPCO plant. Likewise, the Commission noted that the matter of air quality persists with or without the construction of offices on the Benning site. Clearly this request for a variance and roof offset is not an issue of air quality and therefore not relevant in the context of PEPCO's request.

Finally, the construction of the new office is welcomed in the interest of community development. It is envisioned by many residents as a benefit, both in presence and as a potential catalyst to other businesses who might contemplate locating their operations in Ward 7, and to similarly situated communities in the District of Columbia.

On behalf of the Commission,

William E Wright by Dean

William E. Wright
Chairman

cc: PEPCO
Councilmember Kevin P. Chavous, Ward 7
Civic Organizations - ANC7D:
River Terrace Community Organization
Eastland Gardens Civic Association
Central Northeast Civic Association



MHCDO

MARSHALL HEIGHTS COMMUNITY DEVELOPMENT ORGANIZATION, INC.
3939 Benning Road, N.E.
Washington, D.C. 20019
(202) 396-1200
(202) 396-4106 - Facsimile

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President & CEO

January 14, 2000

Ms. Sheila Cross-Reid
Chair, Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

'00 JAN 18 P3:50

RE: BZA Application #16546 and Large Tract Review
Relating to Pepco, Benning Rd. Office Construction

Dear Ms. Reid:

On behalf of the Board of Directors of the Marshall Heights Community Development Organization (MHCDO), I would like to express the support of our organization on behalf of the application submitted by Pepco to BZA for its proposed office building at the Benning Rd. Pepco Plant.

MHCDO is an organization whose board is comprised of over 70 members representing civic associations, ANC's, churches, local businesses, and Ward 7 residents. MHCDO is dedicated to the rebuilding and restoring of the Ward by building hope for its residents through the building of affordable housing, promoting homeownership, engaging in human development activities, and facilitating commercial development that brings retail, commercial and industrial activity and jobs to Ward 7. MHCDO has reviewed the plans presented by Pepco for the proposed office building at the Benning Rd. Plant and is convinced that this office building would be an economic plus for the Ward and the City.

The project as proposed addresses more than adequately issues related to traffic, environmental impacts, design, and locational impact vis-à-vis neighboring properties. Furthermore MHCDO sees the proposed office building generating additional economic activity along the Minnesota Ave. commercial corridor and potentially along Benning Rd. where today there is a dearth of quality retail activity. This is exactly the type of office development that is needed in the east of the river communities to support efforts to attract higher quality retail businesses to the commercial corridors.

MHCDO is pleased to have this opportunity to express our full support for this project and this BZA application. Pepco has been a good corporate neighbor in the past and MHCDO looks forward to Pepco's continued good work in the Ward 7 community.

Sincerely,

Richard Hamilton

Richard Hamilton, Sr.
Chairman, Board of Directors

#16



Benning Ridge Civic Association

1191 46th Place, S.E., Washington, D.C. 20019 (202) 584-2024

January 20, 2000

Sheila Cross-Reid
Chair
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

'00 JAN 24 P3:40

Re: BZA Application No. 16546

Dear Ms. Reid:

Please accept this correspondence as our written testimony in full support of the granting of the variances that are necessary to construct a five-story, 59 foot tall office building of approximately 200,000 square feet in size at the Pepco Benning Road Facility.

We have spoken with Pepco representative about the scope of the project, and view it as being a positive catalyst to overall community revitalization and development in the area.

The office building is set back a substantial distance from the street, and is essentially not visible from the community.

As a result, we do not see any detriment that will occur to the community by allowing the building to be taller than it allows otherwise would be if it complied with existing regulations.

We also asked questions and received information from Pepco regarding the traffic to be generated by the proposed use, and believe that it will not adversely impact the community.

We are very grateful for the opportunity to demonstrate our full support of BZA Application No. 16546 and our great appreciation for the work Pepco and its employees bring to Ward 7

Thank you for your consideration.

Sincerely,

Mrs Adelaide B Grier

Adelaide Grier
1st Vice President
Benning Ridge Civic Association

Linda-Jo Smith
President

Adelaide Grier
1st Vice President

Lottie Tidline
2nd Vice President

Shareda L. Smith
Recording Secretary

Anne Long
Asst. Recording Secretary

Ruth Burgess
Corresponding Secretary

Thelma Johnson
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Jane Dickens
Financial Secretary

Samuel Ficklin
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Benjamin Thomas
Sergeant-At-Arms

BZA
Case No. 16546
EXHIBIT NO. 17