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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16546
3400 Benning Road, N.E.

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

February 9, 2000

I. Site location and description

A. North side of Benning Road between Anacostia River to the west and Kenilworth Avenue, N.E. to the east

B. Part of the existing Potomac Electric Power Company facility, which includes existing generation, maintenance and other operating facilities, including some office uses, for Pepco

C. Overall site contains approximately 3,442,000 square feet, or seventy-nine acres

D. Portion of site to be developed is currently used for surface parking and an existing one-story storage building to be removed

II. Description of surrounding area

A. Anacostia River and Anacostia Park to the north and west

B. Kenilworth-Parkside development to the northeast (townhouses and vacant land)

C. Kenilworth Avenue, the Freeway and railroad tracks to the east followed by commercial development along Minnesota Avenue

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District of Columbia
CASE NO.16546
EXHIBIT NO.23

D. Blue/Orange Metrorail viaduct to the south, followed by Benning Road, commercial development on the south side of Benning Road and the River Terrace neighborhood further to the south

III. Existing zoning: C-M-1

A. Uses (§§801 and 802)

1. Light-manufacturing, processing, fabricating and repair (subject to the standards of external effects)

2. Warehouse and wholesale

3. Office use permitted as a carry-over from the Commercial District

B. Height - maximum of three stories and forty feet (§840.1)

C. Density - maximum of 3.0 FAR (§841.1)

D. Rear yard - minimum depth of 2.5 inches per foot of height at the middle of the rear of the structure, but not less than twelve feet (§842.4)

E. Side yard - not required (§843.1)

F. Parking - for office use, minimum of one space for each 800 square feet of gross floor and cellar floor area in excess of 2,000 square feet (248 spaces required for 200,000 square feet)

IV. Proposed development

A. Office building for a portion of Pepco's administrative headquarters (to be relocated from 1900 Pennsylvania Avenue, NW)

B. Gross floor area of approximately 200,000 square feet (0.058 FAR)

C. Five stories, approximately fifty-nine feet in height

D. A total of 460 surface parking spaces are available for this use

V. Relief required

A. Variance from the height requirement (proposed five stories and fifty-nine feet, four inches exceeds the three stories and forty feet permitted)

B. Special exception to permit the roof stair towers at the north and south ends of the building without a 1:1 setback from the edge of the roof

VI. Standards for a variance (§3103.2)

A. 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 topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,

B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;

C. Provided, that the 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.

VII. Compliance with the variance standards

A. Exceptional or extraordinary situation or condition

1. Large size of property

2. Location of existing Pepco operational equipment and facilities

3. Subsoil conditions (water table close to the surface)

B. Practical difficulty

1. Insufficient space on the site to configure a conforming building

a. At three stories, the footprint of a 200,000 square foot building alone would be approximately 70,000 square feet

b. The parking required for the building would be an additional surface area of approximately 70,000 square feet

c. Given the location of existing Pepco facilities necessary for the primary mission to be accomplished at the site, there is no site available big enough to accommodate the building's footprint with the required parking in close proximity

2. Excavation below grade for parking is extremely expensive and impractical

C. No detriment to the public good

1. Building is located in a central portion of the site

2. Building is substantially removed from any adjoining property

3. Existing natural buffers surrounding the property (Anacostia River, Kenilworth Avenue and Freeway and the Blue/Orange line Metrorail viaduct) substantially screen the view of the building

VIII. Standards for the special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

IX. Compliance with the special exception standards

A. Operating difficulties

1. Large footprint of the building, even at 40,000 square feet

2. Need to get light into the middle of the building

3. Providing covered atrium in area where core of the building would normally be

B. Unduly restrictive and unreasonable

1. Moving stair towers to center of site would reduce the amount of natural light available to workers in the building

2. Requiring setback for the stair towers is unduly restrictive in light of the substantial distance between the building and public streets and buildings on other properties

C. Impact on other buildings

1. Closest private property is more than 600 feet away

2. Existing physical conditions (roads, Metro viaduct and Pepco equipment) substantially screen the site from any adjoining property

X. Conclusions

A. Subject property is affected by an exceptional condition, because of the nature of existing improvements on the property and the existence of subsoil conditions making excavation for below-ground parking impractical

B. Strict application of the Regulations, limiting development to forty feet and three stories, would cause a practical difficulty for the owner by spreading out the footprint of the building to an extent which cannot be practically accommodated on the subject property

C. The variances can be granted without substantial detriment to any surrounding properties

D. The location of the two stair towers at either end of the building results from the need to provide light into the center of the building

E. The building is so far removed from adjoining properties that neither the height of the building nor the location of the roof structure will have any impact on the light and air of adjacent buildings

F. The application should be granted