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February 27, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 FEB 27 PM 1:37

District of Columbia
Board of Zoning Adjustment
441 - 4th Street, N.W.
Room 220
Washington, D.C. 20001

Re: BZA Application No. 16546/Request for Modification of Approved Plans (Copies of Record of Original Proceeding and Excerpts from Transcript of Same)

Dear Members of the Board:

Enclosed please find copies of the full record of the original proceeding in the above-referenced matter and excerpts from the transcript of the hearing held before the Board on February 9, 2000. The excerpts from the transcript relate to the Board's discussion of the landscape plan that is the subject of the Applicant's current modification request.

Should you need anything further, please do not hesitate to contact us.

Sincerely,

Lisa L. Jackson

cc: ANC 7D
John Moore, Office of Planning

WAS1 #1062603 v1

BZA
Case No. 16546
Exhibit No. 34

Board of Zoning Adjustment
District of Columbia
CASE NO.16546
EXHIBIT NO.34A1

seriously considered, and I wanted to put this through to the ANC representatives, is that this particular building is located on a compound that contains a great deal of utility operations along with the office function.

It is a card-access facility to keep the security that is necessary there. It might not be the most logical location for a daycare facility for off-site people to use. Now for the people that actually work there, that is another story and I don't know what that is. But I wanted to make sure that it wasn't construed that we were talking about an off-site access daycare facility.

MS. MCCAIN: And I didn't take it that way.

MEMBER RENSHAW: Thank you for the clarification, though. That is important to make.

CHAIRPERSON REID: All right. Thank you very much. We do have your letter and it does indicate that there was a quorum present and that your vote was 3 to 1. So, therefore, you certainly will receive the great weight to which you are entitled.

MS. MCCAIN: Thank you.

MR. CREASEY: Thank you very much.

MEMBER RENSHAW: I would just like to add

that I hope PEPCO works out with the community some kind of a landscape agreement. That you will put in or you will place on the property X number of trees at whatever caliber is agreed to. The more mature the better. And that you have an agreement about replacing the trees if they die. And whatever the agreement is with the landscape company about watering.

CHAIRPERSON REID: Wait, Ms. Renshaw.

MEMBER RENSHAW: Yes? Those are all important points for a community to note. Because --

CHAIRPERSON REID: As such -- and not to interrupt you -- but as such, typically with a project of this magnitude, there is a landscape plan that is submitted with the application. I didn't see one. If you would like --

MEMBER RENSHAW: I didn't see it in advance.

CHAIRPERSON REID: You could request a landscape plan that would then address the concerns that you have and they could then submit that to us prior to the order going out. If that is your wish.

MEMBER RENSHAW: Yes, that would be my wish.

CHAIRPERSON REID: That would be the best

way to effectuate that.

MEMBER SOCKWELL: The likelihood is that PEPCO would maintain its corporate presence as effectively as one might expect any corporation of the longstanding relationship that PEPCO has had with the community. They don't have to deal with trees downtown, because there are hardly any.

CHAIRPERSON REID: Do you have a landscape plan? Could I get a response for that?

MEMBER SOCKWELL: I think the architect spoke to it briefly.

MS. SMITH: About the plan, what we do is we have what we call the Employees and Community Environmental -- not Environmental but Beautification Program. So what we do is we have like some of the school kids and all that -- so we try to put it so we have a nice thing. The employees do it too. We do a lot of planting. So we have all of that in place because it is a plant and we try to make it where we have a flower garden here and different things like that. So that is a part of the plant in itself anyhow.

CHAIRPERSON REID: But what we are asking for is the architect to come back and to address that. Where is your architect?

MS. SMITH: Yes, we will submit one.

CHAIRPERSON REID: Oh, I am sorry. Right in my face. Did you not have a landscape plan?

MR. EISHBAUM: I don't think the plan we have is particularly what she is speaking about.

CHAIRPERSON REID: Okay.

MR. EISHBAUM: And we would come back. We wouldn't have any problem doing that.

CHAIRPERSON REID: Sure. And to provide us with a landscape plan for the record. And also, Ms. Smith, I think that that is a wonderful project you have to include the children and the community in it. But nonetheless, we want to make sure that we see what in fact is planned there for the buffering, I guess, all around the perimeter of the premises.

MR. EISHBAUM: We will submit that.

CHAIRPERSON REID: Thank you.

MEMBER SOCKWELL: One thing that might be added from Ms. Renshaw's interest is that while the new building does show, as all architectural site plans show -- it shows trees and a triangular park in the middle of the parking area. One of the things that has up to this point been missing from the Benning Road site is a coordinated perimeter landscaping plan. There is really nothing that

beautifies the perimeter along Benning Road. It is very stark and very foreboding sometimes just in terms of that starkness.

And I think that it would be very helpful to the community to look toward PEPCO to make this the beginning of an upgrading of the visual elements along the Benning Road perimeter. Because it really should be made better. And this is a facility that should be part of an enhancement of that entire are. Because you can buffer the cars and parking lots and the trucks and all those things that are there with some decent perimeter trees and low maintenance landscaping.

EXHIBIT LOG

CASE NO. 16546

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
14.	Hearing Notice of Project	12/30	1	12/30/99
15.	Attestation	—	1	12/30/99
16.	Ltr f. Richard Hamilton	1/14/00	1	1/18/00
17.	Ltr in support from Benning Ridge Civic Assoc	1-20-00	1	1-24-00
18.	STATEMENT of the APPLICANT	1/27/00	54	1/27/00
19.	LTR. from WILLIAM E WRIGHT-ANC 7D	1/19/00	2	1/28/00
20.	LTR. in support from ANC-7C	1/24/00	1	2/3/00
21.	Ltr f. Dalton Howard & Eastland Gardens in favor	1/31/00	2	2/4/00
22.	Letter From Barry D. DePaw	2/8/00	1	2/9/00
23.	Outline of Testimony Steven Sher		6	2/9/00
24.	Witness Cards		2	
25.	Applicant's Proposed Draft Order		3	2/25/00
26.	Landscape Plan		1	2/25/00
27.	Revised Landscape Plan		2	3/9/00
28.	BZA Fresh Cookies	3/28/00	4	

EXHIBIT LOG

CASE NO. 16546

8

EXHIBIT NO.	NATURE OF EXHIBIT	EXHIBIT DATE	NO. PAGES	DATE REC'D
1.	Application	12/10	1	12/10/99
2.	Survey Plat		1	" " "
3.	Self Certification		1	" " "
4.	Five Photos of Site		5	" " "
5.	200 feet Properties		5	" " "
6.	Statement		1	" " "
7.	Authorization Letter	10/29	1	" " "
8.	Copy of Receipt and Check	12/10	1	" " "
9.	Acknowledged Letter	—	1	12/10/99
10.	Memo to ZA	12/18/99	4	—
11.	Memo to ANC 7D	"	4	—
12.	Proof Notice of Agent and Appl.	12/30	2	12/30/99
13.	" " " ANC-7D	—	3	12/30/99

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16546 of Potomac Electric Power Company, pursuant to 11 DCMR 3103.2 for a variance from the height requirement (Subsection 840.1), and 3104.1 for a special exception from the roof structure setback requirement (Subsection 411.11) for the construction of a five-story office building in a C-M-1 District at premises 3400 Benning Road, N.E. (Parcel 169/114).

HEARING DATE: February 9, 2000
DECISION DATE: February 9, 2000 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 7D and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 7D. ANC 7D, which is automatically a party to this application, filed a written statement, dated January 19, 2000, of issues and concerns in support of the application (Exhibit 19). The Board also received a letter of support from ANC 7C.

As directed by 11 DCMR 3119.2, the Board required the Applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance and a special exception from the strict application of the requirements of 11 DCMR Subsections 840.1 and 411.11. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

The Board further concludes that the Applicant has met the burden of proof, pursuant to 3104.1, that the requested relief can be granted in harmony with the general purpose and intent of the Zoning Regulations and Map, and will not tend to affect adversely the use of neighboring property. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. The Applicant will (a) advocate, along with ANC 7D, for adequate and safe access to and from the roadways near the PEPCO plant; (b) support and partner with ANC 7D before and during the upcoming DPW activities to repair the Kenilworth Avenue bridge at Burroughs Avenue; (c) support community needs related to the proposed roadway construction along the Kenilworth Avenue corridor – Benning Road, Kenilworth Avenue, Kenilworth Terrace and Foote Street.

2. The Applicant will provide adequate notice to the community and directly to ANC 7D about employment opportunities that may become available at the PEPCO Benning Road site and at its other facilities.

3. The Applicant will sponsor, through ANC 7D, a community-based learning project to help educate the children within the boundaries of ANC 7D on issues involving environmental concerns and problems.

4. Landscaping for the site will be as identified on Exhibit No. 27 of the record.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0-0 (Robert Sockwell, Anne M. Renshaw, Anthony J. Hood and Sheila Cross Reid to grant.)

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAR 21 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO SUBSECTION 3125.6".

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

BAB/3-16-00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16546

As Director of the Office of Zoning, I hereby certify and attest that on MAR 21 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr.
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, DC 20006

William E. Wright, Chairperson
Advisory Neighborhood Commission 7D
P.O. Box 64052
5140 Nannie Helen Burroughs Avenue
Third Floor
Washington, D.C. 20019

Mary L. Gaffney, Chairperson
Advisory Neighborhood Commission 7C
328 62nd Street, N.E., #201
Washington, D.C. 20019

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20009

ATTESTED BY: Jerrily Kress

JERRILY R. KRESS, FAIA
Director

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16546

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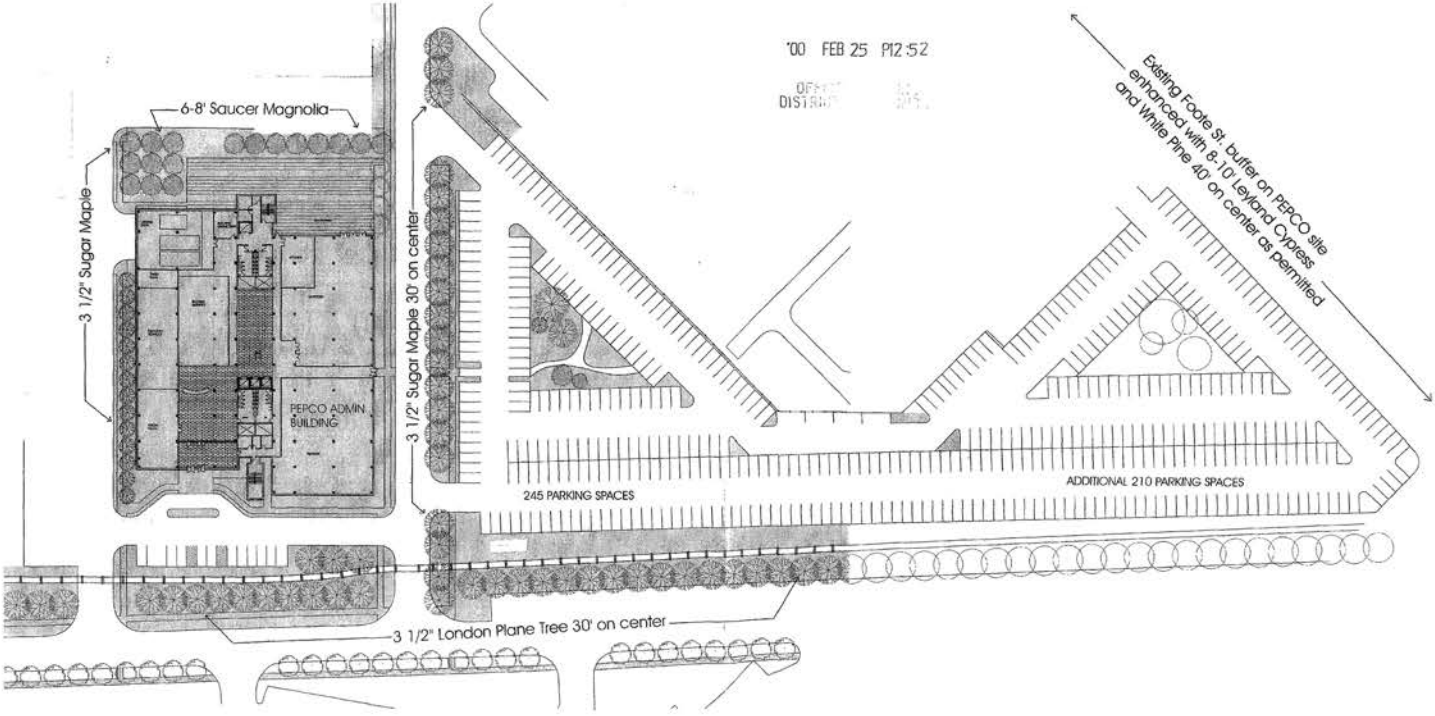
William E. Wright, Chairperson
Advisory Neighborhood Commission 7D
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5140 Nannie Helen Burroughs Avenue
Third Floor
Washington, D.C. 20019

Mary L. Gaffney, Chairperson
Advisory Neighborhood Commission 7C
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Washington, D.C. 20019

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20009

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director

#29



'00 FEB 25 P12:52

OFFICE OF DISTRICT

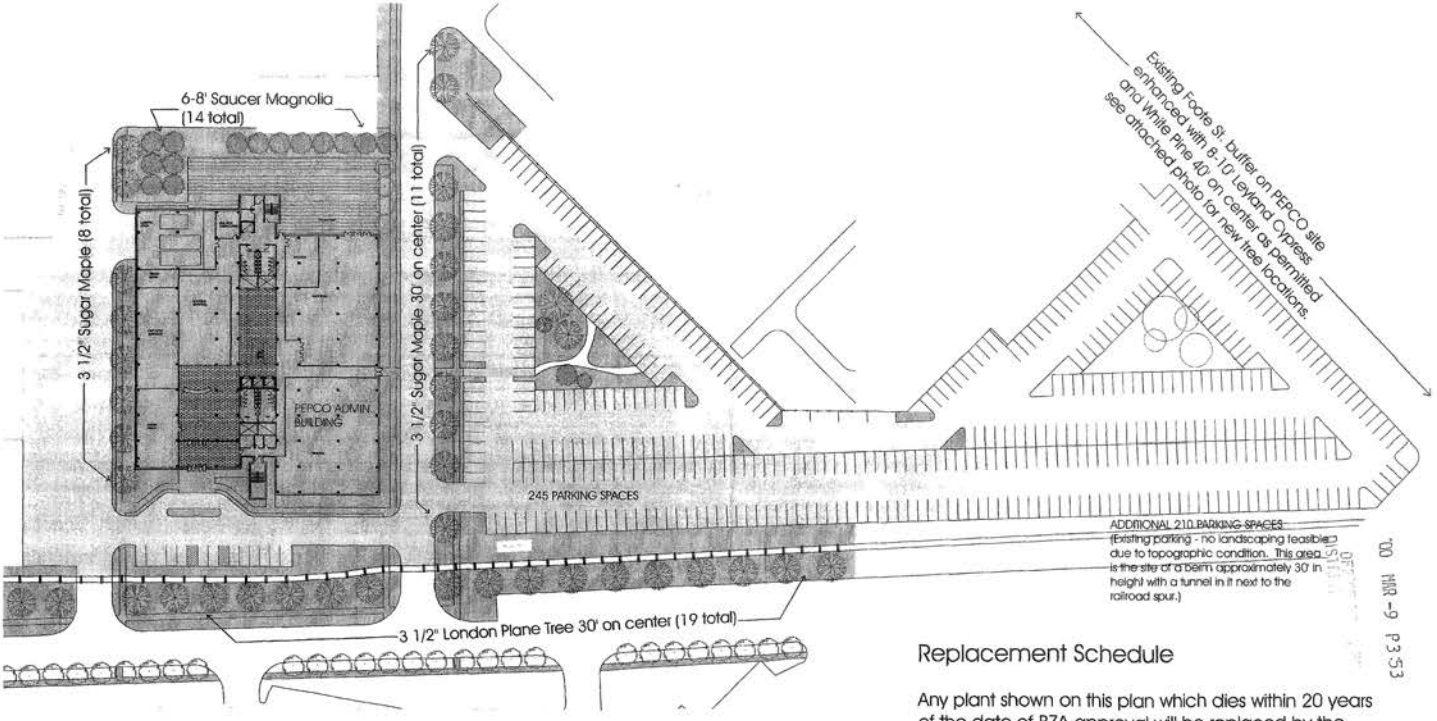
LANDSCAPE PLAN

SCALE: 1/32" = 1'-0"

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

Case No. 16546
Exhibit No. 26

KCF-SHG
A SmithGroup Company
Solutions for the natural and built environment



'00 MAR -9 P3:53

Replacement Schedule

Any plant shown on this plan which dies within 20 years of the date of BZA approval will be replaced by the property owner.

KCF-SHG

SmithGroup Company

Solutions for the natural and built environment

Revised

LANDSCAPE PLAN

SCALE: 1/32" = 1'-0"

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

BZA
Case No. 16546
Exhibit No. 27


NEW WHITE PINE (9 TOTAL)
ADMINISTRATION BUILDING SITE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16546 of Potomac Electric Power Company, pursuant to 11 DCMR 3103.2 for a variance from the height requirement (Subsection 840.1), and 3104.1 for a special exception from the roof structure setback requirement (Subsection 411.11) for the construction of a five-story office building in a C-M-1 District at premises 3400 Benning Road, N.E. (Parcel 169/114).

HEARING DATE: February 9, 2000
DECISION DATE: February 9, 2000 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 7D and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 7D. ANC 7D, which is automatically a party to this application, filed a written statement, dated January 19, 2000, of issues and concerns in support of the application (Exhibit 19). The Board also received a letter of support from ANC 7C.

As directed by 11 DCMR 3119.2, the Board required the Applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance and a special exception from the strict application of the requirements of 11 DCMR Subsections 840.1 and 411.11. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

The Board further concludes that the Applicant has met the burden of proof, pursuant to 3104.1, that the requested relief can be granted in harmony with the general purpose and intent of the Zoning Regulations and Map, and will not tend to affect adversely the use of neighboring property. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. The Applicant will (a) advocate, along with ANC 7D, for adequate and safe access to and from the roadways near the PEPCO plant; (b) support and partner with ANC 7D before and during the upcoming DPW activities to repair the Kenilworth Avenue bridge at Burroughs Avenue; (c) support community needs related to the proposed roadway construction along the Kenilworth Avenue corridor – Benning Road, Kenilworth Avenue, Kenilworth Terrace and Foote Street.

2. The Applicant will provide adequate notice to the community and directly to ANC 7D about employment opportunities that may become available at the PEPCO Benning Road site and at its other facilities.

3. The Applicant will sponsor, through ANC 7D, a community-based learning project to help educate the children within the boundaries of ANC 7D on issues involving environmental concerns and problems.

4. Landscaping for the site will be as identified on Exhibit No. 27 of the record.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0-0 (Robert Sockwell, Anne M. Renshaw, Anthony J. Hood and Sheila Cross Reid to grant.)

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAR 21 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO SUBSECTION 3125.6".

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

BAB/3-16-00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16546

As Director of the Office of Zoning, I hereby certify and attest that on MAR 21 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr.
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, DC 20006

William E. Wright, Chairperson
Advisory Neighborhood Commission 7D
P.O. Box 64052
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Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20009

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director

FEB 25 P12:52

DRAFT

Application No. 16546 of Potomac Electric Power Company, pursuant to 11 DCMR 3103.2 for a variance from the height requirement and 11 DCMR 3104.1, for a special exception under Section 411 to allow relief from the roof structure setback requirements in a C-M-1 District at premises 3400 Benning Road, N.E., Parcel 169/114.

HEARING DATE: February 9, 2000
DECISION DATE: Bench Decision

BZA
Case No. 16546
Exhibit No. 25

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7D and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 7D. ANC 7D, which is automatically a party to the application, filed a written statement, dated January 19, 2000, of issues and concerns in support of the application.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance pursuant to 11 DCMR 840.1 and for a special exception pursuant to 11 DCMR 411.11. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR 3103.2 and 3104.1, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED subject to the following conditions:

1. Applicant will (a) advocate, along with the ANC 7D, for adequate and safe ingress and egress to and from the roadways near the PEPCO plant; (b) support and partner with ANC 7D before and during the upcoming DPW activities to repair the Kenilworth Avenue bridge at Burroughs Avenue; (c) support community needs related to the proposed roadway construction along the Kenilworth Avenue corridor – Benning Road, Kenilworth Avenue,

Kenilworth Terrace and Foote Street.

2. Applicant will provide adequate notice to the community and directly to the ANC 7D about employment opportunities that may become available at the PEPCO Benning Road site and at its other facilities.

3. Applicant will sponsor, through the ANC 7D, a community-based learning project to help educate the children within the boundaries of ANC 7D on issues involving environmental concerns and problems.

4. Landscaping for the subject site will be as shown on the Landscaping Plans submitted concurrent with this order.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Sheila Cross Reid, Robert N. Sockwell, Anthony J. Hood, Anne M. Renshaw to approve)

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

ATTESTED BY:_____
Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS

OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO §3125.6"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

WITNESS CARD CASE NO. 16546

Proponent ✓ OPPONENT

Name MICHAEL CREASEY ANC 7D01

Address 4228 BENNING Rd. NE #208.

City WASHINGTON, DC Zip 20019

z-c-6 DAYTIME PHONE No. (202) 396-7413 9-0490 wd303

WITNESS CARD CASE NO. 16546

Proponent X OPPONENT

Name STEVEN G SHER

Address WILKES ARTIS HEDRICK & LANE 1666 K ST NW

City WASH DC Zip 20006

z-c-6 DAYTIME PHONE No. 457-7726 9-0490 wd303

WITNESS CARD CASE NO. 16546

Proponent ✓ OPPONENT

Name N.M. Glasgow, Jr.

Address 1666 K St., N.W.

City Wash. D.C. Zip 20006

z-c-6 DAYTIME PHONE No. 202 457-7800 9-0490 wd303

WITNESS CARD CASE NO. 16546

Proponent Pepco OPPONENT

Name Linda Jo Smith

Address 1191 46th Pl. SE

City Washington DC Zip 20019

z-c-6 DAYTIME PHONE No. 202 ~~872~~-2024 9-0490 wd303

WITNESS CARD CASE NO. 16546

Proponent ✓ OPPONENT

Name WALTER "SKIP" WEAVER

Address 1600 MAIN RUE N.W.

City WASHINGTON DC Zip 20008

z-c-6 DAYTIME PHONE No. 202-331-[illegible] 9-0490 wd303

WITNESS CARD CASE NO. 16 546

Proponent Pepco OPPONENT

Name Ted Trabue

Address 2810 Kanawha St., NW

City Wash. D.C. Zip 20015

z-c-6 DAYTIME PHONE No. (202) 872-2367 9-0490 wd303

BZA
Case No. 16546
Exhibit No. 24

WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
SUITE 1100
1666 K STREET, N. W.
WASHINGTON, D. C. 20006-2897
(202) 457-7800

STEVEN E. SHER
DIRECTOR OF ZONING SERVICES
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ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

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

BZA
Case No. 16546
Exhibit No. 22

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

CLARK
CONSTRUCTION

February 8, 2000

Mr. Tom Eichbaum
SmithGroup Incorporated
1825 Eye Street, NW
Suite 250
Washington, DC 20006

Re: PEPCO Site
Benning Road Project

Dear Tom:

We have conceptually evaluated the project and focused on the below grade component of the project. This evaluation is based on two 40,000/SF levels.

In comparison to a more standard site, without the presence of a high water table, the below grade construction cost could be approximately $48.00 to 50.00/SF.

This site analysis which recognizes the high water table, dewatering issues, specialty foundation requirements, consideration of foundation tie-downs, and inordinate waterproofing requirements indicates the equivalent below grade construction costs could be in the $65.00 to 67.00/SF range.

Site at grade parking, in comparison, costs approximately $1000 to $1500/space.

We anticipate this review to be responsive to your request and remain available should additional information be required.

Yours truly

Barry D. DePauw
Senior Vice President

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Exhibit No. 22

The Clark Construction Group, Inc.
7500 Old Georgetown Road
Bethesda, Maryland 20814-6196
Phone 301/272-8100 Fax 301/272-1928
www.clarkus.com

Rec'd.
2.9.00

EASTLAND GARDENS
CIVIC ASSOCIATION, INCORPORATED
4020 Lee Street, N.E.
Washington, DC 20019
(202) 723-4602

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January 31, 2000

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, DC 20001

President
Dalton Howard

1st Vice President
Jon Butler

2nd Vice President
Raymond Longshore

Recording Secretary
Beverly Butler

Corresponding Secretary
Marian H. Howard

Financial Secretary
Katie Johnson

Treasurer
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Sergeant-at-Arms
Marie Joyner

Parliamentarian
Erman T. Clay Sr.

Archivist
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Chaplain
Pervis Smith

Immediate Past President
Erman T. Clay, Sr.

Council of Presidents
Erman T. Clay, Sr.
Herman B. Greene
Justina Kinder
Frank Hill
Rhuedine Davis
Thomas W. Johnson

Re: PEPCO Office Project, Benning Road, N.E.

Dear Ms. Reid:

This letter is written on behalf of the Eastland Gardens Civic Association in 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 above referenced site.

The Civic Association received two presentations from the PEPCO development team at the November 16th and January 18th public meetings, which were well attended. The project was viewed as being a positive catalyst to overall community revitalization and development in the area.

The office building is set back a substantial distance from Foote Street and is essentially not visible from the community. PEPCO agreed to infill the small gaps in the tree plantings along Foote Street.

The PEPCO site is extremely large and is unique in its scope of uses. Due to the size of the site, PEPCO is able to setback and screen the office facility so that it will have no adverse impact to the community and

#16548
#21

the overall floor area of the structure and the parking to be provided are in accordance with C-M-1 Zoning Regulations.

As a result, we do not see any detriment that will occur to the community by allowing the building to be taller than otherwise allowed 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. Questions were answered to our satisfaction.

Yours truly,

Dalton Howard

Dalton Howard
President

cc: Linda Jo Smith

EASTLAND GARDENS CIVIC ASSOCIATION, INC.
4020 Lee Street, N.E.
Washington, D.C. 20019



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

Advisory Neighborhood Commission 7C
4651 Nannie Helen Burroughs Avenue, N.E., Suite 2
Washington, D.C. 20019
Tel: (202) 398-5100
Fax: (202) 398-5101

'00 FEB -3 P3:51

DIST

January 24, 2000

Ms. Sheila Cross Reid
Chairperson
Board of Zoning Adjustment
44-4th Street, N.W., Suite 210
Washington, D.C.2001

Re: Application No. 16546 and Large Tract Review
Pepco Office Project, Benning Road, N.E.
Washington, D.C. 20019

Dear Ms. Reid:

We were informed by a representative of Pepco that Pepco wants to relocate in the Northeast Section of our city. We then spoke with a representative from Pepco and a representative from the Board of Zoning and they both assured us that they need varience requirements to move to the Benning Road area.

For the record, we support the granting of the variences that are necessary to construct a five-story, 59 foot tall office building of approximately 200,000 square feet in size at the above requested site.

We are also aware that the building will be set back a substantial distance from the street and is essentially not visible from the community. This is a very positive revitalization and development in the area. Pepco has always been a supporter in the community.

Therefore, we ask that the Board of Zoning Adjustment Commission vote in favor of Application No. 16546.

Sincerely,

Mary L. Gaffney, Ed.D.
Chairperson

PZA
Case No. 16546
Exhibit No. 20

Advisory Neighborhood Commission 7C
4651 Nannie Helen Burroughs Avenue, N.E., Suite 2
Washington, D.C. 20019





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

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

'00 JAN 28 P12:49

January 19, 2000

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

Chair
William E. Wright,

Vice Chair
Harold L. Whitten

Secretary
Michael D. Creasey

Treasurer
Catherine A. Woods

Parliamentarian
Delano A. Foster

Commissioners
Michael D. Creasey, SMD01
Diane C. McCain, SMD02
Catherine A. Woods, SMD03
Harold L. Whitten, SMD04
William E. Wright, SMD05
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:

BZA
Case No. 16546
Exhibit No. 19

- 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.

Michael Creasey or Diane McCain will present this report at the February 9, 2000 hearing.

On behalf of the Commission,

William E. Wright by dcm

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

Advisory Neighborhood Commission 7D
Post Office Box 64052
Washington, DC 20019



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

20001+4807

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.

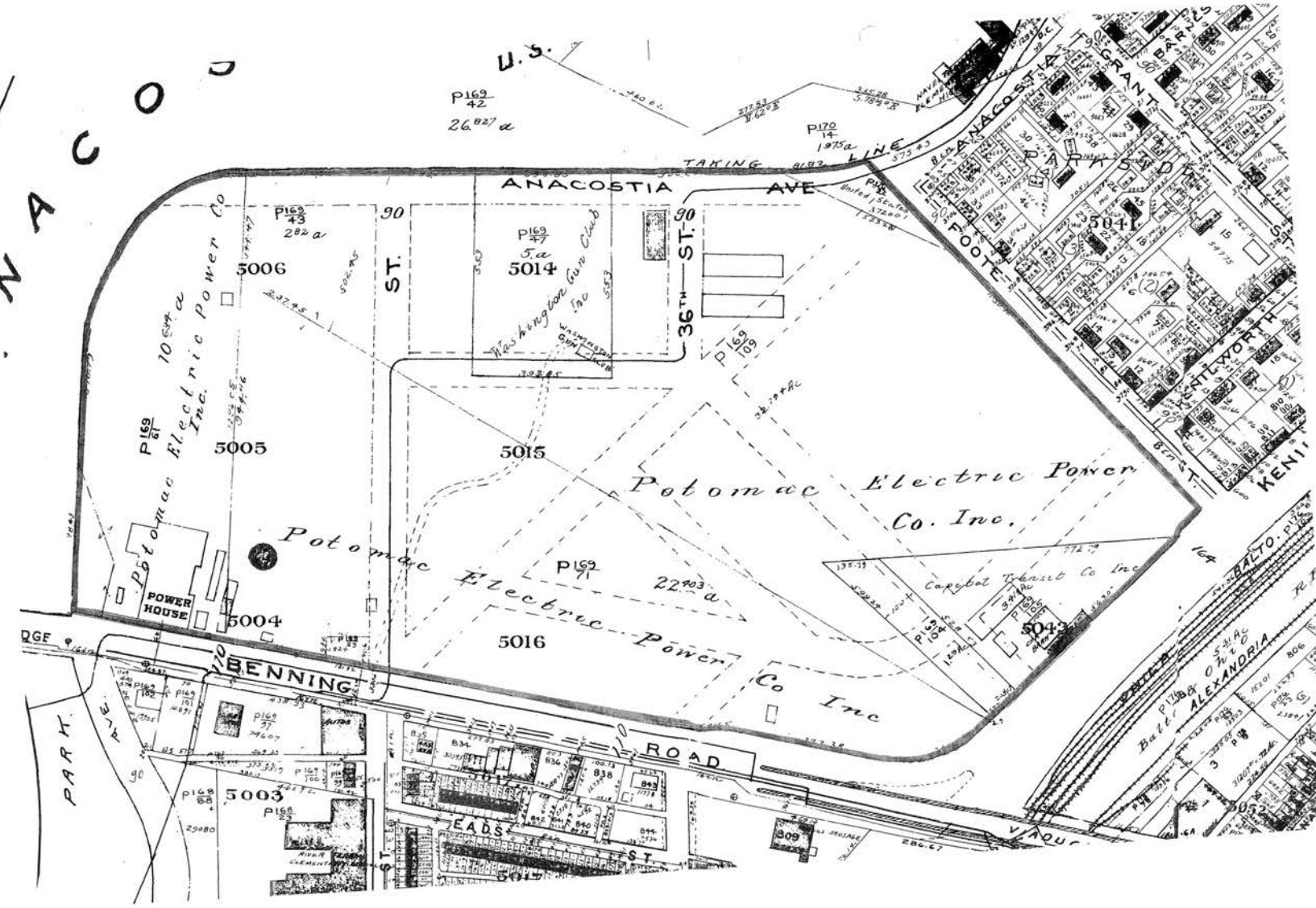
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Martin P. Sullivan

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

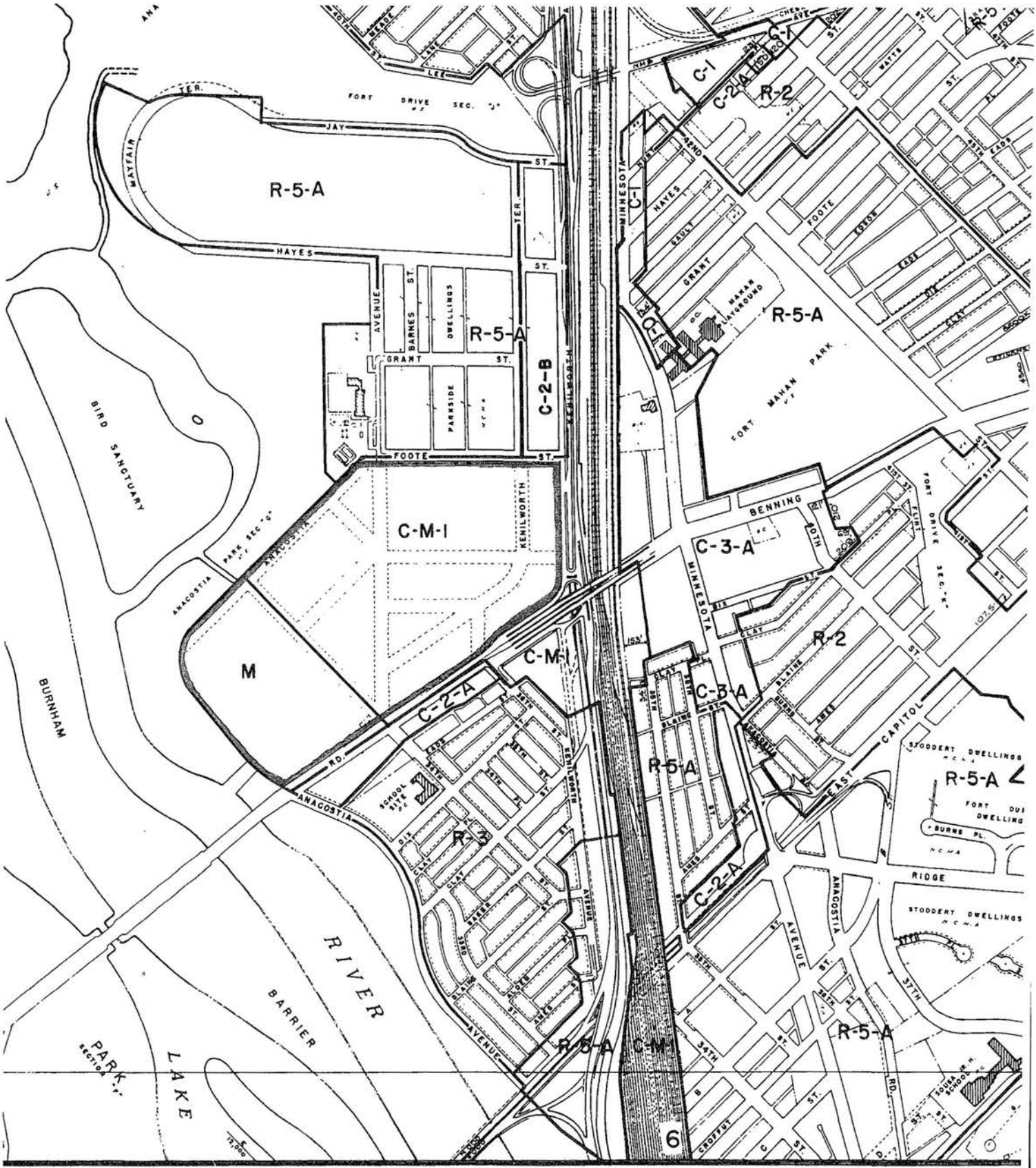
January 27, 1999

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ANACOSTIA AVE
TAKING LINE
36TH ST.
ST.
BENNING ROAD
PARK AVE
Potomac Electric Power Co. Inc.
Potomac Electric Power Co Inc
POWER HOUSE
Washington Gun Club Inc
Capital Transit Co Inc
5003
5004
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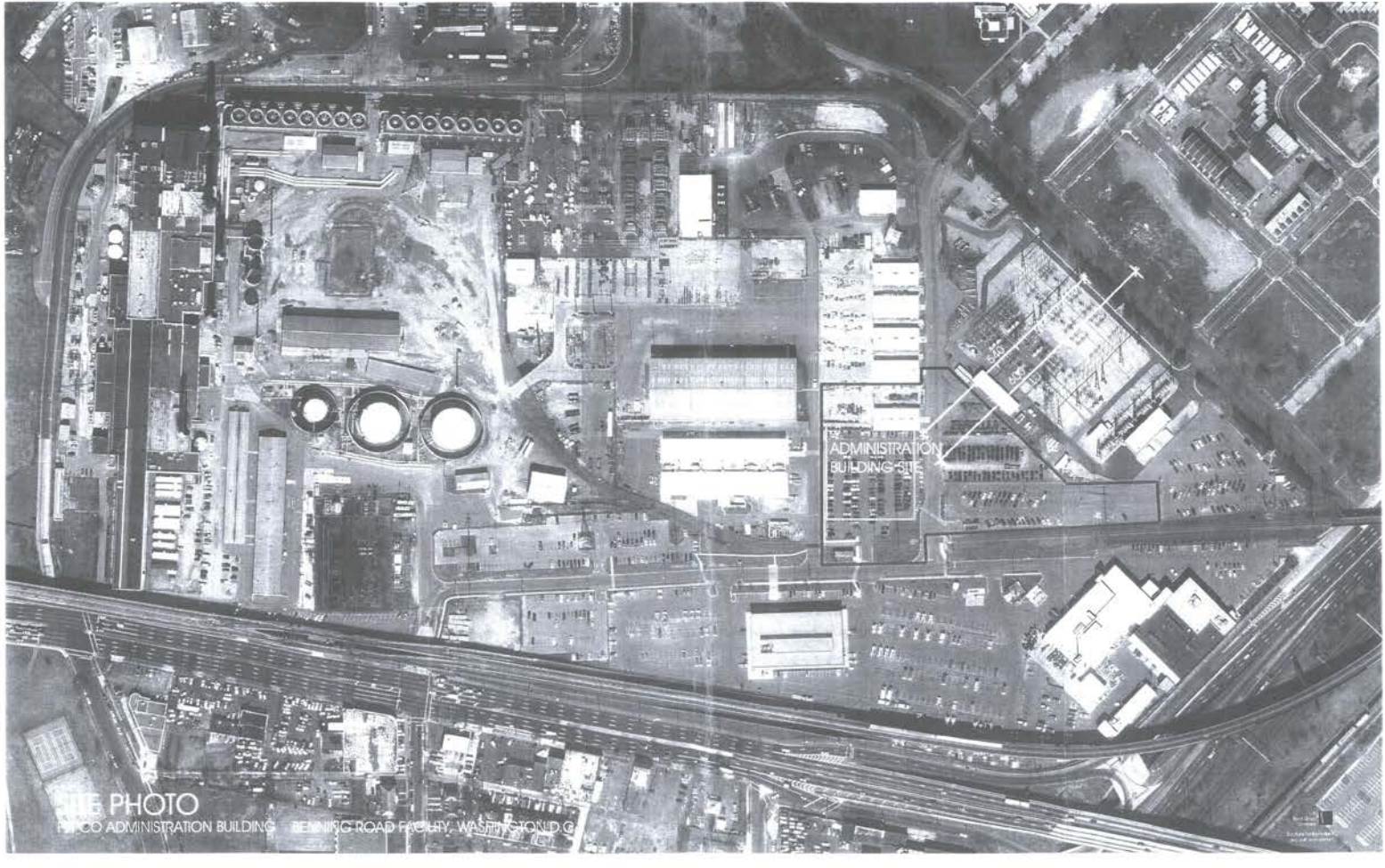


DISTRICT OF COLUMBIA

ZONING MAP

SECTION 3



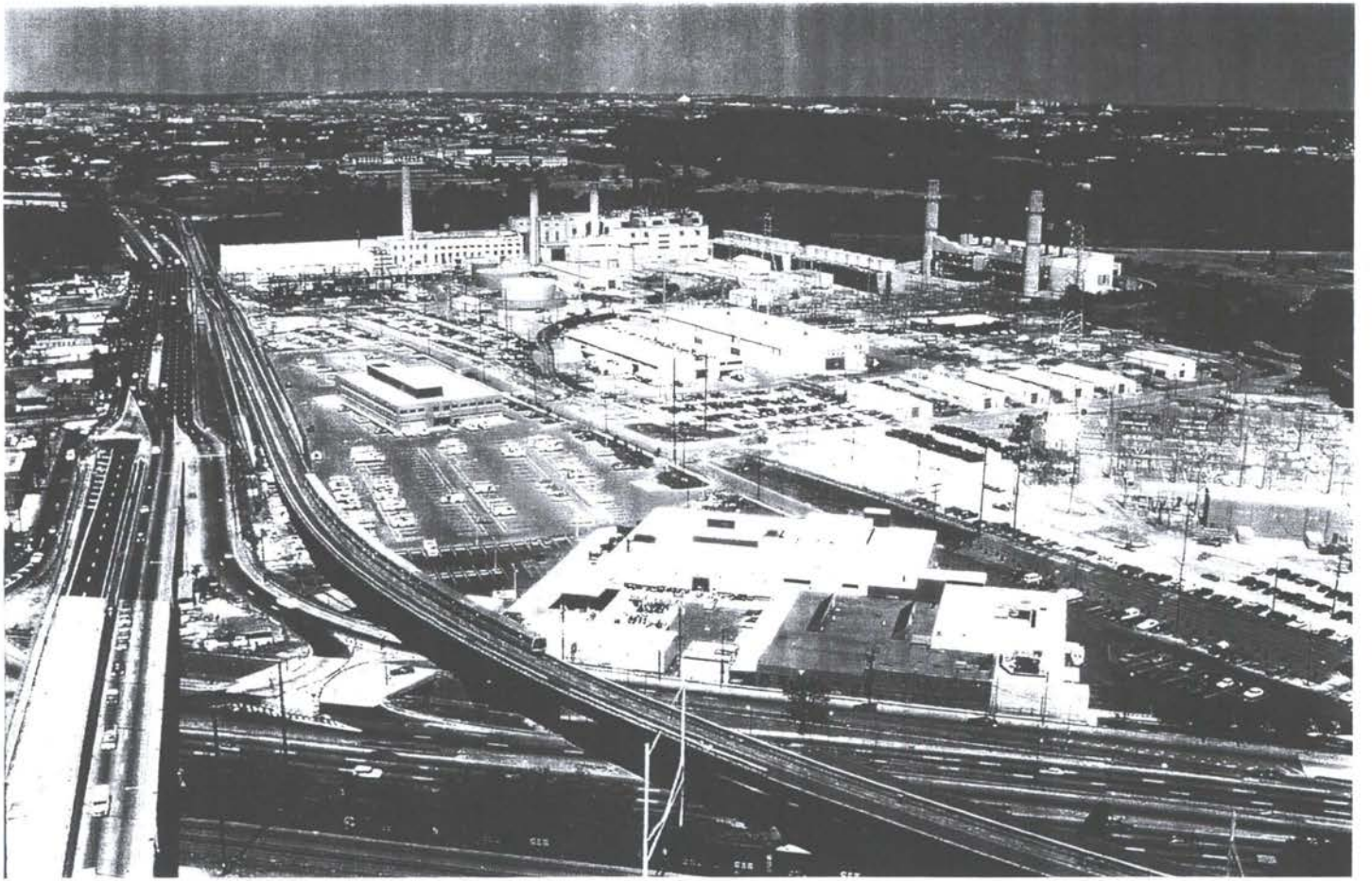


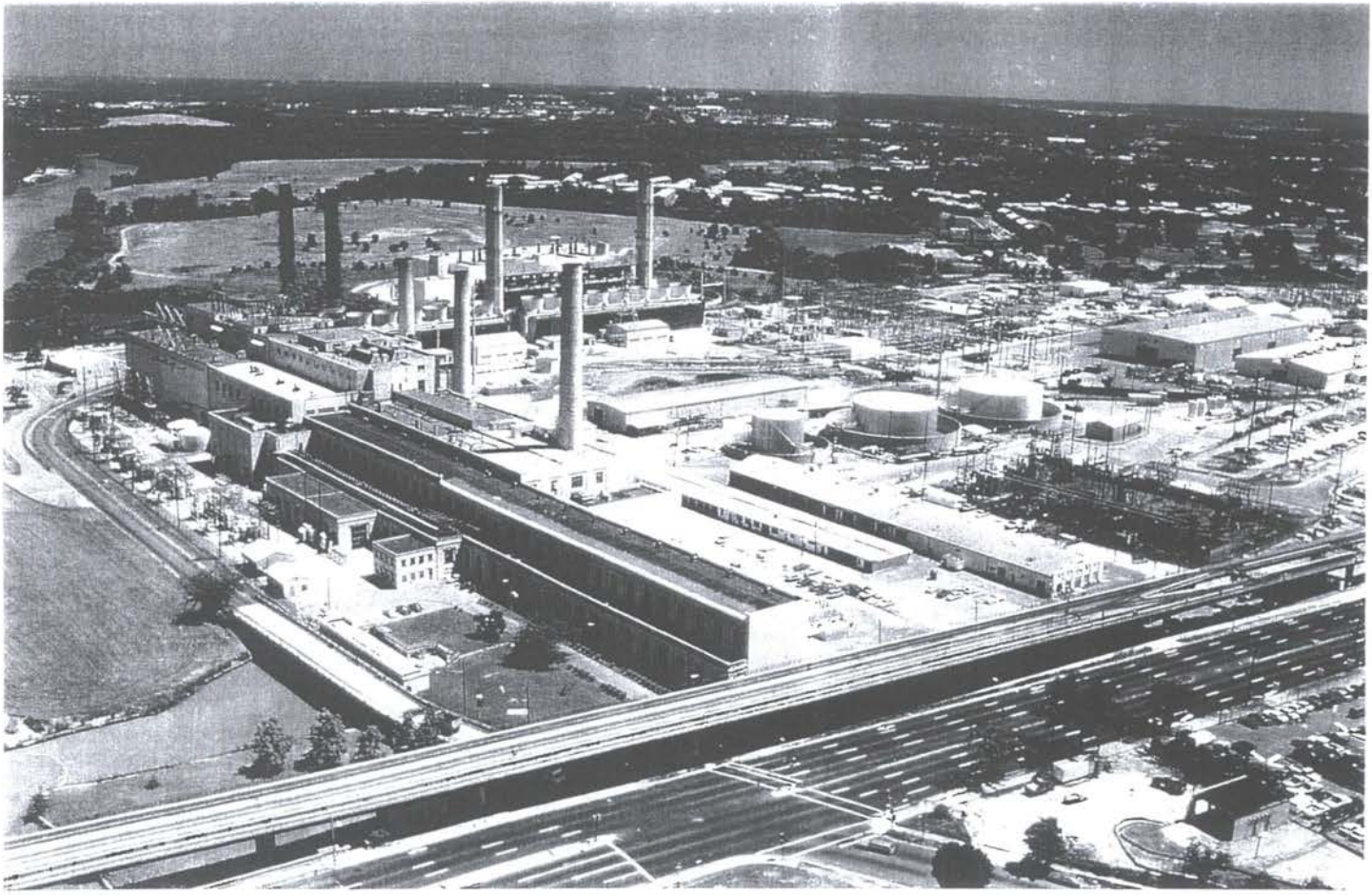
SITE PHOTO

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

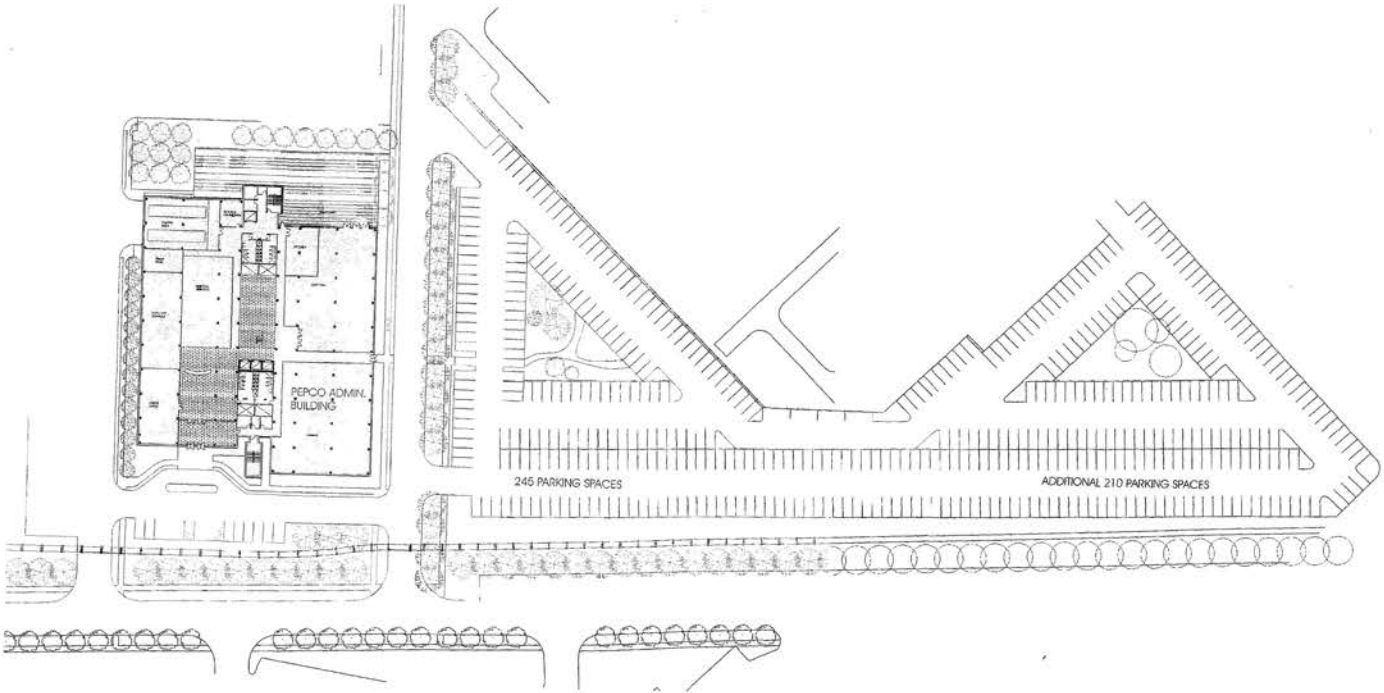








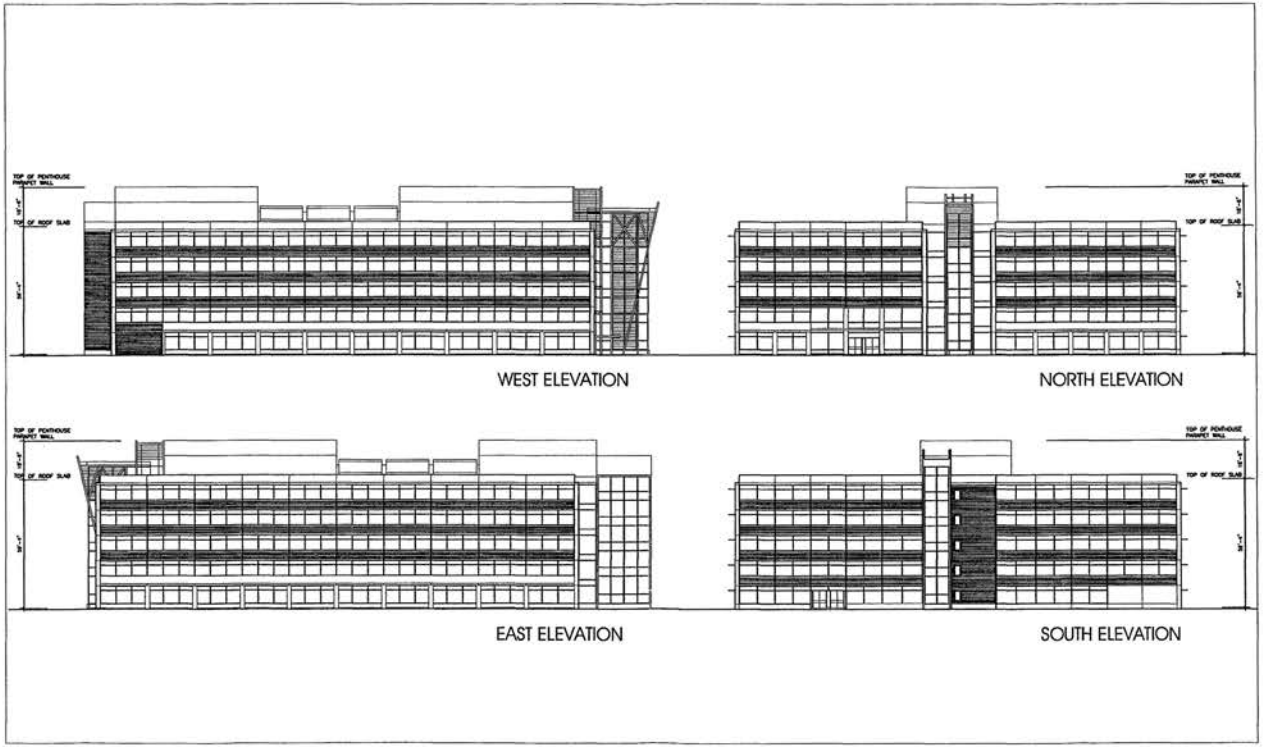




SITE PLAN SCALE: 1/32" = 1'-0"

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

KCPSHG
A SmithGroup Company

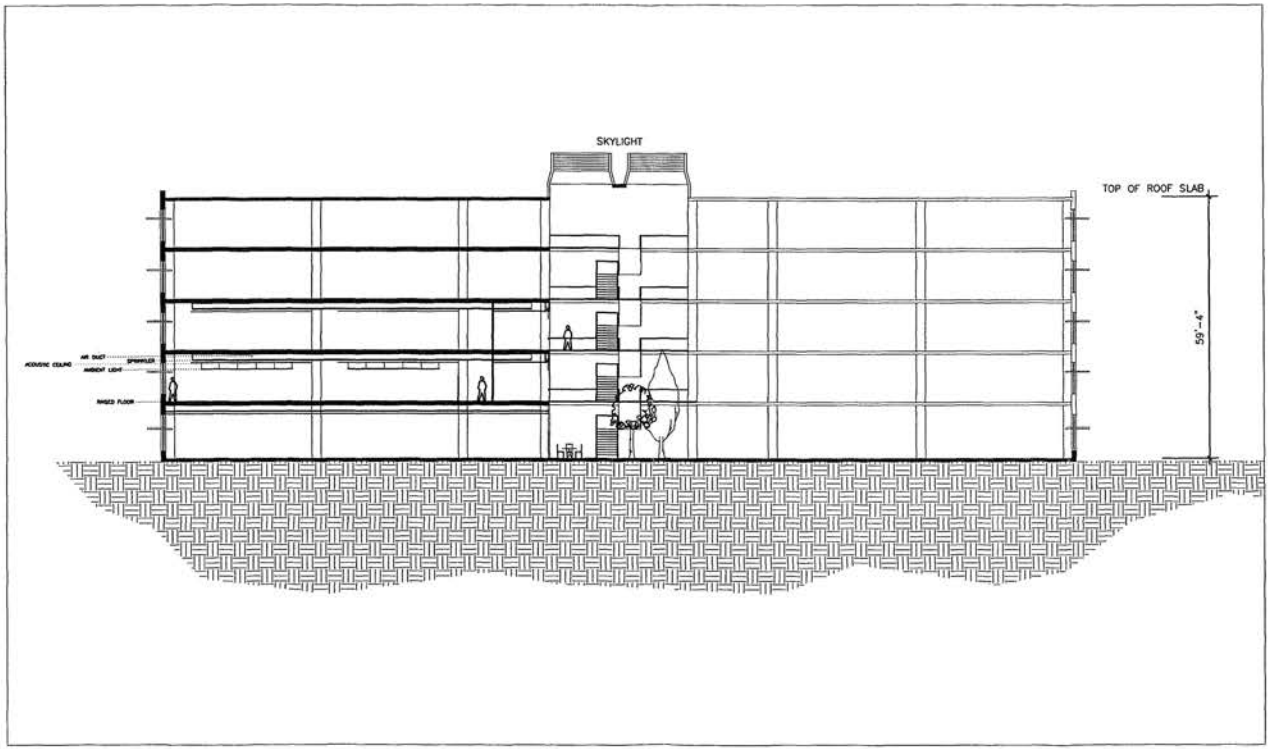


BUILDING ELEVATIONS

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

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

KCF-SHG

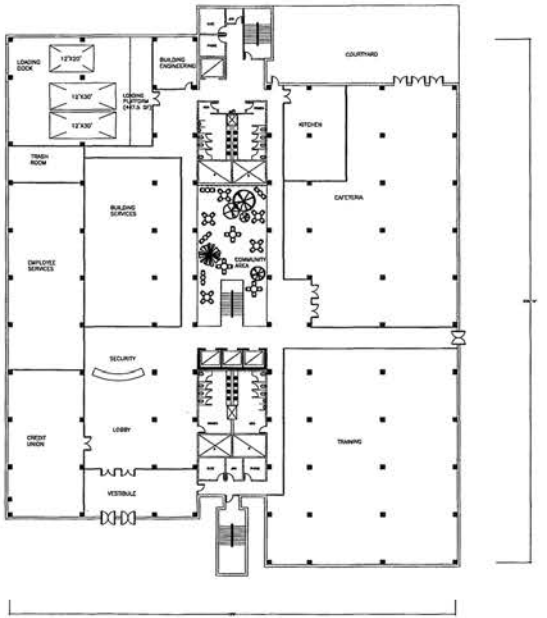


BUILDING SECTION

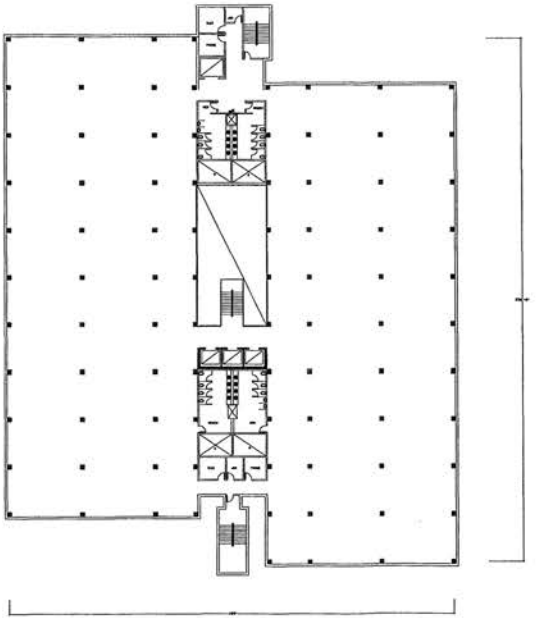
SCALE: 1/8"=1'-0"

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

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Solutions for the natural and built environment



GROUND FLOOR PLAN



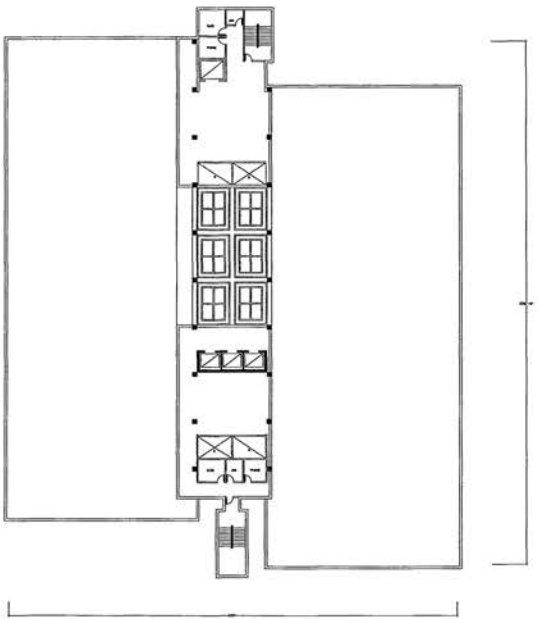
TYPICAL FLOOR PLAN

BUILDING PLANS

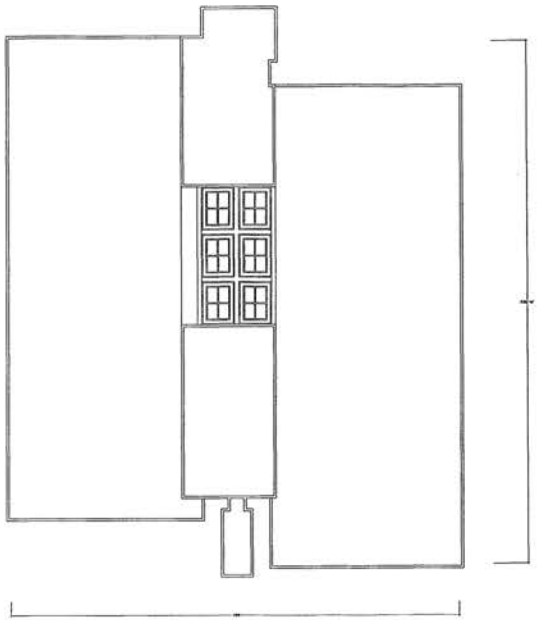
SCALE: 1/16" = 1'-0"

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

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PENTHOUSE PLAN



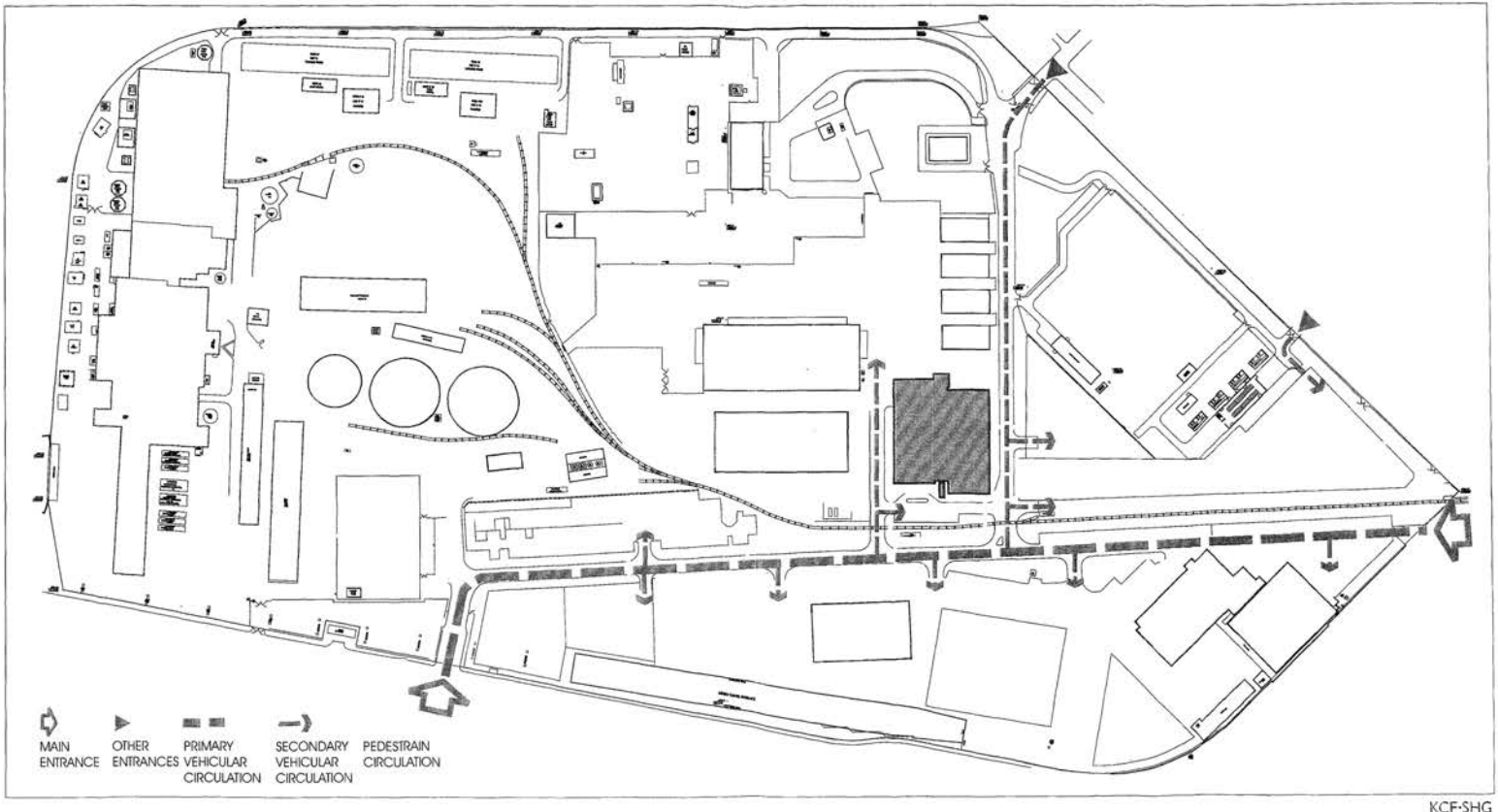
ROOF PLAN

BUILDING PLANS

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

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Solutions for the natural and built environment



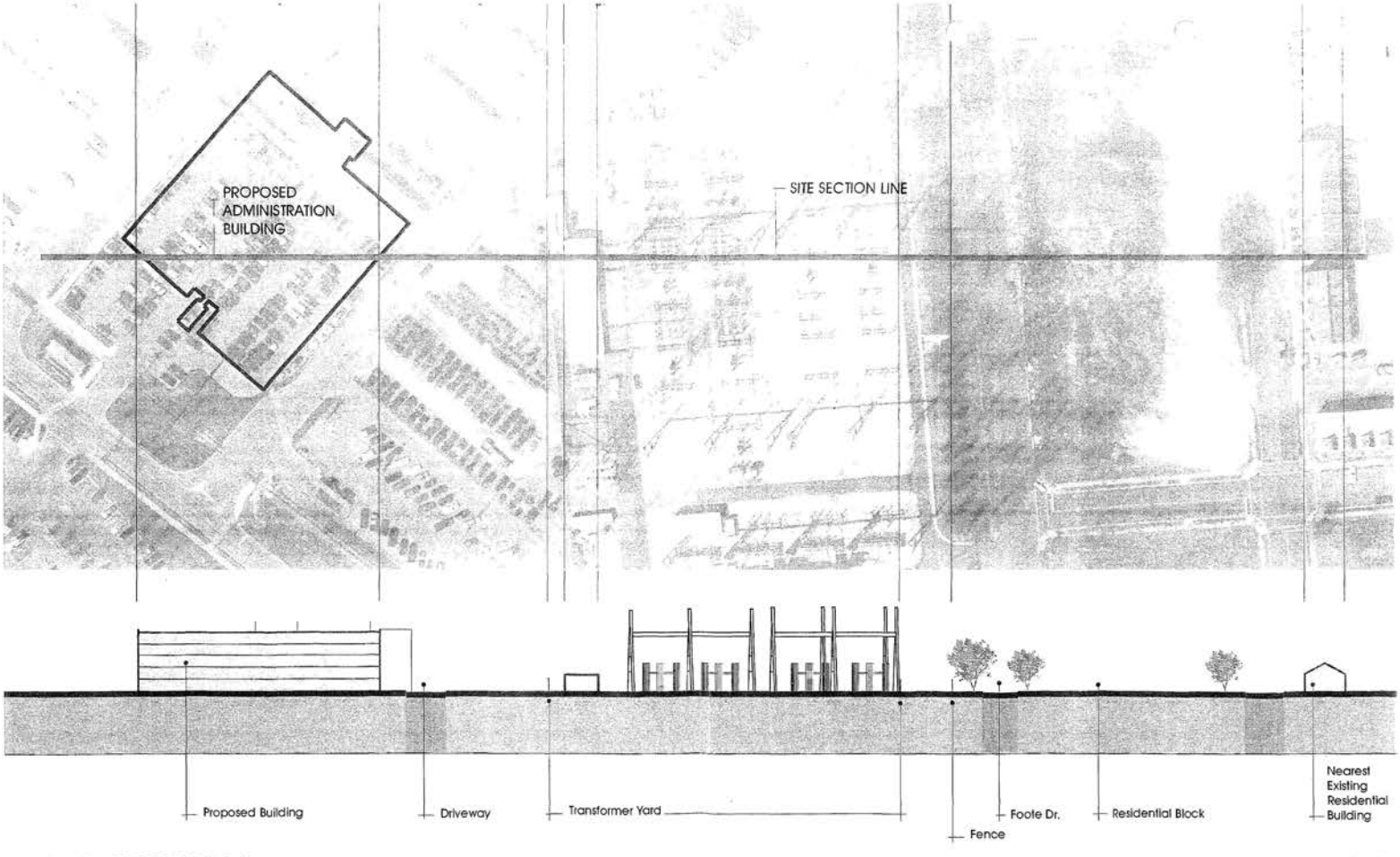
CIRCULATION

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

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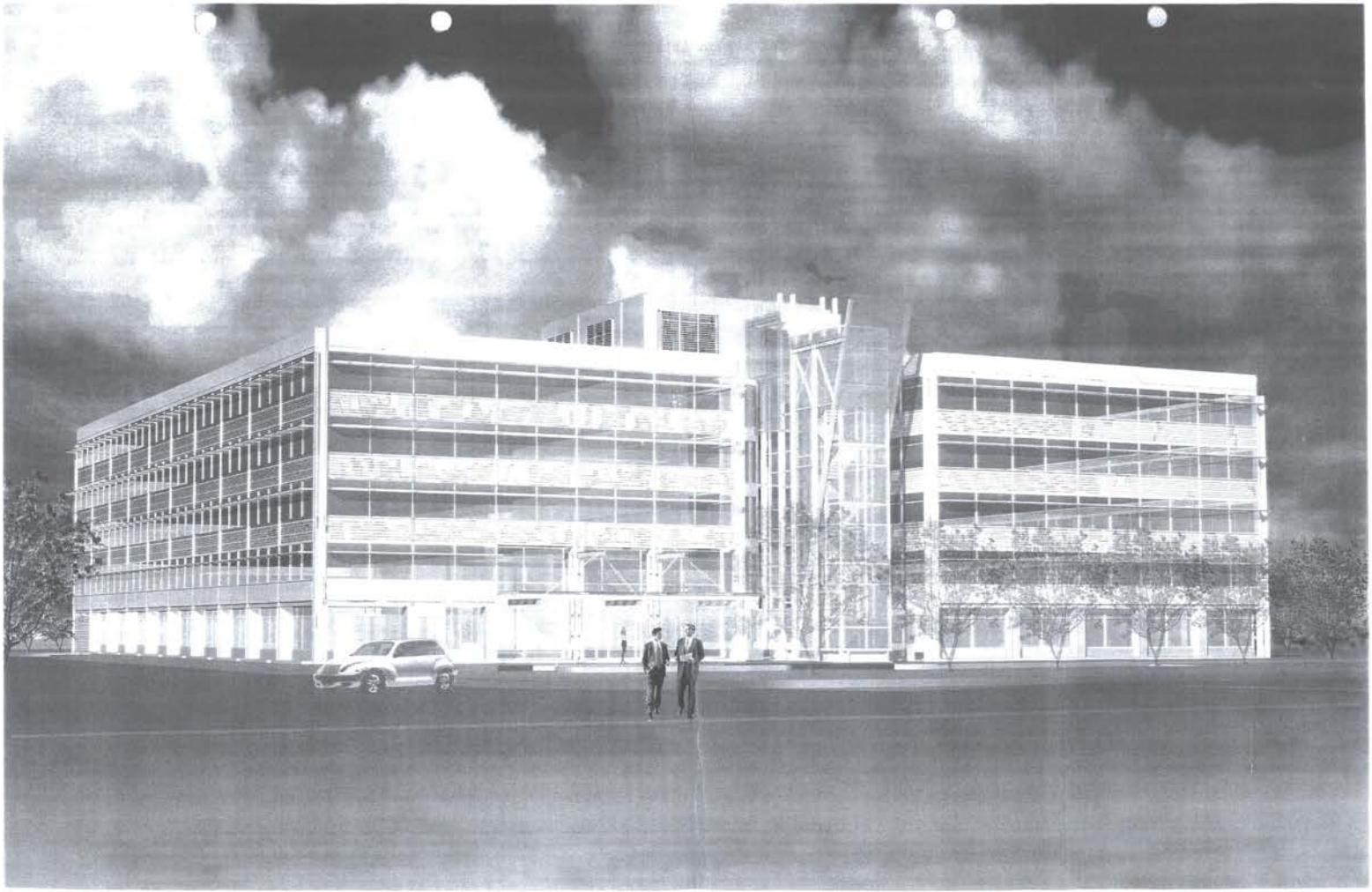
SITE SECTION

SCALE: 1" = 50'-0"

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

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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

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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



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