GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16546-A of the Potomac Electric Power Company, pursuant 11 DCMR § 3103.2 for a variance from the height requirements under section 840 and pursuant to 11 DCMR § 3104.1, a special exception from the roof structure set-back requirements under section 411, 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).

Note: The Board approved a request by the applicant to waive the six (6) month filing requirements under subsection 3129.3, to accept a motion to modify approved landscape plan.

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

DISPOSITION: The Board GRANTED the original application by a vote of 4-0-1 (Robert N. Sockwell, Anne M. Renshaw, Anthony J. Hood, and Sheila Cross Reid to approve, the third Mayoral appointee not present, not voting).

FINAL DATE OF ORIGINAL ORDER: March 21, 2000

MODIFICATION ORDER

The Board initially granted the Application by its Order dated March 21, 2000. By letter dated February 21, 2001, the Applicant filed a request to modify the previously approved landscape plan that are consistent with BZA Order No. 16546, and to waive the six month filing requirement pursuant to § 3129.3 of the Zoning Regulations to allow for a modification of the previously approved landscape plan. The Board finds that the modification of the plan is minor in nature and necessary to reconcile a minor inconsistency between the approved landscape plan and the approved ground floor plan. The Board also finds that the modification does not materially change the facts that the Board relied upon in approving the original application. The size and configuration of the court yard and the landscape plan were not relevant to the variance and special exception relief that was sought in the original application. The plan for the building approved in the original application has not changed with the modification request. The side of the building on which the landscaping would change is internal to the site and far removed from any adjoining residential property.

The request was reviewed at the Board's March 5, 2002, public meeting. The site of this application is located within the jurisdiction of Advisory Neighborhood Commission (ANC) 7D. Pursuant to § 3129.4, ANC 7D, as the only party to the original Application

Case No. 16546-A
Exhibit No. 37
Board of Zoning Adjustment
District of Columbia
CASE NO.16546
EXHIBIT NO.37

other than the Applicant, was notified of the modification request. ANC 7D submitted a written statement in support of the modification request. The D.C. Office of Planning submitted a written report stating no objection to the modification request.

Upon consideration of the motion for waiver of the six (6) month filing requirement of § 3129.3, and support for the modification request by ANC 7D and OP, the Board determines that the waiver should be approved.

Upon consideration of the Applicant's request for modification of the approved landscape plans and support for the modification request by ANC 7D and OP, the Board concludes that the proposed modifications are minor and do not change the material facts relied upon by the Board in approving the Application.

The Board notes that the current Board members have reviewed the record in the initial application and the instant request for modification.

It is therefore **ORDERED** that the requests for a **WAIVER** of the **SIX-MONTH TIME LIMITATION FOR FILING A MOTION** and **MODIFICATION OF APPROVED LANDSCAPE PLAN** are **APPROVED**. In all other respects, the previous Order of the Board shall remain in full force and effect.

DECISION DATE: March 5, 2002

VOTE: 5-0-0 (Geoffrey H. Griffis, David W. Levy, Anne M. Renshaw, Curtis L. Etherly, Jr. and Anthony J. Hood to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAR 15 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25. SEE D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16546-A

As Director of the Office of Zoning, I hereby certify and attest that on MAY 15 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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rsn

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning