

Address: 1300 North Royal Street
Zone: UT/Utilities and Transportation
Appellant: GenOn Potomac River LLC, c/o Williams Mullen
Issue: Appeal of the Director's determination that GenOn Potomac River LLC does not qualify as an appellant under Zoning Ordinance section 11-1708(D)(1)

Summary of Case on Appeal

This case is an appeal of the Planning Director's March 27, 2020 determination that GenOn Potomac River LLC ("GenOn") did not qualify as an appellant pursuant to Zoning Ordinance section 11-1708(D)(1) and therefore could not appeal the Planning Commission's March 3, 2020 approval of a subdivision plat to City Council. The appellant's arguments are appended to this report.

Background

On March 3, 2020 the Planning Commission approved a subdivision plat (SUB #2019-0022) with a variation for the subject property located at 1300 North Royal Street. The applicant, Potomac Electric Power Company (PEPCO) proposed to subdivide an existing lot into three lots. Proposed Lot Two did not have street frontage as required by Zoning Ordinance sections 11-1710(O) and 2-166 and a variation was sought by PEPCO to allow this configuration. Planning Commission approved PEPCO's request, finding that the proposal met all subdivision and variations requirements.

On March 17, 2020 GenOn filed an appeal to the Planning Commission's subdivision approval with the City Clerk.

On March 27, 2020, Karl W. Moritz, Director of Planning and Zoning, sent a letter in response to GenOn's appeal. Mr. Moritz determined that because GenOn does not own property within 300 feet of the proposed boundaries, as required by Zoning Ordinance section 11-1708(D)(1), it did not qualify as an appellant and that no City Council appeal hearing would be scheduled.

GenOn then filed a request for an appeal of the Director's letter dated March 27 to be considered by the Board of Zoning Appeals (BZA) pursuant to Section 11-1205(C).

Discussion/Argument

A. Decision Before the BZA

The Director's determination in this case was:

Per City Zoning Ordinance Section 11-1708(D)(1), "An appeal from an approval must be made by the owners of at least 20 percent of the area of the land within 300 feet of the boundaries of the proposed subdivision." According to the City's analysis, GenOn does not own property within 300 feet of the proposed boundaries of the subdivision. Therefore, GenOn does not qualify as an appellant under City Zoning Ordinance Section 11-1708(D)(1). As such, there will be no City Council appeal hearing scheduled on this matter.

Under Zoning Ordinance Section 11-1205(C), "The decision on such appeal shall be based on the board's judgment of whether the director was correct." Here the director's decision was only that the appeal criteria in the Zoning Ordinance had not been met by GenOn; thus, there would be no appeal hearing by the City Council.

Additionally, BZAs are not authorized to hear cases outside of the authority granted to them. *See Adams Outdoor Advertising, Inc. v. Board of Zoning Appeals of the City of Virginia Beach*, 261 Va. 407, 416, 544 S.E.2d 315, 320 (2001) (Boards of Zoning Appeals have only the authority granted to them by it enabling authority from the General Assembly.). This includes the inability to hear appeals of subdivision applications. *Mason v. Board of Zoning Appeals of Fairfax County*, 25 Va. Cir. 198, 1 (1991). Therefore, in any event, the BZA cannot consider a subdivision appeal.

Further, third parties do not have rights to bring suits to enforce local subdivision ordinances nor have localities been expressly empowered to grant such rights to third parties. *See Shilling v. Jimenez*, 268 Va. 202, 208, 597 S.E.2d 206, 209 (2004) (The locality was the only entity authorized to administer and enforce the subdivision ordinance, not neighboring landowners.). *See also* Zoning Ordinance § 11-1707(A)(2) and § 11-102 (The director determines whether subdivision applications are complete and in compliance with the Zoning Ordinance.). In making its assertions that the subdivision application was prepared incorrectly, GenOn is trying to administer or enforce the Zoning Ordinance but is not permitted to do so.

For the foregoing reasons, the sole issue before the BZA is whether the Director was correct in determining that GenOn did not meet the requirements of Zoning Ordinance Section 11-108(D)(1) and was therefore not eligible to appeal Planning Commission's approval of the subdivision plat to City Council.

B. GenOn is Lessee Under the Zoning Ordinance

In applying the Zoning Ordinance, the City interprets that a property owner is the owner of record of real property and a lessee is an individual or party who has legal rights to a property through a lease granted by the property owner. Therefore, because GenOn has a lease with the record owner, PEPCO, for Zoning Ordinance purposes, the City considers GenOn to be a lessee.

The Zoning Ordinance establishes different rights to land development applications depending on whether the applicant is a property owner or lessee. The subdivision provisions at Section 11-1706(A) of the Zoning Ordinance only authorize a property owner or contract purchaser to apply for a subdivision. Whereas, the special use permit provisions, under Zoning Ordinance Section 11-503(A)(1), allows applicant to be an "...owner, contract purchaser, lessee or other party having a legal interest in the subject property." Additionally, under Code of Virginia § 15.2-2260(E), the applicant for the subdivision is the only party with rights to appeal a denied request to circuit court. This means that third parties do not have the right to appeal subdivisions to court. *See Logan v. City Council of City of Roanoke*, 275 Va. 483, 499, 659 S.E.2d 296, 304-5 (2008) (Landowners near an approved subdivision do not have appeal rights related to subdivisions under either the subdivision or declaratory judgement authorities).

Allowing lessees to create new lots or appeal subdivision approvals would undermine a property owner's rights. A lessee could, in theory, apply to subdivide a property without the permission of the owner or appeal a subdivision approval based on a private disagreement with the property owner.

If a lessee is not entitled to apply for a subdivision, and third parties are not permitted to appeal an approved subdivision to court, it would not follow that appeal rights should be extended to lessees.

As to GenOn's contention that it is a "leasehold owner", under the Zoning Ordinance there is no such status. Under the Zoning Ordinance there are owners and lessees. Due to the fact that PEPCO is the record owner of the property and because there is a lease between PEPCO and GenOn, the City interpreted that GenOn's interest is that of a lessee.

In conclusion, under the Zoning Ordinance, GenOn is a lessee and as such has no right to apply for or appeal a subdivision application.

C. Subdivision Appeal Standards

Zoning Ordinance Section 11-1708(D)(1) establishes criteria as to what parties are eligible to appeal subdivision approvals as follows:

After the commission approves or disapproves a plat submitted under this section, there may be an appeal from the decision to the city council. An appeal from an approval must be made by the owners of at least 20 percent of the area of the land within 300 feet of the boundaries of the proposed subdivision. The director shall verify that those filing are legal property owners. The director of transportation and environmental services shall verify the required 20 percent area. Streets, alleys and land dedicated to public use or land owned by the city, state or federal government or public agencies shall not be included in computing that area.

The Zoning Ordinance specifies that a subdivision approved by Planning Commission may only be appealed to City Council by owners of at least 20 percent of the area of the land within 300 feet of the boundaries of the proposed subdivision. By its plain language, the 300-foot/20 percent standard applies only to properties outside of a proposed subdivision. GenOn does not meet this standard since it does not own any property around the subdivision.

D. Standard of Review

The Alexandria Zoning Ordinance gives the authority to the Director of Planning and Zoning to administer the Zoning Ordinance. ZONING ORDINANCE § 11-101. Among other duties, the Director of Planning and Zoning is tasked with interpreting and enforcing the Zoning Ordinance. ZONING ORDINANCE § 11-102(F) and (G).

Decisions by the BZA on appeals “. . . shall be based on the board’s judgment of whether the director was correct. The determination of the director shall be presumed to be correct.” ZONING ORDINANCE § 11-1205(C). The “. . . appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.” ZONING ORDINANCE § 11-1205(C).

The Virginia Supreme Court has clearly indicated that “A consistent administrative construction of an ordinance by officials charged with its enforcement is entitled to great weight.” *The Lamar Company, LLC v. Board of Zoning Appeals, City of Lynchburg*, 270 Va. 540, 547, 620 S.E.2d 753, 757 (2005) quoting *Masterson v. Board of Zoning Appeals*, 233 Va. 37, 44, 353 S.E. 2d 727, 733 (1987). Deference to the interpretation of the person charged with administering the zoning ordinance whose role and expertise it is to provide the relationship between the zoning ordinance text and the local governments plan for zoning is essential in order to have a uniform application of the ordinance. *See Lamar* at p. 547. *See also Trustees of Christ and St. Luke’s Episcopal Church v. Board of Zoning Appeals of the City of Norfolk*, 273 Va. 375, 382, 641 S.E. 2d 104, 107 (2007). The Board of Zoning appeals should only reverse the Director’s decision if “the board determines that the decision is contrary to the plain meaning of the ordinance and the legislative intent expressed therein”. *Higgs v. Kirkbride*, 258 Va. 567, 575, 522 S.E.2d 861, 865 (1999).

Additionally, under settled principles of administrative law, the interpretation given a legislative enactment by public officials charged with its administration and enforcement is entitled to be given significant weight by the courts. *See Payton v. Williams*, 145 S.E.2d 147 (1965). In Virginia, it is settled law that a presumption of correctness attaches to the actions of state and local officials. *See Hladys v. Commonwealth*, 366 S.E.2d 98 (1988).

Such actions are presumed to be valid and will not be disturbed by a court absent clear proof that the action is unreasonable, arbitrary, and bears no reasonable relation to the public health, safety, morals or general welfare. *See County of Lancaster v. Cowardin*, 391 S.E.2d 267, 269 (Va. 1990); *Board of Supervisors of Fairfax County v. Robertson*, 266 Va. 525 (2003) (discussing the presumption of reasonableness attached to the Board’s legislative acts).

Given the foregoing, the Board of Zoning Appeals should apply deference to the decision of the Director of Planning and Zoning in order to continue the necessary consistency in the application of the Zoning Ordinance; unless the Board determines that the appellant has shown by a

preponderance of the evidence that Director's decision was contrary to the plain meaning of the ordinance and was made without reasonable basis.

Conclusion

For the above reasons, the Director respectfully requests that the Board of Zoning Appeals deny the appeal and uphold the Director's determination.

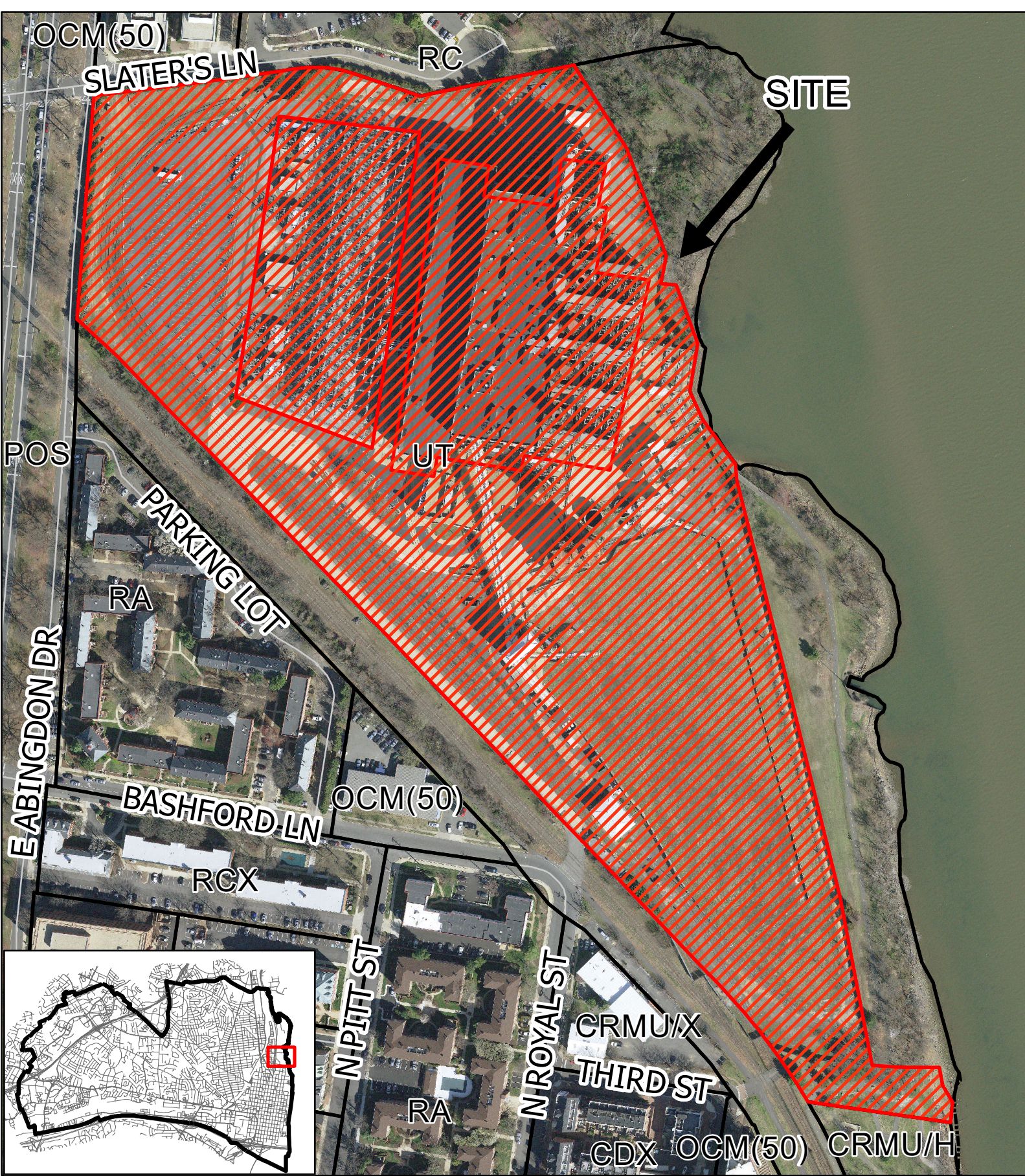
Staff:

Tony LaColla, Division Chief, Planning and Zoning, tony.lacolla@alexandriava.gov
Sam Shelby, Urban Planner, Planning and Zoning, sam.shelby@alexandriava.gov
Christina Zechman Brown, Deputy City Attorney, christina.brown@alexandriava.gov

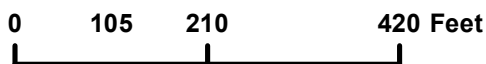
Attachments

Application materials which include:

- A. Appeal request
- B. Director's determination letter dated March 27, 2020
- C. Subdivision #2019-0022 report



BZA #2020-00009
1300 N Royal Street





APPEAL APPLICATION BOARD OF ZONING APPEALS

BZA Case # _____

Identify the order, requirement, decision or determination that is the subject of the appeal. Attach one copy to the application.

On what date was the order, requirement, decision or determination made?

*The appeal must be filed within 30 days from the date that the order, requirement, decision or determination was made.

PART A

1. Applicant: Owner Contract Purchaser Agent

Name _____

Address _____

Daytime Phone _____

Email Address _____

2. Property Location _____

3. Assessment Map # _____ Block _____ Lot _____ Zone

4. Legal Property Owner Name _____

Address _____

5. **If the property owner or applicant is being represented by an authorized agent**, such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?

N/A Yes, provide proof of current City business license.
No, said agent shall be required to obtain a business license prior to filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

APPLICANT OR AUTHORIZED AGENT:

Print Name

Date

4/24/20

Signature



Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. GenOn Holdings Inc.		
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at _____ (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. GenOn Potomac River, LLC		
2. Potomac Electric Power Company		
3.		

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are required to disclose **any** business or financial relationship, as defined by [Section 11-350 of the Zoning Ordinance](#), existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity and "None" in the corresponding fields).**

For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).

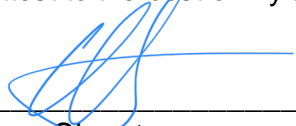
Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. None		
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

4/29/20
Date

Daniel D. McDevitt
Printed Name


Signature

BZA Case #

PART B

1. Why do you believe the order, requirement, decision or determination is incorrect? Explain the basis for the appeal, beginning in the following space and using additional pages, if necessary.

EXHIBIT A

GenOn Potomac River, LLC (“GenOn”) is the leasehold owner and occupies the property located at 1300 North Royal Street, Alexandria, Virginia 22314 (“Property”) as a tenant pursuant to that certain ground lease titled Site Lease Agreement dated December 19, 2000, (“Lease”) entered into by and between GenOn’s predecessor in interest, Southern Energy Potomac River, LLC, and Potomac Electric Power Company (“PEPCO”). The Lease is for a term of ninety-nine (99) years commencing on the date of the Lease. The Lease is evidenced by that certain duly recorded Memorandum of Lease dated December 19, 2000, and recorded in the Clerk’s Office for the Circuit Court for the City of Alexandria (“Clerk’s Office”) on December 21, 2000. In addition to its recorded leasehold interest in the Property, GenOn owns all of the improvements on the Property pursuant to that certain Special Warranty Deed dated December 19, 2000, and recorded in the Clerk’s Office as Instrument No. 000024511.

At its regularly scheduled meeting on March 3, 2020, the Planning Commission for the City of Alexandria, Virginia (“Planning Commission”) considered PEPCO’s preliminary subdivision plat seeking to subdivide the Property with a variance from one lot into three lots (“Subdivision Plat”). The Subdivision Plat was before the Planning Commission pursuant to the Subdivision of Property Application signed by PEPCO and dated December 16, 2019. The Application requires, among other things, the applicant to complete an Ownership and Disclosure Statement (“Disclosure”) that identifies “the name, address and percent of ownership of any person or entity owning an interest in the property” with the term “interest” including “any legal or equitable interest held at the time of the application in the real property which is the subject of the application.” The Application’s disclosure requirement is consistent with Section 11-1706(A) of the Zoning Ordinance for the City of Alexandria (“Ordinance”) which also requires disclosure of any person or entity with “any legal or equitable interest held at the time of the application in the real property which is the subject of the application.”

PEPCO failed to disclose GenOn’s interest in the Property in violation of the City’s subdivision requirements and materially omitted GenOn’s rights and interest to the property subject to the Application. Notably, PEPCO did not include the Property’s address in Section 2 of the Disclosure but rather provided the address for its corporate headquarters (701 Ninth Street, N.W. 10th Floor, Washington D.C.), which is non-responsive to that item of the Disclosure, seemingly to avoid having to disclose GenOn’s ownership interest in the Property. GenOn is a necessary party to the Planning Commission proceedings and its consent is required to legally subdivide the property. Accordingly, PEPCO’s material misrepresentation, failure to disclose GenOn’s ownership interest in the Property, failure to include GenOn as a co-applicant, and failure to obtain GenOn’s consent to subdivide the Property renders the Application and approval thereof null and void. Furthermore, PEPCO’s material misrepresentation to the Planning Commission and failure to comply with the Ordinance’s subdivision requirements constitutes grounds for suspension or revocation of development the approval under Section 11-205 of the Ordinance.

GenOn filed an appeal of the Planning Commission’s decision with the City Clerk seeking review on the decision by City Council. By a letter dated March 27, 2020, Planning Director Karl Moritz denied GenOn’s appeal stating that GenOn does not meet the Zoning

Ordinance's property ownership requirement. Director Moritz's determination is incorrect because GenOn does have an ownership interest in the property at issue that Mr. Moritz's denial letter fails to consider. The denial letter relies on the same incorrect premise used by the Planning Commission that GenOn's leasehold interest in the property does not constitute a legal property ownership interest that must be considered. GenOn has a legal ownership interest in the property pursuant to its ground lease, which allows GenOn to use, possess, and enjoy the property to exclusion of everyone else. Therefore, GenOn does have an ownership interest in property within 300 feet of the proposed subdivision.

For the reasons stated herein, GenOn respectfully notices an appeal of the Planning Director Moritz's denial of GenOn's appeal of Subdivision #2019-0022 to be timely heard by the Board of Zoning Appeals.

WILLIAMS MULLEN

Stephen R. Romine, Esq.
Direct Dial: 757.473.5301
sromine@williamsmullen.com

March 17, 2020

Via Federal Express & Email

Gloria A. Sitton, City Clerk & Clerk of Council
City of Alexandria, Virginia
301 King Street, Room 2300
Alexandria, VA 22314
gloria.sitton@alexandriava.gov

Re: NOTICE OF APPEAL
March 3, 2020, Planning Commission Hearing
Subdivision #2019-0022

Dear Ms. Sitton:

On behalf of my client, GenOn Potomac River, LLC, please find enclosed for filing a Record of Appeal from a Decision of the Planning Commission (Subdivision) with respect to Subdivision #2019-0022. Also enclosed is a check for \$150.00 payable to the "City of Alexandria" for the filing fee.

Thank you for your time and consideration. Please do not hesitate to call me with any questions you have.

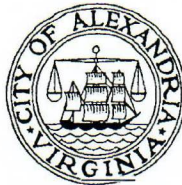
Sincerely,



Stephen R. Romine

SRR/tjr

Cc: GenOn Potomac River, LLC



RECORD OF APPEAL

FROM A DECISION OF THE PLANNING COMMISSION (Subdivision)

Date Appeal Filed with City Clerk: March 18, 2020

Planning Commission Case #: Subdivision #2019-0022

Address of Project: 1300 North Royal Street, Alexandria, VA 22314

Appellant is: (check one)

☐ Applicant: _____

☒ Other party. State relationship Lessee; owner of improvements on project property; owner of project property pursuant 99 year lease and Section 11-1706(A) of City Zoning Ordinance.

Address of Appellant: GenOn Potomac River, LLC
c/o Williams Mullen, 222 Central Park Ave. Ste. 1700
Virginia Beach, VA 23462

Telephone Number: (757) 473-5301

Email Address: sromine@williamsmullen.com

State Basis of Appeal:

Misrepresentation on subdivision application and failure to obtain appellant's consent to subdivision
as a necessary party. Appellant has a substantial interest in the property pursuant to a 99 year lease
and appellant was never consulted on or consented to the subdivision. Please see the attached Exhibit
A for further elaboration of appellant's bases for appeal.

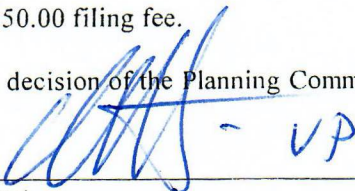
Attach additional sheets, if necessary

An appeal from an approval must be made by the owners of at least 20 percent of the area of the land within 300 feet of the boundaries of the proposed subdivision. Sample petition on the other side.

All appeals must be filed with the City Clerk on or before 15 days after the decision of the Planning Commission.

All appeals require a \$150.00 filing fee.

If an appeal is filed, the decision of the Planning Commission is stayed pending the City Council decision on the matter.



Signature of the Appellant

We, the undersigned owners of real estate appeal the decision of the Planning Commission to the Alexandria City Council in Planning Commission Case # Subdivision # 2019-0022 regarding the property at 1300 North Royal Street, Alexandria, VA 22314 (street address).

NAME:

SIGNATURE

Owner of Real Property at:

1. GenOn Potomac River, LLC

1300 North Royal Street, Alexandria, VA 22314

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

*attach additional sheets if needed

EXHIBIT A

GenOn Potomac River, LLC ("GenOn") occupies the property located at 1300 North Royal Street, Alexandria, Virginia 22314 ("Property") as a tenant pursuant to that certain ground lease titled Site Lease Agreement dated December 19, 2000, ("Lease") entered into by and between GenOn's predecessor in interest, Southern Energy Potomac River, LLC, and Potomac Electric Power Company ("PEPCO"). The Lease is for a term of ninety-nine (99) years commencing on the date of the Lease. The Lease is evidenced by that certain duly recorded Memorandum of Lease dated December 19, 2000, and recorded in the Clerk's Office for the Circuit Court for the City of Alexandria ("Clerk's Office") on December 21, 2000. In addition to its recorded leasehold interest in the Property, GenOn owns all of the improvements on the Property pursuant to that certain Special Warranty Deed dated December 19, 2000, and recorded in the Clerk's Office as Instrument No. 000024511.

At its regularly scheduled meeting on March 3, 2020, the Planning Commission for the City of Alexandria, Virginia ("Planning Commission") considered PEPCO's preliminary subdivision plat seeking to subdivide the Property with a variance from one lot into three lots ("Subdivision Plat"). The Subdivision Plat was before the Planning Commission pursuant to the Subdivision of Property Application signed by PEPCO and dated December 16, 2019. The Application requires, among other things, the applicant to complete an Ownership and Disclosure Statement ("Disclosure") that identifies "the name, address and percent of ownership of any person or entity owning an interest in the property" with the term "interest" including "any legal or equitable interest held at the time of the application in the real property which is the subject of the application." The Application's disclosure requirement is consistent with Section 11-1706(A) of the Zoning Ordinance for the City of Alexandria ("Ordinance") which also requires disclosure of any person or entity with "any legal or equitable interest held at the time of the application in the real property which is the subject of the application."

PEPCO failed to disclose GenOn's interest in the Property in violation of the City's subdivision requirements and materially misstated omitted GenOn's rights and interest to the property subject to the Application. Notably, PEPCO did not include the Property's address in Section 2 of the Disclosure but rather provided the address for its corporate headquarters (701 Ninth Street, N.W. 10th Floor, Washington D.C.), which is non-responsive to that item of the Disclosure, seemingly to avoid having to disclose GenOn's ownership interest in the Property. GenOn is a necessary party to the Planning Commission proceedings and its consent is required to legally subdivide the property. Accordingly, PEPCO's material misrepresentation, failure to disclose GenOn's ownership interest in the Property, failure to include GenOn as a co-applicant, and failure to obtain GenOn's consent to subdivide the Property renders the Application and approval thereof null and void. Furthermore, PEPCO's material misrepresentation to the Planning Commission and failure to comply with the Ordinance's subdivision requirements constitutes grounds for suspension or revocation of development the approval under Section 11-205 of the Ordinance.

For the reasons stated herein, GenOn respectfully requests an appeal of the Planning Commission's approval of Subdivision #2019-0022 to be timely heard by the City Council in accordance with Section 11-1708(D)(2) of the Ordinance.



DEPARTMENT OF PLANNING AND ZONING

301 King Street
Room 2100
Alexandria, VA 22314

Phone (703) 746-4666
Fax (703) 838-6393

www.alexandriava.gov

March 27, 2020

Dear Mr. Romine:

I am writing in response to your letter dated March 17, 2020 to Gloria Sitton regarding Subdivision #2019-0022, written on behalf of your client GenOn Potomac River, LLC ("GenOn").

Per City Zoning Ordinance Section 11-1708(D)(1), "An appeal from an approval must be made by the owners of at least 20 percent of the area of the land within 300 feet of the boundaries of the proposed subdivision." According to the City's analysis, GenOn does not own property within 300 feet of the proposed boundaries of the subdivision. Therefore, GenOn does not qualify as an appellant under City Zoning Ordinance Section 11-1708(D)(1). As such, there will be no City Council appeal hearing scheduled on this matter.

Sincerely,

Signature

Date 3/27/2020

Please be advised that this notice of violation, written order, requirement, decision or determination of the Director may be appealed to the Board of Zoning Appeals by any person aggrieved by the decision of the Director or any officer, department, board, commission or agency of the City affected by the decision of the Director within thirty (30) days from the date of the decision. The decision is final and unappealable if not appealed within thirty (30) days. The cost for such appeal is \$385.00 and additional information regarding how to file the appeal may be found in Zoning Ordinance Section 11-1200.

Karl W. Moritz, Director
Department of Planning & Zoning
City of Alexandria
301 King Street, Room 2100
Alexandria, VA 22314

City of Alexandria, Virginia

MEMORANDUM

DATE: February 27, 2020

TO: CHAIR MACEK AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL MORITZ, DIRECTOR, DEPARTMENT OF PLANNING & ZONING

SUBJECT: DOCKET ITEM #11- SUB #2019-0022 – 1300 NORTH ROYAL STREET

The purpose of this memorandum is to recommend deletion of Condition #4 of SUB #2019-0022. The condition was originally added to note the inconclusive findings, related to the dedication of historic rights-of-way (other than those vacated in Ordinance 297), of recent title searches for the parcel. Here, the historic rights-of-way refers to a street grid that was planned prior to 1930 and was never constructed.

Staff now believes it is unnecessary to tie a restriction of future land use approvals to either the planning of new publicly dedicated streets or to a conclusive dedication finding of the historic public rights- of-way at this point. It determined that future events, such as title searches prior to the transfer of property ownership and redevelopment compliance with the Old Town North Small Area Plan street grid, will adequately confirm the dedication status of the previous, unconstructed street grid.

Staff, therefore, continues to recommend approval of Subdivision #2019-0022 with the deletion of Condition #4:

4. **CONDITION DELETED BY PLANNING COMMISSION:** ~~No application(s) for the development of any parcel(s) created by this subdivision, including but not limited to, through land use approvals, grading plans, or building permits, shall be accepted until a site plan containing publicly dedicated rights of way consistent with the Old Town North Small Area Plan for the parcel(s) is proposed to the City or until the City's rights with respect to public rights of way on the parcel(s) is determined. (P&Z)~~



February 28, 2020

VIA EMAIL

Mr. Mark Jinks, City Manager
City of Alexandria
301 King Street
Alexandria, Virginia 22314

Re: Application for Subdivision No: SUB2019-00022

Dear Mr. Jinks,

This letter is to inform you that GenOn Potomac River, LLC (“GenOn Potomac”), a wholly owned subsidiary of GenOn Holdings, Inc., objects to the above-referenced application for subdivision that has been submitted to the Planning Commission, and is now on the March 3, 2020 Planning Commission public hearing docket with a recommendation for approval. The application was submitted by Potomac Electric Power Company (“PEPCO”), for the subdivision of 1300 North Royal Street, Alexandria, Virginia, into three (3) separate lots of land for future sale or development. The application is currently on the agenda as New Business, item 11. For the reasons outlined below, we urge the removal of this matter from the docket.

Under a December 19, 2000, lease between GenOn Potomac’s predecessor company and PEPCO (the “Lease”), GenOn Potomac owns a 99-year lease interest on 22.58222 acres of the 25.366546-acre property that PEPCO wants to subdivide. GenOn Potomac’s property rights extend to over ninety percent of the property that is subject to the subdivision application and continue through the year 2099. The proposed subdivision was submitted without the knowledge, or consent of GenOn Potomac. In fact, GenOn Potomac only became aware of the application through a newspaper article in the Alexandria Times.

GenOn Potomac urges you to remove this application from the docket for the following reasons:

1. GenOn Potomac is a necessary party to the application.

As a 99-year leaseholder, GenOn is in possession and control of the majority of the property. Pursuant to GenOn’s Lease, this property right remains in effect for the next 79 years.

2. The Application is deficient.

The staff report for the public hearing includes a recommendation for a variance pursuant to Zoning Ordinance Section 11-1713. The proposed subdivision does not meet the criteria for a lot, because one of the lots does not have frontage on a public street. Staff recommends the variance to prevent “substantial injustice” because the strict application of the criteria would create an

unreasonable burden on the development, use and enjoyment of the property. This analysis entirely neglects GenOn Potomac's long-term property rights in the property that is offered up for access to the landlocked lot. This variance is being recommended without input or consent of the long-term lessee who enjoys significant control over the leased property. Should the 99-year tenant not have a say in access to the leased premises?

In addition to the variance issue, the application itself is not correct. First, the Ownership and Disclosure Statement references PEPCO's address and not the property address. This omission could lead to the omission of required disclosures. Second, GenOn Potomac is not listed on the Ownership and Disclosure Statement. Pursuant to the application form, and Section 11-406 of the Zoning Ordinance, the name, address and percent of ownership of any person or entity owning an interest in the property must be identified on the Ownership and Disclosure Statement. The Ownership and Disclosure Statement, and Zoning Ordinance Section 11-406, defines ownership to include "any legal or equitable interest held at the time of the application in the real property that is the subject of the application." It is undisputed that GenOn Potomac, by virtue of its interest in the Lease, possesses a legal interest in the property that is the subject of the application. PEPCO's failure to list GenOn Potomac makes the application materially deficient.

3. GenOn Potomac plans to develop the property.

GenOn Potomac is focused on development of the property in accordance with the City of Alexandria's Master Plan, a goal that is shared with local stakeholders and the City. Because of intersecting and overlapping rights and obligations between the leasehold and fee interests in the property, a merger of the leasehold and fee interests is crucial to an orderly development of the property. In addition, PEPCO has been aware of GenOn Potomac's interest in purchasing the property since at least early 2017.

GenOn Potomac is under no obligation to terminate or modify its Lease. If the subdivision is approved and the fee sold to a third party, the property will remain subject to the competing rights of GenOn Potomac, as lessee, and a third-party owner of the fee. Meaningful development of the property will be delayed indefinitely.

For the above reasons, we respectfully request that the City of Alexandria Planning Commission remove the application from its March 3, 2020, docket to give all affected parties an opportunity to discuss a resolution to the situation that incorporates all rights holders related to the leased property.

Absent prior confirmation that this item has been deferred, GenOn Potomac representatives will be in attendance at the public hearing on March 3, 2020. to voice their disapproval.

Sincerely,

GenOn Potomac River, LLC

By _____

Daniel D. McDevitt, its Vice President

Cc:

Nanette Paris, PEPCO
All members of the City Council of Alexandria
City of Alexandria Planning Commission

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 3, 2020

TO: CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL W. MORITZ, DIRECTOR, DEPARTMENT OF PLANNING & ZONING

SUBJECT: SUB #2019-00022 – 1300 NORTH ROYAL STREET

The purpose of this memorandum is to address concerns regarding SUB #2019-00022 raised by Daniel D. McDevitt, Vice President of GenOn Potomac River, LLC in a letter emailed to you on February 28, 2020. Mr. McDevitt states that GenOn Potomac River, LLC owns a long-term lease of a significant portion of the subject property and objects to the subdivision request. The applicant has also provided additional justification for the variation criteria which is appended to this report.

Staff responses to GenOn letter dated February 28, 2020:

Mr. McDevitt asserts that in the analysis of the “substantial injustice” variation criteria that staff should have analyzed the interests of GenOn as the lessee. The variation criteria are intended to weigh the burden the subdivision ordinance’s strict application would have “on the development, use and enjoyment of the property” versus the purposes served by the zoning ordinance provision. It does not and is not intended to take into account the interests of a lessee who is not an applicant. The conduct of PEPCO and GenOn with respect to one another is a private matter governed by the agreements between those parties.

The address information provided in the Ownership and Disclosure Statement information is correct. This portion of the application requests the addresses of the entities with an ownership interest in the applicant or real estate. It is not intended to include the property addresses; that information is provided in another section of the application and was provided in this case.

Mr. McDevitt also alleges that Zoning Ordinance section 11-406 is applicable. However, Section 11-406 governs site plan applications, while Section 11-1706 governs subdivision applications. Section 11-1706(A) requires the disclosure in applications of “the name and address of each person or entity owning an interest in the applicant or owner and the extent of the ownership interest[. . . ownership interest shall include any legal or equitable interest. . . .” This means the disclosure of those people or entities with interest in the applicant or the property owner. The application provided that information, it indicates that 100% of the ownership interest in the applicant and the property owner is held by “Potomac Electric Power Company (PEPCO), a wholly-owned subsidiary of Pepco Holdings, LLC, a Delaware corporation.” Since the lessee does not have a legal ownership interest in the applicant or the property owner the application was prepared correctly. Further, this provision is not intended to and has not been interpreted to require that an applicant provide the City with information about the lessees of a property, unless the lessee is the applicant.

Staff continues to recommend approval of the subdivision request with the deletion of Condition #4.

Applicant's variation justification:

The Planning Commission may, as part of the approval of a plat of subdivision, grant variations from the strict application of the zoning regulations governing the property and/or buildings on the property to be subdivided pursuant to §11-1700 et seq. of the Alexandria Zoning Ordinance, 1992, as amended (the “**Ordinance**”). The variation procedure is included in the Ordinance to provide flexibility to prevent a property owner from suffering a substantial injustice as the result of the strict application of the zoning regulations.

The 1300 N. Royal Street Property, City of Alexandria Real Estate Tax Map Parcel 045.01 01 04, is 25.36646 acres of land currently described by a singular metes and bounds description. The property is comprised by multiple historically described parcels of land that existed as of January 1, 1952, on which an electrical generating power plant and associated infrastructure were constructed in the 1940's subsequent to the original construction there have been numerous additions and expansions. Notwithstanding the use of a single metes and bounds description of the property, the 25.36646-acre parcel has not been subdivided or consolidated into a single legal lot of ground (the “**Property**”). The Property is bounded on the South by the Southern Railway Company right-of-way, on the West by East Abingdon Road, on the North by Slaters Land and on the East by Potomac River shoreline property owned by the United States of America. There are no public or private street rights-of way in the interior of the Property. No new public rights-of-way are proposed as part of the approval of the plat of subdivision.

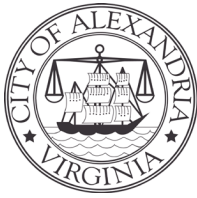
The approval of the plat of subdivision is requested to facilitate the future orderly development and transfer of ownership to one or more of the newly created lots and to create three new legal lots of land in furtherance of the purpose of the subdivision regulations to provide for an accurate system of recording land divisions by eliminating and consolidating multiple smaller parcels of land into the three lots shown on the proposed subdivision plat.

The Property is Zone UT/Utilities and Transportation zone. The UT/Utilities and Transportation zone regulations so not specify any minimum lot (size, width or **FRONTAGE**) or yard requirements, as such the proposed lots comply with the UT/Utilities and Transportation zone regulations as required by the subdivision ordinance. The proposed lots are also consistent with the Old Town North Small Area Plan Chapter of the City's Master Plan.

In order for Planning Commission to approve the plat of subdivision to be approved it has been determined it is the policy of the City, as set forth in the Zoning Ordinance definition of “lot”, that newly created lots shall have frontage on dedicated public streets in order to be usable as a building site. As such the City determined that a variation from the strict application of the Ordinance must be granted as part of the Planning Commission action. Proposed lot two (2) is an interior lot that as proposed does not have frontage on dedicated public street. Lot Two (2) is an interior lot on which is constructed an existing electrical substation and switchyard which is to remain as part of Pepco's electric grid transmission system and not as a buildable site. Lot Two (2) has access to the Slaters Lane public Right-of-way by existing easements. Lot two qualifies for a variation under Section 11-1700 (A) (2), based on to the fact: (i) the irregularity in shape of the Property, the location of the existing electrical substation and switchyard on the Property prevents conformance

with general policy that lots used a building sites have street frontage. As previously stated, the UT/Utilities and Transportation zone regulations do not require street frontage. The requested variation is within the scope and justification of Section 11-1700 (A)(2) of the Ordinance.

The strict adherence of the regulation for which the variation is requested, in this instance would result in a substantial injustice to the property owner by precluding the subdivision of the property into three (3) lots that meet or exceed all applicable zoning regulations and to facilitate the redevelopment of the Property consistent with the Old Town North Small Area Plan. Further, in this instance the strict adherence of the Regulations would not advance a significant public benefit. The unreasonable burden on the development, use and enjoyment of the property by the owner outweighs the material land use or land development purposes served by the strict adherence of the Regulations. For the reasons stated, variations should be granted and the plat of subdivision approved.

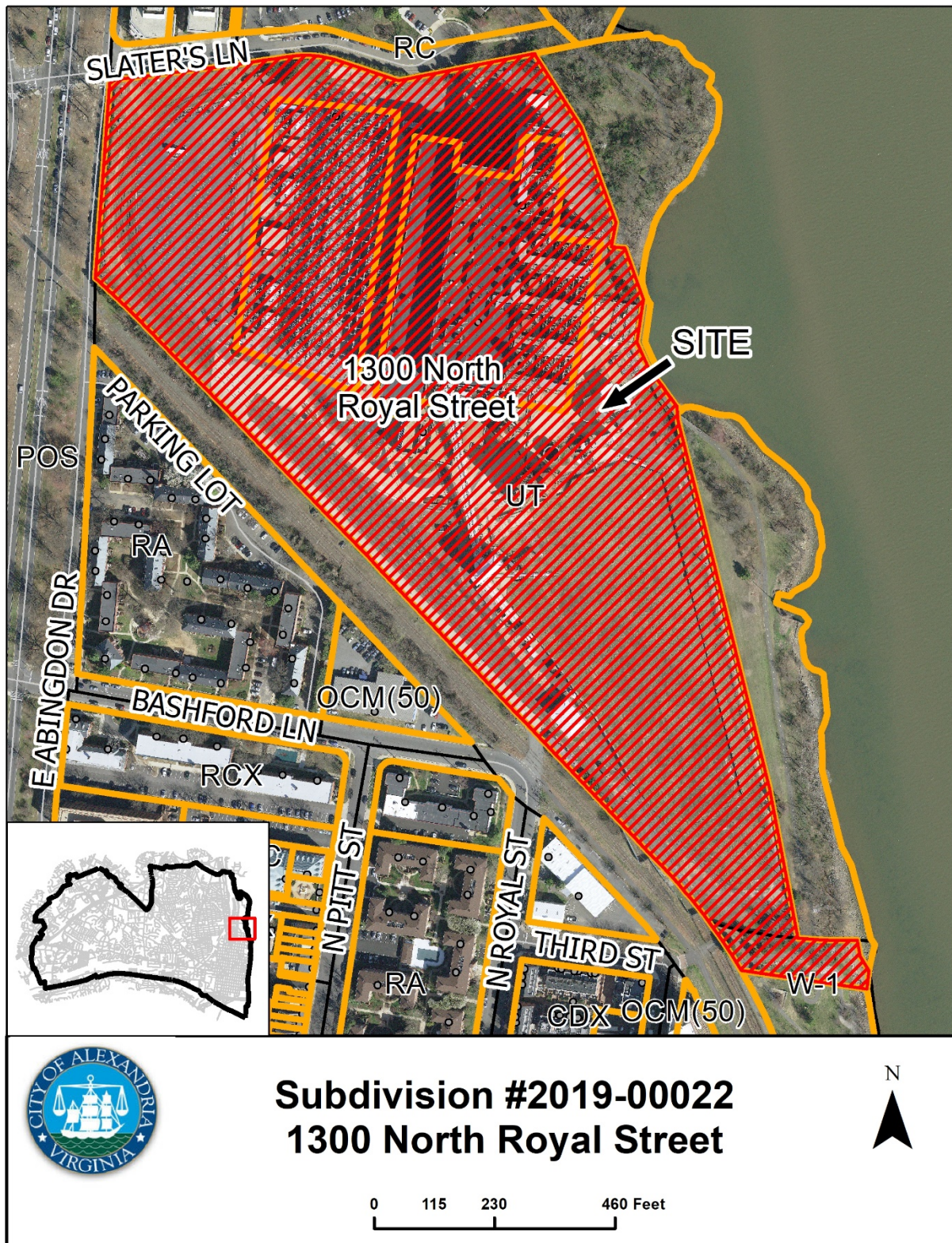


DOCKET ITEM #11
Subdivision #2019-0022
1300 North Royal Street

Application	General Data	
Request: Public hearing and consideration of a request for a subdivision with a variation to subdivide one existing lot into three lots.	Planning Commission Hearing:	March 3, 2020
	Approved Plat must be recorded by:	September 3, 2021
Address: 1300 North Royal Street	Zone:	UT/Utilities and Transportation
Applicant: Potomac Electric Power Company represented by Duncan Blair, attorney	Small Area Plan:	Old Town North

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Sam Shelby, sam.shelby@alexandriava.gov
 Ann Horowitz, ann.horowitz@alexandriava.gov



I. DISCUSSION

REQUEST

The applicant, Potomac Electric Power Company (PEPCO), represented by Duncan Blair, attorney, requests a subdivision with a variation to subdivide one lot into three lots at 1300 North Royal Street.

SITE DESCRIPTION/BACKGROUND

The subject property is one, irregularly shaped lot of record with 25.36646 acres of lot area and with 349.19 and 806.54 feet of frontage along East Abingdon Drive and Slater Lane, respectively. Because of the subject property's shape and size, a significant portion of it does not have street frontage. City records indicate the subject property exists in its current configuration due to consolidation of several lots within the current boundary lines. A mix of uses surround the subject property. Predominately residential uses are located across East Abingdon Drive/George Washington Parkway to the west. The Norfolk Southern Corporation's railroad tracks run along the property's south lot line. Harbor Terrace, a low-rise residential condominium complex and an auto repair shop are located across the railroad tracks to the south. Marina Towers, a high-rise multifamily building and an office complex are located across Slaters Lane to the north. The Mount Vernon Trail and Potomac River run along the subject property's east side. Access to the site is provided at the terminus of North Royal Street where it intersects with Bashford Lane. Figure one, below shows an aerial image of the subject property.



Figure 1 - Subject Property

The subject property contains the Potomac River Generation Station, a coal-fired power plant, which operated from October 1949 to October 2012. Over time, City Council approved several special use permits and site plans to allow modifications to the power station. Historical City maps, dating to 1931, indicate that, although planned, the Old Town street grid was never constructed to extend northward beyond Bashford Lane into the subject property. On September 26, 1939, City Council approved Ordinance #297 which vacated several planned public streets that would have run through the subject property.

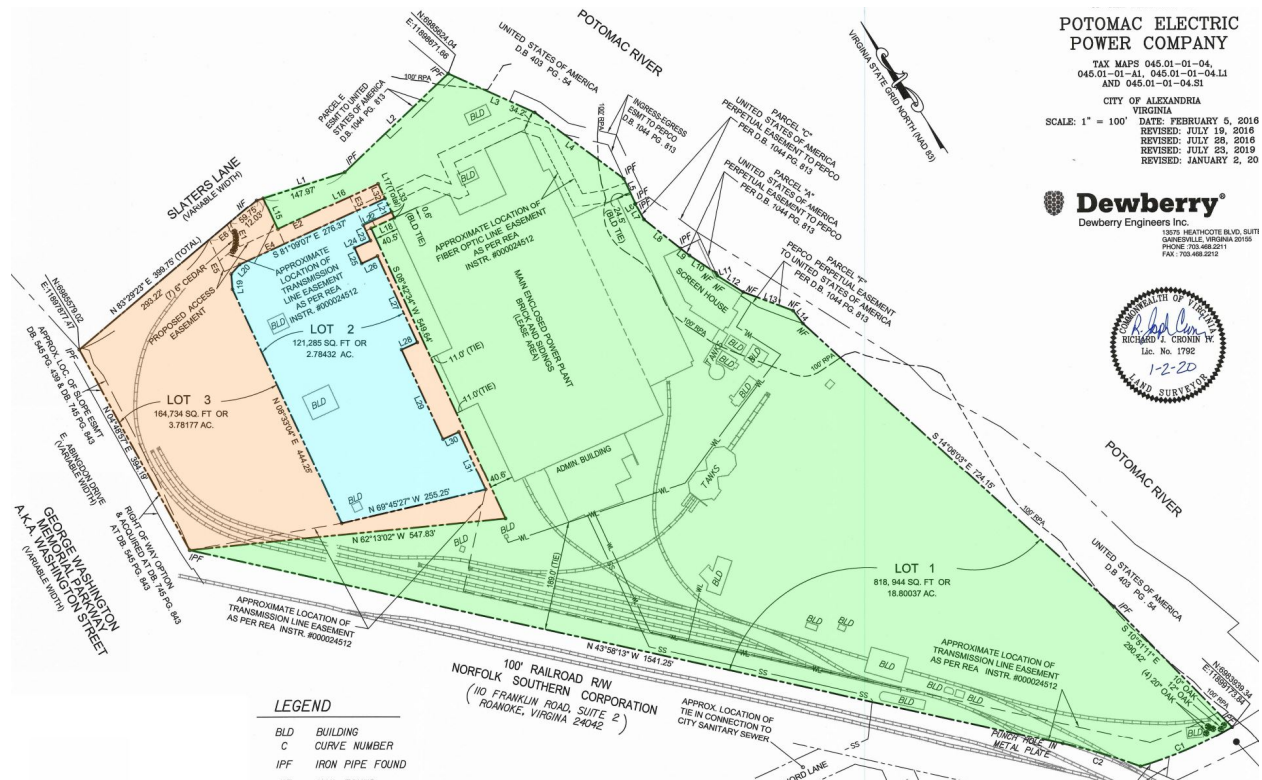
The Planning Commission approved a subdivision of the subject property in June 2016. The final plat was not recorded, and the approval lapsed pursuant to Zoning Ordinance section 11-1714. As such, the applicant's request would represent the first time the subject property has been subdivided.

PROPOSAL

The applicant proposes to subdivide the existing lot into three lots which would allow ownership by different parties. The proposed subdivision would represent necessary lot line configurations to facilitate ownership transfers of specific structures associated with the former power plant. Lots one and three would contain several utility and ingress/egress easements. The applicant has not proposed new streets, infrastructure or land development of any kind at the time of application. The following table summarizes the configuration of the proposed lots:

	Size	Street Frontage
Lot 1	18.80037 acres (818,944 Sq. Ft.)	394.3 Ft. (Slaters Lane)
Lot 2	2.78432 acres (121,285 Sq. Ft.)	None
Lot 3	3.78177 acres (164,734 Sq. Ft.)	399.8 Ft. (Slaters Lane) 394.2 Ft. (East Abingdon Drive)

The figure below shows the proposed preliminary subdivision plat with Proposed Lot One in green, Proposed Lot Two in blue and Proposed Lot Three in orange.



ZONING/MASTER PLAN DESIGNATION

The subject property is located within the UT/Utilities and Transportation zone. The UT zone does not specify minimum lot (size, width or frontage) or yard (setbacks or open space) requirements. The proposed lots would comply with the UT zone's maximum floor area ratio (FAR).

The Old Town North Small Area Plan (OTN SAP) identifies the subject property as part of "Subarea 5 – Mixed-Use/Innovation District." The plan envisions a mixed-use development for the subject property with expanded waterfront public open space. It also envisions an extension of the Old Town street grid to create urban-scale City blocks. The OTN SAP foresees the creation of a Coordinated Development District (CDD) for the subject property and immediate vicinity. The CDD would establish parameters for new development or future reconfiguration of the proposed lots.

SUBDIVISION STANDARDS

Zoning Ordinance sections 11-1706, 11-1709 and 11-1710 establish standards for subdivision review and approval. The proposed subdivision would meet all the technical criteria contained in these sections except for 11-1710(O), below, emphasis added:

If a piece of land is to be subdivided into larger parcels than for building lots, the land shall be divided to allow for the opening of major streets and the ultimate extension of adjacent minor streets, and **all such parcels shall have legal frontage on a dedicated public street.**

Further, Zoning Ordinance section 2-166 defines a lot as follows, emphasis added:

A unit of land at all times above elevation +3.0 feet mean sea level, U.S. Coast and Geodetic Survey, usable as a building site, **having frontage on a public street** and in compliance with the requirements of the zone in which it is situated and recorded. Ground which through accretion or fill is raised to a level so that it is at all times above elevation +3.0 feet mean sea level, U.S. Coast and Geodetic Survey, shall be deemed land for purposes of this definition.

The applicant's Proposed Lot Two would not have street frontage and would not meet either the aforementioned criterion for subdivision approval or the definition of a lot. Because of this, section 11-1713, below, applies and sets criteria for relief from the subdivision and lot requirements.

11-1713 – Variations.

- (1) The commission may, by vote of a majority of its members, authorize specific variations from the provisions of this section 11-1700, when the commission finds that (i) a strict adherence to such provisions would result in substantial injustice (ii) the use and character of the resulting lots or parcels in such a subdivision would not be inconsistent with the use provisions of the zone in which the property is situated and with the existing development in the immediate area; (iii) and one or more of the following special circumstances exists:
 - (1) Extremely rugged topography.
 - (2) Irregularity in shape of parcel preventing conformance with normal lot area or frontage requirements.
 - (3) Insufficient frontage on existing street where the interior of the tract can be served only by a street substandard in width when not serving more than five lots, provided the street is not less than 30 feet in width. If only a single lot is served, the width may be less than 30 feet. A turn around area may be required.
 - (4) Streets along border of the subdivision where the subdivision borders on unsubdivided land and the remaining street width will be provided from adjacent land.
 - (5) Resubdivision of lots in subdivisions of record as of January 1, 1952, where, because of existing structures or gross area of land involved, the subdivided lots would not conform to all of the requirements of the zone in which the subdivision is located.
- (B) As used in this section, "substantial injustice" means that the strict application of this ordinance would create an unreasonable burden on the development, use and enjoyment of the property which outweighs the land use or land development purposes served by the specific zoning provision or provisions of this ordinance at issue....

II. STAFF ANALYSIS

Staff recommends approval of the applicant's request because it meets the subdivision and variation requirements. The subdivision would represent an early step to redevelopment of the former power plant site by facilitating the transfer of newly created lots within the subject property between different landowners associated with the former power plant.

NEIGHBORHOOD CHARACTER ANALYSIS

Zoning Ordinance section 11-1710(B) ordinarily requires a comparison of proposed lots in terms of suitability for residential use, area, orientation, frontage, alignment and use restrictions with other lots within the same subdivision and the same zone. Because the subject property and surrounding properties were not created under the same subdivision, neighborhood character analysis would not be required in this case. Further, the subject property is unique in that it is the only one among its surroundings zoned UT. All surrounding properties are zoned for medium to high-density residential, mixed or commercial uses.

PROPOSED LOT TWO'S LACK OF STREET FRONTAGE

The proposed subdivision would comply with all subdivision requirements except that lot two would not have street frontage. Although required by the subdivision criteria and Zoning Ordinance's definition of a lot, the UT zone itself does not require lots to have frontage. Proposed Lot Two would thus not conflict with the specific requirements of the UT zone. Access to Proposed Lot Two would still be provided via a proposed access easement from Slaters Lane.

The OTN SAP also envisions that the Old Town street grid would eventually extend northward from its current terminus. When these extensions occur, lot two would then have frontage on these public streets.

CONFORMANCE WITH VARIATION CRITERIA

Staff found that the proposal would comply with the variation criteria in Zoning Ordinance section 11-1713 as follows:

Substantial Injustice:

Staff found that strict application of the frontage requirements would create a barrier to the development, use and enjoyment of the property. Frontage requirements exist to ensure that a property has vehicular access and to establish yard requirements based on the property's orientation. Because Proposed Lot Two would provide access to Slaters Lane through a proposed access easement, and because the UT zone has no yard or frontage requirements, the essential purposes of a frontage requirement would be upheld. The unreasonable burden on the development, use and enjoyment of the property caused by strict application of the frontage requirement would therefore be arbitrary. The applicant requested the subdivision to facilitate the initial steps necessary for redevelopment of the subject property as envisioned by the OTN SAP. Because of this, strict application of the frontage requirement would delay redevelopment of property. This would create an unnecessary barrier to implementation of the OTN SAP's goals and objectives. As such, a substantial injustice, as defined by section 11-1713 would occur.

Consistency with UT zone and existing development

The proposed subdivision would create lots that comply with all requirements of the UT zone. The proposed lots would be consistent with existing development on the lot.

Irregularly shaped parcel

The irregular shape of the existing parcel and location of existing streets prevents conformance with technical frontage requirements. The applicant's Proposed Lot Two would be irregularly shaped to accommodate ownership issues. Because of the subject property's shape and size, a significant portion of it is unable to provide street access.

III. CONCLUSION

In summary, the proposed lots would adhere to all subdivision and variation requirements. Therefore, staff recommends approval of the request subject to the conditions contained in Section IV of this report.

IV. RECOMMENDED CONDITIONS

Staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. The final plat shall include location of underground storage tanks. If not known, the final plat shall include a note stating that location of underground storage tanks is unknown. (T&ES)
2. The final plat shall indicate areas that can reasonably be expected to or which do contain soils or materials contaminated with, but not limited to heavy metals, petroleum products, PCB's, pesticide, flyash or other toxic or hazardous materials. If these areas are not known, the final plat shall include a note stating the areas containing the foregoing are unknown. (T&ES)
3. The final subdivision plat shall comply with the requirements of Section 11-1700 of the Zoning Ordinance. (P&Z)
4. No application(s) for the development of any parcel(s) created by this subdivision, including but not limited to, through land use approvals, grading plans, or building permits, shall be accepted until a site plan containing publicly dedicated rights of way consistent with the Old Town North Small Area Plan for the parcel(s) is proposed to the City or until the City's rights with respect to public rights of way on the parcel(s) is determined. (P&Z)

STAFF: Tony LaColla, AICP, Division Chief
Ann Horowitz, Principal Planner
Sam Shelby, Urban Planner

Staff Note: This plat will expire 18 months from the date of approval (September 3, 2021) unless recorded sooner.

V. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

F-1 D-ROW, Traffic and Transportation Planning have no comments.

F-2 The plat provides the owner's address as 1900 Pennsylvania Avenue, NW, Washington, DC 20068. Owner address per City of Alexandria's Real Estate Assessment system is:

ATTN PROPERTY TAX 804 CARNEGIE CENTER
Princeton, NJ 08540.

Also, Pepco's website lists their corporate contact information as:

Corporate Correspondence
Pepco
PO Box 97274

The applicant should reconcile the address shown on the plat with the appropriate owner address. (Survey)

C-1 Plat comments (Survey):

- a. Provide a statement or note regarding the location of underground storage tanks and the status of the possible existence of tanks.
- b. Please clarify if the Proposed Access Easement is to be granted to the City and label the easement as either Private or Public.
- c. Please address the condition requiring that the plat show areas where there is a reasonable expectation of the existence of contaminated soils, per section 11-710 of the City Code.
- d. On tax map key, sheet 1, the depiction of Parcel ID 045.01-01-04.S1 does not match City tax map. Please ensure that all Parcel ID boundaries are depicted correctly, and remove any proposed parcel shapes from tax map key on sheet 1. If it's imperative that proposed parcels are shown on tax map key, then include separate maps for existing and proposed, and clearly label them as such.
- e. Please confirm that Parcel ID 045.01-01-04.S1 does not represent an existing subdivision lot/land parcel.
- f. Sheet 1, note 8 specifies a 5 year old survey upon which all information on subdivision plat is based. Please verify that current data is being depicted on this preliminary subdivision plat.
- g. Please show limits of flood plain, and add flood plain note to sheet 1.
- h. Please add proposed street grade data, if any, per requirements of section 11-710 of the City Code.

Code Enforcement:

No comments.

Recreation, Parks and Cultural Activities:

F-1 Ensure that the National Park Service is involved. This impacts a park service easement of theirs.

Police Department:

No comments received.

Office of Historic Alexandria (Archaeology):

F-1 Because this project involves no ground disturbance, no archaeological oversight is required.



APPLICATION

SUBDIVISION OF PROPERTY

SUB # _____

PROPERTY LOCATION: 1300 N. Royal Street, Alexandria, Virginia

TAX MAP REFERENCE: 045.01 01 04**

ZONE: UT

APPLICANT:

Name: Potomac Electric Power Company

Address: 701 Ninth Street, N.W., 10th Floor, Washington, DC 20068

PROPERTY OWNER:

Name: Potomac Electric Power Company

Address: 701 Ninth Street, N.W., 10th Floor, Washington, DC 20068

SUBDIVISION DESCRIPTION

Request approval of a plat of subdivision to divide the property into three (3) new legal lots of land for future sale or development.

- ☒ **THE UNDERSIGNED**, hereby applies for Subdivision in accordance with the provisions of Section 11-700 of the Zoning Ordinance of the City of Alexandria, Virginia.
- ☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.
- ☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.
- ☒ **THE UNDERSIGNED**, also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of his/her knowledge and belief.

Duncan W. Blair

Print Name of Applicant or Agent

524 King Street

Mailing/Street Address

Alexandria, Virginia

City and State

22314

Zip Code

Signature

703 836-1000

Telephone #

703 549-3335

Fax #

dblair@landcarroll.com

Email address

December 16, 2019

Date

**** Tax Map Reference**

Application of: PEPCO, a wholly-owned subsidiary of Pepco Holdings, LLC.

Date: December 16, 2019

For administrative purposes of real estate taxation, the City Assessors Office has administratively created three (3) sub-parcels.

Parcels:

45.01-01-04.A1

1300 H North Royal Street
(generating station improvements)

45.01-01-04.L1

1300 J North Royal Street
(leased land)

45.01-01-04.S1

1300 K North Royal Street
(switch yard)

ALL APPLICANTS MUST COMPLETE THIS FORM.

The applicant is: (*check one*)

☒ the Owner ☐ Contract Purchaser ☐ Lessee or ☐ Other: _____ of
the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than three percent.

Potomac Electric Power Company (PEPCO) is a wholly-owned subsidiary of Pepco Holdings LLC, a Delaware corporation. Pepco Holdings LLC owns 100% of the share of PEPCO. The corporate address of Pepco Holdings LLC is 701 Ninth Street N. W., 10th floor, Washington, DC 20068.

If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- ☒ **Yes.** Provide proof of current City business license.
☐ **No.** The agent shall obtain a business license prior to filing application, if required by the City Code.

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. See attached.		
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 701 Ninth Street, N.W., 10th Floor, Washington, DC (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. See Attached		
2.		
3.	701 Ninth Street, N.W., 10th Floor, Washington, DC 20068	

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity and "None" in the corresponding fields).**

For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. See attached	none	
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

December 16, 2019

Date

Duncan W. Blair

Printed Name



Signature

Ownership and Disclosure Statement Supplement

Application of: PEPCO, a wholly-owned subsidiary of Pepco Holdings, LLC.

Date: December 16, 2019

1. APPLICANT:

Potomac Electric Power Company (PEPCO), a wholly-owned subsidiary of Pepco Holdings, LLC, a Delaware corporation.	701 Ninth St., N.W., 10 th floor, Washington, DC 20068	100% Ownership
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2. PROPERTY:

Potomac Electric Power Company (PEPCO), a wholly-owned subsidiary of Pepco Holdings, LLC, a Delaware corporation.	701 Ninth St., N.W., 10 th floor, Washington, DC 20068	100% Ownership
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3. BUSINESS OR FINANCIAL RELATIONSHIPS:

Potomac Electric Power Company (PEPCO), a wholly-owned subsidiary of Pepco Holdings, LLC, a Delaware corporation.	None	Planning Commission
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WAIVER OF RIGHT TO AUTOMATIC APPROVAL

SUBMITTED TO THE DEPARTMENT OF PLANNING & ZONING CITY OF ALEXANDRIA, VIRGINIA

PROJECT NAME: 1300 N. Royal Street Subdivision

PROJECT ADDRESS: 1300 N. Royal Street, Alexandria, Virginia

DESCRIPTION OF REQUEST:

Request aproval of a plat of subdivision to create three (3) new legal lots of land.

THE UNDERSIGNED, hereby waives the right to the 45 day automatic approval provision of Section 11-1708 (B)(2) of the Zoning Ordinance of the City of Alexandria, Virginia, for the application stated above for the number of days between December 26, 2019 and March 3, 2020 that are in excess of 45 days.

December 16, 2019

Date: _____

☐ Applicant

☒ Agent

Signature: _____



Printed Name: Duncan W. Blair, Attorney



2019 City of Alexandria Business License

Finance Department, Revenue Administration Division, City of Alexandria
301 King Street, Room 1700, Alexandria, VA 22314
Phone: 703.746.3903 <http://www.alexandriava.gov/>

License Number: 110827-2019
Account Number: 110827
Tax Period: 2019
Business Name: Land, Carroll & Blair PC
Trade Name: Land, Carroll & Blair PC
Business Location: 524 KING ST
Alexandria, VA 22314

LAND, CARROLL & BLAIR PC
524 KING ST
Alexandria, VA 22314-3104

License Classification(s):

Professional Occupations/Businesses
9-071-007
Attorney-At-Law

January 28, 2019

Dear Taxpayer:

This is your 2019 City of Alexandria Business License. The bottom portion of this page is perforated to allow you to tear off and post the business license in your establishment.

If you paid for your business license via check, please be aware that if your check is not honored by your financial institution, this business license shall be invalid.

As with all taxes, our goal is to administer Business License taxes fairly and in accordance with Commonwealth and Locality code. Our staff strives to provide professional assistance and quality customer service. Your satisfaction is important to us and your comments are always welcome.

If you have any questions regarding this letter, please visit <http://www.alexandriava.gov/> or contact my office via phone at 703.746.3903.

Finance Department, Revenue Administration Division, City of Alexandria

Keep this letter for your records.

City of Alexandria Business License

Revenue Administration Division, City of Alexandria, 301 King Street, Room 1700, Alexandria, VA 22314

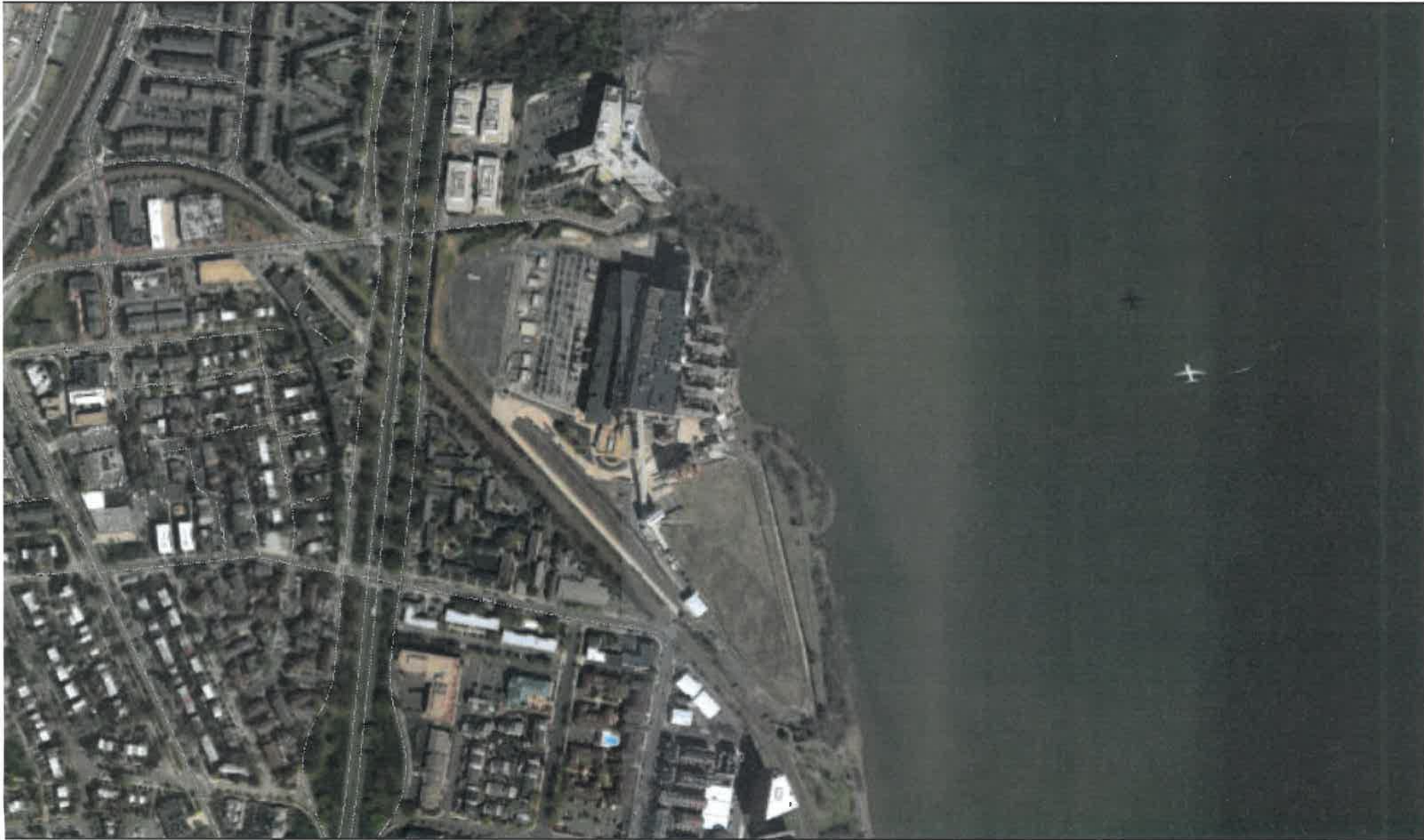


This license has been issued by the Revenue Administration Division of the City of Alexandria and is granted to:

Land, Carroll & Blair PC
524 KING ST
Alexandria, VA 22314

License Number: 110827-2019
Account Number: 110827
Tax Period: 2019
Business Name: Land, Carroll & Blair PC
Trade Name: Land, Carroll & Blair PC
Business Location: 524 KING ST
Alexandria, VA 22314
License Classification(s): Professional Occupations/Businesses
9-071-007
Attorney-At-Law

Portal GIS Map



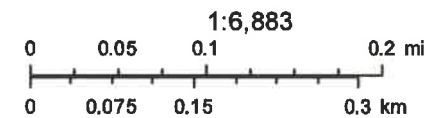
December 12, 2019

Underground Primary

<all other values>

Replace, C

Replace, B



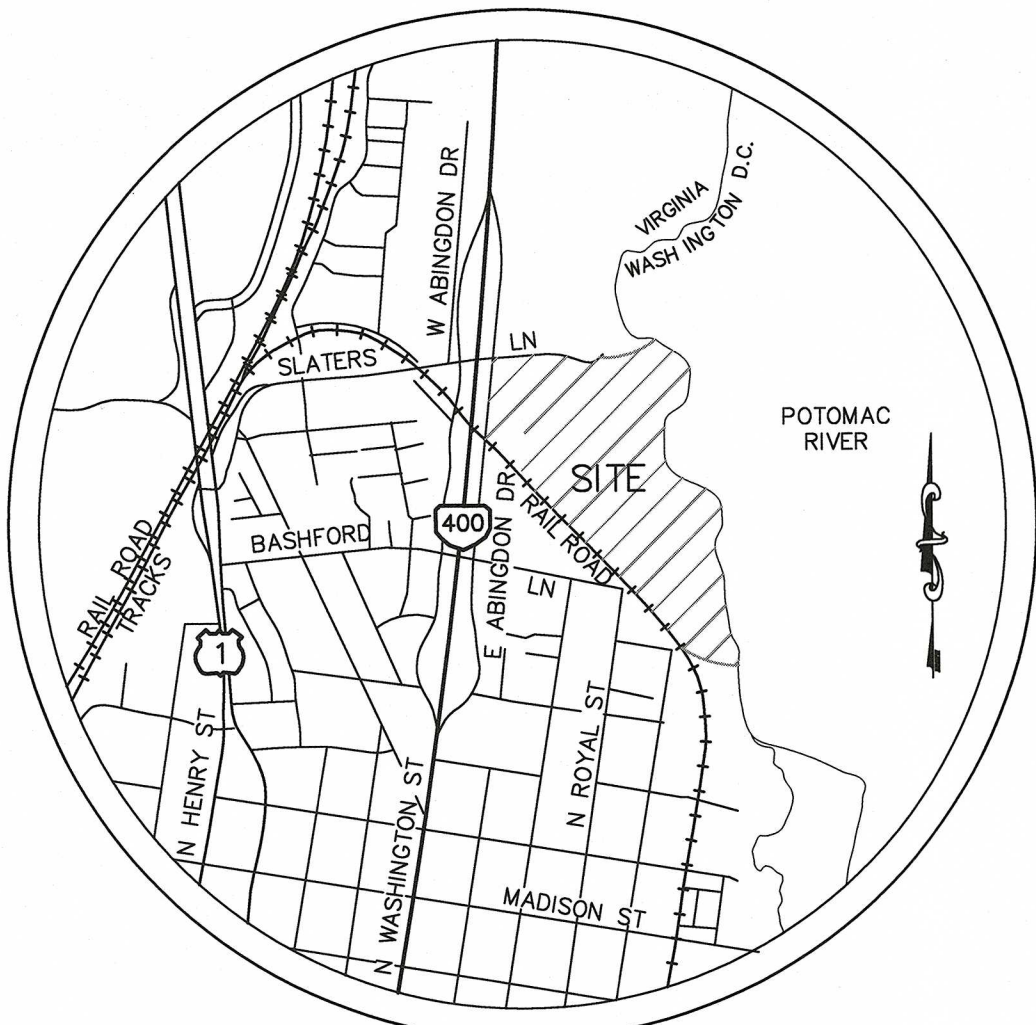
MD iMAP, MDP, SDAT
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS
USDA, USGS, AeroGRID, IGN, and the GIS User Community

42

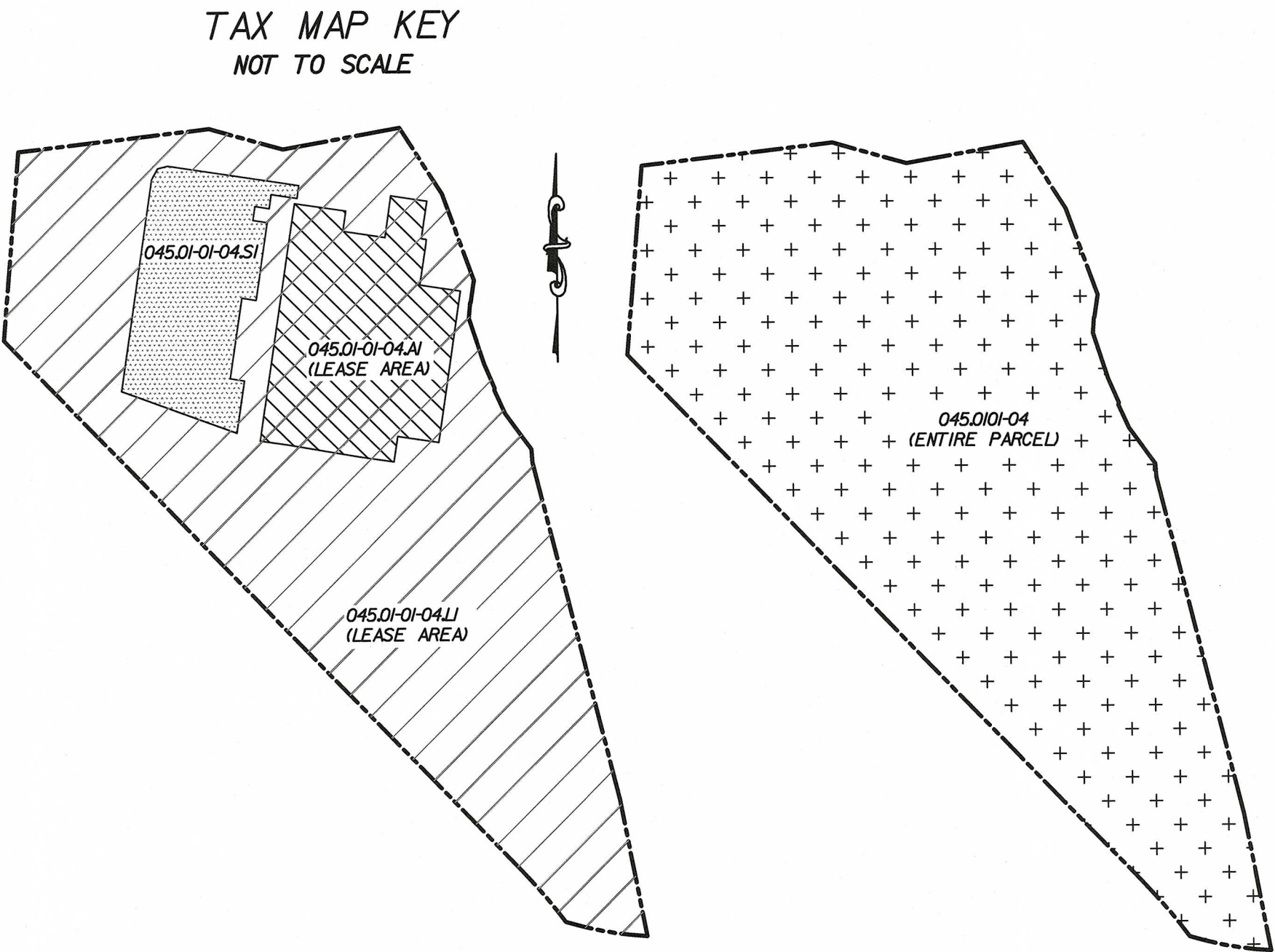
LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S 74°16'22" E	160.00'
L2	N 79°57'05" E	246.79'
L3	S 32°12'19" E	163.73'
L4	S 19°53'43" E	191.03'
L5	S 08°41'55" W	47.57'
L6	N 84°16'20" W	1.02'
L7	S 04°54'52" W	32.08'
L8	S 18°11'45" E	80.09'
L9	S 18°11'45" E	19.93'
L10	S 23°08'10" E	54.76'
L11	S 08°45'54" W	4.97'
L12	S 24°25'54" E	52.70'
L13	S 36°05'16" E	91.82'
L14	S 03°53'58" E	27.69'
L15	S 08°42'34" W	59.73'
L16	S 81°09'07" E	190.85'
L17	S 08°42'34" W	65.95'
L18	N 81°17'26" W	44.00'
L19	N 28°48'10" E	26.40'
L20	N 75°36'10" E	21.62'
L21	S 08°42'34" W	27.00'
L22	N 81°17'26" W	54.00'
L23	S 08°42'34" W	29.59'
L24	N 81°17'26" W	30.23'
L25	S08°42'34" W	29.33'
L26	S 81°17'26" E	30.23'
L27	S 08°42'34" W	162.63'
L28	N 81°17'26" W	29.99'
L29	S 08°42'34" W	169.37'
L30	S 81°17'26" E	29.99'
L31	S 08°42'34" W	109.97'
L32	S 08°42'34" W	28.00'
L33	S 08°42'34" W	10.95'

ACCESS EASEMENT LINE DATA TABLE		
LINE	BEARING	DISTANCE
E1	S 12°41'04" W	45.45'
E2	S 81°09'07" E	209.60'
E3	S 08°42'34" W	28.00'
E4	N 81°09'07" W	251.42'
E5	N 08°33'04" E	60.96'
E6	N 83°29'23" E	46.78'

CURVE DATA TABLE						
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	723.28'	172.83'	172.42'	N 79°45'11" W	13°41'27"	86.83'
C2	1005.37'	139.73'	139.62'	N 39°59'19" W	7°57'48"	69.98'



VICINITY MAP
N.T.S.



NOTES:

1. THE PROPERTY DELINEATED HEREON IS ON CITY OF ALEXANDRIA TAX MAP NO 045.01-01-04 (ENTIRE PARCEL), 045.04-04-04.A1 (LEASE AREA), 045.01-01-04.LI (LEASE AREA), 045.01-01-04.SI (LESS AND EXCEPT) AND ARE ZONED UT.
2. TOTAL AREA OF PARCEL = 25.36646 ACRES.
3. THE PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.
4. THERE ARE EIGHTEEN VARIOUS BUILDINGS AND ONE LOT.
5. THERE ARE NO FLOOD PLAIN AREAS ON THIS PROPERTY.
6. THERE IS NO OBSERVED EVIDENCE OF ANY GRAVE OR OBJECT OR STRUCTURE MARKING A PLACE OF BURIAL ON THIS PROPERTY.
7. THERE ARE NO KNOWN FORMER SANITARY LANDFILLS, DUMPS OR DISPOSAL AREAS WITHIN 1000 FEET OF THIS PROPERTY.
8. BOUNDARY, EXISTING EASEMENTS AND PHYSICAL FEATURES SHOWN HEREON IS PER THE ALTA SURVEY DATED JULY 18, 2014. PREPARED BY DEWBERRY ENGINEERS INC. FORMERLY DEWBERRY CONSULTANTS LLC, LANHAM MARYLAND
9. THIS SURVEY IS BASED ON VIRGINIA STATE GRID NORTH (NAD83) AND AS SUCH HAS A SLIGHT AND CONSISTENT BEARING ROTATION FROM THE RECORDED DESCRIPTION.

REVISION BLOCK

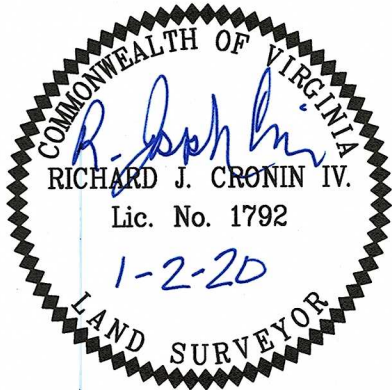
II	CITY COMMENTS	1/2/2020
10	REV. LOTS, ADD NEW ESMT	8/6/2019
9	REV. PROPERTY, LOT 1 & 2	7/23/2019
8	REMOVE SHEET 3	7/28/2016
7	FINAL PLAT	7/19/2016
6	ADD SHEET 3	5/06/2016
5	REV. ESMT LANGUAGE	3/25/2016
4	ADD PROPOSED ESMT	3/23/2016
3	REV. PROPERTY, LOT 1 & 2	3/16/2016
2	ADD N. ROYAL STREET	3/14/2016
1	CHANGE TRAILER LABEL	2/25/2016
NUMBER	DESCRIPTION	DATE

OWNERS:
POTOMAC ELECTRIC POWER COMPANY
1900 PENNSYLVANIA AVE NW
WASHINGTON DC 20068
DEED 188 PAGE 484, DEED BOOK 191 PAGE 259, DEED BOOK 191 PAGE 334, DEED BOOK 212 PAGE 159, DEED BOOK 227 PAGE 184, DEED BOOK 263 PAGE 520, DEED BOOK 329 PAGE 158 DEED BOOK 1044 PAGE 813 AMONG THE LAND RECORDS OF THE CITY OF ALEXANDRIA, VIRGINIA AND ORDINANCE NO. 297 AND ORDINANCE NO 672.

SURVEYOR'S CERTIFICATE

I, RICHARD J. CRONIN IV, A DULY LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED THE PROPERTY DELINEATED HEREON; AND THAT IT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT THIS IS A SUBDIVISION OF THE LAND CONVEYED TO POTOMAC ELECTRIC POWER COMPANY AS RECORDED IN DEED 188 PAGE 484, DEED BOOK 191 PHAGE 259, DEED BOOK 191 AT PAGE 334, DEED BOOK 212 AT PAGE 159, DEED BOOK 227 AT PAGE 184, DEED BOOK 263 AT PAGE 520, DEED BOOK 329 AT PAGE 158 DEED BOOK 1044 AT PAGE 813 AMONG THE LAND RECORDS OF THE CITY OF ALEXANDRIA, VIRGINIA AND ORDINANCE NO. 297 AND ORDINANCE NO 672, AND IS WITHIN THOSE BOUNDARIES.

I FURTHER CERTIFY THAT ALL COURSES ARE REFERENCED TO VIRGINIA STATE GRID NORTH AND THAT PROPERTY CORNERS WILL BE SET IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMMONWEALTH OF VIRGINIA.



APPROVED	
CITY PLANNING COMMISSION ALEXANDRIA, VIRGINIA	
CHAIRMAN	DATE
DIRECTOR OF PLANNING	DATE
DIRECTOR T & E.S.	DATE

SUBDIVISION PLAT
OF THE PROPERTY OF
**POTOMAC ELECTRIC
POWER COMPANY**

TAX MAPS 045.01-01-04,
045.01-01-A1, 045.01-01-04.L1
AND 045.01-01-04.S1

CITY OF ALEXANDRIA
VIRGINIA

SCALE: 1" = 100' DATE: FEBRUARY 5, 2016
REVISED: JULY 19, 2016
REVISED: JULY 28, 2016
REVISED: JULY 23, 2019
REVISED: AUGUST 6, 2019
REVISED: JANUARY 2, 2020

Dewberry
Dewberry Engineers Inc.
13575 HEATHCOTE BLVD, SUITE 130
GAINESVILLE, VIRGINIA 20155
PHONE : 703.468.2211
FAX : 703.468.2212

SUBDIVISION PLAT
OF THE PROPERTY OF
**POTOMAC ELECTRIC
POWER COMPANY**

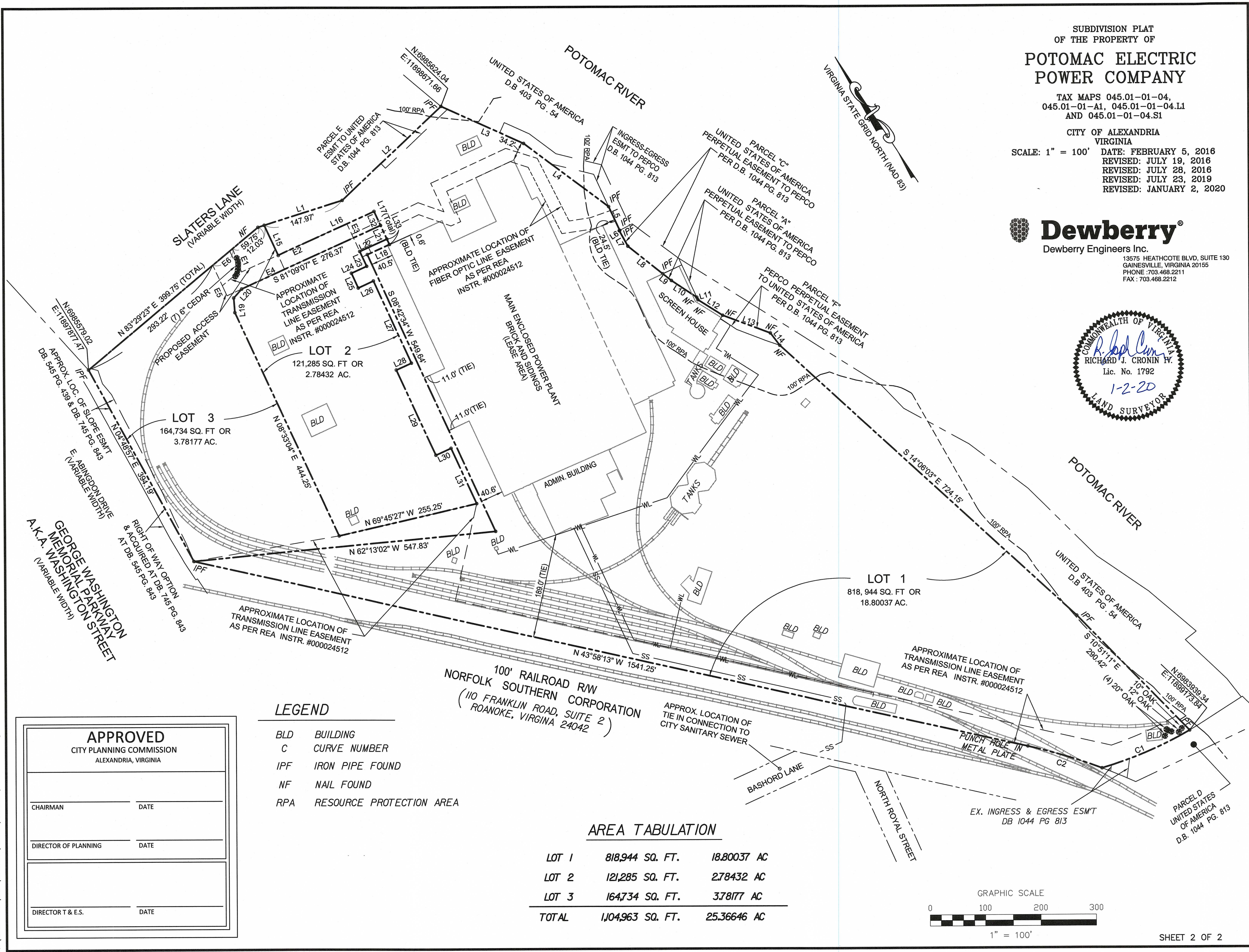
TAX MAPS 045.01-01-04,
045.01-01-A1, 045.01-01-04.L1
AND 045.01-01-04.S1

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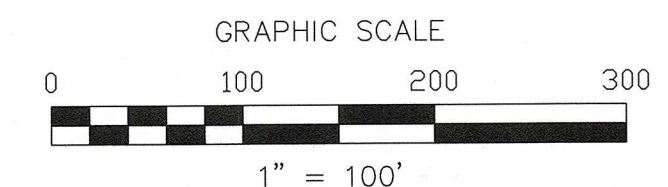


LEGEND

BLD BUILDING
C CURVE NUMBER
IPF IRON PIPE FOUND
NF NAIL FOUND
RPA RESOURCE PROTECTION AREA

AREA TABULATION

LOT 1	818,944 SQ. FT.	18.80037 AC
LOT 2	121,285 SQ. FT.	2.78432 AC
LOT 3	164,734 SQ. FT.	3.78177 AC
TOTAL	1,104,963 SQ. FT.	25.36646 AC



SHEET 2 OF 2

APPROVED	
CITY PLANNING COMMISSION ALEXANDRIA, VIRGINIA	
CHAIRMAN	DATE
DIRECTOR OF PLANNING	DATE
DIRECTOR T & E.S.	DATE