

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**  
**Stella B. Werner Council Office Building**  
**Rockville, Maryland 20850**  
**(240) 777-6660**

**IN THE MATTER OF:**

**POTOMAC ELECTRIC POWER COMPANY**

**Applicant**

\*

\*

\*

\*

**OZAH Case No. CU 16-04**

\*\*\*\*\*

**Before: Lynn Robeson Hannan, Hearing Examiner**

**ORDER ADMINISTRATIVELY APPROVING MINOR MODIFICATION**

**I. STATEMENT OF THE CASE**

On February 19, 2016, the Hearing Examiner approved a conditional use application permitting the applicant, Potomac Electric Power Company (Applicant or PEPCO), to operate a Public Utility Structure, known as the Darnestown Substation, at 16010 Riffle Ford Road in Gaithersburg, Maryland. The subject property is described Lot-1, Evangelical Formosan Church of Washington and is zoned RE-1. *Hearing Examiner's Report and Decision*, CU 16-04, p. 3 (February 19, 2016) (Report).

**II. FACTUAL BACKGROUND**

The Hearing Examiner originally approved a lighting plan (Exhibit 48(d)) calling for two 12-foot high pole lights at the substation gate. PEPCO seeks to amend the lighting plan and remove those lights. According to PEPCO (Exhibit 81, pp. 2-3):

After OZAH approval but before final permits, PEPCO's engineering team reviewed the lighting plan and lighting study and determined that the light poles were unnecessary and removed them from final design plans. After further review, it was determined that it was necessary to classify certain substation doors as egress doors. When the design classification changed the requirement for the lighting changed and additional lights on the exterior of the building were necessary in accordance with the National Electrical Code, the International Building Code, and

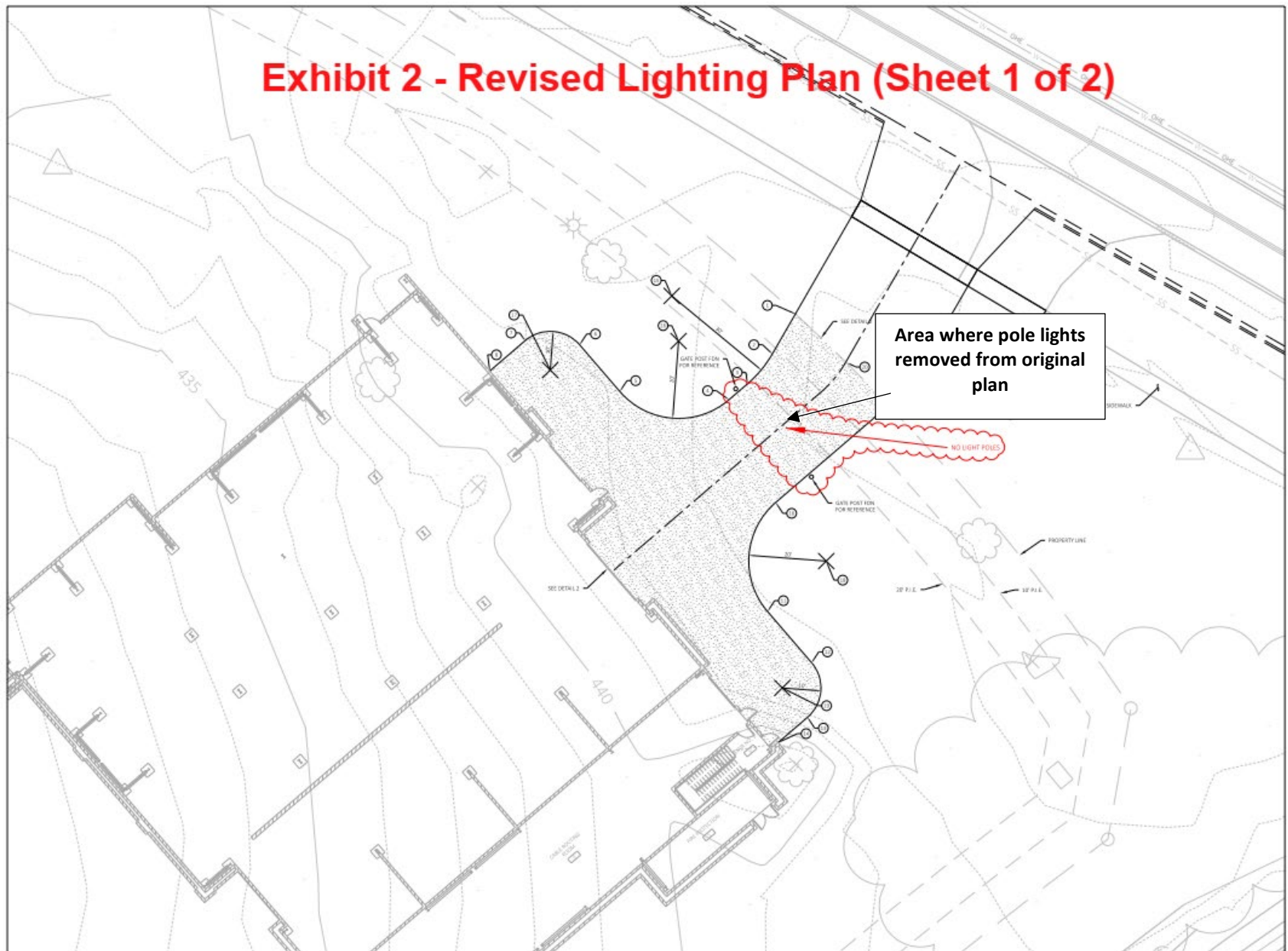
the National Fire Protection Association (NFPA) 70e. Therefore, exterior lighting was added above exterior doors during the as-built process and the proposed lighting poles were removed from the design. The exterior lights were installed above the egress doors but were not noted on the original drawings submitted with the permit package or approved by the Hearing Examiner...Importantly, the existing/proposed lighting has less of an impact on the surrounding community than the previously approved Lighting Plan as the existing/proposed lighting has less illumination with small exterior lighting above egress doors in lieu of the larger, more impactful light poles as originally approved....

PEPCO further states that removing the approved pole lights will reduce the illumination levels at the property lines and increase the safety of the facility, as the building-mounted lights draw less “unwanted” attention to the facility from vandals. Finally, PEPCO states that the revised lighting plan remains under the level of illumination mandated by the Zoning Ordinance and will have less impact on the community (Exhibit 81, p. 3). The revised Lighting Plan (Exhibit 83) is shown on the next pages.

The Hearing Examiner referred the amendment request to Staff of the Montgomery County Planning Department for a recommendation on whether the change was “minor” or “major” under Section 59.7.3.1.K of the Zoning Ordinance. Staff advised that, “After reviewing the plans, Staff feels the proposed modifications will not change the nature, character, or intensity of the Conditional Use to an extent that substantially causes adverse effects on the surrounding neighborhood. Staff agrees that this would be a Minor Modification to the Conditional Use.”

### **III. FINDINGS AND CONCLUSIONS**

The Zoning Ordinance defines a “minor modification” to an approved conditional use as one that “does not change the nature, character, or intensity of the conditional use to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected, when considered in combination with the underlying conditional use.” *Zoning Ordinance*, §59.7.3.1.K.2.a. A major amendment to a conditional use, on the other hand, “changes



Revised Lighting Plan (Exhibit 83(a))

7E-225-131

## Exhibit 2 - Revised Lighting Plan (Sheet 2 of 2)

NOTES:

1. COORDINATE LOCATIONS, SIZES, AND CLEARANCES OF LIGHT RIGS AND MECHANICAL EQUIPMENT PRIOR TO INSTALLATION. WALL MOUNTED FIXTURES MAY BE REQUIRED IN PROXIMITY TO MECHANICAL EQUIPMENT.
2. PROVIDE REQUIRED CIRCUITING PER SPECIFICATIONS AND NEC.
3. SEE LIGHT FIXTURE SCHEDULE ON 76-225-132-001 FOR LABEL IDENTIFICATION.
4. EXTERIOR LIGHT FIXTURES (L4, A1, AND A2) SHALL BE CONTROLLED BY LIGHTING CONTROL LOCATED ON LEVEL 2 AS SHOWN ON TP-225-132-001. SEE DETAIL 5 ON TP-225-132-001 FOR EXTERIOR LIGHTING CONTROL SYSTEM WIRING. PROVIDE MANUAL OVERRIDE SWITCH LOCATED AT EACH OF THE BUILDING EXTERIOR DOOR.
5. LIGHT FIXTURES IN CABLE ROUTING ROOM (RM 102) SHALL BE MOUNTED AT 12" - 0" AFF.

KEYED NOTES:


- ⑥ LIGHTS IN EACH CLOUEN SHALL BE ON THE SAME CIRCUIT AND SWITCH LEG. SEE DETAIL 5 ON SHEET 7C-225-950-001.
- ⑦ EMERGENCY DC LIGHTS SHALL BE ON ONE CIRCUIT FEED FROM THE DC DISTRIBUTION PANEL PROVIDED BY OTHERS AND CONTROLLED BY A DC LIGHTING CONTROL RELAY AS SHOWN ON SHEET 7C-225-950-001, DETAIL 4.
- ⑧ EXTERIOR LIGHTING FIXTURES ABOVE 1'-0" SHALL BE CONTROLLED BY A MANUAL SWITCH.
- ⑨ PROVIDE CONDUIT ROUTED ALONG INSIDE FACE OF WARD WALL TO EXTERIOR LIGHTING.
- ⑩ ARCHITECTURAL LED WALL WARDER LIGHT FIXTURES SHALL BE SURFACE MOUNTED TO THE STEEL UNITS ABOVE THE DOORS USING 1/8" DIA. SURFACE MOUNT BRACKET. PROVIDE POWER SUPPLY AND LEADER CABLE TO INTERCONNECT POWER SUPPLY TO FIRST FIXTURE. LIGHT FIXTURES SHALL BE CONNECTED IN SERIES WHEN UNDER THE SAME LINE.
- ⑪ ARCHITECTURAL LED WALL WARDER SHALL BE MOUNTED TO THE METAL PANEL WALL AND POSITIONED AT 90 DEGREES.
- ⑫ PROVIDE NEMA 3R RATED LIGHT SWITCH TO CONTROL OVERHEAD DOOR LIGHTING.
- ⑬ PROVIDE NEMA 3R RATED LIGHT SWITCH TO BE USED TO CONTROL VARD LIGHTING. SEE DRAWINGS 7C-225-153-001 FOR ADDITIONAL INFORMATION.

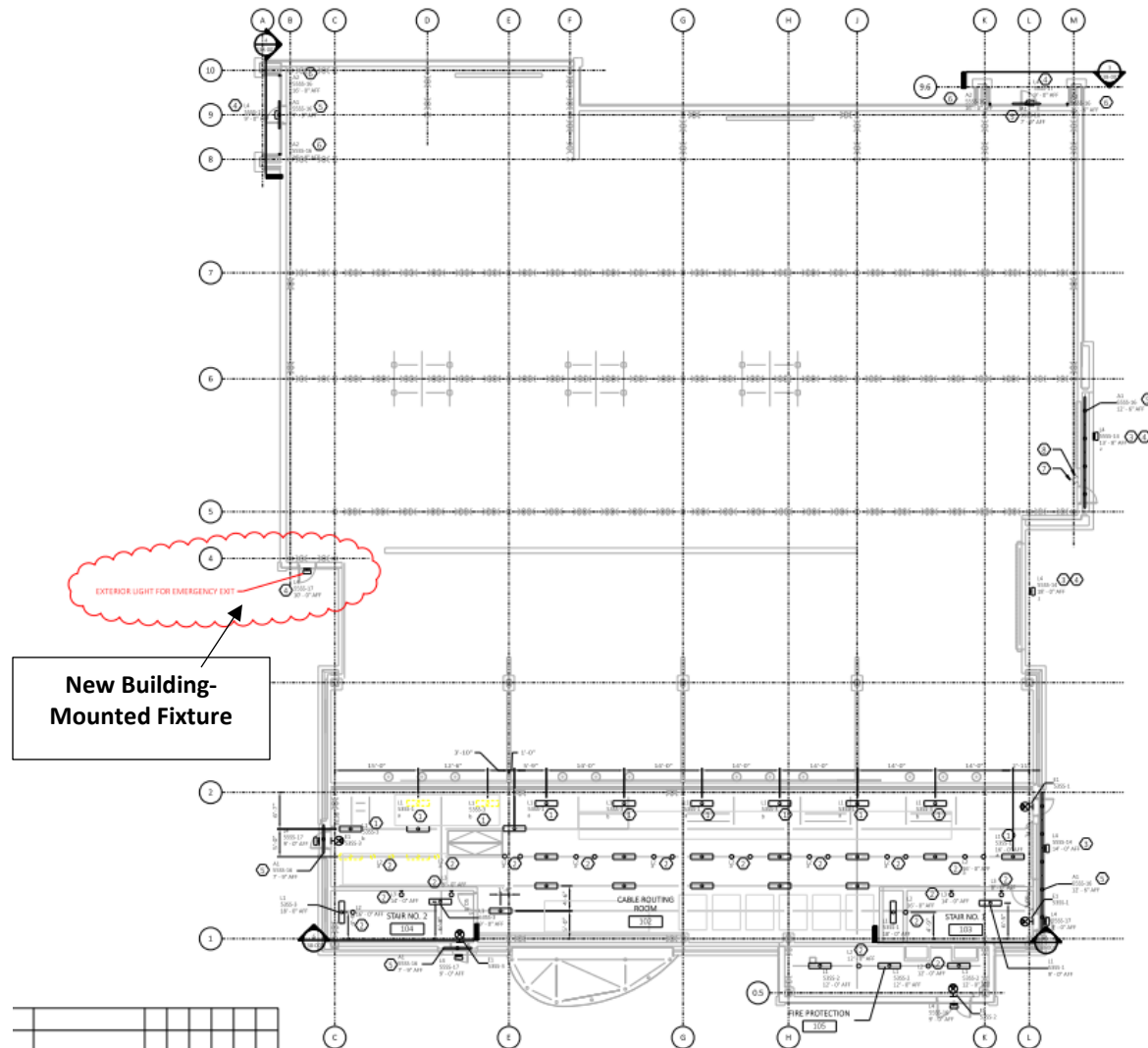
[illegible]

IECC EXTERIOR LIGHTING LOAD COMPLIANCE TABLE								
ROOM NAME	SPACE TYPE	LF	ACTUAL LOAD	ACTUAL LPI	IECC LPI	IECC LOAD	VARIANCE	NOTES
OTHER OCCURS	CEING 1000000	15	0.00 W	0.00 LPI	0.00 LPI	0.00 W	0.00 W	
BASE ALLOWANCE	CEING 10000	4.08 W				0.00 W	0.00 W	
TOTAL		14.76 W				0.00 W	0.00 W	

### REFERENCE DRAWINGS

69 kV YARD LIGHTING LAYOUT	7E-225-153-001
LIGHTING PLAN LEVEL 2	7E-225-132-001
LIGHTING DETAILS	7E-225-133-001
BUILDING WIRING DIAGRAMS	7E-225-950-001

 <b>pepco</b> Washington, DC A P&H Company	
DARNESTOWN ROAD SUBSTATION NO.225	
69/138kV GENERAL ARRANGEMENT LIGHTING PLAN LEVEL 1	
SHEET NO. E	DATE 10/20/2011 7E-225-131



### New Building-Mounted Fixture

LEVEL 1 LIGHTING PLAN

Revised Lighting Plan  
Exhibit 81(b)

[illegible]

the nature, character, or intensity of the conditional use to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected, when considered in combination with the underlying conditional use.” *Id.*, §59.7.3.1.K.1.a.

The Hearing Examiner agrees with Planning Staff that PEPCO’s proposed amendment is “minor” and may be approved administratively. Removal of the 12-foot pole lights at the gate entrance and substituting building-mounted lights further from the road will reduce the illumination at neighboring property lines.

### III. ORDER

Upon review of the PEPCO’s request for a minor amendment to its conditional use lighting plan, it is hereby:

**ORDERED:** That the request for a minor amendment to Conditional Use No. CU 16-04, approving a revised Lighting Plan (Exhibit 83), and hereby is, administratively **APPROVED**, and it is further

**ORDERED:** That Condition No. 1 of the Hearing Examiner’s decision dated is hereby modified and Conditional 12 be added as follows:

1. The Applicant shall be bound by the testimony of its witnesses and the representations of its counsel identified in the Hearing Examiner’s Report and Decision dated February 19, 2016, *except* for the Lighting Plan approved (Exhibit 48(d)).
12. All lighting on the property must conform to the Revised Lighting Plan (Exhibit 83).

and it is further,

**ORDERED:** That this amendment and the continued use of the conditional use are subject to all terms and conditions imposed in connection with the initial approval, except as specifically amended by the Hearing Examiner in this Opinion and Order. The Conditional Use holder is directed to comply fully with all applicable county, State, and federal regulations.

So Ordered and Issued this 9<sup>th</sup> day of November 2023.



---

Lynn Robeson Hannan  
Hearing Examiner

### **NOTICE OF RIGHT TO OBJECT**

Under §59.7.3.1.K.2.b of the Zoning Ordinance, any party may object by requesting a public hearing on the Hearing Examiner's action within 15 days after this decision is issued. The request for public hearing must be in writing and must specify the reason for the request and the nature of the objection or relief desired. If a request for a hearing is received, the Hearing Examiner must suspend her administrative approval and conduct a public hearing to consider whether the amendment is a major amendment or a minor amendment under the Zoning Ordinance. A minor amendment is one that does not "substantially changes the nature, character, or intensity of the conditional use or its effect on the immediate neighborhood." A major amendment is one that does substantially change the nature, character, or intensity of the conditional use on the immediate neighborhood. If the Hearing Examiner determines, after an objection, that the impact will be major, then the application must be treated as a major amendment. A decision of the Hearing Examiner following a public hearing on a minor modification may be appealed based on the Hearing Examiner's record to the Board of Appeals.

#### **COPIES TO:**

Derek Baumgardner, Esquire  
John Gontrum, Esquire  
Attorneys for the Applicant  
Barbara Jay, Executive Director  
Montgomery County Board of Appeals  
Mark Beall, Planning Department  
Victor Salazar, Department of Permitting Services  
Michael Coveyou, Acting Director, Finance Department  
Current abutting and confronting property owners  
All parties entitled to notice at the time of the original filing:  
Abutting and Confronting Property Owners (or a condominium's council of unit owners or renters, if applicable)  
Civic, Renters' and Homeowners' Associations within a half mile of the site  
Any Municipality within a half mile of the site