BZA 16674

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November 13, 2000

DISTRICT OF COLUMBIA
2000 NOV 13 AM 8:58

Mr. Anthony J. Hood, Chairman
D.C. Zoning Commission
Room 210
441 4th Street, N.W.
Washington, DC 20001

Re: 33 Patterson Street, N.E., Square 672, Lot 247, "Cyber Hotels"

Dear Mr. Hood and Members of the Commission:

The purpose of this letter is to request emergency relief to permit the subject property to be leased for a "cyber hotel".

When the Zoning Commission adopted emergency regulations last month concerning Electronic Equipment Facilities, it was responding to a perceived threat to the potential office, residential and retail development of a large number of cleared or underutilized properties in the NOMA area. The Office of Planning requested the action so that it could recommend reasonable regulations for controlling the mushrooming of "tech hotels" or "cyber hotels" in NOMA. The Commission did not have an opportunity to consider the effect of its action on some properties in NOMA which have little or no other potential use.

The Office of Planning is concerned about the future development of the properties in the area of a planned metro station. They foresee retail uses in NOMA. However, 33 Patterson Street, N.E. was built for a very special purpose. It is an approximately 20,000 square foot, one-story building built on a slab, without windows and is located on a narrow side street with virtually no vehicular or pedestrian traffic. Its use as an electronic equipment facility would have no negative impact on the urban fabric. Rather, it would attract office buildings dependent on high speed internet access and facilitate the development of NOMA as an office and retail location.

Need for emergency action

The subject property was developed to hold furs in cold storage during the summer months. It was highly dependent on downtown fur salons such as those at Woodward and Lothrop, Garfinckel's, and other companies which are no longer in

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business. The original owner went bankrupt. New owners tried to continue the fur and business and subsequently attempted to use it for other storage. These attempts proved fruitless. The building has been vacant for at least a year and little interest was shown in leasing the building until companies began to see its potential as a cyber hotel. The building is particularly appropriate for an EEF because it was built to store valuable property and possesses the kind of security that cyber operators find attractive.

Now it has a chance to begin a new life as a cyber hotel in an area of substantial potential growth. It has adequate parking for the purpose and can provide, without the usual delay inherent in construction or adaptive reuse, an ideal site for an electronic equipment facility. The companies that would lease and outfit this facility are operating on a very fast track. For them, two months is the equivalent of two years. They need to know as soon as possible whether the property will pass muster under the zoning regulations. The owners of the property have had serious expressions of interest which were withdrawn after the emergency action of the Zoning Commission. Only an exemption from the prohibitions of the emergency action will allow it to be marketed for the single use to which it is most readily adapted.

Accordingly, we recommend amending subparagraph 743.2(e) of the Zoning Regulations by adding, at the end thereof, the following:

(iv) Notwithstanding the above, an Electronic Equipment Facility may be located on the ground floor of a building in the C-3 district so long as the building is a one-story structure with no basement, was in existence on October 24, 2000, has few or no windows, and has no frontage on any major streets.

Special exception relief

It is noteworthy that when the Zoning Commission acted to restrict the ground floor use of property in the C-3 District, it did not permit the Board of Zoning Adjustment to grant a special exception, as it may for properties in the C-M and M districts. Rather, in language supplied by the Office of Planning, it required the owners to request a variance, a more difficult proposition. The adopted language is as follows:

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743.2(e) Electronic Equipment Facility (EEF) in the C-3 districts if approved by the Board of Zoning Adjustment and provided the following conditions are met:

(i) The EEF shall not be located on the ground floor level...

Accordingly, if the EEF is to be located on the ground level, it must obtain a variance, rather than a special exception. This is in sharp contrast, however, to the stated goal of the Office of Planning recommendation. In two places in its October 16 report it

urged the Zoning Commission to "allow EEF's by special exception in the C-3 ... district when not located 100 percent below ground floor level." We suggest that the adopted language be changed by emergency action to permit the BZA to grant a special exception for EEF's on the ground floor in a C-3 district.

Yours very truly,

Steve

Stephen N. Gell

cc: Hossein Ejtemai