GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

ZONING COMMISSION ORDER NO. 16674
(33 Patterson Street, N.E.)
March 1, 2001

Application No. 16674 of 33 Patterson Limited Partnership[1], pursuant to 11 DCMR § 3104.7, for special exceptions under section 745 to allow an electronic equipment facility housing an array of telecommunications equipment and under §§ 2110 and 2201 from the off-street parking and loading requirements in a C-3-C District at premises 33 Patterson Street, N.E. (Square 674, Lot 255).

HEARING DATE: **March 1, 2001**
DECISION DATE: **March 1, 2001 (Bench Decision)**

SELF–CERTIFIED

The zoning relief requested in this case was self–certified, pursuant to 11 DCMR § 3113.2.

SUMMARY ORDER

The Zoning Commission (Commission) provided proper and timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to the applicant, Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the property that is the subject of this application.

The subject property is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to the application, by unanimous vote, empowered the single member commissioner, Daniel Pernell III, to conduct further inquiry and send an appropriate letter to the Zoning Commission. Mr. Pernell subsequently filed a letter dated February 21, 2001, supporting the special exception.

As directed by 11 DCMR § 3119.2, the Commission required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to §§ 745, 2110, and processed under the notice of emergency

[1] This application was processed under the Notice of Emergency Rulemaking published in 47 DCR 47 9775 (December 8, 2000). The Commission, determined at the time of the public hearing, that relief under § 2201 was not required.

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rulemaking in 48 DCR 1843, February 23, 2001. The Office of Planning by Memorandum of February 14, 2001, recommended approval of the application. No other person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.

Based upon the record before the Commission and having given great weight to the ANC and the Office of Planning reports filed in this case, the Commission concludes that the applicant has met the burden of proof for a special exception pursuant to 11 DCMR §§ 3104.1, 2110, and 745 of the Emergency Rulemaking, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED**, subject to the following **CONDITIONS**:

1. No security elements except exterior cameras and lights may be located on the exterior of the building.

2. Any antennas located on the roof of the building shall be screened and not visible from any right-of-way.

3. The building may not be expanded beyond its current size for use as an EEF.

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

VOTE: 4-0-1 (Commissioners Kwasi Holman, John G. Parsons, Anthony J. Hood, and Carol J. Mitten to **GRANT**; Herbert M. Franklin, not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION

Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: APR 4 2001

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

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

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 00-40/16674 (Order No. 16674)

As ~~Secretary~~ Director to the Zoning Commission, I herby certify that on April 4, 2001 copies of this Z.C. Order were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. Applicant
   Stephen Gell
   1101 30th Street, N.W.
   Fifth Floor
   Washington, D.C. 20007

2. Affected ANC
   Daniel M. Pernell, III
   ANC 6A
   1132 4th Street, N.E.
   Washington, D.C. 20002

3. Ward Councilmember (Sharon Ambrose – Ward 6)

4. Office of Planning (Ellen McCarthy)

5. Michael Johnson
   Zoning Administrator
   941 North Capitol Street, N.E.
   Washington, D.C. 20002

6. All Other Parties (None in this case)

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director