

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



ZONING COMMISSION ORDER NO. 16662
Case No. 16662

Case No. 16662¹ of Kay First Data Center LLC, pursuant to 11 DCMR 3104.1, for a special exception under Section 745 to construct and operate an Electronic Equipment Facility (“EEF”) in a C-3-C District, a special exception under Section 2110.1 to reduce the parking requirement, and a special exception under Section 2202.3² to reduce the loading requirement, at premises 101 K Street, N.E. (Square 715, Lot 11).

HEARING DATE: December 18, 2000
DECISION DATE: December 18, 2000 (Bench Decision)

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 Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to the application, did not file a written statement of issues and concerns regarding the application. One Single Member District Commissioner filed a letter indicating that

¹ The Application was originally filed with the Board of Zoning Adjustment pursuant to 11 DCMR 745 and processed under the notice of emergency ruling published in 47 DCR 9775-84 (December 8, 2000). After the Application was filed, the Zoning Commission modified § 745 providing that the Zoning Commission review special exception applications for Electronic Equipment Facilities under § 745. Therefore all procedural requirements of a Special Exception review by the Board of Zoning Adjustment will, in this case apply correspondingly to the Zoning Commission.

² The parking and loading relief requested were originally advertised as a variance. However, the regulations were revised subsequent to such advertisement to provide the Zoning Commission with special exception authority to reduce the parking requirement under Section 2110.1 and the loading requirement under Section 2202.3.

the ANC did not have a quorum of members present when it considered the application and therefore the ANC took no action on the application.

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 11 DCMR Section 745. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.

Based upon the record before the Commission, the Commission concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3104.1, 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. Construction of the building shall be in accordance with plans dated November 22, 2000, and submitted as Exhibit C (Sheets A101 through A108 sheets A201 through A2 of the application. These plans reflect the following specific conditions:
 - a. The height of the building shall be no greater than 83 feet.
 - b. The gross floor area of the building shall be no greater than 41,600 square feet, and the FAR for the building shall be no greater than 5.2.
 - c. There shall be a minimum of 16 parking spaces in the building, less than the 22 spaces required because the Commission has reduced the requirement by special exception pursuant to 11 DCMR Section 2110.1.
 - d. One 30-foot loading berth shall be provided shall be provided. The Commission has eliminated the remaining loading requirements by special exception pursuant to 11 DCMR Section 2202.3.
2. The streetscape surrounding the building shall be designed and constructed in accordance with the Landscape Plan dated November 2000 and submitted as Exhibit C of the application
3. Any antennas located on the roof of the building shall be screened and not visible from any right-of-way.

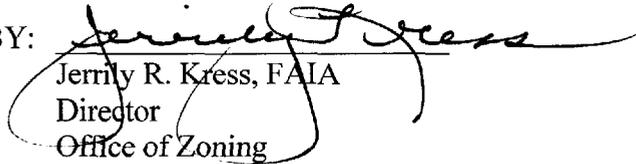
Pursuant to 11 DCMR 3101.6, the Commission has determined to waive the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the Order of the Commission. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 5-0 (John G. Parsons, Herbert M. Franklin, Kwasi Holman, Anthony J. Hood and Carol J. Mitten to GRANT.)

Each concurring member has approved the issuance of this Decision and Order and has authorized the undersigned to execute this Decision and Order on his or her behalf.

BY ORDER OF THE D.C. ZONING COMMISSION

ATTESTED BY:


Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: FEB -6 2001

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

UNDER 11 DCMR 3125.9, NO ORDER OF THE COMMISSION SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130.1, THIS ORDER OF THE COMMISSION IS VALID FOR A PERIOD OF ONE YEAR, AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Office of Zoning

BZA APPLICATION NO. 16662

As Director of the Office of Zoning, I hereby certify that on FEB 6 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed bellow:

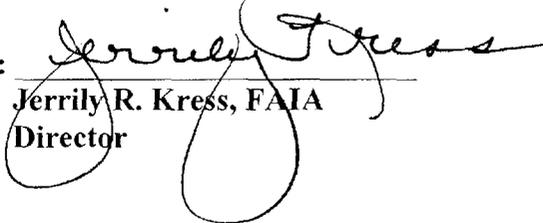
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ATTESTED BY:



Jerrily R. Kress, FAIA
Director