GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

DATE: July 12, 2004

TO: District of Columbia
Board of Zoning Adjustment

THROUGH: Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: BZA Case No. 17194
Akwaaba DC– 1708 16th St., NW
Square 178 Lot 74

Summary

The applicants, Monique Greenwood and Glen Pogue, the owners of 1708 16th St., NW, seek approval of a special exception to convert 1708 16th St., NW to a 6-bedroom Bed and Breakfast. In addition, the applicant requests consideration of a special exception or variance to permit two additional bedrooms for the Bed and Breakfast operation for a total of eight rooms. A two-room Bed and Breakfast is permitted as a home occupation (an accessory use to a residential use) in an R-5-D District, subject to the provisions of §203.8. The building is a contributing structure to the 16th Street historic district; therefore, DCMR Title 11, §203.8(c), permits six (6) bedrooms to be used as sleeping rooms in the Bed and Breakfast subject to special exception approval from the Board.

Recommended Action:
The Office of Planning recommends that the Board approve the special exception request for a 6-bedroom Bed and Breakfast. The Office of Planning does not have sufficient information to make a recommendation on the request for an 8-bedroom Bed and Breakfast.

BZA
Case No. 17194
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17194
EXHIBIT NO. 29

Background

The subject property is located at 1720 16th Street, NW (Square 178, Lot 74) mid-block in a set of rowhouses facing 16th Street, NW between R Street and Riggs Place (see Attachment 1). The area is part of the Dupont Circle Overlay District and is zoned medium to high density and height Residential District (R-5-D). The area contains predominately row house-style buildings, which contribute to its historic character. The site is in the 16th Street Historic District and exterior modifications are subject to review by the Historic Preservation Review Board.

The lot is occupied by a 5,000 square foot, four and a half-story row house, which is a contributing structure to the historic district. The row house to the north along 16th Street is occupied as offices by the Association of American Geographers. To the west is an alley network that serves the row houses to the north along Riggs Place and an apartment building to the south fronting on R Street. To the south is a row house that has been converted to a 6-unit apartment. Across the street is a mid-rise apartment building.

The property is currently operating as a two-bedroom Bed and Breakfast as permitted under the home occupation regulations. According to the applicant, the property previously operated as a nine-bedroom Bed and Breakfast known as "The Brenton" under a certificate of occupancy for a 9-room rooming and boarding house (Exhibit E of the applicant's statement, dated 9-26-89). Prior to the Transient Accommodations zoning text amendment (ZC Order No. 614, DCR 11-03-1989, see Attachment 5) Bed and Breakfast establishments were given certificates of occupancy as rooming and boarding houses. Rooming and boarding houses were first permitted as matter-of-right in the R-4 zone. The Transient Accommodations zoning text amendment distinguished rooming and boarding houses as separate uses from transient accommodations like Bed and Breakfasts, tourist homes, and hostels. This text amendment also established Bed and Breakfasts as transient accommodations and inns. Inns are first permitted as a matter-of-right in the C-1 zone and as a special exception in the SP-1 zone.

Just before the Transient Accommodations zoning text amendment, the Zoning Commission promulgated the Home Occupations text amendment (ZC Order No. 557, DCR 09-16-1988, see Attachment 6). In this order the Commission stated:

> *Bed and Breakfast facilities will be explicitly authorized and regulated. The final rules respond to concerns which were expressed about the advertised proposal to limit the frequency and length of rentals. The rules will limit matter-of-right Bed and Breakfast facilities to a scale of operation which is clearly an accessory use in the residence of the operator. (Page 3)*

The intent of the regulations is to provide a reasonable degree of economic opportunity and the convenience of working at home without adversely impacting residential neighborhoods and the supply of housing stock. This order created the home occupation regulations reflected in §203 from which relief is requested.

Project Description

Application No. 17194 requests a special exception pursuant to §203.8(c) to permit a Bed and Breakfast with six bedrooms. An additional special exception is requested pursuant to §203.10(b) to increase the number of sleeping rooms from six to eight. However, the Zoning Administrator has determined in a similar situation that a Bed and Breakfast of more than six rooms would require a use variance in the R-5-D zone (see Attachment 7).

The applicant has made interior renovations to 1708 16th St., NW to preserve and restore the existing dwelling. No major exterior alterations or additions are to be undertaken as part of this renovation. The basement will provide sleeping accommodations for the residents; the first floor contains a parlor, the kitchen and a dining room. The second and third floor will have three sleeping rooms each and the fourth floor (a finished attic with dormers) will have two sleeping rooms. The structure is currently used as a single-family dwelling with a home occupation of a Bed and Breakfast with two sleeping rooms.

The following operating conditions are proposed by the applicant:

1. Breakfast will be the only meal served to overnight guests.
2. Four parking spaces are provided off a 15-foot-wide alley at the rear of the property.
3. No non-resident employees will be employed in the home occupation.
4. There will be no other home occupation permits for the Property.
5. A small six-inch by six-inch, non-illuminated sign will advertise the Bed and Breakfast.
6. No weddings or other types of receptions will be held on the premises.
7. Only the owners' vehicle will be used to purchase food and other supplies for the operation of the Bed and Breakfast.
8. Most guests will arrive by taxi or will use public transportation during their visits.
9. There will be no sales of goods at the premises.

The applicant has indicated that more than eight customers may be on the premises at one time, but did not indicate an upper limit that would be anticipated.

Comprehensive Plan

The Comprehensive Plan sets goals of encouraging the renovation and adaptive re-use of existing structures rather than demolition. Also, §805 outlines the following goals.

805.1 Every effort should be made to provide for the continued, appropriate use of all historic properties. If the original use or a reasonable intensification of the original use is no longer feasible, appropriate adaptive uses consistent with applicable land use regulations should be encouraged.

805.13 When possible, deteriorated historic landmarks or buildings that contribute to historic districts should be repaired rather than demolished.

The Land Use Element of the Comprehensive Plan provides the following policies in support of the residential neighborhood objectives:

1104.1 The policies established in support of the residential neighborhoods objectives are as follows:

(r) Control the conversion of residential housing to guest houses, bed and breakfast establishments, clinics, and other non-residential or transient uses;

The Ward 2 Element of the Comprehensive Plan provides the following guidance regarding residential land use:

1325.2 The overriding issues for Ward 2 neighborhoods are the threat of commercial encroachment (including hotels and medical clinics/doctors' offices), the impact from uses such as community based residential facilities, university expansions, chanceries, and numerous parking and traffic problems.

1325.3 Commercial development in Dupont Circle has had a major impact on adjacent area residents where loss of the housing stock is a critical issue... Conversions of housing units, particularly apartments, to transient use (hotel, *de facto* hotels, and corporate apartments), to university dormitories and offices, and to medical offices/clinics is a major cause of the depletion of the housing stock. Moreover, continued commercial, hotel, and institutional expansion has caused major traffic and parking problems, thus adding to the disruption of residential life...

These goals can be met by allowing a special exception with conditions for a Bed and Breakfast in this historic structure. The special exception allows preservation and restoration of a historic interior that might not otherwise be preserved, thereby maintaining continued productive use of the historic building. The conditions should ensure that traffic and parking problems are minimal. The use variance, as a new use, would conflict with policies of limiting the loss of housing stock; however, the applicant indicates that this property was previously used as a Bed and Breakfast; therefore, continuation of this use would not deplete the housing stock.

Zoning Analysis

The subject property is located in a DC/R-5-D zone. The Dupont Circle Overlay District (DC) has the following purposes:

1. To require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone;
2. To protect the integrity of "contributing buildings," as that term is defined by D.C. Law 2-144, the Historic Landmark and Historic District Protection

Act of 1978, in the various historic districts within the overlay district; to require compatibility of development with the purposes of D.C. Law 2-144; and to preclude demolitions or partial demolitions which would lead to an increase in height and floor area ratio inappropriate to the area;

3. To enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location and density of commercial and residential development;
4. To ensure compatibility of development with the Comprehensive Plan;
5. To preserve areas planned as open gardens and backyards and to protect light, air, and the privacy that they provide;
6. To enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and
7. To encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

The proposed development with conditions meets the applicable purposes of the Overlay district by preserving the existing historic structure.

The R-5 zone districts are designed to permit a flexibility of design by permitting in a single district all types of urban residential development if they conform to the height, density, and area requirements established for these districts under chapter 4 of this title. The R-5 districts shall also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and which are excluded from the more restrictive Residence districts. The R-5-D district permits a relatively high height and density.

The proposed development does not require any relief from the area requirements of the zoning regulations as no improvements that would require relief are proposed. Additional parking is not required in accordance with §2100.5.

Residential zones permit a home occupancy use of a 2-bedroom Bed and Breakfast in a historic district as an accessory use in accordance with §203.8:
An owner of a dwelling may operate a Bed and Breakfast facility, offering rooms and breakfast to guests on a daily basis: Provided, that the following requirements shall be met:
(a) The use shall not be permitted in a multiple dwelling;
The structure is a single-family dwelling with a current home occupation of a 2-bedroom bed and breakfast.

(b) Breakfast is the only meal served, and is served only to overnight guests;
The applicant proposes breakfast to be the only meal served and only to overnight guests.

(c) The maximum number of sleeping rooms shall be two (2), except as follows:

(1) Pursuant to §203.10(b) of this section, the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling which is an historic landmark, or which is located in an historic district and is certified by the State Historic Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6); and
(2) The number of sleeping rooms permitted as a matter of right or by special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling pursuant to §202.5 of this title;

The applicant is seeking relief from this provision to allow 6 sleeping rooms. Additional relief is requested to allow 8 sleeping rooms.

(d) The floor area limitations set forth in §203.4(b) shall not apply to this use;
This provision exempts the use from the requirement that only 25% of the FAR may be used for a home occupation.

(e) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;
In accordance with §2100.5 no additional parking spaces are required for historic structures. The existing parking pad, which accommodates two spaces, will remain.

(f) No cooking facilities shall be permitted in any of the rented rooms;
No cooking facilities are proposed in the rented rooms.

(g) The dwelling shall be owned and occupied as the principal residence of the operator(s); and
According to the applicant, the dwelling will be owned and occupied as the principal residence of the operator.

(h) Except as provided in paragraph (d) of this subsection, the Bed and Breakfast facility shall comply with the provisions of §§203.4 through 203.6 of this section.
The provisions of §§203.4 through 203.6 are enumerated below.

203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§203.5 and 203.6 of this section, and with the following conditions and requirements:
(a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;
The applicant indicates that the owners and family will be full-time residents of the dwelling; the exterior and interior of the townhouse are maintained in their residential character, the kitchen, living and dining rooms will continue to be residential in character. In developing the home occupancy regulations the Zoning Commission, specifically in

regard to this specific occupation, established that up to 6 rooms can be considered a clearly secondary accessory use. The extent of the physical characteristics and operations of the property expressed by the applicant and the parameters for home occupations permitting the use in §203.8 indicate a clearly secondary use with six sleeping rooms. The additional two rooms requested (total of 8) would not clearly be an accessory use.

(b) Except as provided in paragraphs §§203.7(c) and 203.8(d) of this title, no more than the larger of two hundred fifty square feet (250 ft.') or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized in the home occupation;

This requirement for home occupations regarding percentage of the dwelling used for the home occupation is specifically waived for bed and breakfast uses.

(c) The practitioners shall store all materials or finished products within the floor area, which is designated in paragraph (b) of this subsection, or in a basement or accessory structure;

There are no materials or finished products associated with this use.

(d) No more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;

The applicant has stated that there will be no nonresident employees employed in the home occupation.

(e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;

The applicant proposes to maintain the residential character and appearance of the dwelling unit and lot.

(f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use, which is exclusively residential;

There are no interior structural alterations proposed that would make it difficult to return the premises to use that is exclusively residential.

(g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure:

The applicant states that there will be no operations or storage of materials outside the building as a result of the home occupation.

(h) Neither the practitioner nor any other person shall use any equipment or process which creates visual or audible electrical interference in television or radio receivers outside the subject home, or which causes fluctuations in line voltage outside the subject home;

The applicant states that there will be no equipment or process that will cause TV or radio interference or electrical line voltage fluctuations.

(i) The use shall produce no noxious odors, vibrations, glare, or fumes, which are detectable to normal sensory perception outside the subject home;

The applicant states that no noxious odors, vibrations, glare or fumes will be created.

(j) The use shall not produce a level of noise, which exceeds the level which is normally associated with the category of dwelling or the immediate neighborhood;

The applicant states that the use will not produce a level of noise that exceeds the level normally associated with the immediate neighborhood. In addition, the applicant indicates that there will be no weddings or other types of receptions as part of the bed and breakfast.

(k) No more than two (2) vehicles may be used in the practice of the home occupation;

The applicant states that only one vehicle will be used in the practice of the home occupation to purchase food and other supplies.

(l) Vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;

The applicant indicates that the majority of guests will use public transportation and that the fluctuation in occupancy that will typically occur will not exceed eight trips on average. The Office of Planning notes that the property is only five blocks from the Dupont Circle Metro station and adequate management of guest transportation options can keep the number of vehicle trips to the site low.

(m) The practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period; and

The applicant indicates that the limit of eight customers on the premises in any one-hour period could not be met. According to the applicant's statement, the legislative history of this provision indicates that it was designed quite explicitly for psychologists and similar professionals conducting group sessions and is not relevant to the proposed home occupation. However, the regulation does not specifically exempt bed and breakfast home occupations from this regulation. If it were intended to be exempted from 203.4(m), then the Commission would have exempted bed and breakfasts from the regulation as it specifically did from §203.4(b) in §203.8(d). A typical two-room bed and breakfast could comply with provision and even a 6-bedroom bed and breakfast could comply if it only rented two rooms to double occupants and the remaining four rooms to single occupants.

(n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall

not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.

The applicant states that there will be no other home occupations.

203.5 ***A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:***

(a) ***Pursuant to the provisions of paragraphs (b) through (g) of this subsection, a person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;***

(b) ***The sign shall not exceed one hundred forty-four square inches (144 in^2) in area;***

(c) ***The sign shall be flush-mounted;***

(d) ***The sign shall not be illuminated;***

(e) ***The sign may state only the name of the practitioner and the type of home occupation;***

(f) ***The practitioner shall not display more than one (1) sign outside a dwelling or building; and***

(g) ***The practitioner shall not display any sign which does not meet the requirements of paragraphs (b) through (e) of this subsection.***

The applicant has an existing sign conforming to these requirements.

203.6 ***Sales shall be permitted, subject to the following conditions:***

(a) ***A practitioner may make sales by telephone;***

(b) ***A practitioner may perform and be paid for a service, even in the service results in the creation of a product;***

(c) ***During a twelve-month (12) period, as many as five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling; and***

(d) ***During a twelve-month (12) period, a person with a home occupation permit may hold six (6) or more sales in the nature of yard sales, garage sales, or home sale parties at a dwelling, if approved by the Board of Zoning Adjustment as a special exception pursuant to §203.10 of this section.***

The applicant states that there will be no sales of goods on the premises. The fact that a home occupation permit for a two-bedroom bed and breakfast has already been issued by the Zoning Administrator for the operation shows that the applicant is in compliance with all of the above requirements.

Special Exception Tests

The two provisions above that must be modified are §203.8(c) (maximum number of permitted rooms) and §203.4(m) (no more than eight customers on site in a one-hour period). As outlined through the specific evaluation above, the granting a special exception for a 6-bedroom will be in harmony with the general purpose and intent of the

zone plan and maps and will not adversely affect the surrounding neighborhood.

The Office of Planning believes that 203.10(b) does not allow an unlimited number of rooms by special exception as the applicant advises in the application, but that it is read in conjunction with 203.8(c) to allow for special exception relief of either 4 or 6 rooms. Therefore, OP believes a bed and breakfast with eight rooms requires a variance.

Variance Tests

Extraordinary or Exceptional Situation Resulting in an Undue Hardship

In considering this request, the Board must determine if by reason of some extraordinary or exceptional situation or condition of this property the strict application of zoning regulations would result in an undue hardship. In the case of a use variance the exceptional situation of the property should relate to the difficulty in establishing other reasonable uses.

The R-5-D zone permits the following matter-of-right uses that could be put in the existing structure:

Apartment house	350.4(c)
Bed and breakfast (2 rooms)	203.8
Boarders or roomers (up to 2) [accessory use]	202.5
CBRF (Community res. facility: 9-15, w/ 500' radius)	350.4(f)
CBRF (Health care facility: 9-15, w/ 500' radius)	350.4(f)
CBRF (Youth res. care home: 9-15, w/ 500' radius)	350.4(f)
Church	201.1(b)
Clinic	330.5(f)
Club, private (or lodge)	330.5(g)
Dormitory	330.5(g)
Dwelling, multiple (family)	350.4(c)
Dwelling, one-family detached	201.1(a)
Dwelling, *one-family* row	320.3(b)
Dwelling, one-family semi-detached	300.3(c)
Dwelling, two-family (flat)	330.5(b)
Embassy	201.1(j)
Fraternity or sorority house	330.5(g)
Home occupation (limited)	203
Museum	330.5(h)
Parsonage, vicarage or rectory	202.1(c)
Physician or dentist (home) [accessory use]	202.2
Rooming or boarding house	330.6

The applicant indicates that the historic preservation requirements, which prohibits the applicant from demolishing the existing structure and developing a full-density, 90-foot-

high buildings as allowed in the R-5-D district represents a substantial financial burden on the applicant and limits the reasonable uses available to the structure. Additionally, applicant claims that it substantially relied on inaccurate information and advise form DCRA officials about the ability to operate a bed and breakfast as a matter of right. However, the applicant has not provided sufficient evidence to determine that the undue hardship test has been met.

Adversely Affect Use of Neighboring Property

The Board should determine if the variance could be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan. The home occupation regulations limit the maximum number of bedrooms to six (subject to criteria that ensures the use is accessory); therefore, the proposed 8-bedroom bed and breakfast would by definition in §199 be an inn. An inn is a commercial use first permitted by right in the C-1 zone or by special exception in the SP zone. The proximity of institutional and high-density residential uses to the subject property and 16th Street, NW, a major arterial, establish a more intense use in this area. Based on the statement that no special events are proposed and with operational control of the number of vehicular trips to the site, the proposed use will not be a substantial detriment to the public good. However, the proposed us is in a commercial use in a residential zone, which is not consistent with the intent, purpose and integrity of the zone plan.

ANC Recommendation

On June 9, 2004 Advisory Neighborhood Commission 2B considered the application and proposal, having properly noticed the item as being on the agenda, and unanimously voted to support the application. The ANC's statement of support is in the record of the case. The immediate neighbors to the north and south of the subject premises are in support of the application and have submitted letters to that effect into the record.

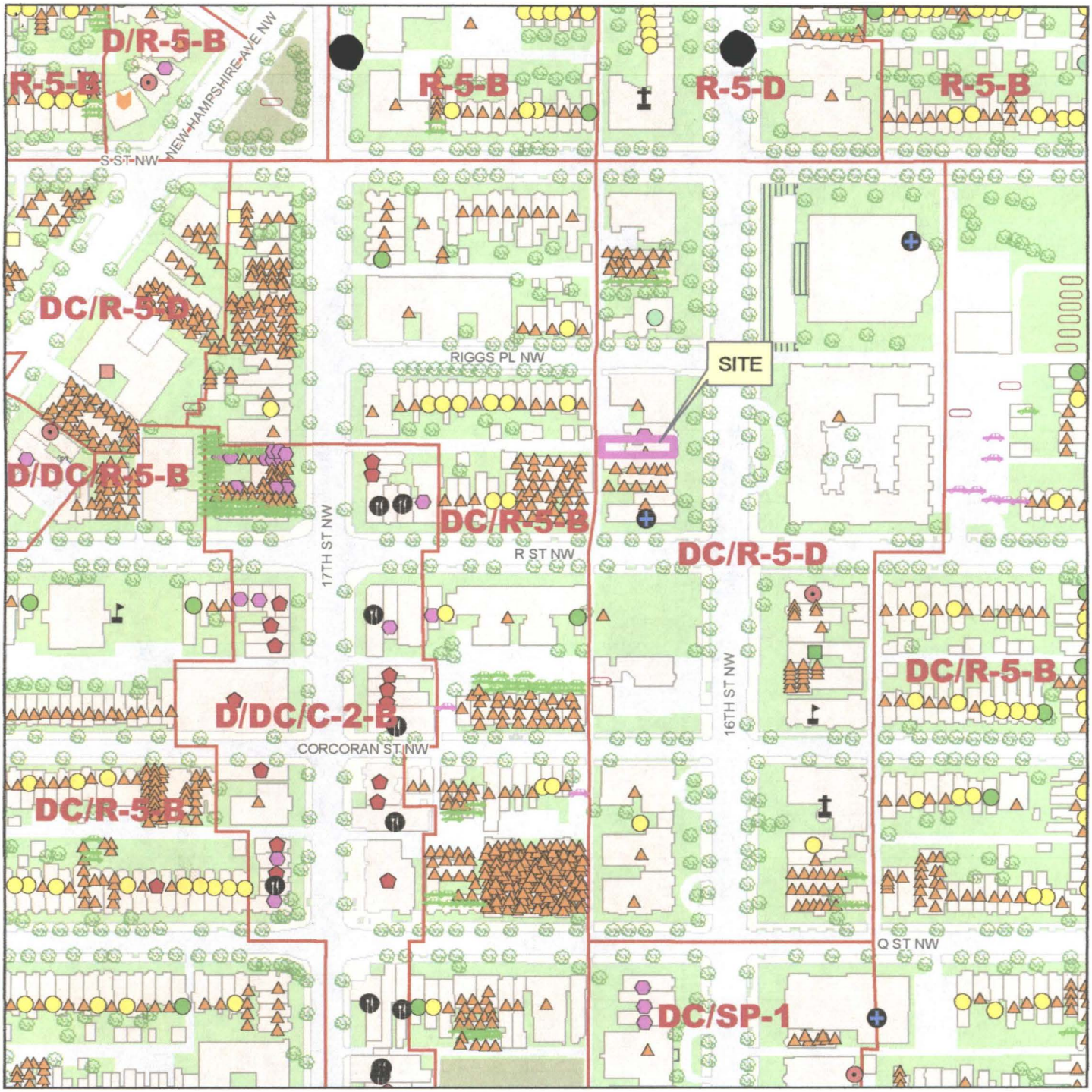
Recommendation

The Office of Planning recommends approval of BZA application 17194 requesting a special exception from the restrictions of §203.8 (to permit 6 sleeping rooms) and §203.4(m) (to allow 12 customers on premises at one time) pursuant to §203.10(b) and in accordance with §3104. The Office of Planning does not have sufficient information to make a recommendation on the request for an 8-bedroom Bed and Breakfast.

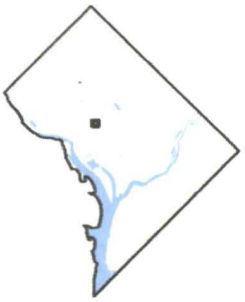
Attachments:

1. Zoning and Land Use Map
2. Comprehensive Plan Map
3. Aerial Photo
4. Aerial Oblique Photos

5. Transient Accommodations text amendment
6. Home Occupations text amendment
7. Zoning Administrator referral re: bed and breakfast



Zoning and Land Use Map
BZA Application #17194
1708 16th Street, NW



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Feet

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Anthony A. Williams, Mayor

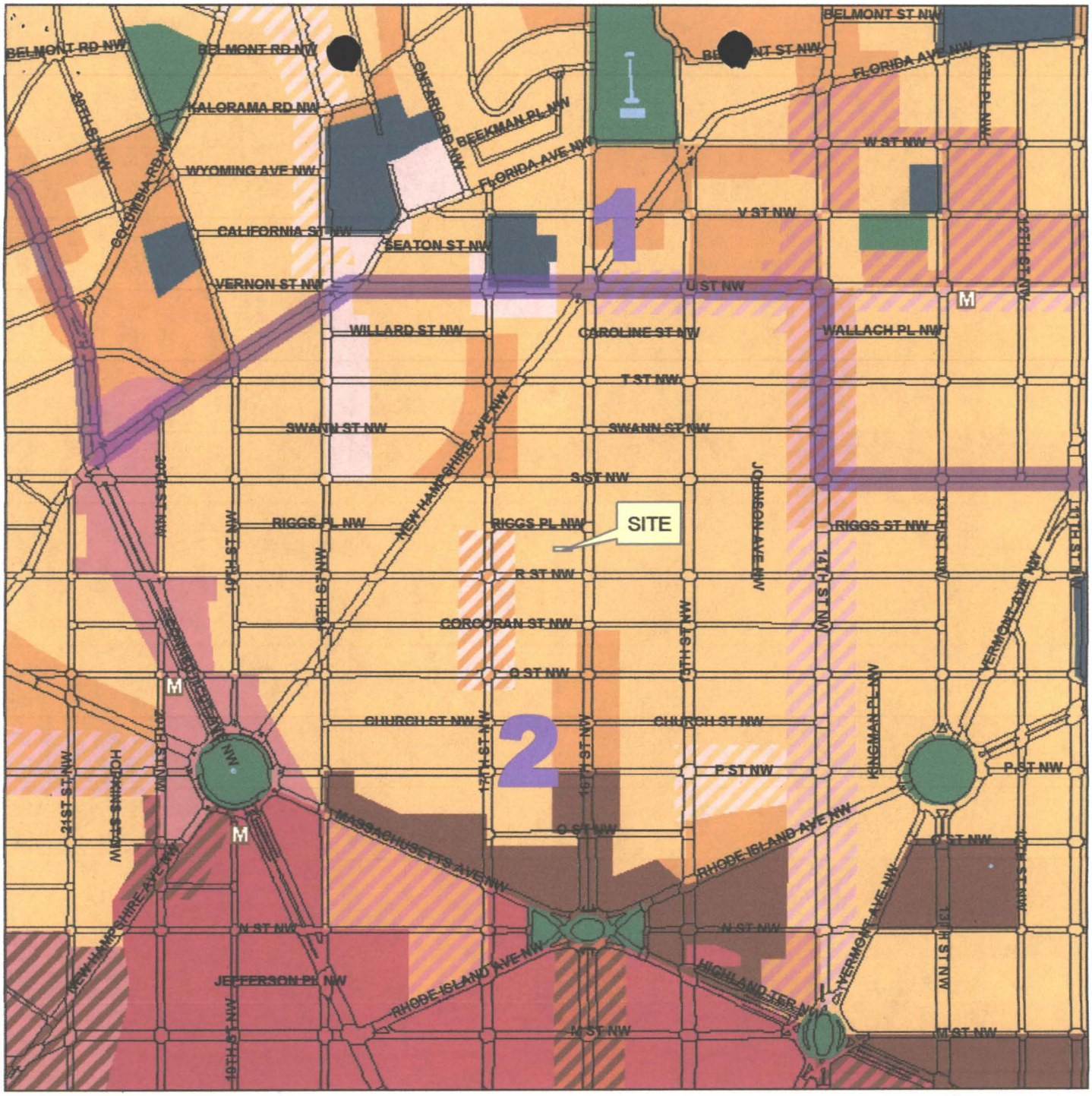
Office of Planning ~ July 12, 2004

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Land Use Legend

- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Multi-family
- Small Hotel
- Large Hotel
- Fraternity/Sorority House
- Store
- Restaurant
- Office
- Parking - Special Purpose
- Religious
- Educational
- Embassy/Chancery
- Special Purpose
- Vacant

Attachment 1



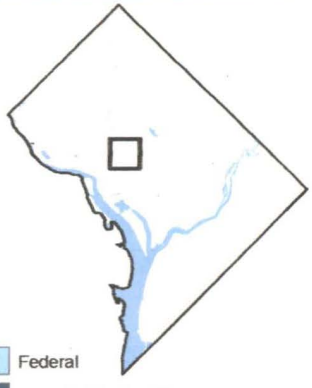
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Comprehensive Plan
BZA Application #17194
1708 16th Street, NW

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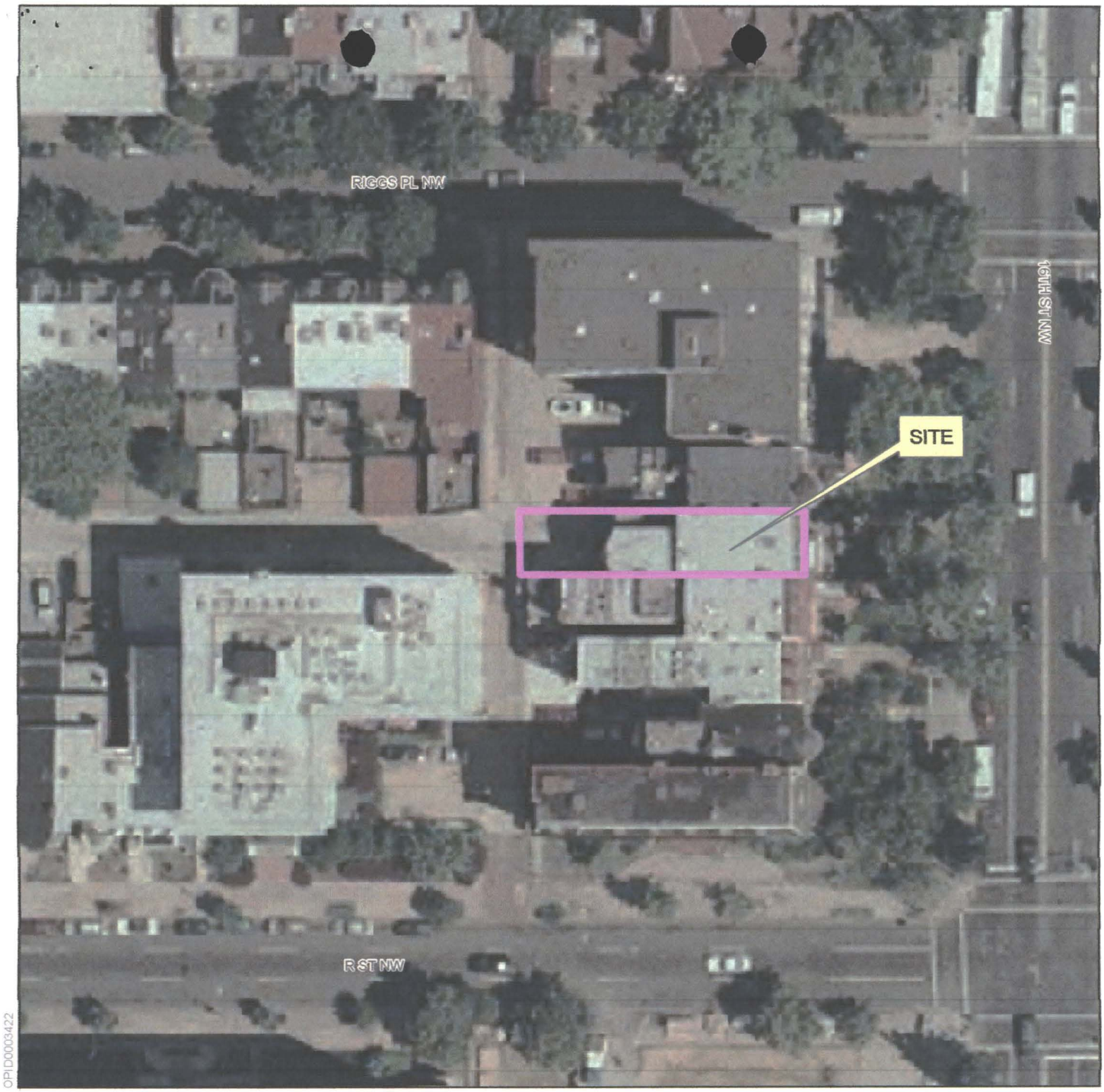
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Generalized Land Use Key

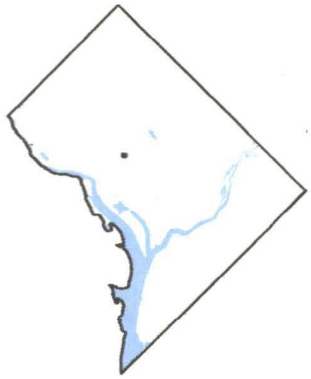
- Residential-Low Density
- Residential-Moderate Density
- Residential-Medium Density
- Residential-High Density
- Commercial-Low Density
- Commercial-Moderate Density
- Commercial-Medium Density
- Commercial-Medium-High Density
- Commercial-High Density
- Institutional
- Federal
- Local Public Facilities
- Parks, Recreation, and Open Space
- Production and Technical Employment
- Mixed Use

Attachment 2



OPID0003422

DC Orthophoto
BZA Application #17194
1708 16th Street, NW



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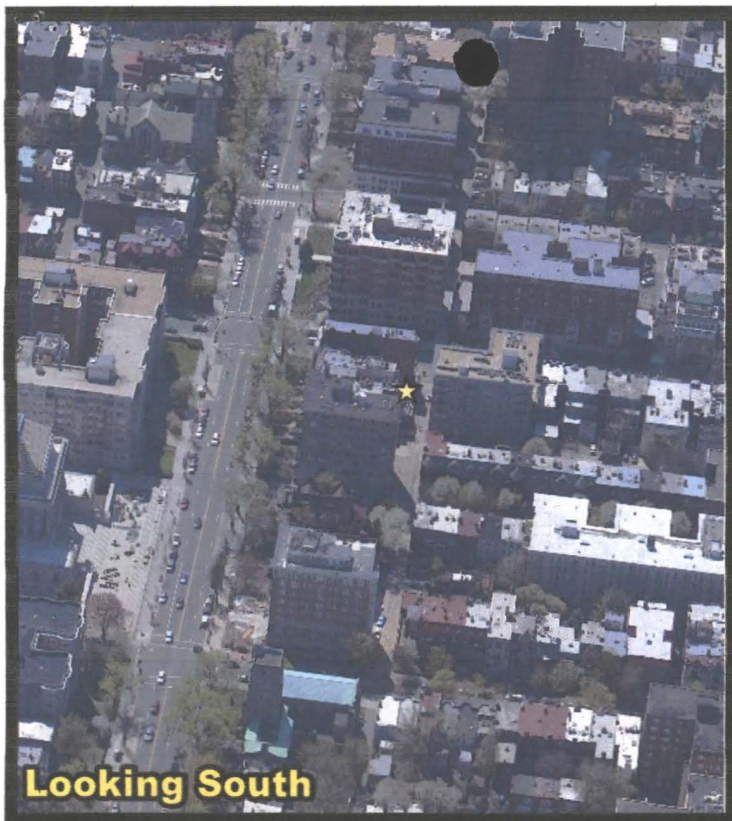
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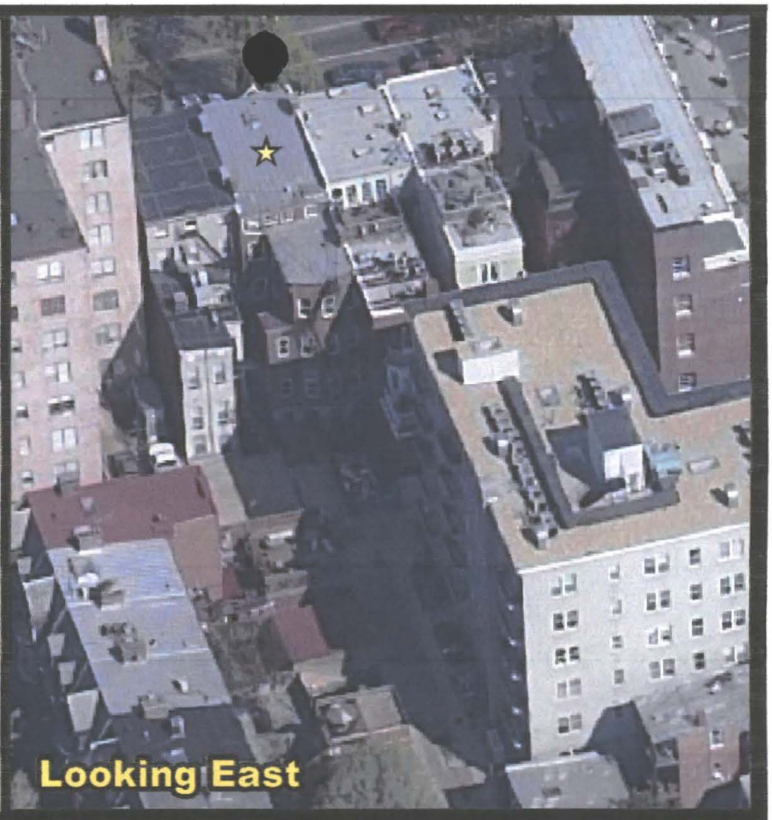
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Anthony A. Williams, Mayor

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Attachement 3







OPJD0003424

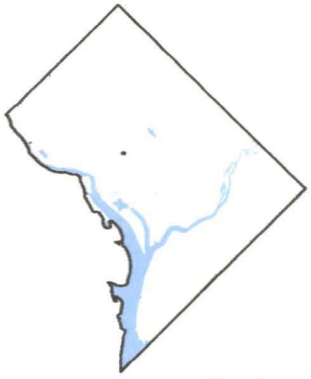
Aerial Oblique Photos
BZA Application #17194

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Anthony A. Williams, Mayor

Office of Planning ~ July 13, 2004

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☆ Subject Site - 1708 16th Street, NW



Attachment 4