BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

Application of Monique Greenwood
For a Special Exception to Authorize
Continued Use of the Premises at 1708 16th Street, N.W.
As a Bed and Breakfast/Home Occupation

May 12, 2004

I. Nature of Relief Sought

This is an application by Monique Greenwood, the owner of property at 1708 16th Street, N.W. (Square 178, Lot 74, the "Property"), to authorize continued use of the premises as a bed and breakfast establishment. The specific request is for a special exception pursuant to §§ 203.8 and 3104 of the Zoning Regulations to increase the number of sleeping rooms in a bed and breakfast establishment from two to six rooms, and an additional special exception as authorized by § 203.10(b) to increase the number of sleeping rooms from six to eight. The Property is zoned DC/R-5-D. R-5-D is a medium-high density residential zone that allows general residential uses including apartment houses up to a maximum height of 90 feet and a maximum floor area ratio ("FAR") of 3.5 as a matter of right. (The "DC" for Dupont Circle overlay zone has no effect on this application.)

The Property is in the Dupont Circle neighborhood, is a contributing building within the 16th Street Historic District and is within the boundaries of Advisory Neighborhood Commission ("ANC") 2B, single member district 2B04.

BZA
Case No. 17194
Exhibit No. 6

Board of Zoning Adjustment
District of Columbia
CASE NO. 17194
EXHIBIT NO. 6

II. Jurisdiction of the Board of Zoning Adjustment

The Board has jurisdiction to grant the relief requested pursuant to § 3104 of the Zoning Regulations.

III. The Applicant

The applicant is the owner of the Property together with her husband, Glenn Pogue. They have successfully operated Bed and Breakfast establishments ("B and B") for more than 10 years in Brooklyn, New York (the Akwaaba Mansion Brooklyn) and in Cape May, New Jersey (Akwaaba By the Sea). They are considered experts in the industry; Greenwood was the keynote speaker at the 2002 bi-annual Professional Association of Innkeepers Conference, which attracted nearly 1,000 attendees. Greenwood and Pogue are involved and committed community members, having served on their Brooklyn Community Board, the local chamber of commerce, the tourism council and many other civic and community organizations that promote neighborhood development, historic preservation and community pride.

In late 2002/early 2003 they sold their home in Brooklyn, where they had been living, and purchased 1708 16th Street, N.W. in order to relocate back to their home town and to establish Akwaaba D.C. ("Akwaaba" means "welcome" in Ghana.) The couple, their twelve-year-old daughter and an older cousin will reside in the spacious basement residence and operate the main level and upper floors as the B & B.

Ms. Greenwood, whose 20-year career in publishing culminated as editor-in-chief of *Essence* magazine, intends to highlight literary themes at the Akwaaba D.C. There will be an extensive library available to guests, and each room is named after an American author and is supplied with books by that author. Authors with rooms or suites

named after them include Langston Hughes, Zora Neale Hurston, Alice Walker and Walter Mosley. Occasionally, authors will stay at the Akwaaba, and Ms. Greenwood hopes to attract visitors with literary interests in this manner. The author may read from his or her works during the stay and be available to talk with other guests. Such readings, however, will only be for guests of the bed and breakfast. There will be no events at the Akwaaba for persons who are not staying there and no outside employees, as discussed later in this application.

IV. The Surrounding Neighborhood

The Property is a townhouse located on the west frontage of 16th Street, N.W. between R Street on the south and Riggs Place on the north. The location and neighborhood setting of 1708 16th Street is depicted in the "Site Location and Neighborhood Context" map in *Exhibit A* and the "Existing Zoning and Site Location" map in *Exhibit B*. Both frontages of 16th Street for several blocks to the north and south are mapped with the DC/R-5-D District. Existing development is a mixture of uses, including high-rise and mid-rise apartment buildings, townhouses, townhouses converted to apartments or rooming houses, and institutional uses.

Farther to the south along 16th Street the zoning is DC/SP-1, where the mixed-use pattern includes a larger percentage of institutional and nonprofit office uses. To the east and west of 16th Street the zoning is R-5-B and DC/R-5-B, a medium-density residential zone where existing development consists of a combination of townhouses, conversions, apartment buildings and some nonresidential uses. The C-2-B zoning along 17th Street accommodates an active retail and restaurant enclave several blocks long.

The Property is one of six townhouse structures on the subject frontage of 16th Street. Two doors to the north is a 90-foot apartment house at 16th and Riggs Place, N.W. Across the alley from the Property is a midrise apartment house at 1819 R Street. Directly across 16th Street to the east is the very large Chastleton apartment building; the Scottish Rite Temple is farther to the north on the east frontage of 16th Street.

In general, the Dupont Circle neighborhood has a high intensity of land use and of activity level in terms of residential density, pedestrians on the street and the presence of numerous nonresidential uses as well.

V. The Subject Property, the Proposed Use and Permitting Background

The subject townhouse has four-and-one-half stories, was constructed in the 1890s and has approximately 5,500 square feet of floor area on a lot of 2,200 square feet. The basement residence and the first and second floors each have approximately 1,400 square feet of floor area. The third floor has 1,250 and the smaller top floor has 925 square feet.

The first floor is devoted to the parlor, dining room and kitchen. The second and third floors each have three bedrooms and the top floor has two bedrooms. As stated previously, the owners and family would reside in the quite spacious basement residence, and the upper floors are proposed to be the sleeping rooms in the bed and breakfast.[1]

The Property is a contributing building in the 16th Street Historic District, and the applicants have obtained a certification of historic status, a copy of which is attached in *Exhibit D.* There are four parking spaces at the rear of the house, accessed from a 15-foot-wide alley.

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[1] See the interior and exterior photographs of the building in *Exhibit C.*

For the past 13 years the building has been operated as a nine-room Bed and Breakfast establishment known as The Brenton, utilizing a Certificate of Occupancy ("C of O") for a 9-room rooming and boarding house.[2] The former operators of The Brenton, Mr. Steven Haught and Mr. Ronald Sabacek, will certify the premises were utilized as a Bed and Breakfast establishment during that time period. The applicant is not aware of any complaints about the use during that long period.

Ms. Greenwood and Mr. Pogue purchased the building in February 2003, and sold their home in Brooklyn, New York, in order to do so. They intended to relocate back home to Washington, D.C. and operate a Bed and Breakfast at the premises. The couple has been in the bed and breakfast business for 10 years, both in Brooklyn and in Cape May, New Jersey. Both B and Bs are located in historic landmark districts, and Greenwood and Pogue are preservationists who have been featured on HGTV's "Restore America" television show and who have been the recipients of numerous awards for their restoration and community revitalization efforts.

When Ms. Greenwood went to the offices of the Department of Consumer and Regulatory Affairs ("DCRA") to transfer the Certificate of Occupancy ("C of O") into her name, a DCRA official told her that to continue operating the B & B she could not use the rooming and boarding house C of O; she would instead need a bed and breakfast license. He gave her the necessary papers and stated that a six-room Bed and Breakfast, which she intended to operate, would be allowed as a matter of right in a historic

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[2] A copy of the 1989 C of O for this use is in *Exhibit E.* Prior to the adoption of the zoning text amendments relating to Transiency (Z.C. Order No. 614, DCR 11/3/1989), Bed and Breakfast establishments were allowed using a Certificate of Occupancy for rooming and boarding house.

building. (DCRA staff also told her prior to her purchase of the Property that a bed and breakfast for up to eight sleeping rooms would be allowed as a matter of right.)

Greenwood and Pogue made a downpayment of $190,000 toward the purchase of the $950,000 house and spent $100,000 on renovations and an additional $100,000 on furnishings, thereby exhausting their personal finances. They hosted a grand opening party and media launch in October 2003 and planned to receive the first guests in February 2004. After an article appeared in the *Washington Post*, a staff person from the Zoning Administrator's office called to ask what kind of license would be used to operate the establishment. Greenwood explained that she was applying for a bed and breakfast license, having been told at DCRA that the rooming and boarding house C of O could no longer be used. Two staff persons explained the whole process over the telephone and confirmed again that, in a historic building, the owner-occupant could operate a B & B for up to 6 sleeping rooms as a matter of right, subject to certain other conditions as set forth in § 203 of the Zoning Regulations.

In January 2004, Ms. Greenwood completed the application forms and submitted them in person to a staff person in the Zoning Administrator's office. The staff person told Ms. Greenwood that everything looked in order and that he and a colleague would inspect the property on the following Wednesday and that the Home Occupation/Bed and Breakfast permit would be issued a few days after that. On the following Tuesday, however, the staff person called to tell Ms. Greenwood that he had just been informed that DCRA had been misinterpreting the applicable regulations for years. (In fact, several B and Bs, including the recently opened D.C. Guest House in the Shaw community, were given permits for a six-room B and B as a matter of right.) He said the

discrepancy was brought to his attention by a former Acting Zoning Administrator who now works at the Office of Zoning. He said Ms. Greenwood would have to apply for a special exception at the Board of Zoning Adjustment ("BZA"). He said the discrepancy was brought to his attention by a former Acting Zoning Administrator who now works at the Office of Zoning.

Ms. Greenwood and Mr. Pogue then submitted the paperwork for a matter-of-right home occupation/bed and breakfast with 2 sleeping rooms, in order to have at least some minimal income. This is the Home Occupation Permit that they now hold. With only two guestrooms, however, and given the initial purchase price of the property plus the additional $200,000 invested in renovations and furnishings, the couple's economic situation is perilous and they are distraught. They need to income from at least a six-room B & B, and preferably the eight rooms requested in this application, or they will have to operate the premises as a rooming house or sell the property.

Greenwood and Pogue are experienced innkeepers who have the ability to contribute to the economic fiber of the neighborhood and city while maintaining the residential character of the Property. It has been their life dream to move back to their hometown and run a bed and breakfast with a literary theme. This work will also enable Ms. Greenwood to continue writing books, of which she has published two to date. See the magazine articles in *Exhibit G*.

VI. Special Exception – Bed and Breakfast as a Home Occupation

The proposed use requires a special exception under the Home Occupations provisions of 11 DCMR § 203. Criteria directly applicable to bed and breakfast as a home occupation are found in §§ 203.8, Paragraphs (a) through (h). As described below,

the subject property and the proposed operational characteristics fully comply with the criteria for approval.

Regarding the second special exception to exceed six sleeping rooms and to provide eight instead, § 203.10(b) states:

> *(b) An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with.*

The proposed use is one of those authorized in §§ 203.6 through 203.8, and as is demonstrated below, all required conditions other than the maximum of six rooms are fully complied with. Thus, the applicant requests a special exception to allow six sleeping rooms in a historic building and a second special exception to exceed the condition of six rooms and provide eight sleeping rooms instead.

203.8(a) The use shall not be permitted in a multiple dwelling.

The townhouse is currently a single-family residence that also has a Home Occupation Permit to operate a bed and breakfast having two sleeping rooms. See the copy of this permit in *Exhibit F.*

> *203.8(b) Breakfast is the only meal served, and is served only to overnight guests.*

The applicant will strictly comply with this regulation. Breakfast will be the only meal served and will be served only to overnight guests.

203.8(c) The maximum number of sleeping rooms shall be two (2) except:

> *(1) Pursuant to § 203.10(b), the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling that is an historic landmark or that is located in a historic district and 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);*

Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6);

(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.

The applicant's property has been certified by the Historic Preservation Officer as contributing to the character of the Dupont Circle Historic District. See *Exhibit D.* The applicant requests this special exception to use the premises for six sleeping rooms as set forth above, and as stated previously, for a further special exception to have eight sleeping rooms pursuant to § 203.10(b). Regarding roomers or boarders, there are none on the premises.

Paragraph 203.8(d) is not applicable, by its own terms.

203.8(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.

Four parking spaces are provided at the rear of the townhouse, accessed from the 15-foot-wide, north-south alley. Allocating one space for the dwelling, the other three spaces would normally comply with the parking requirement for a B and B with six sleeping rooms. As a historic building, however, the parking requirement is waived, as provided in the Zoning Regulations at § 2100.5. The applicant will submit the historic preservation certification to the Zoning Administrator to secure the waiver from required parking. The applicant's experience in operating the Akwaaba bed and breakfast establishment in Brooklyn is that a significant majority of guests travel by air or other public means and thus do not need parking for a personal automobile. This experience has been confirmed with the local B and B association in Washington, D.C. Guests tend to use taxis, Metrorail and bus during their stay in Washington. The four available

parking spaces are likely to be more than adequate for the eight-room bed and breakfast as requested herein.

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

Complies. There will be no cooking facilities in any of the rooms.

203.8(g) The dwelling shall be owned and occupied as the principal residence of the operators.

As stated previously, Ms. Greenwood, Mr. Pogue and their daughter will reside in the residence in the basement.

203.8(h) Except as provided in paragraph (d), the Bed and Breakfast facility shall comply with §§ 203.4 through 203.6.

As required above, see the following analysis of criteria applicable to all home occupations.

203.4(a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes.

The property owners and family will be full-time residents of the dwelling, whereas guests of the bed and breakfast will be temporary. The exterior and interior of the townhouse are completely maintained in their residential character, with no commercial appearance on the outside. On the interior, the kitchen, living and dining rooms and bedrooms continue to be of normal residential character, albeit elegant in décor. The kitchen, for example, is not a commercial kitchen but has a normal residential stove, and other furnishings and equipment are residential rather than commercial in character.

Guest stays will tend to be concentrated on weekends, with significantly lower occupancy during the week. Guests will be accepted only by reservations; there will be

no walk-ins. The level of automobile traffic to and from the premises will be normal or less than normal for residential properties in an R-5-D District.

Paragraph 203.4(b) is not applicable.

203.4(c) The practitioner shall store all materials or finished products within the floor area [of the home occupation] or in a basement or accessory structure.

For this use there are no specialized materials or finished products to be stored.

203.4(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.

There will be no nonresident employed in the home occupation. An adult cousin of the family will reside with them and assist part-time with the bed and breakfast.

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

203.4(f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential.

See the responses above regarding maintaining the primacy of the residential use. The exterior and the parking spaces at the rear remain unchanged. The allowable sign will be very small – only six inches by six inches. The interior has been restored to its original, single-family character.

203.4(g) [No outdoor storage or processing shall be allowed.]

203.4(h) [No equipment or process shall be used that causes electrical or other interference outside the premises.]

203.4(i) [No noxious odors, vibrations, glare or fumes will be created.]

The proposed bed and breakfast use will not create any of the indicated adverse effects on neighbors or residential character of the immediate vicinity.

203.4(j) The use will not produce a level of noise that exceeds the level normally associated with the category of the dwelling or the immediate neighborhood.

There will be no weddings or other types of receptions as part of this bed and breakfast and therefore no gatherings of numerous people generating traffic and parking demand on the immediate area. The guests will primarily use taxis and public transportation; those who do drive will not generate a level of parking or traffic movement beyond what would be normal for a residential building of 5,500 square feet of floor area. The subject townhouse could be converted as of right into four or five apartment units under existing R-5-D zoning, a use that would generate substantially more demand for parking and traffic generation than the proposed bed and breakfast. The 16th Street vicinity includes very large, 90-foot apartment houses such as the Chastleton directly across the street, as well as nearby institutional and nonprofit office uses. As a result, the activity level of the immediate neighborhood is quite high, and the proposed bed and breakfast establishment will not create any noticeable noise.

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

Only the owners' automobile will be used to purchase food and other supplies for the operation of the bed and breakfast.

203.4(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.

As noted above, most guests will arrive by taxi and will use public transportation during their visits. The room occupancy level will be higher on weekends than during the week, so that the average of daily trips will in all likelihood not exceed eight trips.

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

The guests will typically be off the premises during the daytime visiting tourist or other sites in the city. Overnight, if there is full occupancy, the number of persons on the

premises could exceed eight. The applicant would note that the legislative history of this provision indicates that it was designed quite explicitly for psychologists and similar professionals conducting group sessions. The intent was to avoid a high intensity of persons and potentially vehicles arriving and leaving the residential to a degree similar to a retail use and inappropriate for a residential home occupation. The reference to a one-hour period is clearly not directly relevant to the functioning of a bed and breakfast establishment.

203.4(n) [There will be no adverse cumulative impact if more than one home occupation is practiced at the premises.]

There will be no other home occupation permits for the Property.

203.5 [Detailing limitations on exterior signage.]

The Akwaaba will have only a single, flush-mounted, non-illuminated sign of a very small size – six inches by six inches. It will only state, "Akwaaba D.C./By Appointment Only/866-inn-dulj/www.akwaaba.com."

203.6 Sales shall be permitted, subject to [several] conditions.

There will be no sales of goods at the premises.

VII. Compliance with Subsection 3401.1

Subsection 3401.1, which authorizes the Board to grant special exceptions, requires that the Board find that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

Harmony with the General Purpose and Intent of the Zone Plan and Maps

The townhouse building to be used in the bed and breakfast has a density of approximately 2.5 FAR, which is substantially less than the permitted matter-of-right

R-5 (General Residential) zones. The R-5 zones allow rooming and boarding houses, fraternities, sororities, dormitories, private clubs, museums, various types of community based residential facilities, hospitals, clinics places of worship and various other uses that represent a medium-high intensity of use. The proposed bed and breakfast is in keeping with the purpose of the R-5-D District in this respect, and of course, the proposed use is explicitly allowed as a special exception subject to criteria addressed in this Statement.

The Applicant would emphasize that, in zoning terms the use of the townhouse is going from rooming and boarding house as the principal use to single family dwelling as the principal use, with a home occupation.

The home occupation provisions also encourage the use of historic residential buildings as bed and breakfast establishments. The explicit allowance for the use to have a larger number of rooms in a historic building than in a nonhistoric building is further acknowledgment of a policy in the Zoning Regulations and Map of encouraging this use in historic buildings.

The Zoning Regulations, in several other respects, acknowledge the existence and importance of preservation of designated historic buildings. For example, the waiver of normally required parking spaces avoids the necessity of excavating under older buildings to provide parking or having to provide undue and unsightly amounts of surface parking. Some zone districts authorize the sale and transfer of transferable development rights as a means of encouraging and helping to fund preservation and restoration of historic buildings. In regard to this purpose of zoning, the Property has already been restored to its original single-family dwelling condition, to a high standard of quality and authenticity. Although the R-5-D District would allow the building to be converted to

multiple apartments as a matter of right, the typical effect of such conversion is loss of some degree of historic character on the interior especially, but also on the exterior in the form of additional fire stairs.

The Proposed Bed and Breakfast Will Not Adversely Affect the Surrounding Neighborhood

The responses to the special exception criteria presented earlier in this Statement fully document that there will be no adverse effects on the surrounding neighborhood from the proposed use.

VIII. Conclusion

For the reasons set forth in this Statement, the applicant submits that the criteria for approval of the proposed bed and breakfast have been met and requests that the Board approve the application.

Respectfully submitted,

Monique Greenwood
Owner and Applicant

Attachments