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June 5, 2001

BY MESSENGER

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
Suite 210
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: BZA Application No. 16730 (Bundy Development Corporation)

Dear Madame Chairperson:

Enclosed herewith is an original and eight (8) copies of the Applicant's Pre-hearing submission in conjunction with Application No. 16730, including the following:

(1) Affidavit of Pamela D. Bundy dated May 30, 2001;

(2) Pre-hearing Statement of the Applicant; and

(3) A rendering of the Applicant's proposed building (and other buildings on 13th Street, N.W.) and several photographs of the west and east sides of 13th Street, N.W., north of N Street, N.W.

Sincerely,

Jacques B. DePuy

JBD/dmh 159898
Enclosures

cc: Office of Planning (Attn: Art Rodgers) (w/encls.)
Ms. Pamela D. Bundy (w/encls.)
Eric Colbert, AIA (w/encls.)

BZA
Case No. 16730
Exhibit No. 32

Board of Zoning Adjustment
District of Columbia
CASE NO.16730
EXHIBIT NO.32

GOVERNMENT OF THE DISTRICT OF COLUMIBA
BOARD OF ZONING ADJUSTMENT

IN RE APPLICATION NUMBER 16730

AFFIDAVIT

I, Pamela D. Bundy, being first duly sworn under oath, depose and state:

1. I am over 18 years of age, am a resident of Washington, D.C., am competent to be a witness and have personal knowledge of the facts set forth below.

2. On October 31, 1999, I purchased the property at 1320 13th Street (Lot 26, Square 243)("Property")

3. During a "feasibility period" provided in my purchase contract and prior to closing on the purchase of the Property, I researched the zoning of the Property by personally making an inquiry at the Office of Zoning. I was advised by a staff member of the Office of Zoning (who I believe was Mr. Vincent Erundu) that the Property was zoned **R-5-D**.

4. Shortly after I closed on the purchase of the Property, I confirmed the information I received from the Office of Zoning by obtaining an official Certificate of Zoning from the Office of Zoning. This Certificate of Zoning, dated November 10, 1999, indicated that the zoning of the Property was **R-5-D**.

5. On June 13, 2000, my architect, Eric Colbert, AIA, after reviewing the D.C. Zoning Atlas, advised me that the zoning of the Property was **R-5-D**.

6. I obtained a Proposal to Provide Real Estate Services from Julien J. Studley, Inc. on August 23, 2000. This proposal indicated that the zoning of the Property was **R-5-D**.

7. In conjunction with the review of my proposal for a 19-unit apartment building by the Historic Preservation Review Board, I met on five separate occasions with the Logan Circle Citizens Association ("LCCA") and ANC 2-F. At no time during these meetings did any representatives of LCCA of ANC 2-F advise me that any rezoning proposal was pending at this time.

8. I did not learn that there was any question about the R-5-D zoning of the Property until February 20, 2001 when my architect, by chance, met a fellow architect in a D.C. Government office. This architect informed Mr. Colbert that the zoning of other property in Square 243, for which he was doing architectural work, had been changed and suggested that Mr. Colbert investigate this matter with respect to my Property.

9. Immediately subsequent to this meeting of the two architects, on February 20, 2001, Mr. Colbert met with Mr. Toye Bello of the Zoning Administrator's Office and was advised by Mr. Bello that the Property was **R-5-D**.

10. On March 20, 2001, I obtained a subdivision plat signed by Toye Bello for the Zoning Administrator certifying that the zoning of the Property was **R-5-D**.

11. I filed an application for a building permit with the D.C. Department of Consumer and Regulatory Affairs on March 26, 2001. This building permit application seeks permission to build an apartment building within the FAR, height, lot occupancy, yard and other requirements of the R-5-D zone district.

12. At no time did I receive any notice of the proposed rezoning of the Property nor did I learn that a rezoning proceeding was pending from any other source.

13. I was first advised that my Property had been rezoned by Jacques B. DePuy, Esquire, whom I contacted at my architect's suggestion. I had previously met with Mr. DePuy on an unrelated matter and therefore knew him. I believed Mr. DePuy would confirm the information I had previously received regarding the R-5-D zoning of my Property. To the best of my recollection, I contacted Mr. DePuy in March, 2001. I was shocked and disappointed to learn from Mr. DePuy that my Property had been rezoned. After reviewing my options, I retained Mr. DePuy's firm to represent me and, on April 3, 2001, instructed him to prepare a BZA application. The BZA application was filed on April 11, 2001.

14. I have learned recently that ANC 2-F and the Logan Circle Citizens' Association participated in the zoning proceeding that resulted in the rezoning of my Property and, furthermore, that these two organizations specifically advocated the rezoning of my Property. However, as stated above, at no time during five (5)

meetings with these community organizations in connection with my application to the Historic Preservation Review Board or at any other time did representatives of these organizations advise me that my Property might be rezoned.

Pamela D. Bundy

Subscribed and sworn to before me, the undersigned notary public, by Pamela D. Bundy, this 30th day of May, 2001.

Notary Public

My commission expires: 30 Nov 2002.
[Notarial Seal]

159149

PRE-HEARING STATEMENT ON BEHALF OF PAMELA D. BUNDY,
BUNDY DEVELOPMENT CORPORATION, APPLICANT IN
BZA APPLICATION NO. 16730

THIS PRE-HEARING STATEMENT is submitted on behalf of Pamela D. Bundy, Bundy Development Corporation, Applicant, by Greenstein DeLorme & Luchs, P.C., by Jacques B. DePuy, Esquire.

1. BZA APPLICATION IS NECESSARY BECAUSE OF NUMEROUS ERRORS BY D.C. GOVERNMENT AGENCIES.

This BZA application has become necessary because the Applicant relied on incorrect information provided to her by numerous D.C. Government agencies regarding the zoning of the subject site ("Property"). As a result, and in reliance on this incorrect information, Ms. Bundy engaged an architect and engineers, made numerous revisions to the conceptual plans in discussions with ANC 2-F and community organizations, obtained strong community support for such plans (including support from ANC 2-F), received approvals from the Historic Preservation Review Board ("HPRB"), procured full and complete working drawings, filed for a building permit with DCRA, paid a filing fee to DCRA in conjunction with the application for a building permit, received construction bids from two general contractors and pursued construction financing with construction lenders. Furthermore, Ms. Bundy's architects and engineers have made revisions to the plans submitted to DCRA, in response to comments by DCRA permit reviewers, and expects to be ready to start construction in one month or less (i.e., during July, 2001).

2. ERRORS WERE MADE BY TWO D.C. GOVERNMENT AGENCIES ON FOUR SEPARATE OCCASIONS.

(A) First, during a feasibility period provided in her purchase contract and prior to closing on the purchase of the Property, Ms. Bundy personally made an inquiry as to the zoning of the Property at the Office of Zoning. She was advised by a staff member of the Office of the Zoning that the property was zoned R-5-D. See Affidavit of Pamela D. Bundy dated May 30, 2001.

(B) Second, Ms. Bundy obtained a Certificate of Zoning from the Office of Zoning dated November 10, 1999 which indicates that the Property is zoned R-5-D. See Attachment "B" to Statement of Reasons in Support of Application.

(C) Third, on February 20, 2001, Ms. Bundy's architect, Eric Colbert, AIA, met with Mr. Toye Bello of the Zoning Administrator's Office and was advised by Mr. Bello that the Property was zoned R-5-D. See Affidavit, id.

(D) Fourth, Ms. Bundy obtained a subdivision plat on March 21, 2001 which contains the signature by the Zoning Administrator confirming that the zoning of the Property is R-5-D. See Attachment "C" to Statement of Reasons in Support of Application.

3. AT ALL TIMES MS. BUNDY ACTED PRUDENTLY AND CAREFULLY, INCLUDING OBTAINING CONFIRMATION OF THE ZONING FROM PRIVATE SOURCES IN ADDITION TO PUBLIC SOURCES.

On June 13, 2000, Ms. Bundy's architect, after reviewing the Zoning Atlas, advised her that the zoning of the Property was R-5-D. See Affidavit, id.

Ms. Bundy obtained a proposal to Provide Real Estate Services from Julien J. Studley, Inc. on August 23, 2000. This proposal indicated that the zoning of the Property was R-5-D. See Affidavit, id.

Notwithstanding such efforts, Ms. Bundy was not represented by an agent or attorney in the purchase of the property and there were no representations as to zoning of the Property made by the seller in the real estate sales contract. She did more to confirm the zoning than would be done by a typical purchaser and at all times acted prudently and in good faith.

4. THE APPLICANT IS NOT INTERESTED IN PURSUING A LAWSUIT AGAINST THE DISTRICT OF COLUMBIA GOVERNMENT.

In response to a statement made by a representative of the Office of Planning that Ms. Bundy could sue either the seller or the District of Columbia Government, Ms. Bundy is not interested in pursuing a lawsuit. She is a small, minority developer who does not have the financial resources to engage in expensive litigation.

5. THE FACTS AND CIRCUMSTANCES OF THIS SITUATION ARE EXTRAORDINARILY UNIQUE AND WILL NOT BE A PRECEDENT FOR ANY OTHER B.Z.A. APPLICATION.

The facts and circumstances that resulted in the filing of this application are extraordinarily unique. They should not be

construed by the BZA, the Office of Planning, ANC 2-F or the community as establishing a precedent for any other property or any other situation.

6. THE BZA APPLICATION DOES NOT SEEK TO CHANGE THE UNDERLYING ZONING.

The BZA application does not change or challenge the underlying zoning. It seeks relief which is specific to one site only and which meets the applicable legal standards for variance relief.

7. THE APPLICATION PROPOSES THE CONSTRUCTION OF NEW HOUSING UNITS, AN OBJECTIVE STRONGLY SUPPORTED BY THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND BY MOST ADVISORY NEIGHBORHOOD COMMISSIONS AND COMMUNITY ORGANIZATIONS.

The Government of the District of Columbia, through a large number of policies, laws, rules and orders, is aggressively promoting the development of new housing. Most Advisory Neighborhood Commissions and community organizations support this objective. This BZA application furthers that important goal.

8. ANY OPPOSITION BY ANC 2-F, IN THE EVENT ANC 2-F VOTES TO OPPOSE THE APPLICATION, SHOULD BE DISREGARDED ON GROUNDS OF EQUITY AND FUNDAMENTAL FAIRNESS.

The Logan Circle Citizens' Association ("LCCA") and ANC 2-F supported the Applicant's project at the HPRB. At no time in the course of at least five (5) meetings with the LCCA and ANC 2-F did any representative of either organization advise the Applicant that a downzoning proceeding was then pending or that such a rezoning might put the Applicant's project in jeopardy.

As of the date of the submission of this Pre-Hearing Statement, ANC 2-F has not met. However, a committee of ANC 2-F has met and has recommended opposition to Ms. Bundy's BZA application. In the event ANC 2-F votes to oppose the application, we believe that any opposition should be disregarded by the BZA, on the grounds of equity and fundamental fairness, because these organizations supported the applicant's project at HPRB and failed to disclose to Ms. Bundy that a rezoning of the Property was pending. This failure to disclose the rezoning by ANC 2-F and LCCA was particularly unfair to the Applicant because the LCCA and ANC 2-F were the leading proponents of the downzoning and were thus well aware of it.

9. MS. BUNDY HAS NO KNOWLEDGE OF A RUMOR OR CLAIM THAT A REAL ESTATE AGENT ADVISED HER OF THE PROPOSED REZONING.

Ms. Bundy has learned recently that a rumor has spread in the community that an unnamed "real estate agent" claims to have advised her prior to her purchase of the Property that the zoning of her property might be changed. Ms. Bundy did not engage a real estate agent in the purchase of the property and vehemently denies any knowledge of such information.

10. THE APPLICANT HAS RECEIVED TWO BIDS FROM GENERAL CONTRACTORS AND EXPECTS TO BE READY TO START CONSTRUCTION IN JULY, 2001.

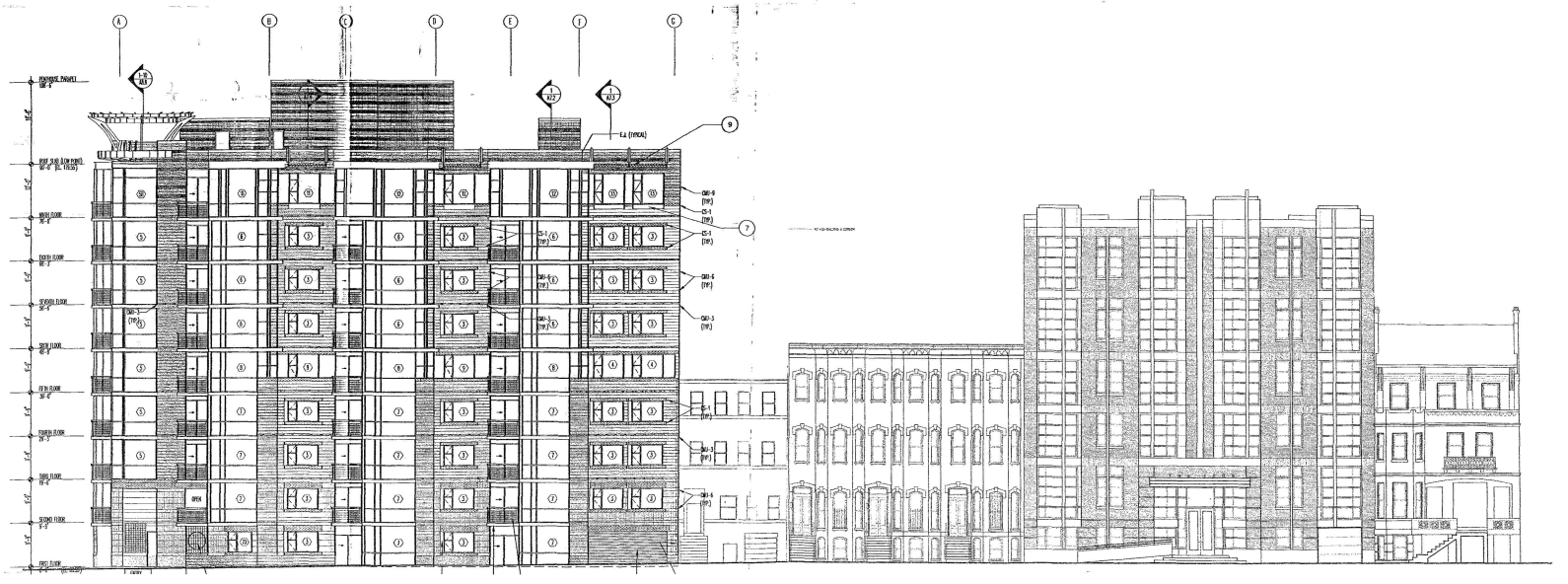
Ms. Bundy has received two bids from general contractors, Tompkins Builders and Dietze Construction Group and expects to be ready to start construction in July, 2001.

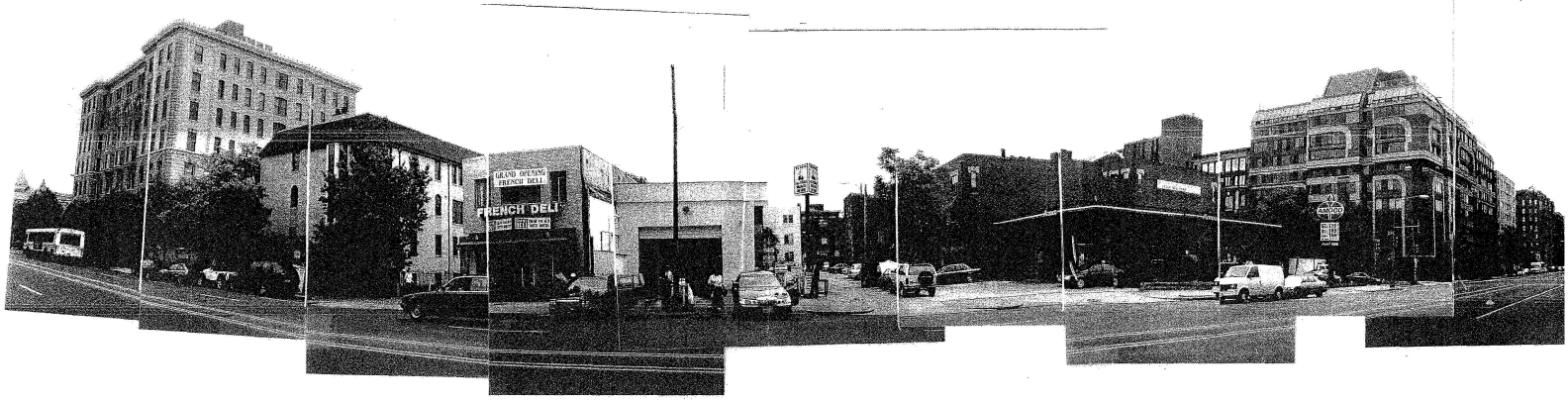
Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
Jacques B. DePuy

159159


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EIGHTH FLOOR
SEVENTH FLOOR
SIXTH FLOOR
FIFTH FLOOR
FOURTH FLOOR
THIRD FLOOR
SECOND FLOOR
FIRST FLOOR
OPEN


GRAND OPENING
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