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July 26, 2001

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VIA HAND DELIVERY

BZA
Case No. 16730
Exhibit No. 65

The Honorable Chairperson and Members
Board of Zoning Adjustment
One Judiciary Square, Suite 200
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: Supplemental Statement of Support Regarding BZA Application No. 16730 (Bundy Development Corporation, Relating to Square 243, Lot 26 (former lots 818 through 821) located at 1320 Thirteenth Street, NW)

Dear Madam Chairperson and Members:

As you know, at your regular monthly meeting of July 10, you determined to postpone your decision on the above-captioned case, allowing time for the Advisory Neighborhood Commission 2-F to provide you with their advice. On behalf of our client, K.J.G.C. Associates, L.L.C., who favors your granting the relief this applicant seeks, I then asked for permission, which you granted, to file a supplemental statement. I did so because our original testimony and appearance was predicated on a variance to allow a height variance to seventy-five feet (75 ft.) that the applicant amended at the hearing to sixty-eight feet (68 ft.) over the allowed sixty feet (60 ft.) – while keeping the FAR variance at that requested, 0.5 over the allowed 3.0.

Our client remains supportive of the variances being sought.

However, it is critical that you and your colleagues on the Board recall why Bundy is there in the first place. Ms. Bundy did not *want* variances. She *wanted* to build a residential property that she had every reason to believe conformed to prevailing development rules. Late in the permit process, she found out that earlier *official* advice had been in error. Our client's interest runs not only to the variance and to make sure the Board understands that, in our opinion, they satisfy every test for granting them, it

Board of Zoning Adjustment
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EXHIBIT NO.65

also is the right thing to do in terms of making sure property owners in the District of Columbia can obtain *official* information about their rights from government officials, which this applicant did, and then *rely* on it, which this applicant also did only to find out that it was in error and that the problem was *hers* to correct.

By approving this application, the Board, while not directly a part of the origins of the problem, can become an important element in its solution.

We note that the record, particularly at Exhibit 58, two pages of which are enclosed at reduced size, contains a series of elevations and one rendering that appear to show the evolution of the project over time, responding to input from the community and historic preservation proceedings, consistent with its location within a portion of the Greater Fourteenth Street historic district, possibly overlapping the Logan Circle historic district as well.

Those exhibits show the existing residential structures to the south of the Bundy site and a single residential structure to its north.

The residences to the south are directly across Thirteenth Street from our client's properties. They are among the oldest, if not most illustrious, of the residences that survive from the late 1800's when this area was first developed. They are characterized by high ceilings.

The substitute or compromise Bundy offered, reducing project height from 75 to 68 feet, may be appropriate. However, we note some inconsistencies in the materials and, for the sake of efficiency strongly urge the Board to approve the case in a fashion that provides reasonable latitude so that she would not have to return to you in the event other controlling forces, such as historic preservation, find for one reason or another that a slightly different height is required.

We note, particularly, the disparity in the drawings as to the fenestration and cornice lines of the properties either side between the scaled drawings, presumably accurate, and the rendering (which, we realize, is often less precise). But, the rendering shows the project aligning with the properties either side whereas Sheet A-6 within Exhibit 58 does not show the same thing.

Historically, residential development in the entire area was characterized by residences and apartments with high ceilings – an attribute that is among those most sought in today's housing market by demanding consumers. To the extent that Bundy reduces the ceiling heights of her apartments, their marketability may also reduced somewhat.

Given uncertainties associated with seeking and obtaining approvals for final building permits, we suspect that the "compromise" might be at odds with determinations others come to make. (We also feel Bundy may sustain some economic impact from the lower ceiling heights.) Therefore, but mostly for the first reason, we suggest, in addition to granting the FAR variance, that you fashion your approval in

terms of approving the project for *five stories completely above grade, with exact project height itself being secondary in a range of 68 feet or more, but not exceeding 75 feet, plus an abbreviated elevator, access stairway and mechanical equipment penthouse not exceeding 8 feet, 6 inches.* This would allow the final height to better respond, if required, to the fenestration and cornice lines of the buildings to the south. As you realize, this amounts to *no more* than the relief originally sought.

Given the additional outlays and delays, easily six or more months, Bundy experienced from having to find counsel and file and pursue the variance in the first place, we would also strongly recommend that the Board direct its staff to prepare and issue the Order needed for her to proceed as quickly as possible, hopefully determining that in light of the most recent letter from the ANC that there is no longer any citizen opposition, that the Office of Planning's concerns are also addressed (about which they may report or comment upon at your upcoming meeting) and that an Abbreviated Summary Order, with conditions you deem appropriate, would be sufficient.

Thank you for considering this supplemental statement.

Very truly yours,

HOLLAND & KNIGHT LLP

Lindsley Williams
Senior Advisor for Land Use,
Planning, and Zoning

Enclosures

cc: William Calomiris, AIA
Art Rogers, Office of Planning
David Maloney, Historic Preservation Program, OP

WAS1 #998473 v1



BZA
Case No. 16730
Exhibit No. 58

EAST ELEVATION
13TH STREET, NW

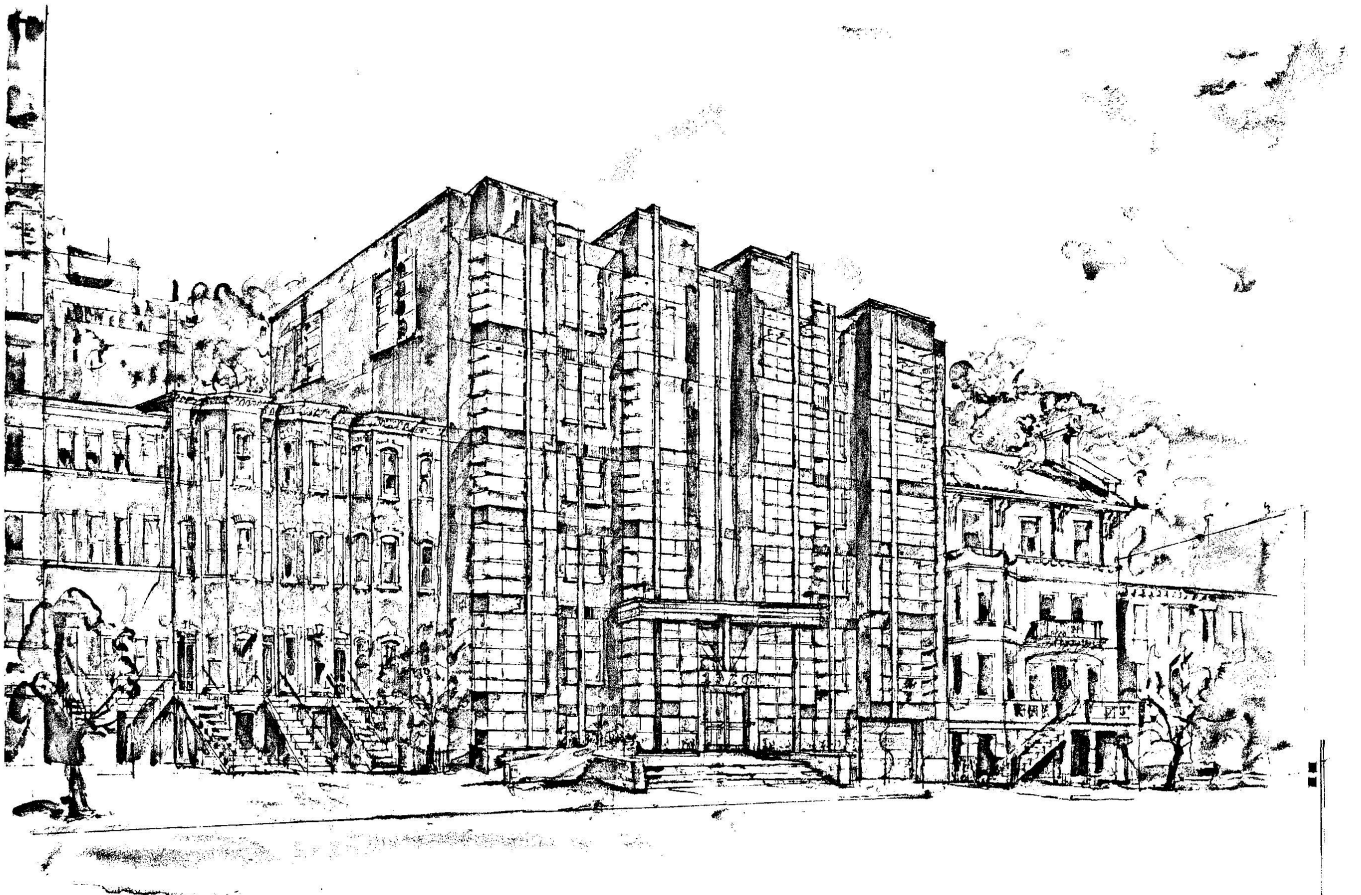
1 EAST ELEVATION
A-6 SCALE: 1/8" = 1'-0"

ARCHITECT: ERIC COLBERT & ASSOCIATES
717 8TH STREET, N.W. WASHINGTON, D.C. 20001

CLIENT: BUNDY DEVELOPMENT CORP.
ADDRESS

PROJECT: THE ICON
1320 13TH STREET, NW WASHINGTON, DC

A-6



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