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July 8, 2014

VIA IZIS AND HAND DELIVERY

Board of Zoning Adjustment
of the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, DC 20001

Re: Application No. 18799 - Prehearing Statement of the Applicant
3808-16 Morrison Street, N.W. (Square 1859, Lot 95)

Dear Members of the Board:

On behalf of PNC Bank National Assoc., the Applicant in the above-referenced case, enclosed please find one original and one copy of the Applicant's prehearing submission in support of its application for zoning relief requested for the above-referenced property.

We look forward to the Board's consideration of this application at the hearing on July 22, 2014.

Very truly yours,

HOLLAND & KNIGHT LLP

Christopher H. Collins /ls
Christopher H. Collins

Jessica R. Bloomfield /ls
Jessica R. Bloomfield

CHC/ls
Enclosures:

cc: Stephen Gyor, D.C. Office of Planning (via Hand Delivery)
Jamie Henson, DDOT (via Hand Delivery)
ANC 3G (via U.S. Mail)
Jim McCarthy, Chair. ANC 3G06 (via U.S. Mail)
Lynn F. Osman, The PNC Financial Services Group (via Hand Delivery)

BEFORE THE BOARD
OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

APPLICATION OF **PNC BANK NATIONAL ASSOC.**	**BZA APPLICATION NO. 18799** **HEARING DATE: JULY 22, 2014** **ANC 3G06**

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of PNC Bank National Assoc., the applicant and owner of property located at 3808-16 Morrison Street, N.W. (Square 1859, Lot 95) (the "Site") in support of its application to the Board of Zoning Adjustment pursuant to 11 DCMR § 3104.1 for a special exception under Section 214 to allow continued use of the accessory parking spaces in the R-2-zoned western portion of the Site, to serve the PNC Bank branch on the C-1 zoned eastern portion of the Site.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the special exception relief requested herein pursuant to 11 DCMR § 3104.

III.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	A portion of the Zoning Map showing the Site.
Exhibit B:	Site Plan.
Exhibit C:	A portion of the Baist Atlas and Sanborn Map showing the Site
Exhibit D:	Outline of Testimony.
Exhibit E:	Copies of prior BZA Orders Approving Special Exception Relief for Accessory Parking.

IV.
BACKGROUND

A. Description of the Site and Surrounding Area

The Site is located on the southwest corner of the intersection of Connecticut Avenue, N.W. and Morrison Street, N.W., in Square 1859. Square 1859 is bounded by McKinley Street to the north, Connecticut Avenue to the east, Livingston Street to the South, and 39th Street to the west, all located in the northwest quadrant of the city. The Site is bounded by Morrison Street to the north, Connecticut Avenue to the east, private property to the southeast and west, and a public alley to the south. The Site contains approximately 30,348 square feet of land area, with 50 linear feet of frontage on Connecticut Avenue, N.W. and 276.5 linear feet of frontage on Morrison Street, N.W.

The Site is improved with a PNC Bank branch building on the east side of the Site along Connecticut Avenue, and 27 accessory parking spaces and an ATM drive-through on the western portion of the Site. Due to the split-zoned nature of the Site (*see* Zoning Map, attached hereto as Exhibit A), the bank building is located in the C-1 District and the parking lot and drive-through are located in the R-2 District. The primary pedestrian entrance to the bank building is on Connecticut Avenue, with a second entrance at the rear of the building from the parking lot. As shown on the Site Plan, attached as Exhibit B, the accessory parking spaces are accessed from Morrison Street via a U-shaped one-way drive aisle (17 to 20 feet in width). The drive-through is also accessed from Morrison Street via a larger U-shaped one-way drive aisle located at the perimeter of the parking area (12 to 21 feet in width). The two U-shaped aisles create four separate curb-cuts along Morrison Street for vehicular access to and from the Site. Access to the parking area can be restricted by closing two metal gates that are located at the entrance/exit to the drive aisles. In recent years, the Applicant has left the gates open and unlocked 24 hours per day, seven days per week, and the parking lot has been used by patrons and employees of nearby retail and restaurant establishments.

The Site is located in the center of the commercial district of Chevy Chase, D.C. The stretch of Connecticut Avenue on which the Site sits includes restaurants and bars, retail shops, a supermarket, a gasoline service station, and a non-profit movie theater.

B. Prior BZA Approvals

The western portion of the Site has been used for accessory parking for the bank for approximately 66 years. The accessory parking use was originally approved by the Board by BZA Appeal No. 2124, dated May 20, 1948. The Board subsequently expanded and extended this order pursuant to BZA Order Nos. 4927, 5665, 9053, 11726, 13002, 13520, 14484, 14768, and 15920. In BZA Order No. 16359, dated July 8, 1998, and effective July 27, 1998, the Board granted the most recent extension of the accessory parking use on the Site for a period of ten years. Copies of the prior BZA Orders approving special exception relief for accessory parking are attached as Exhibit E.

V.
THE APPLICANT MEETS THE BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF

A. Background

In order for the Applicant to continue the existing accessory parking use, special exception relief is required under Section 214 of the Zoning Regulations. A special exception use is deemed compatible with other uses permitted in a particular zoning classification provided that the specific regulatory requirements are met. If the Applicant meets its burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of*

Columbia Bd. of Zoning Adjustment, 432 A.2d 695 (1981). As described below, the Applicant in this case meets its burden.

B. <u>Standard of Review for Section 214</u>

Pursuant to Section 214.1 of the Zoning Regulations, accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which any principal R-1 use is permitted, except for a one-family dwelling, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under Section 3104. Section 302 of the Zoning Regulations makes Section 214 applicable to accessory parking spaces located in R-2 Districts. As set forth herein, the Site continues to be in compliance with Section 214:

1. **§ 214.2** - *Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.*

The portion of the Site dedicated to accessory parking is an open area to the west of the PNC bank building. No portion of this area extends above the level of the adjacent finished grade.

2. **§ 214.3** - *Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are necessary.*

The accessory parking spaces are located in their entirety within approximately 150 feet of the bank building.

3. **§ 214.4** - *Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.*

The accessory parking spaces on the Site are contiguous to the bank building on its west side.

4. **§ 214.5** - *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.*

All relevant portions of chapter 23 will be complied with, as further detailed below.

5. **§ 214.6** - *It shall be deemed economically impractical or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted.*

The parking spaces are on the same lot (Lot 95) as the bank building. It is economically impractical to locate the accessory parking spaces within the building or on the C-1 portion of the Site because of strip zoning. The C-1 zone is only approximately 100 feet deep at this location, and is fully occupied by the bank building. The bank building would need to be demolished, and an accessory parking garage installed beneath a new bank building, in order to provide the accessory parking spaces for the bank on the C-1 portion of the Site.

6. **§ 214.7** - *Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.*

The continued use of the western portion of the Site for accessory parking is not likely to become objectionable to adjoining or nearby properties. Many neighbors have expressed support for continuation of the parking lot use, as well as the continued availability of the parking for public use after the bank is closed.

7. **§ 214.8** - *Before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Transportation for review and report.*

The application was submitted to the D.C. Department of Transportation ("DDOT") for review and report (*see* Exhibit 16 in the record).

C. Standard of Review for Section 2303.1

As stated above, pursuant to Section 214.5 of the Zoning Regulations, all provisions of Chapter 23 relating to parking lots must be complied with. As described below, the relevant portions of Chapter 23 will continue to be complied with.

1. § 2303.1(a) - *All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.*

The parking lot is paved with material forming an all-weather impervious surface.

2. § 2303.1(b) - *The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.*

The parking lot is designed so that no vehicle or part of a vehicle projects over any lot or building line. The parking lot is separated from the east lot line by a 21 foot ATM drive-through lane and the bank building. The lot is separated from the south and west lot lines by 14 foot and 12 foot drive aisles, respectively. There is a 15 foot building restriction line along Morrison Street to the north. This area is landscaped, and the lot is designed such that no vehicle or part of a vehicle projects over the building restriction line.

(3) § 2303.1(c) - *No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located.*

The parking area is used exclusively for parking. In addition, the ATM machine and the canopy over the ATM machine have been located on this portion of the lot for many years. The first BZA Order approving the accessory parking use for the Site referred to the future use of ATM machines: "Appellant further proposes at some future time to remodel the west side of the bank building to provide teller windows for use as a drive in bank" (*see* BZA Order No. 2124). BZA Order No. 9053 approved the "extension of the parking lot westward a distance of 28 feet to provide for the installation of two TV teller drive-in stations at the bank facility." Subsequent orders also referenced the AMT use.

(4) **§ 2303.1(d)** - *No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended*

No vehicular entrance or exit is located within 40 feet of a street intersection as measured from the intersection of the curb lines extended.

(5) **§ 2303.1(e)** - *Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.*

All direct rays of lighting are confined to the surface of the parking lot.

(6) **§ 2303.1(f)** - *The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.*

The parking lot is kept free of refuse and debris and is landscaped with grass, trees, and shrubs. The amount of landscaping on the site exceeds the five percent landscaping requirement.

(7) **§ 2303.2** - *In addition to the requirements of § 2303.1, a parking lot located in an R-1, R-2, R-3, R-4, or R-5-A District, and a parking lot located in any other district where such*

parking lot is contiguous to an R-1, R-2, R-3, R-4, or R-5-A District, shall be screened from all contiguous residential property located in the R-1, R-2, R-3, R-4, or R-5-A District by a solid brick or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen trees that are thickly planted and maintained and at least forty-two inches (42 in) in height when planted.

(a) *The parking lot shall be screened from all contiguous residential property located in an R-1, R-2, or R-3 District by a solid masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in) high; and*

(b) *All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.*

The residential use on Lot 70 is contiguous to the Site and is located directly to the west. The Site is separated from residential properties to the south by a 15 foot public alley. The accessory parking lot is screened from Lot 70 by a masonry wall at least 36 inches high, and 12 inches thick, and evergreen hedges that are thickly planted and maintained at a minimum height of approximately five feet. The wall is located to the west of the hedges and is barely visible from the Site, due to the hedge's growth above and around the wall. The lot is screened from the alley and the residential properties to the south by a masonry wall at least 36 inches high, with a seven foot high solid wooden fence on top. This screening around the west and south perimeter of the lot has existed for many years. All parts of the accessory parking lot are kept free of refuse and debris and are paved or landscaped. All landscaping on the Site is maintained in a healthy growing condition and in a neat and orderly appearance.

(8) **§ 2303.3** - *If approved by the Board of Zoning Adjustment as a special exception under § 3104, the conditions in § 2303.2 may be waived or modified.*

The Applicant requests a continuation of the modification from Section 2303.2 with respect to the height of the masonry wall that separates the Site from the adjacent residential property. Section 2303.2(a) requires the masonry wall to be a minimum of 42 inches in height; however, the existing wall on the western and southern boundaries of the Site is and always has been at least 36 inches in height. The evergreen hedges between the wall and the lot are thickly planted and rise to a height significantly taller than 42 inches. The wooden fence on top of the masonry wall to the south is seven feet high.

(9) **§ 2303.4** - *Before authorizing a waiver or modification, the Board shall consider:*

(a) *The adequacy of protective and screening walls located on adjacent residential property;*

(b) *Topographic and traffic conditions; and*

(c) *Any adverse effect the requested waiver or modification of standards may have on adjacent residential property.*

The existing masonry walls, evergreen hedges, and fences on the Site provide adequate screening from the residential properties to the west and south. There have been no changes with regard to the physical conditions or operational character of the parking lot since the prior Board approval in BZA Order No. 16359.

(10) **§ 2303.5** - *The Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.*

The Applicant has continued to comply with the conditions of the approval specified in the last Order (No. 16359). The Applicant is committed to continuing to operate the parking lot in a manner so as to protect the value of the adjacent property.

VI.
COMMUNITY SUPPORT

The Applicant understands that there is general support from the community for the requested zoning relief. The Applicant presented the application to ANC 3G at its June 23, 2014 meeting. The ANC will consider this application again at its July 14, 2014 meeting.

VII.
WITNESS

Lynn Osman, representative of the Applicant.

VIII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

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