Change of Party Status from Proponent to Opponent
Application No. 18799; PNC Bank National Assoc.

Submitted by Party Status Requesters: Annemarie Maguire, Carl Messineo, William E. Scheurch, Janet Shenk and Mara Verheyden-Hilliard

We are writing to amend our Form 140 filing from proponent to opponent, and to reiterate our objections previously stated and express opposition to any usage of the PNC Bank's accessory lot in a residential zone for purposes beyond customer usage while conducting PNC Bank business during branch hours.

This amendment is necessitated by the substantial and material change in the representations of PNC Bank subsequent to our Party Status filings.

As reflected in our Form 140 submission, our support for the Bank's application is based on the understanding that it would continue the current practice of closing and locking the gates to the lot outside of business hours and the authorization of usage only to bank customers while conducting bank business. *See* enclosed photograph (signage stating lot use is "Customer Parking while conducting PNC Bank business ONLY."). This is consistent with the historic usage of the lot, notwithstanding a relaxation of enforcement during a period when the lot was unlawfully operated without a special exception and during which unauthorized usage of the lot has caused growing severe disruption and adversely affected us, as related in our Form 140 submissions.

The PNC Application submitted on May 12, 2014, stated that based on residents' complaints over nighttime noise caused by others associated with other businesses "who use the Site without authorization to do so," it was implementing measures "to prevent night time use of the lot[.]"

As our Form 140 submission reflects, the implemented measures "included returning to closing and locking existing gates that provide access to the parking lot" outside of banking hours. We expressly stated that "We offer no objection to the usage of the R-2 zoned spaces on PNC's lot for its customers during its banking hours."

The Bank had re-instated these measures as a result of our complaint to the Zoning Administrator. In all communications and representations the Bank has conveyed that these enforcement mechanisms will remain in place.

However, in the Bank's pre-hearing statement, the Bank has substantially and materially changed its representations and positions.

In the May 12 application, the Bank represented as follows:

> The continued use of the western portion of the Site for accessory parking spaces is not likely to become objectionable to adjoining or nearby properties. In response to recent complaints about nighttime noise from unauthorized use of the

> lot, the Applicant will supplement its existing signage with additional enforcement mechanisms to help ensure that nighttime use does not occur on the lot.

May 12, 2014, Preliminary Statement of Compliance With Burden of Proof at 3.

In its subsequent Pre-Hearing Statement, the Bank makes a contradictory representation:

> 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**.

Pre-Hearing Statement at 5.

It is evident from the submissions from residents and owners of the nearby properties on Livingston Street, including Annemarie Maguire, Carl Messineo, William E. Scheurch, Janet Shenk and Mara Verheyden-Hilliard, that any non-banking usage of the lot is objectionable and, indeed, causes adversity as suffered and described in each Form 140 submission.

At the time of the filing of the Pre-Hearing Statement, which appears to have been filed on July 9, 2014, the Bank knew that the residents and owners of nearby properties (i.e., within 200 feet of the subject lot) had already objected to nighttime use of the parking lot for public use after the Bank is closed. This is manifest in its May 12 application, which acknowledged the Bank's knowledge of such complaints – which have also been expressed by way of formal complaint to the Zoning Administrator and in writing and in face-to-face meetings between the neighbors and the Bank's representatives. This is reflected in our Form 140 submissions, which were provided to the Bank.

To submit, as the Bank has done, that the use of the lot "is not likely to become objectionable to adjoining or nearby properties" is plainly false, where the Bank now appears to be proposing the "availability of the parking lot for public use after the bank is closed."

As reflected in our Request for Party Status, as proximate residential homeowners just feet away from the lot and whose homes are not screened from the lot, we are adversely affected by the noise, light and disruption and usage of the parking lot, and specifically objected to the after-hours and nighttime use of the lot. We articulated that the growing unauthorized use of the lot from local businesses and restaurants unconnected to bank branch customer activity was severely disruptive, interfered with sleep and quiet enjoyment of our property, and was adverse.

The Bank is aware of the prior complaints regarding noise, light and disruption from its lot, as acknowledged in the May 12 filing.

The Bank represented in the May 12 filing that such usage was "unauthorized."

The Bank in its May 12 filing presented itself as responding to the complaints to "ensure that nighttime use does not occur on the lot."

So to now file with the Board that it is proposing the "availability of the parking lot for public use after the bank is closed" and (mis)representing that this "is not likely to become objectionable to adjoining or nearby properties" is baseless and plainly false.

We can remain proponents of the PNC Bank's usage of the lot for purposes accessory to its banking operations, i.e, **with the condition that the usage of the R-2 zoned space on PNC's lot is expressly limited to use by customers during branch banking hours while conducting PNC Bank business.**

The Pre-Hearing Statement does not propose application by the PNC to permit commercial waste containers on its R-2 zoned property. That has been identified before as a point of disruption and significant adverse impact from nearby residents. As such, we can remain proponents of the PNC Bank's usage of the lot only with the condition that **"No trash or waste dumpsters shall be located on the residentially zoned portion of the lot."**

We are cognizant that the Chevy Chase Arcade has sought party status and requested relief from the Board beyond that requested by the applicant, specifically that commercial restaurant waste, including foodstuffs, bottle recycling, oil and grease disposal, be located on the residentially zoned space near our properties. We maintain our opposition to any such activities, as referenced in our Form 140 filing, and will be prepared to address the substance of such opposition should the Board be inclined to hear the merits of the Chevy Chase request – which is outside the scope of the application.

Dated: July 17, 2014

Annemarie Maguire

Annemarie Maguire

William E. Scheurch

William E. Scheurch

Janet Shenk

Janet Shenk

Carl Messineo

Carl Messineo

Mara Verheyden-Hilliard

Mara Verheyden-Hilliard

Affidavit of Service
Board of Zoning Adjustment for the District of Columbia
Application No. 18799; PNC Bank National Assoc.

I hereby affirm that on July 18, 2014, I served the following parties in the above-referenced matter by regular mail the Change of Party Status from Proponent to Opponent submitted by Annemarie Maquire, Carl Messineo, William E. Scheurch, Janet Shenk and Mara Verheyden-Hilliard

Lynn Osman, RPA
Vice President – Realty Services
The PNC Financial Services Group
800 17th St. NW
Washington, DC 20006

Jim McCarthy, Chair
ANC 3/4G
P.O. Box 6252
Washington, DC 200015

Mara Verheyden-Hilliard

Mara Verheyden-Hilliard