

RESOLUTION NO. 12-R75

COUNCIL ITEM 11C
DATE 7/23/12

A RESOLUTION GRANTING A SPECIAL EXCEPTION USE PROVIDED FOR IN SECTION 158.124 (C) 6 TO ALLOW A CAR WASH FACILITY IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT AT THE SAM'S CLUB SITE, FOR PNC BANK, LEGALLY DESCRIBED AS TRACT 1, LENNARD SQUARE (P12-066); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie, Florida, has been requested by PNC Bank, the owner, to grant a special exception use for a car wash facility at the Sam's Club site in the CG (General Commercial) zoning district, per 158.124 (C) 6 of the zoning code; and legally described as Tract 1, Lennard Square;

WHEREAS, the City Council determines that the granting of this special exception use is authorized by Section 158.255, et seq., and Section 158.124 (C) 6 Code of Ordinances, City of Port St. Lucie, and further that granting the special exception use will not adversely affect the public interest;

WHEREAS, the subject application has been reviewed in accordance with Section 158.260, and meets the special exception use requirements as stipulated;

WHEREAS, the Planning and Zoning Board, on July 3, 2012, unanimously recommended approval of the special exception use for a car wash in the CG (General Commercial) zoning district, (P12-066):

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Port St. Lucie as follows:

Section 1. That the City of Port St. Lucie hereby grants a Special Exception Use for a car wash facility at the Sam's Club site (P12-066), pursuant

RESOLUTION NO. 12-R75

to Section 158.255, et seq., and Section 158.124 (C) 6 Code of Ordinances, City of Port St. Lucie, said special exception use is depicted on the conceptual plan which is hereby formally adopted and attached as Exhibit "A", to be located along the east side of US Highway 1, south of the Lennard Road intersection, and legally described as Tract 1, Lennard Square.

Section 2. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 23rd day of July, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
JoAnn M. Faiella, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

Roger G. Orr, City Attorney

CITY OF PORT ST. LUCIE, FL - CITY COUNCIL

AGENDA ITEM REQUEST

MEETING: REGULAR X SPECIAL _____

DATE: JULY 23, 2012

ORDINANCE _____ RESOLUTION X MOTION _____ PUBLIC HEARING X

ITEM: SPECIAL EXCEPTION USE APPLICATION
 PONACO CAR WASH-SAM'S CLUB SITE (P12-066)

RECOMMENDED ACTION:

The Planning and Zoning Board unanimously recommended approval of the special exception use for a car wash in the CG (General Commercial) zoning district on July 3, 2012.

EXHIBITS:

- A. Resolution
- B. Staff Report
- C. Support Materials

SUMMARY EXPLANATION/BACKGROUND INFORMATION:

The applicant is requesting a special exception use for a car wash facility, per Section 158.124 (C) 6 of the Zoning Code for property located at Lennard Square Tract 1.

IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?

None.

SUBMITTING DEPARTMENT: PLANNING and ZONING

DATE: 7/11/2012



**City of Port St. Lucie
Planning and Zoning Department
A City for All Ages**

TO: PLANNING AND ZONING BOARD MEETING-MEETING OF JULY 3, 2012
FROM: THRESIAMMA KURUVILLA, PLANNER *JK*
RE: SPECIAL EXCEPTION APPLICATION (PROJECT NO. P12-066)
PONACO CAR WASH-SAM'S CLUB SITE
DATE: JUNE 20, 2012

APPLICANT: Stephane Cote. Authorization letter is attached.

OWNER: PNC Bank.

LOCATION: The property is located along the east side of US Highway 1, south of the Lennard Road intersection.

LEGAL DESCRIPTION: Tract 1, Lennard Square (Sam's Club site).

SIZE: 1.02 acres (44,696 square feet).

EXISTING ZONING: CG (General Commercial)

EXISTING USE: Vacant.

PROPOSED USE: The proposed use is to have a car wash facility in the Sam's Club site.

REQUESTED SPECIAL EXCEPTION: The requested special exception is to have, a car wash facility at the Sam's Club site, in the CG (Commercial General) Zoning District, per Section 158.124 (C) 6 of the Zoning Code.

SURROUNDING USES: North = CG (General Commercial) zoning, Sam's Club and its gas station immediately north of this tract; South = CG (General Commercial) zoning, vacant lot of Sam's Club; East = CG (General Commercial) zoning, vacant lot of Sam's Club; West = US Highway No.1 and CG (General Commercial) zoning, Wal-Mart.

IMPACTS AND FINDINGS:

Evaluation of Special Exception Criteria (Section 158.260)

(A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

Applicant: Adequate ingress/egress will be obtained via driveway connection to the existing, adjacent roadway. See attached concept plan.

Staff: The site is vacant now. On 6/13/2012, the Site Plan Review Committee recommended for approval of the conceptual site plan for the car wash. The primary vehicular and pedestrian access to and from the car wash is provided by an existing driveway on US Highway No. 1. The proposed car wash is connected to this existing driveway which was approved and constructed as part of the development of Sam's Club. Additionally, vehicular and pedestrian access is provided through the existing parking drive aisles that connect the Sam's Club gas station as shown in the conceptual site plan Exhibit A.

(B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

Applicant: Off-street parking, including handicap accessible spaces, shall be provided in accordance with the City's code. See attached concept plan

Staff: The applicant has to apply for a site plan approval. The proposed conceptual site plan shows an area of 6,630 sq. ft. of proposed car wash building, with adequate parking. Bicycle parking also was shown on the proposed conceptual site plan.

(C) Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

Applicant: The proposed development will connect to existing water and sewer service stub-outs. See attached concept plan.

Staff: The existing site has adequate and properly located utilities to serve the development.

(D) Adequate screening or buffering. Additional buffering beyond that which is required by the code may be required in order to protect and provide compatibility with adjoining properties.

Applicant: The development will be landscaped in accordance with the City's requirements for CG zoning. Since the site will be developed under the City's CG zoning requirements, and the adjoining properties are also zoned CG, incompatibility with surrounding development is not anticipated.

Staff: The applicant has to apply for a detailed construction plan with landscape plan. The site is located within a commercial subdivision development for which adequate landscaping has been provided and a masonry wall has been constructed along the eastern boundary of the adjacent residential properties.

ITEM # 7(J)

(E) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties. Light shields or other screening devices may be required.

Applicant: *The development's monument sign and site lighting will be designed in accordance with the City's lighting requirements and shall include shields or screening devices to eliminate or minimize glare.*

Staff: *In the proposed site plan, the applicant has to show the location of the monument sign and light pole details, in compliance with the City's zoning code. The applicant will have to apply for a sign permit for all proposed signage.*

(F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

Applicant: *The subject development and surrounding properties are zoned CG. The development shall have sufficient, landscaped open space as required by the City's Land Development Regulations.*

Staff: *The proposed site plan has to provide adequate yards and open space to properly serve the existing development and ensure compatibility with adjoining properties.*

(G) The use as proposed will be in conformance with all stated provisions and requirements of this chapter.

Applicant: *The development shall be designed in accordance with the City's CG zoning requirements, which will make it compatible with the zoning and use of surrounding properties.*

Staff: *The requested Special Exception Use for a car wash is in conformance with the provisions and requirements of the City of Port St. Lucie Land Development Regulations. Additionally, the car wash may serve the customers of the fuel gas station and retail store adjacent to this use. This may provide additional convenience to the residential areas nearby. The conceptual site plan of the proposed car wash shows an automatic car wash bay and detailing bay.*

(H) Establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents and workers in the City.

Applicant: *Every reasonable effort would be made by the Applicant and its professional consultants in the design's execution of the project to avoid impairment of anyone's health, safety, welfare or convenience. The operation of the proposed car wash is not anticipated to impair the health, safety or welfare of residents/workers in the City.*

Staff: *The site plan has to comply with the Zoning Code and Citywide Design Standards. The proposed car wash may not impair the health, safety, welfare, or convenience of residents and workers in the City.*

ITEM # 7(J)

(I) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of the hours of operation, or because of vehicular movement, noise, fume generation, or type of physical activity.

Applicant: *The proposed facility is not unique or unusual in its design or use, and will not be operated in a fashion to create a nuisance or danger to anyone. Every reasonable precaution will be taken to minimize impact in operations. The proposed car wash will be enclosed within a building thus minimizing noise impacts to the surrounding properties. The site has been designed to promote a smooth traffic flow into and out of the wash facility. The facility will operate during normal retail business hours.*

Staff: *The proposed car wash may well serve the neighborhood and the close proximity to US Highway 1 further justifies the benefit to the public. The conceptual site plan of the proposed car wash shows an automatic car wash bay and detailing bay, and provides room for traffic to flow into and out of the car wash facility.*

(J) The use as proposed for development will be compatible with the existing or permitted uses of adjacent property. The proximity or separation and potential impact of the proposed use (including size and height of buildings, access location, light and noise) on nearby property will be considered in the submittal and analysis of the request. The City may request project design changes or changes to the proposed use to mitigate the impacts upon adjacent properties and the neighborhood.

Applicant: *Compatibility with other uses and properties is a primary objective of the project's design. Applicant will be happy to consider any reasonable mitigation of impacts as may be requested. The proposed development shall be designed to comply with all applicable requirements of the City's Land Development Regulations. Building coverage and building height shall comply with the City's CG zoning requirements, and site lighting shall be designed to eliminate or minimize glare off-site. Any noise from the wash machine will be minimized by the enclosing building.*

The proposed site is situated in an area zoned CG, and will be adjacent to an existing fuel station and large retail store. Additionally, the site is located within a commercial subdivision development for which buffering (ie: landscape and masonry wall) to adjacent residential properties to the east has been constructed. It is the applicant's intent to work with the City Staff and Council to produce a viable business that will be an asset to the city.

Staff: *The site plan has to comply with the Citywide Design Standards and Zoning Code. Staff finds that the proposed use is compatible and does not recommend any additional changes.*

(K) As an alternative to reducing the scale and/or magnitude of the project as stipulated in criteria (J) above, the City may deny the request for the proposed use if the use is considered incompatible, too intensive or intrusive upon the nearby area, and would result in excessive disturbance or nuisance from the use altering the character of the neighborhood.

Staff: *The applicant has acknowledged this.*

(L) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

Staff: The applicant has acknowledged this.

Compatibility with special exception criteria: As noted above, the proposed use is compatible with all of the special exception criteria stipulated in the zoning Code.

Notice to Property Owners: Notice was sent to all neighbors within a 300 foot radius (see attached map).

Related Projects:

P02-297 Sam's Club site plan was approved by the City Council on January 27, 2003 for 139,189 sq. ft. of Sam's Club, a member's only discount retail warehouse that's a division of Wal-Mart Stores, Inc.

P04-357 Sam's Club site plan amendment was administratively approved on August 11, 2004 for shifting the building approximately 25 feet to the south and relocation of the stormwater treatment areas.

P09-034 Sam's Club- site plan amendment was approved by the City Council on May 11, 2009 for the replacement of cart corral.

RECOMMENDATION:

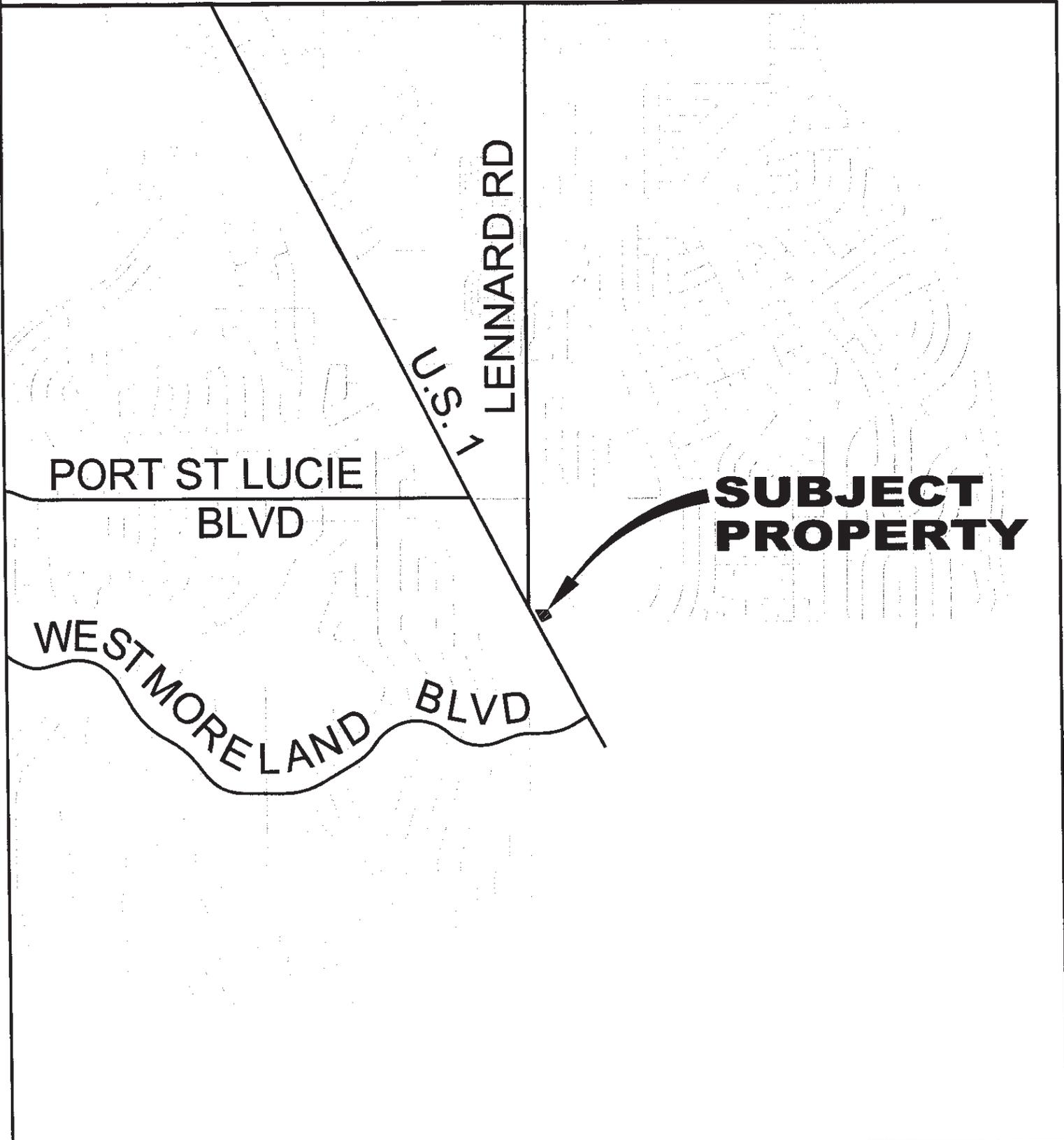
The Planning and Zoning Department staff finds the request to be consistent with special exception criteria, as stipulated in Section 158.260 of the Zoning Code, and recommends approval of the car wash facility.

Planning and Zoning Board Action Options:

- Motion to recommend approval to the City Council
- Motion to recommend approval to the City Council with conditions
- Motion to recommend denial to the City Council

Should the Board need further clarification or information from either the applicant and/or staff, it may exercise the right to *table* or *continue* the hearing or review to a future meeting.

SITE LOCATION



**SUBJECT
PROPERTY**



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE
TRACT 1
LENNARD SQUARE

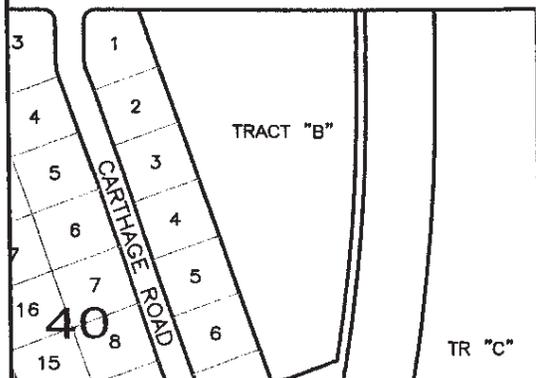
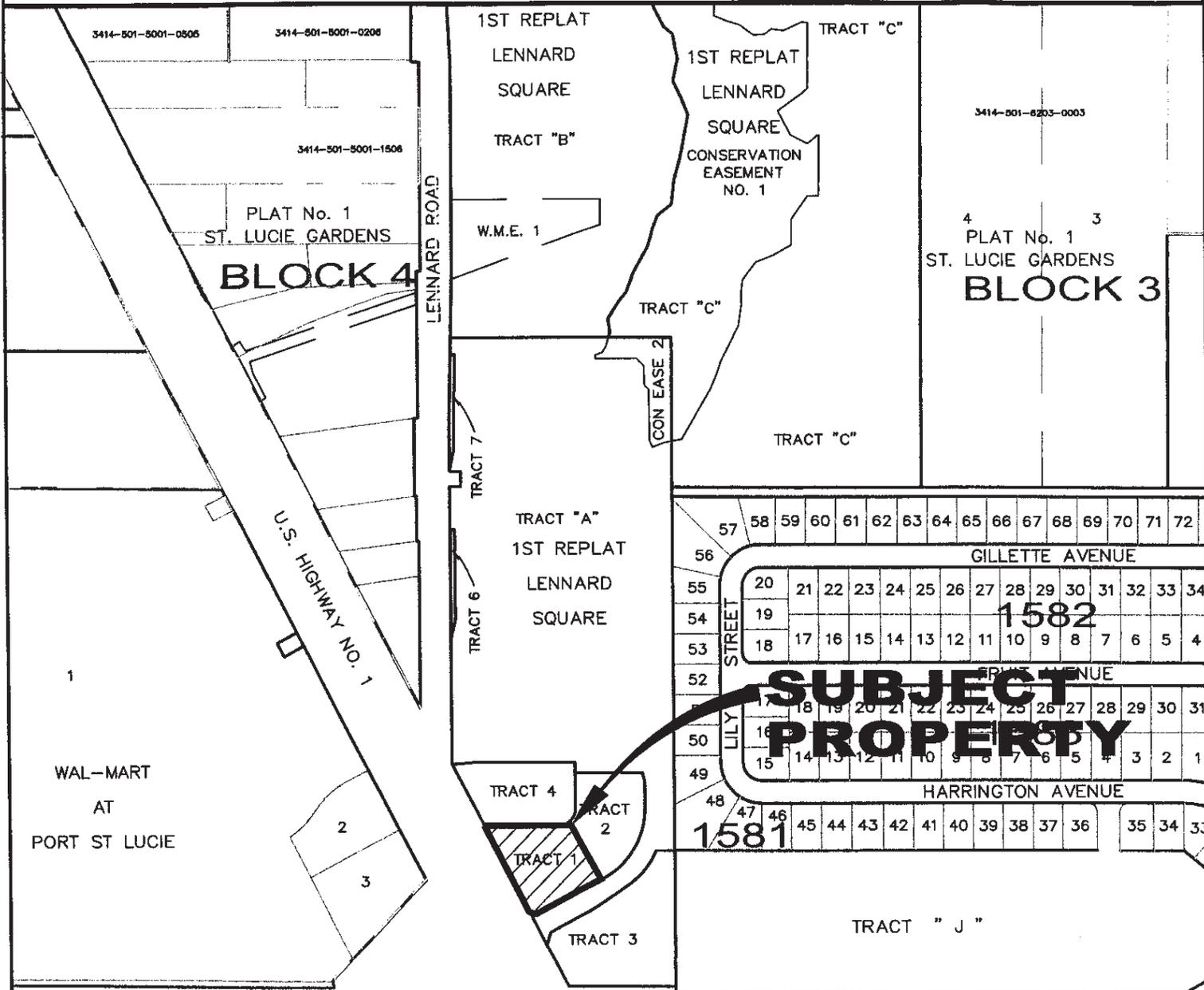
DATE: 6/6/2012

APPLICATION NUMBER:
P12-066

CADD FILE NAME:
P12-066L

SCALE: 1" = .5 MI.

SITE LOCATION

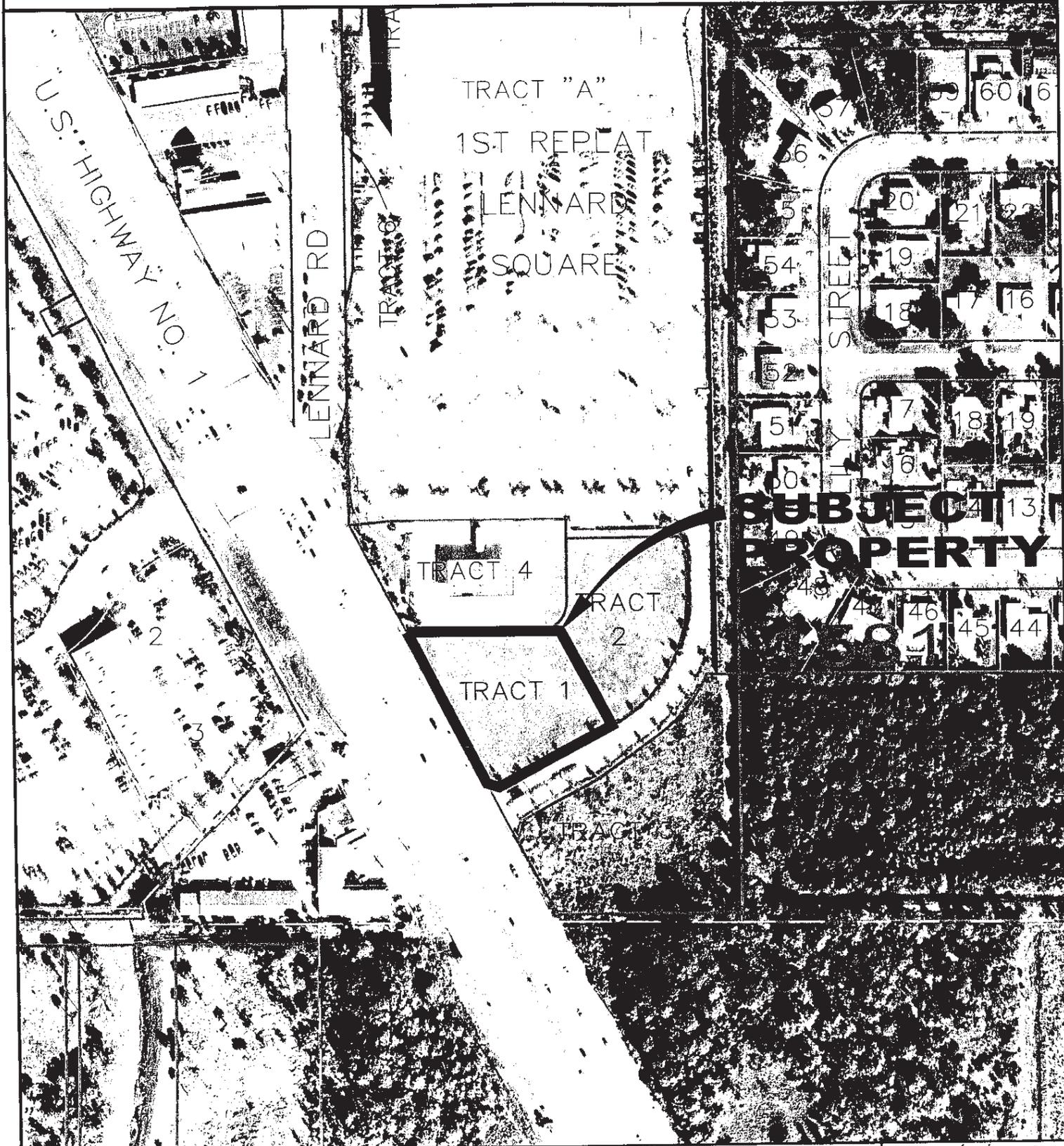


CITY OF PORT ST. LUCIE
 PLANNING & ZONING DEPT.
 Prepared by:
 M.I.S. DEPARTMENT PZ 2012.DWG

SPECIAL EXCEPTION USE
 TRACT 1
 LENNARD SQUARE

DATE: 6/6/2012
 APPLICATION NUMBER:
 P12-066
 CADD FILE NAME:
 P12-066M
 SCALE: 1"=400'

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
M.I.S. DEPARTMENT

PZ_2012.DWG

SPECIAL EXCEPTION USE

TRACT 1
LENNARD SQUARE
AERIAL DEC 2010

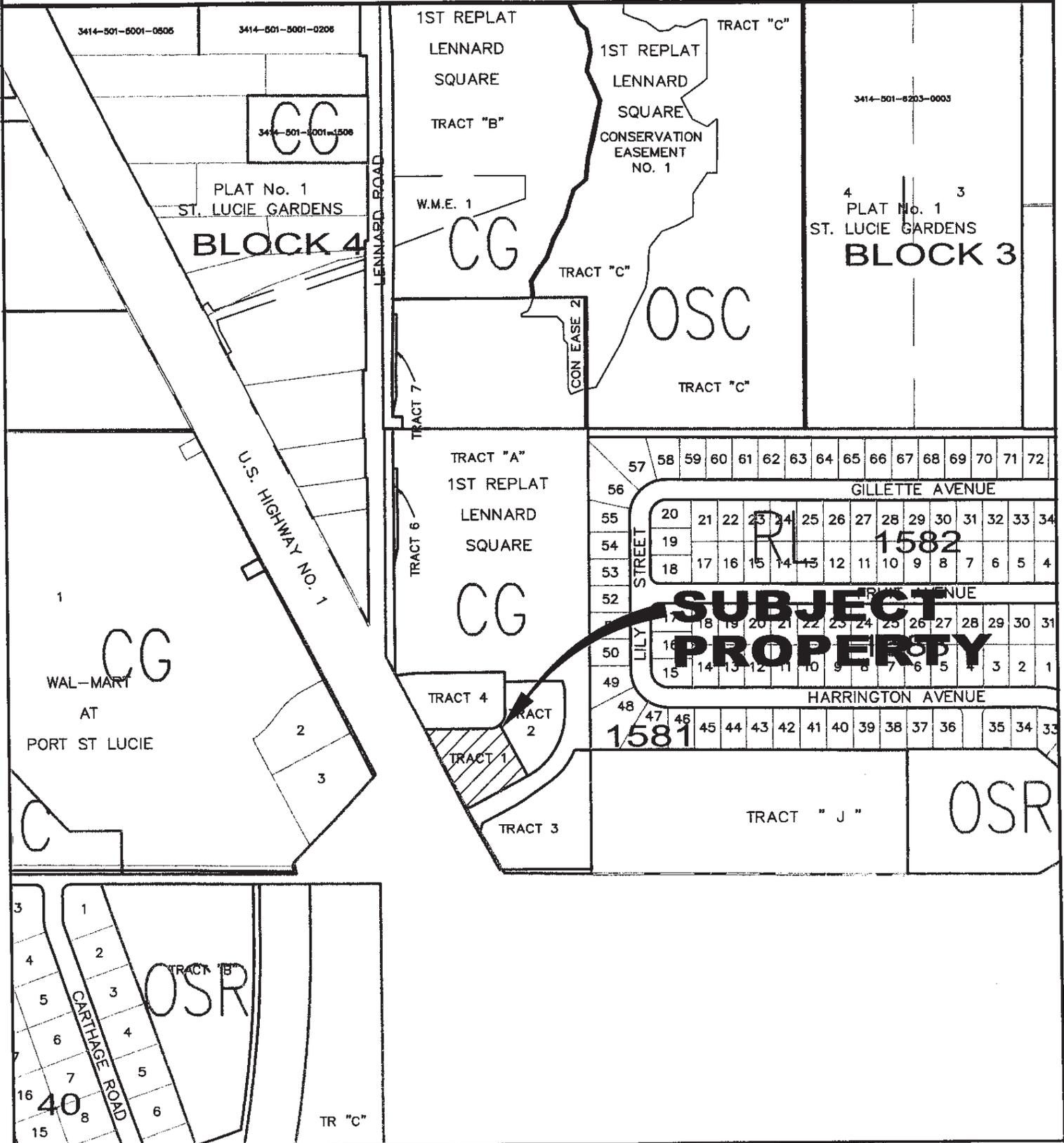
DATE: 6/6/2012

APPLICATION NUMBER:
P12-066

CADD FILE NAME:
P12-066A

SCALE: 1"=200'

FUTURE LAND USE



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE

TRACT 1
LENNARD SQUARE

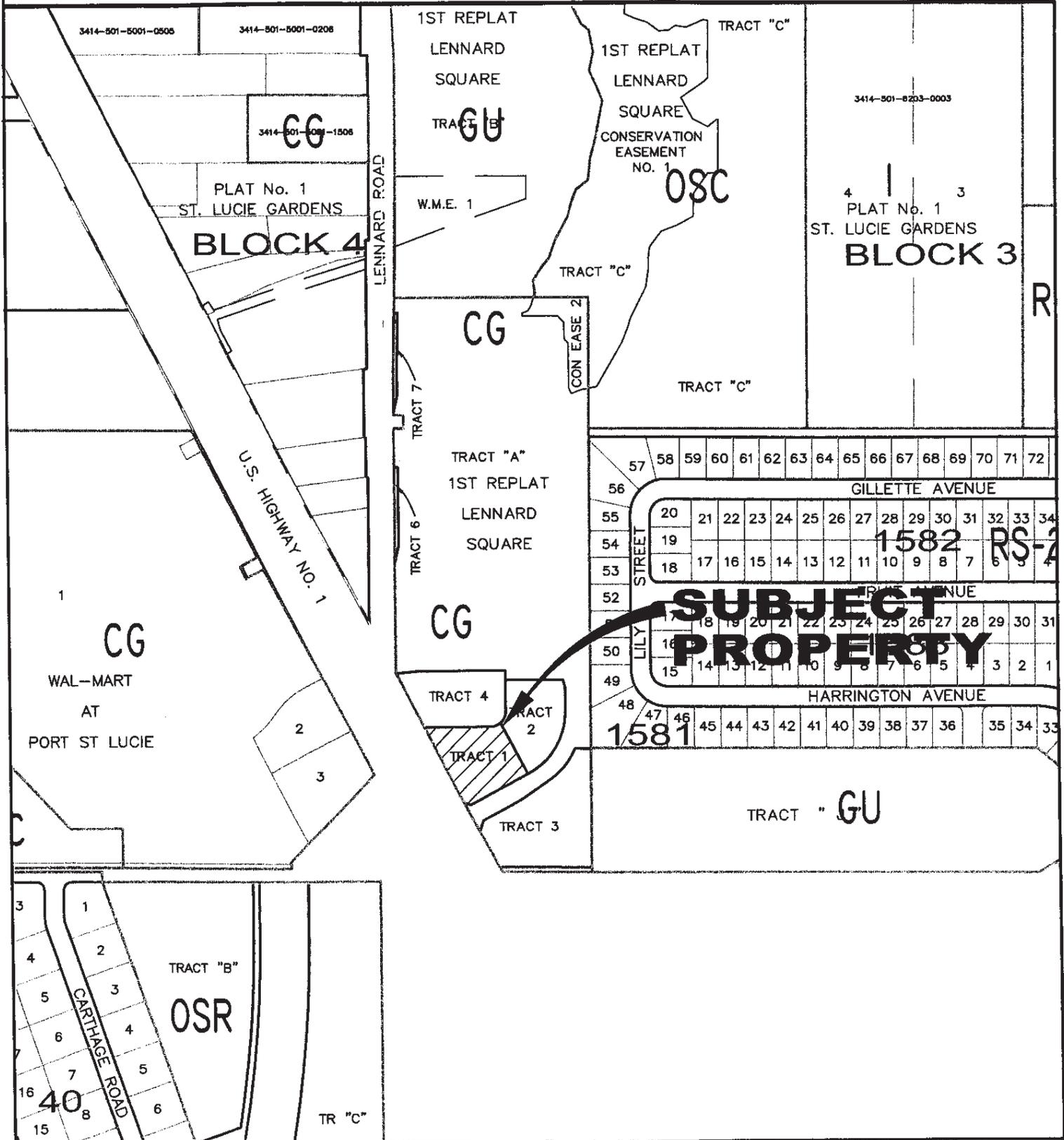
DATE: 6/6/2012

APPLICATION NUMBER:
P12-066

CADD FILE NAME:
P12-066M

SCALE: 1" = 400'

EXISTING ZONING



CITY OF PORT ST. LUCIE
 PLANNING & ZONING DEPT.
 Prepared by:
 M.I.S. DEPARTMENT PZ 2012.DWG

SPECIAL EXCEPTION USE
 TRACT 1
 LENNARD SQUARE

DATE: 6/6/2012
 APPLICATION NUMBER:
 P12-066
 CADD FILE NAME:
 P12-066M
 SCALE: 1"=400'

APPLICATION FOR SPECIAL EXCEPTION USE

CITY OF PORT ST. LUCIE
Planning & Zoning Department
121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
(772)871-5212 FAX: (772)871-5124

FOR OFFICE USE ONLY

Planning Dept. P12-066
Fee (Nonrefundable)\$ 2,115.00
Receipt # 11722

Refer to "Fee Schedule" for application fee. Make check payable to the "City of Port St. Lucie". Fee is nonrefundable unless application is withdrawn prior to being scheduled for the Site Plan Review Committee meeting or advertising for the Planning and Zoning Board meeting. **Attach two copies of proof of ownership (e.g., warranty deed, affidavit), lease agreement (where applicable), approved Concept Plan or Approved Site Plan, and a statement addressing each of the attached criteria.**

PRIMARY CONTACT EMAIL ADDRESS: jmboyer@bellsouth.net

PROPERTY OWNER:

RECEIVED

Name: PNC Bank, Nation Association
Address: Two PNC Plaza 19th Floor, 620 Liberty Avenue, Pittsburgh, PA 15222
Telephone No.: _____ Fax No.: _____

MAY 07 2012

**PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL**

APPLICANT (IF OTHER THAN OWNER, ATTACH AUTHORIZATION TO ACT AS AGENT):

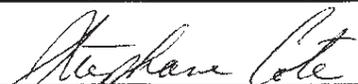
Name: Stephane Cote
Address: 1736 Ocean Drive, Vero Beach, FL 32963
Telephone No.: 772-925-9930 Fax No.: _____

SUBJECT PROPERTY:

Legal Description: Tract 1, Lennard Square, PB43 PGs 34 & 34A, St. Lucie County
Parcel I.D Number: 4507-705-0004-000-0
Address: Lennard Road & US Highway 1, Port St. Lucie Bays: _____
Development Name: Ponaco Car Wash (Attach Sketch and/or Survey)
Gross Leasable Area (sq. ft.): 6630 Assembly Area (sq. ft.): N/A
Current Zoning Classification: CG SEU Requested: Car Wash

Please state, as detailed as possible, reasons for requesting proposed SEU (continue on separate sheet, if necessary):

Applicant seeks SEU approval to construct a car wash in a CG zoned area. By code, a car wash requires SEU approval in CG zoning.


Signature of Applicant

Stephan E. Cote
Hand Print Name

5/4/2012
Date

NOTE: Signature on this application acknowledges that a certificate of concurrency for adequate public facilities as needed to service this project has not yet been determined. Adequacy of public facility services is not guaranteed at this stage in the development review process. Adequacy for public facilities is determined through certification of concurrency and the issuance of final local development orders as may be necessary for this project to be determined based on the application material submitted.
H:\PZ\SHARED\APPLCTN\SEU\APPL (06/21/11)

SPECIAL EXCEPTION USES

The Planning and Zoning Board, and Zoning Administrator, may authorize the special exception use from the provisions of § 158.260. In order to authorize any special exception use from the terms of this chapter, the Planning and Zoning Board, or Zoning Administrator, will consider the special exception criteria in § 158.260 and consider your responses to the following when making a determination.

(A) Please explain how adequate ingress and egress will be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control, and access in case of fire or other emergency.

Adequate ingress/egress will be obtained via driveway connection to the existing, adjacent roadway. See attached Concept Plan.

(B) Please explain how adequate off-street parking and loading areas will be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

Off-street parking, including handicap accessible spaces, shall be provided in accordance with the City's code.

See attached Concept Plan.

(C) Please explain how adequate and properly located utilities will be available or will be reasonably provided to serve the proposed development.

The proposed development will connect to existing water and sewer service stub-outs. See attached Concept Plan.

(D) Please explain how additional buffering and screening, beyond that which is required by the code, will be required in order to protect and provide compatibility with adjoining properties.

The development will be landscaped in accordance with the City's requirements for CG zoning. Since the site will

be developed under the City's CG zoning requirements, and the adjoining properties are also zoned CG,

incompatibility with surrounding development is not anticipated.

(E) Please explain how signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties. Light shields or other screening devices may be required.

The development's monument sign and site lighting will be designed in accordance with the City's lighting

requirements and shall include shields or screening devices to eliminate or minimize glare.

(F) Please explain how yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

The subject development and surrounding properties are zoned CG. The development shall have sufficient,

landscaped open space as required by the City's Land Development Regulations.

(G) Please explain how the use, as proposed, will be in conformance with all stated provisions and requirements of the City's Land Development Regulation.

The development shall be designed in accordance with the City's CG zoning requirements, which will make it

compatible with the zoning and use of surrounding properties.

(H) Please explain how establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents and workers in the city.

Every reasonable effort would be made by the Applicant and its professional consultants in the design's execution

of the project to avoid impairment of anyone's health, safety, welfare or convenience. The operation of the proposed

car wash is not anticipated to impair the health, safety or welfare of residents/workers in the City.

(I) Please explain how the proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of the hours of operation, or because of vehicular movement, noise, fume generation, or type of physical activity.

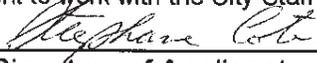
The proposed facility is not unique or unusual in its design or use, and will not be operated in a fashion to create a nuisance or danger to anyone. Every reasonable precaution will be taken to minimize impact in operations. The proposed car wash will be enclosed within a building thus minimizing noise impacts to the surrounding properties.

The site has been designed to promote a smooth traffic flow into and out of the wash facility. The facility will operate during normal retail business hours.

(J) Please explain how the use, as proposed for development, will be compatible with the existing or permitted uses of adjacent property. The proximity or separation and potential impact of the proposed use (including size and height of buildings, access, location, light and noise) on nearby property will be considered in the submittal and analysis of the request. The City may request project design changes or changes to the proposed use to mitigate the impacts upon adjacent properties and the neighborhood.

Compatibility with other uses & properties is a primary objective of the project's design. Applicant will be happy to consider any reasonable mitigation of impacts as may be requested. The proposed development shall be designed to comply with all applicable requirements of the City's Land Development Regulations. Building coverage & building height shall comply with the City's CG zoning requirements, & site lighting shall be designed to eliminate or minimize glare off-site. Any noise from the wash machine will be minimized by the enclosing building. The proposed site is situated in an area zoned CG, & will be adjacent to an existing

fuel station and large retail store. Additionally, the site is located within a commercial subdivision developments for which buffering (ie: landscape & masonry wall) to adjacent residential properties to the east has been constructed. It is the applicant's intent to work with the City Staff and Council to produce a viable business that will be an asset to the City.


Signature of Applicant

Stephan E. Cote

Hand Print Name

5/4/2012
Date

PLEASE NOTE:

(K) As an alternative to reducing the scale and/or magnitude of the project as stipulated in criteria (J) above, the City may deny the request for the proposed use if the use is considered incompatible, too intensive or intrusive upon the nearby area and would result in excessive disturbance or nuisance from the use altering the character of neighborhood.

(L) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including but not limited to reasonable time limit within which the action for which special approval is requested shall be begun or completed or both.

PNC Bank, National Association
c/o PNC Realty Services
Two PNC Plaza - 19th Floor
620 Liberty Avenue
Pittsburgh PA 15222

RECEIVED

JUN 22 2012

PLANNING

June 22, 2012

Stephane Cote
Ponaco Limited Partnership
1736 Ocean Drive
Vero Beach FL 32963

Gentlemen:

This is to advise that, as the owner of the real property located in St. Lucie County, Florida, described as:

Tract A1@, being a tract of land shown on Plat of Lennard Square, as recorded in Plat Book 43, Pages 34 and 34A, being a replat of a portion of Lots 5, 6, 7, 8, 9 and 10, Block 3 of St. Lucie Gardens, lying in the South 2 of Section 7, Township 37 South, Range 41 East, as recorded in Plat Book 1, Pages 35 and 36, City of Port St. Lucie, St. Lucie County, Florida.

Being previously described as follows:

Commencing at the intersection of the Easterly right-of-way line of U.S. Highway No. 1 (State Road No. 5) and the West line of Section 7, thence South 27 degrees, 49 minutes, 09 seconds East along the said Easterly right-of-way of U.S. Highway No. 1 a distance of 300.12 feet to the point of beginning; thence continue South 27 degrees, 49 minutes, 09 seconds East a distance of 20.18 feet; thence North 62 degrees, 10 minutes, 51 seconds East a distance of 193.83 feet; thence North 27 degrees, 49 minutes, 09 seconds East a distance of 171.83 feet to a point on the arc of a curve concave to the Northwest, having for its elements a radius of 45.00 feet, a central angle of 40 degrees, 24 minutes, 51 seconds, and a radial bearing of North 40 degrees, 23 minutes, 22 seconds West; thence along the arc of said curve a distance of 31.74 feet Westerly to a point of Tangency; thence along said tangent line bearing North 89 degrees, 58 minutes, 30 seconds West a distance of 200.50 feet to the point of beginning.

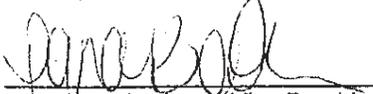
Together with Access Easement No. 1 as set forth on and granted by the Plat of Lennard Square, according to the plat thereof as recorded in Plat Book 43, Pages 34 and 34A, and as replatted by First Replat Lennard Square, according to the plat thereof, as recorded in Plat Book 53, Pages 13 and 14, Port St. Lucie, Florida.

Parcel ID# 4507-705-0004-000-0

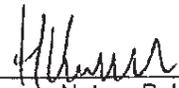
You are authorized by me to proceed with application for conceptual site plan and special exception use of the property with the City of Port St. Lucie, Florida, and to execute whatever forms may be necessary to apply for and secure such change.

Very truly yours,

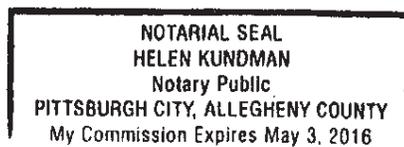
PNC Bank, National Association

By: 
Dana Bodhar, Assistant Vice President

Sworn and subscribed before me this 22 day of June, 2012


Notary Public

My Commission expires:



This instrument prepared by:

Sam's East, Inc.
Sam M. Walton Development Complex
2001 S.E. 10th Street
Bentonville, AR 72716-0550
Nathan Hamblen

~~Not a Recorded Document To:~~
LandAmerica National Commercial Services
450 S. Orange Avenue, Suite 170
Orlando, FL 32804
Attention: Sharon Sosa (6-477)

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED is made effective MARCH 30, 2007,
between SAMP'S EAST, INC., an Arkansas corporation, with a corporate address of 702 S.W. 8th
Street, Bentonville, AR 72716 ("Grantor"); and INDIAN RIVER NATIONAL BANK, a
national banking association, with an address of 958 20th Place, Vero Beach, FL 32960
("Grantee").

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of Ten Dollars (\$10.00) and other
good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby
acknowledged, does hereby forever grant, bargain, sell, convey and confirm to Grantee, and its
successors and assigns, a certain tract of land situated, lying, and being in the City of Port St.
Lucie, St. Lucie County, Florida, as more particularly described to-wit:

See Exhibit "A" attached hereto and made a part hereof ("Property");

TO HAVE AND TO HOLD said land unto Grantee, and its successors and assigns,
forever, with all tenements, appurtenances and hereditaments thereunto belonging, subject to
easements, conditions, restrictions and other matters of record, and subject to the following
conditions and restrictions:

- (a) The Property shall only be used for purposes of the kind typically found in shopping centers, including, but not limited to offices, restaurants, and retail shops;
- (b) The Property shall not be used for or in support of the following: (i) a discount store in excess of five thousand (5,000) square feet in floor size, wholesale membership/warehouse club, grocery store/supermarket, pharmacy/drug store; (ii) gas station, quick lube/oil change facility, automobile tire sales; (iii) movie theater, bowling alley, health spa/fitness center; (iv) adult book store, adult video store (an adult video store is a video store that sells or rents videos that are rated NC-17, X, XX, XXX, or of a rating assigned to works containing material more sexually explicit than XXX, by the film rating board of the Classification and Rating Administration), pawn shop, bar, night club, gaming activities (including but not limited to gambling, electronic gaming machines, slot machines and other devices similar to the aforementioned), billiard parlor, any place of recreation/amusement, or any business whose principal revenues are from the sale of alcoholic beverages; or (v) any business whose major source of business is derived from the cashing of checks or making short-term or "payday advance" type loans; this is not to exclude the regular business of any bank or financial institution insured by the F.D.I.C. or mortgage brokerage firm or other similar business providing long-term, mortgage type loans;

(d) In the event the Property is used for a building with multiple tenants, there shall be not less than five (5) parking spaces for every one thousand (1,000) square feet of floor building area thereon, and thirteen (13) parking spaces for every one thousand (1,000) square feet of floor building area used for restaurants exceeding two thousand (2,000) square feet; in the event the Property is used for a free-standing restaurant, there shall be not less than fifteen (15) parking spaces on the Property for every one thousand (1,000) square feet of floor building area thereon; for all other uses permitted hereunder there shall be not less than five (5) parking spaces per one thousand (1,000) square feet of floor building area on the Property;

(e) (i) only signs advertising business located on the Property may be erected thereon; (ii) signs located on the Property shall not contain images or words that are offensive to the ordinary reasonable person (whether cloaked in images, words, or phrases carrying double meanings); (iii) the Property and all improvements erected or constructed thereon shall be maintained in good condition and repair; and (iv) the exterior of any building constructed on the Property shall not be constructed of metal;

(f) Grantor reserves the right to approve, prior to commencement of any construction by Grantee of any buildings or improvements on the Property, Grantee's: (i) site plans including setbacks from lot lines, location and dimensions of parking areas and spaces, driveways and service areas, placement of building(s) and other improvements including square footage of building(s), location of trash collection, stop signs and bars at all curb cuts, and the location of existing Grantor signage (if any) on the Property; (ii) utility plans including all utility connections (including electric and telephone); (iii) grading plans including stormwater management and detailed elevations; (iv) erosion and sediment control plans including rock construction entrances (to be in place prior to any construction), silt fence (to be in place prior to any construction) and other erosion controls required on the Property; (v) exterior elevations of the front, back, and both sides of the building(s), including height; (vi) exterior signage plans indicating the dimensions of exterior pylon or monument signage and the design of the sign panel(s) to be placed onto the sign structure (collectively the "Development Plan"). Said Development Plan is to be prepared by certified/licensed architects and/or engineers and shall conform to the restrictions set forth above. Grantee shall deliver full-sized plans of the said Development Plan to Grantor for its approval. Grantor shall have thirty (30) days after receipt of the Development Plan from Grantee to approve or disapprove the Development Plan in writing. If the Development Plan is disapproved, Grantor shall give the reasons for such disapproval, and Grantee shall resubmit to Grantor a revised Development Plan incorporating Grantor's suggested revisions within thirty (30) days from the date of Grantee's receipt of Grantor's disapproval, and the same time schedule as mentioned above shall be repeated until the Development Plan is approved;

(g) Grantor reserves unto itself, its successors and assigns, a perpetual easement over, under, and on the Property for the installation, maintenance, repair and placement of any existing access areas, utilities or stormwater drainage, if and only if such access areas or utilities serve adjacent property at the time this deed is executed and delivered to Grantee, together with a non-exclusive right of ingress and egress for activities associated with Grantor's use of said easement area; and

(h) All such covenants, conditions, restrictions and approval rights shall remain in effect for a period of fifty (50) years from the recording of this Deed. The aforesaid covenants, conditions, restrictions and approval rights shall run with and bind the Property, and shall bind Grantee or an affiliated entity, or its successors or assigns, and shall inure to the benefit of and be enforceable by Grantor, or an affiliated entity, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent violations of such covenants, conditions, restrictions and approval rights and/or to recover damages for such violations, including without limitation damages incurred by Grantor, or an affiliated entity, concerning

No representations or warranties of any kind have been made by Grantor or anyone on its behalf to the Grantee as to the condition of the Property described herein or any improvements thereon erected, if any, and it is understood and agreed by the parties that the Property is sold **"AS IS, WHERE IS - WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."**

Grantor makes no warranty or representation regarding the condition of the Property, including, without limitation, environmental or ecological condition, it being understood that the Grantee is taking the Property **"AS IS, WHERE IS - WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."**

Without limiting the foregoing, Grantee hereby covenants and agrees that Grantee accepts the property **"AS IS"** and **"WHERE IS"**, and with all faults and defects, latent or otherwise, and that Grantor is making no representations or warranties, either expressed or implied, by operation of law or otherwise, with respect to the quality, physical conditions or value of the Property, the Property's habitability, suitability, merchantability or fitness for a particular purpose, the presence or absence of conditions on the Property that could give rise to a claim for personal injury, property or natural resource damages; the presence of hazardous or toxic substances, materials or wastes, substances, contaminants or pollutants on, under or about the Property, or the income or expenses from or of the Property.

AND SAID GRANTOR does hereby warrant the title to said Property, and will defend the same against the lawful claims of all persons claiming by, through and under Grantor, but none other, subject to the easements, encumbrances, restrictions, and other matters of record, the conditions and restrictions as stated herein, and subject to real property taxes for the year of 2007, and thereafter.

[Signature page follows]

COPY

Exhibit "A"

Tract "1", being a tract of land as shown on Plat of Lennard Square, as recorded in Plat Book 43, Pages 34 and 34A, being a replat of a portion of Lots 5, 6, 7, 8, 9 and 10, Block 3 of St. Lucie Gardens, lying in the South 1/2 of Section 7, Township 37 South, Range 41 East, as recorded in Plat Book 1, Pages 35 and 36, City of Port St. Lucie, St. Lucie County, Florida.

Being previously described as follows:

Commencing at the intersection of the Easterly right-of-way line of U. S. Highway No. 1 (State Road No. 5) and the West line of Section 7, thence South 27 degrees, 49 minutes, 09 seconds East along the said Easterly right-of-way of U.S. Highway No. 1 a distance of 300.12 feet to the point of Beginning; thence continue South 27 degrees, 49 minutes, 09 seconds East along said Easterly right-of-way a distance of 255.34 feet to a point; thence South 72 degrees, 49 minutes, 09 seconds East a distance of 20.18 feet; thence North 62 degrees, 10 minutes, 51 seconds East a distance of 193.83 feet; thence North 27 degrees, 49 minutes, 09 seconds East a distance of 171.83 feet to a point on the arc of a curve concave to the Northwest, having for its elements a radius of 45.00 feet, a central angle of 40 degrees, 24 minutes, 31 seconds, and a radial bearing of North 40 degrees, 23 minutes, 22 seconds West; thence along the arc of said curve a distance of 31.74 feet Westerly to a point of Tangency; thence along said tangent line bearing North 89 degrees, 58 minutes, 30 seconds West a distance of 200.50 feet to the point of beginning.

Together with Access Easement No. 1 as set forth on and granted by the Plat of Lennard Square, according to the plat thereof as recorded in Plat Book 43, Pages 34 and 34A, and as replatted by First Replat Lennard Square, according to the plat thereof, as recorded in Plat Book 53, pages 13 and 14, Port St. Lucie, Florida.

COPY

COPY

FEDERAL RESERVE BOARD

Royal Bank of Canada
Montreal, Canada

Order Approving the Acquisition of a Bank Holding Company

Royal Bank of Canada (“RBC”) and its subsidiary bank holding companies (collectively, “Applicants”), including RBC Centura Banks, Inc. (“RBC Centura”),¹ Raleigh, North Carolina, all financial holding companies within the meaning of the Bank Holding Company Act (“BHC Act”), have requested the Board’s approval under section 3 of the BHC Act² to acquire Alabama National Bancorporation (“ANB”), Birmingham, Alabama, and its ten subsidiary banks.³

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (72 Federal Register 68,163 (2007)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in the BHC Act.

¹ Applicants also include the following companies: Royal Bank Holding, Inc., Toronto, Canada; RBC Holdings (USA), Inc. and RBC USA Holdco Corporation, both of New York, New York; and Prism Financial Corporation, Wilmington, Delaware.

² 12 U.S.C. § 1842.

³ ANB’s largest subsidiary bank, as measured by both assets and deposits, is First American Bank (“ANB Lead Bank”), Birmingham. ANB’s other subsidiary bank in Alabama is Alabama Exchange Bank, Tuskegee. ANB’s subsidiary banks in Florida are Community Bank of Naples, National Association, Naples; CypressCoquina Bank, Ormond Beach; First Gulf Bank, National Association, Pensacola; Florida Choice Bank, Mount Dora; Indian River National Bank, Vero Beach; and Millennium Bank, Gainesville. ANB’s subsidiary banks in Georgia are Georgia State Bank, Mableton, and The Peachtree Bank, Duluth.

RBC, with total consolidated assets equivalent to \$569.8 billion, is the largest depository organization in Canada.⁴ RBC operates branches in New York City and Miami and through RBC Centura controls RBC Centura Bank (“Centura Bank”), Raleigh, which operates in six states.⁵ RBC Centura, with total consolidated assets of \$25.5 billion, is the 53rd largest depository organization in the United States, controlling \$13.6 billion in deposits.⁶ RBC Centura is the sixth largest depository organization in Alabama, controlling deposits of approximately \$1.7 billion. In Florida, RBC Centura is the 35th largest depository organization, controlling deposits of approximately \$1.1 billion, and in Georgia, RBC Centura is the 9th largest depository organization, controlling deposits of approximately \$2.2 billion.

ANB has total consolidated assets of approximately \$7.8 billion, and its subsidiary banks operate in Alabama, Florida, and Georgia. In Alabama, ANB is the sixth largest depository organization, controlling deposits of \$2.8 billion. ANB is the 23rd largest depository organization in Florida, controlling deposits of \$2.1 billion, and is the 18th largest depository organization in Georgia, controlling deposits of \$866.9 million.

On consummation of the proposal, RBC Centura would become the 47th largest depository organization in the United States, with total consolidated assets of approximately \$33.3 billion. RBC Centura would control deposits of

⁴ Canadian asset and ranking data are as of October 31, 2007, and are based on the exchange rate as of that date.

⁵ Centura Bank operates branches in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia.

⁶ Asset data and nationwide deposit ranking data are as of September 30, 2007. Statewide deposit and ranking data are as of June 30, 2007, and reflect merger activity as of that date.

approximately \$19.3 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In Alabama, RBC Centura would become the fifth largest depository organization, controlling deposits of approximately \$4.5 billion, which represent approximately 6 percent of the total amount of deposits of insured depository institutions in the state ("state deposits"). In Florida, RBC Centura would become the 21st largest depository organization, controlling deposits of approximately \$3.3 billion, which represent less than 1 percent of state deposits. In Georgia, RBC Centura would become the eighth largest depository organization, controlling deposits of approximately \$3.1 billion, which represent approximately 1.7 percent of state deposits.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the bank holding company's home state if certain conditions are met. For purposes of the BHC Act, the home state of Applicants is North Carolina,⁷ and ANB is located in Alabama, Florida, and Georgia.⁸

Based on a review of all the facts of record, including relevant state statutes, the Board finds that the conditions for an interstate acquisition

⁷ See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

⁸ For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

enumerated in section 3(d) of the BHC Act are met in this case.⁹ In light of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

The BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a bank acquisition that would substantially lessen competition in any relevant banking market, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by its probable effect in meeting the convenience and needs of the community to be served.¹⁰

Applicants and ANB have subsidiary depository institutions that compete directly in eight banking markets: Decatur Area, Gulf Shores Area, Huntsville Area, and Mobile Area in Alabama; Brevard County, Orlando Area,

⁹ 12 U.S.C. §§ 1842(d). Applicants are adequately capitalized and adequately managed, as defined by applicable law. All of ANB's subsidiary banks have been in existence and operated for the minimum period of time required by applicable state laws. See Ala. Code § 5-13B-6(d) (five years); Fla. Stat. § 658.295(8)(a) (three years); Ga. Code § 7-1-622(b)(1) (three years). On consummation of the proposal, Applicants would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 30 percent of the total amount of deposits of insured depository institutions in each of Alabama, Florida, and Georgia. 12 U.S.C. § 1842(d)(2)(A)-(B). On consummation, Applicants also would be in compliance with the deposit caps under relevant state law in Alabama, Florida, and Georgia, each of which is 30 percent. See 12 U.S.C. § 1842(d)(2)(C); Ala. Code § 5-13B-6(b); Fla. Stat. § 658.295(8)(b); Ga. Code § 7-1-622(b)(2). All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

¹⁰ 12 U.S.C. § 1842(c)(1).

and Sarasota Area in Florida; and Atlanta Area in Georgia. The Board has reviewed carefully the competitive effects of the proposal in each of these banking markets in light of all the facts of record and public comment received on the proposal. In particular, the Board has considered the number of competitors that would remain in the banking markets, the relative shares of total deposits in depository institutions (“market deposits”) controlled by Applicants and ANB in the markets,¹¹ the concentration levels of market deposits and the increases in those levels as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”),¹² and other characteristics of the markets.

¹¹ Deposit and market share data are based on data reported by insured depository institutions in the summary of deposits data as of June 30, 2007, adjusted to reflect mergers and acquisitions through January 11, 2008, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. *See, e.g., Midwest Financial Group*, 75 Federal Reserve Bulletin 386 (1989); *National City Corporation*, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. *See, e.g., First Hawaiian, Inc.*, 77 Federal Reserve Bulletin 52 (1991).

¹² Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice (“DOJ”) has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The DOJ has stated that the higher-than-normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial entities.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in all eight banking markets.¹³ On consummation of the proposal, six of the banking markets would remain moderately concentrated. The Mobile Area banking market would remain highly concentrated, and the Decatur Area would become highly concentrated, as measured by the HHI, but the changes in the HHIs in each market would be less than 200 points. Moreover, numerous competitors would remain in each of the eight banking markets.

The DOJ has conducted a detailed review of the potential competitive effects of the proposal and has advised the Board that consummation of the transaction would not likely have a significant adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in any of the eight banking markets where Applicants and ANB compete directly or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has carefully considered these factors in light of all the facts of record,

¹³ Those banking markets and the effects of the proposal on the concentration of banking resources therein are described in Appendix A.

including confidential supervisory and examination information from the various U.S. banking supervisors of the institutions involved, publicly reported and other financial information, information provided by Applicants, and public comment received on the proposal.¹⁴ The Board also has consulted with the Office of the Superintendent of Financial Institutions (“OSFI”), the agency with primary responsibility for the supervision and regulation of Canadian banks, including RBC.

In evaluating the financial resources in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary insured depository institutions and significant nonbanking operations. In this evaluation, the Board considers a variety of measures, including capital adequacy, asset quality, and earnings performance. In assessing financial resources, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization at consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

¹⁴ A commenter expressed concern about RBC Centura’s relationships with unaffiliated pawn shops and other nontraditional providers of financial services. As a general matter, the activities of the consumer finance businesses identified by the commenter are permissible, and the businesses are licensed by the states where they operate. RBC Centura has stated that it conducts substantial due diligence reviews of its customers who provide alternative financial services, including reviews of anti-money laundering and Bank Secrecy Act compliance, and that it does not play any role in the lending practices, credit review processes, or other business practices of those firms.

The Board has carefully considered the financial resources of the organizations involved in the proposal. The capital levels of RBC would continue to exceed the minimum levels that would be required under the Basel Capital Accord and are considered to be equivalent to the capital levels that would be required of a U.S. banking organization. In addition, RBC Centura, ANB, and the subsidiary depository institutions involved in the proposal are well capitalized and would remain so on consummation. Based on its review of the record, the Board finds that Applicants have sufficient financial resources to effect the proposal. The proposed transaction is structured as a partial share exchange and partial cash purchase of shares. Applicants will use existing resources to fund the cash purchase of shares.

The Board also has considered the managerial resources of the organizations involved.¹⁵ The Board has reviewed the examination records of Applicants, ANB, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant banking supervisory agencies, including the Office of Comptroller of the Currency and the Federal Deposit Insurance Corporation, with the organizations and their records of compliance with applicable banking law and with anti-money laundering laws. Applicants, ANB, and their subsidiary depository institutions are considered to be well managed. The Board also has

¹⁵ The commenter expressed concern about pending litigation in Canada involving RBC and a Canadian asset management firm that is in receivership. The Board notes that the litigation will be resolved by a Canadian court with jurisdiction to adjudicate such matters.

considered Applicants' plans for implementing the proposal, including the proposed management after consummation.¹⁶

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors.¹⁷

Section 3 of the BHC Act also provides that the Board may not approve an application involving a foreign bank unless the bank is subject to comprehensive supervision or regulation on a consolidated basis by the

¹⁶ The commenter expressed concern that Applicants have exercised control over ANB before the Board's consideration of this application. Commenter cited ANB's notice to some employees that their jobs would be eliminated as a result of the proposed transaction. Applicants have stated that they have taken no action with respect to ANB employees, and the record does not support a finding that Applicants have prematurely attempted to control ANB for purposes of the BHC Act.

¹⁷ Section 3 of the BHC Act also requires the Board to determine that an applicant has provided adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act. 12 U.S.C. § 1842(c)(3)(A). The Board has reviewed the restrictions on disclosure in the relevant jurisdictions in which RBC operates and has communicated with relevant government authorities concerning access to information. In addition, RBC previously has committed that, to the extent not prohibited by applicable law, it will make available to the Board such information on the operations of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the International Banking Act, and other applicable federal laws. RBC also previously has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable its affiliates to make such information available to the Board. In light of these commitments, the Board has concluded that RBC has provided adequate assurances of access to any appropriate information the Board may request.

appropriate authorities in the bank's home country.¹⁸ As noted, the OSFI is the primary supervisor of Canadian banks, including RBC. The Board previously has determined that RBC is subject to comprehensive supervision on a consolidated basis by its home country supervisor.¹⁹ Based on this finding and all the facts of record, the Board has concluded that RBC continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effects of the proposal on the convenience and needs of the communities to be served and to take into account the records of the relevant insured depository institutions under the Community Reinvestment Act ("CRA").²⁰ The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account a relevant

¹⁸ 12 U.S.C. § 1843(c)(3)(B). As provided in Regulation Y, the Board determines whether a foreign bank is subject to consolidated home country supervision under the standards set forth in Regulation K. See 12 CFR 225.13(a)(4). Regulation K provides that a foreign bank will be considered subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the bank, including its relationship with any affiliates, to assess the bank's overall financial condition and its compliance with laws and regulations. See 12 CFR 211.24(c)(1).

¹⁹ See Royal Bank of Canada, 89 Federal Reserve Bulletin 139 (2003); Royal Bank of Canada, 83 Federal Reserve Bulletin 443 (1997).

²⁰ 12 U.S.C. § 2901 et seq.; 12 U.S.C. § 1842(c)(2).

depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, in evaluating bank expansionary proposals.²¹

The Board has considered carefully all the facts of record, including evaluations of the CRA performance records of the subsidiary banks of Applicants and ANB, data reported by RBC Centura and ANB under the Home Mortgage Disclosure Act ("HMDA"),²² other information provided by Applicants, confidential supervisory information, and a public comment received on the proposal. The commenter alleged, based on HMDA data reported in 2006, that RBC Centura had engaged in disparate treatment of minority individuals in home mortgage lending.

A. CRA Performance Evaluations

As provided in the CRA, the Board has reviewed the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.²³

Centura Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Richmond, as of

²¹ 12 U.S.C. § 2903.

²² 12 U.S.C. § 2801 *et seq.*

²³ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

April 17, 2006.²⁴ ANB Lead Bank received a “satisfactory” CRA performance rating by the Federal Reserve Bank of Atlanta, as of May 1, 2006.²⁵ ANB’s other subsidiary banks received ratings of “satisfactory” or “outstanding” at their most recent CRA performance evaluations.²⁶ Applicants have represented that RBC Centura will implement its current CRA program at ANB’s subsidiary banks.

B. HMDA and Fair Lending Record

The Board has carefully considered the fair lending records and HMDA data of RBC Centura in light of the public comment received on the proposal. The commenter alleged, based on HMDA data, that RBC Centura had denied the home mortgage loan applications of African American and Latino borrowers more frequently than those of nonminority applicants. The Board has focused its analysis on the 2006 HMDA data reported by Centura Bank.²⁷

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in certain local areas, they provide an insufficient basis by themselves on which to conclude whether or not RBC Centura is excluding or imposing higher costs on any group on a prohibited basis. The Board recognizes

²⁴ The evaluation period was January 1, 2004, through December 31, 2005, for the lending test and March 24, 2004, through December 31, 2005, for the service and investment tests.

²⁵ The evaluation period was January 1, 2004, through December 31, 2005, for the lending test and January 1, 2004, through May 1, 2006, for the service and investment tests.

²⁶ Appendix B lists the most recent CRA performance ratings of these banks.

²⁷ The Board reviewed HMDA data for Centura Bank’s assessment areas nationwide and in the Charlotte-Gastonia-Concord and the Atlanta-Sandy Springs-Marietta Metropolitan Statistical Areas.

that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.²⁸ HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless concerned when HMDA data for an institution indicate disparities in lending and believes that all lending institutions are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race or ethnicity. Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance with fair lending laws by RBC Centura and its subsidiaries. The Board also has consulted with the Federal Reserve Bank of Richmond about the fair-lending compliance record of Centura Bank.

The record of this application, including confidential supervisory information, indicates that RBC Centura has taken steps to ensure compliance with fair lending and other consumer protection laws. RBC Centura's compliance program includes statistical data analysis and file reviews to ensure that mortgage

²⁸ The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

lending and pricing decisions are not made on a prohibited basis. In addition, RBC Centura provides annual on-line fair lending training to all its employees, supplemented by ongoing in-person fair lending training for mortgage-lending employees. Applicants have stated that RBC Centura will review the fair lending programs of ANB's subsidiary banks and the combined organization after consummation of the proposal, and they will adopt any of ANB's fair lending programs determined to be more effective than RBC Centura's programs.

The Board also has considered the HMDA data in light of other information, including the overall performance records of the subsidiary banks of Applicants and ANB under the CRA. These established efforts and records of performance demonstrate that the institutions are active in helping to meet the credit needs of their entire communities.

C. Conclusion on Convenience and Needs and CRA Performance

The Board has considered carefully all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Applicants, comment received on the proposal, and confidential supervisory information. Applicants state that the proposal will result in increased credit availability and access to a broader range of financial services for customers of RBC Centura and ANB. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant insured depository institutions are consistent with approval of the proposal.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved.²⁹ In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Applicants with the conditions in this order and all the commitments made to the Board in connection with the proposal. For purposes of this transaction, these commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

²⁹ The commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e), 262.25(d). The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the commenter had ample opportunity to submit its views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

The proposal may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond, acting pursuant to delegated authority.

By order of the Board of Governors,³⁰ effective February 5, 2008.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

³⁰ Voting for this action: Chairman Bernanke, Vice Chairman Kohn, and Governors Warsh, Kroszner, and Mishkin.

Appendix A

Banking Markets Consistent with Board Precedent and DOJ Guidelines						
Deposit data are as of June 30, 2007, and include mergers as of January 11, 2008. Deposit amounts are unweighted. Rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent.						
Alabama Banking Markets						
Decatur Area – Morgan County and the portion of the city of Decatur in Limestone County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	6	\$52.1 mil.	3.5	1913	+ 137	11
<i>ANB</i>	2	\$288.8 mil.	19.5			
<i>RBC Centura Post-Consummation</i>	2	\$340.9 mil.	23.0			
Gulf Shores Area – the towns of Elberta, Foley, Gulf Shores, Lillian, Magnolia Springs, and Orange Beach in Baldwin County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	14	0 ¹	0	1704	0	12
<i>ANB</i>	3	\$273.4 mil.	19.3			
<i>RBC Centura Post-Consummation</i>	3	\$273.4 mil.	19.3			

¹ Centura Bank opened a de novo branch in the Gulf Shores Area market on September 9, 2007.

Alabama Banking Markets						
Huntsville Area – Madison County and Limestone County, excluding the town of Ardmore and the city of Decatur.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	7	\$186.5 mil.	3.4	1738	+ 56	21
ANB	5	\$464.9 mil.	8.4			
<i>RBC Centura Post-Consummation</i>	3	\$651.4 mil.	11.8			
Mobile Area – Mobile County and the towns of Bay Minette, Daphne, Fairhope, Loxley, Point Clear, Robertsdale, Silverhill, Spanish Fort, and Summerdale in Baldwin County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	3	\$953.1 mil.	13.1	2040	+ 68	19
ANB	8	\$186.7 mil.	2.6			
<i>RBC Centura Post-Consummation</i>	2	\$1.1 bil.	15.7			
Florida Banking Markets						
Brevard – Brevard County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	14	\$72 mil.	1.0	1461	+ 4	18
ANB	12	\$148.0 mil.	2.1			
<i>RBC Centura Post-Consummation</i>	10	\$220.0 mil.	3.2			

Florida Banking Markets						
Orlando Area – Orange, Osceola, and Seminole Counties; the western half of Volusia County; and the towns of Clermont and Groveland in Lake County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	23	\$156.4 mil.	0.5	1159	+ 2	48
<i>ANB</i>	12	\$476.0 mil.	1.7			
<i>RBC Centura Post-Consummation</i>	11	\$632.4 mil.	2.2			
Sarasota – Manatee and Sarasota Counties, excluding that portion of Sarasota County that is both east of the Myakka River and south of Interstate 75 (currently the towns of Northport and Port Charlotte); the peninsular portion of Charlotte County west of the Myakka River (currently the towns of Englewood, Englewood Beach, New Point Comfort, Grove City, Cape Haze, Rotonda, Rotonda West, and Placida); and Gasparilla Island (the town of Boca Grande) in Lee County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	10	\$392.1 mil.	2.4	1141	+ 1	49
<i>ANB</i>	44	\$12.2 mil.	0.1			
<i>RBC Centura Post-Consummation</i>	9	\$404.3 mil.	2.5			
Georgia Banking Market						
Atlanta – Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, and Walton Counties; Hall County, excluding the town of Clermont; the towns of Auburn and Winder in Barrow County; and the town of Luthersville in Meriwether County.						
	Rank	Amount of Deposits	Market Deposit Shares (%)	Resulting HHI	Change in HHI	Remaining Number of Competitors
<i>RBC Centura Pre-Consummation</i>	8	\$1.9 bil.	1.7	1460	+ 3	135
<i>ANB</i>	13	\$857.9 mil.	0.8			
<i>RBC Centura Post-Consummation</i>	7	\$2.7 bil.	2.5			

Appendix B

CRA Performance Evaluations of ANB's Subsidiary Banks

Subsidiary Bank	CRA Rating	Date	Supervisor
Alabama Exchange Bank, Tuskegee, Alabama	Outstanding	November 2006	Federal Reserve
Community Bank of Naples, National Association, Naples, Florida	Satisfactory	August 2007	FDIC
CypressCoquina Bank, Ormond Beach, Florida	Satisfactory	May 2006	FDIC
First Gulf Bank, National Association, Pensacola, Florida	Satisfactory	January 2004	OCC
Florida Choice Bank, Mount Dora, Florida	Satisfactory	March 2007	FDIC
Georgia State Bank, Mableton, Georgia	Satisfactory	March 2004	FDIC
Indian River National Bank, Vero Beach, Florida	Satisfactory	December 2003	OCC
Millennium Bank, Gainesville, Florida	Satisfactory	May 2007	FDIC
The Peachtree Bank, Duluth, Georgia	Satisfactory	October 2004	Federal Reserve

FEDERAL RESERVE SYSTEM

The PNC Financial Services Group, Inc.
Pittsburgh, Pennsylvania

PNC Bancorp, Inc.
Wilmington, Delaware

Order Approving Acquisition of a State Member Bank

The PNC Financial Services Group, Inc., a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), and its wholly owned subsidiary, PNC Bancorp, Inc., a bank holding company within the meaning of the BHC Act (jointly, “PNC”), have requested the Board’s approval under section 3 of the BHC Act¹ to acquire RBC Bank (USA), Raleigh, North Carolina (“RBC Bank”), a state member bank, from RBC USA Holdco Corporation, a wholly owned subsidiary of the Royal Bank of Canada.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (76 Federal Register 50480 (2011)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

PNC, with total consolidated assets of approximately \$263 billion as of June 30, 2011, is the seventh largest depository organization in the United States, controlling deposits of approximately \$180 billion, which represent approximately 2 percent of the total amount of deposits of insured depository institutions in the United States. PNC Bank operates in sixteen states and the District of Columbia³

¹ 12 U.S.C. § 1842.

² After the acquisition, PNC plans to merge RBC Bank with and into its only subsidiary depository institution, PNC Bank, National Association, Pittsburgh (“PNC Bank”).

³ PNC Bank currently operates branches in Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania,

and engages in numerous nonbanking activities that are permissible under the BHC Act.⁴ PNC Bank is the largest insured depository organization in Pennsylvania, controlling deposits of approximately \$62 billion, which represent 21 percent of the total amount of deposits of insured depository institutions in the state. PNC Bank is the 14th largest insured depository organization in Florida, controlling deposits of approximately \$5 billion, and the 82nd largest insured depository institution in Georgia, controlling deposits of \$237 million, which represent 1.2 percent and less than 1 percent of the total amount of deposits of insured depository institutions in those states, respectively.

RBC Bank, with total consolidated assets of approximately \$27 billion as of June 30, 2011, operates in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. In North Carolina, RBC Bank is the fifth largest depository institution, controlling deposits in the state of approximately \$10 billion. RBC Bank is the 20th largest insured depository institution in Florida and the eighth largest insured depository institution in Georgia, controlling deposits of approximately \$3 billion in each of those states.

On consummation of the proposal, PNC Bank would become the fifth largest depository organization in the United States, with consolidated deposits of \$201 billion, representing approximately 2.2 percent of the total amount of deposits of insured depository institutions in the United States. In Pennsylvania, PNC Bank would remain the largest depository organization, controlling deposits of approximately \$62 billion (approximately 21 percent of deposits of insured depository institutions in the state). In Florida, PNC Bank would become the ninth largest depository organization,

Virginia, West Virginia, Wisconsin, and the District of Columbia. PNC Bank also has limited-purpose branches in Toronto, Canada, and Nassau, The Bahamas.

⁴ PNC has a 21 percent financial interest in Blackrock, Inc. ("Blackrock"), New York, New York, and holds almost 24 percent of the voting shares of Blackrock. In addition, PNC selects two members of Blackrock's seventeen-member board of directors, and PNC and Blackrock have a number of business relationships. For BHC Act purposes, PNC is considered to control Blackrock. For accounting and financial reporting purposes, PNC treats its interest in Blackrock as an equity investment. Blackrock is a publicly traded company and one of the largest asset managers in the world, with approximately \$3.4 trillion in assets under management.

controlling deposits of approximately \$8 billion (approximately 2 percent of deposits of insured depository institutions in the state), and in Georgia, PNC Bank would become the eighth largest depository organization, controlling deposits of approximately \$3.1 billion (approximately 1.7 percent of deposits of insured depository institutions in the state).

Interstate and Deposit Cap Analyses

Section 3 of the BHC Act imposes certain requirements on interstate transactions. Section 3(d) generally provides that the Board may approve an application by a bank holding company (“BHC”) that is well capitalized and well managed⁵ to acquire a bank located in a state other than the home state of the BHC without regard to whether the transaction is prohibited under state law. However, this section further provides that the Board may not approve an application that would permit an out-of-state BHC to acquire a bank in a host state that has not been in existence for the lesser of the state statutory minimum period of time or five years.⁶ In addition, the Board may not approve an application by a BHC to acquire an insured depository institution if the home state of such insured depository institution is a state other than the home state of the BHC, and the applicant controls or would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States (“nationwide deposit cap”).⁷

For purposes of the BHC Act, the home state of PNC is Pennsylvania and RBC Bank’s home state is North Carolina.⁸ PNC is well capitalized and well managed

⁵ The standard was changed from adequately capitalized and adequately managed to well capitalized and well managed by section 607(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(d)(1)(A).

⁶ 12 U.S.C. § 1842(d)(i)(B).

⁷ 12 U.S.C. § 1842(d)(2)(A). For a detailed discussion of the nationwide deposit cap, see Bank of America Corporation/LaSalle, 93 Federal Reserve Bulletin 109, 109-110 (2007); Bank of America Corporation/Fleet, 90 Federal Reserve Bulletin 217, 219-220 (2004).

⁸ A bank holding company’s home state is the state in which the total deposits of all subsidiary banks of the company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C). For purposes of section 3(d) of the BHC Act, the

under applicable law. North Carolina law has no minimum age requirement,⁹ and RBC Bank has been in existence for more than five years.

Based on the latest available data reported by all insured depository institutions in the United States, the total amount of deposits of insured depository institutions is \$8.9 trillion. On consummation of the proposed transaction, PNC would control approximately 2.2 percent of the total amount of deposits in insured depository institutions in the United States. Accordingly, in light of all the facts of record, the Board is not required to deny the proposal under section 3(d) of the BHC Act.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition in any relevant banking market, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.¹⁰

The Board has considered the competitive effects of the proposal in light of all the facts of record. PNC Bank and RBC Bank compete directly in ten local markets: Brevard, Daytona Beach, Fort Pierce, Indian River, Miami-Fort Lauderdale, Naples, Orlando, Tampa Bay, and West Palm Beach, all in Florida; and Atlanta, Georgia. The Board has considered the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets controlled by PNC Bank and RBC Bank, the concentration levels of market deposits and the increases in those levels as measured by the Herfindahl-Hirschman Index (“HHI”)

Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. 12 U.S.C. §§ 1841(o)(4)-(7), 1842(d)(1)(A), and 1842(d)(2)(B).

⁹ See N.C.G.S. § 53-224.19 (permitting interstate merger acquisitions but not imposing an age requirement).

¹⁰ 12 U.S.C. § 1842(c)(1).

under the Department of Justice Bank Merger Competitive Review guidelines (“DOJ Guidelines”),¹¹ and other characteristics of the markets.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in each of the ten banking markets. On consummation of the proposal, eight markets would remain moderately concentrated and two markets would remain unconcentrated, as measured by the HHI. Numerous competitors would remain in all ten markets. The change in the HHI’s measure of concentration would be less than 100 points in nine of the ten markets. In Indian River, the change in the HHI’s measure of concentration would be 184 points, and the post-merger HHI would be 1477, which is within the limits of the DOJ Guidelines.

The DOJ has conducted a detailed review of the potential competitive effects of the proposal and has advised the Board that consummation of the transaction would not likely have a significantly adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board has concluded that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in any relevant banking market and that competitive considerations are consistent with approval.

¹¹ Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice (“DOJ”) has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The DOJ has stated that the higher-than-normal HHI thresholds for screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial entities. Although the DOJ and the Federal Trade Commission issued revised Horizontal Merger Guidelines in 2010, the DOJ has confirmed that its guidelines for bank mergers or acquisitions, which were issued in 1995, were not changed. Press Release, Department of Justice (August 19, 2010), available at www.justice.gov/opa/pr/2010/August/10-at-938.html.

Other Section 3(c) Considerations

Section 3(c) of the BHC Act requires the Board to take into consideration a number of other factors in acting on bank acquisition applications. These are: the financial and managerial resources (including consideration of the competence, experience, and integrity of officers, directors, and principal shareholders) and future prospects of the company and banks concerned; effectiveness of the company in combatting money laundering; the convenience and needs of the community to be served; and the extent to which the proposal would result in greater or more concentrated risks to the stability of the United States banking or financial system. The Board has considered all these factors and, as described below, has determined that all considerations are consistent with approval of the application.¹² The review was conducted in light of all the facts of record, including supervisory and examination information from various U.S. banking supervisors of the institutions involved, publicly reported and other financial information, and information provided by PNC.

A. Financial, Managerial, and Other Supervisory Considerations

In evaluating financial factors in expansionary proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. The Board evaluates the financial condition of the pro forma organization, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding on the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and the proposed integration of the

¹² Because each factor under section 3(c) was independently consistent with approval in this case, there was no need for the Board to consider weighing one factor against others. The Board notes that section 4, which deals with acquisitions of nonbanks including insured depository institutions that are not banks, specifically requires a weighing of public benefits against adverse effects.

operations of the institutions. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important.

The Board has considered the financial factors of the proposal. PNC and PNC Bank are well capitalized and would remain so on consummation of the proposed acquisition. The proposed transaction is structured as a stock purchase of all the shares of RBC Bank (and the related credit card portfolio of RBC's Georgia bank affiliate), for a total payment of \$3.6 billion. The purchase would be financed with the proceeds from \$1.0 billion of noncumulative preferred stock, \$1.25 billion of five-year subordinated debt that was issued in the third quarter of 2011, and other available cash resources. Although capital ratios would decline upon consummation, PNC and PNC Bank would have capital ratios well above the established regulatory minimums. In addition, PNC has been performing capital stress testing since the second quarter of 2009. Under its most recent testing, PNC Bank projected that it would be able to maintain a baseline tier 1 common equity ratio at a level acceptable to the Board. Asset quality and earnings prospects are consistent with approval, and PNC appears to have adequate resources to absorb the costs of the proposal and the proposed integration of the institutions' operations. Based on its review of the record, the Board finds that PNC has sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved. The Board has reviewed the examination records of PNC, PNC Bank, and RBC Bank, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking law, including anti-money-laundering laws.

PNC and PNC Bank are each considered to be well managed. PNC has a demonstrated record of successfully integrating large organizations into its operations and risk-management systems following acquisitions, including its integrations of Riggs National Corporation in 2005, Mercantile Bancshares Corporation in 2007, Sterling Financial Corporation in 2008, and National City Corporation, an institution

of roughly equal size to PNC at the time of its acquisition, in 2009. PNC is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. PNC would implement its risk-management policies, procedures, and controls at the combined organization that are acceptable from a supervisory perspective. In addition, PNC's management has the experience and resources to ensure that the combined organization operates in a safe and sound manner, and PNC is proposing to integrate RBC Bank's existing management and personnel in a manner that augments PNC's management.

PNC's integration record, managerial and operational resources, and plans for operating the combined institutions after consummation provide a reasonable basis to conclude that managerial factors are consistent with approval. Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved are consistent with approval.

B. Convenience and Needs Considerations

Under section 3, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").¹³ The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation,¹⁴ and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals.¹⁵

The Board has considered the convenience and needs factor and the CRA performance records of the relevant insured depository institutions. As provided in the

¹³ 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 et seq.

¹⁴ 12 U.S.C. § 2901(b).

¹⁵ 12 U.S.C. § 2903.

CRA, the Board evaluates the record of performance of an institution in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions.¹⁶ An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor. PNC Bank received an "outstanding" rating at its most recent CRA performance evaluation by the Office of the Comptroller of the Currency, as of September 30, 2009, and RBC Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve, as of June 21, 2010. Moreover, the facts of record do not reflect a subsequent decline in the CRA performance of the two institutions since those examinations. The Board has also received 121 comments on the proposal, all in support of the transaction, including 104 comments from community groups.

The Board has considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by PNC, and confidential supervisory information. PNC represents that the proposal will benefit the convenience and needs of the communities currently served by RBC Bank in several ways. PNC intends to offer its treasury management, capital markets, and other corporate services to RBC Bank's corporate clients and to enhance RBC Bank's consumer products with PNC home mortgage loans, including loans designed for the credit needs of LMI borrowers. Consummation of the proposal would provide access to a larger ATM network to current customers of PNC Bank and RBC Bank. PNC also plans to extend its community development activities to the communities currently served by RBC Bank, offering deposit and lending products designed to address the banking needs of LMI families and communities, community-based organizations, and small businesses. PNC intends to deploy teams from its community development banking group into areas currently served by RBC Bank to ensure the promotion of community development

¹⁶ See Interagency Questions and Answers Regarding Community Reinvestment, 75 Federal Register 11642 at 11665 (2010).

lending, investment, and outreach. These efforts would include monetary grants and volunteer services supporting school readiness and Head Start programs in communities served by PNC Bank; a dedicated team focusing on small business lending in certain LMI areas; and strategic investments through a community development subsidiary and specialized New Market Tax Credit and Low-Income-Housing Tax Credit programs designed to foster small business job growth and affordable-housing development. The proposal would result in increased geographic diversification that could reduce the combined company's exposure to regional economic downturns and that could increase administrative efficiency, thereby providing indirect benefits to customers. Based on all the facts of record, the Board has concluded that considerations relating to the convenience and needs of the communities to be served and the CRA performance records of the relevant depository institutions are consistent with approval.

C. Financial Stability

The Dodd-Frank Act amended section 3 of the BHC Act to require the Board also to consider “the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system.”¹⁷ In analyzing this factor, the Board has considered whether the proposal would result in a material increase in risks to financial stability due to the increase in size of the combining firms, a reduction in the availability of substitute providers for the services offered by the combining firms, the extent of

¹⁷ Section 604(d) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 1842(c)(7). Other provisions of the Dodd-Frank Act impose a similar requirement that the Board consider or weigh the risks to financial stability posed by a merger, acquisition, or expansionary proposal by a financial institution. See sections 163, 173, and 604(e) and (f) of the Dodd-Frank Act. A special process was established by the Dodd-Frank Act for requiring the divestiture of a business by a financial firm. Section 121 of the act provides that the Board shall require a financial firm to divest or terminate a business only if the Board determines that the company “poses a grave threat to the financial stability of the United States,” the Financial Stability Oversight Council (“FSOC”) by a vote of two-thirds of its members approves the requirement to divest or terminate the business, and the Board has determined that actions other than divestiture or termination of the business are inadequate to mitigate the grave threat. 12 U.S.C. § 5331.

interconnectedness among the combining firms and the rest of the financial system, the extent to which the combining firms contribute to the complexity of the financial system, and the extent of cross-border activities of the combining firms.¹⁸ The Board has also considered the relative degree of difficulty of resolving the combined firm.¹⁹ The Board has assessed these factors individually and in combination and has based its assessment on quantitative analysis,²⁰ using publicly available data, data compiled through the

¹⁸ These categories correspond to those used by the Basel Committee to assess the systemic importance of globally active banking organizations. See Basel Committee of Banking Supervision, “Global systemically important banks: assessment methodology and the additional loss absorbency requirement. Rules text.” November 2011. These categories are not exhaustive, and additional categories could inform the Board’s decision. The Board expects to issue a notice of proposed rulemaking implementing the provisions of the Dodd-Frank Act that require the Board to take into account a proposal’s impact on the risks to the stability of the U.S. financial or banking system. The public would have an opportunity through the rulemaking process to provide the Board with views on how it should take the financial stability factor into account when reviewing applications and notices.

¹⁹ Blackrock is considered to be a subsidiary of PNC for purposes of the BHC Act. However, PNC owns only a minority of the shares of Blackrock, and neither GAAP nor public reporting rules require Blackrock to be consolidated into PNC’s balance sheet. PNC’s financial operations are not integrated with those of Blackrock, and other operational ties between the two are relatively limited. Based on these and other facts of record, the Board has treated Blackrock as an equity investment of PNC for purposes of the financial stability analysis. This analysis might change if facts regarding their relationship change; for example, if PNC were to increase its stake in Blackrock or establish more significant operational linkages with Blackrock. PNC would require Board approval under section 163(b) of the Dodd-Frank Act to increase its investment in Blackrock, which would require a review of whether the transaction would result in “greater or more concentrated risks to the stability of the United States banking or financial system.” Section 163(b) of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 5363.

²⁰ Much of the data considered by the Board represent measures of an institution’s activities relative to the U.S. financial system (“USFS”). For this purpose, the USFS comprises all U.S. financial institutions (“USFIs”) used in computing total liabilities for purposes of calculating the limitation on liabilities of a financial company required under section 622 of the Dodd-Frank Act and includes U.S.-based bank and nonbank affiliates of foreign banking organizations. In connection with its supervision of nonbank financial institutions that the FSOC determines could pose a threat to the financial stability of the United States, the Board may require financial and other

supervisory process, and data obtained through information requests to the institutions involved in the proposal, as well as on qualitative judgments.²¹

Size. An organization's size is one important indicator of the risk the organization poses to the financial system. Congress has imposed a specific 10 percent nationwide deposit limit and a 10 percent nationwide liabilities limit on potential combinations by banking organizations.²² Other provisions of the Dodd-Frank Act impose special or enhanced supervisory requirements on large banking organizations.²³

The Board has considered measures of PNC's size relative to the USFS, including PNC's consolidated assets, its total leverage ratio exposures,²⁴ and its U.S. deposits. As a result of the proposed acquisition, PNC would become the

reporting by these institutions, which would increase the pool of available data for financial stability analyses. See sections 113 and 151 of the Dodd-Frank Act, codified at 12 U.S.C. §§ 5323 and 5341, respectively.

²¹ In developing the financial stability analysis used in this proposal, the Board has taken into consideration related Board initiatives on financial stability to the extent appropriate, such as proposals to set capital surcharges for global systemically important financial institutions and to identify nonbank systemically important financial institutions. The Board recognizes that a merger analysis is unique in financial stability reviews because it focuses on preventing the formation of an institution that poses significant risks to financial stability rather than regulating an existing institution that poses similar risks. Accordingly, the stability framework for a merger analysis may overlap with, but not be identical to, the framework associated with the other stability initiatives.

²² 12 U.S.C. §§ 1842(d) and 1852. See also section 623 of the Dodd-Frank Act, codified at 12 U.S.C. § 1852.

²³ Section 165 of the Dodd-Frank Act, codified at 12 U.S.C. § 5365, requires the Board to subject all bank holding companies with total consolidated assets of \$50 billion or more and any nonbank financial company designated by the FSOC for supervision by the Board to enhanced prudential standards, in order to prevent or mitigate risks to the financial stability of the United States that could arise from the material distress or failure of these firms.

²⁴ Total leverage exposure is calculated in a manner roughly equivalent to the methodology set out in "Basel III: A global regulatory framework for more resilient banks and banking systems" and takes into account both on- and off-balance-sheet assets.

19th largest USFI based on assets, with \$291 billion or 1.1 percent of USFS assets. PNC would become the 16th largest USFI based on leverage exposures, with \$420 billion or 1.2 percent of USFS leverage exposures. PNC also would become the fifth largest USFI based on U.S. deposits, with \$201 billion or 2.2 percent of total U.S. deposits.

These measures suggest that, although the combined organization would be large on an absolute basis, PNC would have only a modest share of USFS assets, leverage exposures, and U.S. deposits. PNC also is significantly smaller than the largest USFIs. Three USFIs each would have between six and eight times the assets of PNC, and seven other institutions would have at least twice the assets of PNC. PNC's share of and rank in U.S. deposits, 2.2 percent and fifth, respectively, are higher than the other measures of its size because PNC is primarily engaged in commercial banking activities, which is not the case with many of the largest USFIs. PNC's deposit share would nonetheless be relatively modest. There are three USFIs that would each have between 3.5 and 5 times the U.S. deposits of PNC and three institutions that would each have between 0.9 and 1.5 times the U.S. deposits of PNC. PNC's overall national market share for deposits of approximately 2.2 percent and its market share of national liabilities of approximately 1.4 percent are both well below the 10 percent limits set by Congress.²⁵

Both PNC and RBC Bank engage in a relatively traditional set of commercial banking activities, and the increased size of the combined organization would not increase the difficulty of resolving the organization's activities. Accordingly, although the proposed transactions would increase PNC's overall size, and its ranking to the fifth largest bank in the United States based on U.S. deposits, its larger size alone would not result in materially greater or more concentrated risks to the stability of the United States banking or financial system.

Measures of a financial institution's size on a pro forma basis could either understate or overstate risks to financial stability posed by the financial institution. For

²⁵ In this context, liabilities have been computed under the limitations on consolidated liabilities of section 622 of the Dodd-Frank Act, codified at 12 U.S.C. § 1852.

instance, a relatively small institution that operates in a critical market for which there is no substitute provider or that could transmit its financial distress to other financial organizations through multiple channels, could present material risks to the stability of the USFS. Conversely, an institution that is relatively large could engage in activities that are not complex for which there are several substitute providers in the event of failure or severe financial distress and, accordingly, may present only limited risks to U.S. financial stability.

PNC's size does not rise to the level when the Board would be inclined, solely on that basis, to restrict its ability to make a \$27 billion acquisition. Accordingly, the Board has considered other factors, both individually and in combination with size, to evaluate the likely impact of this transaction on financial stability.

Substitutability. The Board has examined whether PNC or RBC Bank engages in any activities that are critical to the functioning of the USFS and whether substitute providers would remain that could quickly step in to perform such activities should the combined entity suddenly be unable to do so as a result of severe financial distress.

PNC and RBC Bank both provide business and consumer credit. RBC Bank has a de minimis market share (less than 1 percent) in a variety of business- and consumer credit-related activities that the Board has considered. Although PNC has a larger share in some of these markets, numerous other USFIs provide business and consumer credit, and the transaction does not create, solidify, or maintain the position of a single entity that is likely to pose an unacceptable risk to U.S. financial stability. The Board also considered a number of critical activities that are performed either by PNC or RBC Bank (but not by both) and in no case would the combined entity provide a service for which many substitute providers could not be readily identified.

Interconnectedness. The Board has examined data to determine whether financial distress experienced by the merged entity could create financial instability by being transmitted to other institutions or markets within the U.S. financial or banking system. In particular, the Board has considered whether the combined

entity's relationships to other market participants and the similarity of product offerings could transmit material financial distress experienced by the combined entity to its counterparties directly, transmit such distress indirectly through a fire sale of assets or erosion of asset prices, or trigger contagion resulting in the withdrawal of liquidity from other financial institutions.²⁶

PNC does not currently engage, and as a result of this transaction would not engage in the future, in business activities or participate in markets to a degree that in the event of financial distress of the combined entity, would pose material risk to other institutions. The pro forma merged entity's expected use of wholesale funding is lower relative to all USFIs than is its corresponding share of consolidated assets. On a pro forma basis, the transaction also would not concentrate exposure to any single counterparty that was among the top three counterparties of either PNC or RBC Bank before the merger. The record does not show other evidence that the pro forma combined entity would be so interconnected with markets and institutions in the U.S. financial or banking system as to make it likely that the combined entity would transmit financial distress to other market participants or to the market generally in a manner or to a degree that would cause material risks to the U.S. financial or banking system. Although distress in a large institution such as PNC could clearly have an effect on other market participants, that effect would not appear to be so adverse as to have a material impact on market stability.

Complexity. The Board has considered the extent to which the pro forma entity contributes to the overall complexity of the USFS. The pro forma entity's share of complex assets in the aggregate USFS appears to be largely consistent with its corresponding share of consolidated assets. The Board also has considered whether the complexity of the pro forma entity's assets and liabilities would hinder its timely and efficient resolution in the event it were to experience financial distress. PNC and

²⁶ The source of the contagion could include a belief on the part of market participants that a particular institution is related to the merged entity because it has a similar business model or risk profile, or because the institution is thought to have counterparty exposures to the merged entity.

RBC Bank do not engage in complex activities, such as serving as a core clearing and settlement organization for critical financial markets, that might complicate the resolution process by increasing the complexity, costs, or timeframes involved in a resolution. Under these circumstances, resolving the pro forma organization would not appear to involve a level of cost, time, or difficulty such that it would cause a material increase in risks to the stability of the USFS.²⁷

Cross-border activity. The Board has examined the cross-border activities of PNC and RBC Bank to determine whether the cross-border presence of the combined organization would create difficulties in coordinating a resolution, thereby materially increasing the risks to U.S. financial stability. PNC has several indirect subsidiaries outside the United States, and PNC Bank operates branches in Toronto, Canada, and Nassau, The Bahamas. RBC Bank's cross-border activities are limited to a branch in Georgetown, Cayman Islands.²⁸ The combined organization is not expected to engage in any additional activities outside the United States as a result of the proposed transaction. In addition, the combined organization would not engage in critical services whose disruption would impact the macroeconomic condition of the United States by disrupting trade or resulting in increased difficulties for the resolution process. Based on this review, the Board considers that the cross-border presence of the consolidated organization would not result in a material increase in risks to the stability of the U.S. financial or banking system.

Financial stability factors in combination. The Board has assessed the foregoing factors in combination to determine whether interactions among them might mitigate or exacerbate risks suggested by looking at them individually. The Board also

²⁷ As noted previously, the Dodd-Frank Act requires bank holding companies like PNC that hold more than \$50 billion in total consolidated assets to submit resolution plans, which are intended to assist an institution in managing its risks and plan for a rapid and orderly resolution in the event of material distress or failure and to enable the regulators to understand an institution's complexity. See 12 U.S.C. § 5365.

²⁸ On consummation of the merger of PNC Bank and RBC Bank, PNC intends to transfer all assets and liabilities of the Cayman Branch to PNC Bank's branch in Nassau, The Bahamas, and to close the Cayman Branch.

has considered whether the proposed transaction would provide any stability benefits and whether enhanced prudential standards applicable to the combined organization would tend to offset any potential risks.²⁹

For instance, concerns regarding PNC's size would be greater if PNC were also highly interconnected to many different segments of the USFS through its counterparty relationships, participation in short-term funding and capital markets, or other channels. The Board's level of concern about its size would also be greater if the structure and activities of PNC were sufficiently complex that, if PNC were to fail, it would be difficult to resolve its failure quickly without causing significant disruptions to other financial institutions or markets.

As discussed above, the combined entity would not be highly interconnected. Furthermore, the organizational structure and operational regime of the combined organization would be centered on a commercial banking business, and the resolution process would be handled in a predictable manner by the Federal Deposit Insurance Corporation. The Board has also considered other measures that are suggestive of the degree of difficulty with which PNC could be resolved in the event of a failure. These measures suggest that PNC would be significantly more straightforward to resolve than large universal banks or large investment banks.

Based on these and all the other facts of record, the Board has concluded that the proposal would not materially increase risks to the stability of the U.S. financial or banking system. Accordingly, the Board has determined that considerations relating to financial stability are consistent with approval.

D. Conclusion on Section 3(c) Factors

As described above, the Board has considered the financial and managerial resources and future prospects of the companies and banks concerned; effectiveness of the companies in combatting money laundering; the convenience and needs of the community to be served; and the extent to which the proposal would result in greater or more

²⁹ Section 165 of the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376, codified at 12 U.S.C. § 5365.

concentrated risks to the stability of the United States banking or financial system. Based on all the facts of record, including those described above, the Board has determined that all of the factors are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board approved the proposal effective December 19, 2011.³⁰ In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by PNC, ~~PNC Bancorp, and PNC Bank~~ with all the commitments made to and relied on by the Board in connection with the application and on receipt of all other regulatory approvals. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The proposal may not be consummated before the fifteenth calendar day after December 19, 2011, or later than three months thereafter, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority.

~~December 23, 2011~~

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

³⁰ Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke, Tarullo, and Raskin.

