

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



**ZONING COMMISSION VARIANCE  
STAFF REPORT  
9/2/2010**

<b>APPLICATION NO.</b>	<b>CODE SECTION</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>VARIANCE</b>
ZV-2010- 01431	3.B.15. Table 3.B.15. Westgate Community Redevelopment Area Overlay (WCRAO) – Neighborhood Residential (NRM) Sub Area Property Development Regulations (PDRs)	Maximum of 36 feet in height	51.08 feet in height	an increase building height by 15.08 feet
	3.B.15. Table 3.B.15. WCRAO NRM Sub- area PDRs	Maximum of 3 stories	4 stories	an increase in the number of stories by one (1) story.
SITUS ADDRESS:	1766 Donnell Rd West Palm Beach 33409 1560 Quail Dr West Palm Beach 33409			
AGENT NAME & ADDRESS:	Justin Gilbert Westgate Plaza Apartments, Ltd. Landmark Companies 1666 Kennedy Cswy North Bay Village FL 33141 (305) 538-9552 ext. 111			
OWNER NAME & ADDRESS:	Faith Cathedral Worship Center Inc. 2620 Westgate Ave West Palm Beach FL 33409			
PCN:	00-42-43-25-00-000-1440 and 00-42-43-25-00-000-1441			
ZONING DISTRICT:	Residential Multifamily (RM)			
BCC DISTRICT:	02			
PROJECT MANAGER:	Carol Glasser, Site Planner II			
LEGAL AD:	<b>ZV-2010-01431</b> <b>Title:</b> Resolution approving A Type II Standalone Variance application of Faith Cathedral Worship Center Inc by Landmark Companies, Westgate Plaza Apartments, Agent. <b>Request:</b> to allow an increase in building height and the number of stories. <b>General Location:</b> South side of Westgate Avenue, approximately 200 feet west of Quail Drive <b>(WESTGATE PLAZA APARTMENTS) (2007-00233)</b>			
LAND USE:	High Residential, 18 units per	S/T/R: 25-43-42		

	acre (HR-18)		
CONTROL #:	2007-00233		
LOT AREA:	2.65 acres +/-		
LOT DIMENSIONS:	Approximately 312 feet wide and 377 feet in length		
CONFORMITY OF LOT:	Conforming	CONFORMITY OF ELEMENT:	N/A
BUILDING PERMIT #:	N/A	NOTICE OF VIOLATION:	None
CONSTRUCTION STATUS:	Unbuilt		
APPLICANT REQUEST:	to allow an increase in building height and the number of stories.		

### STAFF SUMMARY

This application precedes application DRO-2010-1432 requesting Development Review Officer (DRO) approval of a Final Site Plan for the development of 80 multifamily dwelling units. The Preliminary Site Plan indicates 120 parking spaces, 1 ingress-only access point from Westgate Ave. and 1 ingress/egress point from Quail Dr.

### TYPE II ZONING VARIANCE REQUEST

Proposed are Type II Standalone Variances for the Westgate Plaza Apartments. This application requests a variance from Article 3 Table 3.B.15.F, Westgate Community Redevelopment Area Overlay (WCRAO) Sub-area Property Development Regulations (PDRs). The applicant is requesting a variance to allow the building to exceed the maximum height of 3 stories and 36 feet in height in the Neighborhood Residential - Medium Density (NRM) Sub-area. A variance of 1 story and 15.08 feet is requested to allow a building 4 stories and 51.08 feet in height.

### GENERAL LOCATION, PREVIOUS APPROVALS AND EXISTING CONDITIONS

The 2.65-acre site has no prior approvals. The site consists of 2 parcels and is located on the south side of Westgate Avenue, approximately 200 feet west of Quail Dr. A single-family residence exists at the southeast corner of the site, which will be demolished. The site has a significant quantity of multiple species of native mature canopy trees, palms, and understory. A revised tabular tree list for all existing native trees and palms is required prior to DRO approval of the Final Site Plan.

### COMPATIBILITY WITH SURROUNDING LAND USES

#### NORTH

FLU: Commercial High with an underlying 8 units per acres (CH/8)  
 Zoning District: RM  
 Supporting: Two triplexes

#### SOUTH

FLU: HR-18  
 Zoning District: RM  
 Supporting: Multifamily, Quail Woods, Control No. 85-86

#### EAST

FLU: HR-18  
 Zoning District: RM  
 Supporting: Daycare Center, Opportunity Inc., Control No. 01-39

#### WEST

FLU: Commercial High (CH)  
 Zoning District: Commercial General (CG)  
 Supporting: Vacant. Approved for office/warehouse, Westgate Commerce Park, Control No. 2003-96

WEST  
FLU: Commercial High with Cross Hatching (CHX)  
Zoning District: CG  
Supporting: Drainage area, Cross County Mall, Control 77-133

To mitigate for the height variance and in accordance with ULDC Article 7.A.1.B Landscape Design Principles – Enhancing Architecture, staff is recommending Variance condition 4. Landscaping should be in scale with on-site and adjacent buildings. Plant material shall be installed at an appropriate size and allowed to accomplish the goal of compatibility and help relate the building to the surrounding landscape. The site has significant existing mature canopy trees and palms. Variance condition 4 will require the applicant to incorporate the existing vegetation into the landscape plan to the greatest extent possible.

The building is situated at the front of the site with the parking area to the rear. The properties to the north, east, and west are permitted a maximum height of 10 stories and 120 feet. Subject to the recommended conditions of approval, grant of the variance to allow an increase in building height and the number of stories will not cause any significant incompatibility issues.

### **ULDC REQUIREMENTS**

A building in the NRM Sub-area may not exceed a maximum of 3 stores and 36 feet in height per Table 3.B.15.F – WCRAO Sub-area PDRs. The maximum height and number of floors is also illustrated in Figure 3.B.15.F – WCRAO Sub-area Building Configurations and Lot Placements.

### **FINDINGS OF FACT**

The Westgate/Belvedere Homes Community Redevelopment Agency (CRA) was created in May of 1989 by the Palm Beach County Board of County Commissioners (BCC) through the authority of Chapter 163, Part III, of the Florida Statutes. A CRA serves in a quasi-independent capacity to promote social and economic development in a predefined redevelopment area.

The WCRAO is established with the purpose and intent of encouraging development and redevelopment of the Westgate/Belvedere Homes area through regulatory incentives; arresting deterioration of property values; preserving and protecting existing, viable affordable housing; providing opportunity for the future development of affordable housing; implementing the 2004 Westgate/Belvedere Homes Community Redevelopment Plan (WCRA Plan); providing for mixed use development; and providing for increased residential densities and commercial intensities, without amendment to the Plan.

The WCRA Plan proposes to use smart growth and form based code principles that incorporates urban design and mixed use development to achieve infill, residential and commercial development. The NRM sub-area is intended to encourage multi-family dwelling units. A Multi-family use is permitted in the NRM Sub area per Table 3.B.15.E – WCRAO Sub-area Use Regulations subject to the use regulations of the zoning district. The subject site is in the RM Zoning District, which corresponds to the site's HR-18 FLU designation per Table 3.C.1.A.

The front build to line is 15 feet along the Westgate Avenue frontage. The build to line may be adjusted by the DRO to accommodate requirements such as an increase in buffer width due to utility easements. The DRO may adjust the build to line to allow for the minimum 20-foot depth of the public plaza given the curvilinear shape of the front property line. The Preliminary Site Plan will be revised to address DRO comments prior to approval of the Final Site Plan and may include adjustment of the building footprint by several feet to meet ULDC requirements for the Build to Line on Westgate Avenue, Public Plaza, and/or the preservation of existing mature trees on the site.

The applicant is proposing residential uses on all 4 floors as allowed by Table 3.B.15.E – WCRAO Sub-area Uses Permitted by Floor.

The applicant has obtained the required WCRA recommendation for the proposed development. The recommendation dated June 15, 2010 is attached as Exhibit F.

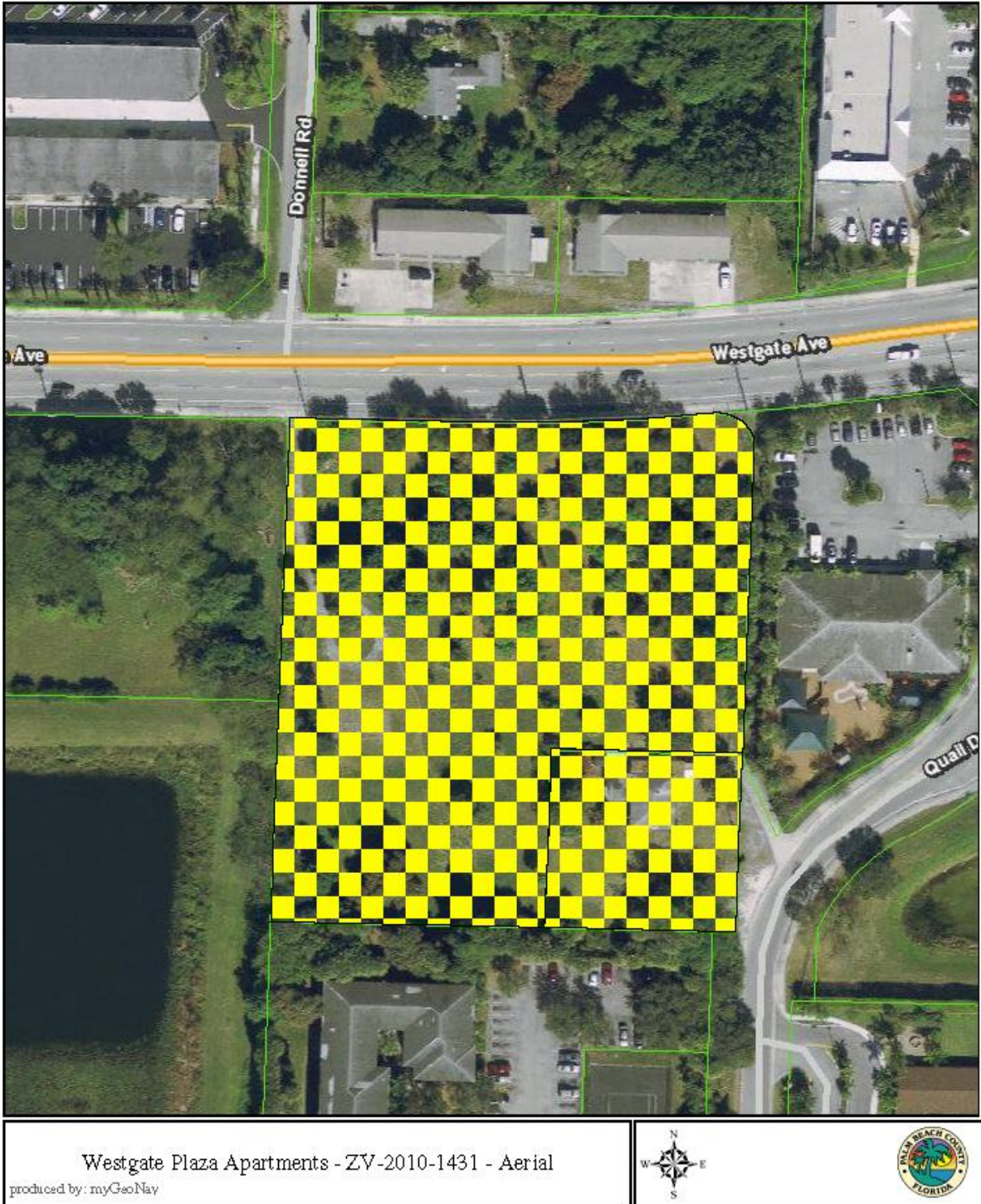


Figure 1 Aerial

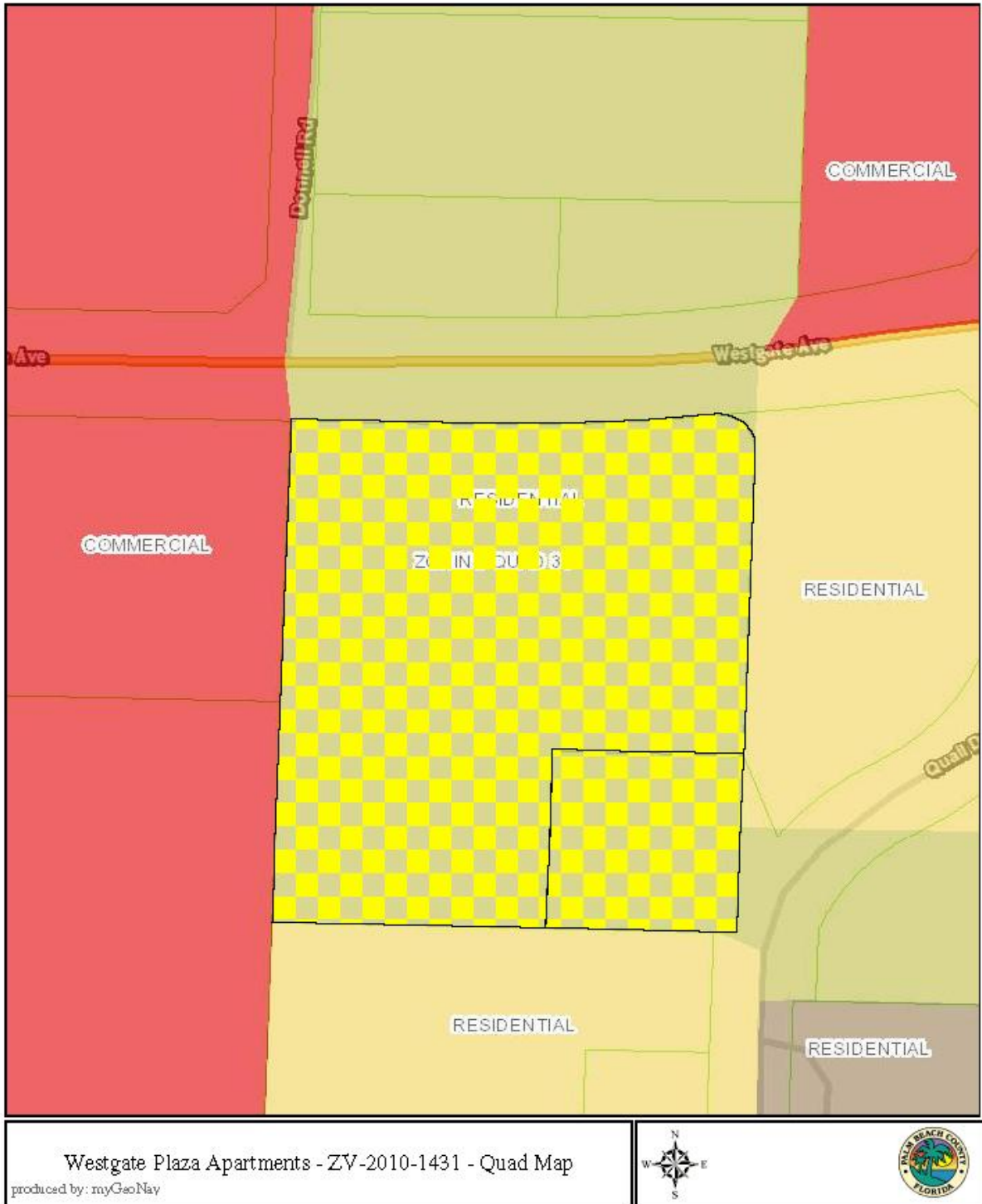


Figure 2 Zoning Quad Map

Designed by	G.J.	
Drawn by		
Checked by		
Approved by		
Issue for Planning Board	7/26/2010	
Issue for Permit Application		
Issue for Construction		
Revisions		
#	DATE	COMMENTS
1	7/26/2010	SUBMITTAL

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**WESTGATE PLAZA**  
 PALM BEACH COUNTY, FLORIDA CORP.  
 LANDMARK DEVELOPMENT CORP.

**HUMPHREYS & PARTNERS**  
 ARCHITECTS, L.P.  
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SHEET CONTENTS  
 SHEET NO.  
 1 OF 10  
 #2010124

**SITE DATA:**  
 CONTROL # \_\_\_\_\_  
 TIER \_\_\_\_\_ URBAN/SUBURBAN  
 OVERLAY \_\_\_\_\_ NRM-WESTGATE CRA  
 PROJECT NAME \_\_\_\_\_ WESTGATE PLAZA  
 PROPOSED USE \_\_\_\_\_ MULTI-FAMILY  
 FUTURE LAND USE \_\_\_\_\_ HR-18  
 ZONING DISTRICT \_\_\_\_\_ RM  
 SECTION \_\_\_\_\_ 25  
 TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_ 42  
 PROP CNTRL # \_\_\_\_\_ 00-42-43-25-00-000-1440,1441  
 CONCURRENCY APPROVAL \_\_\_\_\_ 80 DU  
 MULTI-FAMILY

**CONCURRENCY IS APPROVED FOR THE ABOVE USES AND AMOUNTS SHOWN ON THIS PLAN**  
 TAZ \_\_\_\_\_ NA  
 BCC APPY. \_\_\_\_\_ 209  
 TOTAL GROSS AC. \_\_\_\_\_ 2.65 AC.  
 TOTAL UNITS \_\_\_\_\_ 80 DU  
 DENSITY \_\_\_\_\_ 30.2 DU/AC.  
 TOTAL GROSS FLOOR AREA \_\_\_\_\_ 95,662 SF.  
 FAR \_\_\_\_\_ 0.83  
 BUILDING COVERAGE \_\_\_\_\_ 20.7%  
 BUILDING HEIGHT \_\_\_\_\_ 51'-11" MAX.  
 NUMBER OF STORIES \_\_\_\_\_ 4  
 PARKING PROVIDED \_\_\_\_\_ 120  
 LOADING (12' X 18.5') \_\_\_\_\_ NA  
 IMPERVIOUS AREA \_\_\_\_\_ 86%  
 OPENLANDSCAPE AREA \_\_\_\_\_ 34%  
 DETENTION AREA \_\_\_\_\_ 0.04 AC.  
 RECREATION AREA \_\_\_\_\_ 0.18 AC.  
 TRAFFIC COUNT \_\_\_\_\_ 560 TRIPS PER DAY

**PROPERTY DEVELOPMENT REGULATIONS**

ZONING DISTRICT	MINIMUM LOT DIMENSIONS	DENSITY	FAR	BLOCK COV.
PROPOSED	2.65 AC	182	37%	0.8

FRONT SETBACK	REAR SETBACK	MINIMUM FRONT YARD SETBACK	MINIMUM SIDE YARD SETBACK
15'	10'	10'	5'

**TABULATIONS: APARTMENT UNITS**

UNIT DESIGN.	UNIT TYPE	AREA (SQ. FT.)	PERCENT	TOTAL NET AC.	AVERAGE (NET AC.)	UNIT COUNT
A1	1 BED	741	46.0%	286.076	1.460	36
A2	2 BED	760	5.0%	3,540	50.0%	4
B1	2 BED	906	32.5%	26,896	2.460	29
B2	2 BED	1135	14.1%	16,890	50.0%	20
TOTALS		90	100%	31,502	894	120

**TABULATIONS: PARKING REQUIRED**

UNIT DESIGN.	UNIT TYPE	PARKING REQ.	UNIT COUNT	PARKING COUNT
A1	1 BED	1 SPACE/UNIT	36	36
A2	2 BED	1 SPACE/UNIT	4	4
B1	2 BED	1.5 SPACES/UNIT	29	43
B2	2 BED	1.5 SPACES/UNIT	20	30
GUEST		1 PER 4 UNITS	80	20
TOTALS			120	120

**ARCHITECTURAL SITE PLAN**  
 SCALE: 1" = 30'-0"  
 0' 30' 60' 120'

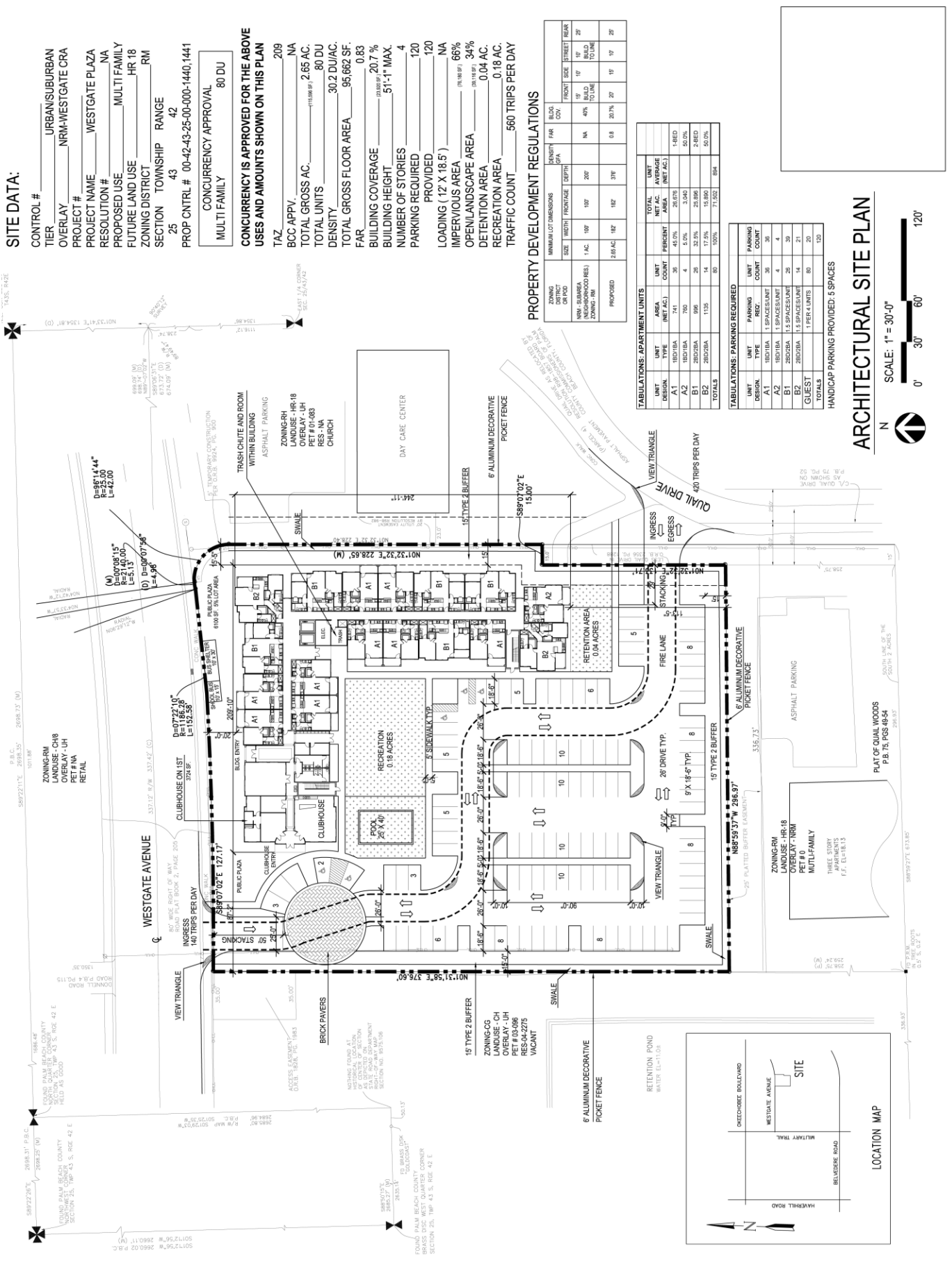


Figure 3 Preliminary Site Plan dated July 26, 2010 for DRO-2010-1432

Designed by: G.J.  
 Drawn by:  
 Architect of Record: 6/7/2010  
 Date Plotted:  
 Name of Project: Westgate Plaza  
 Name of Permit Applicant:  
 Name for Comments:  
 Revision:  
 # DATE COMMENTS

NOTED: No Mechanical & Electrical  
 Particulars, Architects, L.P. All  
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 BLDG ELEV.  
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 #2010124



WEST ELEVATION

SCALE: 1/8"=1'-0"  
 0 10 20 40



SOUTH ELEVATION

SCALE: 1/8"=1'-0"  
 0 10 20 40

Figure 4 Preliminary Elevations dated June 16, 2010, Page 1 of 2 subject to review and approval via application DRO-2010-1432

Designed by: G.J.  
 Drawn by:  
 Architect of Record: 6/7/2010  
 Date Printed:  
 Date of Project Meeting:  
 Issues for Permit Application:  
 Name for Construction:  
 Revision:  
 # DATE COMMENTS

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**SHEET CONTENTS:**  
 BLDG ELEV.  
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NORTH ELEVATION - WESTGATE BLVD.

SCALE: 1/8"=1'-0"  
 0 10' 20' 40'



EAST ELEVATION

SCALE: 1/8"=1'-0"  
 0 10' 20' 40'

Figure 5 Preliminary Elevations dated June 16, 2010, page 2 of 2 subject to review and approval of application DRO-2010-1432





## STAFF RECOMMENDATIONS

Staff recommends approval of the variance requests to allow an increase in building height and the number of stories subject 6 Conditions of Approval as indicated in Exhibit C based upon the following application of the standards enumerated in Article 2.B.3.E of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance.

### ANALYSIS OF ARTICLE 2.B.3.E. TYPE II VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

**YES.** The site is surrounded on the north, east, and west by properties that are designated as Urban Highway (UH) sub-area. Maximum building height in the UH sub-area is 10 stories and 120 feet. The subject site is the only parcel fronting Westgate Ave. that is limited to 3 stories and 36 feet. Most of Westgate Ave. lies within the Neighborhood Commercial (NC) sub-area, which allows for a maximum building height of 6 stories and 72 feet. Except for this parcel, the western portion of the Westgate Ave. corridor allows for 10 stories, the central portion allows for 6 stories, and the eastern portion at Congress Ave. within the Urban General (UG) sub-area allows for up to 20 stories. The unique circumstance is that the NRM sub-area, which only allows up to 3 stories, fronts Westgate Ave.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

**YES.** The special circumstance that the subject site is the only NRM sub-area parcel fronting Westgate Ave., which limits building height to 3 stories versus the 6, 10, or 20 stories otherwise allowed for length of Westgate Ave., is not due to the actions of the applicant.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

**YES.** A variance from ULDC Table 3.B.15.F WCRAO Sub-area PDRs may be granted upon compliance with the criteria and adequate justification. The variance from ULDC Table 3.B.15.F WCRAO Sub-area PDRs is evaluated on a case-by-case basis. The subject site has the special circumstance that this NRM sub-area parcel, which limits building height to 3 stories and 36 feet, fronts Westgate Ave. Except for this parcel, the building height along the length of Westgate Ave is allowed at 6, 10, or 20 stories. Grant of the variance does not confer any special privilege upon the applicant.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**YES.** The vision for the Westgate Ave. corridor would surround the subject parcel with buildings up to 10 stories and 120 feet in height. The 3 surrounding parcels are allowed 7 additional stories and 84 feet in height. The applicant is requesting 1 additional story and 15.08 feet in height to allow for the proposed building design and provision of 80 multifamily units in an affordable housing development. The applicant states that the hardship is caused by the anomaly designation of NRM sub-area on the applicant's parcel of land and the impact of the build to line on this parcel with limited frontage, which will not allow the development of 2 buildings on the site.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

**YES.** The applicant states that the site cannot be designed with more than 1 building due to the width and frontage on Westgate Ave. and the requirement to push the building up to the build to line of 15 feet. To reasonably use the allowed density and provide affordable housing, the applicant states that a variance of 1 floor and 15.08 feet is the minimum necessary to reasonably utilize the parcel.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**YES.** High density multi-family uses are encouraged for the residents to support the commercial uses on the lower floors of the mixed-use Westgate Ave. corridor plan.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

**YES.** Grant of the variance will allow the development of the site consistent with the WCRA Plan and WCRA recommendation included herewith as Exhibit E.

EXHIBIT C

**ZONING COMMISSION CONDITIONS**

VARIANCE-1. The Development Order for this variance shall be tied to the Time Limitations of the Development Order for DRO-2010-1432. (ONGOING: MONITORING - Zoning)

VARIANCE-2. Prior to Development Review Officer (DRO) approval of the Final Site Plan, the approved variance and any associated conditions of approval shall be reflected on the Final Site Plan. (DRO: ZONING-Zoning)

VARIANCE-3. At time of application for a building permit, the property owner shall provide a copy of this variance approval along with copies of the approved site plan to the Building Division. (BUILDING PERMIT:ZONING-Landscape)

VARIANCE-4. To mitigate for this variance to allow an increased building height, the Landscape Plan or Alternative Landscape Plan (ALP) shall demonstrate the preservation and incorporation of the existing mature trees and native vegetation on-site to the greatest extent possible as determined by the Landscape Section. (VEGETATION PERMIT: LANDSCAPING - Landscaping)

VARIANCE-5. In granting this approval, the Zoning Commission relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

VARIANCE-6. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE OF OWNERSHIP INTERESTS - APPLICANT

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Francisco Rojo, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [] Vice President [position—e.g., president, partner, trustee] of Westgate Plaza Apartments GP LLC, Sole General Partner [name and type of entity—e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 1666 Kennedy Causeway, Suite #505  
North Bay Village, FL 33141

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

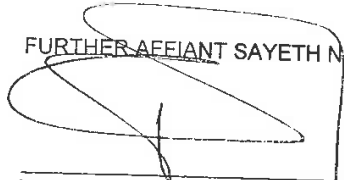
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

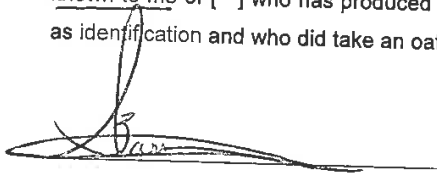
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.


FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
FRANCISCO ROJO, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of JUNE, 2010, by FRANCISCO ROJO,  who is personally known to me or  who has produced \_\_\_\_\_ as identification and who did take an oath.



Notary Public

NOTARY PUBLIC-STATE OF FLORIDA  
 Alejandro J. Barroso  
Commission #DD912574  
Expires: SEP. 19, 2013  
BONDED THRU ATLANTIC BONDING CO., INC.

ALEJANDRO BARROSO  
\_\_\_\_\_  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 9/19/2013

EXHIBIT "A"

PROPERTY

## Westgate Plaza Apartments Legal Description

### Parcel 1 (PCN: 00-42-43-25-00-000-1440)

The east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast one-quarter (SE ¼) of the northeast one-quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County Florida, except however, the north 25 feet and the east 25 feet thereof.

Less the south 2 acres of the east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast one-quarter (SE ¼) of the north east one-quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida; and less the right-of-way of Quail Drive as conveyed to Palm Beach County in that certain deed recorded in official record book 2356, page 1288, of the public records of Palm Beach County, Florida; and also less the south 133.3 feet of the north 416.6 feet of the west 138.0 feet of the east 163.0 feet of the east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast quarter (SE ¼) of the northeast quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida; and further less that portion as conveyed to Palm Beach County in that certain deed recorded in official record book 9291, page 1110, of public records of Palm Beach County, Florida and Parcel 2.

### Parcel 2 (PCN: 00-42-43-25-00-000-1441)

The south 133.3 feet of the north 416.6 feet of the west 138.0 feet of east 163.00 feet of the east half (E ½) of the northwest quarter (NW ¼) of the southeast quarter (SE ¼) of the northeast (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida, less the east 15 feet thereof.





PALM BEACH COUNTY - ZONING DIVISION

FORM # 09

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared  
DONALD JOHNSON, hereinafter referred to as "Affiant,"  
who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the  individual or  President [position—  
e.g., president, partner, trustee] of Faith Cathedra [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 2620 Westgate Ave  
West Palm Beach, FL 33409

3. Attached hereto as Exhibit "B" is a complete listing of the names and  
addresses of every person or entity having a five percent or greater interest in the  
Property. Disclosure does not apply to an individual's or entity's interest in any entity  
registered with the Federal Securities Exchange Commission or registered pursuant to  
Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm  
Beach County policy, and will be relied upon by Palm Beach County in its review of  
application for Comprehensive Plan amendment or Development Order approval  
affecting the Property. Affiant further acknowledges that he or she is authorized to  
execute this Disclosure of Ownership Interests on behalf of any and all individuals or  
entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this  
disclosure to reflect any changes to ownership interests in the Property that may occur  
before the date of final public hearing on the application for Comprehensive Plan

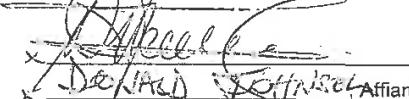
PALM BEACH COUNTY - ZONING DIVISION  
amendment or Development Order approval.

FORM # 09

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

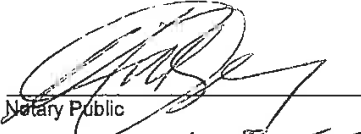
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
DONALD JOHNSON Affiant  
(Print Affiant Name)

The foregoing Instrument was acknowledged before me this 3 day of June, 2010, by DONALD JOHNSON, who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC-STATE OF FLORIDA  
Michael Bartley  
Commission # DD798398  
Expires: JUNE 08, 2012  
BONDED THRU ATLANTIC SURETY CO, INC.

  
\_\_\_\_\_  
Notary Public  
MICHAEL BARTLEY  
(Print Notary Name)  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"****PROPERTY****Westgate Plaza Apartments**  
**Legal Description****Parcel 1 (PCN: 00-42-43-25-00-000-1440)**

The east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast one-quarter (SE ¼) of the northeast one-quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County Florida, except however, the north 25 feet and the east 25 feet thereof.

Less the south 2 acres of the east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast one-quarter (SE ¼) of the north east one-quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida; and less the right-of-way of Quail Drive as conveyed to Palm Beach County in that certain deed recorded in official record book 2356, page 1288, of the public records of Palm Beach County, Florida; and also less the south 133.3 feet of the north 416.6 feet of the west 138.0 feet of the east 163.0 feet of the east one-half (E ½) of the northwest one-quarter (NW ¼) of the southeast quarter (SE ¼) of the northeast quarter (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida; and further less that portion as conveyed to Palm Beach County in that certain deed recorded in official record book 9291, page 1110, of public records of Palm Beach County, Florida and Parcel 2.

**Parcel 2 (PCN: 00-42-43-25-00-000-1441)**

The south 133.3 feet of the north 416.6 feet of the west 138.0 feet of east 163.00 feet of the east half (E ½) of the northwest quarter (NW ¼) of the southeast quarter (SE ¼) of the northeast (NE ¼) of section 25, township 43 south, range 42 east, Palm Beach County, Florida, less the east 15 feet thereof.



## Westgate Plaza Apartments

Variance Justification Statement (Revised)  
July 26, 2010

Westgate Plaza Apartments is an 80 unit residential development located on 2.65 acres on the south side of Westgate Avenue. Currently, the site is zoned RM and has an HR-18 future-land use designation. Additionally, the project site is located in the Westgate Community Redevelopment Area Overlay (WCRAO) with a sub-area designation of Neighborhood Residential (NRM). The project has not yet been approved by the Board of County Commissioners nor is there a development order for this project. A presentation of the proposed Westgate Plaza Apartments was made to the WCRAO Board at their June 14<sup>th</sup>, 2010 meeting where the project was subsequently approved.

This Application involves one (1) variance request which is as follows:

- I. To allow the building to be constructed at 4 stories and 51'-1" high. The NRM sub-area of the WCRAO allows 3 stories and 36' high. The subject site is located on the Westgate Avenue which is considered the high density corridor and taller structures are encouraged. Allowing the increased height will further the goals of the WCRAO by allowing a higher density project be built on the site. The subject property is surrounded to the west, north and east by the UH sub-area which allows 10 stories and 120'. This parcel is the only NRM designated site that fronts onto Westgate Ave. The proposed structure is pushed to the "Build to Line" as required by the WCRAO which makes it difficult to develop a 3 story project and still achieve the allowed density.

### **RESPONSES TO TYPE II VARIANCE SEVEN (7) STANDARDS**

- I. The Special Conditions and Circumstances that are peculiar to the Applicant's parcel of land that are not applicable to other parcels of land are as follows:
  - A. This parcel of land is surrounded to the west, east, and north by properties that are designated as UH sub-area of the WCRAO. This sub-area allows 10 story and 120' high structures. The subject site is designated as NRM is in anomaly that only allows 3 stories and 36' high structures. The neighboring parcels could redevelop their properties as high as ten stories under their current designation. The request makes this structure more compatible with existing zoning of the surrounding areas.
  - B. This parcel of land is located on Westgate Avenue which is considered the high density area of the WCRAO. This corridor is designed to encourage taller buildings with higher density.

- C. The requirement to have all structures on the "Build to Line" is designed to push all of the buildings to the front of a parcel of land that is generally not very deep. Applicant's parcel is fairly deep relative to the frontage on Westgate Ave. A multi-family structure is generally about 60' deep to provide a unit on each side of the building with windows. By requiring the building to be pushed up to Westgate Ave., there can only be one building on the subject site which forces an increase in height. Due to the requirement for the buildings to be pushed up to the 'Build to Line', this Variance is required.
  - D. The combination of the Special Conditions and Circumstances that are peculiar to the Applicant's parcel of land that are not applicable to other parcels of land and the proposed affordable housing development are absolutely unique to the property.
2. The Special Conditions and Circumstances do not result from the actions of the Applicant.
    - A. The Applicant selected the parcels the as they exist today and the delineation of the WCRAO sub-areas had already been determined. This site is unique due to the fact that it is the only NRM parcel with frontage on Westgate Avenue. Parcels surrounding this site are in the UH sub-area which allows 10 stories and 120' high buildings.
    - B. These Special Conditions and Circumstances do not result from the actions of the Applicant.
  3. Granting the Variances will not confer upon Applicant special privileges.
    - A. The Variance requests are not denied by the Comprehensive Plan and will not give the applicant any special privileges. There are neighboring properties to the north, east and west which are allowed 10' stories and 120' of building height. The WCRAO has provisions that are intended to push structures to the front of the parcel and push parking to the rear of the site. The proposed development has taken these goals into consideration and used them in the proposed design.
  4. A Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship.

- A. A literal interpretation and enforcement of the WCRAO regulations and the Code would require a maximum 36' building height, even though the neighboring properties to the north, east and west allows 120'; and because of the affordable housing nature of the proposed community are not allowed and work an unnecessary and undue hardship on the Applicant's land.
  - B. Due to the configuration of the landlocked parcel the site is limited in the amount of frontage that can be developed on Westgate Avenue. Therefore, the site cannot be developed with two structures and the height of the building must be increased.
  - C. The hardship caused by the anomaly designation of NRM on the Applicant's parcel of land and the impact of the build to line, would deprive the Applicant of a reasonable use of the land.
5. The granting of the Variances is the minimum required to make use of the Applicant's land, inasmuch as the request is for reasonable use of the parcel of land.
- A. Due to configuration of the landlocked parcel, the site is limited in the amount of frontage that can be developed on Westgate Avenue. Therefore, the site cannot be developed with two structures and the height of the building must be increased.
6. The Variance requests are compatible and will be consistent with the Comprehensive Plan and the ULDC.
- A. The additional building height will further the goals of the WCRAO by having an urban development scheme with taller, higher density buildings located on Westgate Avenue. The proposed increase in height is compatible with the Comprehensive Plan and the ULDC for an Urban Infill area.
7. Granting of the Variances will not be injurious to the area involved or otherwise detrimental to the Public Welfare.
- A. Neighboring properties have the advantage to utilize a 120' building height, including the parcels adjacent to the subject site. The proposed increase in building height will be nearly half of what these adjacent parcels are allowed.
  - B. The Applicant will be developing a much needed affordable housing development in Central Palm Beach County. Thus an

approval of the Variance request will cause the entire property to be in the conformity with the requirements of the ULDC and the WCRAO than what is currently in place at the property.

#### Conclusion

The proposed development will meet the intent of the WCRAO and the ULDC. The intention of the WCRAO requirements is to promote and create development with building frontages that are close to Westgate Avenue and thus creating a more urban atmosphere. These goals of the WCRAO have been incorporated into the Applicant's proposed development; however, it is necessary to obtain the requested Variance in order to fully achieve the intentions of the WCRAO as well as reasonable use of the land. Without the approval of this Variance, the Applicant's project would seriously suffer and so would the goals of the WCRAO.





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June 15, 2010

Mr. Justin Gilbert  
Landmark Companies  
1666 Kennedy Causeway, Suite 505  
North Bay Village, FL 33141

**RE: Westgate Plaza**  
**PCN: 00-00-42-43-25-00-000-1440 and -1441 (f.k.a. Westgate Station)**

Dear Mr. Gilbert:

Please be advised that this letter is prepared to address the requirement of Article 3.15.D.1 of the Unified Land Development Code, as amended.

At its June 14, 2010 meeting, the CRA Board reviewed the supportive documents and site plan and building elevations by Humphreys & Partners Architects L.P., dated June 7, 2010, for the following requests for the above referenced site:

1. To receive a maximum of 20 multi-family units per acre (33 units) in the NRM Sub-area from the Westgate CRA's Density Bonus Pool subject to Art. 3.B.15.H;
2. To receive the associated 560 traffic trips for the 80 affordable multi-family units from the WCRA's Transportation Concurrency Exception Area (TCEA) pool; and,
3. To allow the following variances:
  - a. Exceed the maximum 36' building height in the NRM Sub-area; and,
  - b. The parking requirement of 2 spaces per unit plus 1 guest space for every four units; and,
  - c. Any additional variances necessary to implement the redevelopment of the site for an 80-unit multifamily residential development.

We have determined that the proposed requests are consistent with the WCRA redevelopment plan approved by the Board of County Commissioners and the CRA's zoning overlay subject to the following conditions:

1. The development shall provide property management and maintenance staff at all times on the property. (ONGOING)
2. The project shall comply with Art. 3.B.15.H.1.c.7), Affordability Ranges, to avoid an over-concentration of low and very low income households in the CRA area. An annual report demonstrating compliance to this condition shall be submitted

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100 Australian Avenue, Suite 410 • West Palm Beach, Florida 33406  
561.233.3633 • Fax 561.233.3658



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to the Monitoring Section with copy to the WCRA shall be required commencing on January 1, 2012. (DATE: MONITORING - WCRA)

3. Building permit for the 80-unit multifamily building shall be issued prior to June 14, 2013. Failure to comply with this condition will result in the reallocation of the 560 trips and 33 density bonus units associated with the 80-unit multifamily affordable housing development of Westgate Plaza back to the Westgate TCEA and Density Bonus pools. The reallocations shall be subject to Art. 2.E (Monitoring) of the ULDC, as amended. (DATE: MONITORING – WCRA)

We appreciate the interest you have in developing in our area. If you need additional assistance, feel free to contact me at (561) 233-3636.

Sincerely,

Thuy Shutt, AIA  
Assistant Director

cc: CRA Board of Commissioners  
David G McGuire, Senior Site Planner, Zoning Director (*via email*)  
Wendy Hernandez, Zoning Manager, Zoning Division (*via email*)  
file