

**PALM BEACH COUNTY  
ENGINEERING AND PUBLIC WORKS DEPARTMENT  
LAND DEVELOPMENT DIVISION**

**ZONING COMMISSION STANDALONE VARIANCE STAFF REPORT**

**Application No.:** SV-2022-00847  
**Application Name:** Westgate Terrace  
**Control No./Name:** 1994-00094  
**Applicant(s):** Westgate Belvedere Homes CRA  
 Danza of Westgate LLC  
**Owner(s):** Belvedere Westgate Homes CRA  
 Danza of Westgate LLC  
**Agent(s):** Arc Development Global, LLC - Aaron M Taylor  
**Telephone No.:** (561) 629-2739  
**Project Manager:** Scott Cantor, Division Director IV

**TITLE:** a Subdivision Variance **REQUEST:** to allow access from the existing 40-foot Right-of-Way (ROW) on 2.00 acres

**APPLICATION SUMMARY:** Petition of Aaron M. Taylor, Arc Development Global, LLC, on behalf of Danza of Westgate, LLC, requesting a variance from the requirement that access shall be by a 50-foot ROW with swales, gutters and sidewalks and to allow access from the existing 40-foot ROW of Nokomis Avenue. The property owners propose to develop a government-funded project consisting of a 4-story mixed-use building with professional office, medical office, and 46 multi-family residential units. The office uses include a future Westgate CRA office and one medical office use.

**SITE DATA:**

Location:	Southeast corner of Westgate Avenue and Seminole Boulevard
Property Control Number(s)	00-43-43-30-03-034-0010 00-43-43-30-03-034-0070 00-43-43-30-03-034-0310 00-43-43-30-03-034-0350 00-43-43-30-03-034-0400 00-43-43-30-03-034-0420 00-43-43-30-03-034-0110
Existing Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Existing Zoning District:	General Commercial District (CG)
Acreage:	2 acres
Tier:	URBAN/SUBURBAN
Overlay District:	Westgate/Belvedere Homes Overlay
Neighborhood Plan:	N/A
CCRT Area:	Westgate
Municipalities within 1 Mile	West Palm Beach
Future Annexation Area	West Palm Beach

**STAFF RECOMMENDATION:** Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C.

**PUBLIC COMMENT SUMMARY:** At the time of publication, staff had received no contact from the public regarding this project.

**PROJECT HISTORY:**

The subject property currently has a Future Land Use designation of Commercial High Density, 8 units per acre (CH) – 8 within the Commercial General (CG) Zoning District. The site is under Unincorporated Palm Beach County jurisdiction and lies within the boundaries of the Westgate Community Revitalization Area (CCRT). The subject property presently has several single-family homes that will be redeveloped.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Commercial High (CH-8)  
Zoning District: General Commercial (CG)  
Supporting: Commercial (Control No. 2016-00102)

**SOUTH:**

FLU Designation: Commercial High (CH-8)  
Zoning District: General Commercial (CG)  
Supporting: Residential (Control No. N/A)

**EAST:**

FLU Designation: Commercial High (CH-8)  
Zoning District: General Commercial (CG)  
Supporting: Residential (Control No. 1991-00052)

**WEST (across Seminole Boulevard):**

FLU Designation: Commercial High (CH-8)  
Zoning District: General Commercial (CG)  
Supporting: Commercial (Control No. 1990-00023, 1994-00094)

**SUBDIVISION VARIANCE SUMMARY**

ULDC Article	Required	Proposed	Variance
11.E.2.A.2 Minimum Legal Access	80-foot ROW with sidewalks, swales and gutters	40-foot ROW with 370 feet of sidewalk, no swales and no gutters	40-ft of ROW, swales and gutters

**FINDINGS:**

Subdivision Variance Standards:

When considering a Development Order application for a Subdivision Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Subdivision Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

Pursuant to the Unified Land Development Code (ULDC), Article 11, Chapter E.2.A.2., each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set forth in Table 11.E.2.A-2, Chart of Minor Streets. Table 11.E.2.A-2 in Article 11 requires this property to have access and frontage to a minimum 80 foot wide ROW. The ROW width of Nokomis Avenue is 40 feet wide, so the applicant is requesting a 40 foot variance. The site is 2.00 acres and located on the south side of Westgate Avenue, east of Seminole Boulevard and north of Nokomis Avenue. This site is currently vacant and the Property Owner plans to seek development approvals to allow the construction of 46 multi-family residential units, 5,600 square feet of professional office and 5,015 square feet of medical office.

Engineering staff is recommending **APPROVAL** of the Subdivision Variance.

The Palm Beach County ULDC Article 2.B.7.E. requires a statement of special reason or basis for the variance demonstrating all seven criteria listed below are satisfied to qualify for this variance:

- a) 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 district.**

**Applicant’s Response:** Yes, The subject Variance request is for an existing 40’ ROW (Nokomis Avenue) located in the Westgate Corridor Overlay. Nokomis Ave existed prior to the current Code requirement in Unified Land Development Code (ULDC) Art. 11.E.2.A-2, of a 80’ wide minimum ROW. Reference Plats, PB: 8, PG: 38 & PB: 8, PG: 38a.

**Staff Response: CORRECT.** The existing road ROW was created by the West Gate Estates plat, which was recorded in Plat Book 8, Page 38 on June 27, 2021. The subdivision ordinance was adopted on February 5, 1973, which was after the creation of the road.

**b) Special circumstances and conditions do not result from the actions of the Applicant.**

**Applicant's Response:** Yes, The proposed Westgate Terrace Mixed-Use project is comprised of seven exiting lots which will be platted into one single legal lot of record to accommodate the proposed project. The proposed project is located within the Westgate Corridor Overlay and is surrounded by Westgate Ave to the North, Seminole Blvd. to the West, and Nokomis Avenue to the South. Both Westgate Blvd and Seminole Blvd meeting the minimum required ROW widths as outlined in ULDC Art.11.E.2.a-2. Nokomis Ave., although existing prior to the current Code requirement of a 80' ROW width, is only 40' wide and does not meet the minimum Code requirement for a Commercial ROW width. The existing 40' ROW is part of older plats (PB: 8, PG: 38 & PB: 8, PG: 38a). Therefore, the existing conditions do not result from actions of the property owner.

**Staff Response: CORRECT.** The existing road ROW was created by the West Gate Estates plat, which was recorded in Plat Book 8, Page 38 on June 27, 2021. The subdivision ordinance was adopted on February 5, 1973, which was after the creation of the road.

**c) 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.**

**Applicant's Response:** Granting the owner's Variance request to allow the existing 40' wide ROW to remain as is and include 370ft of sidewalk along the Nokomis Ave., will confer no special privileges than that which has been provided to all other residents along Nokomis. As requested by the Palm Beach County Land Development Division, at time of construction, a sidewalk will be installed along the North portion of Nokomis on the portion of the ROW which immediately abuts the south property line of the Westgate Terrace project.

**Staff Response: CORRECT.** Granting the variance will 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. This parcel will be developed in a manner consistent with the existing Zoning and Land Use regulations.

**d) Literal interpretation and enforcement of the terms and provisions of the ULDC would deprive the Petitioner of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship.**

**Applicant's Response:** Literal Interpretation of ULDC Art.11.E.2, would cause and undue hardship. Denial of the property owner's variance requests would eliminate the property owner's (Westgate CRA and Danza of Westgate) ability to develop the proposed Mixed-Use project. The project is a government funded project consisting of a 4-story mixed-use building with Professional, Office Medical Office, and 46 Multi-family residential units. The Office Uses include Future Westgate CRA Office and one (1) Medical Office Use. We have been working closely with the Westgate CRA, Palm Beach County Department of Housing and Economic Development, and HUD to plan and development a project that will not only comply with the Land Development Code requirements, but also bring much needed economic stimulus to the Westgate Corridor. As a result of the codification of the Comprehensive Plan and the Unified Land Development Code, the existing 40' ROW (Nokomis Ave) does not comply with the current Code requirements for minimum ROW width of 80'.

**Staff Response: CORRECT.** 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 cause an unnecessary and undue hardship by limiting access to Seminole Boulevard or requiring the applicant to purchase additional ROW along Nokomis Avenue.

**e) Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.**

**Applicant's Response:** Yes, (Refer to Responses to Variance Criteria (A-D)). Nokomis Avenue runs east and west along the south portion of the proposed Westgate Terrace project for nearly a mile.

Along Nokomis there are 6 Blocks of multiple lots varying in Uses and Sizes along the North portion of Nokomis and the South portion of Nokomis. The 40' wide non-conforming ROW width abuts each of the various lots along for the entire length of Nokomis. Therefore, eliminating the ability to Nokomis to be widened to accommodate the minimum Code requirement of 80' wide ROW.

**Staff Response: CORRECT.** Granting this variance is the minimum needed for the reasonable use of the property.

**f) Granting the variance will be consistent with the purposes, goals, objectives, and polices of the Comprehensive Plan and this code.**

**Applicant's Response:** Yes, (Refer to Responses to Variance Criteria A-E).

**Staff Response: CORRECT.** Grant of this variance will allow this property to be developed in a manner consistent with the Comprehensive Plan and the ULDC.

**g) Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

**Applicant's Response:** Yes, Granting the Variance request will cause no adverse effects to the area involved. Approval of the Variance will allow the existing 40' ROW (Nokomis Avenue) to remain as is, with the inclusion of a sidewalk along the north side of Nokomis immediately abutting the south property line of the Westgate Terrace Mixed Use development. There will be no negative impact on the surrounding area.

**Staff Response: CORRECT.** Grant of this variance will not be injurious to the area involved nor detrimental to the public welfare.

**(Remainder of page left intentionally blank)**

CONDITIONS OF APPROVAL

**EXHIBIT C**

**DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

**(Remainder of page left intentionally blank)**

Figure 1 - Land Use Map

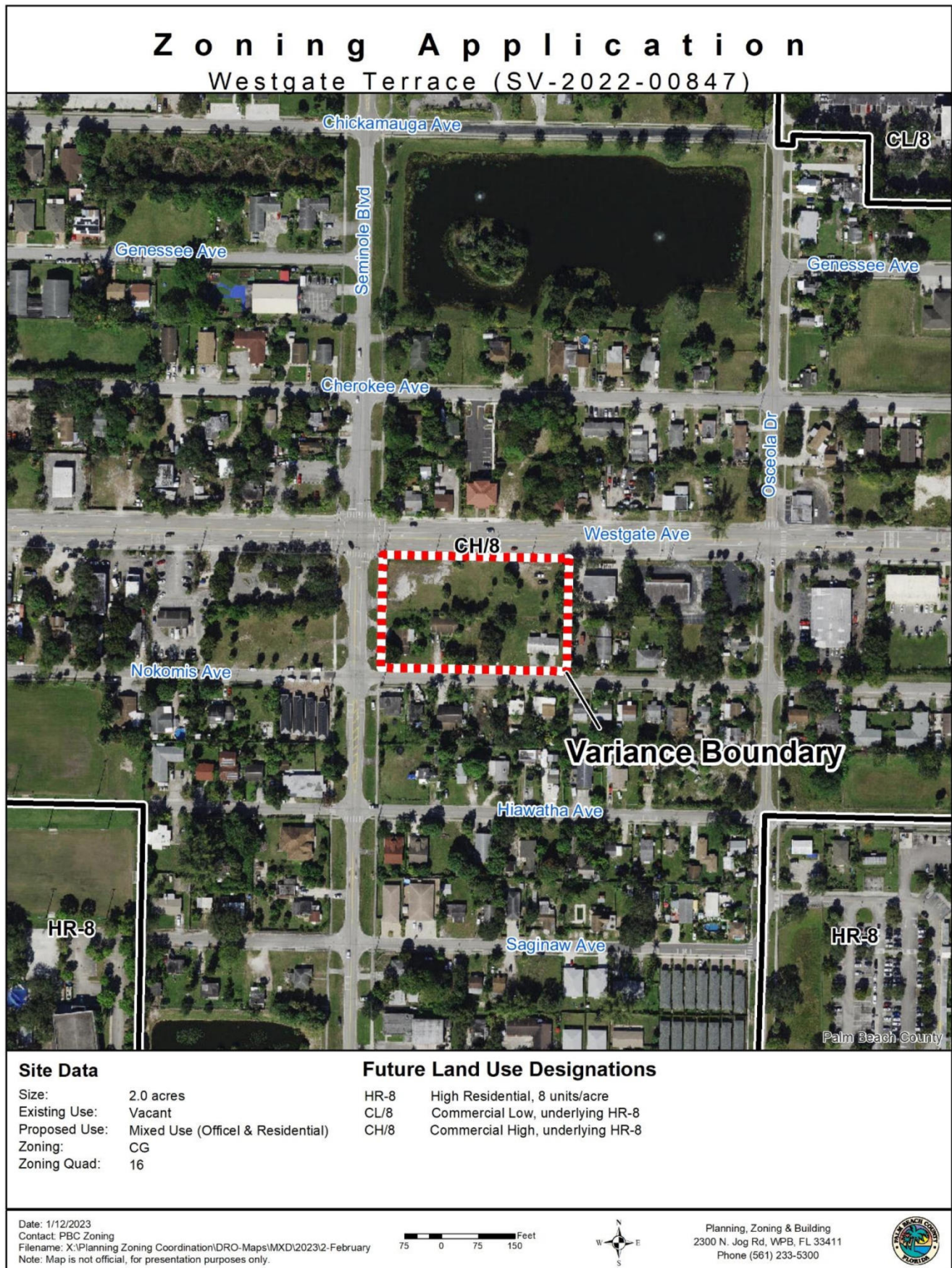


Figure 2 - Zoning Map

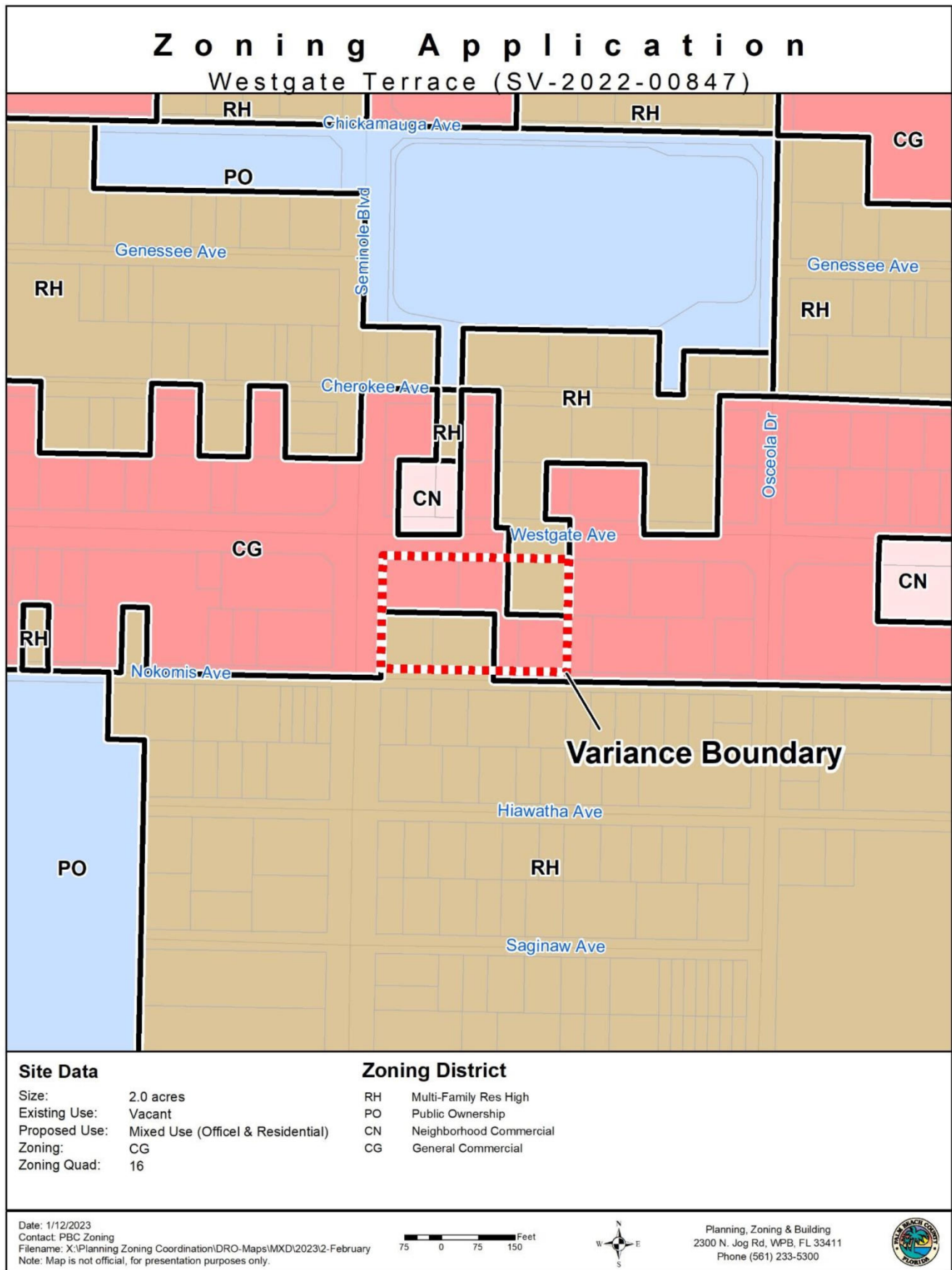
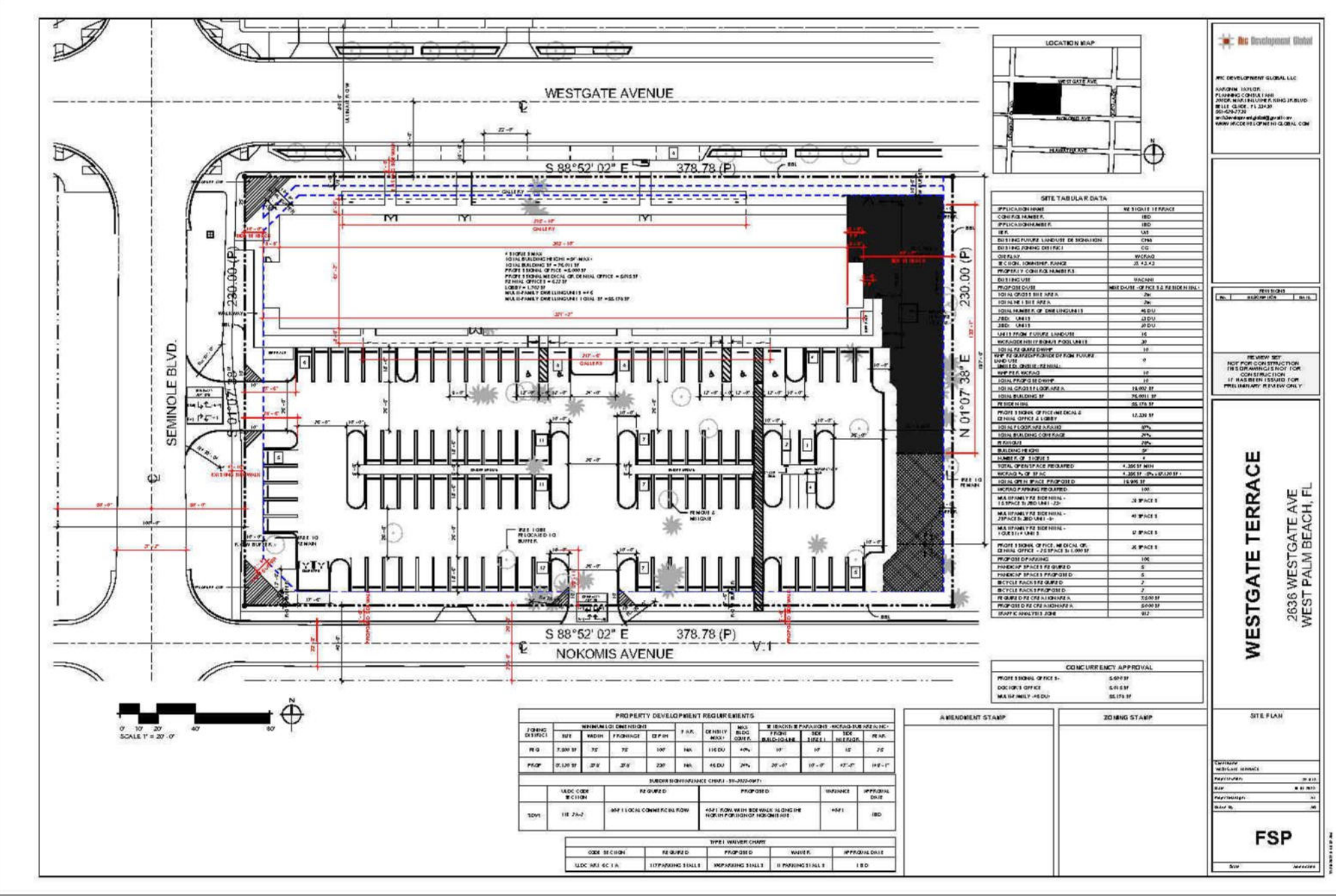


Figure 4 – Preliminary Site Plan dated 09-01-2022





**Exhibit D – Disclosure of Ownership**

**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

*[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]*

**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 Elizee Michel, 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  Executive Director \_\_\_\_\_ [position - e.g., president, partner, trustee] of Westgate Belvedere Homes CRA [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: 1280 N. Congress Ave., Ste. 215, 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 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,

Elizée Michel  
Elizée Michel, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

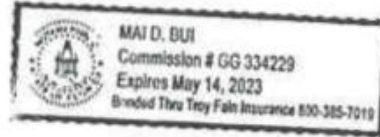
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 12<sup>th</sup> day of January, 2022 by Elizée Michel (name of person acknowledging).  she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Mai D. Bui  
(Name - type, stamp or print clearly)

MDB  
(Signature)

My Commission Expires on: 05/14/2023



**EXHIBIT "A"**

**PROPERTY**

Lots 31 thru 39, inclusive, Block 34, West Gate Estates, according to the plat thereof as recorded in Plat 8, Page 38 of the Public Records of Palm Beach, Florida.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. 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.

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ELIZÉE MICHEL, Affiant  
(Print Affiant Name)

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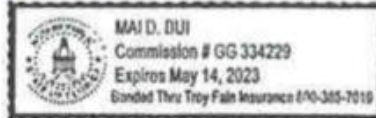
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Mai D. Bui  
(Name - type, stamp or print clearly)

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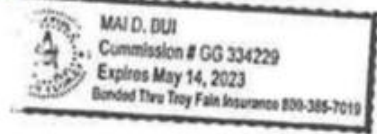
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(Name - type, stamp or print clearly)

[Signature]  
(Signature)

My Commission Expires on: 05/14/2023



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Name

Address

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(100%)

Multiple horizontal lines for additional entries.

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Elizée Michel  
ELIZÉE MICHEL, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

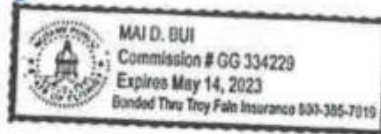
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 12<sup>TH</sup> day of January, 2022 by Elizée Michel (name of person acknowledging). She is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Mai D. Bui  
(Name - type, stamp or print clearly)

MB  
(Signature)

My Commission Expires on: 05/14/2023



**EXHIBIT "A"**

**PROPERTY**

Lots 42, 43, 44 and 45, Block 34, West Gate Estates (Northern Section), according to the plat thereof as recorded in Plat Book 8, Page 38 of the Public Records of Palm Beach, Florida.



**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. 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.

**Name**

**Address**

Public Entity as Westgate Belvedere Homes CRA 1280 N. Congress Ave., Ste. 215, West Palm Beach, FL 33409

(100%)

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**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

**[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]**

**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 Elizee Michel, 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  Executive Director *[position - e.g., president, partner, trustee]* of Westgate Belvedere Homes CRA *[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: 1280 N. Congress Ave., Ste. 215, 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 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.

Elizée Michel  
ELIZÉE MICHEL, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

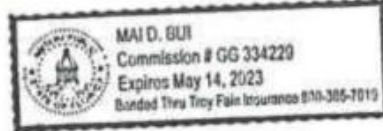
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 12<sup>TH</sup> day of January, 20 22 by Elizée Michel (name of person acknowledging).  He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Mai D. Bui  
(Name - type, stamp or print clearly)

Mai D. Bui  
(Signature)

My Commission Expires on: 05/14/2023



**EXHIBIT "A"**

**PROPERTY**

Lots 40 and 41, inclusive, Block 34, West Gate Estates (Northern Section), according to the plat thereof as recorded in Plat 8, Page 38 of the Public Records of Palm Beach, Florida.

**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

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**Name**

**Address**

Public Entity as Westgate Belvedere Homes CRA 1280 N. Congress Ave., Ste. 215, West Palm Beach, FL 33409

(100%)

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**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

**[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]**

**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 Elizee Michel, 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  Executive Director [position - e.g., president, partner, trustee] of Westgate Belvedere Homes CRA [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: 1280 N. Congress Ave., Ste. 215, 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.

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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.

Elizée Michel  
ELIZÉE MICHEL (Affiant)  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

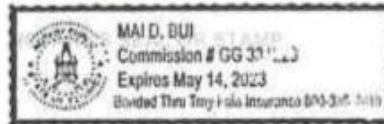
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 12<sup>th</sup> day of January, 2022 by Elizée Michel (name of person acknowledging).  He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Mai D. Bui  
(Name - type, stamp or print clearly)

MDB  
(Signature)

My Commission Expires on: 05/14/2023



**EXHIBIT "A"**

**PROPERTY**

The East 10 Feet of Lot 10 and all of Lots 12 to 15 inclusive, Block 34, West Gate Estates, according to the plat thereof as recorded in Plat 8, Page 38 of the Public Records of Palm Beach, Florida.

and

The West 15 feet of Lot 11, Block 34, West Gate Estates, according to the plat thereof as recorded in Plat 8, Page 38 of the Public Records of Palm Beach, Florida.



**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

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**Name**

**Address**

Public Entity as Westgate Belvedere Homes CRA 1280 N. Congress Ave., Ste. 215, West Palm Beach, FL 33409

(100%)

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**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

*(TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER)*

**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 Charles Lesnick, 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  Manager *[position - e.g., president, partner, trustee]* of Danza of Westgate LLC *[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: 11259 Edgewater Circle  
Wellington, FL 33414
  
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 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.

Charles Lesnick  
Charles Lesnick, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

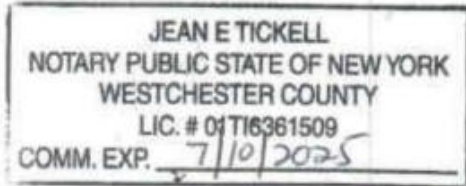
STATE OF FLORIDA New York  
COUNTY OF PALM BEACH Westchester

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 7<sup>th</sup> day of January, 2022 by Charles Lesnick (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and  did not take an oath (circle correct response).

Jean Tickell  
(Name - type, stamp or print clearly)

[Signature]  
(Signature)

My Commission Expires on: 7/10/2025



**EXHIBIT "A"**

**PROPERTY**

Address: 2634 Westgate Ave, West Palm Beach, FL 33409

Property Control: 00-43-43-30-03-034-0070

**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. 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.

<b>Name</b>	<b>Address</b>
Charles Lesnick,	15 Albemarle Place, Yonkers, NY 10701 - 19%
Philip Schorr,	149-05 33rd Avenue, Flushing, NY 11354 - 19%
Len Schwartz,	944 Warren Parkway, Teaneck, NJ 07666 - 19%
Richard Kooris,	1625 Westlake Drive, Austin, Texas 78746 - 19%
Syheeda Ikram,	4526 Shanewood Ct, Orlando, FL 32837 - 19%
Tony Danza,	706 Pequot Place, Franklin Lakes, NJ 07471 - 5%



**JUSTIFICATION STATEMENT**

**Westgate Terrace - Subdivision Variance**

May 18, 2022

Revised: August 22, 2022

Revised: September 28, 2022

Revised: November 28, 2022

**REQUEST:**

On behalf Danza of Westgate and the Westgate CRA, Arc Development Global, LLC (Agent) has prepared this application for a Subdivision Variance to allow an existing 40’ wide ROW (Nokomis Avenue) remain instead of constructing the required 80’ wide Right-of-Way (ROW) per ULDC Art.11.E.2.A-2. Reference Subdivision Variance Chart below.

<b>SUBDIVISION VARIANCE CHART (SV-2022-0847)</b>					
	<b>ULDC CODE SECTION</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>VARIANCE</b>	<b>APPROVAL DATE</b>
SDVI	11.E.2.A-2	80-ft Local Commercial ROW	40-ft ROW, with sidewalk along the North portion of Nokomis Ave.	40-ft	TBD

**PROJECT HISTORY:**

The subject site is located at the southeast corner of the intersection of Westgate Blvd. and Seminole Blvd within the Westgate Corridor Overlay. The project consists of seven (7) separate but contiguous parcels of land that will be combined via Plat. The property has a Future Land Use of: CH/8 and a Zoning Designation of: CG. The proposed project’s total acreage is 2ac. The property owners (Westgate CRA and Danza of Westgate) are in a partnership to develop this government funded project consisting of a 4-story mixed-use building with Professional, Office Medical Office, and 46 Multi-family residential units. The Office Uses include Future Westgate CRA Office and one (1) Medical Office Use. We have been working closely with the Westgate CRA, Palm Beach County Department of Housing and Economic Development, and HUD to plan and development a project that will not only comply with the Land Development Code requirements, but also bring much needed economic stimulus to the Westgate Corridor.

**STATUS OF CONDITIONS OF APPROVAL:**

There are *no* previous Zoning approvals or Resolutions and therefore, *no* Condition of Approval on the subject property.

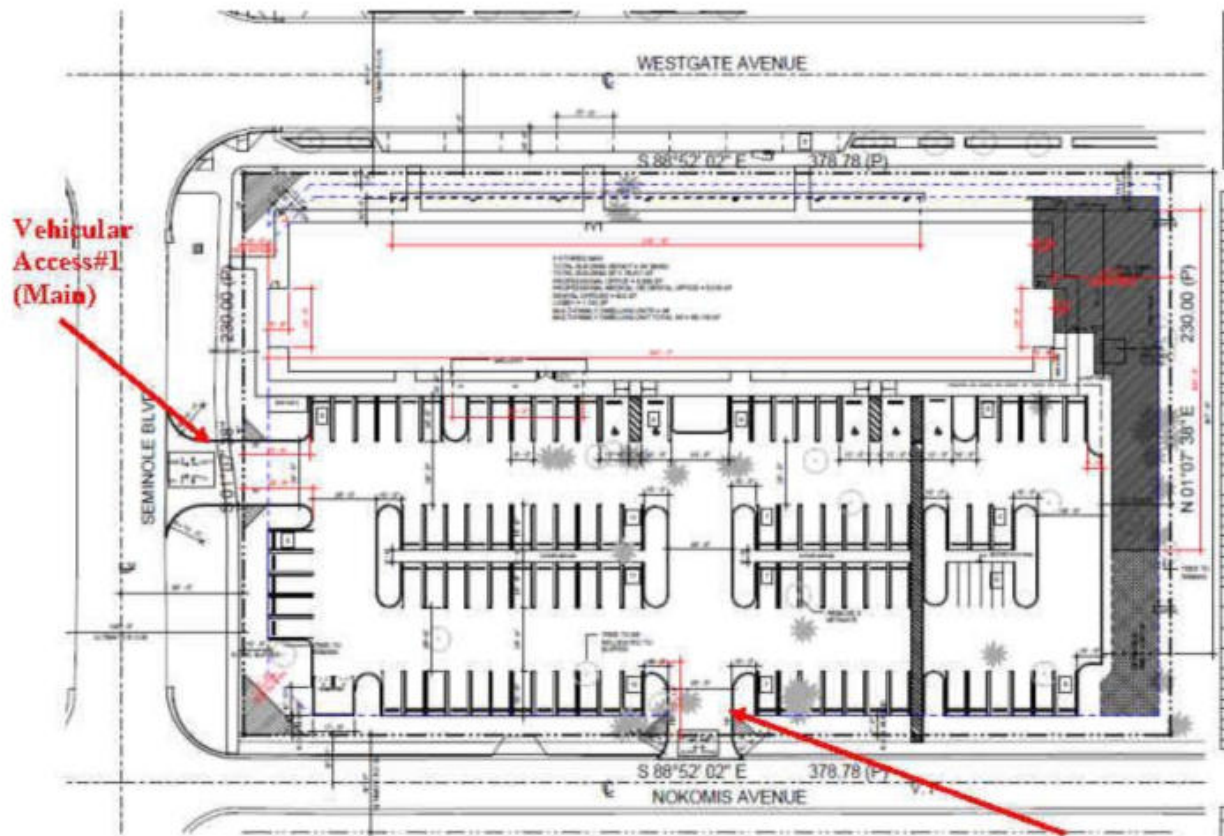
**SURROUNDING EXISTING LAND USES:**

<u>Direction</u>	<u>Adjacent Use</u>	<u>Zoning Designation</u>	<u>Future Land Use</u>
North	Commercial	General Commercial (CG)	Commercial High (CH/S)
South	Residential (Single Family Dwelling)	General Commercial (CG)	Commercial High (CH/S)
East	Residential (Single Family Dwelling)	General Commercial (CG)	Commercial High (CH/S)
West	Commercial	General Commercial (CG)	Commercial High (CH/S)

**PROPOSED VEHICULAR ACCESS LOCATIONS:**



**Aerial View – Existing Lots with Proposed Vehicular Access**



Preliminary Site Plan – with Proposed Vehicular Access

Vehicular Access#2

SUBDIVISION CHART				
LOT	PROPOSED ACREAGE	ACCESS	ACCESS LOCATION	USE
	2 AC	2	Seminole Blvd. & Nokomis Ave.	Mixed-Use

**VARIANCE JUSTIFICATION & CRITERIA**

In accordance with the provisions outlined in ULDC Art.2.B.7.E.6 all Zoning or Subdivision Variance requests must meet all seven criteria listed below:

- A. 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 district.  
**SV1 – Yes, The subject Variance request is for an existing 40’ Right-of-Way (Nokomis Avenue) located in the Westgate Corridor Overlay. Nokomis Ave existed prior to the current Code**



**requirement in Unified Land Development Code (ULDC) Art. 11.E.2.A-2, of a 80' wide minimum ROW. Reference Plats, PB: 8, PG: 38 & PB: 8, PG: 38a.**

B. Special circumstances and conditions do not result from the actions of the Applicant.

**SV1 – Yes, The proposed Westgate Terrace Mixed-Use project is comprised of seven exiting lots which will be Platted into one single legal lot of record to accommodate the proposed project. The proposed project is located within the Westgate Corridor Overlay and is surrounded by Westgate Ave to the North, Seminole Blvd. to the West, and Nokomis Avenue to the South. Both Westgate Blvd and Seminole Blvd meeting the minimum required ROW widths as outlined in ULDC Art.11.E.2.a-2. Nokomis Ave., although existing prior to the current Code requirement of a 80' ROW width, is only 40' wide and does not meet the minimum Code requirement for a Commercial ROW width. The existing 40' ROW is part of older Plats (PB: 8, PG: 38 & PB: 8, PG: 38a). Therefore, the existing conditions do not result from actions of the property owner.**

C. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district.

**SV1 – Granting the owner's Variance request to allow the existing 40' wide ROW to remain as is and include 370ft of sidewalk along the Nokomis Ave., will confer no special privileges than that which has been provided to all other residents along Nokomis. As requested by the Palm Beach County Land Development Division, at time of construction, a sidewalk will be installed along the North portion of Nokomis on the portion of the ROW which immediately abuts the south property line of the Westgate Terrace project.**

D. 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 district, and would work an unnecessary and undue hardship.

**SV1 – Literal Interpretation of ULDC Art.11.E.2, would cause and undue hardship. Denial of the property owner's variance requests would eliminate the property owner's (Westgate CRA and Danza of Westgate) ability to Develop the proposed Mixed-Use project. The project is a government funded project consisting of a 4-story mixed-use building with Professional, Office Medical Office, and 46 Multi-family residential units. The Office Uses include Future Westgate CRA Office and one (1) Medical Office Use. We have been working closely with the Westgate CRA, Palm Beach County Department of Housing and Economic Development, and HUD to plan and development a project that will not only comply with the Land Development Code requirements, but also bring much needed economic stimulus to the Westgate Corridor. As a result of the codification of the Comprehensive Plan and the Unified Land Development Code, the existing 40' ROW (Nokomis Ave) does not comply with the current Code requirements for minimum ROW width of 80'.**

- E. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.  
**SVI – Yes, (Refer to Responses to Variance Criteria (A-D)). Nokomis Avenue runs east and west along the south portion of the proposed Westgate Terrace project for nearly a mile. Along Nokomis there are 6 Blocks of multiple lots varying in Uses and Sizes along the North portion of Nokomis and the South portion of Nokomis. The 40' wide non-conforming ROW width abuts each of the various lots along for the entire length of Nokomis. Therefore, eliminating the ability to Nokomis to be widened to accommodate the minimum Code requirement of 80' wide ROW.**
- F. Granting the variance will be consistent with the purposes, goals, objectives and policies of the Plan and this Code.  
**SVI – Yes, (Refer to Responses to Variance Criteria A-E).**
- G. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.  
**SVI – Yes, Granting the Variance request will cause no adverse effects to the area involved. Approval of the Variance will allow the existing 40' ROW (Nokomis Avenue) to remain as is, with the inclusion of a sidewalk along the north side of Nokomis immediately abutting the south property line of the Westgate Terrace Mixed Use development. There will be no negative impact on the surrounding area.**

**CONCLUSION**

Based on the information provided herein, and the information on the survey and other support documents provided, the Variance requests to allow a reduction of 40' from the minimum 80' width which will allow the existing 40' wide ROW (Nokomis Ave) to remain and it will include a 370' sidewalk along the north portion of Nokomis Avenue. On Behalf of the property owners (Danza of Westgate and Westgate CRA), we look forward to Land Development staff's review and approval of the Subdivision Variance requests as outlined above.