

ORIGINAL

RESOLUTION NO. R-92- 1103

RESOLUTION APPROVING ZONING PETITION NO. 84-173(B)
SPECIAL EXCEPTION PETITION OF SCOTT P. AND CAROL J. LEWIS

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 84-173(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 23, 1992; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 84-173(B), the petition of SCOTT P. AND CAROL J. LEWIS, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PREVIOUSLY APPROVED PCD TO INCREASE LAND AREA, INCREASE BUILDING SQUARE FOOTAGE AND REDESIGN THE SITE on a parcel of land lying on Lots 20 and 21, LESS the North 75.00 feet thereof, Lots 11 thru 19, 41 thru 43 and 46 thru 50, Block 33, West Gate Estates (Northern Section), Plat Book 8, Page 38, Section 30, Township 43 South, Range 43 East, and being located ON THE S SIDE OF WESTGATE AVE., BOUND ON THE S BY NOKOMIS AVE., APPROX. .04 MILE W OF SEMINOLE BLVD., was approved on April 23, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified. (Zoning)

2. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property by the Site Plan Review Committee, as amended as required by the conditions of approval and all applicable land development regulations, on or before April 23, 1993. (Monitoring/Zoning)

B. AUTO SERVICE (WITH MAJOR REPAIRS)

1. Time of auto repair activity shall be limited from 7:00 a.m. to 7:00 p.m. on this site. Previously Condition No. 20 of R-90-1438, Petition 84-173(A). (Code Enforcement)

C. AUTO SALES OR LEASING

1. No vehicles, other than those for customer and employee parking, shall be stored or displayed on the site except those which are intended for sale and are in running condition. Previously Condition No. 4 of R-90-1438, Petition No. 84-173(A). (Code Enforcement)
2. No vehicle shall be parked with its hood or trunk open, or elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway. Previous Cond. #5 of R-90-1438, Pet. 84-173(A). (Code Enforcement)
3. Vehicles shall not be tested off-site on residential streets. Previously Condition No. 6 of R-90-1438, Petition No. 84-173(A). (Code Enforcement)
4. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. Previously Cond. #7 of R-90-1438, Petition No. 84-173(A). (Code Enforcement)
5. A maximum of 12 cars shall be displayed on site at any time. (Code Enforcement)
6. No outdoor speaker or public address systems which are audible from the exterior of the site shall be permitted. (Code Enforcement)

D. BUILDING AND SITE DESIGN

1. Condition No. 1 of Resolution R-85-323, Petition 84-173, which presently states:

Prior to certification by the Site Plan Review Committee, the site plan shall be amended to reflect the required six (6) foot masonry wall along property lines abutting residential, or variance relief shall be obtained from the Board of Adjustment.

Is hereby amended to read:

Prior to certification by the Site Plan Review Committee, the site plan shall be amended to reflect the required six (6) foot masonry wall along property lines abutting land designated as residential by the Palm Beach County Comprehensive Plan. (Zoning)

2. Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the proposed buildings. (Building)

3. All new and existing air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (Building)
4. No bay doors shall be permitted to face the north or south property lines. Bay doors shall be painted and maintained a color similar to that of the building facade. (Zoning/Building)
5. Prior to site plan certification, the site plan shall be amended to reflect the relocation of the six (6) vehicle storage/display spaces currently shown on the site plan (Exhibit 45) along the north property line **so** that no vehicle storage/display spaces are located between the base building line, as defined in Section 200.2 of the Zoning Code, and the paved edge of the public street. The petitioner shall have the option of obtaining variance relief from this requirement by the Board of Adjustment. In addition, if, prior to the issuance of a building permit for the project, the Zoning Code is amended to be less restrictive than this condition of approval/Zoning Code requirement, the regulations of the amended Zoning Code shall apply. (Zoning, Building)

E. ENGINEERING

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. Previously Condition No. 2 of R-85-323, Petition No. 84-173. (Code Enforcement)
2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. Previously Condition No. 3 of R-85-323, Petition No. 84-173. (Code Enforcement)
3. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. Previously Condition No. 6 of R-85-323, Petition No. 84-173. (Land Development)
4. With the exception of emergency access, no turnout shall be permitted from Nokomis Avenue. Previously Condition No. 7 of R-85-323, petition No. 84-173. (Engineering)
5. Condition No. 8 of R-85-323, Petition No. 84-173, which presently states:

"The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently the Fair Share Fee for this project is \$375.00."

Shall be amended to read:

The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently the Fair

Share Fee for this project is \$2,530.00 (46 additional trips x \$55.00 per trip). (Impact Fee Coordinator)

6. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on site the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the code Enforcement Board for enforcement. Previously Condition No. 17 of R-90-1438, Petition No. 84-173. (Engineering)

7. Condition No. 18 of Resolution No. R-90-1438, Zoning Petition No. 84-173, which presently states:

"The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site."

Is hereby amended to read:

If required by the County Engineer or the South Florida Water Management District the Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site. (Engineering)

8. Condition No. 19 of Resolution No. 90-1438, Petition No. 84-173, which presently states:

"The Property Owner shall construct or fund the construction of a five foot (5') concrete sidewalk along Westgate Avenue and a five foot (5') concrete sidewalk along Nokomis Boulevard concurrent with on site paving and drainage improvements. Funding or construction shall be completed prior to the issuance of the first Certificate of Occupancy. The County Engineer shall make the sole determination as to require this applicant to fund the construction or construct these **sidewalks.**"

Is hereby deleted.

F. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, shall be concealed behind a solid enclosure. The open end of the enclosure shall have an obscuring, opaque gate. (Building)
2. All dumpsters shall be located a minimum of twenty-five (25) feet from residential properties. (Building)

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management (ERM) prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping shall be a part of those measures. Previously Condition No. 9 of R-90-1438, Petition No. 84-173 (A). (ERM)
2. Secondary containment for stored Regulated Substances- 'fuels, oils, solvents, or other hazardous chemicals- is required. The Department of Environmental Resources Management (ERM) will provide guidance on appropriate protective measures. Previously Condition No. 10 of R-90-1438, Petition No. 84-173(A). (ERM)
3. Any fuel or chemical storage tanks shall be installed, with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. Previously Condition No. 4 of R-85-323, Petition No. 84-173. (ERM)
4. Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C. Previously Condition No. 5 of R-85-323, Petition No. 84-173. (ERM)

H. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. Previously Condition No. 11 of R-90-1438, Petition No. 84-173 (A). (Health)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. Previously Condition No. 12 of R-90-1438, Petition No. 84-173(A). (Health)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. Previously Condition No. 13 of R-90-1438, Petition No. 84-173(A). (Health)
4. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 Florida Administrative Codes (F.A.C.). Previously Condition No. 15 of R-90-1438, Petition No. 84-173(A). (Health)
5. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insure proper re-use or disposal of waste oil. Previously Condition No. 14 of R-90-1438, Petition No. 84-173(A). (Health)

I. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner. (Utilities)

J. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval. (Zoning)
2. The petitioner shall submit a Landscape Plan to the Zoning Division for approval prior to January 26, 1993. All perimeter landscaping and buffering shall be installed prior to April 23, 1993, with the exception of the six (6) foot high masonry wall required along Nokomis Avenue which shall be installed prior to the issuance of a certificate of occupancy for a commercial use within the existing residential duplex structure. (Monitoring, Zoning, Building)
3. Paving and drainage for the existing commercial buildings shall be installed prior to March 26, 1993. Paving and drainage for each remaining building shall be installed prior to the issuance of a certificate of occupancy for a commercial use. (Monitoring, Building)
4. All trees required to be planted on site shall:
 - a. Be a minimum of fourteen (14) feet in height at installation.
 - b. Have a minimum diameter of three and one-half (3.5) inches measured at a point which is at least four and one-half (4.5) feet above existing grade level.
 - c. Have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread. (Zoning)

K. LIGHTING

1. Condition No. 8 of Resolution No. R-90-1438, Petition No. 84-173(A), which presently states:

"Lighting on the southern side of the building shall be low intensity, shielded and no greater than twelve feet (12') tall."

Is hereby amended to state:

Lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within fifty (50) feet of residential areas shall not exceed a height of twelve (12) feet in height. (Building)
2. All outdoor lighting used to illuminate the premise; and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets. (Code Enforcement)

3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (Code Enforcement)
4. There shall be no rooftop lighting allowed on-site. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and structures. (Building/Code Enforcement)

L. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products; as programs are available. Previously Condition No. 36 of R-90-1438, Petition No. 84-173(A). (Solid Waste Authority)

M. SIGNS

1. No advertising flags, foreign flags, pennants, banners, streamers or balloons shall be permitted on-site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc. shall not be permitted on-site. Previously Condition No. 2 of R-90-1438, Petition No. 84-173(A). (Code Enforcement)
2. Signs fronting on Westgate Avenue shall be limited to a maximum number of two (2). There shall be no point of purchase signs fronting Nokomis Avenue. (Building)
3. Prior to issuance of a permit for any new or replaced signs, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval. (Zoning/Building)
4. If, prior to site plan certification, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede all sign-related conditions of approval. (Building)

N. UNITY OF TITLE

1. Simultaneously with submittal of the site plan to the Site Plan Review Committee, the petitioner shall submit a Unity of Title for the entire subject property in a form acceptable to the County Attorney's Office. Prior to site plan certification, the petitioner shall record the Unity of Title in the public record in a form acceptable to the County Attorney's Office. (Zoning/County Attorney)

O. USE LIMITATION

1. Condition No. 3 of Resolution No. R-90-1438, Petition No. 84-173(A), which presently states:

"Use of the site shall be limited to 7,000 square feet of commercial sales and repair of automobiles, and accessory retail and office uses."

Is hereby amended to state:

Use of the site shall be limited to a maximum of 8,934 square feet of commercial sales, rental and repair of automobiles, general retail and office uses, and equivalent traffic performance uses that are also permitted uses in the General Commercial (CG) Zoning District. No gasoline sales shall be permitted on site. (Building)

2. No outdoor retail business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. (Code Enforcement)

P. VEGETATION

1. Prior to removal of any vegetation on site, the petitioner shall schedule a Preclearing Inspection with the Zoning Division. All transplantable native vegetation shall be identified. Native vegetation identified to be transplanted shall be relocated to perimeter buffer areas or other open space areas on the site. (Zoning)

Q. WESTGATE CRA CONDITIONS

1. Condition No. 1 of Resolution No. R-90-1438, Petition No. 84-173(A), which presently states:

"Prior to Site Plan Review submittal, the site plan shall be amended to indicate:

- a. Upgraded landscaping on property lines abutting residential districts including a row of native canopy trees, twelve feet (12') tall spaced twenty feet (20') on center, a six foot (6') tall solid masonry and stucco wall and a five foot (5') tall ficus hedge. Landscape materials shall be placed on the exterior of the required wall. The petitioner may obtain variance relief from the Palm Beach County Board of Adjustment to replace the wall with any other structure.
- b. Buffering and landscaping on Nokomis Avenue shall consist of a five foot (5') wide concrete sidewalk, a six foot (6') tall opaque concrete block wall textured or surfaced with stucco or other appropriate materials which coordinate with or echo the design and colors of the principal structure on the property, with a hedge of native vegetation twenty-four inches (24") in height and spaced twenty-four inches (24") on center, and native canopy trees a minimum of ten feet (10') in height and a six foot (6') spread, spaced twenty feet (20') on center and placed on alternative sides of the wall.
- c. Frontage on Westgate Avenue shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan;

- d. Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for non-residential development" in Section 627.F.2.

Is hereby amended to state:

Prior to Site Plan Review submittal, the site plan shall be amended to indicate:

- a. Upgraded landscaping on property lines abutting residential uses with a commercial land use designation, including a row of native canopy trees, spaced twenty feet (20') on center, a six foot (6') tall opaque wood fence and a five foot (5') tall ficus hedge. Landscape materials shall be placed on the exterior of the required fence. Equivalent landscaping may be installed in accordance with a certified Landscape Betterment Plan.
 - b. Buffering and landscaping on Nokomis Avenue shall consist of a six foot (6') tall opaque concrete block wall textured or surfaced with stucco or other appropriate materials which coordinate with or echo the design and colors of the principal structure on the property, with a hedge of native vegetation twenty-four inches (24") in height and spaced twenty-four inches (24") on center, and native canopy trees spaced twenty feet (20') on center and placed on alternative sides of the wall.
 - c. Frontage on Westgate Avenue shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan.
 - d. Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for non-residential development" in Section 627.F.2.
(Zoning)
2. This site lies within the Westgate Community Redevelopment Area and is subject to the provisions of Zoning Code Section 627 (Westgate CRA Overlay District), in addition to other applicable zoning district, special exception and land development regulations. (Zoning)
 3. There shall be a maximum of two fifteen (15) foot emergency access points on Nokomis Avenue, subject to approval by the Department of Fire/Rescue. Signs limiting the access points to emergency use only shall be installed at each entrance. (Zoning)
 4. Along with each building permit application, the petitioner shall submit conceptual elevations with all materials and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles for the subject building. (Building)

R. COMPLIANCE

1. As provided in the Palm Beach County Zoning Code, Sections **400.2** and **402.6**, failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable 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. (Zoning/Monitoring)

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. Previously Condition No. 21 of R-90-1438, Petitioner No. 84-173(A).

2. The approval of this petition shall not affect any Zoning Code Section **402.9** (Mandatory Review of Development Approval) review date established as the result of a previous approval for this property. (Monitoring)

Commissioner Roberts moved for approval of the Resolution.

The motion was seconded by Commissioner Foster and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Mary McCarty	--	Absent
Ken Foster	--	Aye
Maude Ford Lee	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 18th day of August, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

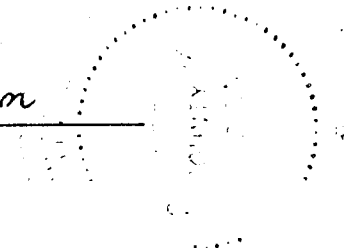
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

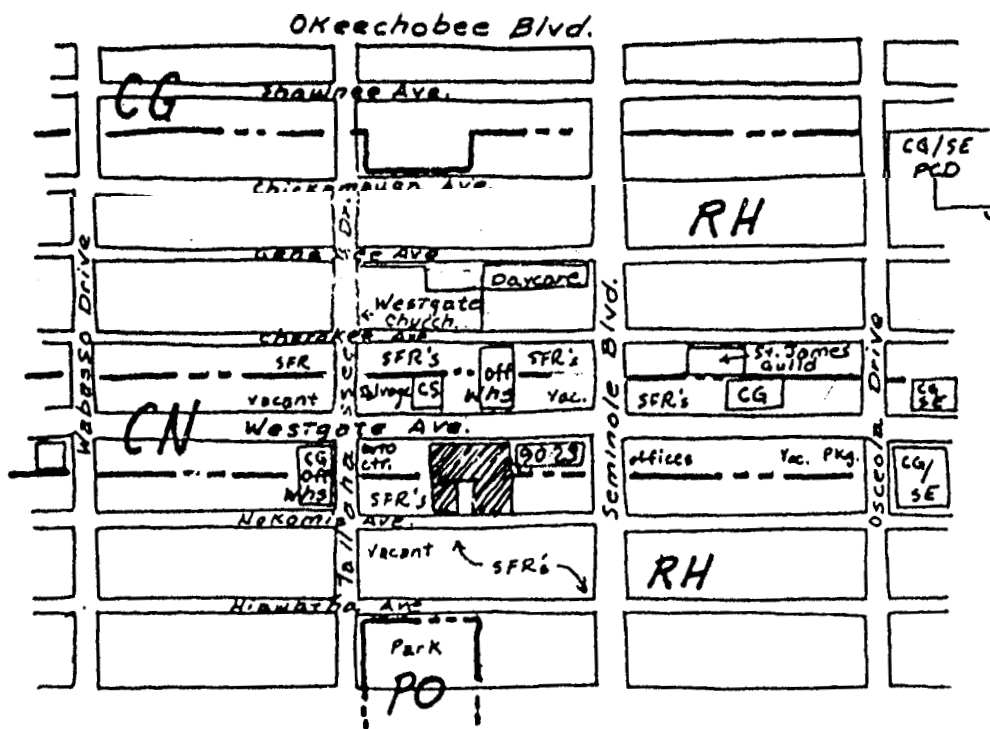
BY:


DEPUTY CLERK



Sec. 30 Twp. 43 Rng. 43
 Quadrant Sheet: 16
 Aerial Page: 160

Vicinity
 Sketch



Request:

A **REZONING** from the General Commercial (CG), Neighborhood Commercial (CN) and High Residential (RH) Zoning Districts to entirely the General Commercial (CG) Zoning District and a **SPECIAL EXCEPTION** to amend the site plan for a previously approved Planned Commercial Development (PCD) to increase the land area, increase the building square footage and redesign the site.

PETITION NO: 84-173 (B)

BCC DISTRICT: 7