



Interoffice Memorandum

DATE: November 21, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental and Development
Services Department

CONTACT PERSON: **Joe Kunkel, P.E., DRC Chairman**
Development Review Committee
Public Works Department
(407) 836-7971

SUBJECT: December 13, 2022 – Public Hearing
Applicant: Rogerio Xavier, New York Group & Company, LLC
Westover Ridge Subdivision Preliminary Subdivision Plan
Case # PSP-22-03-077 / District 1

This public hearing is to consider a recommendation from the Development Review Committee's meeting of October 5, 2022, to approve the Westover Ridge Subdivision Preliminary Subdivision Plan (PSP) to subdivide 6.66 acres, generally located north of Westover Roberts Road, west of South Apopka Vineland Road, to construct 6 single-family residential dwelling units.

A community meeting was held on December 1, 2022.

The required Specific Project Expenditure Report and Relationship Disclosure Forms have been completed in accordance with the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, and copies of these and the PSP may be found in the Planning Division for further reference.

ACTION REQUESTED: **Make a finding of consistency with the Comprehensive Plan and approve the Westover Ridge Subdivision PSP dated "Received August 30, 2022", subject to the conditions listed under the DRC Recommendation in the Staff Report. District 1**

JVW/JK/lme
Attachments

CASE # PSP-22-03-077

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's meeting of October 5, 2022, to approve the Westover Ridge Subdivision Preliminary Subdivision Plan (PSP) to subdivide 6.66 acres, generally located north of Westover Roberts Road, west of South Apopka Vineland Road, to construct 6 single-family residential dwelling units.

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2. PROJECT ANALYSIS

- A. Location: North of Westover Roberts Road / West of South Apopka Vineland Road
- B. Parcel ID: 04-23-28-0000-00-010
- C. Total Acres: 6.66 gross acres
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: Thornebrooke ES – Enrolled: 619 / Capacity: 636
Gotha MS – Enrolled: 1,056 / Capacity: 1,098
Olympia HS – Enrolled: 2,958 / Capacity: 3,192
- G. School Population: 3
- H. Parks: Gotha Park – 1.6 Miles
- I. Proposed Use: 6 Single-Family Residential Dwelling Units
- J. Site Data: Maximum Building Height: 35'
Minimum Living Area: 1,500 Square Feet
Minimum Lot Width: 100'
Building Setbacks:
30' Front
25' Rear
10' Side
15' Side Street
- K. Fire Station: 33 – 1700 South Apopka Vineland Road

L. EPD: Conservation Area Determination - An Orange County Conservation Area Determination CAD-17-12-154 was completed with a certified survey of the conservation area boundary approved by the Environmental Protection Division (EPD) on 4/18/2018. The CAD identified 0.19 acres of Class III wetlands within the subject property.

Conservation Area Impact - An Orange County Conservation Area Impact (CAI) permit CAI-22-05-039 was approved on 8/2/2022 for 0.19 acres of Class III wetlands. Any future development within this site will comply with all related permit conditions of approval.

Habitat Protection - Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as imperiled species (endangered, threatened, or species of special concern). The applicant is responsible to determine the presence of these concerns and to verify and obtain, if necessary, any required habitat permitting of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

M. Transportation: Existing/Valid transportation capacity entitlements not found. This development will require Transportation Capacity via a Capacity Encumbrance Letter (CEL) Application.

Based on the concurrency management system dated March 21, 2022, there are multiple failing roadway segments within the project's impact area.

Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this preliminary subdivision plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.

3. COMPREHENSIVE PLAN

The subject property has an underlying Future Land Use Map (FLUM) designation of Rural Settlement 1/1. The subject property is designated R-CE-C (Country Estate Cluster District) on the Zoning Map, which is consistent with the FLUM Designation.

4. ZONING

R-CE-C (Country Estate Cluster District)

5. REQUESTED ACTION:

Approval subject to the following conditions:

1. Development shall conform to the Westover Ridge Subdivision Preliminary Subdivision Plan dated "Received August 30, 2022," and to the conditions of approval listed below. Development based upon this approval shall comply with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable county laws, ordinances, or regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC. In the event of a conflict or inconsistency between a condition of approval of this preliminary subdivision plan and the preliminary subdivision plan dated "Received August 30, 2022," the condition of approval shall control to the extent of such conflict or inconsistency.
2. This project shall comply with, adhere to, and not deviate from or otherwise conflict with any verbal or written promise or representation made by the applicant (or authorized agent) to the Board of County Commissioners ("Board") at the public hearing where this development received final approval, where such promise or representation, whether oral or written, was relied upon by the Board in approving the development, could have reasonably been expected to have been relied upon by the Board in approving the development, or could have reasonably induced or otherwise influenced the Board to approve the development. In the event any such promise or representation is not complied with or adhered to, or the project deviates from or otherwise conflicts with such promise or representation, the County may withhold (or postpone issuance of) development permits and / or postpone the recording of (or refuse to record) the plat for the project. For purposes of this condition, a "promise" or "representation" shall be deemed to have been made to the Board by the applicant (or authorized agent) if it was expressly made to the Board at a public hearing where the development was considered and approved.
3. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit, or any other development order, if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

4. Developer / Applicant has a continuing obligation and responsibility from the date of approval of this preliminary subdivision plan to promptly disclose to the County any changes in ownership, encumbrances, or other matters of record affecting the property that is subject to the plan, and to resolve any issues that may be identified by the County as a result of any such changes. Developer / Applicant acknowledges and understands that any such changes are solely the Developer's / Applicant's obligation and responsibility to disclose and resolve, and that the Developer's / Applicant's failure to disclose and resolve any such changes to the satisfaction of the County may result in the County not issuing (or delaying issuance of) development permits, not recording (or delaying recording of) a plat for the property, or both.
5. Property that is required to be dedicated or otherwise conveyed to Orange County (by plat or other means) shall be free and clear of all encumbrances, except as may be acceptable to County and consistent with the anticipated use. Owner / Developer shall provide, at no cost to County, any and all easements required for approval of a project or necessary for relocation of existing easements, including any existing facilities, and shall be responsible for the full costs of any such relocation prior to Orange County's acceptance of the conveyance. Any encumbrances that are discovered after approval of a PD Land Use Plan shall be the responsibility of Owner / Developer to release and relocate, at no cost to County, prior to County's acceptance of conveyance. As part of the review process for construction plan approval(s), any required off-site easements identified by County must be conveyed to County prior to any such approval, or at a later date as determined by County. Any failure to comply with this condition may result in the withholding of development permits and plat approval(s).
6. The stormwater management system shall be designed to retain the 100-year/24-hour storm event onsite, unless documentation with supporting calculations is submitted which demonstrates that a positive outfall is available. If the applicant can show the existence of a positive outfall for the subject basin, then in lieu of designing for the 100-year/24-hour storm event, the developer shall comply with all applicable state and local stormwater requirements and regulations. An emergency high water relief outfall shall be provided to assure overflow does not cause flooding of surrounding areas.
7. Roads and drainage system(s), including any retention pond(s), will be owned and maintained by Orange County with a Municipal Service Benefit Unit (MSBU) established for stormwater system functionality. Routine maintenance, including mowing, beyond that provided by the County, shall be the responsibility of the Homeowners' Association.
8. A Municipal Service Benefit Unit (MSBU) shall be established for the standard operation and maintenance of street lighting inventory including leasing, fuel, and energy costs for this project. Street lighting fixtures, poles, and luminaries used in this project shall be selected from the approved inventory list supplied by the Orange County Comptroller. Street lighting fixtures, poles, and luminaries used in this project shall be supplied and installed by the utility company that services the

area of the project, as authorized by law or agreement, and thereafter maintains the street lighting inventory. The developer shall obtain approval of the street lighting fixtures, poles, and luminaries from the Orange County Comptroller Special Assessments Department via a "Letter of Commitment" prior to the installation of the street lighting fixtures, poles, and luminaries and prior to the plat being recorded by Orange County Comptroller Official Records section. All installation costs and street lighting operational costs prior to the effective date of the MSBU approval by the Orange County Board of County Commissioners shall be the sole responsibility of the developer.

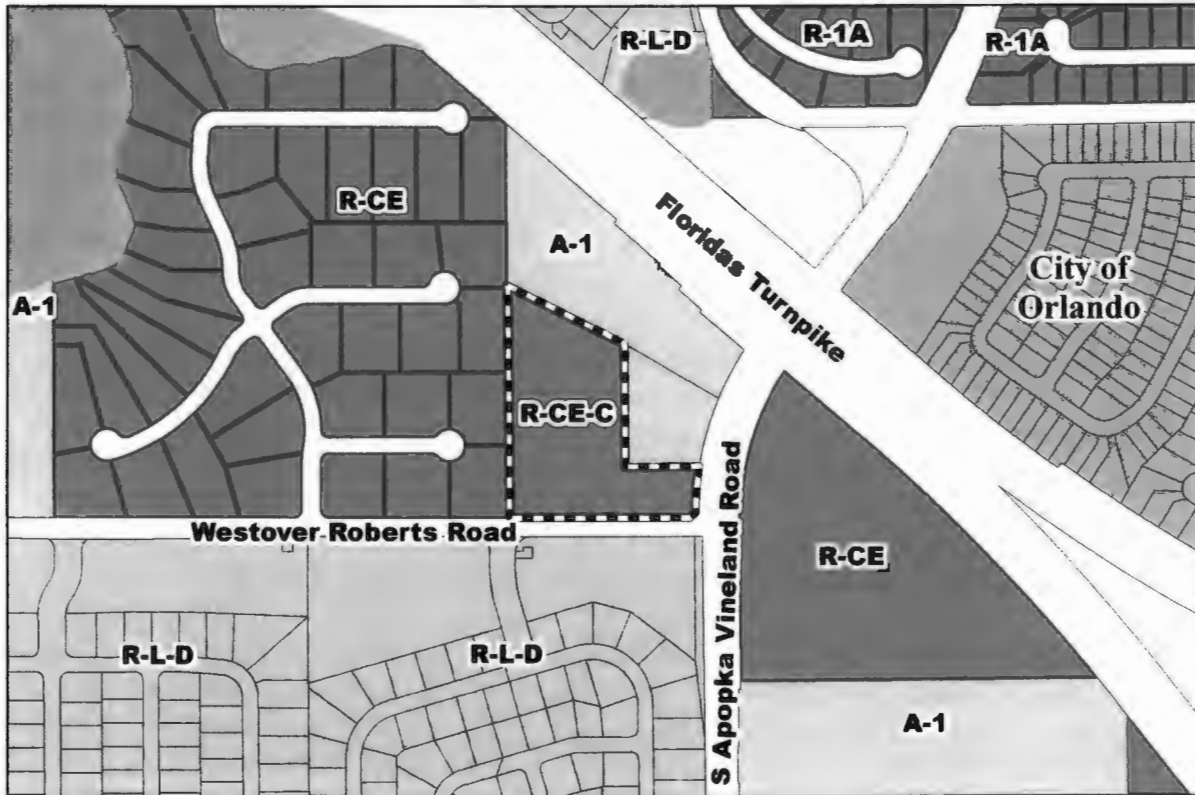
9. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Construction Plan submittal and must be approved prior to Construction Plan approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
10. A mandatory pre-application/sufficiency review meeting for the plat shall be required prior to plat submittal, but after approval of the site construction plans. The applicant shall resolve, to the County's satisfaction, all items identified in the pre-application/ sufficiency review meeting prior to formal submittal of the plat to the County.
11. There shall be no structures including, but not limited to, sheds, pools, pool decks or pool enclosures, within the existing drainage easement (ORB 5973, Pg. 380, and any amendments/modifications thereto) located along the rear of Lots 1 through 4, inclusive, as depicted on the initially approved Preliminary Subdivision Plan, but lot owners may be permitted to install a fence along their side property lines. The applicant / owner has an affirmative obligation to expressly notify potential purchasers, builders, and/or tenants of this condition, and through a conspicuous note on the plat and in the Declaration of Covenants, Conditions, and Restrictions (CC&R's) that a Drainage Easement encumbers these lots, and any structures located within the easement are the sole responsibility of the lot owner(s), and not Orange County.
12. Unless a Conservation Area Impact (CAI) permit is approved by Orange County consistent with Orange County Code Chapter 15, Article X, "Wetland Conservation Areas", prior to Construction Plan approval, no conservation area or buffer encroachments shall be permitted. Approval of this plan does not authorize any direct or indirect conservation area impacts.
13. Prior to mass grading, clearing, grubbing or construction, the applicant is hereby noticed that this site must comply with habitat protection regulations of the U.S. Fish and Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).
14. Prior to issuance of any certificate of completion, all storm drain inlets shall have metal medallion inlet markers installed. Text on the marker shall read "No Dumping, Only Rain in the Drain." Specification detail will be provided within all

plan sets. Contact the National Pollutant Discharge Elimination System (NPDES) Supervisor at the Orange County Environmental Protection Division for details.

15. Prior to commencement of any earth work or construction, if one acre or more of land will be disturbed, the developer shall provide a copy of the completed National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) form for stormwater discharge from construction activities to the Orange County Environmental Protection Division, NPDES Administrator. The original NOI form shall be sent to the Florida Department of Environmental Protection by the developer.
16. No parking signs shall be installed along both sides of subdivision streets prior to issuance by county of a certificate of completion for the infrastructure.
17. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a capacity encumbrance letter prior to construction plan submittal and must apply for and obtain a capacity reservation certificate prior to issuance of the initial certificate of occupancy. Nothing in this condition and nothing in the decision to approve this preliminary subdivision plan shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a capacity encumbrance letter or a capacity reservation certificate.
18. A Master Utility Plan (MUP) for the PSP shall be submitted to Orange County Utilities at least thirty (30) days prior to submittal of the first set of construction plans. Construction plans within this PD shall be consistent with an approved and up-to-date Master Utility Plan (MUP). MUP updates shall be submitted to Orange County Utilities at least thirty (30) days prior to the corresponding construction plan submittal. The MUP and updates must be approved prior to Construction Plan approval.
19. The developer shall obtain water, wastewater, and reclaimed water service from Orange County Utilities subject to County rate resolutions and ordinances.
20. New streets that are extensions of or in alignment with existing streets shall bear the same names as those borne by such existing streets.
21. Pole signs and billboards shall be prohibited. All other signage shall comply with Chapter 31.5 of the Orange County Code.
22. Short term / transient rental is prohibited. Length of stay shall be for 180 consecutive days or greater.

Zoning Map

PSP-22-03-077



 Subject Property



 Subject Property

Zoning Map

ZONING: R-CE-C (Country Estate Cluster District)

APPLICANT: Rogerio Xavier - New York Group & Company LLC

LOCATION: North of Westover Roberts Road / West of South Apopka Vineland Road

TRACT SIZE: 1.05 acres

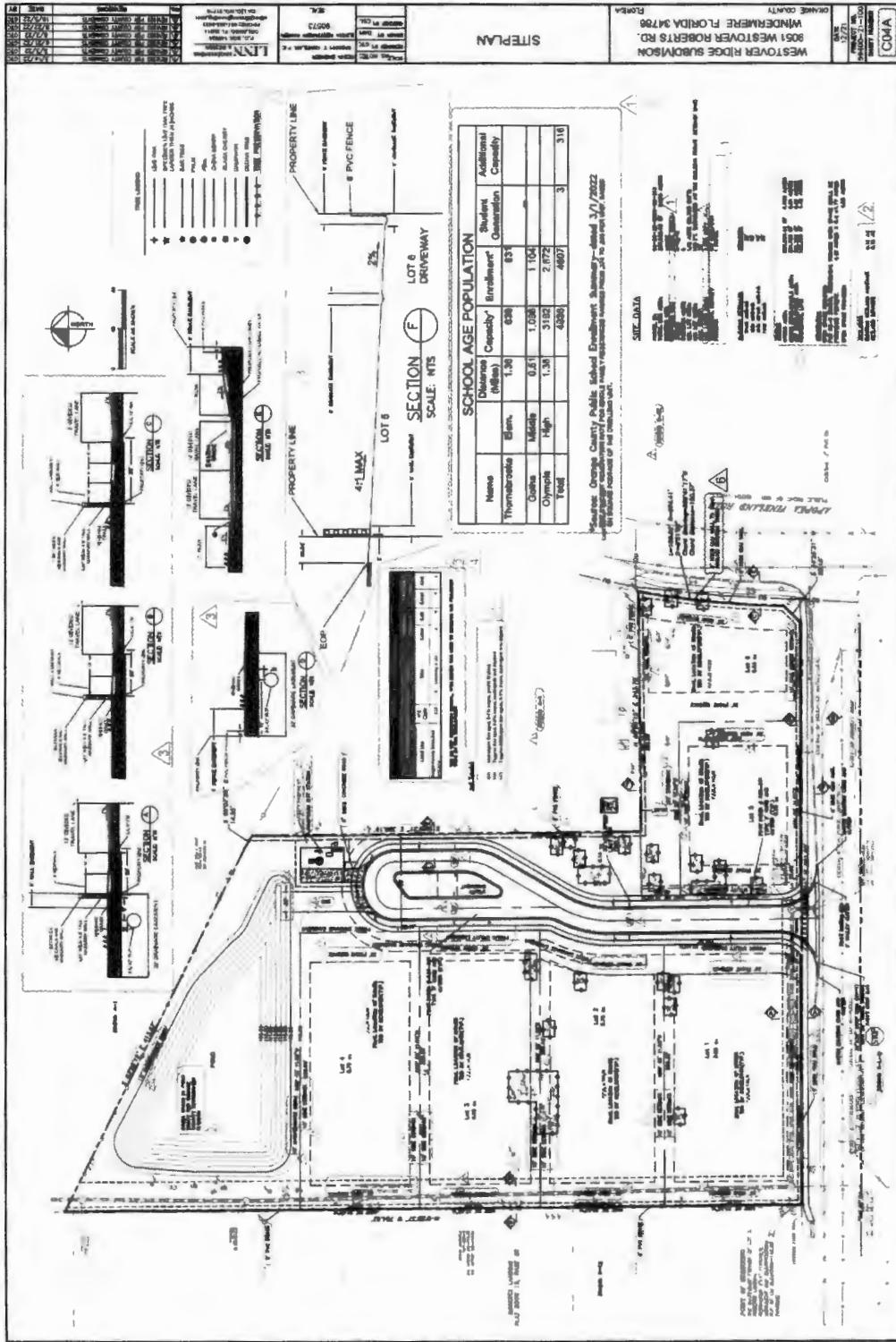
DISTRICT: # 1

S/T/R: 20/24/29

1 inch = 500 feet



Site Plan Sheet



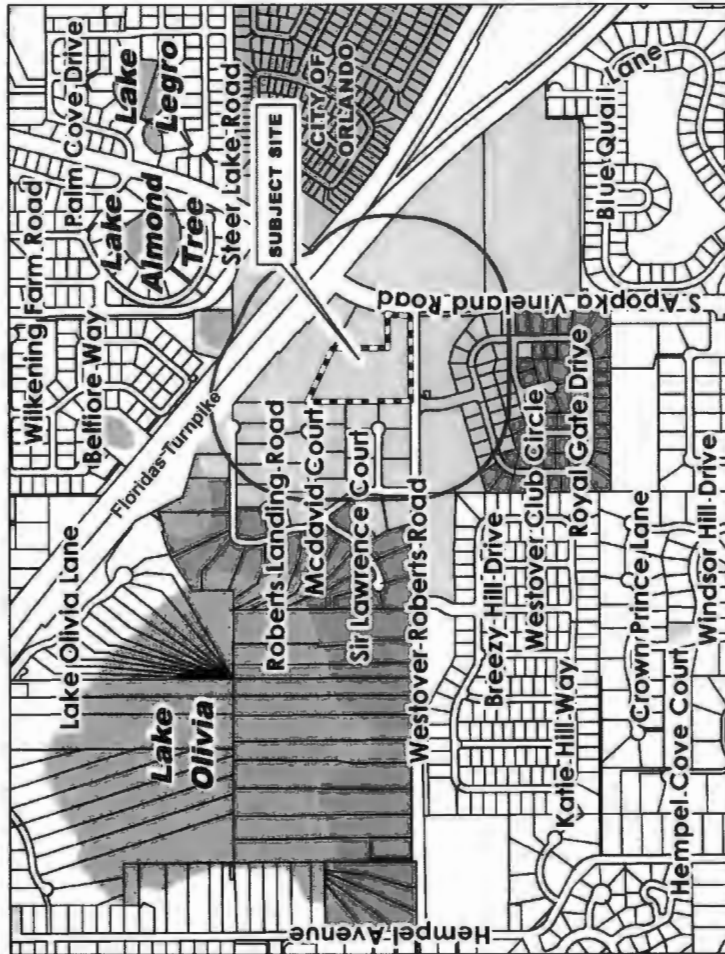
Notification Map



Public Notification Map

Westover Ridge Subdivision_PSP-22-03-077

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SUPPER DISTANCE: 700
 # OF NOTICES: 187

