

**CASE # CDR-18-10-350**

Commission District # 1

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of March 27, 2019, to approve a substantial change to the Hamlin Planned Development (PD) – Unified Neighborhood Plan (UNP) / RW-1B Commercial Preliminary Subdivision Plan (PSP) / Development Plan (DP) to create Lot 6 with 85,789 square feet of commercial entitlements.

**2. PROJECT ANALYSIS**

- A. Location: West of Hamlin Groves Trail / North of New Independence Parkway
- B. Parcel IDs: 17-23-27-2714-02-002
- C. Total Acres: 70.59 (*overall acreage*) / 3.26 (*Lot 6 acreage*)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: Horizon West Regional Park – 0.5 Miles
- I. Proposed Uses: 85,789 Square Feet of Commercial Entitlements on Lot 6
- J. Site Data: Maximum Building Height: 50'  
Building Setbacks:
  - 10' Front
  - 5' Side
  - 10' Rear
- K. Fire Station: 34 - 4000 Winter Garden Vineland Road
- L. Transportation: Based on the concurrency management system database dated 11-15-18, there are multiple failing roadways within a one-mile radius of this project. A traffic study will be required prior to obtaining an approved capacity encumbrance letter. This information is dated and is subject to change.

### **3. COMPREHENSIVE PLAN**

The property's Future Land Use Map (FLUM) designation is Village (V), indicating that it falls within the Horizon West Special Planning Area. More specifically, it is located within the Town Center Special Planning Area and is designated Retail / Wholesale (RW-1B) District. The request is consistent with the Comprehensive Plan.

### **4. ZONING**

PD (Planned Development District) (Hamlin PD - UNP)

### **5. REQUESTED ACTION:**

Approval subject to the following conditions:

1. Development shall conform to the Hamlin Planned Development – Unified Neighborhood Plan (PD – UNP) ; Orange County Board of County Commissioners (BCC) approvals; RW-1B Commercial Preliminary Subdivision Plan / Development Plan (PSP / DP); BCC approvals; dated "Received April 1, 2019" 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 April 1, 2019," 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 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 / development 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. 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 development 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.
7. 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.

8. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the DP, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for the PD.
9. If any public utility infrastructure will be located outside public right-of-way on property owned by an entity other than the developer, construction plans shall not be approved until the developer has provided the County with the appropriate easements for such public utility mains; such easements shall be recorded in the public records of Orange County, Florida.
10. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
11. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water, wastewater, and reclaimed water systems have been designed to support all development within the DP, and that construction plans are consistent with an approved and up-to-date Master Utility Plan for the PD.
12. Approval of this Preliminary Subdivision Plan / Development Plan constitutes lot split approval.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 5, 2015, shall apply:
  - a. 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 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.
  - b. Prior to the issuance of any vertical building permits, the property shall be platted.
  - c. Construction plans within this DP 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 updated MUP must be approved prior to construction plan approval.

- d. Outside sales, storage, and display shall be prohibited.
- e. 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).
- f. The site shall be stabilized following grubbing, clearing, earth work or mass grading to establish a dense stand of grass, or shall incorporate other approved Best Management Practices, on all disturbed areas if development does not begin within 7 days. Final stabilization shall achieve a minimum of seventy percent (70%) coverage of the disturbed land area and shall include a maintenance program to ensure minimum coverage survival and overall site stabilization until site development. Prior to clearing or grubbing, or approval of mass grading or constructions plans a letter of credit or cash escrow acceptable to the County shall be submitted to guarantee the required site stabilization and maintenance of all disturbed areas. The County Engineer shall establish the amount of the letter of credit or cash escrow.
- g. Approval of this PSP / DP constitutes lot split approval.
- h. A waiver from Section 38-1484(b) is granted to allow a maximum of 32 bicycle parking spaces in lieu of 76 bicycle parking spaces for lot 3 only in the following locations: two (2) racks with 15 stalls each in front of and at both ends of the lot 3 Big Box store front facade, and two (2) stalls in front of the Big Box gas station.
- i. A waiver from Orange County Code Section 38-1389(d)(4)(h) is granted for lot 3 only to allow off-street parking to be located in front of buildings, in lieu of off-street parking being located to the rear or side of the buildings.
- j. A waiver from Orange County Code Section 38-1390.48(b) is granted for lot 3 only to allow a net FAR of .24 as long as the combined net FAR for non-residential square footage without TDRs in RW-1B does not exceed .20, in lieu of the maximum net FAR for Town Center Land Use Districts, without Transfer of Development Rights (TDRs), Retail / Wholesale District (RW).
- k. Low Impact Development practices shall be considered at construction plan submittal.