

CASE # CDR-16-03-109

Commission District # 1

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of July 27, 2016, to approve a substantial change to the Hamlin Planned Development (PD) / Unified Neighborhood Plan (UNP) / Publix Preliminary Subdivision Plan (PSP) / Development Plan (DP) to add two (2) commercial buildings with a total of 19,911 square feet to Lot D of the existing Hamlin PD / UNP / Publix PSP / DP. This will result in a cumulative development program of 74,155 square feet of commercial on Lot D.

2. PROJECT ANALYSIS

- A. Location: South of New Independence Parkway / West of Hamlin Groves Trail
- B. Parcel IDs: 20-23-27-0000-00-033 (a portion of)
- C. Total Acres: 10.07 (Lot D only)
- D. Water Supply: Orange County Utilities
- E. Sewer System: Orange County Utilities
- F. Schools: N/A
- G. School Population: N/A
- H. Parks: N/A
- I. Proposed Uses: Two (2) additional commercial buildings with a total of 19,911 square feet
- J. Site Data: Maximum Building Height: 50'
Building Setbacks:
 - 10' Front
 - 5' Side
 - 10' Rear
- K. Fire Station: 34 - 4000 CR 535
- L. Transportation: As proof of satisfaction of the project's transportation concurrency obligations, the project must comply with that certain Town Center East Road Network Agreement recorded at O.R. Book 10306, Page 1364, Public Records of Orange County, Florida.

The developer must provide a valid Assignment of Vested Trips document together with the applicable Confirmation Letter issued by Orange County, concurrently with or prior to plat approval. In addition, any Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.

3. COMPREHENSIVE PLAN

The property's Future Land Use Map (FLUM) designation is Village (V) and RW-1 (Retail / Wholesale District) within the Horizon West Town Center Specific Area Plan (SAP). 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 PD Land Use Plan / Unified Neighborhood Plan; Orange County Board of County Commissioners (BCC) approvals; Publix Preliminary Subdivision Plan / Development Plan dated "Received August 16, 2016," 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 16, 2016," 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 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. 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.

7. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
8. Prior to construction plan approval, documentation with supporting calculations shall be submitted which certifies that the existing drainage system and pond have the capacity to accommodate this development and that this project is consistent with the approved master drainage plan (MDP) for this PD.
9. 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 Master Utility Plan for the PD/Village.
10. Signage shall comply with the Master Sign Plan.
11. Outside sales, storage, and display shall be prohibited, unless otherwise approved by the BCC.
12. Prior to issuance of any vertical building permit, property shall be platted, or as otherwise allowed by Orange County Code.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, September 15, 2015, shall apply:
 - a. 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 approval of the plat. Nothing in this condition, and nothing in the decision to approve this land use plan / 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.
 - b. 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).
 - 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. 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.

- e. A current Level One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review and approval as part of any Construction Plan submittal.
- f. A waiver from Sec. 38-1272(a)(3) is granted to allow a rear property line setback of forty (40) feet in lieu of the required sixty (60) foot setback when fronting expressways.
- g. A waiver from Sec. 24-5 is granted to allow the setback and frontage zones of the framework streets or alternative framework streets within the Town Center Code to provide the buffering and separation for residential uses from non-residential uses in the Retail Wholesale (RW) and Corporate Campus Mixed Use (CCM) districts are provided for in Sec. 38-1390.41 and 38-1390.51 of the Town Center Code in lieu of applying the Sec. 24-5 buffer yard requirements.
- h. A waiver from Sec. 38-1272(a)(5) is granted to allow the maximum heights permitted under the Town Center Code within one hundred (100) feet of any residential use, in lieu of a maximum height of thirty five (35) feet within one hundred (100) feet of any residential use.