

**CASE # PSP-16-08-298**

Commission District # 1

## **1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of December 21, 2016, to approve the Hamlin Planned Development (PD) - Unified Neighborhood Plan (UNP) / RW-2 Hamlin SEC Commercial Preliminary Subdivision Plan (PSP) / Development Plan (DP) to subdivide 34.56 acres into four (4) commercial lots with a 40,000 square foot theater and parking deck on Lot C.

This request also includes the following waiver from Orange County Code:

1. A waiver from Orange County Section 24-4(a)(3)(e) to allow four (4) understory trees to be planted to the north and south side of the parking plaza in lieu of two (2) understory trees at the ends of the central parking rows.

## **2. PROJECT ANALYSIS**

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|-----------------------|---|
| A. Location:          | South of New Independence Parkway / East of Hamlin Groves Trail   |
| B. Parcel IDs:        | 20-23-27-0000-00-030  |
| C. Total Acres:       | 34.56   |
| 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:     | Four (4) commercial lots with a 40,000 square foot theater and parking deck on Lot C                                      |
| J. Site Data:         | Maximum Building Height: 150'<br>Building Setbacks:<br>10' Front<br>5' Side<br>55' Centerline of Right-of-Way<br>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.

Town Center East Boulevard/Hamlin Trail: A Road Network Agreement for Town Center East was approved by the Board of County Commissioners on December 6, 2011 and recorded at OR Book/Page 10306/1364. The Developer has obtained vested trips for the completion of construction for Hamlin Groves Trail and New Independence Parkway to four lanes. Right-of-Way for the road network has been dedicated to the County. Town Center East Boulevard/Hamlin Trail: First Amendment to Town Center East Road Network Agreement ("First Amendment") between Orange County and SLF IV/Boyd Horizon West JV, LLC ("Developer") and Orlando Health Central, Inc. ("Orlando Health") was approved by the Board of County Commissioners on 7/10/2012 and recorded at ORBK 10411/0542 for the conveyance of Right-of-Way for the road network in Town Center. The First Amendment contemplates that the Orlando Health parcel will be included in the terms of the original agreement. Under the terms of the First Amendment, Orlando Health shall receive \$22,500 per acre in Road Impact Fee Credits for the dedication of 2.11 acre parcel for Hamlin Trail Right-of-Way for a total of \$47,450.00 in road impact fee credits. An additional 2.22 acre area of Right-of-Way for Porter Road will be donated to Orange County by Orlando Health at no cost to the County. Developer has assigned 650 Vested Trips to Orlando Health. Orlando Health is has the option to complete the Phase 4 improvements. The First Amendment also acknowledges that Developer has acquired the Gleason Parcel which is now included in the definition of the Property.

### **3. COMPREHENSIVE PLAN**

The PD has underlying Future Land Use Map (FLUM) designation of Village (V), with a Horizon West Town Center Specific Area Plan designation of RW (Retail Wholesale District). The proposal 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 / UNP Unified Neighborhood Plan; Orange County Board of County Commissioners (BCC) approvals; (RW-2) Hamlin SEC Commercial Preliminary Subdivision Plan dated "Received January 3, 2017," 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 January 3, 2017," 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 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. 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.
8. 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.

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. 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. To demonstrate concurrency entitlements have been met for this project the Preliminary Subdivision Plan / Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
12. 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.
13. Approval of this plan does not constitute approval of a permit for the construction of a boat dock, boardwalk, observation pier, fishing pier, community pier or other similar permanently fixed or floating structures. Any person desiring to construct any of these structures shall apply for an Orange County Dock Construction Permit. Application shall be made to the Orange County Environmental Protection Division as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction prior to installation.
14. 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.
15. 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, Drains to Waterway." 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.
16. 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.

17. 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).
18. 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.
19. Signage shall comply with the Master Sign Plan.
20. Outside sales, storage, and display shall be prohibited, unless otherwise approved by the BCC.
21. A waiver from Orange County Code Section 24-4(a)(3)(e) is granted to allow four (4) understory trees to be planted to the north and south side of the parking plaza in lieu of two (2) understory trees at the ends of the central parking rows.