

CASE # LUPA-17-03-086

Commission District: # 1

GENERAL INFORMATION

APPLICANT	Dennis Seliga, Boyd Development Corporation
OWNER	Hamlin Retail Partners North, LLC; SLF IV/Boyd Horizon West JV, LLC; Hamlin Retail Partners East, LLC; Hamlin Retail Partners, LLC; Lakewalk at Hamlin, LLC; SD New Independence Holdings LLC; Shaw, Susan D. / Daniels, David H.
PROJECT NAME	Hamlin Planned Development (PD) / Unified Neighborhood Plan (UNP)
PARCEL ID NUMBER	17-23-27-2714-01-000; 17-23-27-2714-02-000 17-23-27-2714-02-001; 20-23-27-2717-01-000 20-23-27-2717-02-000; 20-23-27-2717-19-001 21-23-27-0000-00-004; 21-23-27-0000-00-036 21-23-27-0000-00-039; 21-23-27-5460-01-000 21-23-27-0000-00-002; 21-23-27-0000-00-003 21-23-27-0000-00-034; 21-23-27-0000-00-031 21-23-27-0000-00-035; 21-23-27-0000-00-033 and 21-23-27-5460-19-001 (affected parcels only)
TRACT SIZE	546.43 gross acres (existing PD) <u>53.90 gross acres (proposed for aggregation)</u> 600.33 gross acres (resulting acreage)
LOCATION	Generally east of State Road 429, along both sides of New Independence Parkway.
REQUEST	PD (Planned Development District – Avalon Woods I PD) to PD (Planned Development District – Hamlin PD) <i>A Land Use Plan Amendment (LUPA) to expand the Hamlin PD / UNP through the aggregation of the adjacent 53.9-acre Avalon Woods I PD and while establishing new PD Parcel CCM-3b. The associated Hamlin PD / UNP development program is also being updated to reflect an additional 325 residential dwelling units (formerly assigned to the Avalon Woods I PD) and to redistribute 726,100 square feet of previously approved non-residential square footage within PD Parcels CCM-1, CCM-2, CCM-3, and CCM-3b.</i>

PUBLIC NOTIFICATION

A notification area extending beyond five hundred (500) feet was used for this application [*Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet*]. One hundred fifty three (153) notices were mailed to those property owners in the notification buffer area. A community meeting was not required for this application.

IMPACT ANALYSIS

Special Information

The Hamlin PD/UNP was originally approved on March 12, 2013, and is located in the Town Center Special Planning Area of Horizon West. The existing PD consists of eleven (11) development parcels, Adequate Public Facility roadways and parks, and a development program consisting of 1,506 residential dwelling units, 1,848,600 square feet of non-residential uses, and 200 hotel rooms.

Through this Land Use Plan Amendment (LUPA), the applicant is seeking to aggregate the adjacent 53.9-acre Avalon Woods I PD into the Hamlin PD / UNP, while designating it PD Parcel CCM-3b (*Corporate Campus Mixed-Use District*). The 325 residential dwelling units that were previously approved within the Avalon Woods I PD would also be redistributed within Hamlin PD Parcels CCM-1, CCM-2, and CCM-3 and CCM-3b. In addition, the applicant is seeking to redistribute 726,100 square feet of approved non-residential uses that were previously assigned to Hamlin PD Parcels CCM-1, CCM-2, and CCM-3 by including new PD Parcel CCM-3b.

The existing and proposed development program for the affected PD parcels only is described in the chart below, with no change to the Hotel Room distribution:

District	Existing			Proposed			Change	
	Res. Units	Non. Res. Sq. Ft.	Hotel Rooms	Res. Units	Non. Res. Sq. Ft.	Hotel Rooms	Res. Units	Non. Res. Sq. Ft.
CCM-1	273	234,450	25	284	84,450	25	+11	-150,000
CCM-2	76	491,650	19	76	441,650	19	0	-50,000
CCM-3	316	0	0	380	50,000	0	+64	+50,000
CCM-3b	N/A	N/A	N/A	250	150,000	0	+250	+150,000
Total:	665	726,100	44	990	726,100	44	+325	0

Additionally, FLU4.5.6 states that the required Upland Greenbelt between the Village of Bridgewater and Town Center may be accomplished through an alternative location within the Village of Bridgewater. The portion of the existing Upland Greenbelt for which an alternative may be proposed shall be limited to adjacency with Parcels CCM-1 and CCM-3 depicted on the Town Center Recommended Land Use Plan. Through this request, the applicant has relocated the Upland Greenbelt off of CCM-3 to the wetland slough adjacent to the eastern boundary of new CCM-3b. The relocation of this Upland Greenbelt is consistent with policy FLU4.5.6 of the Comprehensive Plan.

Land Use Compatibility

The proposed property aggregation and amended development program would provide for a compatible land use pattern, and would not adversely impact any adjacent properties.

Comprehensive Plan (CP) Consistency

The affected property has an underlying Future Land Use Map (FLUM) designation of Village and is currently located within the Town Center and Village of Bridgewater of the Horizon West Special Planning Area. More specifically, the upland areas within the 53.90-acre property proposed to be aggregated into the Hamlin PD are currently designated Townhome District and Apartment District on Village of Bridgewater land use map. With this request, the aggregated upland areas would be re-designated as Corporate Campus Mixed Use (CCM) on the Town Center land use map and Hamlin Planned Development / Land Use Plan (PD/LUP), similar to that of adjacent Hamlin PD Parcels. Finally, and consistent with CP Policy FLU4.1.9, updates to the Town Center and Village of Bridgewater boundaries, and the affected land use districts on the Horizon West Special Planning Area Map will be processed administratively.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Environmental

Environmental Protection Division (EPD) staff has reviewed the proposed request, but did not identify any issues or concerns.

Transportation / Concurrency

Transportation staff reviewed the request and provided the following comment / condition: 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.

Community Meeting Summary

A community meeting was not required for this request.

Schools

The project is subject to the following Capacity Enhancement Agreements with Orange County Public Schools (OCPS): #06-011-09 (Hamlin PD/UNP), #OC-12-002 (Hamlin PD/UNP), and #OC-11-011 (Avalon Woods I).

Parks and Recreation

Orange County Parks and Recreation staff reviewed this request, but did not identify any issues or concerns.

Specific Project Expenditure Report and Relationship Disclosure Forms

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Development Review Committee (DRC) Recommendation – (June 14, 2017)

Make a finding of consistency with the Comprehensive Plan (CP) and approve the Hamlin PD/UNP Land Use Plan Amendment dated “Received May 9, 2017”, subject to the following conditions:

1. Development shall conform to the Hamlin Planned Development / Unified (PD / UNP) Land Use Plan Amendment (LUPA) dated "Received *," and shall comply with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. Accordingly, the PD may be developed in accordance with the uses, densities, and intensities described in such Land Use Plan, subject to those uses, densities, and intensities conforming with the restrictions and requirements found in the conditions of approval and complying with all applicable federal, state, and county laws, ordinances, and regulations, except to the extent that any applicable county laws, ordinances, or regulations are expressly waived or modified by any of these conditions. If the development is unable to achieve or obtain desired uses, densities, or intensities, the County is not under any obligation to grant any waivers or modifications to enable the developer to achieve or obtain those desired uses, densities, or intensities. In the event of a conflict or inconsistency between a condition of approval and the land use plan dated "Received *," 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 land use 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. 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.
 7. All acreages identified as conservation areas and wetland buffers are considered approximate until finalized by a Conservation Area Determination (CAD) and a Conservation Area Impact (CAI) Permit. Approval of this plan does not authorize any direct or indirect conservation area impacts.
 8. 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).

9. No activity will be permitted on the site that may disturb, influence, or otherwise interfere with: areas of soil or groundwater contamination, or any remediation activities, or within the hydrological zone of influence of any contaminated area, unless prior approval has been obtained through the Florida Department of Environmental Protection (FDEP) and such approval has been provided to the Environmental Protection Division of Orange County. An owner/operator who exacerbates any existing contamination or does not properly dispose of any excavated contaminated media may become liable for some portion of the contamination pursuant to the provisions in section 376.308, F.S.
10. The following Education Condition of Approval (as originally approved for the former Avalon Woods I PD) shall apply:
 - a. Developer shall comply with all provisions of the Capacity Enhancement Agreement #OC-11-011 applicable to the former Avalon Woods I Planned Development entered into with the Orange County School Board as of 7/19/12.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 209 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
11. The following Education Condition of Approval (as approved for the Hamlin PD prior to the aggregation of the Avalon Woods I PD) shall apply:

- a. Developer shall comply with all provisions of the Capacity Enhancement Agreement #06-011-09 entered into with the Orange County School Board on 11/14/06, and Capacity Enhancement Agreement #OC-12-002 applicable to the Hamlin Planned Development / Unified Neighborhood Plan entered into with the Orange County School Board as of 3/19/13 and amended on 2/2/15.
 - b. Upon the County's receipt of written notice from Orange County Public Schools that the developer is in default or breach of the Capacity Enhancement Agreement, the County shall immediately cease issuing building permits for any residential units in excess of the 22 residential units allowed under the zoning existing prior to the approval of the PD zoning. The County may again begin issuing building permits upon Orange County Public Schools' written notice to the County that the developer is no longer in breach or default of the Capacity Enhancement Agreement. The developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, shall indemnify and hold the County harmless from any third party claims, suits, or actions arising as a result of the act of ceasing the County's issuance of residential building permits.
 - c. Developer, and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, agrees that it shall not claim in any future litigation that the County's enforcement of any of these conditions are illegal, improper, unconstitutional, or a violation of developer's rights.
 - d. Orange County shall be held harmless by the developer and its successor(s) and/or assign(s) under the Capacity Enhancement Agreement, in any dispute between the developer and Orange County Public Schools over any interpretation or provision of the Capacity Enhancement Agreement.
 - e. Prior to or concurrently with the County's approval of the plat, documentation shall be provided from Orange County Public Schools that this project is in compliance with the Capacity Enhancement Agreement.
12. Concurrent with the approval of the Hamlin PD / UNP Land Use Plan Amendment #LUPA-17-03-086, the Avalon Woods I Planned Development / Land Use Plan (PD/LUP) shall be considered dissolved.
13. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated May 24, 2016 shall apply:
- a. At least thirty (30) days prior to construction plan submittal, the applicant shall submit a Master Utility Plan (MUP) for the PSP, including hydraulically dependent parcels outside the PSP boundaries; such MUP shall include supporting calculations showing that the PSP-level MUP is consistent with the approved MUP for the Village, or shall include an update to the Village MUP to incorporate any revisions. The MUP(s) must be approved prior to construction plan approval.
 - b. The following waivers from Orange County Code are granted:

- 1) A waiver from Section 31.5-71(b)(e)(f) to allow the maximum height of any “landmark” roof sign to be thirty (30) feet as measured from base of roof to top of sign face, in lieu of a maximum height of fifteen (15) feet; to allow a maximum allowable copy area of any roof sign to be four hundred (400) square feet, in lieu of two hundred (200) square feet; and to allow the sign structure of the “landmark” roof sign to be visible from any public right-of-way, in lieu of the sign structure not being visible from any public right-of-way.
 - 2) A waiver from Section 31.5-71(c) to allow a “landmark” roof sign to be erected on a building which is at least twenty-two (22) feet in height, in lieu of a building which is at least fifty (50) feet in height;
 - 3) A waiver from Section 31.5-194(3)(c) to allow community identification signs (as identified on the Master Sign Plan) to be internally lit, in lieu of the requirement that community identification signs shall not be internally lit.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 1, 2015, shall apply:
- a. The following waivers from Orange County Code are granted:
 - 1) A waiver from Section 38-1384(g)(2) to allow for a minimum thirteen (13) foot front-loaded garage door setback from the front property line, in lieu of a minimum twenty (20) foot front-loaded garage door setback from the front property line, and applicable to the Overlook 2 at Hamlin PSP lots 46, 49, and 55 only; and
 - 2) A waiver from Section 38-1384(g)(2) to allow front-loaded garage doors to be located a maximum of 5.7 feet forward of the nearest adjacent plane of the primary structure (living area), in lieu of the requirement that front-loaded garage doors be recessed a minimum of ten (10) feet (or 7 feet with a qualifying porch) behind the nearest adjacent plane of the primary structure, and applicable to the Overlook 2 at Hamlin PSP lots 38, 42, 45, 46, 49, 55, and 58 only.
 - b. The applicant has requested that the County release the hold on building permits for lots 38, 45, and 58 prior to the approval of the waiver listed in condition of approval #4b. Such building permits may be released only after the applicant executes a Hold Harmless and Indemnification Agreement acceptable to the County, and which recognizes that the applicant is proceeding with construction on lots 38, 45, and 58 at their own risk and, should the above-referenced waivers be denied by the Board, may be required to substantially modify or completely remove, if necessary, any previously constructed improvements on lots 38, 45, or 58 in order to meet County Code.
15. Except as amended, modified, and/or superseded, the following previous BCC Conditions of Approval, dated February 10, 2015, shall apply:

- a. To demonstrate concurrency entitlements have been met for this project the developer must provide an Assignment of Vested Trips document concurrent with or prior to Development Plan submittal. In addition, the Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
 - b. Tree removal / earthwork shall not occur unless and until construction plans for the first Preliminary Subdivision Plan and/or Development Plan with a tree removal and mitigation plan have been approved by Orange County.
16. Except as amended, modified, and/or superseded, the following previous BCC Conditions of Approval, dated July 8, 2014, shall apply:
- a. The covenants, conditions, and restrictions (CC&Rs) shall contain notification to potential purchasers, builders or tenants of this development of the proximity of the West Orange & 545 solid waste disposal facilities that are located 0.2 miles to the southwest.
 - b. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with the Village Center standards of Section 38-1389 (d)(5) with the exception of any waivers explicitly granted by the Board.
17. Except as amended, modified, and/or superseded, the following previous BCC Conditions of Approval, dated March 12, 2013, shall apply:
- a. The Developer shall obtain water, wastewater and reclaimed water service from Orange County Utilities.
 - b. A Master Utility Plan (MUP) shall be submitted to Orange County Utilities prior to approval of the first PSP/DP. The MUP must be approved prior to Construction Plan approval.
 - c. The Developer shall be responsible for building master utilities transmission and collection infrastructure adequate to serve the project to accommodate the ultimate flows for the entire Town Center Village (SAP). Utilities infrastructure shall be built connecting to the build-out points of connection approved in the Master Utilities Plan (MUP).
 - d. Prior to construction plan approval, all property owners within the Hamlin PD shall be required to sign an agreement between the parties, addressing their proportionate share of funds for the costs of the offsite and onsite master utilities, sized to the Town Center Village (SAP) build-out requirements.
 - e. Prior to final approval of the first PSP/DP for any portion of the project, applicant shall form a Property Owners Association (POA) for the project, which association shall be responsible for the maintenance of (i) street lighting, landscaping, irrigation, common signage and hardscape within the rights-of-way of New Independence Parkway, Hamlin Trail and Porter Road, and (ii) public sidewalks, multi-use trails, master stormwater system, on-street

parking and common areas I open space and park elements within the project and as required by the Town Center Planned Development Code. A Right-of-Way Use Agreement describing maintenance responsibilities will be required. It is understood that none of the foregoing public areas or elements will be owned or maintained by the County unless herein specifically agreed to in writing by the County.

- f. Waivers to any development standard of Chapter 38 of the Orange County Code may be granted by the Board of County Commissioners at a public hearing in conjunction with the approval of any PSP for a parcel(s) of land within the Hamlin PD/UNP, except as may be provided to the contrary in Section 38-1207 regarding substantial changes to a PD Land Use Plan.

A revised PD/UNP noting the requested waivers (applicable to the specific PSP) shall be submitted with the PSP application. Notification of waiver requests prior to the public hearing shall be the same as that required for a substantial change to a PD Land Use Plan, e.g., including notice to owners of property within 300 feet of the perimeter of the PD/UNP. Board approval of the PSP and requested waivers shall constitute Board approval of the revised PD/UNP (waivers applicable to the specific PSP), which shall be deemed a non-substantial change.

- 18. Except as amended, modified, and/or superseded, the following previous BCC Conditions of Approval, (Avalon Woods I PD) dated August 19, 2014, shall apply:
 - a. 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 platting. Nothing in this condition, and nothing in the decision to approve this land use 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. A waiver from Orange County Code Section 38-1254(2)(a) is granted to allow for a fifteen foot (15') front setback from a collector street, in lieu of the required twenty-five foot (25') front setback requirement from a collector street.
 - c. A waiver from Orange County Code Section 38-1387.2(a)(3) is granted to allow for a maximum of 364 apartment dwelling units in any one location without an intervening land use, in lieu of a maximum of 300 apartment dwelling units in any one location without an intervening land use.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION (May 24, 2016)

Upon a motion by Commissioner Boyd, seconded by Commissioner Clarke, and carried by all members present voting AYE by voice vote; the Board approved the Land Use Plan Amendment request by Dennis Seliga, Boyd Development Corporation, Hamlin Planned Development (PD), Case #LUPA-15-10-288, subject to conditions.