

**CASE # CDR-17-12-375**

Commission District # 1

**1. REQUEST**

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of May 9, 2018, to approve a substantial change to the Hamlin Planned Development (PD) / Hamlin SEC Commercial Preliminary Subdivision Plan (PSP) / Development Plan (DP) to add five additional commercial buildings (64,368 square feet) and dumpster in Lot C, and a Special Event Area.

The request also includes the following waivers from Orange County Code:

1. A waiver from Orange County Code Section 38-79 (28) (b) is granted to allow tents to be located anywhere within the designated special events area as depicted on the special events plan (including temporarily closed rights-of-way, as approved by the County Engineer), in lieu of the requirement that tents be set back from property lines a minimum of five (5) feet or comply with the principal building setbacks for the zoning district, whichever is less.
2. A partial waiver from Orange County Code Section 38-79 (28) (h) (1) is granted to allow tents for an unlimited number of events on a parcel per year, in lieu of a four (4) event and twenty-eight (28) day limit per parcel or lot per calendar year.
3. A partial waiver from Orange County Code Section 38-79 (87) is granted to allow up to (3) three (or more if approved by the Zoning Manager) food trucks or vendors on a parcel, in lieu of the limit of a single portable food vendor on a parcel.
4. Within an event area only, a waiver from Orange County Code Section 38-79 (87) (g) is granted to allow farmer's markets, festivals, events, and portable food vendor operations to be located within any driveway, driving aisle, or any parking spaces required pursuant to article XI of Chapter 38 of the Orange County Code, in lieu of the prohibition of operating such events in the driveway, driving aisle or any required parking spaces.
5. Within an event area only, and with the requirement that any disturbed areas be restored to their previous condition, a waiver from Orange County Code Section 38-79 (87) (h) is granted to allow food trucks or vendors to be permitted on properties not containing a licensed and approved business or on any vacant property, in lieu of the prohibition of operating food trucks or vendors from operating on any property not containing a licensed and approved business or on vacant property.
6. Within an event area only, a partial waiver from Orange County Code Section 38-79 (87) (k) is granted to allow food trucks or vendors to operate

within one thousand (1,000) feet from each other, in lieu of the separation requirement of at least one thousand (1,000) feet.

7. A partial waiver from Orange County Code Section 38-79 (160) is granted to allow farmer's markets, festivals, events, portable food vendor, and food truck operations (referred to collectively as special events) within the Hamlin Main Street District, within designated special event areas only, to operate between 6:00 a.m. and 12:00 a.m. (including setup and takedown) on a year-round basis, in lieu of the limited times between 10:00 a.m. and 4:00 p.m. for one (1) weekend day per week. Outdoor music, loudspeakers, etc. may be permitted at special events between 10 am and 7 pm weekdays, and until 11 pm on Friday and Saturday and 7 pm on Sundays. No single event shall be more than 3 consecutive days without Zoning Manager approval. Events shall not be located within any driveway, driving aisle, or any parking spaces required pursuant to Article XI of Chapter 38 of the Orange County Code during business hours of the affected business unless the areas are included in an approved designated special events area.

## **2. PROJECT ANALYSIS**

- A. Location: East of S. R. 429 / South of New Independence Parkway
- B. Parcel IDs: 20-23-27-2713-03-000 (affected parcel)
- 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: Horizons West Regional Park – 0.5 Miles
- I. Proposed Uses: Five (5) additional commercial buildings (64,368 square feet) and a dumpster on Lot C, and a Special Event Area
- J. Site Data: Maximum Building Height: 50'  
Building Setbacks:  
10' Front  
5' Side  
55' Centerline of Right-of-Way  
10' Rear  
5' Side Street
- K. Fire Station: 34 - 4000 Winter Garden Vineland Road

- L. Transportation: Based on the concurrency management system database dated 08-31-17, capacity is available to be encumbered for this project. This information is dated and is subject to change.

### **3. COMPREHENSIVE PLAN**

The subject property is designated on the Future Land Use Map (FLUM) as Village indicating that it is within the Town Center of Horizon West. The zoning is PD, within the Hamlin PD. 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-UNP PD Orange County Board of County Commissioners (BCC) approvals; Hamlin SEC Commercial Preliminary Subdivision Plan and Development Plan dated "Received May 11, 2018," 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 May 11, 2018," 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 and 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. Documentation of assignment of vested trips required.
7. 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.
8. 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.

9. 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.
10. 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.
11. 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 to the Orange County Environmental Protection Division, as specified in Orange County Code Chapter 15 Environmental Control, Article IX Dock Construction, prior to installation, for an Orange County Dock Construction Permit, as well as to any other Orange County Division(s) for any other applicable permits.
12. 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).
13. The following waivers from Orange County Code are being requested:
  - a. A waiver from Orange County Code Section 38-79 (28) (b) is granted to allow tents to be located anywhere within the designated special events area as depicted on the special events plan (including temporarily closed rights-of-way, as approved by the County Engineer), in lieu of the requirement that tents be set back from property lines a minimum of five (5) feet or comply with the principal building setbacks for the zoning district, whichever is less.

- b. A partial waiver from Orange County Code Section 38-79 (28) (h) (1) is granted to allow tents for an unlimited number of events on a parcel per year, in lieu of a four (4) event and twenty-eight (28) day limit per parcel or lot per calendar year.
  - c. A partial waiver from Orange County Code Section 38-79 (87) is granted to allow up to (3) three (or more if approved by the Zoning Manager) food trucks or vendors on a parcel, in lieu of the limit of a single portable food vendor on a parcel.
  - d. Within an event area only, a waiver from Orange County Code Section 38-79 (87) (g) is granted to allow farmer's markets, festivals, events, and portable food vendor operations to be located within any driveway, driving aisle, or any parking spaces required pursuant to article XI of Chapter 38 of the Orange County Code, in lieu of the prohibition of operating such events in the driveway, driving aisle or any required parking spaces.
  - e. Within an event area only, and with the requirement that any disturbed areas be restored to their previous condition, a waiver from Orange County Code Section 38-79 (87) (h) is granted to allow food trucks or vendors to be permitted on properties not containing a licensed and approved business or on any vacant property, in lieu of the prohibition of operating food trucks or vendors from operating on any property not containing a licensed and approved business or on vacant property.
  - f. Within an event area only, a partial waiver from Orange County Code Section 38-79 (87) (k) is granted to allow food trucks or vendors to operate within one thousand (1,000) feet from each other, in lieu of the separation requirement of at least one thousand (1,000) feet.
  - g. A partial waiver from Orange County Code Section 38-79 (160) is granted to allow farmer's markets, festivals, events, portable food vendor, and food truck operations (referred to collectively as special events) within the Hamlin Main Street District, within designated special event areas only, to operate between 6:00 a.m. and 12:00 a.m. (including setup and takedown) on a year-round basis, in lieu of the limited times between 10:00 a.m. and 4:00 p.m. for one (1) weekend day per week. Outdoor music, loudspeakers, etc. may be permitted at special events between 10 am and 7 pm weekdays, and until 11 pm on Friday and Saturday and 7 pm on Sundays. No single event shall be more than 3 consecutive days without Zoning Manager approval. Events shall not be located within any driveway, driving aisle, or any parking spaces required pursuant to Article XI of Chapter 38 of the Orange County Code during business hours of the affected business unless the areas are included in an approved designated special events area.
14. Except as amended, modified, and/or superseded, the following BCC Conditions of Approval, dated February 21, 2017, 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 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.
- b. 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.
- c. 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.
- d. 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.
- e. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
- f. To demonstrate concurrency entitlements have been met for this project the Preliminary Subdivision Plan I Development Plan must show a legend with trip allocations by parcel identification number and phase of the development.
- g. 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.
- h. Signage shall comply with the Master Sign Plan.
- i. Outside sales, storage, and display shall be prohibited, unless otherwise approved by the BCC.

- j. 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.