

CASE # CDR-18-01-006

Commission District # 2

1. REQUEST

This public hearing is to consider a recommendation from the Development Review Committee's (DRC) meeting of June 27, 2018, to deny a substantial change to the Home Depot at Lee Road & I-4 Preliminary Subdivision Plan (PSP), to remove the September 18, 2001, BCC Condition of Approval #3, which among other things required the existing billboard to be removed at the termination of the lease agreement (July 13, 2013), with no lease options permitted. The applicant is proposing to delete this condition in order to keep the billboard.

2. PROJECT ANALYSIS

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|-----------------------|---|
| A. Location: | North of Lee Road / West of Interstate 4 |
| B. Parcel ID: | 02-22-29-6304-03-000 |
| C. Total Acres: | 21.21 |
| D. Water Supply: | Winter Park |
| E. Sewer System: | Winter Park |
| F. Schools: | N/A |
| G. School Population: | N/A |
| H. Parks: | N/A |
| I. Proposed Use: | Office / Retail / Gas Station with Convenience Store /
Billboard |
| J. Site Data: | Maximum Building Height: 40' (1-story)
Building Setbacks:
25' Front
10' Side (east)
15' Rear
20' Side (west) |
| K. Fire Station: | 41 – 4412 Fairview Avenue |
| L. Transportation: | This request will not create any additional trips. |

3. COMPREHENSIVE PLAN

The subject property has an underlying Future Land Use Map (FLUM) designation of Commercial (C). The proposed land use is consistent with the FLUM designation.

4. ZONING

C-1 & C-2 (Retail Commercial)

5. REQUESTED ACTION:

Deny the request to remove the September 18, 2001, BCC Condition of Approval #3.

EXISTING CONDITIONS OF APPROVAL (August 23, 2016)

1. Development shall conform to the The Home Depot at Lee Road & I-4 Preliminary Subdivision Plan dated "Received July 14, 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 July 14, 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 at the public hearing where this development was approved, 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. 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 or 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. Prior to construction plan approval, documentation must be provided certifying that this project has the legal right to tie into the master drainage system.
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 Mobility analysis is required prior to obtaining building permit for the proposed development.
9. 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.
10. Pole signs and billboards shall be prohibited. Unless otherwise waived by the Board of County Commissioners, ground signs shall be per the Master Sign Plan, and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
11. Outside sales, storage, and display shall be prohibited.
12. A waiver from Orange County Code Section 38-1476 is granted to allow 389 parking spaces on Lot 1, in lieu of 712 parking spaces.

13. Approval of this Preliminary Subdivision Plan constitutes lot split approval.
14. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated September 18, 2001, shall apply:
 - a. The existing billboard shall be removed at the termination of the lease agreement (July 13, 2013), with no lease options to be exercised.
 - b. New development shall conform to the commercial design standards as adopted by the BCC on June 19, 2001.
 - c. The special exception allowing a heliport shall be voided with this PSP.
 - d. A waiver is granted to allow existing landscaping, parking, and setbacks for the existing buildings on Lots 2 and 3.
 - e. A waiver is granted on Lot 4 for existing parking, landscaping, and setbacks within the dedicated, unopened right-of-way for the Diplomat Circle Extension extending along the western boundary of Lot 4 to the northern boundary of Lot 4 until commencement of construction of the Diplomat Circle Extension. Upon redevelopment of Lots 2, 3, or 4, the waivers granted in conditions 7 and 8 shall cease to apply to the redeveloped lot or lots.
15. Storage of semi-trucks shall be prohibited on Lot 2.
16. A knee-wall shall be constructed along Lee Road in front of Lot 2.
17. Canopy structure shall include brick veneer wrap on the base portion of the support columns.

EXISTING CONDITIONS OF APPROVAL (September 18, 2001)

1. Development shall conform to the Home Depot at Lee Road and Interstate 4 Preliminary Subdivision, dated "Received July 12, 2001," and to the following conditions of approval. Development based upon this approval shall comply with all other applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent [the applicable laws, ordinances, and regulations] are expressly waived or modified by these conditions, or by action approved by the Board of County Commissioners (BCC), or by action of the BCC.
2. Prior to construction plan approval, a master stormwater management plan shall be submitted to the County engineer for review and approval.
3. Pole signs, billboards, and outdoor storage and display are prohibited. Prior to issuance of the first building permit, the existing pole sign shall be removed at no cost to and without any compensation from Orange County. The existing billboard shall be removed not later than 60 days after the end of the current term of the existing lease agreement (July 13, 2013), at no cost to and without any compensation from Orange County; no lease options or extensions may be exercised.

4. New development shall conform to the commercial design standards as adopted by the BCC on June 19, 2001.
5. The special exception allowing a heliport shall be voided with this PSP.
6. A waiver is granted for Lot 1 to allow 584 parking spaces in lieu of 712 required parking spaces in order to accommodate the expansion of a Florida Department of Transportation (FDOT) retention pond for Interstate 4 improvements and to ensure compliance with the Commercial Design Standards Ordinance.
7. A waiver is granted to allow existing landscaping, parking, and setbacks for the existing billboards on Lots 2 and 3.
8. A waiver is granted on Lot 4 for existing parking, landscaping, and setbacks with the dedicated, unopened right-of-way for the Diplomat Circle Extension extending along the western boundary of Lot 4 to the northern boundary of Lot 4 until commencement of construction of the Diplomat Circle Extension. Upon redevelopment of Lots 2, 3, or 4, the waivers granted in conditions 7 and 8 shall cease to apply to the redeveloped lot or lots.
9. The six-foot (6') wall along the west boundary shall be masonry block with a stucco finish on both sides.