

***PZC Recommendation Staff Report
Commission District: # 6***

GENERAL INFORMATION

APPLICANT	George Kramer, Littlejohn Engineering Associates, Inc.
OWNER	Skyplex Ownership Company, LLC
PROJECT NAME	Skyplex Orlando Planned Development (PD)
HEARING TYPE	Planned Development / Land Use Plan Amendment (PD/LUPA)
REQUEST	C-2 (General Commercial District) to PD (Planned Development District) <i>A request to rezone a 1.50-acre parcel (25-23-28-3853-00-131) from C-2 (General Commercial District) to PD (Planned Development District) while aggregating it into the existing Skyplex Orlando PD in order to provide for stormwater management.</i>
LOCATION	Generally located north of Sand Lake Road, east of International Drive, and west and east of Canada Avenue.
PARCEL ID NUMBERS	25-23-28-0000-00-008; 25-23-28-0000-00-021; 25-23-28-0000-00-035; 25-23-28-0000-00-056; 25-23-28-3853-00-060; and 25-23-28-3853-00-131
TRACT SIZE	11.46 gross acres (<i>existing PD</i>) <u>1.50 gross acres (<i>aggregated parcel</i>)</u> 12.96 gross acres (<i>resulting PD</i>)
PUBLIC NOTIFICATION	The notification area for this public hearing extended beyond 500 feet [<i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i>]. One hundred fifty-five (155) notices were mailed to those property owners in the mailing area.
PROPOSED USE	39,823 square feet of Restaurant Use; 384,511 square feet of Entertainment/Retail Use; 79,441 square feet of General Retail Use; 450 Hotel Rooms; and a stormwater retention pond (<i>overall PD</i>).

STAFF RECOMMENDATION

Development Review Committee – (December 7, 2016)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Skyplex Planned Development / Land Use Plan (PD/LUP), dated “Received November 21, 2016”, subject to the following conditions:

1. Development shall conform to the Skyplex Orlando Planned Development / Land Use Plan (PD/LUP) dated "Received November 21, 2016," 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 November 21, 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 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. Except as amended, modified, and / or superseded, the following BCC Conditions of Approval, dated December 1, 2015, shall apply:
 - a. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards.
 - b. Unless the property is otherwise vested or exempt, the applicant must apply for and obtain a Capacity Encumbrance Letter (CEL) prior to construction plan submittal and must apply for and obtain a Capacity Reservation Certificate (CRC) prior to approval of the plat. 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 CEL or a CRC.
 - c. The Developer shall obtain wastewater service from Orange County Utilities.
 - d. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing wastewater systems have been designed to support all development within the PD.
 - e. A waiver is granted to use the Convention Plaza District Overlay standards in Orange County Code Section 38-865, in lieu of the PD Tourist Commercial

Standards found in Orange County Code Sections 38-1287, 38-1290, 38-1291, and 38-1300.

- f. Waivers from Orange County Code Section 38-1289 and Section 38-1476 are granted to allow for a minimum parking requirement of 2,200 parking spaces, in lieu of 2,708 parking spaces (*a reduction of 508 parking spaces*).
- g. Stormwater condition: Stormwater discharge from the Skyplex PD shall not be permitted to drain from surficial waters to any systems discharging into Sandy Lake.
- h. Height condition: The height of the project shall not exceed 600 feet above ground level.
- i. Lighting condition:
 - 1) Flashing lighting: Strobe or other exterior lighting which flashes or blinks on any exterior portion of the planned development, including the roller coaster, are prohibited.
 - 2) Kelvin rating (white light intensity): All project exterior white colored lighting, located more than 40 feet above finished grade shall be 3,000k or less.
 - 3) Timing between lit states (color changing): The project shall incorporate exterior lighting control systems which shall ensure that:
 - a) Color changing of any lighting installed more than 40 feet above finished grade (including on the Skyplex tower) shall occur through a transition, or gradual fading, by means of granular lighting control systems.
 - b) Light color change transitions on all surfaces of the Skyplex (roller coaster) tower (including the tracks, supporting structures and individuals 'cars') may only be initiated at a minimum of 8 second intervals.
 - c) Lighting power shut down: Except for any FAA-required lighting, power to all white-colored lighting on the Skyplex (roller coaster) tower shall be shut off by 2 a.m. All other non-white colored lighting shall be dimmed.
 - d) Special events: Requests for special event lighting – which deviates from the exterior lighting parameters described above – shall be subject to approval by the Zoning Manager.

Note: Except for the conditions of approval described above, all project exterior lighting shall comply with the Orange County Exterior Lighting Ordinance, as it may be amended from time to time.

IMPACT ANALYSIS

Land Use Compatibility

Staff has determined that the applicant's request to aggregate and rezone 1.50 gross acres into the existing PD for stormwater management purposes would not adversely impact any adjacent properties, and would be compatible with the surrounding area.

Comprehensive Plan (CP) Consistency

The subject property is designated Commercial (C) on the Future Land Use Map (FLUM). The subject rezoning application is consistent with the Commercial FLUM designation and all applicable CP provisions, which include (but are not limited to) the following:

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with the existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well as its contribution toward the Goals and Objectives of the CP.

Community Meeting Summary

A community meeting was not required for this request.

SITE DATA

Existing Uses	Parking Lot
Adjacent Zoning	N: C-2 (General Commercial District) (1980)
	E: C-2 (General Commercial District) (1980)
	W: C-2 (General Commercial District) (1980)
	S: C-2 (General Commercial District) (1980)
Adjacent Land Uses	N: Parking Lot
	E: Stormwater Pond
	W: Hotel

S: Hotel

APPLICABLE PD DEVELOPMENT STANDARDS

(Based on proposed Convention Plaza District Standards)

Commercial Standards

Maximum Lot Coverage: Impervious surfaces may cover entire parcel

Maximum Building Height: 600 feet [Note: All structures 200 feet or greater must obtain Federal Aviation Authority (FAA) approval]

Minimum Open Space: None

Commercial Minimum Building Setbacks

Front: None

Side: None

Rear: None

PD perimeter: None

SPECIAL INFORMATION

Subject Property Analysis

The Skyplex Orlando PD was originally approved on December 1, 2015, contains 11.46 gross acres, and allows for the development of up to 39,823 square feet of Restaurant; 384,511 square feet of Entertainment Retail; 79,441 square feet of General Retail; and 450 Hotel Rooms.

Through this request, the applicant is seeking to aggregate and rezone a 1.5-acre parcel (25-23-28-3853-00-131) from C-2 (General Commercial District) to PD (Planned Development District) to be added to the existing Skyplex Orlando PD for stormwater management purposes.

Comprehensive Plan (CP) Amendment

The existing PD has underlying Future Land Use Map (FLUM) designation of Commercial (C). The subject 1.50-acre parcel that is proposed to be aggregated into the PD also has an underlying FLUM designation of Commercial (C). The proposed rezoning request is consistent with the FLUM designation and all other applicable CP provisions.

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.

Overlay District Ordinance

The subject property is located within the Tourist Commercial Signage overlay area; therefore, is subject to the criteria found in Orange County Code Section 31.5.

Airport Noise Zone

The subject property is not located within an Airport Noise Zone.

Environmental

The Environmental Protection Division (EPD) reviewed the request but did not identify any issues or concerns.

Transportation / Concurrency

Transportation Division staff reviewed the Land Use Plan Amendment but did not identify any issues or concerns.

Water / Wastewater / Reclaim

	<u>Existing service or provider</u>
Water:	Orange County Utilities
Wastewater:	Orange County Utilities
Reclaimed:	Orange County Utilities

Schools

Orange County Public Schools (OCPS) did not comment on this case, as it does not involve an increase in residential units or density.

Parks and Recreation

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

Code Enforcement

No code enforcement, special magistrate or lot cleaning issues on the subject property have been identified.

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

Planning and Zoning Commission (PZC) Recommendation – (December 15, 2016)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Skyplex Planned Development / Land Use Plan (PD/LUP), dated “Received November 21, 2016”, subject to the following conditions:

1. Development shall conform to the Skyplex Orlando Planned Development / Land Use Plan (PD/LUP) dated "Received November 21, 2016," 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 November 21, 2016," the condition of approval shall control to the extent of such conflict or inconsistency.
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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.

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PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested PD (Planned Development District) zoning, subject to six (6) conditions.

Staff indicated that one hundred fifty-five (155) notices were sent to an area extending beyond 500 feet from the subject property, with four (4) responses in favor and none (0) in opposition received. The applicant, George Kramer, was present and agreed with the staff recommendation.

Following limited discussion, a motion was made by Commissioner Demostene to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Skyplex Orlando Planned Development / Land Use Plan (PD/LUP) dated "Received November 21, 2016," subject to the six (6) conditions listed in the staff report. Commissioner Baldocchi seconded the motion, which was then carried on a 7-0 vote.

Motion / Second	<i>Tina Demostene / Rick Baldocchi</i>
Voting in Favor	<i>Tina Demostene, Rick Baldocchi, Paul Wean, Pat DiVecchio, Marvin Barrett, Jose Cantero, and James Dunn</i>
Voting in Opposition	<i>None</i>
Absent	<i>JaJa Wade and Yog Melwani</i>