

**GENERAL INFORMATION**

<b>APPLICANT</b>	Sam Sebaali, Florida Engineering Group, Inc.
<b>OWNER</b>	Kadmar Plaza, LLC
<b>PROJECT NAME</b>	Kadmar Plaza Planned Development (PD)
<b>HEARING TYPE</b>	Planned Development / Land Use Plan (PD / LUP)
<b>REQUEST</b>	<b>A-2</b> (Farmland Rural District) <b>to</b> <b>PD</b> (Planned Development District)  <i>A request to rezone 4.78 acres from A-2 to PD in order to allow for the development of up to 28,350 square feet of commercial use, with a conversion table for hotel, office, and free standing restaurant uses, not to exceed the allowable intensity or density standards set forth for the Activity Center Mixed-Use (ACMU) district.</i>
<b>LOCATION</b>	Generally located west of State Road 535, between International Drive and the Central Florida Greenway (SR 417)
<b>PARCEL ID NUMBER</b>	34-24-28-5844-00-950
<b>TRACT SIZE</b>	4.77 gross acres
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing extended beyond 1,500 feet [ <i>Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet</i> ]. Four hundred sixty-seven (467) notices were mailed to those property owners in the mailing area. A community meeting was not required for this request.
<b>PROPOSED USE</b>	28,350 square feet of commercial uses

**STAFF RECOMMENDATION**

**Development Review Committee – (December 7, 2016)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Kadmar Plaza Planned Development / Land Use Plan (PD/LUP), dated “Received January 4, 2017”, subject to the following conditions:**

1. Development shall conform to the Kadmar Plaza Planned Development / Land Use Plan (PD/LUP) dated "Received January 4, 2017," 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 January 4, 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 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. A current Phase One Environmental Site Assessment (ESA) and current title opinion shall be submitted to the County for review as part of any Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) submittal and must be approved prior to Preliminary Subdivision Plan (PSP) and /or Development Plan (DP) approval for any streets and/or tracts anticipated to be dedicated to the County and/or to the perpetual use of the public.
  7. 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 / preliminary subdivision plan, shall be construed as a guarantee that the applicant will be able to satisfy the requirements for obtaining a CEL or a CRC.
  8. 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.
  9. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
  10. The Developer shall obtain water and wastewater service from Orange County Utilities.
  11. 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.
  12. Outside sales, storage, and display shall be prohibited.

13. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County Code.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The proposed development program is consistent with the property's underlying Activity Center Mixed Use (ACMU) Future Land Use Map designation which allows for a maximum of 3.0 Floor Area Ratio (FAR) for non-residential. The proposed request would not adversely impact any adjacent properties.

### **Comprehensive Plan (CP) Consistency**

The property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed-Use (ACMU). The proposed use is consistent with this designation and applicable CP provisions which include, but are not limited to, the following goals, objectives and policies:

**GOAL ID1** states that it is Orange County's goal to promote tourism by the development of an economically viable, well planned tourist oriented activity center.

**OBJ ID1.1** states that Orange County shall establish the boundaries of a tourist oriented activity center and assign future land use which permits a mixture of tourism related uses.

**ID1.1.3** states that land use designations, which encourage a mixture of tourist related development, shall be included in the Activity Center Plan. Permitted uses within the mixed use area shall reflect the tourist orientation and are as follows:

Hotel / motel / time-share	Child care
Residential (minimum 12, maximum 30 dwelling units/acre)	Business and Personal Services
Retail Uses	Medical offices
Amusement centers, including theaters, including theme attractions	Veterinary
Night clubs	Automobile Service Stations
Conference Centers	Car wash
Health spas	Banks
Public community facilities & services	Laundry and dry cleaning
Car rental agency	Travel Agent
Eating and Drinking Establishments	Public Services and Facilities
Other similar and compatible tourist commercial uses as determined by the Planning and Zoning Directors	Warehouses, ancillary to other uses permitted

**ID1.1.7** states that in order to separate residential neighborhoods from, and to reserve the most appropriate areas for tourist related businesses, no more than 30 percent of a site designated for Activity Center Mixed Use shall be used for residential purposes.

**FLU1.1.5** states that Orange County shall encourage mixed-use development, infill development and transit-oriented development to promote compact urban form and efficiently use land and infrastructure in the Urban Service Area. The County may require minimum FARs and densities in its Land Development Code to achieve the County's desired urban framework. Infill is defined as development consistent with the Infill Master Plan (2008).

**FLU2.2.1** states that within the Urban Service Area, Orange County shall encourage a mixture of land uses within activity and mixed-use commercial centers. Office and residential land uses shall be part of the balanced land use mixture, in addition to the commercial component.

**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.

**FLU8.2.2** states that continuous stretches of similar housing types and density of units shall be avoided. A diverse mix of uses and housing types and shall be promoted.

**FLU8.2.10** states that to ensure land use compatibility with nearby residential zoned areas and protection of the residential character of those areas, office and commercial uses within residential neighborhoods shall be subject to strict performance standards, including but not limited to the following:

- A. Building height restrictions;
- B. Requirements for architectural design compatible with the residential units nearby;
- C. Floor area ratio (FAR) limitations;
- D. Lighting type and location requirements;
- E. Tree protection and landscaping requirements including those for infill development;
- F. Parking design.

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

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

**Community Meeting Summary**

A community meeting was not required for this request.

**SITE DATA**

<b>Existing Use</b>	Undeveloped Land / Agricultural Uses
<b>Adjacent Zoning</b>	N: A-2 (Farmland Rural District) (1989) E: A-2 (Farmland Rural District) (1989) PD (BV Planned Development) (1997) W: PD (World Gateway PD) (1981) S: PD (World Gateway PD) (1981)
<b>Adjacent Land Uses</b>	N: Undeveloped Land E: Retail / Undeveloped land W: Undeveloped Land S: Undeveloped Land

**APPLICABLE PD DEVELOPMENT STANDARDS**

PD Boundary Setback: 25 feet

**Minimum Building Setbacks**

Front yard (along SR 535):	60 feet
Street side yard (along SR 417):	75 feet
Side yard (south):	30 feet
Side yard (north):	30 feet
Rear yard (west):	20 feet

Maximum Building Height:	60 feet (200 feet for hotel)
Maximum Impervious Coverage:	70%
Open Space Required:	25%

## **SPECIAL INFORMATION**

### **Subject Property Analysis**

The proposed Kadmar Plaza PD is generally located on the west of State Road 535, between International Drive and the Central Florida Greenway (SR 417). With this request, the applicant is seeking to rezone the subject 4.78 acres from A-2 to PD in order to allow for 28,350 square feet of commercial. In addition, a trip conversion table is proposed to allow for alternative hotel, office, and free standing restaurant uses that do not exceed the vehicular trips associated with the proposed commercial development program, or the allowable intensity set forth by the Activity Center Mixed-Use (ACMU) Future Land Map (FLUM) designation.

### **Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation of Activity Center Mixed Use (ACMU). The proposed use is consistent with this 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 District.

### **Airport Noise Zone**

This property is not located within an Airport Noise Zone.

### **Environmental**

CAD - There is one Class II wetland of 2.82 acres located on site. Orange County Conservation Area Determination CAD 08-081 was completed for this property with a certified survey of the conservation area boundary approved on December 3, 2008. This determination was extended and it expires on October 30, 2018.

Conservation Area Impacts – The applicant shall submit an application for a Conservation Area Impact (CAI) Permit for the proposed conservation area encroachments and adverse secondary impacts as soon as possible to the Orange County EPD, consistent with Chapter 15, Article X Wetland Conservation Areas.

Habitat Protection - Development of the subject property shall comply with all state and federal regulations regarding wildlife and plants listed as endangered, threatened, or species of special concern. The applicant is responsible to determine the presence of listed species and obtain any required habitat permits from the U.S. Fish and Wildlife Service (USFWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

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.

**Transportation / Concurrency**

Per Objective T3.2, Policies T3.2.1 and T3.2.2 of the comprehensive plan, the development plan for this project must include pedestrian/bicycle connectivity (e.g. via sidewalks) to the public sidewalk or right-of-way.

This project shall comply with the County's International Drive Activity Center Comprehensive Plan requirement for a 15-foot transit easement and a separate 20-foot landscape, pedestrian and utility easement for future roadway improvements. The easement areas required should be shown on the development plan and conveyed concurrently at time of platting or dedicated to the County via separate instrument prior to Development Plan Approval.

Based on the concurrency management system database dated 11-23-12, there are two failing roadway segments within a one mile radius of this development. Winter Garden Vineland Road is currently operating at level of service F from the Osceola County Line to SR536 and from SR 536 to I4. This information is dated and subject to change.

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 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.

**Water / Wastewater / Reclaim**

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

**Schools**

The proposed development program does not include residential units so a Capacity Enhancement Agreement (CEA) is not required.

**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 clearing 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 – (February 16, 2017)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the Kadmar Plaza Orlando Planned Development / Land Use Plan (PD/LUP), dated "Received January 4, 2017," subject to the following conditions:**

1. Development shall conform to the Kadmar Plaza Planned Development / Land Use Plan (PD/LUP) dated "Received January 4, 2017," 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 January 4, 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 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.
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9. Prior to construction plan approval, hydraulic calculations shall be submitted to Orange County Utilities demonstrating that proposed and existing water and wastewater systems have been designed to support all development within the PD.
10. The Developer shall obtain water and wastewater service from Orange County Utilities.
11. 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.
12. Outside sales, storage, and display shall be prohibited.
13. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 Tourist Commercial standards of the Orange County Code.

### **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 thirteen (13) conditions.

Staff indicated that four hundred sixty-seven (467) notices were sent to an area extending beyond 1,500 feet from the subject property, with zero (0) responses in favor and one (1) in opposition received. The applicant, Sam Sebaali, was present and agreed with the staff recommendation.

Following limited discussion, a motion was made by Commissioner Dunn to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the Kadmar Plaza Planned Development / Land Use Plan (PD/LUP) dated "Received January 4, 2017", subject to the thirteen (13) conditions listed in the staff report. Commissioner DiVecchio seconded the motion, which was then carried on a 7-0 vote.

<b>Motion / Second</b>	<i>James Dunn / Pat DiVecchio</i>
<b>Voting in Favor</b>	<i>James Dunn, Pat DiVecchio, Paul Wean, Jose Cantero, Gordon Spears, JaJa Wade, and William Gusler</i>
<b>Voting in Opposition</b>	<i>None</i>
<b>Absent</b>	<i>Tina Demostene and Yog Melwani</i>