

**GENERAL INFORMATION**

**APPLICANT** Jim Dombrowski, B&S Engineering Consultants, LLC

**OWNER** JKS Holdings of Central Florida, LLC

**PROJECT NAME** U Park Toy Storage Planned Development (PD)

**HEARING TYPE** Planned Development / Land Use Plan (PD / LUP)

**REQUEST** **C-1** (Retail Commercial District) **to**  
**PD** (Planned Development District)

*A request to rezone one (1) parcel containing 5.02 gross acres from C-1 to PD, in order to construct up to 351,142 square feet of Retail Commercial (C-1 uses) and outdoor storage of boats and recreational vehicles (C-2 uses). In addition, the applicant has requested the following waivers from Orange County Code:*

1. A waiver from Section 24-5(a)(2) to allow a 10-foot wide landscape buffer to separate C-2 uses from all residential uses along the north and south property lines, in lieu of a minimum 25-foot wide landscape buffer; and
2. A waiver from Section 38-1272(a)(3) to allow a minimum 10-foot PD perimeter setback along the southern property line only, in lieu of a minimum 25-foot PD perimeter setback.

**LOCATION** 600 North Goldenrod Road; or generally at the terminus of Valencia College Lane, approximately 150 feet west of N. Goldenrod Road.

**PARCEL ID NUMBER** 26-22-30-0000-00-123

**TRACT SIZE** 5.02 gross acres  
2.07 developable acres

**PUBLIC NOTIFICATION** The notification area for this public hearing extended beyond eight hundred feet [*Chapter 30-40(c)(3)(a) of Orange County Code requires 300 feet*]. Three hundred forty-four (344) notices were mailed to those property owners in the mailing area. A community meeting was held for the previous Future Land Use Map (FLUM) Amendment (#2016-2-S-3-1) on August 31, 2016, with no residents attending.

**PROPOSED USE**

Up to 351,142 square feet of Retail Commercial (C-1 uses) and outdoor storage of boats and recreational vehicles (C-2 uses).

**STAFF RECOMMENDATION**

**Development Review Committee – (May 10, 2017)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the U Park Toy Storage Planned Development / Land Use Plan (PD/LUP), dated “Received May 11, 2017”, subject to the following conditions:**

1. Development shall conform to the U Park Toy Storage Planned Development / Land Use Plan (PD / LUP) dated "Received May 11, 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 May 11, 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. 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.
7. Pole signs and billboards shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
8. Approval of this PD shall void previously approved Board of Zoning Adjustment Special Exception SE-06-09-011.
9. 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.

10. 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.
11. 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.
12. The developer shall obtain water and wastewater service from Orange County Utilities.
13. This project is located in the Alternative Mobility Area (AMA) and, therefore, shall be required to provide for alternative mobility strategies related to the development. The applicant must submit a Mobility Analysis to be reviewed and approved by the Transportation Planning Division prior to obtaining a building permit.
14. 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.
15. The following waivers from Orange County Code are granted:
  - a. A waiver from Section 24-5(a)(2) to allow a 10-foot wide landscape buffer to separate C-2 uses from all residential uses along the north and south property lines, in lieu of a minimum 25-foot wide landscape buffer; and
  - b. A waiver from Section 38-1272(a)(3) to allow a minimum 10-foot PD perimeter setback along the southern property line only, in lieu of a minimum 25-foot PD perimeter setback.

## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The applicant is seeking to rezone the subject parcels from C-1 (Retail Commercial District) to PD (Planned Development District) in order to construct up to 351,142 square feet of Retail Commercial (C-1 uses) and outdoor storage of boats and recreational vehicles (C-2 uses). The applicant is also seeking two waivers from Orange County Code to reduce the north and south property line landscape buffers and PD perimeter setback. The first waiver would reduce the minimum 25-foot wide landscape buffer from all residential uses along the north and south property lines to 10 feet, and the second waiver would reduce the minimum PD perimeter setback

along the south property line only from 25 feet to 10 feet.

The proposed development program is compatible with existing development in the area, and would not adversely impact any adjacent properties.

**Comprehensive Plan (CP) Consistency**

The subject property has an underlying Future Land Use Map (FLUM) designation of Planned Development - Commercial (PD-C) which allows consideration of up to 410,335 square feet of commercial square feet. The proposed PD zoning district and development program is consistent with the PD-C FLUM designation and the following CP provisions:

**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.

**FLU8.2.10** 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; and

Parking design.

**Community Meeting Summary**

A community meeting was not required for this application, but was held for the previous Future Land Use Map (FLUM) Amendment (#2016-2-S-3-1) on August 31, 2016. No residents attended the FLUM amendment community meeting.

**SITE DATA**

**Existing Use**                      Undeveloped Land / Manufactured Home

**Adjacent Zoning**                N:    R-1A (Single-Family District) (1957)

R-3 (Multiple-Family Dwelling District) (2003)

E: C-1 (Retail Commercial District) (2012)

W: R-3 (Multiple-Family Dwelling District) (1988)

S: R-3 (Multiple-Family Dwelling District) (1988)

**Adjacent Land Uses** N: Single Family Residential / Multi-Family Residential / Undeveloped Land

E: Gas Station / Convenience Store

W: Multi-Family Residential

S: Multi-Family Residential

**APPLICABLE PD DEVELOPMENT STANDARDS**

PD Perimeter Setback 25 feet (10 feet on south property line – *waiver requested*)

Maximum Building Height: 50 feet (35 feet within 35 feet of residential zoned property)

Floor Area Ratio (FAR): 3.0 maximum

Open Space Required: 20% minimum

Impervious Surface: 70% maximum

**Minimum Building Setbacks**

Front Setback: 25 feet

Rear Setback: 30 feet

Side Setback: 25 feet

**SPECIAL INFORMATION**

**Comprehensive Plan (CP) Amendment**

The property has an underlying Future Land Use Map (FLUM) designation of Planned Development - Commercial (PD-C) which was recently approved by the Board of County Commissioners on November 15, 2016 through CP Amendment #2016-2-S-3-1. The proposed use is consistent with this designation and all other applicable CP provisions; therefore, a CP amendment is not necessary.

**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 not located within an Overlay District.

**Airport Noise Zone**

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

**Environmental**

CAD Complete - There are wetlands and surface waters located on site. Orange County Conservation Area Determination CAD-16-11-114 was completed for this project with a certified wetland boundary survey approved on December 22, 2016. This determination is valid until December 22, 2021.

Conservation Area Impacts - A Conservation Area Impact (CAI) permit application must be approved by the Environmental Protection Division (EPD) for any conservation area encroachments and adverse secondary impacts, consistent with Orange County Code Chapter 15, Article X Wetland Conservation Areas. Without Conservation Area Impacts, the project is only permitted for up to 351,142 square feet, based on a Floor Area Ratio (FAR) of 3.0 and 2.7 developable acres.

Wildlife - 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**

This project is in the Alternative Mobility Area (AMA) and is therefore exempt from transportation concurrency. However, a mobility study will be required prior to obtaining a building permit.

**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) reviewed the request and determined that it will not impact public school capacity.

**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 – (June 15, 2017)**

**Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the U Park Toy Storage Planned Development / Land Use Plan (PD/LUP), dated "Received May 11, 2017", subject to the following conditions:**

1. Development shall conform to the U Park Toy Storage Planned Development / Land Use Plan (PD / LUP) dated "Received May 11, 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 May 11, 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.
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9. 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.
10. 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.
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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, including two (2) waivers and subject to fifteen (15) conditions.

Staff indicated that three hundred forty-four (344) notices were sent to an area extending beyond 800 feet from the subject property, with no responses received. The applicant, Jim Dombrowski was present and agreed with the staff recommendation.

Discussion ensued regarding the need for the requested waivers for reduced buffer and setback waivers adjacent to the surrounding residential properties, and in particular to the single-family residential property to the north. The applicant stated that upgraded landscaping would be provided along the north and a wall would be provided along the south property line adjacent to the pool area located on the multi-family property. John Smogor, Planning Administrator, also clarified that the waivers recognized that a significant portion of the subject property that abuts single-family zoned parcels was already separated by an existing conservation / wetland system, and therefore, a reduction to the landscape buffer along the north property line was viewed favorably by the Development Review Committee (DRC).

A motion was made by Commissioner Demostene to find the request to be consistent with the Comprehensive Plan and recommend **APPROVAL** of the U Park Toy Storage Planned Development / Land Use Plan (PD/LUP) dated "Received May 11, 2017", subject to the fifteen (15) conditions listed in the staff report. Commissioner Wean seconded the motion, which was then carried on an 8-0 vote.

<b>Motion / Second</b>	<i>Tina Demostene / Paul Wean</i>
<b>Voting in Favor</b>	<i>Tina Demostene, Paul Wean, James Dunn, Yog Melwani, William Gusler, Gordon Spears, Tina Demostene, and Pat DiVecchio</i>
<b>Absent</b>	<i>Jose Cantero</i>