Minutes

Planning Commission May 17, 2010
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Imboden, Merino, Steiner and Whitaker
ABSENT: Commissioner Cunningham

STAFF
PRESENT: Ed Knight, Assistant Community Development Director
Leslie Aranda Roseberry, Planning Manager
Robert Garcia, Associate Planner
Chad Ortlieb, Senior Planner
Gary Sheatz, Assistant City Attorney
Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION:

Chair Whitaker opened the Administrative Session @ 6:45 p.m. with a review of the Agenda. He stated he had a conflict on Item No. 3, The Block, as the architect on the proposed project was a client of his. As Vice Chair Cunningham was absent he would ask Commissioner Steiner to act as Chair on his behalf for the presentation of the item.

Item No. 1, Minutes from the Regular Meeting of April 19, 2010. No changes or corrections were noted.

Item No. 2, Ridgeline, Chair Whitaker stated he would open the item with a continuance of the Public Hearing and hear the remainder of the speakers who had not had a chance to speak at the last meeting. There were 20 more speaker cards to go through. He stated that he would make a motion to continue the hearing to a date certain, in order for all the Commissioners to be present and to be a part of the applicant's rebuttal, questions for the applicant and Staff, and for the Commissioner's discussion. He felt it was too important of an issue, in light of all the community input, to have anyone absent from the presentation and he would ask Commissioner Cunningham to review the tape of the remaining public speakers. Assistant City Attorney, Gary Sheatz, stated there should not be a debate regarding the continuance during the Administrative Session. The Commissioners could debate that during the Regular Session of the meeting.

Commissioner Merino asked if the continuance would be a request generated by the Chair? Chair Whitaker stated yes, due to the controversial nature of the item he wanted all Commissioners to be present. Commissioner Imboden stated it would be important to check the availability of all the Commissioners attendance for the next meeting. Assistant Community Development Director, Ed Knight stated they would all be present at the next meeting in June. Commissioner Merino asked if that would be the case, to continue the item, if one of the Commissioners was incapacitated or became ill. Chair Whitaker stated if there were hundreds of people involved he would do the same thing.

Commissioner Merino stated he would want to have a discussion when the motion was made.

Item No. 3, The Block, Chair Whitaker stated depending on how the motion carried for Item No. 2 he might ask for The Block item to be heard first. Mr. Sheatz stated the Chair would want to be certain that when Item No. 2 was introduced, to frame the motion, and then proceed with any readjustment of the Agenda for Item No. 3 if necessary.

Commissioner Merino stated he wanted to be clear on how the meeting would proceed; they would hear the remaining speakers who had submitted cards then the motion would be made and he asked if the motion failed would the speakers still be limited to 20? Chair Whitaker stated the speakers would still be those who had not had a chance to speak at the last hearing with no additional cards taken, if the motion would not pass the hearing could go on to midnight with The Block item still remaining; if that was the case he would move The Block item up in the Agenda.

Administrative Session closed at 7:00 p.m.

REGULAR SESSION:

PUBLIC PARTICIPATION: None

CONSENT CALENDAR:

(1) APPROVAL OF MINUTES FROM THE REGULAR MEETING ON APRIL 19, 2010

Commissioner Steiner made a motion to approve the minutes from the regular Planning Commission meeting on April 19, 2010 as written.

SECOND: Commissioner Merino
AYES: Commissioners Imboden, Merino, Steiner and Whitaker
NOES: None
ABSTAIN: None
ABSENT: Commissioner Cunningham

MOTION CARRIED

CONTINUED ITEM:

(2) DRAFT ENVIRONMENTAL IMPACT REPORT 1788-07, GENERAL PLAN AMENDMENT NO. 2007-0001, ZONE CHANGE NO. 1243-07, TENTATIVE TRACT MAP 0019-07 (ALSO KNOWN AS TENTATIVE TRACT MAP 17167), DEVELOPMENT AGREEMENT 5600, MAJOR SITE PLAN NO. 0496-07 AND DESIGN REVIEW COMMITTEE NO. 4207-07 – RIDGELINE EQUESTRIAN ESTATES

Continued from the May 3, 2010 Planning Commission meeting. A proposal to develop approximately 51 acres with 39 equestrian-oriented residential units on 39 minimum one-acre lots with 34 of the lots accommodating private equestrian stables. The project also proposes an equestrian ride-in only arena, open space, approximately one mile of public and 0.7 miles of private trails, private streets, site landscaping, and development of supporting infrastructure necessary for project implementation.

LOCATION: 1051 N. Meads Avenue

NOTE: The environmental impacts of the project and its project alternatives were evaluated through Environmental Review No. 1788-07 (DEIR State Clearinghouse No. 2007091107) which was prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15070 et seq and in conformance with the Local CEQA Guidelines.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution No. 09-10 recommending that the City Council (a) certify the adequacy of Final Environmental Impact Report 1788-07, (b) adopt Findings of Fact, (c) adopt a Statement of Overriding Considerations, and (d) adopt General Plan Amendment No. 2007-0001, Zone Change 1243-07, Tentative Tract Map No. 0019-07, Development Agreement No. 5600, Major Site Plan No. 0496-07 and Design Review Committee No. 4207-07 to allow for the construction of 39 residential units on minimum one-acre lots, a public ride-in only equestrian arena, approximately 1.7 miles of trails.

Chair Whitaker stated he had a proposal that he had mentioned in the Administrative Session of the meeting and he made a motion, due to the absence of one of the Commissioners. The public had been noticed that the item would be continued and he would open the Public Comment portion of the hearing to those who had not had a chance to speak at the last meeting. At the close of the public testimony he would propose that the meeting be continued to a date certain of June 7, 2010. He believed it was too important an issue and he wanted all the Commissioners present to allow them to question the applicant, Staff, and to debate and deliberate together and then vote, as

opposed to taking something of that much importance with less than the whole Commission. That would be his motion and he would hope that there would be a second.

Chair Imboden seconded the motion.

Commissioner Merino stated he was prepared once the Public Hearing was completed; as it was really about the folks that were on the other side of the dais and not necessarily the folks up on the dais. The people had been very patient with the process and the Commission had reviewed other projects over the past 8 months that he had been absent from and the Planning Commission had been able to vote and make decisions. He asked Assistant City Attorney, Gary Sheatz, if there was a quorum present could they move forward with the decision making process?

Mr. Sheatz stated that was correct.

Commissioner Merino stated he was concerned that a precedent could be set that an applicant would have the expectation that anytime 5 members of the Commission were not present that they would not be able to move forward. If the applicant wanted to come forward and state that if all 5 members were not present to have the item continued that might be a different story, but he believed that the Commission itself should make a decision to continue items and he was just not certain that the item before them needed to be continued. He was prepared to move forward with the application and make the recommendations needed to kick the item up to the City Council.

Chair Whitaker stated unlike other matters that had been before the Planning Commission, when they had operated with only a quorum or less than a whole Commission, there had not been a meeting with hundreds of members of the public involved in a debate over a rather rare piece of land. His concern with the Commission's fiduciary role to the public was that all the Commissioners that represented every one of the members of the City Council be present for the item before them to debate and deliberate. He understood Commissioner Merino's point of view and he called for a vote.

Commissioner Steiner stated he observed that distinguishing the proposed project from past matters that had been considered with less than a full Commission; and that the item before them was considered in its first stages with all the Commissioners present. He felt it would be in the interest of all parties concerned that all 5 Planning Commissioners vote.

Chair Whitaker made a motion to continue Draft EIR No. 1788-08, General Plan Amendment No. 2007-001, Zone Change No. 1243-07, Tentative Tract Map 0019-07 (Also known as tentative tract map 17167), Development Agreement 5600, JSP No. 0496-07 and DRC No. 4207-07-Ridgeline Equestrian Estates, to a date certain of June 7, 2010.

SECOND: Commissioner Imboden
AYES: Commissioners Imboden, Steiner and Whitaker
NOES: Commissioner Merino
ABSTAIN: None
ABSENT: Commissioner Cunningham

MOTION CARRIED

Chair Whitaker stated he would open the Public Comment portion of the meeting and there had been a request to move one of the speakers, Michelle Williams, to the end.

Commissioner Merino stated, just for clarification, so it would be clear to the members of the public present; he asked what would occur during the hearing?

Chair Whitaker stated there were 20 speaker cards remaining from the initial noticed Public Hearing and each card would be read off and each speaker would be asked to come forward. The testimony would be heard and after the final speaker was heard, the Public Hearing would be closed and the item would be continued to the next meeting.

Commissioner Merino stated as they were making the decision that they would give a Commissioner the utmost ability to hear all the issues, he had not seen why they would not give additional members of the public an opportunity to speak. It was a public hearing and he had not seen why, if they gave that opportunity to a Commissioner, that the public would not be given the same opportunity, and he asked for consideration of that suggestion.

Chair Whitaker stated, he would defer to Mr. Sheatz for clarification. He stated the initial notice to the public was for the last meeting, the current hearing was a continuation of those cards for speakers present at that meeting. It was his intention, and he would ask Mr. Sheatz if it was something that the members would do or simply the Chair could ask for; his intention was that he told everyone at the last meeting that there would be no further Public Comment cards taken and there was adequate public notice and the cards he had in hand were the remaining cards to be heard. There could be a potential prejudice to others if that was not the case.

Commissioner Merino began to speak.

Chair Whitaker stated he was in control of the meeting.

Commissioner Merino stated he would be asking a follow up question.

Chair Whitaker asked Mr. Sheatz for the proper procedure.

Mr. Sheatz stated Chair Whitaker had followed proper procedure in announcing at the last meeting the process. It would have been more appropriate at the last meeting to debate the process as to whether to accept additional comment cards. He had called it at the last meeting and had gone as far as reading the names into the Public Record of those

persons who would be called upon to speak.

Commissioner Merino asked Mr. Sheatz, since they were essentially continuing the proposal to another meeting; would there be any reason that the Chair could not open the Public Hearing to members of the public who wished to speak at that meeting by opening the Public Hearing at that time?

Mr. Sheatz stated it would be the prerogative of the Chair.

Commissioner Merino stated it would be the Chair's prerogative to make that decision in favor of the public, and that would be a yes or no?

Mr. Sheatz stated he knew what it was; he was not clear on the question.

Commissioner Merino stated the question was, for clarity for the members of the public present, the Chair could open the Public Hearing since the meeting would be continued to a date specific to allow more members of the public to express their opinion.

Mr. Sheatz stated he would not advise that the Public Hearing be opened up further at the current meeting and it was not a simple yes or no, as the call was made at the last meeting. The call was made to cut off the cards and there was a last call for cards; cards were accepted and the Chair had read the names into the record of those who would be able to testify and there were other people who had not gotten a card in that had not shown up. It would be prejudice to that group of people.

Commissioner Merino stated that was before the Commission knowingly would be continuing the hearing to another date certain. Now that the item was being continued again, it would seem logical to allow other members of the public to speak.

Mr. Sheatz stated it was a logic call, not a legal call and the legal call had been made.

Chair Whitaker stated the members of the Commission could appeal the Chair's decision, however, his ruling was from the last meeting that he had closed the number of cards for the public testimony and people who had not gotten their cards in knew that they would not have an opportunity to speak at the continued hearing and they may not have shown up and it would be a potential prejudice to those individuals. The motion made currently was that after the close of the Public Hearing, the item would be continued for the non-public portion of the meeting, which would include the applicant's rebuttal and questions to the applicant and Staff, for the benefit of the absent Commissioner. That Commissioner would need to review the tapes of the present hearing in order to participate in the continued hearing. It was his ruling, they would stick with the cards and they would go through them; there was approximately another hour of testimony and there was a request to have Michelle Williams who had been the first speaker moved, she was moved to the end and the first speaker was Fran Klovstand.

Commissioner Imboden stated at the last hearing the public had been very good about stating their relationship to the project and it would be very helpful to him and other members of the Commission if the public speakers stated that their address was on file, it would help him tremendously if they could state if they lived in OPA, close to OPA and their relationship to the area.

Fran Klovstand, address on file, stated thank you for considering all sides before they decided whether or not to take away recreational open space, whether privately owned or publicly owned, in favor of more homes that would benefit a developer. A few things they should know before making their decision; the developer bought Ridgeline knowing that it was zoned recreational open space. The developer was offering no mitigation in exchange for the zone change he has asked for. The 3.9 acres the developer had offered was approximately half of the arena site and was not being offered at the same time as the zone change. If they allowed the developer to build on the 52 acres of recreational open space, they needed to get 52 acres of the same somewhere else in the City as mitigation. Change the denomination and the issue became clearer; imagine dollars instead of acreage. The developer was asking the developer to give him $52.00 and was offering $3.90 in return somewhere in the near future and another $3.60 at some time further down the line when he would come to the City and ask for more money. What type of a deal was that? 52 had not equaled 7 ½. They wanted 52 for 52. The City was already in a deficit of open space per California guidelines. The developer had decided to bring his two projects to the Planning Commission in a piece meal fashion; Ridgeline currently and Sully Miller later. The Commission was only to consider Ridgeline, yet the development agreement tied the two properties together. If the development agreement was the mitigation for the zone change, the Planning Commission should have the opportunity to analyze the projects together, otherwise they could not claim there was mitigation provided with the zone change to Ridgeline. It was crucial; the developer was offering no mitigation in exchange for a zone change. She was sorry the developer bought the 52 acres at the top of the market and was looking for help by the City to flip the property and gain a profit. It was not their problem or the Commissions either. The Commission was charged with ensuring responsible planning for the City. She could not help but wonder why the Planning Commission would think it was a good idea to add 52 homes to a community, rather than adding open space. The community would not add enough income through property taxes to pay for themselves. The homes would be an extra burden on the general fund as cities only received approximately 9 cents on the dollar of the property tax paid and it would cost far more to provide public safety, both fire and police. They were already in non-compliance for park land and she was concerned on how the State would respond to the City in neglecting their responsibility. The State was in a severe budget shortfall and could consider litigation for non-compliance. Developers rarely have the best interest of the community in mind, the homes were not in the General Plan and she opposed the zone change.

Brian Gwartz, address on file, stated he was right across the street from Ridgeline and he had been to similar meetings. In the late ‘80’s he wore a shirt, which he displayed for the Commission, and he had to ask for the Planning Commission at that time to save Orange Park Acres and he was asking again for them to do that. He had seen a lot of people

present, and everyone had not stated what they had received. He had received from Mr. Martin delicious food and adult beverages and he enjoyed them, he had a wonderful caterer and, in fact, he recommended the caterer to Mr. Martin. The bigger responsibility was to the community. The land would be there a long time after they were gone, and as members of the Commission they asked intelligent and pointed questions, had the trails that were part of sub-committees eaten up, swallowed up, and cut up, and the answer was yes. He was part of the negotiating committee for the Reserve development; he was on the OPA Board and Vice President of the OPA Board and at that time they were supposed to get the entire 7 acres of the Sully Miller arena as mitigation for that development. Instead they lost their way, they got use of the land for a dollar a year for the last 20 years and they had deserved that land and it should be their land by eminent domain and there should not need to be any type of mitigation on the current project for that land. It was way too late. He asked that the Commission look for the original intent of the property, it was open space, horse property, rural space. It was a rural community, and when they drove through a rural area there were fields, it was not residential or commercial. The community had resisted commercial boarding and they wanted to be rural with open fields. If they allowed the field to go away; the property had been profitable, the developer took a profit making, cash flow, positive open space recreational use and destroyed it. It was not the type of developer they would want to develop anything; they had not known how to do trails. Trails were ridden in circles, they left their homes went out and came back. The developer stated the trail system was designed as arterial trails and the design was wrong.

Jane Canseco, address on file, stated she had been an OPA resident for 30 years and she had not been paid to be present. In spite of the developers' lackeys, lobbyist and lawyers they could tell that the emperor had no clothes. Forgive her impertinence, while it was an important decision by the Commission, it should not be a difficult one. The developer was asking to be allowed to build houses on open space, strip everything else away and that was what it came down to. The Commissioners should ask themselves if the zone change was granted, what in guaranteed mitigation would the City of Orange gain in return. If they listened they would gain nothing, sure they spoke of gifts, like a horse arena or trails and other pie in the sky promises, but only if permits were pulled, or only – or only what, they got the idea. For the zone change itself, the developer was offering nothing. The reality was that the property investors were getting antsy as they bought at the top of the market and it was fish or cut bait. It was their Hail Mary pass, if they could get their zone change and sneak it through, then they could flip the property and walk away flush, it was all about money. She was sorry that they made a bad real estate decision, but it was not up to the government to bail them out. Nobody liked government bail outs. They were coming to the Planning Commission asking for a zone change, or they were upside down in their investments. She might even suggest that it was dereliction of duty to ask that they change the rules to help one property owner at the expense of other property owners in the City. Loss of open space was an expense without replacement. It was an important decision, but not a difficult one. The City was not obligated to make a zone change, they were obligated to preserve the quality of life for perpetuity for all citizens of the City of Orange, and the loss of open space would be a detriment to their lifestyles now and for decades to come.

Rob Lindsey - Not present.

Lee Gislason, address on file, stated he and his wife had raised their two daughters in Orange and they had been residents of OPA for more than 30 years. His family played tennis, swam at the Santiago Tennis Club and then it was closed. They moved to the Ridgeline club where they played tennis and golf. His girls continued playing tennis, golf and swam. Now they were debating taking down Ridgeline and building houses. Where would his granddaughters go to swim and learn tennis? He opposed the re-zoning of Ridgeline for high end homes. The City's forefathers had the foresight to leave the Ridgeline area as a recreational area and for the City of Orange. Today there were not enough parks for the young and old and here they were debating the demise of Ridgeline. He was a physician in Orange for 35 years and he had noticed an alarming incidence of obesity in children and his daughter, who was a pediatrician in Orange, was also appalled by the over weight children she saw. The thing about Ridgeline was that it was special and provided a place to learn and enjoy three sports that could be enjoyed for a lifetime. There was not a tennis or golf club in Orange anymore, swimming was limited for the public and where were they supposed to go to exercise? The children he treated were not going anywhere to exercise, and many sat in front of their computers eating cheetos at risk for depression, obesity and substance abuse. The City was required, per California guidelines, a specific area of open space and they needed to adhere to that. They needed a good plan. The solution for the argument was to maintain the current allocation for recreational open space in Orange and vote according to the wishes of the community majority. He asked that they decline the rezoning of Ridgeline and maximize recreational property in the City of Orange.

Josh Stein, address on file, stated he was an attorney and practiced law in the City of Orange. They had lived in OPA for 14 years and while he would like to reiterate why everyone liked living in Orange Park Acres, he felt it was important to go over some of the legal issues that the board might be confused about. The developer repeatedly had stated that the site had a designation that allowed residential development and was relying on the City's 1973 adoption of the OPA Specific Plan that designated the space for other open space and low density one acre parcels. It was highly misleading and was not the operative plan for the property. In 1989 the City adopted a General Plan that imposed a designation of open space on the property. The designation that would not allow residential development superseded the City's 1973 action. The City Attorney's letter to Tom Davidson and John Martin specifically noted that the General Plan adopted in 1989 designated the land as recreational open space on the golf course. The City's Staff Report recognized that an amendment was necessary to change the General Plan designation from open space to low density residential. It should put an end to any confusion. The developer had not obtained a residential designation in the General Plan and the developer had sought to confuse the zoning issues in that case, and zoning for the project was straight forward. The property was in a recreational open space category and would not allow for residential development. The developer was seeking a zone change for the residential lots and in order for the project to move forward, the developer needed up-zoning, and the developer was seeking enhancements to his property and that was what he was asking the Planning Commission to do. Despite the developers attempt to

confuse the public, it was clear that the developer had no right to develop the property in the intensive manner in which it was being proposed; rather for the development to move forward. The landowner needed to have his plan enhanced through up-planning and up-zoning and the City had full discretion under the law to deny the enhancements. The City's General Plan and zoning never allowed for residential development. The developer had no expectation that the approvals would or should be granted. The current recreational zoning permit gave them a wide range of economic activities for the property. He could continue to use the space for a private club house with tennis, golf and swimming and the current zoning also allowed agriculture, athletic fields, educational facilities, museums and observatories. It was his experience, living in Orange and in OPA, he asked for a denial of the developer's request. His other job was a soccer coach for Orange County Premier and they were running out of places for the kids to play soccer. Golf, tennis and horseback riding were all very unique to OPA and if that property went away only because the City Council gave someone additional property rights, it would be a shame and once it was gone, it would be gone. The City's current land use policy designated the project site as open space and recreational uses. The designation allowed for various viable and economical uses, including the use for a private popular country club, and the developer had no vested rights in a more intense residential use proposed in the project. California and Federal law allowed for denial of the project at the discretion of the Planning Commission and would not constitute a taking. The board was well within its right and could continue to designate the area as open space and he encouraged them to do that.

George Widley, address on file, stated he was a resident of OPA for the past 45 years. At that time it was all about 4H and the volunteer fire department. He followed and took part in the Ridgeline planning process over the last few years, attending presentations, filling out surveys and engaging the developer in various aspects of the plan. He was satisfied that the proposal was a very satisfactory plan; it contained one acre lots and would be much like Lazy Creek, which was a delightful area and asset to the community. Personally he was more pleased that according to the EIR, the community would experience a 65% decrease in traffic with Ridgeline compared to when the golf and tennis courts were in full operation. Ridgeline would also be making improvements to trails and streets. After 5 years of outreach for 39 one acre lots, it was time to move the project forward. The developer had successfully completed the requirements to meet the land use requirements and he stated please vote to support the plan for Ridgeline Equestrian Estates.

Pam Alexander – Not present

Gina Scott – Not present, a member of the public submitted her presentation in writing.

Lance Schultz – Not present, a member of the public submitted his presentation in writing.

Richard Siebert, address on file, stated he was present to discuss the apparent loss of 52 acres of prime recreational open space to the City of Orange. The developer had made it

so confusing and he wanted to look at what was being offered. There were two parcels, 1 & 2, and they could only speak to parcel 1. Parcel 2 was critical to the agreement as there was a gift of a horse arena that they would give to the community. The gift of the horse arena would only happen if there was a zone change on Parcel 1 and Parcel 2. If that occurred, a gift of a horse arena, which they wanted to call a mitigation measure, would not happen upon re-zoning. It would happen in the future when it was all developed; no specific time, he might not even be there when it happened. Once re-zoning occurred, the land would be gone and the citizens of Orange would be just left with paper and it was not spelled out, when it would happen or where it would happen. He looked at the facilities in Orange and the yardstick by which they measured them. Where else in the City could they find 52 acres? No matter how it was zoned, to zone recreational open space, when OPA was on the east side of the City and in the growth area; where would they find 52 acres of blank land to designate into an open space category? With the Irvine Development and with what was already out there, there was nothing left. City zoning was not based on ownership, it was based on the wants and the needs of the Planning Commission and the residents for future growth, whether owned privately and who knew what the future held, they had not known what was to come down the line. Once the acreage was gone, it was gone and he had not known where the City would find that kind of open space.

Maria Meyer, address on file, stated she lived by the golf course. A point stated over and over at the last hearing was that the old Ridgeline golf course should remain open as a golf course for the community. Her children learned to swim there and they enjoyed their summers there at the pool. The question was if it would remain open, on whose dime? When the club house was open it was never a money maker and most of the users were not OPA residents. They heard that from the former course operator and people who had a long history with the property, and those who wrote the OPA plan. It was time to move on. If they wanted to reopen Ridgeline, she promised neither her family or other OPA residents were willing to pony up the millions it would take to re-establish the course, clean up the club house, re-do the pool and maintain the facility. They had not needed a taxpayer supported country club in Orange Park Acres. They needed to move forward and speak about what they stood to gain from Ridgeline. Speaking for her family and neighbors on Meads, they loved the reduction in traffic that they had experienced with the golf course closure and they were in favor of further reductions once the project was built. Finally gone were the days of frantic soccer moms on their cell phones rushing their kids to swim practice, golfers late for tee time and overall just having outsiders speeding up and down their quiet streets and small community. They wanted a safer environment for their kids and to have it be possible for their kids to ride their bikes, take family walks and enjoy the outdoors without the worry of outside traffic coming in. She had a car drive onto her lawn where she and her children played just because the driver was late for his tee time and had not wanted to wait for the car ahead of him who was traveling the speed limit. She never played in that front yard again. Commissioners please remember the facts why a golf course could not survive and support building a new place like Ridgeline. She looked forward to one acre custom homes, trails and equestrian facilities that honored the original vision of OPA and she thought it was time for a change.

Rose Ellen Cunningham, address on file, stated her family moved to OPA in 1970 after discovering the wonderful, rural and small community amidst the growing Orange County community. It was a paradise, they could have horses, chickens, pigs, etc. and it was zoned for one acre lots and that was what the entire area was zoned for. It was a country acre which was larger. Homeowners moving in in the middle of the night was not uncommon as there was a lot of undeveloped land. Developers also were discovering OPA, and all had not favored the one acre zoning. After much community protest, attempting to preserve the one acre zoning, four higher density communities were approved and developed. Those were Deerfield, Warmington, Broadmoore and Pheasant Run. Since then they had become an integral part of the community. In the late 1970's Lazy Creek and Saddle Hills were developed, and those were beautiful equestrian communities that added to the desirability of the area as well as increasing property values. Lazy Creek and Saddle Hills were the only 2 one acre developments in the area. Single custom homes were built and were still being built in the area. Ridgeline was built around the same time and her family belonged to the club and enjoyed the facilities. Her son learned to play tennis and her grandchildren learned to swim there. Over time, they could not get enough members to support the club, they lowered the fees and that had not helped. Over time the facility was not sustainable and was placed on the market for sale. John Martin purchased the facility and proposed a residential community on one acre lots. It was only the third one acre development proposed in 30 years. He has proposed for the use of the Sully Miller arena and another arena at the entrance to the development. He had bent over backwards to attempt to please the community, while abiding by the requests of the various communities. Children growing up in OPA were very fortunate and nobody had the type of property they had. Irvine Park was less than a mile away, Santiago Oaks was very close and they could not complain of not having enough open space and recommended that the Planning Commission approve the proposal that would benefit the community, and continued with a rural equestrian tradition.

Bob Cunningham, address on file, stated he was not a resident of Orange and he was not related to Commissioner Cunningham, however, he had a close relationship with the family as he had his horse in OPA for the past 8 years. He had participated with Commissioner Merino in a previous business relationship. His remarks could be taken as remarks from a disinterested party. He had reviewed both sides and he had come two weeks ago to attempt to learn something and there was a lot of animosity that was between both sides. He had been more confused, the City Staff had not done its job for over the last 25 years in laying out what the property was supposed to be all about and the zoning conditions. They referenced a community plan that was not a valid entity and was not provided for in the State code, anyway it was very confusing. He would not want to sit in the Commissioner's chairs or during the whole process, due to the confusion. He read Lamar's letter that was submitted and he had a pretty good idea and they might want to put everything on hold, send City Staff back to their desks to finish their jobs and decide what type of zoning existing, to decide what zoning changes were needed and go from there. He felt the Ridgeline project was a delightful plan and followed along with Pheasant Run and Broadmoore and Saddle Hill and it would be a positive thing from that point of view. He was concerned with the lack in the Sully Miller arena and the things that were ambiguous there. When he first came to OPA in 1954, it was orange groves

and his friend had taken down some of the trees and put up a green house and there were no swimming pools. There had to be some type of a community area.

Don Baddorf, address on file, stated he was an OPA resident and he was a lover and supporter of the trails and the unique piece of heaven called the OPA. He was a concerned and dedicated Orange Park Acres resident. Three years ago he and his wife invested tens of thousands of dollars to repair the drainage problem on the hillside trail. He had heard statistics quoted in the LA Times profiling the OPA community and it stated that the OPA was home to 1,300 houses, 5,000 people and more than 1,000 horses. That was about a horse for every house in OPA. There were those like himself, who had not owned a horse but had an appreciation for the horse friendly community. His real estate friend described OPA in the same breath with Pacific Palisades, Nelligale and other quality communities; OPA was truly a gem. He was proud of the uniqueness and he was a firm believer in private property rights and respected the rights of the owner of the Ridgeline property and supported his right to build within the guidelines of the plan; the plan called for one acre lots, and a ride-in arena. The rendering depicted styles of homes that would fit and enhance the already established homes and urged the Commissioners to vote in favor of the Ridgeline project.

Mike Winklepleck, address on file, stated he was an OPA resident. He had originally intended to voice his support for Ridgeline as he felt it was the right type of development for the community, however, after listening to the abundance of the misinformation from some of the speakers, he believed his time spent before the Commission would be best spent addressing some fundamental facts. The facts would support that the vast majority of OPA residents supported the plan for Ridgeline, which was why 90% of the community was not present. To them Ridgeline was the right type of community. First the land use designation and density for Ridgeline allowed for the one acre homes and that debate was settled in 1973 when the OPA plan was adopted. The good news was that City Staff concurred. The City Attorney researched and declared that fact a few months ago in a letter addressed to OPA president, Tom Davidson, and for reasons unknown to them, he never shared the news with the rest of the community. The intent had always been that in the event the golf course closed, homes on one acre lots would be the best use of the land. Second, Ridgeline was not a public park and that City Staff had also agreed with. The Staff Report stated that private recreational facilities, including those such as Ridgeline Country Club used via payment of a fee, were not the same as publicly funded recreational facilities that were generally open to the public without the per use payment. The land could have become a park or public recreation facility if the City or the OPA Board chose to purchase it. The land was purchased by Mr. Martin and remained private property. Mitigation at a one to one ratio was absurd and an illegal request as it would be taking Mr. Martin's land. He had not considered himself pro-development, however, he was pro-property rights and the developer had come up with a plan that respected the OPA community character and lifestyle, please move forward with the plan to the City Council.

Kate Klimow – Not present, a letter was submitted for the record.

Lynn Canton, address on file, stated she had lived in OPA for 10 years and she was active in the local equestrian community for many years. She was not a paid consultant for Ridgeline, and represented a new group of residents called Save the Arena that supported the on site use amenities that the developer proposed to create. It included a ride-in only horse arena and multi-use trails. Most important to the groups issues was the acquisition of the Sully Miller arena and they were pleased that John Martin had offered to donate the licensed arena to a non-profit organization for OPA's permanent and continued use as an equestrian center and ensuring the donation has been the goal of their group. While they felt the one acre minimum lots planned for Ridgeline made sense for OPA; that had not been their main issue. They wanted the benefits Ridgeline would provide; the trails, ride-in arena and most importantly, the Sully Miller arena. Without Ridgeline the community could not afford the same benefits. They worked hard to ensure those benefits were included and they worked hard with Ridgeline to ensure they were part of the development agreement for OPA. They had also been conducting neighborhood dinners and meetings, knocking on their neighbor's doors to raise awareness of their goals and the arena offer and the response had been overwhelmingly positive. She also wanted to clear up comments made by previous speakers, which seemed to be clouding the issues. She actually held the letter, dated December 22 from Orange City Attorney DeBerry to John Martin and Tom Davidson and contrary to what Mr. Stein stated, her copy actually read a bit differently. Her copy stated No. 1: OPA was part of a land use element of the City of Orange, No. 2: the OPA plan designated the Ridgeline property as other open space and low density one acre, in parenthesis. As such, proposed development of the golf course the one acre residential would be consistent with the development of the property. They were not present to debate a change to the OPA plan because the land designation was clear; it was no longer the debate, the argument or the controversy. The Ridgeline golf and tennis club was never a public park or a public recreational amenity which meant that contrary to the demands of some, demanding that the developer provide 52 acres of new recreational open space in mitigation, was either legal or appropriate. Forcing a one to one replacement would place the City of Orange in jeopardy of a take that would be in direct violation of the Bill of Rights, and if any had forgotten; the fifth amendment stated that no person shall be deprived of life, liberty or property without due process of law nor shall private property be taken for public use without just compensation. Therefore, if the City of Orange intended to use its power of eminent domain to seize the Ridgeline property for a public park or to pay JMI the millions they would be entitled to, it would be time to end the debate.

Michelle Williams, address on file, stated she lived diagonally across Meads from the Ridgeline property. She was an architect and contractor by trade and her husband was a State of California building inspector. In 2002 they bought an undeveloped dirt lot and as they started framing their dream home, riders on the trail that ran along the Meads Avenue edge of their property would yell at her husband that they should have left it open space. Those people should have bought it. It had only been on the market for several years. They moved to OPA to live with their horses and there were not many places they could do that, and as long as they stayed within the guidelines of the zoning and building codes, others could not tell them what they preferred be done with their property. They kept hearing from opponents of the proposed project that the zoning was wrong for

houses, and it should not be changed. The City Attorney indicated that there was a modification to the plan in 1973 with a zone change designation of other open space and low density one acre. When the whole golf course property was annexed into the City, zoning was designated at that time as recreation open space and also recorded in the Planning Commission minutes that OPA residents would be looking to have the property go back to low density one acre if the property was sold and to cease to be a viable golf course. It was not dissimilar to what existed in the OPA plan. It appeared what they had was a lack of follow through way back when and now they had to fix it. As they had heard two weeks ago from Shirley Grindle and Norm Brock, the surviving original authors of the OPA plan, the intent was not to force the property to be a golf course forever. The City's General Plan was not cast in stone but were living documents that changed with the needs of property owners and the times. A golf course had not been economically viable for the Ridgeline property for a long time, it was gone and it would not come back. For those that wanted to stick to the past, to go with plan B, which was documented and preferred nearly 40 years ago to develop one acre home sites and approve the project; and by the way, what had people thought of her property now that it was not open space? They received a lot of compliments about how well it fit into the neighborhood and enhanced it.

Chair Whitaker stated that would close the Public Testimony portion of the hearing and it was continued by the order of the Commission to the June 7, 2010 Planning Commission meeting, for the applicant's rebuttal, questions for the applicant and Staff, deliberation and a vote.

(3) MAJOR SITE PLAN REVIEW NO. 0558-08; CONDITIONAL USE PERMIT NO. 2725-08; AND DESIGN REVIEW COMMITTEE NO. 4370-08 – THE BLOCK EXPANSION

A proposal to develop 105,000 square feet of retail on the east side of the property adjacent to the Alcatraz restaurant. Project construction would be completed in two phases.

The applicant has also requested a Conditional Use Permit for valet parking and a shared parking agreement.

LOCATION: 20 City Boulevard West

NOTE: An Addendum to The Block at Orange Expansion Final Environmental Impact Report No. 1721-03 (FEIR) serves as the environmental review of the modified Block at Orange Expansion project as required pursuant to the provisions of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the State CEQA Guidelines, and the City of Orange Local Guidelines for Implementing CEQA (Local CEQA Guidelines).

RECOMMENDATION ACTION:
Adopt Planning Commission Resolution No. 12-10 recommending that the City Council approve an addendum to Final Environmental Impact Report No. 1721-03, Major Site Plan No. 0558-08, Conditional Use Permit No. 2725-08 and Design Review Committee No. 4370-08 to allow for development of 105,000 square feet of commercial space.

Chair Whitaker was recused from the presentation of the item as the applicant's architect was a client of his.

Associate Planner, Robert Garcia, presented a project overview consistent with the Staff Report.

Commissioner Steiner opened the hearing for any questions to Staff.

Commissioner Imboden asked for clarification on the last condition?

Mr. Garcia stated currently the Orange Redevelopment Agency was working with the property owners in an agreement for improvements of the lane that would come off of Metropolitan Drive. Once The Block completed the improvements, the Redevelopment Agency would reimburse the property owner for those costs in exchange for the new street becoming a public street.

Commissioner Imboden asked if Mr. Garcia was requesting a change to the condition as it existed in their report.

Mr. Garcia stated yes, there was a minor change. Initially the condition read as a conveyance to the City and it had been modified to read to the Orange Redevelopment Agency or to the City of Orange.

Commissioner Merino stated he could not locate a condition that pertained to valet parking and he asked if there was a condition placed on the proposal that would specifically state that the area for valet parking would not be roped off, or to essentially offset or set aside parking spots?

Mr. Garcia stated he would take a minute to review that.

Commissioner Steiner invited the applicant to step forward and address the Commission.

Robert Mercer, address on file, stated he felt it was going to be a great enhancement. The traffic would be better and they would be adding additional parking.

Commissioner Steiner asked if Mr. Garcia had a chance to locate the valet parking information.

Mr. Garcia stated there was not a condition contained in the draft resolution and he was certain the applicant would not be opposed to the addition of a condition.

Commissioner Steiner asked, for the record, and the applicant's representative was nodding that he was in concurrence.

Commissioner Merino stated there had been an issue with the original Block project regarding the valet parking reducing the required parking that caused additional parking problems. It would be something he would want to have as a condition due to those previous issues.

Commissioner Steiner brought the item back to the Commission for further discussion or a decision.

Commissioner Merino stated he wanted to make one additional comment, and he asked the Chair to forgive him for the comment and with the Chair's indulgence he had one comment. He stated the project was just as important as the previous project and by the logic and rationale with the discussion that they previously had, the proposed project should not be moved on and it should be continued until Commissioner Cunningham was present. He personally felt that was ludicrous as he had thought the same on the previous project.

Commissioner Steiner stated he was not sure the comment was in order and he asked if there was anything further.

Commissioner Merino stated no.

Commissioner Imboden made a motion to adopt PC 12-10 recommending approval to the City Council of MSPR No. 0558-08, CUP No. 2725-08 and DRC No. 4370-08-The Block Expansion, subject to the conditions contained in the Staff Report and with an additional condition:

> That the valet parking area proposed as part of the project shall not be roped off and that it shall remain available to patrons wishing to self park in that area.

The applicants began to speak. Commissioner Steiner stated the question and condition had been posed earlier and there was no indication of opposition to the additional condition. The applicant had been given the opportunity to speak and Mr. Mercer chose not to speak. There was a modification in which there was not opposition to and now they were crafting a motion with an indication that there would be a second to that motion. Commissioner Steiner stated he wanted to be mindful of the applicant's due process and he asked Mr. Sheatz if there would be any harm in allowing the gentleman that had an urgent need to inform them of some additional information, the opportunity to speak.

Mr. Sheatz stated there would be no harm in that.

Commissioner Steiner re-opened the public hearing and invited the applicant's representative to step forward to address the Commission, noting that he was not generally inclined to allow additional comments, however, it was a relatively brief matter and he would allow additional comments in order to avoid any impression down the road, if the project was ever subject to review either judicial or otherwise, that the Commission was not willing to listen to the applicant's concerns.

Blake Windal, address on file, stated he was the General Manager for The Block at Orange and he felt his question was only about semantics and his original understanding of the question with regard to valet parking had been misunderstood. There had been a question as to whether there would be permanent blocking of parking spaces. The nature of valet parking would be to set stanchions up; if there were no stanchions there would be no valet parking. It was his only point; they would not do away with it, but they would not have valet parking if that was the case.

Commissioner Merino stated his concern was exactly that, that they would not do what the applicant was suggesting and he would suggest to his fellow Commissioners that the language that they had would allow valet parking, and if the applicant chose to not take advantage of that due to the stanchion issue, it was entirely up to the applicant. The Commission was not denying valet parking, but rather placing certain conditions on it. Commissioner Merino stated that he would second the motion.

SECOND: Commissioner Merino
AYES: Commissioners Imboden, Merino, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioner Cunningham
RECUSED: Commissioner Whitaker

MOTION CARRIED

(4) ADJOURNMENT:

Commissioner Steiner made a motion to adjourn to the next regular scheduled Planning Commission Meeting on June 7, 2010.

SECOND: Commissioner Imboden
AYES: Commissioners Imboden, Merino, Steiner and Whitaker
NOES: None
ABSTAIN: None
ABSENT: Commissioner Cunningham

MOTION CARRIED

Meeting Adjourned @ 8:20 p.m.