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RECORDING REQUESTED BY:

CLERK OF THE BOARD OF SUPERVISORS

AND WHEN RECORDED MAIL TO:

CLERK OF THE BOARD OF SUPERVISORS  
COUNTY OF ORANGE  
10 CIVIC CENTER PLAZA  
P.O. BOX 687  
SANTA ANA, CALIFORNIA 92702-0687

Recorded in Official Records, Orange County  
Hugh Nguyen, Clerk-Recorder



NO FEE

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THIS SPACE FOR RECORDER'S USE ONLY

TITLE: Certified Resolution No. 18-012

EXEMPT RECORDING REQUESTED  
PER GOVT CODE 66000

EXEMPT RECORDING REQUESTED  
PER GOVT CODE 27383

Agenda Date: 2-6-18  
Item #: 16  
~~File No:~~

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

RESOLUTION OF THE BOARD OF SUPERVISORS OF  
ORANGE COUNTY, CALIFORNIA  
APPROVING PLANNING APPLICATION  
PA160051 - USE PERMIT FOR PROPERTIES  
LOCATED AT 9922 NEWPORT AVENUE  
February 6, 2018

WHEREAS, Sheldon Development, LLC, (“Applicant”) has submitted Planning Application 160051 (“PA160051”), requesting approval of a residential planned development consisting of a single-family residential planned development including adoption of a Zone Change (ZC 16-04), approval of a Use Permit, and certification of a Final Environmental Impact Report (“FEIR629”) (collectively, the “Project”); and;

WHEREAS, pursuant to California Government Code Section 65000, *et seq.*, the County has an adopted General Plan and Zoning Code that meet all of the requirements of California State law; and

WHEREAS, in accordance with the California Environmental Quality Act (California Public Resources Code, Sections 21000 *et seq.*) (“CEQA”) and the CEQA Guidelines (Title 14, California Code of Regulations, Sections 15000, *et seq.*) (“CEQA Guidelines”) and the County’s CEQA Procedures Manual, the County, as Lead Agency, has prepared Final Environmental Impact Report No. 629 (FEIR 629); and

WHEREAS, FEIR 629 addressed the potentially significant environmental impacts associated with the Project, including the Zone Change and Use Permit, and related programs and entitlements, as well as the impacts anticipated from subsequent implementing steps in the chain of contemplated actions designed to carry out the final planning and development of the Project; and

WHEREAS, the subsequent actions addressed in FEIR 629 include, but are not limited to, County approval of a Zone Change, Use Permit and Vesting Tentative Tract Map; and

WHEREAS, based on the FEIR 629, it has been determined that environmental impacts related to the Project have been reduced to less than significant with the incorporation of mitigation measures and conditions of approval; and

WHEREAS, on November 8, 2017, the Planning Commission issued its formal recommendation that this Board approve, among other things, the Use Permit PA160051 (see Planning Commission Resolution No. 17-05); and

WHEREAS, on December 12, 2017, this Board of Supervisors conducted a public hearing regarding the Project, and continued its consideration to February 6, 2018; and

WHEREAS, on February 6, 2018, this Board of Supervisors considered the use permit; and

WHEREAS, the Board of Supervisors has reviewed and fully considered FEIR 629, the Project, and has heard and considered the public comments that were presented to it on this Project and has determined after review and consideration to approve the Use Permit.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors adopts the following:

1. The Recommend Findings included as Attachment 1 as related to the use of the property and necessary for appropriate development and operation of the uses permitted by the County General Plan and the County Zoning Code.
2. The Recommend Conditions of Approval included as Attachment 2 that are reasonably related to the use of the property and necessary for appropriate development and operation of the uses permitted by the County General Plan and the County Zoning Code.

BE IT FURTHER RESOLVED that the Board of Supervisors approve the Use Permit for the Project.



**Attachment 1  
Findings  
PA 160051**

<b>1</b>	<b>GENERAL PLAN</b>	<b>PA160051</b>
<p>The Use Permit (PA160051) is consistent with the objectives, policies and general land uses and programs specified in the General Plan for the Project area, which General Plan was adopted pursuant to the State Planning and Zoning Law.</p>		
<b>2</b>	<b>ZONING</b>	<b>PA160051</b>
<p>The Use Permit is consistent with the provisions of the Zoning Code applicable to the property.</p>		
<b>3</b>	<b>COMPATIBILITY</b>	<b>PA160051</b>
<p>The location, size, design and operating characteristics of the proposed uses allowed by the Use Permit will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.</p>		
<b>4</b>	<b>GENERAL WELFARE</b>	<b>PA160051</b>
<p>Implementation of the Use Permit will not result in conditions or circumstances contrary to the public health and safety and the general welfare.</p>		
<b>5</b>	<b>PUBLIC FACILITIES</b>	<b>PA160051</b>
<p>The Use Permit is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (i.e., fire station, library, sheriff, etc.)</p>		
<b>6</b>	<b>FEIR 629</b>	<b>PA160051</b>
<p>Find that Final EIR No. 629, previously certified by the Board of Supervisors on December 12, 2017, reflects the independent judgment of the County of Orange and satisfies the requirements of CEQA for this Use Permit, which is a necessarily included element contemplated as part of the whole of the action.</p> <ul style="list-style-type: none"><li>a) FEIR 629 is adequate to satisfy the requirements of CEQA for approval by the Board of Supervisors; and,</li><li>b) The circumstances of the project are substantially the same as described in FEIR 629 which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the FEIR 629 was adopted has become known, and no further environmental review is required.</li></ul>		

- c) The additions, clarifications and/or changes to the original CEQA documentation addressed in the Responses to Comments for DEIR 629 do not involve new or more severe significant environmental effects which were not addressed by FEIR 629 and none of the other conditions described in CEQA Guidelines Section 15088.5 calling for the recirculation of the EIR have occurred; and
- d) All mitigation measures are fully enforceable pursuant to CEQA (Public Resources Code) Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the project design, or included in the procedures of project implementation.



**Attachment 2**  
**Conditions of Approval**  
**PA160051**

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**1** **BASIC/ZONING REGULATIONS** **PA160051**

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

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**2** **BASIC/TIME LIMIT** **PA160051**

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void. In addition, if this approval is challenged by any person, organization or entity of any kind, the Applicant may unilaterally nullify and void the Use Permit upon notifying OC Development Services in writing.

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**3** **BASIC/PRECISE PLAN** **PA160051**

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, OC Planning, for approval. If the Director, OC Planning, determines that the proposed change complies with the provisions and the spirit and intent of the original approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

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**4** **BASIC/COMPLIANCE** **PA160051**

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

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**5** **INDEMNIFICATION** **PA160051**

Applicant shall defend with counsel approved by the County of Orange in writing, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission,

The approval of this Use Permit for a Planned Development Plan establishes site development standards for the project as depicted on the plans. Where a site development standard is not specifically identified by the Planned Development Plan, or in Condition 10 "Project Design Limitations", the most applicable standard of the Orange County Zoning Code shall apply.

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**PROJECT DESIGN LIMITATIONS**

**PA160051**

The use permit is conditioned on the implementation of the following project design elements and operational characteristics, which, unless otherwise noted below, shall be reflected on the applicable construction plans or permits, in a manner acceptable to the Deputy Director, Development Services:

- (1) The minimum perimeter landscape area width between the back of the equestrian trail and the project perimeter wall shall be five (5) feet;
- (2) The project's gated entry shall be controlled by a vehicle detection system in a manner compliant with any applicable Fire Authority standards. Prior to the issuance of a related building permit, plan approval by Orange County Fire Authority shall be required;
- (3) The Newport Avenue refuge lane shall be delineated with striping lines only; no curbs or cones will be permitted;
- (4) Prior to the issuance of a grading permit(s) that would permit the import of more than 5,000 cubic yards of soil (individually or cumulatively), the applicant shall receive approval of a haul route plan. Said plan shall avoid Newport Avenue south of the project. Access routes for hauling will be limited to Jamboree Road and the 241 Toll Road.
- (5) The interior private street shall be designed with two, minimum 38-foot radius cul de sacs;
- (6) All lights, common and of individual residences, shall be directed, oriented, and shielded to prevent light trespass or glare onto adjacent properties, onto public rights-of-way, horse trails, Peters Canyon Park, and/or driveway areas. The height of interior street lighting poles, if any, shall be limited to the maximum height of residences within this development. If lighting is attached to the residence, lighting shall not exceed the height of the roof eave. All such lighting shall also comply with adopted standards regarding light shielding and confinement of direct rays onto the site. The height limitation shall not apply to any traffic safety related project entry/intersection lighting that may be required, which shall be constructed to adopted standards to achieve required safety measures;
- (7) The maximum roof peak elevation above sea level of a structure on Lot 5 shall be no greater than 663 feet. Chimneys which do not exceed ten (10) percent of the roof area, nor exceed the stated height limitation by more than eight (8) feet will be permitted. Other exceptions specified in Zoning Code Sections 7-9-129.2 and 7-9-129.3 are not permitted. In the event that the elevation of the structure on Lot 5 must exceed 663 feet, then the Applicant shall apply for a use permit amendment which shall be heard by the Board of Supervisors;
- (8) The Covenants, Conditions and Restrictions (CC&R's) shall establish a Homeowner's Association (HOA) for the project and shall be submitted to the Deputy Director of Public Works for review and approval. The CC&Rs shall be recorded with the Final Map, prior to the issuance of building permits. The CC&R's shall grant the County of Orange the right, but not the obligation to enforce their terms. The CC&R's shall include provisions for landscaping and maintenance of the

landscaped area between the multi-purpose trail and the perimeter wall in perpetuity. These provisions will include the responsibility to feed and water the landscape area in such a way that the trees and plant materials receive what they need to remain healthy, to replace any trees or plants which die with specimens of the same species and of the same size as the original plants, and to perform such other maintenance as may be required. The HOA will be financially responsible for this irrigation and maintenance. In addition, the CC&R's shall include those lighting restriction provisions noted above, as well as Building Code standards regarding confinement of direct rays to the subject site. Any modifications of the CC&R's related to the HOA's obligation to maintain the landscaping shall be approved by the County of Orange. The Homeowners' Association shall submit to the Deputy Director of Public Works a list of names and addresses of their officers on or before January 1 of each and every year and whenever said information changes;

(9) All on-site project related power lines shall be undergrounded.

Where the implementation of these requirements could create or result in a demonstrable public safety hazard, the Deputy Director may allow minimum adjustments necessary to achieve public safety requirements.

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**CODE ENFORCEMENT**

**PA160051**

The County's Code Enforcement Division is responsible for assuring property maintenance. Code Enforcement will follow up on complaints made to them relating to the maintenance of landscaping and property improvements that may violate the County Code or these conditions of approval.



The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on February 06, 2018, to wit:

AYES: Supervisors: TODD SPITZER, SHAWN NELSON, MICHELLE STEEL  
LISA A. BARTLETT, ANDREW DO  
NOES: Supervisor(s):  
EXCUSED: Supervisor(s):  
ABSTAINED: Supervisor(s):




CHAIRMAN

STATE OF CALIFORNIA )  
                                  )  
COUNTY OF ORANGE )

I, ROBIN STIELER, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors

IN WITNESS WHEREOF, I have hereto set my hand and seal.

  
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ROBIN STIELER  
Clerk of the Board  
County of Orange, State of California



Resolution No: 18-012  
Agenda Date: 02/06/2018  
Item No: 16



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

Robin Stieler, Clerk of the Board of Supervisors

By:   
Deputy