

# THE ORANGE COUNTY REGISTER

## **Editorial: A weak case for open space in Orange**

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Today the Orange City Council will hold its first public hearing on the future of 52 privately owned acres in the middle of the community of Orange Park Acres. It is a classic battle of private landowners who plan to develop their land versus residents who oppose the development. Inevitably, the council will decide the use for the land. In the interest of property rights, the council is obliged to approve the development.

Orange Park Acres is a community of about 3,200 residents on the east end of Orange. The contested parcel until recently was home to the nine-hole Ridgeline Golf Course, which became economically unviable. JMI Real Estate, which acquired the land during a public sale in 2006, made plans to develop the property into 39, one-acre estates.

The City Council is faced with JMI's request to rezone the land for housing because the property, under the city's general plan, now is designated for recreational open space and low-density housing, but zoned only for the former.

Residents near the facility, led by Tom Davidson, president of the Orange Park Acres property owners association, prefer the land remain open space. If the land is developed, they believe the developer should mitigate the loss of open space by providing other land in exchange.

Conventional wisdom before 1980 was that Congress and government had almost unlimited powers to regulate economic activities and limit our use of our property. But legal scholars, such as the late Bernard Siegan of San Diego, demonstrated that "virtually the entire history of English common law, with which almost all the framers were familiar, was one of limiting arbitrary government power and protecting private property and personal freedom," as retired Register columnist Alan Bock has written.

It is also questionable that private landowners ought to somehow "pay off" community residents to be able to develop their own land. It has become somewhat common practice for developers to promise other land for "public good" in order to obtain special land-use designations or zoning changes. And the state Quimby Act requires developers set aside some open space or a pay a in-lieu of fee. JMI says it has complied. Still, it's offensive to require such gyrations in developing private property.

Open space is desirable in a community. But if residents collectively value such amenities they should pay for them. In 2006, the golf course was for sale, and open-space or recreational enthusiasts could have bought it.

The council should follow the direction of the city's Planning Commission, which approved the project unanimously, and approve the zone change.