



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK
915 I STREET
CITY HALL ROOM 203
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5426

CITY MANAGER'S OFFICE
RECEIVED
AUG 18 1981

LORRAINE MAGANA
CITY CLERK

August 18, 1981

Honorable Mayor and City Council
City Hall
Sacramento, CA 95814

APPROVED
BY THE CITY COUNCIL

AUG 18 1981

OFFICE OF THE
CITY CLERK

*Rec #1
adapted*

Members in Session:

SUBJECT: Appeal of the American Heart Association, Golden Empire Chapter, from the decision of the City Engineer

SUMMARY

Attached is the appeal of the American Heart Association, Golden Empire Chapter, of the City Engineer decision requiring street improvements along "R" Street in conjunction with a building permit.

Under Sections 2.323 and 2.324 of the City Code, the Council may appoint a hearing examiner to hear the appeal if it finds that "the appeal may involve a lengthy factfinding process which would be more appropriately accommodated by a formal hearing before a hearing examiner.

FINANCIAL DATA

The estimated cost would be \$100.00 and would be available from the City Engineer's budget.

RECOMMENDATIONS

1. If the Council should decide to appoint a hearing examiner to hear the appeal, it is recommended that the following

City Council
August 18, 1981
Page 2

motion be adopted: The Council hereby determines pursuant to Section 2.324, Sacramento City Code, that this appeal will involve a lengthy factfinding process which will be more appropriately accommodated by a formal hearing before a hearing examiner. Therefore, the Council appoints Hermann Lorenz Jr., as hearing examiner to hear the appeal on Friday, September 11, 1981, at the hour of 9:00 a.m., in the Council Chamber, Second Floor, City Hall, 915 "I" Street, Sacramento, California.

2. If the Council should decide to consider the appeal itself, it is recommended that the hearing be set for Tuesday, September 15, 1981.

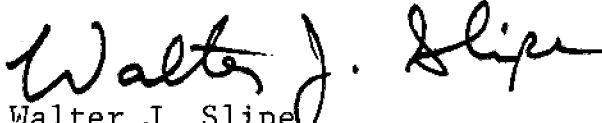
Respectfully submitted,


Lorraine Magana
City Clerk

MM/LM/mm
Enclosures

cc: American Heart Association
Hermann E. Lorenz, Jr.
Engineering Department

RECOMMENDATION APPROVED:


Walter J. Slipe
City Manager

August 18, 1981
All Districts

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CITY OF SACRAMENTO

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AUG 14 1981

NOTICE OF APPEAL

CITY OF SACRAMENTO
ENGINEER'S OFFICE

AUG 17 9 08 AM '81
DATE: August 12, 1981

Pursuant to Section 2.320, City Code, I wish to appeal the decision requiring street
improvements along R Street, Sacramento made on July 23, 1981
regarding 1727 30th Street

as required by Section 38.140(a), City Code.

My reason for appealing is as follows: The Am. Heart Association is a non-profit health
agency whose entire function and finances go for providing educational and community
services to the community and sponsoring ongoing research in an effort towards the eradica-
tion of heart disease. Monies and materials for the building expansion have been donated
by local businessmen and individuals. A solicitation for additional funds for street
improvements would be, at this time, a great hardship and next to impossible.

PLEASE PRINT:

NAME: American Heart Association - Golden Empire Chapter

ADDRESS: 1727 30th Street -

CITY: Sacramento STATE: California ZIP CODE: 95816

TELEPHONE NUMBER: (916) 452-5525


SIGNATURE

Dr. Richard Ikeda, President

CITY OF SACRAMENTO
OFFICE OF THE CITY ENGINEER

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AUG 14 1981

CITY CLERK'S OFFICE
CITY OF SACRAMENTO

ROOM 207, CITY HALL
SACRAMENTO, CALIFORNIA 95814

CITY OF SACRAMENTO
ENGINEER'S OFFICE

Don Comstock

Date: 7/23/81

Project: Office Add

Address: 1727-30th St.

Attention: _____

Dear Sir:

Subject: Street Improvements

Article IX of Chapter 38 of the Sacramento City Code requires with certain exceptions, that before a building permit is issued for any lot fronting on a dedicated street or streets, provision must be made for construction or guarantee of construction of any necessary street improvements for the adjoining half of the street across the full width of the lot under development, all in conformity with current City Standards.

The above project for which a building permit is being sought is subject to the requirements of several sections of this City Code article and chapter. Therefore, before a permit can be issued it will be necessary for you to submit plans for the construction of street improvements including

- (X) Curb and Gutter No. 4 by 3 1/2" 4'-6" P.C.C. sidewalk
- (X) street pavement consisting of 4" asphaltic concrete over
- (?) 7" aggregate base
- (?) storm drainage facilities consisting of ? diameter R.C.P., Standard Manhole No. 3 / Saddle Type Manhole, Gutter Drain No. ?, and 8" diameter V.C.P. gutter drain lead

to the City Engineer for review and approval. The plans shall be in strict conformance with current City of Sacramento Engineering Department design standards and shall show all information required by the City Engineer. All plans must be prepared by a licensed civil engineer or licensed architect familiar with this type of work. When approved, furnish one set of the approved plans on mylar film to the City Engineer for filing.

All construction must be performed by a properly licensed contractor.

The above requirements may be appealed to the City Council. The appeal shall be in writing and shall be filed with the City Clerk, clearly stating the grounds for appeal.

Additional information concerning the requirements for and design of street improvements may be obtained in the Engineering Department, Room 207, City Hall, Sacramento, California 95814, telephone 449-5281.

Very truly yours,

R. H. PARKER
City Engineer

By Ron Wicky

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CITY OF SACRAMENTO

AUG 17 9:08 AM '81

CITY OF SACRAMENTO
OFFICE OF THE CITY ENGINEER

Room 207, City Hall
Sacramento, California 95814

RECEIVED
AUG 14 1981

CITY OF SACRAMENTO
ENGINEER'S OFFICE

Don Comstock
2444 Glendale Ln.
Sacramento 95825

Date: 7/23/81
Project: Office Add
Amer Ht. Assoc.
Address: 1727 - 30th St.

Attention: _____

Dear Sir:

SUBJECT: RIGHT OF WAY DEDICATION & STREET IMPROVEMENTS

Article IX of Chapter 38 of the Sacramento City Code requires, with certain exceptions, that before a building permit can be issued for any lot fronting on a dedicated street or streets, provision must be made for dedication of additional right of way and for assurance of construction of required street improvements.

The above project for which a building permit is being sought is subject to the requirements of several sections of this City Code article and chapter. Therefore, before a permit can be issued, it will be necessary for you to:

- Dedicate a variable strip of land _____ feet to _____ feet in width lying along the _____ line of your property abutting _____.
- Make the dedication of a rounded corner having a radius of _____ feet and lying in the _____ corner of your property.
- To initiate the dedication procedure, submit one copy of a preliminary title report prepared by a title company to Room 207, City Hall, Sacramento, CA 95814, Telephone 449-5281. Also execute and submit one copy of the enclosed Irrevocable Offer to Dedicate form.
- Dedication of land for street widening purposes is not required.
- Street improvements are ~~are~~ not required on "E" Str.
- Execute the enclosed Street Improvement Agreement and submit together with the necessary cash or surety bond in the amount of \$ _____ to guarantee construction of certain street improvements adjoining your property.

A Street Improvement Agreement and Surety Bond will be sent to you for execution upon determination of the bond amount. The amount of the bond will be estimated by the City, based on the construction quantities determined by your engineer or architect.

Pay a fee in the amount of \$ 2.00 for surveying and inspecting per lineal feet of street improvement construction.

For information regarding the above improvements and/or dedication, please contact the undersigned in the Office of the City Engineer, Room 207, City Hall, Sacramento, CA 95814, Telephone 449-5281.

The above requirements may be appealed to the City Council. Please contact the City Clerk's Office (449-5426) to obtain the appeal form and amount of the appeal fee.

Very truly yours,

R. H. PARKER
City Engineer

BY Ron Wicky



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

SACRAMENTO, CALIFORNIA 95814

CITY HALL ROOM 203

TELEPHONE (916) 449-5428

LORRAINE MAGANA
CITY CLERK

August 20, 1981

Dr. Richard Ikeda
American Heart Association
Golden Empire Chapter
1727 - 30th Street
Sacramento, CA 95816

Dear Dr. Ikeda:

On August 18, 1981, the City Council determined that pursuant to Section 2.324, City Code, your appeal of the City Engineer decision requiring street improvements along R Street in conjunction with a building permit, will involve a length fact-finding process which will be more appropriately accommodated by a formal hearing before a hearing examiner.

Therefore, the Council appointed Hermann E. Lorenz, Jr, as Hearing Examiner to hear your appeal on Friday, September 11, 1981, at the hour of 9:00 a.m. in the Council Chamber, Second Floor, City Hall, 915 "I" Street, Sacramento, California.

Sincerely,


Lorraine Magana
City Clerk

MM/LM/mm

cc: Hermann E. Lorenz, Jr.
Engineering Department

1 BEFORE THE CITY COUNCIL

RECEIVED
CITY ENGINEER'S OFFICE
CITY OF SACRAMENTO

2 CITY OF SACRAMENTO, STATE OF CALIFORNIA

OCT 2 9 01 PM '81

3 IN RE APPEAL OF

Item No.

4 AMERICAN HEART ASSOCIATION

FINDINGS OF FACT AND ORDER

5 _____ /
6 The above-entitled matter came on regularly for hearing
7 on Friday, September 11, 1981 at City Hall, Sacramento, California
8 before HERMANN E. LORENZ, JR., duly appointed Hearing Examiner.

9 Appellant appeared by and through its agents, STEVEN
10 WILLIAMS and ANNETT SMITH WILLIS. RON WICKEY appeared for the
11 Office of the City Engineer.

12 Oral testimony and written evidence and documents were
13 introduced by both parties and after further argument by both
14 parties the record was closed and the case matter was submitted.

15
16 FINDINGS OF FACT

17 The Hearing Examiner having heard the evidence makes
18 the following findings:

19 1. That sometime prior to July 23, 1981 Appellant,
20 AMERICAN HEART ASSOCIATION filed with the Office of the City
21 Engineer an Application For Necessary Building Permit for the
22 improvement and addition of approximately one thousand square
23 feet to the existing office building owned by Appellant located
24 on the northeast corner of 30th Streets and R Streets, Sacramento,
25 California.

26 2. That the Office of the City Engineer approved the
27 application with certain conditions. The conditions being that
28 the owner of the property improve the same along R Street by

1 the installation of curbs, gutters, sidewalks and repaving and
2 improving R Street to the center of the same along R Street abutting
3 Appellant's property.

4 3. That on or about August 14, 1981 Appellant appealed
5 the action of the Office of the City Engineer under the Provisions
6 of the appropriate City Code.

7 4. That at a regular meeting of the Sacramento City
8 Council, on August 18, 1981, the City Council appointed HERMANN E.
9 LORENZ, JR. as Hearing Examiner and directed a hearing to be held
10 on September 11, 1981 at 9:00 a.m.

11 5. That R Street and 4th Avenue are within the City of
12 Sacramento. That Appellant owns and has control of parcels of
13 property on the northeast corner of 30th and R Street. R Street
14 is paved, but is in disrepair. Curb and gutters exist along
15 Appellant's property together with an asphalt sidewalk. The
16 access from R Street to Appellant's property is blocked by a
17 chain.

18 6. Appellant is desirous of placing approximately
19 one thousand square foot addition to said property to be used for
20 classroom instruction purposes in the furtherance of charitable
21 and educational purposes of the AMERICAN HEART ASSOCIATION. The
22 funds for said improvements are being donated by the members of
23 the public, in the Sacramento community, but that the HEART
24 ASSOCIATION does not have sufficient funds and may not obtain
25 sufficient approval for the improvement of R Street. Appellant
26 indicated that it would join and support any assessment improvement
27 district for the repair and improvement of R Street.

28 7. That Article IX, Section 38.140(c) of the City Code

1 provides as follows:

2 "The city council may make such
3 modifications in the requirements
4 of this article or may grant such
5 waivers or modifications of the
6 determinations which are appealed
7 to them hereunder as it shall de-
8 termine to be required in order
9 to prevent an unreasonable hardship
10 under the facts of each case; provided,
11 however, that each such modification
12 or waiver shall be in conformity with
13 the general spirit and intent of the
14 requirements of this article.
15 (Ord. No. 5053 §1)."

16 8. That it would an unreasonable hardship and not in
17 the best interest of the people of Sacramento to require such
18 improvements along and upon R Street at the present time in that
19 the charitable and educational functions, which will be performed
20 by Appellant in said additions, are reasonable and necessary and
21 outweigh the policy adopted by the City for the improvement of
22 R Street.

23 9. That it is in the best interest of the City of
24 Sacramento that Appellant not be required to install curbs, gutters
25 or sidewalks along and upon the northside of R Street in connection
26 with the proposed addition.

27 CONCLUSIONS OF LAW

28 Based on the foregoing Findings of Fact, Appellant is
hereby entitled to a waiver of the requirement to install curbs,
gutters, sidewalks and to improve R Street along and upon R
Street.


ORDER

It is hereby ordered that the Appeal be granted as
follows:

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1. That the requirement for the installations of curbs, gutters and sidewalks and the improvement of R Street along and upon R Street is hereby waived.

DATED: October 2, 1981


HERMANN E. LORENZ, JR.
Hearing Examiner

BEFORE THE CITY COUNCIL

CITY CLERK'S OFFICE
CITY OF SACRAMENTO

CITY OF SACRAMENTO, STATE OF CALIFORNIA

SEP 22 12 58 PM '81

IN RE APPEAL OF

TERRY M. CHIN

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

and

TAMARA DUPREE

The above-entitled matter came on regularly for hearing on Friday, August 28, 1981, at 9:00 a.m., in the Sacramento City Council Chamber at 915 "I" Street, Sacramento, California, before STEVEN R. BAIR, duly appointed Hearing Examiner.

Parties present at the above hearing were:

TERRY M. CHIN, Appellant

TAMARA DUPREE, Appellant

HARRY HOGAN, Respondent, Department of Police

JANE WHITE, Witness

BEVERLY BUTLER, Witness

JERRY MELGER, Witness

CRYSTEL HEISER, Witness

GENE WONG, Witness

Appellants filed a Notice of Appeal contesting the finding made by JOHN P. KEARNS, Chief of Police, City of Sacramento, denying their permit to operate an amusement arcade at 2340 Florin Road, in the City of Sacramento. Such appeal was filed on August 10, 1981, and on August 18, 1981, the Sacramento City Council, pursuant to Sections 2.323 and 2.324 of the City Code, appointed STEVEN R. BAIR as Hearing Examiner to hear and conduct

1 the appeal.

2 At the above noticed hearing, documents were submitted,
3 witnesses were sworn, and testimony was received. Thereafter,
4 the matter was taken under submission and the Hearing Examiner
5 has considered and reviewed all of the evidence and arguments of
6 the parties.

7 FINDINGS OF FACT

8 The Hearing Examiner makes the following Findings of Fact:

9 1. That in a letter dated August 5, 1981, the City of
10 Sacramento, Department of Police, did deny Appellant's application
11 for a permit to operate an amusement arcade at 2340 Florin Road,
12 Sacramento. This denial was based upon "the number of protests
13 received and the number of crimes that are committed in this area
14 by young adults. This is the same area where there are other
15 police problems and this type of business would add to an existing
16 problem."

17 2. That Appellant, MR. TERRY M. CHIN, testified that he
18 intended to maintain his own security staff for the subject
19 premises and to further make available a security person to
20 patrol the perimeter areas outside of the premises. He contends
21 that the Police Department over states the threat of crime
22 associated with this arcade and that misinformation to other
23 tenants and neighboring residence resulted in a negative first
24 impression regarding the arcade. He further indicates in his
25 request for hearing that "this has been rectified through increased
26 communication." In a document marked Appellants No. 1, a list of
27 eight names on a petition entitled "having met and conferred with
28 the owner of Pinball Palace, we agree with his business

philosophy and support the opening of his business" was submitted in support of Appellant's position.

3. That MRS. JANE WHITE representing the approximately Three Hundred and Twenty (320) residents of Sacramento Manner located immediately behind Florin Square, testified that the elderly residence of her establishment were against the location of an arcade as proposed by Appellants. She indicated that in the past elderly residence of this area had been harassed by young people.

4. That MRS. BEVERLY BUTLER, owner of several shops in Florin Plaza, testified as to the previous security problems which the plaza had incurred and encountered resulting from youth activities. She expressed the opinion that locating an arcade in Florin Plaza would tax the existing security force. MRS. BUTLER was very much in opposition to the appeal.

5. That Security Officer JERRY MELGER testified as to the previous serious security problems which he had encountered at Florin Plaza relating primarily to the presence of young people in that area.

6. That MR. GENE WONG and MRS. CRYSTEL HEISER, operators of local shops, both expressed their strong opposition to the appeal, sighting problems which would be created by the increased presence of young people in the area and the possibility that an arcade might encourage increased truancy by students who attend local elementary and junior high schools.

7. Captain HARRY HOGAN testified that in the past youth in the area of Florin Plaza have created numerous problems for people and businesses. He sighted truancy and a high burglary rate.

1 as specific problems in this area. Captain HOGAN indicated that
2 he had received nineteen (19) letters of protest relating to
3 Appellant's request for an arcade permit, but only one letter of
4 support, and that letter was from the owner of the building in
5 which the arcade would be located. Officer HOGAN expressed the
6 opinion that location of an arcade in Florin Plaza would increase
7 existing law enforcement problems associated with youth in this
8 particular area.

9 CONCLUSIONS OF LAW

10 Based upon the foregoing Findings of Fact, the Hearing
11 Examiner concludes as follows:

12 1. Section 5.71 of the Sacramento City Code requires a
13 license from the City, which is issued by the Chief of Police,
14 for the operation of an arcade. Section 5.73 requires investigation
15 by the Chief of Police, and specifies:

16 "The investigation shall take in to consideration
17 the character of the Applicant and any law
18 enforcement problems which the issuance of the
19 license might tend to create."

20 "The Chief of Police may deny an application for
21 an amusement arcade license if, in his opinion
22 the amusement arcade is to be located in an area
23 of the City or operated under circumstances where
24 it would tend to cause a law enforcement problem
25 or create a public nuisance or where the granting
26 of the license would be contrary to the public
27 interest."

28 Section 5.74 of the City Code provides that the City Council
may affirm, reject, or modify the decision of the Chief of Police
in regards to the granting or denial of an application, or
conditions attached to a license.

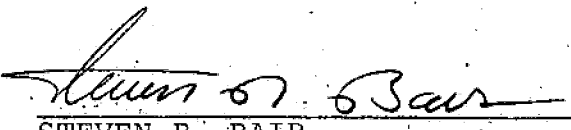
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1 2. Inasmuch as the evidence establishes that the presence of
2 young people in the area of Florin Plaza has in the past created
3 a significant law enforcement problem, that it is likely and
4 probable that locating an arcade in this area would increase an
5 existing law enforcement problem, and that local merchants and
6 owners who testified at the hearing are of the opinion that an
7 arcade at this location would cause additional law enforcement
8 and security problems, the decision of Chief of Police, JOHN P.
9 KEARNS, denying the application for a permit to operate an
10 amusement arcade at 2340 Florin Road is hereby affirmed.

11
12 ORDER

13 In accord with the above Findings of Fact and Conclusions of
14 Law, the appeal of TERRY M. CHIN and TAMARA DUPREE is hereby
15 denied.

16
17 DATED: 9-21-81


18 STEVEN R. BAIR,
19 HEARING EXAMINER