

(c) Wm. Zisk, single family dwelling in R-1FP Zone, 205 Thomas Street. Chairman opened hearing and legal notice was read; 79 notices were sent to adjacent property owners; one written protest was received.

Planning memo: Use permit-parcel map; Bill Zisk, 205 Thomas Street. A parcel map and use permit to construct a single family residence in an R-1FP (single family flood plain) zone has been requested by Bill Zisk. The applicant has submitted a parcel map and use permit to create a parcel for the construction of a single family home adjacent to Dry Creek at the terminus of Thomas Street. The original environmental impact evaluation revealed that: (a) The proposed residence conflicted with the Park & Streambed Plan and a proposed bike path. (b) The area was thought to be in the flood plain. Although the Corps of Engineers is still studying the impact of the project in terms of flood plain development, the City Council has made a decision to acquire a strip of the Zisk property along Dry Creek for a future bicycle and pedestrian trail. Consequently, the project as submitted would have an adverse impact on the proposed bike and pedestrian trail, and cannot be recommended for approval. It should be noted that the present design of the parcel in question does not permit both a residence and the proposed bike and pedestrian trail. Depending on the course of action chosen by the applicant, the Planning Dept. would recommend:

1. Denial of the use permit and parcel map as proposed because of conflict with bicycle and pedestrian trail.
2. Revision of the parcel map by applicant to allow for the proposed bike and pedestrian trail and for such flood measures as may be recommended by the Corps of Engineers."

Public Works memo: "Bill Zisk Environmental Impact Statement. Since the last Environmental Review Committee meeting on this subject, field review has been made with the Planning Director, the Director of Public Works and the Corps of Engineers in the field on the Zisk property. The Public Works Dept. cross-sectioned the stream channel and took additional profiles in the area for the use of the Corps of Engineers. They are still evaluating this information, utilizing flood routing techniques and a computer program. Their preliminary results which are by no means final, show a steep rise in water surface, rather than a decrease as indicated by the environmental report. Because of this preliminary finding, the Corps of Engineers is doing more investigation into the original assumptions and rechecking of the new assumptions in the entire area. The Corps of Engineers, therefore, is not prepared to make a statement at this time on the total effects of the improvements placed by Mr. Zisk. One of the more decisive points in evaluating this environmental impact statement is the location of the bicycle pedestrian path and streambed acquisition of Dry Creek. The City Council has reviewed the situation in the field from East Street downstream to Douglas Blvd. The results of this field review were discussed at the City Council meeting of August 29th. The City Council considers a bicycle-pedestrian pathway to be desirable adjacent to Dry Creek along the westerly side through the Bill Zisk property. The City Council directed the City staff to prepare a more precise plan with detailed proposed land acquisitions along Dry Creek from East Street downstream to Lincoln Street. The anticipated right of way acquisition on the Zisk property would include all lands lying east of Dry Creek as well as approximately 50 feet west of the west edge of the present stream channel. This acquisition would include a portion of the proposed building site in the environment report. The City will have a real estate appraisal made of property subject to acquisition in order that a fair market value can be offered to the property owner. On the basis of these decisions by the City Council, it is this Department's opinion that the proposed construction

of the single family residence would have an adverse impact upon the streambed and bicycle path and we recommend against the proposed development. In addition, the preliminary results of the site inspection indicate a potential flooding problem which is inconsistent with construction of a dwelling for human habitation."

Letter of protest to use permit from John E. Keller, Jr., 706 Atlantic Street, was received and read.

Mr. Dillon gave history of submission and reason for it being held up was to receive study from Corps of Engineers. Council just made decision to acquire property on west side of creek as part of park and streambed plan.

Planner advised Corps of Engineer had requested further information from Dept. of Public Works which was supplied and then made check in the field and felt information could be forwarded to City possibly within 30 days depending on their work load.

Mr. Dillon pointed out when Council decided to acquire 50' along west side of creek this would not leave enough room to build a house if applicant stays with plan as submitted and they would then recommend denial as plan does not conform with proposed bike path and also they still don't know if building site is in flood plain or not without report from Corps of Engineers. Applicant could amend parcel map and move house away from strip but they still can't ascertain if a building site is suitable without Corps of Engineers report.

John E. Keller, Jr., owner of Roseville Bowl, 724 Atlantic Street., protested granting of requested use permit as he is in litigation with Mr. Zisk at this time. Mr. Zisk is suing him for damages claimed to have been caused by Mr. Keller's construction of a pipe line and claims he has caused flood conditions on the Zisk property and if this is proved true in court and a building is allowed to be constructed in area it would increase his liability.

Mr. Atteberry, representing Mr. Zisk, spoke on planning memo - they cannot argue with No. 1 as City has proposed a trail which is in conflict with plan. In regard to No. 2, applicant feels trail would have adverse impact on residence built adjacent and owners do not wish to be subjected to this so reject Condition 2. They do not desire to construct a home next to a bike-pedestrian trail and do not wish such a trail here. Public Works memo alludes to impact on channel and flood plain and they deny such impact and this memo does not document this statement.

Mr. Zisk stated they definitely reject Condition 2 of Planner's memo.

Mr. Bergthold discussed City's EIR on property and feels if building is allowed to be built so close to the stream it will eliminate the bike path along the stream and set a precedent for further construction requests.

Mr. Emerson asked City's time table on property purchase and City Attorney advised Council has approved concept which includes acquisition of 50' from west stream bank through the Zisk property and instructed Public Works Dept. to prepare specific property description of logical take line to be submitted to Planning Commission for check on compliance with Park & Streambed Plan and then submission to Council. Council would then hire an appraiser and offer to purchase land and if necessary proceed with condemnation; they anticipate 90 days to have final purchase figure.

Mr. Emerson feels since Corps of Engineers report has not been received he would like to see postponement until it has been received, as plan might be worked out for a home and trail.

Mr. Bergthold stated whether Corps of Engineers report says this is flood plain or not it does not answer whether construction will stop construction of bike path.

Mr. Atteberry questioned time limit in which EIR must be acted on as it has been submitted since 3-1-73. Applicant feels impact of development of a bike trail would be advise on a home site.

City Attorney advised ordinance states Commission should act and make recommendation to Council on EIRs within 50 days from when report was first submitted to Commission and pointed out while parcel map was submitted in March 1973, EIR was not submitted until June, 1973.

Mr. Keller stated that if use permit is approved for home construction his Attorney has advised him they would proceed to get a restraining order because property value increase would increase his liability under litigation now in court.

Mr. Emerson questioned location of Keller property and Mr. Keller advised it is his parking lot which is in low section in back where he has put drainage ditch water through a pipe. Mr. Zisk has stated this caused flooding on his property and caused damage so until court has made decision he feels allowing a building on this property would make a basis for more liability damage to him.

Chairman closed hearing.

0150

Motion by Bergthold, seconded by Platt, that Zisk/request for use permit to construct single family dwelling in R-1FP Zone at 205 Thomas Street be denied since plan is in conflict with bicycle and pedestrian trail and Corps of Engineers report is needed to determine if property is in flood plain as to whether this is a proper building site. Roll call vote: Ayes-Bergthold, Platt, Rosencuci, Walker. Nays-Emerson, Gonzalez. Motion carried.

Applicant was advised by Chairman of right of appeal to Council on decision.

Mr. Atcherry questioned submission of EIR to Council and if it would include use permit unless it were appealed.

City Attorney advised Mr. Atcherry to appeal use permit if action is wanted on same.