

Growth

Builders Exchange loses growth-control ruling

By STEVE SHENDER

Sentinel Staff Writer

SANTA CRUZ — The Santa Cruz County Builders Exchange lost a skirmish Friday in its legal battle with the county over Measure J, the county's growth-control ordinance.

Superior Court Judge Chris Cottle, who recently agreed to conduct a full-scale trial on the Builders Exchange's challenge to Measure J residential-growth limits, refused to grant a request by the group's at-

torney that those limits be set aside until after the case is resolved.

Cottle said he would not grant the motion by attorney Lee Roy Pierce Jr. because he was "absolutely convinced" that no building permit applications are being denied as a result of Measure J, and that none is likely to be turned down as a result of county growth limits between now and the conclusion of the trial. The trial is set to start Dec. 15.

Cottle's ruling came after Pierce challenged some statistics in the

housing element of the county's General Plan and tried to persuade the judge to throw out Measure J without a trial. Pierce contended the erroneous statistics had rendered the housing element and therefore the whole General Plan invalid.

The ruling also came amid indications by Pierce that he would challenge the county's entire planning procedure, as well as Measure J, when the case does go to trial.

Measure J aims at controlling growth in the county through limits

on residential building permits, and requires that at least 15 percent of all new housing built be affordable to renters and buyers of modest means.

The Builders Exchange suit claims that the 1.5-percent residential growth limit set by supervisors for 1986 has restricted the supply of low- and moderate-income housing here and thus discriminates against poor people in general, and minorities in particular.

It also charges that because of Measure J, the county is not meeting its "fair-share" regional housing quota, as set by the Association of Monterey Bay Area Governments.

The suit was brought in behalf of Wilma Campbell, who has been identified by the Builders Exchange as a "black woman" and a "low- to moderate-income resident of Santa Cruz."

Pierce, who works for the conservative Pacific Legal Foundation, asserted Friday that the county's housing element and General Plan, and therefore Measure J, were invalid because, in reports to the state, the county had overstated the number of dwellings constructed

here between 1980 and 1985 by some 1,300 units.

County Counsel Dwight Herr acknowledged that there had been an error, but said it was not as large as Pierce contended and said it was the result of an honest mistake. He said county planners are correcting the housing element figures.

Pierce charged, however, that county officials had knowingly inflated the housing figures — which he called the "heart and gut" of the county's housing element — to "demonstrate" to the state Department of Housing and Community Development that the county was meeting its fair-share regional housing goal.

Herr said Friday that there was no reason to set aside the county's General Plan housing element unless it could be shown the statistical error had "caused prejudice or substantial injury" to would-be building-permit applicants.

He said Pierce had failed to prove that anyone had been hurt by the mistake.

Herr noted the county currently has a backlog of 1,000 unclaimed

building permits carried over from previous years. Consequently, he said, Measure J "hasn't caused any restriction in the number of permits available in 1986 (and) it's not foreseeable that it will in the rest of the year."

Pierce conceded Friday "it's true there are a substantial number of permits available."

But he asserted that the mere existence of Measure J building-permit limits had encouraged county planners to drag their feet on permit applications.

"The limit on permits affects the ability to get permits," Pierce said. "I can prove to you indeed that the ordinance does limit supply."

Pierce said that when the case does go to trial, he will call witnesses to the stand to prove, among other things, that "it's impossible to get through the Planning Department."

"They're not issuing permits," he said.

Pierce said that the only thing the county's argument about carry-over permits had proved was that Measure J "is not necessary."