

Monterey Bay Area. Cloudy. Occasional rain likely beginning this evening. Partly cloudy tomorrow. Cooler. Gentle wind becoming southerly 15 to 25 knots and shifting to northwest 10 to 20 knots tomorrow.

Cedar-Vine Suit Ousted

By John Elliott
Sentinel Staff Writer

A lawsuit which has prevented Santa Cruz city council action on the Cedar-Vine connecting street proposal for the past eight months has been thrown out of court, prompting the promise of an appeal to the state supreme court.

Superior Court Judge Gilbert

S. Perry ruled yesterday that his court does not have jurisdiction, at this time, to consider a lawsuit by 45 plaintiff downtown property owners, represented by attorney Frank Murphy Sr.

Murphy said today that Judge Perry's decision will be appealed to the state supreme court before the next scheduled city council action on the matter, at their meeting of April 11.

The project, estimated to cost \$550,000 when approved by the council on May 24, would cut a two-block street to connect Cedar and Vine, thus providing a through street paralleling Pacific avenue in downtown Santa Cruz.

The council, which contends the link is essential to downtown traffic flow, has voted to pay \$100,000 of the estimated cost, while city parking lots will provide another \$29,000. The remainder is to be raised through an assessment district divided into benefit zones, with the properties nearest the street rated at 100 per cent. Other properties are to be rated at 65, 50, 25 and 10 per cent.

The plaintiffs, who contended the council exceeded its authority in ordering the work to proceed, won a temporary restraining order on June 27 and the matter has been, in effect, tied up in court since that time.

Early in January, Robert Aurbrey, an attorney with the San Mateo bond counsel firm of Wilson, Jones, Morton and Lynch, responded to a Murphy court request for a "writ of prohibition" by asking that Judge Perry dismiss the entire lawsuit on the grounds that the plaintiffs have not used all administrative remedies possible, that there still are public hearing procedures available before court action should be taken.

Judge Perry yesterday granted Aurbrey's motion, stating that "this court is without jurisdiction to proceed at this stage . . ."

Murphy noted today that Judge Perry did not rule on the merits of the controversy, only that the plaintiffs did not have the right to file a lawsuit at this time. He said he disagrees with that position, since the city council initiated the Cedar-Vine project and has made clear its intention to see it through to completion.

Aurbrey, in asking for dismissal, argued that the city council has further public hearing procedures to complete before a final ordering of work to begin. Murphy said Judge Perry's order, in his (Murphy's) opinion, prevents the lawsuit until all such administrative procedures are completed.

SCOPE Presents Awards

SCOPE annual awards were presented last night at the group's banquet at Facelli's. Making the presentations was Attorney Ian McPhail, SCOPE board member.

Honorable mention went to Granite Construction company for its Santa Cruz office architecture, the City of Santa Cruz for its water pollution control plant, the Elks club for design and development of its new clubhouse, and the City of Santa Cruz for civic auditorium painting.

Awards by category included: Watsonville city hall for architecture; Albertson's in Santa Cruz for commercial facility development; Pacific Gas and Electric Meder street substation for utility facility beautification; Downtown Santa Cruz Merchants' association for open space beautification with Pacific avenue street trees; Darrow-Talbert and company for remodeling; Soquel Congregational church for restoration; the local YWCA for painting, and Sentinel Staff Writer Margaret Koch for community service.

Overall excellence in design and development went to Pajaro Dunes. (For related news, see Page 14).

Train Jumps Tracks, 3 Die

Pennsboro, W. Va. (AP).—The Baltimore & Ohio Railroad's crack National Limited jumped the tracks in a rural area of northcentral West Virginia today, killing three persons and injuring at least 67 others.

The fast passenger derailed about three miles east of here just before dawn, after all but the last of its four coaches had moved across a trestle spanning the north fork of Hughes river.

A Baltimore and Ohio spokes-