

was a tranquil scene. Road in the Aptos area. All that could be heard was as workers went about their jobs on a quiet day.

County wins Seascope appeal; must negotiate higher densities

12/29/82
Green Sheet

By BUD O'BRIEN

A State Court of Appeal decision this week means that Santa Cruz County doesn't have to pay Aptos Seascope Corp. any money as a result of a lawsuit filed nearly 10 years ago. But it also indicates the county will have to grant the big land development firm permission to build extra units on its Mid-county property.

The decision is a victory for the county insofar as it allows the county to escape any necessity to pay the monetary damages awarded to Seascope by Superior Court Judge Roland Hall at the conclusion of the trial in 1977. Judge Hall ruled that in zoning 70 acres of Seascope beachfront

land as "open space" in 1973, the county had "taken" that land without compensation and thus had either to pay monetary damages or reach an agreement with the company in lieu of the damages.

Hall placed the damage amount at \$3.1 million, which has grown through the years as interest accumulated to \$4.5 million. The county appealed the award, but in the meantime it negotiated an agreement with Seascope which guaranteed the company up to 175 building permits a year.

The Court of Appeal ruled that, in light of a Supreme Court decision relating to a similar case in Tiburon, monetary damages could not be awarded in cases of

"inverse condemnation," which Seascope claimed the county had accomplished in its zoning actions. But its ruling that some additional building units must be granted Seascope leaves unclear exactly what will result in the way of new building allowances at Seascope.

Dennis Kehoe, the lawyer for Seascope, expressed some optimism that the county and Seascope will be able to come to an amicable agreement on increased density that will satisfy the court's ruling. He noted, however, that should there be a dispute as to what would constitute "reasonable compensation" in the way of increased densities, the court

decision places the "burden of proof" on the county.

County Counsel Clair Carlson said he considered the appeals court's decision a victory for the county, but he said he wasn't certain how the ruling concerning the increased densities would be applied. He noted that land use on the Seascope property is now controlled by the provisions of a Local Coastal Program and is subject to review by the state Coastal Commission.

The controversial agreement of 1979 between the county and Seascope — which was acceded to by the county in order to avoid having to pay the monetary damages, which it couldn't afford — remains in effect. The heart of that agreement is its guarantee of a certain number of building permits to Seascope at a time when building permits are rationed under the county's growth management (Measure A) laws.