

Appeals court issues order sparing Marinovich Bldg.

By KEN McLAUGHLIN

"Petition for writ of supersedeas granted."

Those words, issued late Tuesday afternoon by the state Court of Appeal in San Francisco, were music to the ears of Watsonville preservationists fighting to prevent demolition of the 82-year-old Marinovich Building at Peck and Union streets.

"Basically we've won the case," declared environmental attorney Zan Henson, the lawyer for the Preservation Defense Fund.

City Attorney Don Haile, however, disagreed with Henson's interpretation. He maintained that the issuance of the writ, essentially a preliminary injunction indefinitely delaying demolition of the building, did not mean that the city had improperly issued a demolition permit for the building.

The suit was filed against the city and Wells Fargo Bank in December after the Building Department issued the bank a permit to tear down the building to expand its parking lot. Superior Court Judge Chris Cottle, however, refused on Feb. 2 to issue an injunction to delay demolition of the building.

The Preservation Defense Fund pursued its case in the state Court of Appeal, which issued a temporary stay, preventing demolition of the building, about 14 hours before the bank was set to demolish the structure in mid-February.

The latest reprieve for the building was issued by a three-justice panel, which based its decision on written

arguments submitted by attorneys for the preservationists, bank and city. The panel had scheduled oral arguments for Tuesday, but canceled the hearing, apparently because it felt it had enough information to make the decision from the briefs submitted by the attorneys.

The order issued by the justices did not outline any reasons for the decision, thereby triggering different interpretations of the ruling.

The central issue in the case is whether the demolition permit issued by the Building Department was "ministerial" — that is, whether the city had any discretion in issuing the permit.

The Preservation Defense Fund argued that because the building is eligible for nomination to the National Register of Historic Places, the city should have required an environmental impact report on the demolition.

Attorneys for the city and the bank, however, contend that the issuance of the permit was a routine matter not requiring environmental review.

Henson contended this morning that in issuing the writ of supersedeas the Court of Appeal was in effect saying that there was "sufficient merit" to the argument that the permit was not ministerial.

But Haile disagreed. "To me no one has won or lost," he said. "I don't see how it (the writ) resolves anything."

The writ, he said, does not say that

"we (the city) have done anything wrong."

In any case, the case — assuming no compromise between the parties is reached — will be tied up in the courts for months, perhaps years.

Henson said he hoped "both sides will sit down and work out some kind of compromise."

"As a practical matter, it would be quicker for the city to write an EIR (environmental impact report) then to (pursue the case to the trial stage)," the lawyer said.

Chuck Rowe, president of the Defense Fund, also said he hoped "we can work something out amiably."

Rowe has contended that a parking plan submitted by him to bank officials (via City Councilman Vido Deretich) would allow the bank to obtain adequate parking as well as save the building. Resolution of the controversy, Rowe said, lies in a "design solution."

Rowe has proposed that the bank eliminate the shed behind the building and realign public parking spaces on Peck Street. The plan, he says, will result in more additional parking than demolition of the building would produce.

A public relations spokeswoman for Wells Fargo, Kim Kellogg, said at noon today that attorneys for the bank have still not received a copy of the court order. She said bank officials preferred not to comment on the matter until the order was in hand.