

Thal Makes New Pitch For Cemetery

By Ron Miller

Warren Thal surprised and bewildered county officials yesterday by filing his second application for a use permit to operate a cemetery in Scotts Valley.

The local mortician was denied a permit by the board of supervisors last March after the county planning commission had approved the cemetery. Thal appealed and the supervisors were reversed in superior court.

The county in turn appealed to the district court and that's where the cemetery issue has remained until yesterday.

"It may take many months before the court case is settled," Thal told *The Sentinel* yesterday. "We thought this might be the easiest way to get what we want."

The county ordinance allows a property owner to file another application one year after his first application has been denied. Supervisors upset the planning commission's approval of the cemetery on March 2, 1961.

As soon as Thal filed his application, it created a mild sensation among county officials. Planning Director Bert Muhly made a hasty trip to the county counsel's office to find out if another application could be made while the first was still being litigated.

Although County Counsel Bill Card reserved his final opinion pending additional study, he seemed to feel Thal could go through the entire use permit procedure over again.

One of the main reasons is that the appeal now before the district court is concerned solely with whether the board of supervisors had jurisdiction to reverse the planning commission and deny the permit. The merits of the cemetery are not being debated.

When Thal first applied for a use permit for the proposed 25-acre memorial park, he came before the full planning commission. Since that time, use permits have been turned over to the three-man board of zoning adjustments.

If Thal's new application is denied, he will undoubtedly appeal it to the board of supervisors. Since the board is still composed of the same five members, chances are good it will be denied again.

But what would happen if Thal decided to repeat the same procedure and once more appeal to superior court? Muhly and Card indicate there is a good possibility the county may be forced to litigate two cases on the same issue.

Even if the zoning board approved Thal's new application, an appeal would still be likely. The overwhelming community objection to the cemetery still appears strong in Scotts Valley. The property owners might do as they did before and appeal a decision favoring Thal to the supervisors.

Muhly says there is another possibility on tap. The Scotts Valley property owners could approach the board with a request to rezone the area for residential development only. Card is not sure such a move would hold up in court, however, since the intent would be to keep the cemetery out.

Yet Thal seems to think there is a good chance of his cemetery being accepted by the zoning board and the supervisors now.

"Conditions have changed in the area since last year," he said. "This may mean a better chance for the permit."

Although he didn't make any specific reference to the "change" in the area, Thal may have been referring to some recent permits granted in the general vicinity of the cemetery property. Permits have been granted for equipment storage yards and similar uses.

Thal may think these developments have lessened the arguments of those property owners who claimed they didn't want to look from their windows and see a cemetery. Conceivably they see other non-aesthetic sights from their windows these days.

In the meantime, the county is still waiting for a hearing in the district court on the original appeal. The oral presentations have yet to be made and legal briefs won't be submitted until the oral arguments have been heard.

The cemetery property lies adjacent to Highway 17 and to the west. One corner of the proposed site is directly across from Standard Lumber mill.

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