

Marinovich demolition argued in court

By KEN McLAUGHLIN

The battle to save the Marinovich Building entered the courtroom Friday afternoon, as attorneys for Wells Fargo Bank and the city of Watsonville sparred with an environmental attorney from Carmel.

Santa Cruz County Superior Court Judge Chris Cottle, however, made no decision on whether to issue a preliminary injunction against the bank, which wants to tear down the 81-year-old structure to expand its parking lot.

Cottle explained that he hadn't been handed the file on the case until five minutes before the 1:30 p.m. hearing, and thus didn't feel comfortable making a decision. "I need time to think," said Cottle, who is expected to rule in the case Monday.

Less than 10 minutes after the hearing began, Cottle called a recess so that he could peruse the file. When he returned, he agreed to take testimony for about 45 minutes.

Only one witness was called: Hisashi Bill Sugaya, director of the Western regional office of the National Trust for Historic Preservation, a non-profit organization chartered by Congress.

Called to the stand by attorney Zan Henson, representing Chuck Rowe and the Environmental Defense Fund, Sugaya said that the Marinovich Building was "important to the character" of the city Plaza as well as the "community of Watsonville."

He said the building is listed in the California Historic Resources Inventory and is eligible for nomination to the National Register of Historic Places, primarily as a result of a visit to Watsonville in 1976 by Berkeley architectural professor Kenneth Cardwell. The professor had done a "historical resources inventory" for the city under a grant from the state Office of Historic Preservation.

Watsonville City Attorney Don Haile, however, attempted to discredit Sugaya's testimony, remarking that "anybody taken off the street" can offer his opinion about the building.

Haile asked Sugaya how many times he had visited Watsonville, and he replied that he had been to the city three times, the last time on Wednesday.

Henson also tried to show that the National Trust would not enter a case unless it felt a building deserved to be saved. In answer to a question by the attorney, Sugaya said the organization gets involved "only when there is significant impact locally."

An attorney for Wells Fargo, Jessica Pers, argued that the plaintiffs should be required to post a \$75,000 bond to ensure that "damages" to Wells Fargo for the demolition delay will be recovered.

She said the bank was losing rent on the building because the tenants had moved out. Now that the building is vacant, she said, the bank "runs the risk of having someone burn it down."

Ms. Pers staunchly defended the position of the bank, saying it was doing what was best for Watsonville and best for the downtown. "Wells Fargo wants to be a good citizen of Watsonville, and has been," she said.

If the bank can't get more on-site parking, she said, it will be forced to move from the downtown. She called the bank one of the two anchors in the city Plaza area, the other being Ford's department store.

"They are two important businesses that the city wants to keep," she said.

The attorney said that the bank now has 18 parking spaces and would gain 18 more if the building is demolished. Wells Fargo officials, she said, have calculated that the bank actually needs between 50 and 60 spaces.

Henson, however, contended that the bank will gain only 17 spaces by tearing down the building. He argued that by simply demolishing the shed behind the building, the bank could gain seven parking spaces without having to tear down the main structure. Demolishing a historic building for 10 parking spaces, he said, did not make sense.

Henson argued that the California Environmental Quality Act (CEQA)

requires an environmental impact report on any project that will "arguably have a significant adverse environmental effect."

The "idea behind CEQA," he said, "is that well-informed decisions will lead to good decisions."

"By being well informed," he said, decision-makers will balance economic considerations with "the environmental qualities that we enjoy."

But Haile maintained that the city's issuance of a building permit was "ministerial," meaning that the city had "no discretion" in deciding whether to issue it.

"You obviously don't understand what a ministerial act is," Haile told Henson.

Henson turned over to Cottle a copy of the city's ordinance regulating architectural review, with the apparent motive of proving that the demolition-parking lot should have been reviewed by the commission.

But Haile came back with a surprising response, one that may concern some members of the City Council. He said that design review is not required for projects of under \$75,000 in the redevelopment district because the city's redevelopment plan supersedes the design review ordinance.

The Wells Fargo parking lot proposal had gone before the Design

Review Commission, which rejected the plan and asked the bank to return with a better one. But Haile said Friday that the matter didn't have to be approved by the commission. It was the Planning Department's mistake to bring the parking lot proposal before the board, he said.

Henson also contended that the city lacks an adequate open space inventory and plan to save open space. This, he said, is a violation of state law and means that the city "is without the legal authority to issue building (and demolition) permits."

Haile, however, advised Judge Cottle not to delve into General Plan issues, saying it "would be opening a can of worms." He said state planning law is a highly complex matter that involves complicated maps and policies.

A temporary restraining order against Wells Fargo, the city and Bill Marinovich had been issued by Superior Court Judge Rollie Hall in December. Cottle will decide Monday whether to issue a preliminary injunction against the demolition. A ruling in favor of the plaintiffs would mean that their arguments indicate "probable success on the merits," Henson said after the court hearing.

Cottle officially dropped the suit against Marinovich because his sale of the property to the bank is now final.

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REFERENCE



The Marinovich Building as it looked in 1962. The two buildings to its right were demolished to make room for Wells Fargo Bank's parking lot.