The time: the 1970s. The place: Santa Cruz, an enchanting enclave of towns and homes scattered among mountains and beaches. Suddenly, from the north, this paradise is invaded by a lemming-like wave of Silicon Chipmunks, busy, scurrying creatures who throw up redwood and glass houses on every buildable site, devour timber and water and farmland, shoo away wildlife, dirty the skies and rivers, shrilly demand more classrooms and sheriffs and firemen, overcrowd the roads, and toss around so much money that the besieged natives find themselves priced out of their own habitat.

But the newcomers cannot escape the spell of Santa Cruz. They realize they are both the problem and the solution.

"What to do?" they cry.

"You can have your cake and eat it, too," pipes a small voice from the end of the Santa Cruz County Board of Supervisors' bench, producing a parchment bearing the magic seal, "J." It is proclaimed the law of the land, the bridge over the moat is drawn up and happiness reigns.

Or does it?

The Ways of "J"

Ted Benhari

Four years after Measure J, the Growth Management Ordinance, was approved by a narrow majority of voters, there is an acute housing shortage, unsold homes flood the market, real estate and construction people are dropping like the faithful at Jonestown, single-family home construction has given way to condominiums and town houses, there is up to a four-year wait for building permits, fees for permits have skyrocketed, contractors must navigate a maze of overlapping agencies with sometimes conflicting regulations, the hills echo with the hammering of outlaw builders, and frustration, suspicion, deception and confusion are rampant.

And, paradoxically, people — for the most part — are happy with Measure J. Of the developers, contractors, owner-builders, government officials and realtors I interviewed, very few were in favor of abandoning growth management, although many expressed desires to change various aspects of the way it has been implemented by the Board of Supervisors.

Measure J took effect in January, 1979. Three other things occurred at about the same time that also profoundly affected development and the housing market: inflation went through the roof, interest rates soared and California voters approved Proposition 13, thus sharply limiting the amount of money local governments could raise through property taxes. Any assessment of the impact of Measure J must take these factors into account.

"I think Measure J is working," says Supervisor Gary Patton, its author. "Basically, growth has been cut in half [from 4% annually to 2%]. If the growth rate is slower, we can absorb it better. We're keeping growth out of the rural areas. Our agricultural land preservation policy is among the most stringent in the state." Patton also gives "J" high marks for slowing environmental deterioration.

Supervisor Dan Forbus, Patton's long-time conservative foe, agrees. However, he gives the credit not to Measure J but to other policies set by the Board of Supervisors and the state and to the meteoric rise in home mortgage rates and the slumping economy.

Where "J" has inarguably fallen short is in its goal of providing that 15% of the new homes would be "affordable." So far *only 40 units have been completed and occupied by owners certified eligible* by the County Housing Authority. According to Planning Department chief Kris Schenk, hundreds more are in various stages of the permit and construction process. But when and whether those homes will ever be lived in by the intended purchasers is an unanswerable question.

Because of real estate market factors, high interest rates and the scarcity of loan money, the entire low-cost housing program is in trouble. Reductions in federal and state subsidies have made the situation even more bleak. Projects underway are facing delays and even bankruptcy.

To understand the situation, we must machete a path through the thicket of government regulation and real estate financing.

Over any three year period, according to the law, at least 15% of the building permits issued by Santa Cruz County must go for homes "capable of purchase or rental by persons with average or below average incomes." This is construed to mean households whose income is not more than 20% above the County median. (Presently this means a family of four must make at least $17,100, and not more than $23,100 a year.) Let's use the figure $20,000. These buyers are allowed to spend up to 27% of their income on mortgage, insurance and tax payments — or about $500 a month. Thus, with a 17% loan amortized over 30 years, they can pay about $45,000 for the house.

Contractors say they can barely afford to build a house for $45,000, not including the price of the land and the various fees and carrying costs. So "affordable units" are only built by developers putting up at least five homes, who are required by "J" to include 15% of the units in that category. The losses on those units are recouped by increasing the price of the so-called "market rate" units in the project. "We're essentially redistributing income to make the affluent put the affordable unit in," says Planning Director Schenk.

To enocurage "affordable unit" construction and aid small builders, the Supervisors have set aside about 40 building permits each year, outside the lottery system used to allocate the rest, for small builders willing to put up an

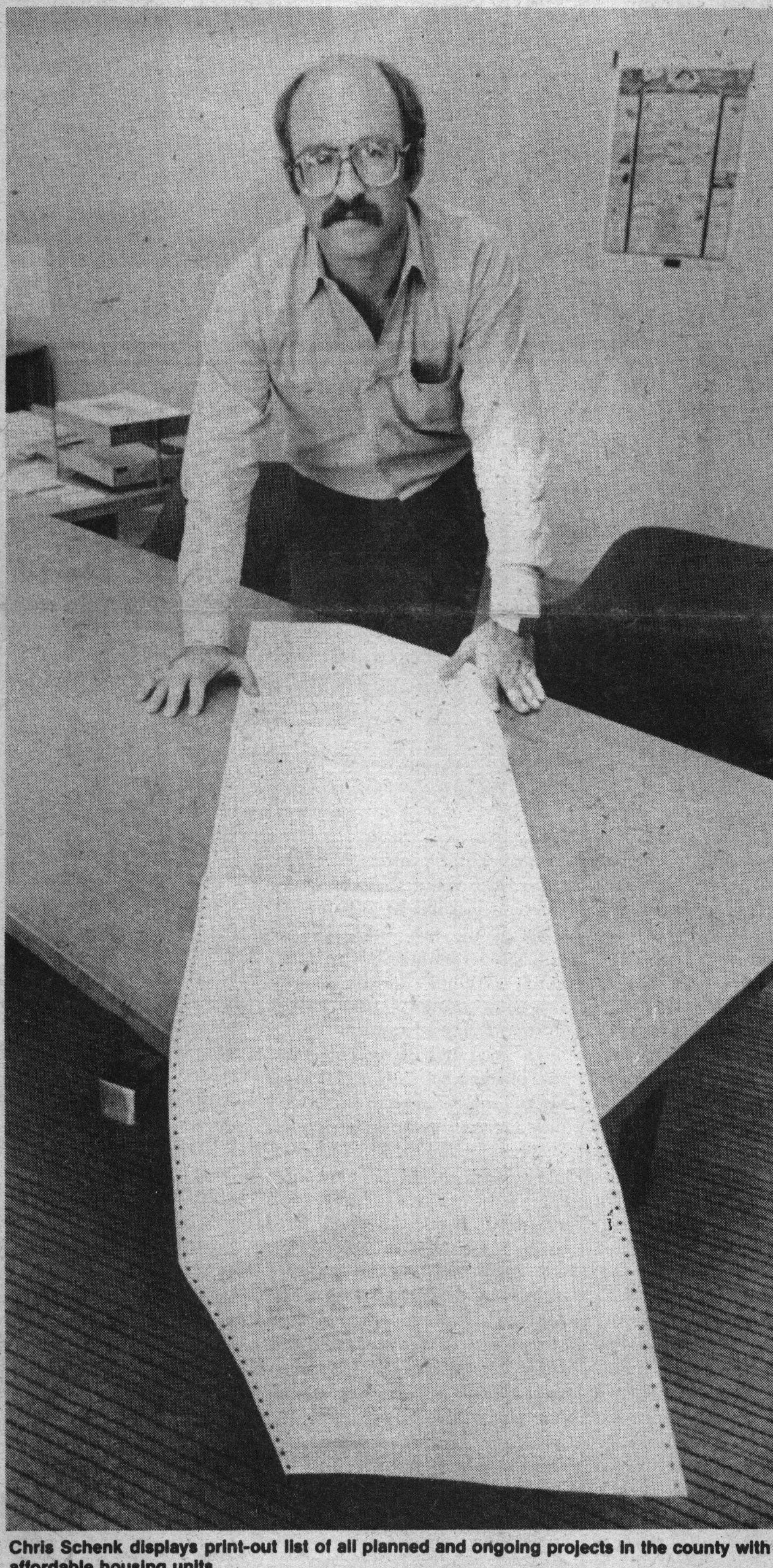

PHOTO: JOE DANIELS

Chris Schenk displays print-out list of all planned and ongoing projects in the county with affordable housing units.

"affordable unit." That immediately entitles him to three "market rate" permits. Developments containing 25% "affordable units" are designated "Priority Processing" and the applicants for these permits go to the front of the line, but still must compete in the lottery with each other. Additional inducements are density bonuses, permitting more units than the zoning calls for and permission to trade "affordable unit credits" with other builders and developments in order to make the "market rate" homes more palatable to affluent buyers by segregating affordable units in a separate project.

The program is threatened even more by the paucity of loan money available for "affordable units." Santa Cruz, like California in general, has more demand for loans than supply of capital, explains Michael Failor, a senior vice-president at County Bank. To obtain funds the local banks sell many of their mortgages to large eastern financial institutions, like pension funds and insurance companies. "They don't want to loan on 'low-cost' homes," says Failor. "They don't understand the program and they are scared of it."

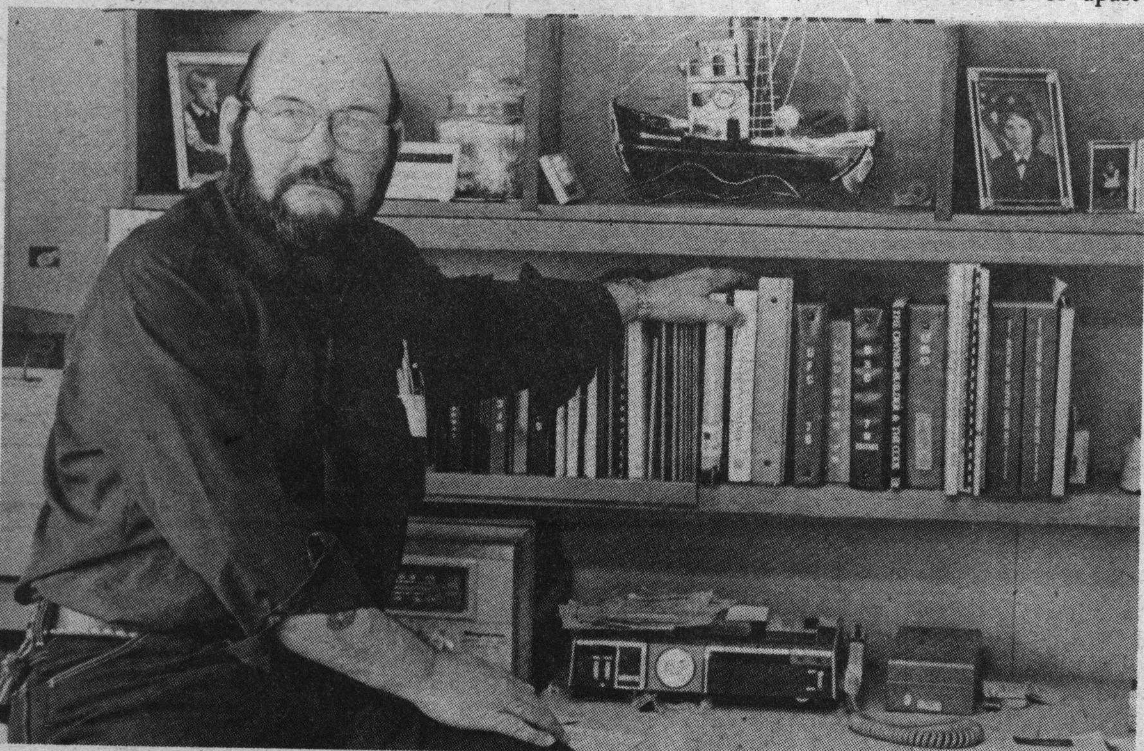

PHOTO: JOE DANIELS

Loud Bacigalupi with state, county and city building code volumes.

To date the only mortgages for completed "affordable units" have come from County Bank, which "tax-shelters" other income by issuing the loans at lower than market rates, 11.5% according to Mary James, head of the County Housing Authority. However, County Bank now has sheltered all the funds it can, so if more "affordable units" are to be sold other banks will have to do the financing. Patton says negotiations are underway with several of them.

The advantage of discount rate loans is that the builder can then charge more money for the units (as much as $58,000 — perhaps enough to recoup true costs), while the buyer's payments remain the same.

Measure J requires "affordable units" to be price-controlled by the Board of Supervisors for 30 years from the date of completion. They must first be offered to qualified median-income buyers. But unless loans become available, there is real danger many of them may be de-regulated and sold to anyone on the open market. The builder is entitled to do this if the unit is still unsold 120 days after completion. Any unit foreclosed upon the bank for failure to make mortgage payments can also be sold without restriction.

The one-two combination of the credit crunch and growth limitation has driven realtors and contractors to the canvas. Realtor Glenn McConkey of Aptos Associates estimates that "one-third to one-half of the realtors are going out of business." Every contractor I spoke to claims to know bunches of builders and carpenters who have left the County for greener pastures.

The builders who remain must brave a formidable obstacle course: steep fees for sewer hookups, parklands and schools (thanks to Proposition 13) that can up the ante on a house by as much as $10,000; swift changes in regulations that can render a $30,000 lot worthless; a morass of bureaucracies — the Coastal Commission, Environmental Health, Zoning, Planning and Building — with stiff, and sometimes conflicting or suddenly shifting, requirements; and long delays.

Under Measure J, to obtain a building permit an applicant must submit a proposed floor plan and a $500 deposit in November in hopes of winning one of the approximately 1,000 permits in various categories (one to four units, five to 20, in either rural or urban zones in the County) that are issued each year. Larger developments are dealt with outside the lottery process.

Although the number of applications has been declining, probably because of the tightness of financing, there is a back-log of applicants waiting from previous years. Someone who applied in November 1981 will probably not be able to begin building until 1984 or 1985.

This long delay, while land payments mount, has driven many smaller contractors — those who build a house or two at a time with hopes of selling it for a tidy profit — either up the wall or over the hill. Those who can survive in today's market are mostly the larger builders who have access to money sources, can afford to wait and mostly build condominiums (either town houses or apartments). These projects are filling the mid-County, between Live Oak and Rio Del Mar. Before "J" 80% of the new homes in the unincorporated areas were single-family dwellings in the country, especially in the Summit section close to Route 17 and San Jose.

To stay in business, observers say, builders resort to a desperate cat and mouse game in which they pick up their permits when they become available. Since letting them lapse means another three or four year wait, they then scramble for expensive, hard to find construction loans. They will delay until the last moment to put in the foundation in the required six months, then proceed at snail's pace — doing just enough work to warrant the mandatory semi-annual inspections — until they find a buyer to put a financial package together so they can finish. The County Building Department instpectors, say some sources, are sympathetic to the contractors' plight. "Most inspectors will bend over backwards to help," says one builder.

The Departments of Planning, Building, Zoning and Environmental Health are located on the fourth floor of the County Building. There, rather than out on Branciforte Drive, say people who apply for permits, is where the real Mystery Spot is.

It is a fearsome experience, especially for owner-builders new to the process, to apply for a building permit. One frustrated owner-builder suggested the sign from Hesse's *Steppenwolf* be hung over the door: "For Madmen Only." Another suggested that "Abandon hope, all ye who enter here," might be appropriate.

Frequent complaints from those interviewed were constantly changing regulations, conflicting requirements by the different agencies, lack of coordination among them, surliness and incompetency by people working the counters, impossibility of finding out information unless the exact right question is asked, lost applications and arbitrary delays. "I've always felt that I didn't know what was going on and couldn't find out," says one owner-builder. It's Kafkaesque."

"Watch people walk out of the Planning Department and they look like they've been beaten with a rubber hose," says another, who finally resolved his own 30-month battle only by threatening to sue. He finally obtained the intervention of Supervisor Patton, after which a Catch-22 dispute between two agencies mysteriously disappeared.

The most frequent description of the Building Department by those who deal with it is "a zoo."

"It's the nature of the beast," says amiable Chief Inspector Lou Bacigalupi, pointing to a 3½-foot long shelf of books, each one crammed with regulations: building codes, plumbing codes, electrical codes, Workman's Compensation rules, etc. "I feel like the chief zookeeper," he says.

"You're not going to change bureaucracy, but we try to give a human touch to everything we do," says Bacigalupi. All those interviewed gave him, his chief deputy, Dick Stubendorff, and the field inspectors, high marks for reasonableness and cooperation in handling the many conflicts which arise between reality and legalese.

Where the problem seems to lay, according to builders, is with the detailed regulations themselves, breakdowns in communications and the people behind the counters who handle applications. But Bacigalupi defends his staff. "They are in a pressure cooker eight hours a day," he says.

As the interface between governmental restrictions and the public whose plans are often frustrated, the counter people take a lot of heat. "There's frustration on both sides of the counter," says Bacigalupi.

This frustration may be one source of the often-voiced suspicion that permits have been bought. "I've been investigated every year by the Grand Jury," says Bacigalupi. "Nobody's ever come up with anything." Although several builders say they have heard rumors of bribery, none had a shred of evidence to support it.

Owner-builders may be the most frustrated of those affected by Measure J. Often long-time County residents or people who have owned their property for years, they are angry with the expense and complexity of the permit process and the long waiting period. No wonder then that, according to sources, there are hundreds of illegal dwellings dotting the mountains, buildings built legally as barns, garages or worksheds, or houses constructed without benefit of permit. "As long as they get along with their neighbors, we never hear about them," says Bacigalupi. "Besides, I don't have the time, staff, or desire to go after them."

The Building Department, like other County agencies, is facing a 10% reduction in personnel because of budgetary shortfalls. So any problems are likely to get worse. This is unfair, complain builders, because fees have been increased drastically over the last few years and now supposedly cover the costs of the permit processing and inspections.

Measure J is often cited for inequities too. Residents feel they should have priority in receiving permits over outsiders. Libertarians groan that their property rights are violated. Contractors grouse about being forced to build low-cost units or claim that the system favors large developers. They say the long delay makes it impossible to deal with changing market situations. Once a permit is applied for, no changes are allowed in the plans, except for a changeover to a solar design, even though the builder's financial circumstances may have changed radically up or down over the intervening four years.

Often, owners of undeveloped lots will apply for a permit solely to sell it. Lots with approved permits command a premium of up to $15,000, says realtor Glenn McConkey, while those without are nearly unsalable. She also predicts that whenever mortgage rates descend to more normal levels, we will begin to see the huge increases in home prices forecast when "J" was passed, but which were depressed by the high interest rates that took effect shortly thereafter.

In the three years since it took effect, Measure J has survived tests in court and at the polls. Even its opponents now concede that growth management, despite its problems and inequities, is here to stay. "I don't like, but I live with it," says one small contractor. "Nobody wants to see another San Jose here." □