

Wingspread foes seek court ruling on Plan B vote

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Opponents of Wingspread Beach development plans have gone to court in an effort to resolve what they called a legal controversy surrounding the Santa Cruz County supervisors' tentative approval of Wingspread Plan B.

The dispute between the county and anti-Wingspread forces is over the meaning of a Wingspread vote taken by the supervisors on March 11. The plaintiffs, Friends of Porter Sesnon and Seacliff resident Greg Hudson, are asking a judge to clarify the matter.

At the March meeting, the supervisors "approved in concept" a heavily-modified Wingspread Plan B, one of several Wingspread development proposals they had considered. The project requires, among other things, revisions to the county's Local Coastal Plan and a permit to build in the county's coastal zone.

The board said final approval of the project would depend on the developer's ability and willingness to meet numerous, stiff conditions. The developer, Ryland Kelley of Palo Alto, has not yet submitted revised plans to the county. They will be subject to environmental review, and approval by the county Planning Commission and supervisors. According to county planner Mark Eymard all these steps are necessary before the board can amend its Local Coastal Plan and grant the coastal zone permit.

The suit, prepared by Santa Cruz attorneys Celia Scott-Von Der Muhll and Mitchell Page, claims that nothing in the county code enables the board to "approve in concept" a

permit application. The suit contends, therefore, that the board's action on March 11 constituted final approval of Plan B.

County lawyers have argued, however, that the board has retained the right to reject the project.

The suit asks a judge to settle the disagreement and declare whether the supervisors' action constitutes final approval of Plan B. If not, the suit asks the judge to find that the supervisors' action constituted "denial without prejudice" of Plan B. Such a denial would allow the developer to return to the county with a new proposal.

The question is significant, the suit said, because it touches on the plaintiffs' right to appeal the board's action to the California Coastal Commission. If the judge deems the action final, the county will be required by law to notify the California Coastal Commission of its decision to grant the developer a coastal zone permit. This notification sets in motion the Coastal Commission's appeal process. Without it, opponents of Wingspread are unable to make their appeal and exercise their due rights, the suit said.

The county has 30 days to respond to the suit from the day it was filed.

Assistant County Counsel Jonathan Wittwer, however, said the supervisors "basically continued" consideration of Wingspread Plan B in its March 11 action. The project was not formally approved or denied, Wittwer said.

"Basically, what happened was it was sent back for redesign," Wittwer said. "I don't see any legal problem with what the board did there."

REFERENCE

GREEN SHEET
May 21, 1986