

# VERMONT ENVIRONMENTAL REPORT

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## VNRC COMMENTS ON 250 PLANS:

### SPECIFIC GUIDELINES LACKING

The VNRC offered a six page statement and recommendations to the Vermont Environmental Board this month as the board opened two weeks of public hearings on the proposed Act 250 plans. The statement, read by Executive Director Seward Weber, was formulated by a special committee of the Council's Board of Directors because there was not sufficient time between the publication of the documents and the scheduling of the hearings to canvass either the VNRC's membership or the full board of directors. Here are some of the highlights of that statement:

The 1970 General Assembly intended the Act 250 plans to be specific and functional guides for the general uses of Vermont's lands. They are not to be used to protect the quality of the environment because that purpose is already fulfilled by Act 250. They are intended to address the problem of protecting towns from undesirable developments.

The draft plans inadequately address, in a positive manner, the issues the General Assembly intended to be covered in Act 250 when it mandated the plans; where, when and how fast population distribution and economic development should take place in Vermont. They should not only say "Here a developer can't..." but must also say, "There a developer can..."

By attempting to address other issues generally, the draft plans, with some exceptions, fail to give specific, concrete guidelines required both for landowners planning for the use of their holdings and for District Commissions who must decide the real cases before them.

The VNRC's recommendations included omitting those sections of the draft plan which relate to issues covered by other segments of Vermont law and by Act 250 itself and the addition of "positive guidelines and standards for sound economic development and settlement distribution."

MAMMOUTH CONDOTEL PROJECT  
IS IN THE WORKS FOR STOWE

The new word for this month finds in "Condotel" - condo as in condominium, tel as in hotel. And it may be the last word in the litany of land use problems that have beset Vermont in recent years.

According to preliminary information available to the Agency of Environmental Conservation, an application to construct a condotel in the village of Stowe, one half mile from Mount Mansfield, will soon be sliding into the Act 250 permit mill. Early indications suggest it will be the largest single developmental application in terms of total units which has yet been submitted for the area of Vermont north of Route 4.

The prospective developers, Shumway Realty Corp. of Stowe, have prepared preliminary plans indicating an 850 to 900 unit project. The proposed Village-on-the-Green development there, by contrast, projects 160 units and it has been the subject of the second longest series of appeal hearings which have been held to date by the Environmental Board.

The proposed condotel would sell units whose owners would only be permitted to occupy them for 60 days a year. During the remaining 10 months they would be leased to vacationers with the owner being compensated from the rental pool. An occupancy density of four persons per bedroom is the target of the developers.

The magnitude of the proposal is underscored by the fact that it represents triple the capacity of any existing Vermont hotel and that if fully occupied would offer a potential capacity of 4,000 persons. The peak uphill capacity at Stowe is now 7,000 per day.

QUEBEC CURTAILS WOLF EXTERMINATION PROGRAM

Quebec's campaign to diminish the province's wolf population has been cut back following howls from conservationists. Province fish and game officials, responding to the urging of hunters who claimed wolves were reducing moose and deer herds, instituted a program to encourage wolf hunting by offering to mount the dead animal's jaw in plastic. They also promoted the trapping of wolves in certain deer areas and declared that if this failed poison was permissible. The use of poison was subsequently disallowed and provincial officials say only a few hunters have taken them up on the offer to mount wolves' jaws. Conservationists contend the provincial officials are ignorant of the predatory role of the wolf in keeping wildlife populations healthy.

## USE TAX, ZONING ADJUSTMENT

### TARGETS OF NEW LEGISLATION

Several legislative proposals designed to reduce tax obligations on farm and forest land have been drafted for submission to the 1973 General Assembly.

Sen. Donald Smith of Washington proposes that all land be assessed according to its use, rather than its potential value for development. Smith's bill further stipulates that once the use value of a tract of land is established the assessment could not increase or decrease by more than five percent a year.

Rep. Peter Giuliani of Montpelier has introduced similar legislation which would apply to forest land. Giuliani's measure incorporates a sliding scale for the recapture of a portion of the taxes deferred if an owner elects to change the land use. Funds to compensate communities for placing timberland in a deferred status would be generated by a stumpage tax.

Rep. Edward Crane of St. Johnsbury has offered a related proposal requiring local listers to consider zoning regulations which restrict land use when fair market value is being determined. A similar bill has been presented by Rep. Paul Graves of South Burlington.

### STAFFORD SUPPORTS SEWAGE SUIT

Vermont's junior United States Senator feels court action might be the best method to force the Nixon Administration to restore to level of funding spelled out by Congress for assistance in the construction of municipal sewage treatment plants.

Sen. Robert T. Stafford said the Senate might petition the Supreme Court to challenge the President's decision to free only a portion of the funds authorized this fall when Congress enacted the massive pollution abatement measure.

Vermont has established a target date of clean waters by 1980 which was predicted, in part, on anticipated levels of federal funding. But Water Resources Commissioner Martin L. Johnson has indicated that target won't be met under the reduced spending levels announced by the President.

Johnson expects to release this month a spending schedule for the allocation of the funds which will be made available. He says his agency expects two year's worth of expenditures this month and the third year's within the next 12 months so immediate pressures will be met. The problem, Johnson says, is preparing a long-range program involving engineering specifications and financing details in light of the uncertainty over long-range funding.

COWLES CLOSES ACT 250 LOOPHOLE  
AND OPENS LAND CONTROL DISPUTE

The decision to include all lot sizes in the Health Department's subdivision regulations was made by Human Services Secretary William S. Cowles on November 8 in the form of an emergency regulation. His justification for removing the exemption of 10 acres and larger lots from the regulations, which apply chiefly to sewage disposal and water supply, was that there was a significant and growing trend to avoid or evade the intent and application of the regulations.

Cowles cited the number of land auctions held and scheduled which deal exclusively in subdivisions of 10 acre and larger lots, where no roads or other improvements have been made, that would bring the developments under Act 250.

It has also been established that lots larger than 10 acres have been bought and immediately divided into smaller lots, clearly to avoid the soil investigations necessary to ascertain whether sewage can be disposed of on the resubdivided units.

Finally, Cowles said that the Secretary of Environmental Conservation has records of numerous 10 acre and larger parcels of land in the state on which sewage cannot be satisfactorily disposed of by septic tank and leach field.

A storm of protest followed Cowles' action which was made under the emergency administrative procedure allowed when the "health, safety and welfare of the public," is at stake.

Realtors, developers, auctioneers and landowners, particularly in the Northeast Kingdom, have formed associations to urge the posting of land to protest what they view as a severe infringement of property rights. Much of the protest is directed at Act 250 as well as the Health Department regulations and it appears that the basic issues of individual property rights versus the interests of all Vermonters in the use and development of the lands of this state have been raised in a forceful way.

Cowles said he has been working with other state officials to revise the Health Department regulations so that they will be appropriate to the larger parcels now covered and so that some of the more onerous and expensive engineering requirements might be reworked to achieve environmental objectives at less cost to developers.

Cowles pointed out that the subdivision regulations were adopted in 1969 in response to pleas from towns such as Wilmington, Dover and Stratton which were being overwhelmed by the demand for services and the tax problems resulting from unchecked speculative development - much of which was occurring on land unsuitable for sewage disposal.

MODIFIED HEALTH RULES VIEWED  
HOMESTEAD EXEMPTION INCLUDED

A modified version of the emergency health subdivision regulations will be issued before the end of December. Secretary of Human Services William Cowles expects the new regulations will still eliminate the ability to redivide 10-acre lots without compliance. However, they will probably exempt from controls lots over 10 acres not in a floodplain or over 1500 feet and lots over 20 acres between 1500 and 2500 feet. A homestead exemption would allow a farmer to sell his land but keep a lot over 10 acres for his own home.

The original regulations were issued November 8 to plug a loophole which allowed lots over 10 acres to be sold and then redivided without review of sewage disposal capability. More than 3,000 acres had been auctioned off in just over 10-acre lots in four months.

Permanent regulations will be issued only after advertisement and a hearing. An amendment to Act 250 will be required to make subdivisions subject to controls whatever the size of the lot since the health regulations are based just on ability to handle sewage.

The modified emergency regulations are expected to meet some of the objections voiced by the Landowners Steering Committee, a group led by realtors in northern Vermont which has threatened to post over 100,000 acres to protest the controls.

Although originally the protesters hoped to have their signs in place before the end of deer hunting season, Fish and Game Commissioner Ed Kehoe says not much land has apparently been posted. He worries that the posting might encourage paid hunting which is gaining ground in some states. Another problem is that once the signs are up many landowners won't get around to taking them down.

But, some landowners are already taking their signs down, the Hardwick Gazette found. One farmer had posted his 700 acres but planned to remove his signs, having registered his protest that the regulations would apparently require him to go through complicated procedures in order to give land to each of his seven children.

Another landowner said he was taking the signs down so "the kids can have a place to ride their snowmachines. I had thought the posting was to protest the new snowmobile regulations, but it turns out it is mostly concerned with selling land. That doesn't affect me."

A letter to the editor said, "this land posting threat is just another example of wealthy developers and land auctioneers flexing their political muscles. I can only hope our legislators and state officials are strong enough to withstand this kind of blackmail."

ENVIRONMENTAL NEWS HIGHLIGHTS DURING NOVEMBER INCLUDED.

SHARON - Amendments to the Health Department's subdivision regulations have been invoked by the Windsor District Environmental Commission as a condition for an Act 250 permit. The decision by the commission pertains to the construction of an access road which would serve 17 land parcels totaling 240 acres. Each of the parcels is larger than 10 acres but, under Cowles' 120 day edict, each will be subject to subdivision regulations.

BRATTLEBORO - The Windham Regional Planning Commission wants the authority of Act 250 extended to require approval for developments located within 500 feet of a state road or a state aid road and for improvements within 1,000 feet of an interstate highway. These were among seven preliminary recommendations for proposed changes in the law put forth by the commission last month.

MONTPELIER - Vermont's long-discussed whey processing plant appeared to move a step closer to reality last month. Officials of the Davis Administration said the possibility of the plant's being utilized by a regional dairy cooperative, Yankee Milk, have been discussed and that negotiations for the contemplated Georgia facility were in their final stages.

BURLINGTON - Attorney Lawrence Wright, lobbyist for Common Sense Associates, says his organization is "kind of dormant" at the present time. Wright said he is uncertain about future lobbying activities on behalf of CSA but he said the organization's members might be taking a close look, individually, at the land capability and land use plans which are now the subject of public debate.

RUTLAND - The Public Service Board will join the interagency Act 250 review process to evaluate proposals for distributing water within a development. The PSB's involvement with other state agencies in evaluating Act 250 applications came to light here during a hearing on a condominium project and is aimed at clarifying the "financial relationship between the water consumer and the water supplier," according to Schuyler M. Jackson, assistant secretary of the Environmental Agency.

WILMINGTON - Voters in this Windham County community have overwhelmingly approved a series of referendum questions designed to control development. New ordinances included a restrictive building code, a four month suspension of commercial construction, and a tightening up of zoning laws. All won four to one majorities save the construction moratorium which passed by 314-286.

LEGISLATORS LINING UP  
ON 250 PLANNING ISSUE

Despite the verbal broadsides aimed at it during the past two weeks, Vermont's proposed Act 250 plans, at least in concept, appear to be developing a bi-partisan base of support within the General Assembly. An informal survey by the Rutland Herald indicates that while many members have reservations about the content of the plans, a majority of the 60 House and 22 Senate members questioned appear to want plans adopted and many observed that they ought to be strong plans.

A knot of Northeast Kingdom legislators, sensitive to recent outcries concerning amendments to the Health Department's subdivision regulations, represent the most conspicuous opponents of the plans as they are now constituted. Support seems evident throughout the remainder of the state however, with the notable exception of Speaker Walter L. Kennedy of Chelsea, who has expressed some reservations concerning both the documents and their political acceptability.

Senate sentiment was generally more guarded than that expressed by House members with Pro Tem President Edward Janeway saying he hopes a plan can be approved in 1974 and Arthur Jones, chairman of the Natural Resources declaring "the plan needs work."

Jones' House counterpart, Rep. Royal B. Cutts of Townshend says he's worried because the draft plans don't have enough strength. Another committee chairman, Peter Guilliani, said he supports land-use planning and feels the issue should be confronted this winter.

CORRECTION

Robert A. Snyder, Jr., an officer-director of Green Mountain Meadows, Inc., has called attention to two errors in an article concerning that proposed project which was carried in the October V.E.R. That story incorrectly gave Westford's 1970 population as 381 - it should have been 991; and stated the project would be sited on 1,200 acres when 1,930 are contemplated.

LEGISLATIVE BULLETIN AVAILABLE

The VNRC will in 1973 provide its members with information on environmental legislation pending before the Vermont General Assembly. These reports will supplement the monthly Legislative Log carried in the Vermont Environmental Report. Those wishing to receive copies of the legislative bulletin should tear off this article (which has your name and address printed on its reverse side) and mail it to the VNRC office.

ECONOMIST SEES LAND USE PLAN  
AS KEY TO STABILIZING VALUES

An economist with the Vermont Planning Office argues that in areas where developmental pressures are rising only zoning regulations or public acquisition programs can effectively neutralize forces directed toward the conversion of agricultural and forestry land.

Ralph R. Monticello, in the course of an evaluation of tax incentives as a tactic for maintaining land in current use, has told the Environmental Board that "the lure of windfall capital gains, coupled with the unfavorable economics of farming for many operators are far more influential determinants of market behavior than are the benefits of preferential taxation." Monticello further declared that preferential taxation can make land speculation even more profitable than might otherwise be the case and that, in some instances, use value programs have actually intensified developmental pressures on open space.

"What is obvious in many states with use value taxation programs," Monticello says, "is that land speculators have gained a large part of the benefits of preferential taxation."

Discussing the draft of the Land Use Plan, Monticello contends that farm values will not be affected in those districts tentatively designated as Urban, Rural Residential and Agricultural Conservation under the plan. He further argues that farm values, over time, will actually increase in those districts.

In districts preliminarily designated as Agricultural Conservation or Resource Conservation, Monticello forecasts a "minimal reduction" in farm and timber valuations even if the former is reduced to 40 percent of value taxation and the latter to 30 percent under a land use plan designation.

Monticello concludes that a ten percent increase (or decrease) in property taxes has little apparent effect upon either property values or the owners' land use practices and that use value assessment under a land use plan would relieve the tax problems of many farmers and forest landowners without having a major impact on the tax base of most communities.

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