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ENVIRONMENTAL AND LEGAL PROBLEMS OF LAND DEVELOPMENT IN MONTANA

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> This nation is belatedly coming to an appreciation of the need for comprehensive planning of the sort that takes a positive direction, working seriously to define and secure a desirable future.
>
> --Environmental Site Permit Study
> Montana Advisory Council for
> Comprehensive Health Planning

The problems resulting from the rapid division of land affect the quality of virtually all environmental resources. As our urban areas expand, they exert a growing influence on the climate, hydrology, productivity, diversity, and vigor of the area into which they intrude. The controls imposed in Montana to mitigate these physical impacts and attendant social disfunctions, their application and implications, are the principal concerns of this report.

This study is by necessity preliminary in nature. Neither the time nor the means were available to conduct the field investigations required to fully describe the magnitude and ramifications of land division activity in Montana. As a result many of the interpretations made and much of the quantitive information included are unsubstantiated by precise data. They are based on discussions and communications with field personnel charged with the responsibility for community health, welfare and planning. The need for further investigation, particularly detailed field study, is urgent. This investigation should at least attempt to describe the nature and rate of subdivision activity in Montana, assessing systematically its public cost and

environmental health consequences and impacts for the state and community.

The framework for this study was founded on two assumptions, the first being that uncontrolled development of land constitutes a major threat to the character and quality of Montana space, and secondly that such development can be expected to continue into the foreseeable future, unabated. Each assumption, although subject to debate is supported by the experience of other states. The urbanization of much land proximate to the larger cities and towns throughout the country is obtrusively evident as the suburbs steadily march out into the rural countryside, merging city with city, city with town.

Further out-migration of the urbanite, necessitated by increased populations and deteriorating habitat and enabled by additional leisure time, further extends his influence on the rural or even primitive landscape. It is this extension that is of particular concern and importance to Montana. If protection of the resources valued by the residents and the migrants are to be afforded, if the health, welfare, and convenience of the community is to be protected, all statutes and regulations in effect with an influence on this activity must be aggressively and vigorously enforced by all agents of county and state government. Accompanying this executive agency and county responsibility is the legislative, requiring further clarification and amplification of the controls now available.

Montana's overall population has shown a very slow but continual increase: 17 percent in the last twenty years. The eight western counties have grown at a much faster rate, however: 38 percent over the same period. This region, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, and Granite counties, accounts for most of the increase in land

development activity.

Flathead is far ahead of all other counties in acreage holdings assessed as suburban small tracts. The Department of Revenue reports over 68,000 acres for the county, whereas only 19,000 are reported for the next highest, Missoula. Five counties -- Flathead, Lake, Missoula, Ravalli, and Powell which report an aggregate of approximately 120,000 acres -- account for 60 percent of the total state land under this classification (15).

Implementation of the Senate Substitute for Senate Bill 41 (Title 69, Sections 5001 thru 5005, RCM) provided for the protection of public health by requiring the approval of plans for water facilities and sewage disposal facilities in subdivisions and proposed subdivisions by the State Department of Health and Environmental Sciences. In 1961, subsequent to passage of this bill, 13 subdivision plans were approved in Montana. By 1965 the number of plans accepted per year had increased to 46 and by 1971 to 106. Approved plans filed this year are up 22 percent over the first seven months of 1971. Each of the eight western counties has an average of 55.75 subdivisions, as compared with a state average of 9.68. The ten counties with the most extensive subdivision activity are Missoula, Lake, Flathead, Lincoln, Yellowstone, Gallatin, Lewis and Clark, Park, Ravalli, and Cascade in order of magnitude. Should the trend in land development remain constant, Montana may expect approval of about 130 new subdivisions in 1972. However extensive they may be, the above activities, for a number of reasons to be discussed later, are but a poor indicator of the rapidity with which land transactions across Montana are being consummated.

The activities recorded under the provisions of Senate Substitute 41 represent a fairly orderly process, resulting in relatively minor environ-

mental impacts as compared to those associated with the predominant, chaotic trend of defacto subdividing which constitutes the basis of the problem previously described. This trend is especially evident in western Montana but exists statewide.

Coined to describe this pattern of land development was the phrase "the sardine syndrome":

> This is the situation that arises when a carload of sardines is sold to a purchaser, who then turns around and resells the sardines to a second purchaser...and so on. Once, in such a situation, the fifth purchaser opened a can and took a bite. Phew! He spat out the bite he had in his mouth. "Those sardines you sold me are spoiled," he angrily declared. "Why, you stupid fool," said the sardine merchant, "those sardines are for selling, not eating" (9).

This is the condition of greatest concern in terms of both public health and land use planning, and is viewed by many as the most imminent threat to Montana's environmental quality. Selling and reselling of land often leads to some ultimate buyer's discovery that he has a "spoiled sardine." In most cases, financial loss and legal recourse remains entirely the province of the unsuspecting purchaser; the developer has very carefully and systematically absolved himself of all responsibility.

The widespread occurrence of such situations has prompted the state to establish numerous controls relative to subdivisions. Since the early 1900's problems of community cost and private benefit have caused legislatures to enact various measures to assure the provision of social services (i.e. utilities, health and educational facilities, fire and police protection, etc.), an adequate transportation system, and sanitary control.

These statutes are concentrated in three general areas: filing of plats, zoning, and sanitary restriction. The legislature has vested, in varying

degrees, administrative authority with both local and state government. For the counties, however, the authorization to act is not sufficient. The legislature must explicitly tell the counties that they may act and in what manner they may act.

> To be constitutional, a statute granting authority to counties must be sufficiently explicit and restrictive, so that its execution requires only administrative action and not an exercise of legislative powers (12).

In the past the courts have struck down planning and zoning legislation and statutes authorizing local and district health boards as unconstitutional delegations of legislative powers to the counties. To a limited degree this problem has been remedied by the passage of the new constitution. The residents of the local governmental units must now affirmatively demonstrate their desire for broad self-governing powers. In addition to the limitations imposed on local government by the provisions of the 1889 Montana Constitution, application of regulations promulgated under the statutes has often been frustrated by the fact that developers comply with the letter but not the intent of the law, largely subverting the protective controls. As the incentive for land division becomes stronger the capacity and frequently the will of governmental units to regulate the activities become less.

In addition to what appears to be a fundamental urge among most Americans to own a piece of "natural" landscape, an important motivational factor in land development has been the need for increased county and state revenue. The 1957 legislature adopted Senate Bill 67 (Title 84, Sections 429.1 thru 429.6, RCM), an act providing in part for the classification of lands and their appraisal. The provisions of this act require the county assessor to "...base the assessment of all lands, city and town lots, and all

improvement on the classification and appraisal as made by the Board of County Commissioners" (7) and further stipulates that "All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity" (7).

Pursuant to Senate Bill 67 the Board of Equalization, on December 10, 1965, issued a directive to all county commissioners, county assessors, and county classifiers and appraisers strongly suggesting that:

1. The number of acres involved in a single tract is not the deciding factor in determining whether it is classified and graded as agricultural land or appraised as industrial, commercial or residential land.

2. Actual use of the land for purposes other than raising crops or grass automatically indicates an appraisal based on the actual use.

3. If land is to be appraised for industrial, commercial, or homesite purposes, rather than classified and graded as farm or grazing land, the taxing authority must have definite proof through verified sales, options, or offers to purchase, etc., that there is a present demand for the land under consideration for a use that would justify a higher value that can be economically justified in agricultural use (14).

In short, those parcels of land for which a higher use or potential for a higher use can be proven are to be reclassified to that new level.

In many stable population areas of the state the implications of the directive have not become apparent. In high speculation areas, however, the effect of this regulation is evident and in certain locales strikingly so.

In Montana, as in nearly every other portion of the United States, zoning or land use patterns are influenced by assessed values, rather than the reverse. The land taxation structure thus dictates to a very high degree how and to what extent the land will be used. Such taxation has the most impact where the population is generally elderly, at or near retirement.

Often those most seriously affected are original homesteaders or at least long-time, well-established residents. In many cases these individuals are dependent on minimal incomes derived from marginal agricultural units; income great enough, however, to allow for continued occupation. Their lands, often lying in valley bottoms, where land transaction activity is intense, are clearly marketable for recreational suburban tracts. In such instances, the above cited statute and directive speak clearly: the lands "...shall be classified according to their use" (7) and "...use of the land for purposes other than raising crops or grass automatically indicates an appraisal based on the actual use" (14).

The increased assessment, however small, is often enough to force a marginal operation into a deficit condition, compelling the landowner to sell the entire acreage and move into town (which is frequently the case, particularly with the elderly) or to sell it off in single lots in an attempt to assure a continuing income. The net effect has been to open up large tracts to developers or to force owners to dispose of lots in a random manner. At present, little control can be imposed on the ensuing sprawl.

Land development often creates demands for government services out of proportion to tax revenue. This is particularly true where construction is on fragile sites or otherwise unsuitable areas such as floodplains as well as where fragmentation of ownership leads to economically unstable agricultural units.

Land use decisions based solely on revenue considerations are not likely to produce viable long-term results. The value at which land is assessed (and indeed market value) should be the consequence of development intensity

permitted, based on land and resource capability (10). The relationships between such environmental capabilities and the social systems that they support have been incorporated often in statements of legislative policy but seldom in mandate or regulation.

Chapter 6 of the Montana Codes (Title 11, Sections 601 thru 616, RCM), titled Plats of Cities and Towns and Additions Thereto, is such a case. Section 11-601 of Chapter 6 requires the filing of a plat with the clerk and recorder of the appropriate jurisdiction for any new town or addition to an existing city or town or for the transfer of any lands therein. Section 11-614 extends this requirement to provide that:

> Any person who desires to subdivide and sell or transfer any tract of land in small tracts, such as orchard tracts, vineyard tracts, or community tracts, containing less than the U.S. legal subdivisions of 10 acres, or who shall subdivide and/or sell or transfer any irregularly shaped tracts of land, the acreage of which cannot be determined without a survey must cause the same to be surveyed, platted, certified and filed in the office of the county clerk and recorder in which said land lies...before any part or portion of the same is sold or transferred (2).

Requirements for an approvable plat strongly emphasize the promotion of public comfort, welfare, and safety. As stated in Section 11-602 of Chapter 6 the plat and survey must show at least one-ninth of its area, exclusive of streets, alleys, highways, etc., as designated for public parks or playgrounds. If no suitable site exists because of size, topography, shape or location, or other demonstration of good cause, the county may accept payment, equaling the fair market price of the land. The same section extends this statement of public purpose, requiring that the subdivider obtain approval of the county commissioners or other appropriate regulating bodies whose duty it is to provide for:

> ...the harmonious development of the region and its environs, for the coordination of roads within the subdivided land with other existing or planned roads or with the state and regional plan or with the plans of municipalities in or near the region, for adequate open spaces for travel, light, air and recreation; for the conservation of or provision of adequate transportation, water, drainage and sanitary facilities; for the avoidance of population congestion and for the avoidance of scattered subdivision of land as would involve danger or injury to health, safety, or welfare by reason of the lack of water supply, drainage, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services; and provided further that such regulations may include requirements as to the extent to which, and the manner in which roads shall be created and improved and water and sewer and other utility mains, piping connections or other facilities to be installed as a condition precedent to the approval of a plat (2).

The statute sets penalties of from $10 to $100 per lot for failure to file and record plats prior to their sale or transfer.

Application of platting regulations has been clouded by the Montana State Supreme Court in the case of Billings Properties, Inc. v. Yellowstone County. In that decision the court held that the "...act of attempting to secure approval of the plat was voluntary. There is no law requiring it (the developer) to subdivide and sell its land by plat" (11). This conclusion appears questionable, in view of the section quoted above. A problem does arise, however, in defining an "...irregularly shaped tract of land, the acreage of which cannot be determined without a survey" (2). This enigmatic description has permitted circumvention of the controls embodied in the statutes. Additionally county government is generally ill-equipped to meet the demands of such development. Few have exercised the authority with which they have been vested.

Implemented as an adjunct to the platting regulations were Sections 69-5001 thru 5005 (see earlier discussion) providing that plans for water facilities and sewage disposal facilities in all subdivisions and proposed

subdivisions be approved by the Department of Health. These regulations were meant to function as a means of evaluating the suitability of development sites and the sufficiency of control systems proposed for sewage disposal. Upon the filing of a subdivision map or plat with the county clerk and recorder's office, sanitary restrictions are imposed requiring that:

> No building or shelter which necessitates supplying water or sewage or waste disposal facilities for persons shall be erected until the sanitary restriction has been removed or modified (6).

Before the restriction can be removed or modified, the map or plat must be approved by the Department of Health and Environmental Sciences. The county clerk and recorder shall then remove the restriction upon notice from the department that plans for public water and sewage facilities have been approved or that approval has been given for a subdivision not providing these systems (6).

In situations where subdivision plats are not approved by the Department of Health and Environmental Sciences or the county commissioners, the most common tactic employed by the developer is to include in the deed or sales contract a statement to the effect that dwellings cannot be erected or lived in until sanitary restrictions are lifted. This standard phrase relieves the subdivider of all legal responsibility. Unless exceedingly close policing of these tracts is maintained, visitation five years hence will often find houses scattered about, some occupied, some vacant, some under construction, and most without approved sewage disposal systems. Such situations attest to the fact that the fine print of the deed or contract was not read or believed or perhaps most often not understood. To enforce the restrictions at this point is nearly impossible. In the words of one public official, "Should someone mention sanitary restrictions, you'll either get a blank look or an open invitation to make use of the toilet. It takes an hour to just explain

what is needed to many of these people."

It appears probable that many thousands of people in Montana are in this predicament, as yet unaware of their problem. Many more may have purchased lots unaware of the significance of the sanitary restriction statement which may or may not be written into the contract or deed or attached to other documents. The lots, either vacant or occupied, will probably remain "restricted" until the owner tries to sell again and/or the new buyer attempts to get a bank loan or financial assistance from the government. Then each owner must attempt to get the restrictions removed individually. Purchasers are frequently misled by developers into believing that the county or another political subdivision will provide for the construction of sanitary, water, and transportation systems. Everyone loses except the developer; he can move on, feeling perfectly secure that he observed the few legal niceties.

Should the developer, for sales promotion purposes, install septic tank systems without a permit, the worst thing that can happen to him at the county level is a fine of $25 to $50. This is a small risk, since very few fines have been levied to date. Should fines and litigation be actively pursued, it could well be the lot-holder, not the subdivider, who is penalized.

Other problems occur as the direct consequence of the definitions or lack of definitions applied to the statutes. As defined in Section 69-5002 of the Montana Codes requiring the approval of the Department of Health for sewage disposal and water facilities:

> "'Subdivision' means any tract of land which is divided into two or more parcels, any parcel of which is less than five acres in size along an existing or proposed street, highway, easement, or right-of-way for sale, rent, or lease as residential, industrial, or commercial building lots described by reference to a map or survey of the property" (6).

For projects designated as condominiums a legal question arises as to whether a condominium is a true land division subject to the subdivision law, a transient sort of housing development (like a trailer court) subject to health department licensing and county control or neither of the above. If it is not a subdivision and there is no sanitary restriction to "remove", and if it does not need a license as does a trailer court, then the Department of Health and Environmental Sciences has no control authority. The result is that in addition to circumventing the health department, it also circumvents the requirement for an environmental impact statement.

The environmental impact statement is required of any state agency contemplating an action either resulting in a significant impact on the human environment or in those cases where there is significant interest. This statement required under the provisions of the Montana Environmental Policy Act and administered by the Environmental Quality Council has been determined by many professionals and nonprofessionals concerned with environmental health to be the strongest tool available for the control of rampant land division.

Application of the environmental impact statement requirement has created a high risk, low return situation for the get-rich-quick developer with a poor plan. If by subjecting the development to public scrutiny the scheme is rejected, publicity might drastically reduce the value of the operation. The consensus arrived at by developers seems to be that it is better to peddle lots "underground" and let the buyer fight the sanitary restriction five years later rather than risk losing the sales contract moneys.

Recent attempts to improve subdivision control legislation have apparently not slowed the increase in land development activity but have rather

led to more widely practiced illegal subdivision. As the population increases and the urban environment deteriorates, speculation accelerates and land prices rise making such illegal activity all the more lucrative.

By circumventing the previously discussed platting statute, the subdivider does not have to bring roads and general layout up to the rough county standards. In all probability the county will be stuck with these roads sometime in the future when development is nearly complete. The costs of road reconstruction and maintenance are difficult for any county to absorb. By circumventing another part of the platting statute the subdivider does not have to dedicate the required one-ninth of the land to the county for parks and playgrounds. (This one-ninth requirement, or payment in lieu thereof, is very unpopular).

A clever subdivider in a remote area can often avoid paying the increased tax classification until the lot is sold and actually comes up on the books as land used for residential purposes. This is why subdivision is often done one piece at a time. If the subdivider submitted the entire block at once, he might have to pay high taxes on many lots before they are sold. As a result, many subdivisions are heavily subscribed before the county sanitarian or commissioners ever see or review them.

Another commonly employed technique subverting the control process of platting and sanitary restriction involves dividing land on the basis of metes and bounds survey. Many centuries ago these surveys or deed exhibits were devised as a means of describing land ownership. The technique minimized the complexities of drafting and filing a detailed survey or plat when an owner wanted to sell a piece of land. It served its purpose well in

the infrequent and usually large land sales of earlier times when there was little demand for the accuracy required in todays subdivisions and with todays rapid rate of sales.

Current use of the metes and bounds system often allows old campgrounds, cabin-parks, and trailer camps to be subdivided literally overnight. These sales are not subject to the review of the county or the health department or consequently the Environmental Quality Council and the public through the environmental impact statement. This pattern is especially common with lands that front on a lakeshore or stream. Adequate sewage disposal facilities and transportation or communication systems are seldom provided for.

The same metes and bounds technique is used on previously undeveloped lands. Here transactions frequently involve very small subdivision lots or sprawling ranchettes too small to farm and too large to manage neatly. An ad may appear in the area newspaper for two weekends running to the effect that lake frontage or riparian lands are available, terms: $100 down. In a month at the most, lots may all be on contract. The deeds may contain a clause informing the purchaser that the site is not suitable for the construction of a dwelling because environmental requirements have not been met, the standard sanitary restriction phrase.

Legislation proposed for the 1973 session of the Montana Legislature by the Montana Department of Health and Environmental Sciences significantly improves the definition of "subdivision" and would eliminate many of the difficulties previously described. In this definition "subdivision" was defined as any tract of land in fact divided into two or more parcels, any parcel of which is ten acres or less lying along an existing or proposed road, easement, public or private right-of-way, streambank, or water shoreline.

Further, these tracts constitute a subdivision if they are for sale, rent, or lease as residential, industrial, or commercial building lots irrespective of whether they are described by a map or survey of the property, a metes and bounds description of the property or by disposition or if the land is for sale, rent, or lease as spaces for camping trailers, house trailers, or mobile or prefabricated homes. "The term applies regardless of the term used by the developer if, in fact a subdivision results..." (16).

Other problems arise when purchasers find that the developer has gone bankrupt and had no money in escrow to construct the promised facilities or when purchasers sign what is actually only an installment contract in the belief that they have completed the transaction of buying some land. They later discover that the land they thought they had bought, and all the payments they had made on it may go to satisfy the creditors of the defunct developer because they were entitled to the deed upon payment of the last installment. Until that time they only had a contractual promise with the developer that he would provide clear title several years in the future and upon payment in full.

Recording of installment sales contracts with the county recorder can only be completed when contracts have been "acknowledged" by both parties -- buyer and seller. The subdivider may not want to record the contract however, so he never acknowledges it before a notary.

> This, coupled with the relatively common practice of the purchaser's dying in the middle of his contract payments (and leaving one-third interests in the unrecorded contract to each of three sons) causes unbelievable abstract, title, and tax problems for the county. This notwithstanding the problem occurring when someone in the future wants to reassemble the 6,000 five-acre ranchettes that were never built on into a meaningful, productive 30,000 acre ranch (9).

Additional problems evolving from these techniques of contravention are many. For example just where is the property line when land is sold without proper surveying and platting, and can the county assessor find the owners to collect taxes when sales contracts are not recorded?

The State of Tennessee has attempted to remedy these problems, at least in part. The Tennessee Codes, Chapter 3, Section 13-310, stipulate that the owner or his agent,

> ...who falsely represents to a prospective purchaser of real estate that roads or streets will be built or constructed by a county or other political subdivision, shall be deemed guilty of a misdemeanor...; and the description by metes and bounds in the instrument of transfer...shall not exempt the transaction from such penalties (17).

The same section further requires the posting of bond with the regional planning commission, "...securing to the public, the actual construction and installation of such improvements and utilities within a period specified by the commission and expressed in the bond" (17).

Imposition of this type of requirement would seem to instill credibility into the enterprise of land development. The legitimate developer would not be penalized; only those who by trickery, purposeful omission, or default, bilk the public. And then:

> ...people, old and young, are induced to "invest" their life savings and dreams in a "piece of the West" they have not seen and do not understand. In their despair of nonhuman life in New York or Chicago, they make one last effort to escape to a cottage of their own where fresh breezes blow....Preying on the hopes and dreams of others is morally wrong (9).

In addition to the policies encompassed by the platting statute, Chapters 27, 38 and 41 of the Revised Codes of Montana provide for their more comprehensive implementation. Assuming full development of these provisions, significant improvement in land use control could be realized. Chapter 27 of the Montana Codes (Title 11, Section 11-2701), titled Building Regulations -- Zoning Commissions, empowers a town council or other legislative

body of a city or incorporated town to regulate the height and size of buildings and other structures, the percentage of the lot covered, the size of yards, courts, and other open space, the density of population, and the location of buildings, structures, and land for purposes of residences and commerce to promote the health, safety, morals, and general welfare of the community (3).

Continuing Section 11-2703 of the same chapter provides that:

> Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transporation, water, sewerage, schools, parks, and other public requirement. Such regulations shall be made with reasonable consideration...encouraging the most appropriate use of land throughout such municipality (3).

The statute enabling city, county, or city-county planning boards also provides for, as did the previous chapter, the promotion of orderly development, enlarging the area of jurisdiction to encompass a city, town, or county's governmental units and environs. The policy objective of the legislation is to encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens. The legislation further provides for the future development of the communities, assuring carefully planned highway systems and adequate utility, health, educational, and recreational facilities for new community centers, to assure that the needs of agriculture, industry, and business be recognized in future growth, that residential areas provide healthy surroundings for family life, and that the growth of the community be commensurate with efficient and economical use of public funds. In pursuit of these objectives, the planning board

established under this statute is to prepare and propose a master plan which may include nearly all factors which are a part of the physical, economic or social situation within the city or county (4). Subsequent to approval of the master plan, the city council may by ordinance, or the board of county commissioners by resolution, require subdivision plats to conform to the provisions of the master plan.

Subsequent to the completion of the comprehensive plan under the preceding chapter, zoning districts may be designated. The same statement of policies for public health, welfare and safety is given as was stated in the planning board enablement (5). Little progress however has been made toward the realization of comprehensive planning and zoning under these statutes.

> From the point of view of environmental preservation, it is best if the most intensive human uses of land are confined to the smallest and most appropriate areas. This idea can only be approached if the activities that are functionally the most consumptive of space and most dependent on the specific physical qualities of that space have priority in siting consideration. It should be obvious, for instance, that efficient agriculture or forestry depends on the use of land which is most inherently or potentially productive of food, fibre, or timber. The fact that regional differences in economic demand may alter the allocation of space or land qualities between the different agricultural uses should not obscure the fact that other uses such as housing or transport do not depend on the inherent productivity of the land. The building of cities...on good agricultural land is a foolish waste of fundamental natural resources. It is environmentally and economically unwise to destroy our biologically most productive areas be they range, swamp, forest, or farmlands (8).

The skills providing for such environmental determinations as are implicit in the above paragraph, are often not available at the county level. The will to implement and vigorously enforce the state regulations referred to in this report has not been demonstrated.

The fact that municipalities as well as counties are authorized to create planning commissions that have co-equal powers with cities leads to confusion and ineffectiveness in developing any kind of long-range land use. The confusion is compounded when the developer exerts pressure on the local commission, whether county or municipal, resulting in a one-sided view of the immediate economic benefits rather than a balanced long-range view of the total impact on the environment and the proper utilization of the natural resources (1).

Confusion also arises with the mechanism of enforcement, coupled with a rapidly changing and expanding scope of public interest. Enforcement of subdivision regulations will require the activation of "police powers". The test of validity of subdivision control regulations has generally been dependent upon whether or not they constitute a "reasonable exercise of the police power." This application has produced divergent opinions.

> Perhaps confusion is inevitable. The police power is, after all, deliberately expansible to meet emerging public needs. In particular, the scope of the "public welfare" branch of the police power has expanded enormously in recent years. In addition, more and more activities, formerly thought to be private in nature, have been recognized as "affected with a public interest" (11).

This scope of interest must be ever changing as our recognition of "land as a community to which we belong" (9) develops.

> Ian McHarg, in Design with Nature, asked:
>
> Is this the countryside, the green belt -- or rather the greed belt, where the farmer sells land rather than crops, where the developer takes the public resources of the city's hinterland and subdivides to create a private profit and a public cost? (13)

This question has not yet been answered. It will depend on the vigor with which protective legislation is enacted and subdivision regulations are enforced, and ultimately, on the power of public concern in this issue, one which profoundly affects the human environment, including long-term public health, safety, and welfare.

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THE RESOURCES DEVELOPMENT INTERNSHIP PROGRAM

The preceding report was completed by a WICHE intern during the summer of 1972. This intern's project was part of the Resources Development Internship Program administered by the Western Interstate Commission for Higher Education (WICHE).

The purpose of the internship program is to bring organizations involved in community and economic development, environmental problems and the humanities together with institutions of higher education and their students in the West for the benefit of all.

For these organizations, the intern program provides the problem-solving talents of student manpower while making the resources of universities and colleges more available. For institutions of higher education, the program provides relevant field education for their students while building their capacity for problem-solving.

WICHE is an organization in the West uniquely suited for sponsoring such a program. It is an interstate agency formed by the thirteen western states for the specific purpose of relating the resources of higher education to the needs of western citizens. WICHE has been concerned with a broad range of community needs in the West for some time, insofar as they bear directly on the well-being of western peoples and the future of higher education in the West. WICHE feels that the internship program is one method for meeting its obligations within the thirteen western states. In its efforts to achieve these objectives, WICHE appreciates having received the generous support and assistance of the Economic Development Administration, the Jessie Smith Noyes Foundation, the National Endowment for the Humanities, the National Science Foundation, and of innumerable local leaders and community organizations, including the agency that sponsored this intern project.

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