Land use planning under fire

By SANDY WINANS
Staff Writer

Environmentalists in New York State have been warned that land use planning can offer conflicts with basic civil liberties, among them, the rights to the democratic use of one's own land.

Robert Kafin, an environmental attorney and member of the board of the Environmental Planning Lobby (EPL) attending an EPL conference in Canandaigua, New York over the Oct. 25 weekend gave as an example, the land use policies exercised by the Adirondack Park Agency (APA) which was set up several years ago to insure judicious use of the park preserve. APA policies have backlashed recently because of their allege insensitivity to local social and economic need. The APA has taken a hard-line attitude in judging zone cases.

Residents in some Adirondack towns are backing an anti-APA movement after encountering what they call a "tyrannical attitude."

The more than 250 EPL members who attended the fifth annual conference heard various debaters give speeches on land resource management that were as clear and inviting as the environment they advocated.

The theme of this year's conference was "Land Resources Management for New York State." For many of the participants, it was their yearly chance to fully rent a year's accumulation of ideas for environmental legislation.

No pertinent subject was left unturned as state assemblymen, a state senator, and noted environmental lawyers, some of them on the EPL board, set the stage for a three day working discussion of environmental impact on state legislation.

In a phrase which came up frequently during the conference, Peter Borrelli executive director for the Catskill Center for Conservation and Development said environmentalists would have to learn to "bite the bullet" more and more as time goes by, sacrificing small issues to win the major ones.

Department of Environmental Conservation (DEC) Commissioner Ogden Reid, honored at the session, addressed the lobby on DEC plans for a Long Island Sound Study, gave a progress report on the state's efforts to inventory its freshwater wetlands (Westchester is fully mapped and ready for hearings on the use of wetlands next June), and reiterated the state's stance against Supersonic Transports (SSTs) landing in New York.

Reid also said the DEC was reviewing ways to extract from the Hudson River the chemical contaminent, polychlorinated biphenyls (PCB's) found recently in the effluent of General Electric's Fort Edward and Hudson Falls plants.

This has been a good year for environmental legislation, EPL President Garrison Corwin, a Mamaroneck lawyer, told a Saturday morning audience. More than 50 pieces of state legislation became law, he said, the most important being the Freshwater Wetlands Act, the Environmental Impact Law, and the law protecting Adirondack rivers and their shorelines.

"But we need to work hard this coming year on land use legislation. This is going to be one of the most active areas in the future," he said.

In its five-year existence, EPL has attained an intimacy with the Legislature and has been influential in directing the course of environmental legislation.

Thus, the 20-odd workshop sessions which meet separately at each conference to form the EPL policy recommendations to the state, generated considerable excitement among EPL members.

The speakers brought out several key facts now known about environmental legislation that will be essential to the passing of future legislation as the needs arise to halt traditional land use practices.

Continuing, Kafin said the courts "have been very kind" to the environmentalists so far, but he warned that "there are other arguments out there which must be heard along with ours." The implication was that environmental groups could incur a trend of snubbing by courts unless they stick to a "look before you leap" attitude.

Reacting to Kafin's ideas, Assemblyman Herbert A. Posner of Queens said he sympathized with the lawyer's concern for the civil liberties, but said that a complete absence of land use planning can also take them away.

A lack of interest and planning on the part of Rockaway Peninsula residents, he said, had left the area without protection against a plan by nursing home developers for 10,000 units which threatens to overload existing medical services. It was too late in this case, he said, and people's lifestyles will be greatly affected.

Posner suggests a multifaceted procedure for land use planning which would require communities to come up with a long-range plan which conforms with the most basic in state guidelines. The purpose would be to prevent haphazard development.

Within the planning procedure which he is trying to shape into law, Posner suggests the availability of state technical planning assistance for municipalities which don't feel equipped to plan alone.

Borrell, of the Catskill Center, who has long fought for a regional plan for the Catskills, backed Posner's words, but he warned of the dangers in proposing certain types of land use legislation.

Too much "single-purpose" legislation, he said, and you can't see the forest for the trees — too many separate plans under different headings and the overall intent becomes clouded and will likely be rejected.

Edwin Margolis, legislative counsel to the Assembly Speaker, and Sen. Bernard Smith, who has been the Senate's most prominent supporter of the environment, both impressed upon the audience the fact that since the advent of the first municipal laws in the 1920s, those laws governing land use had grown closest to the hearts of local governments and for that reason would be difficult to nullify and place in state hands.

Smith called local control over land use a "sacred cow." He sees a need for a full "partnership" in deciding the future of land not yet used and maintains it must not be done under the influence of local politics or individual interests but under the influence of strong regional assistance to guarantee that the plan fits into the bigger picture.

The Environmental Impact (EI) Bill, signed into law this year, brought questions from EPL members concerned that municipalities might not have the expertise to interpret EI statements now required on construction projects "which could significantly alter the environment."

Posner said that the state couldn't do everything and that as long as it had provided a means of protection it was up to the municipality to hire or gain the expertise to examine the EI statements.

Proposed environmental bills that are high on the agenda for the coming year include: Citizen Suit Legislation permitting a citizen to sue to protect environmental resources, regional planning for both the Catskills and the coastal zone, the protection of critical resources, and a requirement that bottles and other containers be returnable.

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