Land Use and Conservation Law

The Adirondack Example

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Land Use and Conservation…Central Questions

1. Property Rights: Private or Public?
2. Level of Government?
3. Participation in Decision making?
4. Intensity of Regulation?
5. Legitimacy of Public Value?
6. Property Value Rise Following Park Designation?
7. Density Restrictions?
8. Land Use Segregation?
9. Aesthetics: Legitimacy of Regulation?
10. Following New Regulation, Compensate?
Adirondack Park

**BRIEF HISTORY**

1864: YOSEMITE DEEDED TO CALIFORNIA
1872: YELLOWSTONE NATIONAL PARK
1885: ADIRONDACK FOREST RESERVE CREATED
1892: ADIRONDACK PARK CREATED
1895: FOREST PRESERVE CREATED
1964: WILDERNESS ACT
1968: ADIRONDACK NATIONAL PARK?
1971: ADIRONDACK PARK AGENCY
1973: APA LAND USE PLAN & REGULATION

**TRANSCENDENTALISM:**
Coleridge, Shelley, Keats, Wordsworth
Emerson, Whitman, Thoreau

EMERSON: ESSAY ON NATURE

- BUT AN ORGANISM
- SYMBOL OF THE MIND
- MORAL EDUCATOR
- SOURCE OF SPIRITUAL TRUTH
- RESOURCE FOR THE IMAGINATION 1803-1882
George Perkins Marsh 1864: Man and Nature

Destruction of forests can lead to the decline of civilizations causing--
“a condition of impoverished productiveness, of shattered surface, of
climatic excess, as to threaten deprivation, barbarism, and even
extinction of species.”

TARGETS OF TRANSCENDENTALISTS

CHRISTIAN VIEWS

• HUMAN ROLE IS TO DOMINATE NATURE
• BE FRUITFUL, MULTIPLY, REPLISH THE
  EARTH...SUBDUE IT
• DENIES SOULS TO NON HUMAN SPECIES

HUDSON RIVER SCHOOL OF
LANDSCAPE ART

Thomas Cole,
Albert Bierstadt,
Winslow Homer,
Frederick Church
The Problem: Ineffective Local Control

Adirondack Park Agency Act 1973

"Local governments in the Adirondack park find it increasingly difficult to cope with the unrelenting pressures for development being brought to bear on the area, and to exercise their discretionary powers to create an effective land use and development control framework."

Adirondack Park Agency Act: Mission Statement

“The basic purpose of this article is to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park.”

INNOVATIVE REQUIREMENTS IN APA STATUTE:

- ECOLOGICAL ANALYSIS UNDERLYING DENSITY
- DENSITY REGULATIONS: CLUSTERING CONCEPT
- SETBACK REQUIREMENTS
- WILD-URBAN CONTINUUM (OPEN SPACE-CLUSTER DEV)
- PROTECTIONS OF AGRICULTURAL LANDS
- VISTA PRESERVATION
- WETLANDS & WILD, SCENIC & REC RIVER PROTECTION
- LOCAL VS. STATE ROLE (CLASS A V. CLASS B PROJECTS)

Ecological Constraints
For Land and Resource Development

Open Yale courses
ADIRONDACK PARK
6 MILLION ACRES
PATCHWORK QUILT
2.5 PUBLIC
3.5 PRIVATE
108 TOWNS

ZONING DISTRICTS:
1. HAMLET: NO DENSITY RESTRICTION
2. MODERATE: 1.2 ACRES
3. LOW: 3.2 ACRES
4. RURAL: 8.5 ACRES
5. RESOURCE MGT: 42.6 ACRES
6. INDUSTRIAL: NO DENSITY RESTRICTIONS
Battlegrounds…

Camp Sagamore: Lake George
IDEOLOGY & LAND

- LIBERTARIAN
- AUTHORITARIAN
- UTILITARIAN
- PRESERVATIONIST
Some Towns are Predominantly State Owned Lands

Tax Base Problem
Payments in Lieu of Taxes

Easement Problem...

STAKEHOLDERS: WHO ARE THEY?

- CONSERVATIONISTS
- ENVIRONMENTALISTS
- RECREATIONAL GROUPS
- REAL ESTATE DEVELOPERS
- TIMBER COMPANIES
- TOURISM INDUSTRY
- SEASONAL VS. PERMANENT RESIDENTS
- GOVERNMENT AGENCIES
- NATIVE AMERICANS

Perceived Legitimacy of Regulation

Influential Factors?
5th Amendment of the US Constitution

“Private property shall not be taken for public use without just compensation”

When Should Compensation Be Required?

Definition of Wilderness: Wilderness Act 1964

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.

William Cronon: The Trouble With Wilderness

“If we allow ourselves to believe that nature, to be true, must also be wild, then our very presence in nature represents its fall.”
PARADOX OF WILDERNESS…

• CULTURAL CONSTRUCTION
• ASSOCIATION WITH LIBERTY
• ONCE TAMED… WHAT’S LEFT?
• …IT BECAME A COMMODITY
• TO KNOW IT IS TO LOSE IT?
• PLAYGROUND FOR RISKY BEHAVIOR
• REGULATED WILDERNESS?

PUBLIC LAND ISSUES:
BACKCOUNTRY USE
HOW MUCH IS TOO MUCH?
CARRYING CAPACITY?
FOOT Example

Adirondack Pie: Public and Private
Marcy Dam Pond: Too Many Lean-To's?
US: 1 Million Sold Each Year
Land Use and Conservation...Central Questions:

1. Public vs. Private Land
2. Level of Government?
3. Participation in Decision making?
4. Intensity of Regulation?
5. Legitimacy of Public Value? (Biosphere Reserve Status)
6. Property Value Rise Following Park Designation?
7. Density Restrictions?
8. Aesthetics: Legitimacy of Regulation?
9. Land Use Segregation?
10. When Should Compensation be Given?