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Land Use Planning — Critical Areas



COOPERATIVE EXTENSION SERVICE
SOUTH DAKOTA STATE UNIVERSITY
U. S. DEPARTMENT OF AGRICULTURE

Land Use Planning—Critical Areas

Roger Steinberg, Extension environmental specialist

Food shortages, urban sprawl, environmental decay, energy shortages—these crises all relate to the decisions we have made about how we use land.

Nationally, people are beginning to recognize this relationship and to realize that land is a finite resource.

Land use planning—the decision about how to allocate land resources—has become a popular topic. Hundreds of land use related bills have been introduced in Congress and state legislatures.

But land use legislation is not new. We have had some type of land use legislation since governments were formed in this country. The Homestead Act of 1862 is an example. More recently we have seen laws for zoning, national parks, highways, and urban renewal.

Only recently, however, have these issues come to be lumped together and studied as “land use planning.” We see, in the discussions by our public officials, an overview consideration, where all impacts or effects of specific legislation on the land and its use are examined. The environmental impact statements required of all projects in South Dakota which are funded by federal or state monies are an example. We are thus looking at land use as a policy issue.

The thread running through all the new policies, legislation, and attitudes in land use is the change from regarding land as strictly an economic commodity toward viewing it as a resource. There is another emerging question in the land use issue. Is there a conflict between personal property rights and new land use planning proposals?

Obviously, there are many facets to the land use issue. However, they need not be vague or confusing if they are examined and judged individually. This factsheet will examine one of the new concepts in land use—planning areas of “greater than local concern.”

A critical areas bill was introduced in the 1974 South Dakota legislature, but defeated by the lawmakers. At that time some of the legislators stated they wanted more time to study the bill and to sample public opinion. The bill has been revised and approved by the Legislative Research Council's Interim Land Use Committee and will be introduced in the next session.

The bill has suggested that local zoning is inadequate to cope with land use problems that are statewide or regional in scope. Probably 90% of all land use decisions are purely local while 10% may fall into this category of areas of greater than local concern.

The aim of the legislation is stated in its first paragraph: *“It is hereby declared that the development of certain areas of the state possessing significant economic, recreational, historic, cultural or environmental values . . . could result in irreversible damage to these resources, decrease their value of utility for public purposes or unreasonably endanger life and property.*

“It is thereby determined that the state of South Dakota should identify these areas of critical concern and assist and cooperate with local units of government in preparation of the plans and regulations for the wise use of these areas.”

Designation of a critical area does not make that land public domain, nor some kind of park. Instead, controls are put on that area to prevent the type of development which might destroy the value of that particular resource which has statewide significance.

There are 11 critical areas listed in the bill:

1. An area where current land use trends clearly exist that significantly endanger human life, or endanger property where replacement would constitute a significant cost to the entire state.

An example is flood plains. The Rapid City flood and the severe floods in 1969 on the James and the Sioux aroused planners to the need for larger-than-local planning. What happened upstream in these cases affected people downstream.



2. An area in which a specific change in land use would clearly create a significant hazard to the life or health of persons living in or near that area.

The parts of the Black Hills that present the greatest fire hazards, due to rough terrain and the absence of capable fire fighting equipment, are the areas most attractive to second home or commuter developments. In other areas of the state, limitations of certain soil types such as shrink-swell properties, slide areas, or salinity tendencies may put land into this classification.



3. An area which contains, or has a significant impact upon, archaeological, historical, scientific, or cultural resources or sites of statewide importance.

The non-monetary returns of a tall grass prairie, Indian mounds, or a Black Hills ghost town are difficult to measure in traditional benefit-cost ratios. Nevertheless, such areas do have value to all South Dakotans.



4. A lakeshore, streambank, or wetland area in which development of a certain type or intensity does or would limit access to, or despoil a resource of statewide importance.

5. A water supply area in which development does or would degrade the quantity or quality of that water supply and endanger the health and safety of a significant number of persons dependent upon that water supply.

The groundwater recharge areas for some communities are located far away and out of the control of their own local governments, yet are very important to them.

6. An area which contains or has an impact upon a recreation area of statewide importance.

7. A wildlife habitat area which supports substantial wildlife populations of statewide importance.

8. A wilderness area of statewide importance in which development would result in substantial change in the natural ecosystem or wilderness character of the area.



If such fragile areas as suggested in 4 through 8 can be demonstrated to be important in preserving recharge of aquifers,

critical wildlife species or areas, outdoor recreation, etc., they may be chosen by the state as critical areas.

9. An area where prime agricultural land is threatened by development which clearly would not provide increased benefit to the state.

Nationally there is a concern for preservation of prime agricultural lands. Large areas of orchards, vegetable crop and special production areas such as cranberry bogs have been lost to urban sprawl on both coasts.

10. An area significantly affected by, or having a significant effect upon, an existing or proposed major public development which is intended to serve substantial numbers of persons beyond the vicinity on which the development is located, and which tends to generate substantial development around it.

Examples might be the EROS data center near Sioux Falls or an interstate highway exchange. Problems that may arise include large urban development attracted to highway interchanges and bypasses, developments blocking public access to parks and recreation areas, airports and shopping centers ringed by residential development. There may also be severe alterations of the local economy and new demands on local governments. When growth is rapid, the expense of providing public services may mount drastically.

11. An area or site having key economic development potential of statewide importance for some specified future use.

Selected portions of the Missouri River reservoir shorelines may receive population pressures in the future.

In the proposed South Dakota legislation, critical areas could be nominated by local units of government, multicounty planning districts, or the governor through the action of state boards. Some planning officials have suggested that citizens through petition also be able to nominate areas, allowing more public participation in the system. This is not in the current proposed South Dakota legislation.



Nomination is followed by a comment and review period with interaction between people and the units of government involved, before a final decision is reached by the legislature.

The critical areas concept is not unique to South Dakota. Some states, including Minnesota, Oregon, and Florida, have already implemented legislation over areas of greater than local concern. Similar legislation is under study in many other states.

Critical areas are defined differently in other states. Massachusetts, for example, has developed control over key wetlands, particularly coastal areas. Colorado considers the siting of power plants to be of statewide interest. In Oregon a

special land commission nominates critical areas with approval by the legislature. In Florida the state designates fragile areas and open spaces as part of a Florida "Green Plan," and developments of regional impact are identified by regional planning commissions.

The proposed federal legislation which passed the Senate but was recently defeated in the House would have directed states to look at five broad categories: areas of critical environmental concern (shorelines, flood plains, historic areas), key facilities (airports, power plants), large scale developments (industrial parks), public facilities or utilities of regional benefit, and large land sales or development projects.

The question of critical areas is being debated in Pierre, many other state capitals, and Washington. Should the state exercise control over critical areas of statewide importance? If so, how?

What are your ideas about land use planning, and specifically, critical areas? Let your elected

representatives and the State Planning Bureau know what you think. You have a stake in this legislation; make sure you're heard.

(This is the second of a two-part series. FS 629 is an introduction to the general concept of land use planning.)

The South Dakota Cooperative Extension Service neither supports nor opposes specific legislation. Its purpose in providing you this factsheet is solely educational.

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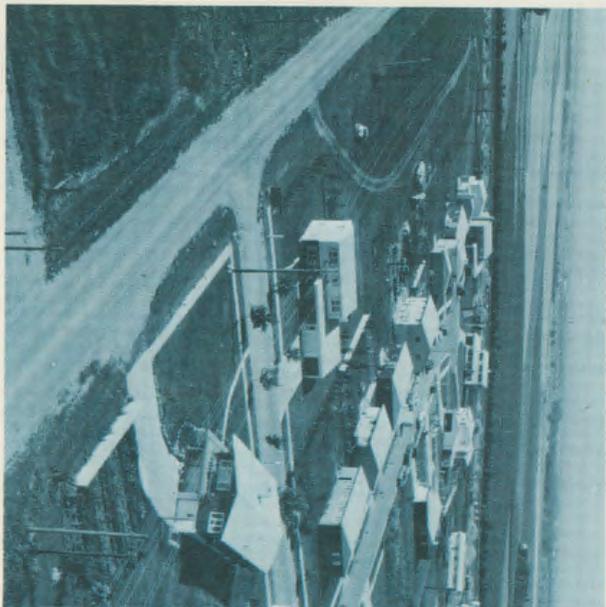
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