Miscellany

Battle Lines Drawn Over Cape Moratorium

by Don Best

Builders demonstrate leadership with call for regional planning

Under attack from politicians, environmentalists, and irate citizens, Cape Cod builders and developers are circling the wagons and firing back — with some eye-opening proposals.

After 15 years of rapid development, growth has become a political hot potato in this easternmost region of Massachusetts — long favored for its sweeping beaches and seaside charm. From 1975 to 1985, Barnstable County, which encompasses most of the Cape, was the fastest growing county in all of New England. While the boom in residential and commercial building spurred the local economy and brought prosperity to builders, it also contributed to the Cape's growing list of problems and inflamed local opposition to further development.

Last May, former U.S. Senator Paul Tsongas jolted the building community when he proposed a moratorium on further construction until regulations were adopted to control development and preserve the Cape's environment. The Home Builders Association of Cape Cod (HACC) wasted no time expressing its point of view. Less than a month after Tsongas proposed the idea, 700 builders, sub-contractors, and suppliers confronted the former senator at an anti-moratorium rally in Barnstable.

Despite that display of political muscle, the movement for a moratorium gained broad public support on the Cape. Spearheaded by Tsongas and the 2,500-member Association for the Preservation of Cape Cod (APCC), moratorium advocates collected four times the number of signatures needed to place the question on the November 8th ballot. At press time, pre-election polls showed that 70 percent of Cape voters favored the move. Even state and local home-builders associations view its passage as inevitable.

The only saving grace for the building community is that the referendum is "non-binding" — that is, it doesn't carry the force of law. What it amounts to is a warning shot fired by Cape Codders, signalling that they are deeply concerned about the way growth is impacting their lives.

"The real purpose of the moratorium is to send a message to builders and developers that people have had it with the rate and kind of growth that's taken place here," says Sue Nickerson, executive director of the APCC. "We're not saying stop growth altogether. We're saying that rampant growth is no longer an option. We have to enact some reasonable controls so that we grow in the right way."

The problems on Cape Cod are not unlike those facing dozens of other communities across America, where growth is pushing up against the environment's carrying capacity. The old Cape Cod — the immaculate rural getaway eulogized in literature and song — exists now only as a memory. When the growth boom hit, none of the Cape's 15 towns had adequate long-range planning or capital funding in place to accommodate the rash of new development. The situation today is barely improved, with patchwork planning and little coordination from one town to the next.

The result is roads clogged with traffic and lined with commercial strip developments. And untreated sewage from antiquated systems combine with pesticides, herbicides, and road salt to threaten the Cape's fragile aquifer, shellfish beds, and beaches.

Most builders and developers, being residents of the Cape themselves, recognize and care about these problems. But they feel they're being unjustly blamed for problems that have complex roots reaching far beyond the building community.

"People don't want to pay the honest price of addressing these problems," says Nic Montt, executive director of the HACC. "So they do what's easy. They lay the blame on builders and propose a moratorium."

Compounding the Cape's environmental and infrastructure problems is a serious shortage of affordable housing. Many working people, including some builders and subs, have to commute to the Cape because they can't afford to live there. Natives and long-time residents complain that their own children are being forced to leave for the same reason. Builders and developers point out that stopping or slowing new construction will only jack prices up further and aggravate the shortage.

As the political situation polarized over the summer, the debate grew harsh and extreme. Builders and developers were characterized one and all as big-city fat cats who swooped in from New York or L.A. to exploit the Cape for profit. The pro-moratorium crowd was painted as a bunch of little old ladies in tennis shoes willing to scrap the Cape's $300-million building industry to save the red-bellied turtle.

The prospects for real solutions seemed to fade — until the HACC surprised all parties concerned by issuing a bold plan promoting responsible growth and cooperation. Whether or not the non-binding moratorium passes, it seems that calmer heads are now prevailing.

The builders' recommendations — designed to defuse the situation and forestall the possible enactment of a legally binding moratorium later on — have drawn praise from every quarter. The plan acknowledges that builders and developers share some responsibility for the problems, but also outlines the broader responsibility of "everyone who lives, works, and vacations on Cape Cod."

In the area of water quality, for example, the report points out that while builders and developers are taking the heat, other serious sources of pollution — lawn chemicals leaching into the groundwater, antiquated septic tanks and cesspools, road salt, and gasoline leaking from underground storage tanks — go largely unattended.

But the report goes further. Its 21 proposals include some very substantial compromises on the part of the builders' association, endorsing building permit caps, growth phasing, restructuring of grandfathering laws, impact fees to help fund new infrastructure, and regional planning as viable ways to address the Cape's problems.

"We've all spent way too much time assessing blame and not nearly enough time talking with one another to work out solutions," says Joe Polcaro, a Cape builder and member of the HACC. "Some of these recommendations we've made aren't attractive to builders, some aren't attractive to environmentalists, and some aren't attractive to anyone, which leads me to believe that we've got it just about right."

The hope now is that the spirit of compromise will spread, involving Paul Tsongas and the APCC, town planners up and down the Cape, and citizens of every stripe.

"We challenge everyone who cares about Cape Cod to help us refine, enact, and most importantly, to fund some initiatives," the report reads, "which… we believe can help to clean the collective nest we have all been inadvertently fouling over time."

If the challenge is met in a spirit of cooperation rather than confrontation, old Cape Cod could eventually come out the winner. ■

Don Best is a free-lance writer in Surry, N. H.

Cape Cod Builders Propose:

The HACC proposal encourages all parties concerned about the Cape "to help us refine, enact, and… fund some initiatives," including:

- permitting of community septic systems and small wastewater treatment plants
- requiring upgrading of non-complying septic systems
- building permit caps
- growth phasing
- restructuring of grandfathering
- controls on lawn chemicals
- zoning to create livable neighborhoods
- mandating recycling and hazardous waste collection
- regional environmental and economic planning, with special assistance for smaller towns
- commercial water recycling
- traffic planning and alternative transportation options
- reduction of salt-based snow, ice, and dust-control
- development of truck routes
- open space and recreation land acquisition
- better sign codes
- landscape standards for commercial design
- development of innovative mechanisms to fund infrastructure
- planning for affordable housing
- public education relative to land use issues and environmental protection

From What We Gather

Cars and homes are getting bigger again. New homes in 1987 averaged 1,910 square feet of living area, up 200 square feet from 1982, when they averaged just over 1,700 square feet.

Source: U. S. Dept. of Congress

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Attention, intergalactic builders! The first meeting of the American Concrete Association's proposed committee on lunar concrete was held Oct. 31, 1988. The purpose was to discuss the possible uses of cement and concrete for construction on the moon and other planetary bodies. Contact the ACI in Detroit for further info.

Suppliers take note: Price is not everything when servicing the remodeler market. Remodelers care more about quality, availability, and back-up service, according to the "Profile of the Remodeler and His Industry" study conducted last year by NAHB.

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Buying their first home is harder now for a young family than at any time in the past ten years, according to the Housing Affordability Index of the National Association of Realtors. According to the index: the average first-home shopper has less than 80 percent of the income needed to qualify for a mortgage.

Survey Shows Ten Top Paying Remodeling Jobs

Room additions were rated as the number one remodeling job during the second quarter of 1988 by 35 builder/members responding to a survey by the National Association of Home Builders. Commercial remodeling and kitchen remodeling came in second and third as money earners. Other findings:

- About 98 percent of the remodelers rated the current residential remodeling market as good to fair and did not expect the situation to change during the next six months.
- Maintenance and repair jobs were rated as fair to good by 95 percent of the remodelers at the current time, and were expected to remain the same over the next six months.
- Current labor availability was rated as fair to good by 74 percent, and 81 percent expect it to be good to fair in the next 6 months.
- Bathroom remodeling is expected to increase during the next six months according to 32 percent of the respondents. Total renovations of residential units are expected to increase by 18 percent of the remodelers.
- The number of calls or requests for bids was rated high to very high by 43 percent and another 32 percent rated it average. Eleven percent of the remodelers rated the calls as low to very low.
- Over 47 percent of the remodelers have, at some time, owned investment properties; and the median total current value of the remodelers' investment properties totals $200,000. ■

Tax Talk:

To Be or Not To Be… An S Corporation

by Irving Blackman

The basic concept of an S corporation is simplicity itself: The corporation is a conduit just like a partnership. Each shareholder (just like a partner) includes on his tax return, on a pro-rata basis, each item of income, loss, deduction, or credit of the S corporation that can affect the computation of his personal taxes. For example, if Joe owns 20 percent of the S corporation's stock, and the corporation shows a $10,000 profit, Joe will pick up $2,000 of income on his personal return. The corporation pays no tax.

Electing S corporation status can provide both advantages and disadvantages. Whether the benefits outweigh the liabilities is something you should discuss with a competent professional. Use the lists below as a starting point for your discussions.

Advantages:
- Shareholders retain limited liability protection of corporate form.
- Double taxation, normally a part of regular incorporation, is avoided.
- Capital gains (or losses) pass through to shareholders.
- The corporation is not subject to accumulated-earnings tax or personal holding company tax.
- Early losses of a new business can offset other stockholder's income.
- A great way to split income with low-bracket family members.
- If the S corporation is part of a controlled group, its income is not added to the income of other members of the group to determine the taxable income of the group.
- Two types of stock are permitted — voting and nonvoting.
- If your highest personal bracket is lower than the corporation's highest tax bracket, your annual tax bill for corporate profits will be less.
- You can hear the "built-in gain" rule (double tax on sale of appreciated property, like corporate-owned real estate).

Disadvantages:
- The net loss of an S corporation is limited by the basis of the shareholder's stock plus loans to the corporation.
- If the corporation makes less than about $100,000, a regular corporation would usually pay less tax than the individual stockholders on the same income.
- An S corporation is not entitled to the 70-percent dividend deduction.
- Operating losses cannot be carried from an S corporation to a regular corporation.
- Only one class of stock (common) is permitted.
- Most fringe benefits are denied to stockholders.
- Nonactive stockholders are subject to the passive-loss rules.
- Your right to a fiscal year is severely restricted.
- If there is a fiscal year, you must maintain a noninterest-bearing income tax deposit.
- Any LIFO reserve must be recaptured.■

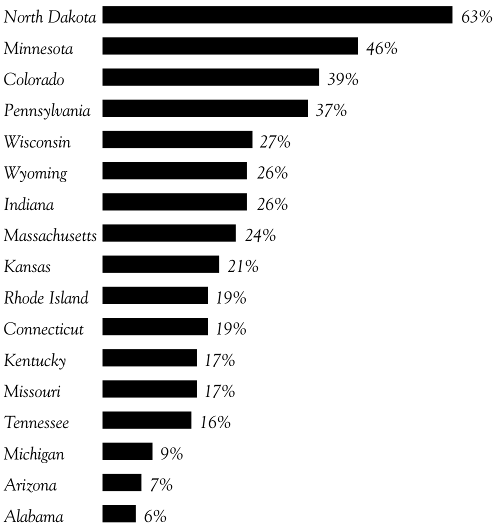
Irving Blackman, CPA, J.D., is with Blackman, Kallick, Bartlestein, Chicago. Ill. He specializes in closely held businesses. For more information on S corporations, send for New Tax Superstar… S Corporation, *$25, to Blackman,m Kallick, Bartelstein, 300 South Riverside, Chicago, IL 60606.*

EPA Recommends Nationwide Radon Testing

In mid-September, federal officials issued a national health advisory on radon, recommending that every house in the U.S. be tested for the odorless, invisible, radioactive gas.

The recommendation was issued jointly by the Environmental Protection Agency (EPA) and the U.S. surgeon general after a new survey showed that instances of high levels of radon are more prevalent than previously thought. The EPA has recognized the problem before, but not with this urgency: According to the agency, 8 million houses might have potentially hazardous radon levels of above 4 picocuries per liter of air. ■

Radon Levels by States Studied



In the past two years, the EPA has conducted studies of 17 U.S. states. The percentage of houses with radon levels greater than 4 picocuries per liter of air (the federally recognized danger level) is shown above state by state.