

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

RE: Institute for Social Ecology et al. by John D. Hansen, Esq. Corsones & Hansen One Nickwackett Street Rutland, VT 05701

Findings of Fact and Conclusions of Law and Order
Application #3W0497-EB

On October 9, 1986, an appeal of Land Use Permit #3W0497 was filed with the Environmental Board (Board) by Dana J. Cole-Levesque, Esq. on behalf of twenty adjoining property owners and neighbors (Appellants). On October 28, a cross-appeal was filed by John Hansen, Esq. on behalf of Institute for Social Ecology et al. and on October 31, a cross-appeal was filed by Mr. Hansen on behalf of the Ottauquechee Land Trust. On October 31, a prehearing conference was held. At that time, Mr. Cole-Levesque requested party status for the Appellants on the same criteria on which they were admitted as parties before the District Commission. In addition, the Appellants requested party status on Criteria 7, 9(A), 9(B), 9(G), 9(H), and 10 and Appellants Hanscom and McGuffin requested party status on Criterion 4. Jeff Gephart, who lives near the Applicants' property, requested party status under Criteria 1, 3, and 5.

The Applicants objected to the party status requests of the Appellants and Mr. Gephart and requested a hearing before the Board (or a hearing panel or hearing officer) for the purpose of cross-examining the Appellants and Mr. Gephart. Mr. Cole-Levesque objected to the use of a panel or hearing officer. Because of Mr. Hansen's objections to the party status requests, further identification of substantive issues and of witnesses and exhibits at the hearing was postponed pending a decision by the Board on party status.

A public hearing was convened on January 8. Dana Cole-Levesque appeared for the Appellants, John Hansen appeared for the Applicants, and Bonnie Barnes appeared for the Town of Rochester and Rochester Planning Commission. On January 21, 1987 a Memorandum of Decision relative to party status was issued by the Board.

Prior to the public hearing on the merits in this matter the parties informed the Board that a settlement might be reached.

On December 18, 1987, a stipulation was filed with the Board. On January 12, 1988, the Board conducted a deliberative session on this matter and adjourned. This matter is now ready for decision.

I. FINDINGS OF FACT

1. The Institute for Social Ecology is an educational institution offering graduate residential study programs primarily during the summer months. Students will sleep and eat on campus, attending classes from 8:00 a.m. to 10:00 p.m. The Institute's programs will consist of two and four-week sessions, with possible shorter programs at other times. Most of the classes will be conducted indoors, at first in a renovated existing historic barn, and later in an educational/greenhouse facility to be constructed. Some of the classes will be conducted outdoors where the Institute will plant demonstration crops and orchards.
2. The immediate neighborhood currently has about thirty residents, with the Great Hawk development up the hill. Much of the surrounding land is used for agricultural purposes.
3. The Rochester Board of Selectmen has found that the proposed curb cuts are acceptable and that the highways, landfill and police protection all are sufficient to serve the proposed use.
4. The Valley Rescue Squad can provide adequate service to the proposed use.
5. The local schools are adequate to serve all public school needs generated by the proposed use.
6. The on-site sewer system will not be operated until the system has received approval from the State Agency of Natural Resources.
7. The on-site water system will not be operated until that system has received approval from the State Agency of Natural Resources.
8. The Institute for Social Ecology has given the Rochester Board of Selectmen a written commitment to pay full property taxes based on fair market value of the property, including all improvements, so long as they occupy the land, whether as lessee or as owner.

9. After all the proposed improvements are completed, the Institute will have a peak student population of 84 at any one time during the summer programs and much smaller student populations during any of the intermittent programs.
10. The Institute will have a peak of 20 staff/faculty during the summer programs and a core of six staff year-round.
11. Because most of the Institute's students come to their programs without automobiles and stay on the site, the Institute anticipates that students will make only occasional trips to town and will **carpool** whenever possible. In addition, the Institute has committed in its application to limit to 35 the total number of cars which will be registered on the site. There was testimony from neighbors that traffic on the lower portion of Maple Hill Road varies in summer months from a low of 21 vehicles per hour to a high of 74 vehicles per hour.
12. All sleeping areas planned by the Institute will be located on portions of the property which are visually isolated from neighboring residents.
13. The major portion of the 51-acre parcel will be used for agriculture, including forestry.
14. The Institute has proposed that buildings will be sited and landscaped to minimize the visual impact or to compliment the rural character.
15. The Institute has committed in its application that the project will not cause undue noise, odor, smoke, vibration, glare or safety hazards to any adjacent property owners, and will use only minimal low exterior lighting.
16. The Institute shall not install or operate on-site laundry facilities.
17. The Institute shall not exceed the following peak student populations: a) 30 students in 1987; b) 40 students in 1988; c) 50 students in 1989; d) 60 students in 1990; and e) 70 students in 1991 and all years thereafter.
18. The Institute shall plant a line of evergreen trees a minimum of five feet in height sufficient to screen the proposed parking area from the home now owned by Douglas and Doris Billings.

19. The Institute shall work with its Maple Hill neighbors in an effort to keep vehicles operated by its students and staff/faculty within posted speed limits.
20. The educational/greenhouse facility shall be constructed in such, a manner that it will not produce any hazardous glare to vehicle operators travelling on Route 73.
21. The Institute shall keep the brush trimmed along the west branch of Maple Hill Road in the vicinity of its access points in order to maximize visibility.
22. The Institute's service entrance from Maple Hill Road shall lead to an area sufficient for all anticipated service vehicles to turn around so that they reenter the roadway in a forward direction, except that during the initial construction period, construction vehicles may back in or back out provided that there are flagpersons in the road to assure traffic safety. Under no circumstances shall this entrance be used by student or staff other than handicapped who are not making service deliveries.
23. At its lowest access point, the Institute shall provide at least 35 paved parking spaces.
24. The only emissions that will be created by the proposed use are those associated with the moderate increase in traffic.
25. Applicants shall not construct the large structure designated on their site plan as the Education Research Center prior to January 1, 1994. It is understood and agreed that prior to constructing said building, or any revised version thereof, Act 250 approval will be required. Notwithstanding the foregoing, Applicants may, prior to January 1, 1994, seek Act 250 approval to construct and use a greenhouse structure containing not more than 2500 square feet.
26. In order to assimilate gradually Applicants' proposed land development into the neighborhood and limit the impacts thereon, Applicants shall limit its usage and construction activities in accordance with the following schedule:

<u>Year</u>	<u>Max. # of Staff and Faculty on premises at any time</u>	<u>Max. # of Students on premises at any time</u>	<u>Max. # Berm-type Student residences constructed (2 students per residence)</u>
1987	7	30	None
1988	10	35	No more than 15
1989	16	40	No more than 20
1990	20	45	No more than 22
1991	20	50	No more than 25
1992	20	55	No more than 25
1993	20	60	No more than 25
1994	20	70	No more than 25

The leachfield shall be constructed during the same year that the common camping facility is constructed.

27. Applicants shall not construct, improve or utilize the westerly-most upper access which leads from Maple Hill Road to the second story of the barn and shall take all necessary and appropriate steps to eliminate that access. Moreover, Applicants shall take necessary and appropriate steps to limit the usage of other upper access for handicapped persons and delivery purposes.
28. At the time of drilling and pump testing their proposed well, Applicants shall monitor the effects thereof upon the water supplies located within a radius of 1500 feet from the site of the proposed well. Applicants shall give reasonable notice to those landowners regarding the time and nature of monitoring to be done. Copies of the well monitoring results shall be provided to those landowners whose wells are monitored.
29. Applicants shall not construct any buildings or structures on the twenty-five acre portion of this development which lies northerly of Maple Hill Road.
30. Applicants agree to investigate remedial measures with respect to the slide area with the Soil Conservation Service, and to conduct no activities there which are likely to exacerbate the existing slide.

31. Applicants agree to prohibit parking of any vehicles by students, staff, employees, agents, or delivery or service persons on Maple Hill Road at all times.

II. CONCLUSIONS OF LAW

The Board concludes that the stipulation submitted by the parties in this appeal does not contravene the values which Act 250 is designed to protect. Therefore, the Board will revise the permit as stipulated.

III. ORDER

Land Use Permit Amendment #3W0497-EB is hereby issued in accordance with the Findings of Fact and Conclusions of Law herein. Jurisdiction over this matter is returned to the District #3 Environmental Commission.

Dated at Montpelier, Vermont, this 22nd day of January, 1988.

ENVIRONMENTAL BOARD



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FF 3W0497-EB (apl16)