

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

Re: Rutland Public Schools  
Application #1R0038-4-EB

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This decision pertains to an appeal filed with the Environmental Board on October 28, 1991 by Rutland Public Schools (the Applicant) from a decision of the District #1 Environmental Commission dated November 20, 1990, and a reconsideration decision dated September 27, 1991. The Applicant seeks approval for construction of a new high school building on a tract of land at the corner of Stratton Road and Woodstock Avenue in the City of Rutland.

For the reasons explained below, the Board concludes that the project satisfies Criteria 5 and 9(K) of 10 V.S.A. § 6086(a) with respect to traffic, and Criterion 8 (aesthetics), and therefore issues a permit, with conditions.

I. BACKGROUND

The District Commission found that the Applicant failed to comply with Criteria 5 (traffic), 8 (aesthetics), and 9(K) (public investments and facilities). Specifically, under Criteria 5 and 9(K) the District Commission concluded that unreasonable congestion and unsafe conditions would result from a) unsafe placement of sidewalks abutting Woodstock Avenue; b) lack of assurance that the Board of Highway Commissioners will approve the proposed construction of additional **turning lanes** on Woodstock Avenue; c) a concern about student **jaywalking** across Woodstock Avenue; d) an unsafe two-lane exit from the school driveway; and the inability of the City to implement transportation management over the long term. Under Criterion 8, the District Commission concluded that a) the visual impact of widening Stratton Road would result in a "significantly degraded" visual impact; b) no landscaping plan was submitted for **Stratton Road**; c) the residential character of Stratton Road would be destroyed; and d) the headlights would create glare on Stratton Road. Under Criterion 9(K), the District Commission concluded that the closed landfill located adjacent to the proposed site would unreasonably endanger the public investment in the school itself because of the possibility that contaminants that might migrate under the new building might vaporize into the building, necessitating the abandonment of the building or extensive and costly remediation action.

The Applicant appealed the negative findings and conclusions of the District Commission. The Applicant also challenged the District Commission's interpretation of Criterion 9(K) as protecting the public investment in the project itself.

A prehearing conference was convened by Acting Chair Charles F. Storrow on December 6, 1991. The Town of Rutland appeared at the prehearing and stated its intent to present witnesses at the hearing.

Steven M. Wetherby, whose property adjoins the school site, had party status under Criteria 5 and 9(K) at the District Commission proceeding and has party status under those criteria in this appeal.

In its Notice of Appeal, the Applicant raised two preliminary issues. These were resolved in a Memorandum of Decision issued by the Board on January 29, 1992. The first issue concerned whether the potential effect of a closed landfill located on land adjacent to the project site may be considered under Criterion 9(K). The Board concluded that the effect of an adjacent land use on the public investment in the project which is the subject of the application is not within the scope of review under Criterion 9(K), and that therefore the landfill will not be an issue in this appeal.' The Applicant also argued that the scope of the appeal should be limited to those findings of the District Commission identified in the Notice of Appeal as incorrect. The Board concluded that the appeal would not be so limited, and would involve all potential traffic issues under Criteria 5 and 9(K) and all potential aesthetic issues under Criterion 8.

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'Members **Ehrich** and Lloyd dissented on the issue of the authority of the Board to review the effect of the landfill on the public's investment in the school.

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The Board convened a public hearing on March 12, 1992, with the following parties participating:

The Applicant by Allan R. Keyes, Esq.  
Town of Rutland and Town of Rutland Planning Commission  
(the Town) by John M. Ruggiero, Esq.<sup>2</sup>  
Steven M. Wetherby

After the Applicant's presentation of an overview of the project, the Board recessed the hearing and visited the site with the parties. The hearing was reconvened and testimony presented. The Board recessed the hearing pending review of the record and deliberation.

The Board deliberated concerning this matter on March 25 and April 8, 1992. On April 10, 1992, the Board issued a recess memorandum seeking additional information. The City and Town made responsive submittals and, on June 12, following a review of the record, the Board declared the record complete and adjourned the hearing. To the extent any proposed findings of fact and conclusions of law are included below, they are granted; otherwise, they are denied.

## II. ISSUES

1. Whether the proposed project will create undue congestion or unsafe conditions with respect to the use of the Woodstock Avenue and Stratton Road, pursuant to Criterion 5.

2. Whether the proposed project will have an undue adverse effect on the scenic or natural beauty of the area and aesthetics under Criterion 8.

3. Whether the proposed project will unnecessarily or unreasonably endanger the public investment in adjacent highways or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to adjacent highways, under Criterion 9(K).

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<sup>2</sup>The Town was represented at the hearing but presented no witnesses.

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III. FINDINGS OF FACT

A. Project Description

- 1 . The proposed high school will be constructed on the site of the existing Stafford Technical Center. The site consists of 79.8 acres of land located at the southeast corner of Woodstock Avenue and Stratton Road. The former **Rutland** landfill is located to the east of the site. Stratton Road is in a residential neighborhood with private residences.
  2. The Technical Center currently serves up to 250 students twice a day from a number of high schools in the region, and up to 600 adults in various day and night courses. The site also contains the Rutland High School football field, a running track, practice fields, parking areas for approximately 190 cars, and various delivery, service, and work areas. Athletic events are often held there in the afternoons and evenings.
  3. The new facility will combine the existing Technical Center with the new high school. The new building will be a two-story structure attached to the existing building and comprising approximately 112,000 square feet. The building will provide spaces for physical education, experimental drama, and large group teaching. Outdoors there will be an additional full-sized playing field; parking for 170 additional cars; areas for bus and passenger car drop-off; and service and work areas.
  - 4 The new facility will serve approximately 870 additional students; the design capacity will be for 1,120 students and 120 staff and faculty. High school and Technical Center students from **Rutland** City, as well as **Rutland** Town, Chittenden, and **Mendon** will attend. Students will get to the school by school bus; by private automobile, and by walking.
  5. The **Rutland** High School is currently located in **Rutland** City between Church and Grove Streets. Currently 735 students attend the school. Of these, approximately 141 students come from outside the City by private automobile.
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B. Criteria 5 and 9(K) [traffic]

Existina Conditions

6. U.S. Route 4 is called Woodstock Avenue in the vicinity of the project site. It is a major arterial which serves both local and through traffic.
  7. Stratton Road is a two-lane paved street which runs from its northerly end at Woodstock Avenue for approximately 3.3 miles to the south. At approximately 1.3 miles south of Woodstock Avenue, Stratton Road is intersected by Allen Street. This intersection is dominated by the Rutland Regional Medical Center. The road serves a mix of travel purposes: It is used for access to homes along the road or on one of the numerous side streets which it intersects; for access to the major land uses such as the Rutland Regional Medical Center and associated facilities; and as an informal bypass for those traveling between points south of the City and points to the east.
  8. Woodstock Avenue at the Stratton Road intersection has four lanes, with two lanes in each direction. A McDonald's Restaurant is located on the north side of Woodstock Avenue directly across from the end of Stratton Road.

The intersection of Woodstock Avenue and Stratton Road (the Intersection) currently operates with several deficiencies. These include a design hour level of service (LOS) "E," which means very long delays; close proximity to the existing intersection of the Technical Center's driveway; and the lack of any formal accommodation of pedestrians across the intersection.
  10. Other intersections along Stratton Road have significantly lower traffic volumes than the Woodstock Avenue intersection; none of them has capacity deficiencies. Other intersections currently operate with "less-than-desirable" levels of service. The intersections of Main Street with Woodstock Avenue and with West Street both have p.m. Design Hour levels of service of E.
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11. By relocating the high school to the proposed site, the volumes of traffic at area intersections will change by the following percentages during the peak afternoon period (2:30-3:30 p.m.):

Stratton/Woodstock	9%
<b>Stratton/Harrington</b>	33%
Stratton/Killington	20%
Stratton/Allen	10%
<b>Woodstock/Main</b>	-7%
Main/West	-3%
Main/Allen	1%
<b>Woodstock/LaFayette</b>	No change

12. Students cross Woodstock Avenue to get to the **McDonald's**. Because of the lack of a traffic signal phase for pedestrians, students have to dodge traffic to get across the street.
13. On February 4, 1991, a survey was conducted at the **Rutland High School** to gather information about current travel patterns of students and staff, **as well as** future travel patterns with the relocation of the High School. Nineteen percent of the students were absent from school that day; 83 percent of the surveys distributed to students and staff were returned. The survey revealed that the distribution of arrivals are concentrated between 7:30 and 7:45 a.m. and that departures peak between 2:30 and 2:45 p.m. The survey also revealed that about 33 percent of the students and staff drive a car to and from school; approximately 36 percent of the students and staff are dropped off in the morning and 23 percent are picked up in the afternoon; 20 percent of the students and staff walk to school in the morning and about 31 percent walk home in the afternoon. The remaining students and staff either take a special bus or share a ride.
14. The current driveway for the Technical Center is located on the east side of Stratton Road approximately 120 feet from Woodstock Avenue. Vehicles exiting this driveway during the peak periods create congestion at the Intersection and along Stratton Road between the driveway and the Intersection because that distance is insufficient. School buses often have difficulty turning into or out of the driveway.
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New Proposals

15. The Applicant proposes to improve traffic flow at the Woodstock Avenue/Stratton Road intersection by adding a fifth lane to Woodstock Avenue, in the vicinity of the intersection with Stratton Road, widening a portion of Stratton Road to three lanes, and by replacing the existing traffic signal at the Woodstock Avenue/Stratton Road intersection with a modern **traffic-activated** controller.
  16. The fifth lane that the Applicant proposes to add to Woodstock Avenue will give eastbound traffic turning into McDonald's an approximately sixty-foot long lane to **"stack"** while they wait for a chance to make a left turn, thus reducing the chance that that turning movement will present an impediment to the eastbound through traffic. Similarly, for westbound traffic turning left onto Stratton Road from Woodstock Avenue, the Applicant proposes an approximately 140-foot long stacking lane on Woodstock Avenue.
  17. The Applicant proposes to widen Stratton Road for the approximately 635-foot distance between the intersection with Woodstock Avenue and the centerline of the new proposed driveway to the school (see Finding #22 below): This will allow for the creation of a third lane. Most of this third lane will be used by north-bound traffic making a left turn to proceed west on Woodstock Avenue, thus permitting the free movement of northbound traffic making a right turn to proceed east **on Woodstock** Avenue. The southerly portion of this third lane will **be** devoted to southbound traffic making a left turn into the new driveway for the school.
  18. The new traffic signal the Applicant proposes at the Woodstock Avenue/Stratton Road intersection will be programmed to operate with five primary phases: an exclusive phase for vehicles for each of the four approaches and a **fifth** phase for pedestrians. Right turns from Stratton Road would be permitted during the Woodstock Avenue and McDonald's phases, but not during the phase when Stratton Road left turns are allowed. This latter phase, which would be included in every signal cycle, would be used for protected pedestrian crossings of Woodstock Avenue.
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19. The crossing of Stratton Road by pedestrians is proposed to be accomplished by two separate signal phases. As a result there is not a one-phase protected pedestrian crossing of this road. Rather, pedestrians would cross the two northbound lanes during one phase, and wait at a "pedestrian refuge island" for the next phase. That next phase would then protect against interfering turning movements as the pedestrians cross the southbound lane of Stratton Avenue.
  20. The proposed traffic signal would be a so-called traffic-activated controller. This means that it detects traffic movement and changes to the next phase if no cars are waiting at any given phase. This increases the efficiency of the intersection.
  21. Other traffic/pedestrian safety improvements will include:
    - a. "No-drop-off-zones" along Stratton Road between its intersections with Woodstock Avenue and Harrington Road, and at Woodstock Avenue to a point 300' east of the intersection with Stratton Road, both monitored by uniformed officers at the Stratton Road/school driveway and Stratton Road/Woodstock Avenue intersections;
    - b. A narrow unpaved strip between Woodstock Avenue and the existing sidewalk will be removed and a five-foot wide sidewalk with a curb abutting both sides of Woodstock Avenue will be constructed in accordance with standards of the American Association of State Highway Traffic Officials (AASHTO);
    - c. Pedestrian access from the site to the Woodstock Avenue/Stratton Road intersection will be restricted by fencing to a single point adjacent to the pedestrian crosswalk across Woodstock Avenue.
    - d. New sidewalks will be constructed along the east side of Stratton Road between Woodstock Avenue and Harrington Street. A crosswalk will be painted across Harrington Street and the sidewalk will continue along Stratton Road to Killington Avenue; and
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- e. The sidewalk along the westerly side of Stratton Road will be extended from Killington Avenue to connect with the existing sidewalk in the area of Jackson Avenue, which continues along Stratton Road past the hospital.
22. A new access driveway to the facility will be constructed. It will be located on the east side on Stratton Avenue approximately 635 feet south of Woodstock Avenue. From curb to curb the new driveway will be 36 feet wide, opening at the intersection with Stratton Road to 96 feet wide to facilitate turning movements. The frontage of school-owned land on Stratton Road will be approximately 110-115 feet. There will be one entrance lane, and two exit lanes (one for left turns and one for right turns). A six-foot wide sidewalk along the south side of the driveway will lead to the main school entrances.
23. Buses will be routed to a pick-up and drop-off cul-de-sac on the east side of the building. Student cars will be routed to a student parking lot on the south side of the site. Employee cars will be directed to a staff parking lot at the northwest corner of the site. Other passenger vehicles will be directed to the west of the building where pick-up and drop-off ,cul-de-sacs and visitor parking will be provided.
24. Moving the driveway approximately 450 feet to the south will ease the congestion at the driveway entrance and along Stratton Road to the Intersection, and will provide sufficient space for school buses to turn in and out.
25. The Applicant has proposed a traffic management plan that is integral to the improvement in traffic flow at the Intersection as well as at other intersections in the area. This plan consists of the following:
- a. School bus service will be provided along four major access routes beginning in the area of the current **Rutland** High School and traveling to the new site along various City streets. This will reduce the need for students or their parents to drive to the school and is expected to reduce both the vehicular and pedestrian traffic at other intersections in the area.
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- b. A limit on the number of student-driven vehicles by issuing school parking permits only to those students who agree to share rides on a regular basis with at least two other students. Students who live within walking distance of the school will not be issued parking permits. A computer matching program will provide a list of potential riders based on geographic proximity and after-school activities. Students who are granted parking permits will be responsible for organizing and maintaining the car pool. Enforcement will be provided by monitoring of the student parking lot by school staff.
  - c. The officer stationed at the Stratton Road/School driveway intersection will also serve as a gate manager, allowing traffic to exit from the driveway only as traffic conditions along Stratton Road allow.
26. The Applicant estimates that without its traffic management plan the new high school would generate 946 trips during the a.m. peak "design" hour and 782 trips during the p.m. peak "design" hour. With the traffic management plan in place, the Applicant estimates that the a.m. and p.m. peak "design" hour trip generation volumes will be reduced to 572 and 472, respectively. The "design hour" volumes represent the thirtieth (30th) highest estimated volumes during any year.
27. Ride-sharing programs have been successfully implemented in other parts of the country as well as in Norwich, Vermont. High schools have a number of characteristics that encourage successful ride-sharing programs: they are institutions with large populations drawn from a relatively small geographic region; desired arrival and departure times are strongly clustered; and strong ride-sharing incentives can be provided and enforced.
28. Another way of reducing the heavy concentration of arrivals and departures within certain time periods is to spread the vehicle trips over a longer period of time by introducing a split schedule. A 45-minute, one class period staggered start and end schedule could be designed with no significant adverse effect on the academic program, and could reduce the peak arrivals
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and departures by as much as 50 percent. A split schedule, however, could reduce the effectiveness of the school bus and ride-sharing programs: the cost of providing convenient bus service may increase if it were necessary to serve two shifts, and the ability to construct and maintain viable car pools would become more difficult. The Applicant therefore recommends using the split shift only if the other elements of the Traffic Management Plan do not achieve the objective of reducing vehicle trips at the High School.

29. It is likely that some of the conditions upon which future traffic patterns were estimated will be different from that assumed. For example, background traffic growth rates may be higher or lower, and the home locations and auto ownership patterns of the High School students may change. Thus, it is important that conditions be monitored to determine actual operating conditions, and that the Traffic Management Plan be flexible enough to adapt to any significant differences.
  30. The monitoring plan should be such that it is capable of determining the number of trips during the a.m. and p.m. peak hours, the actual levels of service of the turning movements onto Woodstock Avenue **from** Stratton Road during the seasonal peak period (design hour), the levels of pedestrian traffic to and from the school, and pick-up/drop-off activity at the school.
  31. If, as a result of monitoring, it is discovered that driveway counts are higher by 10 percent or more than projected by the Applicant, or delays at the Intersection are greater than projected, remedial actions should be taken, including but not necessarily limited to: (1) the ride-sharing requirements should be increased to require more students per car; (2) the bus service should be expanded; or (3) a split shift schedule should be considered for the following term. If problems are observed in pedestrian flow, actions should be taken immediately to resolve them.
  32. The construction of the high school along with the proposed road improvements (widening Woodstock Avenue to five lanes and Stratton Road to three lanes, and installation of a new traffic signal) will result in the following levels of service at the Stratton Road/Woodstock Avenue intersection.
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1992

A.M. Peak Hour	18.0 seconds - C
2:30-3:30 p.m.	18.3 seconds - C
PM Design Hour	19.3 seconds - C

1997 (including impact of Rutland Mall)

A.M. Peak Hour	20.6 seconds - C
2:30-3:30 p.m.	33.4 seconds - D
PM Design Hour	24.5 seconds - C

These levels of service do not include any impact from the proposed traffic demand management program. They should be contrasted with the estimated levels of service if the high school and proposed road improvements are not built:

1992

A.M. Peak Hour	18.4 seconds - C
2:30-3:30 p.m.	35.5 seconds - D
P.M. Design Hour	66.0 seconds - F

1997 (including impact of Rutland Mall)

A.M. Peak Hour	19.4 seconds - C
2:30-3:30 P.M.	166.2 seconds - F
P.M. Design Hour	455.9 seconds - F

Accordingly, the construction of the high school along with the proposed roadway improvements will improve the level of service for the Woodstock Avenue/Stratton Road intersection, even without the impact of a Traffic Demand Management Program.

33. The Applicant suggests that commencement of this project be conditioned on approval of the plans for the road improvements by the City's Highway Commissioners and that the High School not be allowed to open until the proposed highway improvements have been completed.

**C. Criterion 8(aesthetics)**

34. The new school building will be two stories in height to match the existing Technical Center. A new entrance with a gabled roof will be added to the Technical

Center. Split block and paneling will be used on the exterior of the new building to be consistent with the materials used on the Technical Center building. The colors of exterior materials will be compatible with the existing building. Glass, glass block, and Kalwall also will be used to provide the building interior with a maximum of natural light while meeting current standards for energy efficiency.

35. The site will be lit with a minimum of 1/2 footcandle on all walks, driveways, and parking areas. There will be lighting at the main entrances and security lighting as necessary on the building. Landscaping at the new school will **consist of** both deciduous and evergreen plantings to provide colors to enhance the building, shade, area separation, and seasonal change.
  36. An area of approximately 20 acres of woods will be cleared for the new school construction. A buffer approximately 100 feet deep of existing trees and new buildings will separate the school areas from the rear of privately owned properties on Stratton Road.
  37. The new driveway leading from Stratton Road **into** the school site will require demolishing an existing house on Stratton Road on the south side of the driveway location.
  38. Steven Wetherby lives with his parents and his wife in a house on the east side of Stratton Road directly adjacent to the proposed new driveway on the north. The northern edge of the driveway will be located approximately 24 feet from his property line and 40 feet from his house. The driveway will **be separated** from adjacent properties with plantings along the driveway.
  39. The Wetherbys' house is located 32 feet from the existing street. Stratton Road will be widened past the Wetherbys' house. This will result in a reduction of the area the Wetherbys use to park their cars. Part of the area the Wetherbys use to park their cars is in the right of way for Stratton Road.
  40. The widened road and new pavement will use between six and 10 feet on the west side of Stratton Road and between three and four feet on the east side. There will be a four-foot wide asphalt **sideway** on the east
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side separated from the road by a three-foot grass strip. Several utility poles will be relocated into this grass strip. A large maple tree in front of the **Wetherbys'** house will have to be heavily pruned to make room for a relocated utility pole and line. The Applicant will plant 25 flowering crabapple trees of three- to five-inch caliper on both sides of Stratton Road in the area affected by the improvements to Stratton Road. The trees will be planted 30 feet on center, 11 on the east side, 14 on the westside.

41. Houses on Stratton Road in the area of its proposed widening are located between 27 and 50 feet from the existing roadway. Approximately fourteen buildings on Stratton Road will be directly affected by construction of the new driveway and the third lane. Some shrubs and hedges will have to be removed to accommodate the widening.
  - 42.. Except for Woodstock Avenue, which contains commercial strip development, the neighborhood in which the school site is located is predominantly residential. Between 15 and 20 percent of the buildings located along Stratton Road from the Woodstock Avenue intersection to the Medical Center are commercial or nonresidential, such as a pharmacy, a church, doctors' offices, a hair dresser, a garage, and a power substation. The buildings vary in height from single to two story.
  43. Two new signs are proposed. One will be located on Woodstock Avenue near the Stratton Road intersection between the sidewalk and the fence. The sign will be 4 x 9 feet, will be set in a stone base about two feet high and will be internally lit. It will be made out of either wood or stone and will read "**Rutland Educational Center.**" The other sign will be located on Stratton Road. It will be 3 x 6 feet and will be mounted two feet above grade. The material will be either wood or stone. The sign will be set back approximately 12 feet from the edge of the road and will be perpendicular to the road. Both sides of the sign will read "**Rutland Educational Center.**" The sign will not be internally lit because it will be near a street light.
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44. A new six-foot high chain link fence will be constructed from the existing fence on Woodstock Avenue along Stratton Road and then behind the privately owned properties adjacent to the school site. The existing driveway will be closed.
  45. Widening Stratton Road will result in more area covered with asphalt, decreased setbacks for existing structures, and decreased distance from utility poles to the structures, as well as the loss of some shrubbery. The Applicant's proposed landscaping plan will, however, offset these impacts to some extent by the creation of a green strip along the east side between the sidewalk and the road and the planting of 25 additional trees on both sides. The width of the new driveway will be greater in scale than other driveways nearby.
  46. The driveway will be lit by a 100 watt high pressure sodium light mounted on a 14-foot high pole. The pole will be located on the south side of the drive, approximately eight feet from the curb and 50 feet from the center line of Stratton Road.
  47. Headlights of vehicles exiting the driveway will shine toward the houses on the west side of Stratton Road. The final grade of the proposed driveway will be approximately five feet below the first floor elevation of the houses across Stratton Road. The average height of headlights is approximately three feet above pavement level and the average height of windowsills is approximately three feet above the floor elevations. The grade of the driveway as it approaches Stratton Road will be level so that headlights five feet below windowsills should not shine into the windows. The impact of car headlights will be further ameliorated by existing shrubs and the new trees the Applicant will plant along the west side of Stratton road.
  48. No written community standards intended to preserve the aesthetics or scenic and natural beauty of the area were submitted.
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IV. CONCLUSIONS OF LAW

Criteria 5 and 9(K)

10 V.S.A. § 6086(a)(5) requires that prior to issuing a permit, the Board find that the proposed project:

Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.

10 V.S.A. § 6086(9)(K) provides that:

A permit will be granted for the development or subdivision of lands adjacent to governmental and public utility facilities, services, and lands, including, but not limited to, highways, ... when it is demonstrated that, in addition to all other applicable criteria, the development or subdivision will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to the facility, service, or lands.

The Board concludes that the project complies with these criteria. The highway improvements that the Applicant proposes will, by themselves, result in improved levels of service for the Woodstock Avenue/Stratton road intersection, which is the intersection most affected by the proposal. The situation should be improved even more by the Applicant's proposal to manage traffic to and from the new school.

However, because the Woodstock Avenue/Stratton Road intersection is a busy intersection and because the new school will add additional traffic to the area, it is important that the school implement a program for managing traffic to and from the school. Accordingly, the permit for this project is conditioned on the school not generating more than 110% of the peak a.m. and p.m. design hour trips that the Applicant estimates will be generated. The

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Applicant will be required to monitor traffic so **that it** can be determined if this standard has been met and to submit the resulting data to the District Commission on **an annual** basis. If the 110% standard is exceeded on a design hour basis (i.e., more than 30 times a year) during either the a.m. or p.m. peak hours, then the **Applicant** shall take whatever steps necessary to keep the traffic volumes to and from the school within the specified parameter. If this would require limiting the number of students and **staff** using the school, then the Applicant will have to do so. Obviously, there are less drastic measures which the Applicant can first utilize to limit traffic, and which appear to **the Board** to be sufficient for the purpose of meeting the standard set forth in the permit condition.

There was some discussion about the *need* for approval of the proposed highway improvements by the **Rutland City** Highway Commissioners and the Applicant's financial ability to actually implement these improvements. These are not issues of concern for the Board insofar as the opening of the high school is conditioned upon the prior completion of these improvements.

The Town of **Rutland** urges the Board to condition the project on the widening of Woodstock Avenue to five lanes all the way east to Gleason Road. While the Board recognizes that this would certainly be desirable, it does not believe that the project's traffic impacts are such that the Applicant should bear the full responsibility for such an undertaking. In this regard, it is pointed out that the improvements the Applicant is willing to implement will result in a better situation than the current one.

The Town also urges the Board to require that the crossing of Stratton Road by pedestrians be protected by a single phase of the proposed traffic signal. As discussed in the findings, under the Applicant's proposal the pedestrian crossing will be accomplished by two separate **phases**, with the **result that** pedestrians will have to wait for the second phase at an **"island"** in the middle of Stratton Road.

The Applicant agrees that the Town's proposal would improve pedestrian safety, but feels that its two-phase proposal is more desirable because a **single phase** pedestrian crossing will significantly reduce the **performance of** the intersection and because it estimates relatively few

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CORRECTED - 09/01/92

pedestrians will cross Stratton Road at this location. The Board agrees with the Applicant in this regard, but will require the monitoring of this pedestrian crossing to determine whether there is a significant increase in the number of pedestrians crossing Stratton Road at this location and whether the two-phase signal is adequate to ensure pedestrian safety.

Criterion 8

10 V.S.A. § 6086(a)(8) requires that, prior to issuing a permit, the Board must find that the project "[w]ill not have an undue adverse effect on the scenic or natural beauty of the area [or] aesthetics." The Board uses a two-part test to determine whether a project meets Criterion 8. First, it determines whether the project will have an adverse effect. Second, it determines whether the adverse effect, if any, is undue. Re: Quechee Lakes Corn., Applications #3W0411-EB and #3W0439-EB, Findings of Fact, Conclusions of Law, and Order at 18-19 (Nov. 4, 1985).

1. Adverse Effect.

In considering whether a project will have an adverse effect on aesthetics and scenic beauty, the Board looks at whether a proposed project will be in harmony with its surroundings and will "fit" the context within which it will be located. In making this determination, the Board considers the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the colors and materials proposed for the project, the locations from which the project can be viewed, and the potential impact of the project on open space. Quechee, supra, at 18.

The Board concludes that the project is not in harmony with the predominantly residential neighborhood in which it will be located. It therefore will have an adverse effect upon aesthetics.

2. Undue Adverse Effect.

In evaluating whether adverse effects on aesthetics are undue, the Board analyzes the following three factors and concludes that a project is undue if it reaches a positive conclusion with respect to any one of these factors:

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- a. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
- b. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?
- c. Has the Applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the proposed project with its surroundings?

As to the first question, the Board concludes that the adverse visual effect of this project will not offend the sensibilities of the average person. Although the project will diminish the scenic qualities of the area, it will not do so to a degree that can be considered offensive or shocking.

With regard to the second question, no evidence was provided of any clear, written community standard intended to preserve the aesthetics and scenic beauty of the area.

As to the third question, the Board believes that the Applicant has taken generally available mitigating steps to improve the harmony of the project with its surroundings. The landscaping plan proposed by the Applicant will mitigate the visual impact of the project. Therefore, the Board concludes that the project, as conditioned by this decision, meets the requirements of Criterion 8.

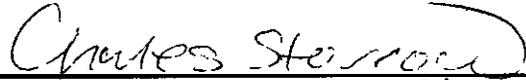
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V. ORDER

Land Use Permit #1R0038-4-EB is hereby issued.  
Jurisdiction over this matter is returned to the District #1  
Environmental Commission.

Dated at Montpelier, Vermont this 26th day of June,  
1992.

ENVIRONMENTAL BOARD



Charles F. Storrow, Acting Chair  
Terry Ehrich  
Lixi Fortna  
Arthur Gibb  
Samuel Lloyd  
William Martinez\*  
Steve E. Wright

\* Member Martinez did not attend the hearing but he reviewed  
the record prior to participating in this matter, in  
accordance with 3 V.S.A. § 811.

a:school.dec(S20)