

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

RE: Colchester Hotel Group and Findings of Fact and
Ray Pecor, Jr. by Conclusions of Law
Stephen R. Crampton, Esq. and Order
Gravel and Shea Application #4C0288-14-EB
P.O. Box 1049
Burlington, VT 05402-1049

This decision pertains to an appeal filed with the Environmental Board on December 23, 1987, by Colchester Hotel Group and Ray Pecor, Jr. from the October 30, 1987 original decision and December 9, 1987 reconsideration decision of District #4 Environmental Commission (District Commission). In these decisions, the District Commission denied Land Use Permit Application #4C0288-14. The applicants sought approval for the construction of a 100-bedroom hotel, 56 2-bedroom hotel suites, and a 100-seat restaurant on 6.06 acres located at Routes 2 and 7 and Mountain View Road near Exit 16 of Interstate 89 in Colchester, Vermont. The Applicants object to the District Commission's Findings and Conclusions with respect to Criteria 1(E) (streams) and 8 (aesthetics).

A prehearing conference was convened by Chairman Leonard U. Wilson on January 11, 1988, and a Prehearing Conference Report and Order issued on January 15. On January 27 the City of Winooski filed an objection to the prehearing order and on February 3 Winooski filed a notice of appearance, a cross-appeal from the District Commission's Findings and Conclusions with respect to Criteria 5 and 7, and a statement that it had concerns about Criteria 1(B), 2, and 3. On February 5 Chairman Wilson issued a Memorandum of Decision accepting the City's cross-appeal on Criteria 5 and 7.

On February 22, the City filed a Statement in Lieu of Testimony, in which it stated that it had reached an agreement with the Applicants with respect to its objections to the District Commission's decision concerning Criteria 5, 7, and 9(K) and that its concerns with respect to Criteria 1(B), 2, and 3 were resolved.

On March 9, the Board convened a public hearing in Colchester, Vermont. The following parties participated in the hearing:

Colchester Hotel Group and Ray Pecor, Jr. (Applicants)
by Stephen R. Crampton, Esq.
Town of Colchester and Colchester Planning Commission
(Town)
Chittenden County Regional Planning Commission (CCRPC)
by Arthur Hogan, Jr.
State of Vermont, Agency of Natural Resources (Agency)
by Frederic Emigh, Esq.
City of Winooski by William Wargo, Esq.

The Board was taken to the site to observe the location of the proposed project and was driven past the site on the Interstate.

On March 23, the Applicants filed proposed Findings of Fact and the City filed an agreement with Colchester Hotel Group and a request that the agreement be incorporated into the Board's decision. On March 24, the Agency filed proposed findings.

On April 13, the Board reviewed the evidence, determined the record complete, and adjourned the hearing. This matter is now ready for decision. The following findings of fact and conclusions of law are based exclusively upon the record developed at the hearing. To the extent the Board agreed with and found necessary any findings proposed by the parties, they have been incorporated herein; otherwise, said requests to find are hereby denied.

I. ISSUES IN THE APPEAL

The Applicants believe the District Commission erred in finding that adequate provision for the retention of the stream in its natural condition as required by Criterion 1(E) had not been made. The Applicants also believe the District Commission's conclusion that the project does not comply with Criterion 8 (aesthetics) is incorrect. The Town and CCRPC support the Applicants' position and believe that a permit should be granted for the project. The State's position is 'that the project will create an undue, adverse effect upon the scenic and natural beauty of the area because the buildings are too close to the Interstate and the mass of the buildings will interfere with the views and open spaces that are now visible to travellers along the Interstate.

II. FINDINGS OF FACT

A. Description of the Project

1. The proposed project involves the construction of a **100-seat** restaurant, a **100-bedroom** hotel, and 56 hotel suites located on a six-acre tract of land near Exit 16 of Interstate 89 in the Town of Colchester.
2. The Applicant Colchester Hotel Group (**CHG**) proposes to lease the six-acre lot from Co-applicant Ray Pecor, Jr.

3. The six-acre lot is part of a previously-approved industrial and commercial subdivision known as "The Meadows," which is located adjacent to and northerly of Interstate 89 and easterly of U.S. Routes 2 and 7 on the Colchester-Winooski boundary.
4. The site is bounded on the west by Route 7 and a residential lot with one house, on the north by Mountain View Road, on the east by undeveloped lots in the commercial and industrial subdivision, and on the south by the Interstate exit ramp right-of-way.

B. Criterion 1(E) (streams)

5. Stormwater runoff from the Interstate is conveyed by an existing drainageway and wetland area in a northwesterly direction through properties adjacent to the project site, across the northeast corner of the site for a distance of approximately 70 feet, enters a culvert under Mountain View Road and discharges into Sunderland Brook.
6. In the fall of 1987, the drainageway was cleaned of silt and debris and straightened to run in a direct line between the Interstate and the culvert. The relocation of the drainageway is depicted on Board Exhibit #43.
7. The proposed silt fence was relocated to the westerly side of the drainageway to provide better protection of the drainageway and wetland from silt runoff during construction. The silt fence, which will be installed prior to construction, allows liquids to pass through while solids are retained on the other side of the fence. The fence will be regularly inspected and maintained until construction is completed.
8. The disturbed area caused by construction activity will stop at a point approximately seven feet to the west of the drainageway.
9. The banks uphill of the drainageway and any disturbed area will be seeded and mulched and a concrete curb will intercept runoff and carry it to a detention pond.
10. All erosion control procedures will be implemented in accordance with the Vermont Handbook of Soil Erosion and Sediment Control on Construction Sites.
11. The Applicants received a discharge permit for the project's stormwater (Board Exhibit #11).

C. Criteria 5, 7, and 9(K)

12. The project will generate approximately 2,215 daily vehicle trips and 167 peak hour vehicle trips. Some of the vehicle trips will proceed south on Route 7 to and along Main Street in Winooski. The additional traffic generated by the project will increase the costs that Winooski needs to spend on maintenance and repair of Main Street.

D. Criterion 8 (aesthetics)

13. The project site slopes from the northwest to the southeast. The elevation ranges from 352 feet at the northwest corner and 336 feet at the southwest corner to 312 feet at the northeast and southeast corners and 306 feet along the drainageway and wetland at the easterly edge of the property. The average slope of the site is 6%.
14. The project will consist of three buildings: a restaurant, the main hotel, and hotel suites. The restaurant will be 100 feet long, 50 feet wide, with a maximum elevation from finished ground level of 27.5 feet to the roof peak. Each of the two angled ends of the hotel suite building will be 150 feet long, 70 feet wide, and 51 feet from the finished ground level to the roof peak. The main hotel building will be 315 feet long, 60 feet wide, and 51 feet from the finished ground level to the highest pitched roof peak. Because the buildings are stepped into the existing contours of the slope, the average elevation from the finished ground level to the roof peak will be 46.5 feet. The combined buildings will total 1.85 million cubic feet.
15. The exteriors of the buildings will consist of sloped roofs, horizontal siding, vertical accents, gables, balconies and dormers. The siding and roofs will be finished in brown earth tone colors.
16. Forty-seven percent of the site will be covered by buildings, parking areas, and amenities.
17. The principal lighting fixture proposed is a 250 watt high pressure sodium, Type III Distribution, sharp cutoff luminaires mounted on 20 foot high poles. Walkways will be lit by 3 foot high, 100 watt high pressure sodium, bollard lights. The parking areas will be lit by lighting intensity of 0.1 foot candles (Board Exhibit #7).

18. The dumpsters will be screened with wooden fencing.
19. The Applicants propose two signs: a free-standing 4' x 8' sign 10' high located adjacent to Routes 2 and 7, and an 8' x 12' signboard 10' high at the entrance to the hotel on Mountain View Road. Both signs will have a black background with back-lit yellow letters and will be lit from ground recessed lighting fixtures.
20. The existing vegetation on the site consists mostly of grasses and low growing vegetation. A row of planted spruce trees approximately 30 feet high runs along the length of the property line abutting the Interstate 89 exit ramp in the Vermont Agency of Transportation right-of-way.
21. The Applicants propose to implement an extensive landscaping plan which includes planting of trees and shrubs and the construction of berms. The landscaping is designed to conceal much of the ground plane and parking and service areas and to provide shade and ornamentation. The Applicants also propose to plant an additional row of 33 five to six foot spruce trees along the property line adjacent to the Interstate to supplement the existing row of spruces (Board Exhibits #7, 17, 25).
22. The minimum set-back of buildings from the Interstate right-of-way is 75 feet to the restaurant and 80 feet to the hotel suites. The distance from the restaurant to the travelled portion of Interstate 89 is 180 feet. The proposed buildings will be closer to the Interstate than any other buildings in the area.
23. The site is located at the northerly end of the urban Interstate corridor surrounding the Burlington metropolitan area. There are a number of commercial and industrial buildings and operations in the immediate area around Exit 16, including quarry and asphalt plant operations. The Meadows subdivision includes seven modern industrial facilities. A proposed commercial project south of the Interstate has recently been approved by Act 250.
24. Other commercial or industrial structures in the area range in size from .5 million cubic feet to 5.5 million cubic feet. Most of these are one-story metal buildings with shallow roof pitches.
25. The base elevation of most of the site is below the Interstate.

26. The proposed multi-storied hotel and hotel suite buildings are the tallest structures in the area.
27. The "water tower" hillside that rises above the project site on the opposite side of Route 7 at a considerably higher elevation creates a backdrop for the buildings when viewed from the southeast.
28. When travelling west on the Interstate toward Exit 16, motorists see a number of large structures of varied styles including the New England Telephone Company building, Lane Press, University Mall, Digital, South Burlington High School, Holiday Inn, the Sheraton, and the Medical Center and the University of Vermont in the distance.
29. The Town of Colchester has zoned the area around Exit 16 for commercial and industrial development.
30. The Board takes official notice of the Vermont Base Map, published by the Vermont Agency of Administration, Property Valuation and Review Board, Sheet No. 096220, Series 5,000, 1978. The Winooski and Colchester boundary is approximately 800 feet from the lower ramp of Exit 16. Mid-town Winooski is approximately 5100 feet from the exit.
31. Motorists travelling west on the Interstate will view the site for approximately 14 seconds. The primary view of the site will consist of the middle and upper parts and roofs of the buildings; the parking areas and ground-level improvements will not be visible.
32. Motorists travelling east on the Interstate will not face the project directly at any time and the view of the mountain range will remain uninterrupted.
33. The brief view of the mountain range to the east currently visible to motorists travelling north on Route 7 will be blocked by the project's buildings. The site will only be visible briefly when driving north.
34. The long-range view of the mountains will be briefly interrupted by the buildings before motorists travelling south on Routes 2 and 7 enter a major intersection.

III. CONCLUSIONS OF LAW

A. Criterion 1(E)

The Applicants have responded to the District Commission's concern that the wetland area be protected from runoff and erosion by improving the drainageway and moving the silt fence to intercept silt caused by construction activity. The Board concludes that the natural condition of the stream will therefore be maintained and that the health, safety and welfare of the public or adjoining landowners will not be endangered.

B. Criteria 5, 7, and 9(K)

Due to the proximity of the project site to the City of Winooski, the project could contribute significantly to increased traffic on Routes 2 and 7 in the City of Winooski. This increase in traffic will place a burden on Winooski's municipal services and threaten the public's investment in the roads by accelerating wear and tear and requiring Winooski to expend public funds to upgrade and maintain its roads, particularly Main Street.

In order to mitigate the burden on Winooski from the project, Colchester Hotel Group has entered into an agreement with Winooski which provides a payment of \$500. per year for annual maintenance and upgrading of Main Street. The Board will incorporate this agreement as a permit condition. The Board concludes that the Applicants have satisfied Criteria 5, 7, and 9(K) by alleviating any burden the project would create on the City of Winooski.

c. Criterion 8

When reviewing a project for compliance with Criterion 8 (aesthetics), the Board follows the protocol described in Re: Quechee Lakes Corporation, Land Use Permit #3W0411-EB and 3W0439-EB (November 4, 1985). The first step in the analysis is to-determine whether the visual impact of a project is "adverse." This requires the identification of the context of a proposed project and a determination of whether the project will fit into that context. The nature of the project's surroundings must be evaluated, and factors such as existing structures and land uses, topography, vegetation, and scenic values considered. The design of the project, including the compatibility of the architectural style of the buildings with other buildings in the area, the scale of the project and mass of the structures in relation to its surroundings, and the suitability of colors and

materials are further factors to evaluate. The location of the project in relation to the viewer and its duration are also important considerations. Finally, the impacts of the project upon open space or upon sensitive areas such as ridgelines, steep slopes, wetlands, and other natural areas must be addressed.

The Colchester Hotel project will be the largest development in the area of Exit 16 and will clearly have a significant visual impact on that area. The main hotel and the hotel suite buildings are massive, in terms of both height and length. Due to the drop in elevation from the Interstate to the site, much of the project will be visible to northbound motorists on the Interstate. Although 53% of the site will not be developed, the loss of visual open space will effectively be total because of the placement of the buildings and their proximity to the Interstate.

When the context of the project is examined, however, the Board must conclude that the visual impact is not adverse. The area around Exit 16 is certainly more suburban than rural. A number of metal commercial and industrial buildings exist near the site which are visible from the Interstate and when travelling north toward Colchester on Route 7. The business section of the City of Winooski is less than one mile south on Route 7, with a major intersection immediately south of the Interstate Exit. Extensive commercial development exists on Routes 7 and 2 between Exit 16 and the City of Winooski. Motorists travelling east on the Interstate pass a major gravel operation on their right before they approach the project site.

The elevation of Interstate 89 is sufficiently high that the view to the east is above the site and beyond the mountain range. When travelling west on the Interstate, the motorist will face the hotel buildings directly for only approximately 14 seconds. Were this development to occur in the midst of a scenic, rural area, even a **14-second** view could ruin the scenic beauty. However, motorists travelling west on the Interstate are just leaving a metropolitan area in which they passed a number of large commercial structures, some of which are quite close to the Interstate. The architecture of the hotel buildings, with their peaked roofs, dormers, and other detail, is visually compatible with building styles encountered along the Interstate corridor from the Richmond Exit. The type of project is also compatible with other development along this corridor **of the Interstate, which includes hotels, motels, shopping centers, industrial parks, commercial businesses, schools, and multi-unit residential dwellings.**

The open field that currently comprises the foreground of the view to motorists travelling north on Interstate 89 will be lost by the construction of this project. However, a cluster of buildings is already the predominant view of the middle ground, and the hill of trees that rises behind the site and comprises the background view will not be obscured because the elevation is significantly higher than the project site. The view of the mountain range visible to motorists travelling east on the Interstate also will not be obscured by the project.

The visual impression of massiveness of the project buildings has been alleviated by the careful design and placement of the buildings on the site. The project consists of several buildings terraced into the slope, following the natural terrain of the site. The architectural detailing alleviates the massiveness of the buildings through the use of dormers, balconies, peaked roofs, clapboard siding, and other trim. Moreover, the angling of the hotel buildings away from the Interstate helps to reduce the visual impression of mass and size. The earthtone brown colors of the buildings and extensive plantings will lessen the obtrusiveness of the development.

In summary, the Board concludes that this project, located in a suburban area, will not create an adverse visual impact. The hotel and restaurant complex will be compatible with the commercial context in which it will be located, and it has been designed to be more visually interesting than most of the existing development in the area. While the Board believes that protection of the scenic qualities of the Interstate is important, the scenic resources in the area of the proposed project are minimal due to the existing commercial and industrial development. The only sensitive area on or near the site is the wetland and the Applicants have proposed erosion control measures to protect the wetland. The hill to the west will create a backdrop for the project so that it will not be silhouetted against the skyline. Plantings will soften the visual impact of the buildings and screen the on-site improvements. The supplemental row of spruces the Applicants propose to plant along the Interstate right-of-way will provide a partial screening of the site. Based upon a collective analysis of these facts, the Board believes that the project fits into its surroundings and is therefore not adverse.

Because the Board concludes that the project's visual impact is not adverse, there is no need to address the second part of the Quechee test which requires an evaluation of whether an "adverse" impact is "undue."

IV. ISSUANCE OF LAND USE PERMIT

In accordance with these findings of fact and conclusions of law, the Board will issue Land Use Permit #4C0288-14-EB. The board hereby incorporates by reference those findings of fact and conclusions of law reached by the District Commission which were not appealed and which are not affected by this decision.

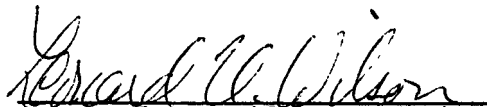
Based upon the foregoing findings of fact and conclusions of law the Board concludes that the project described in Land Use Permit Application #4C0288-14, if completed and maintained in accordance with all the terms and conditions of the application, the exhibits presented to the District Commission and the Board by the Applicants, and the conditions set forth in Land Use Permit #4C0288-14-EB, will not cause or result in a detriment to the public health, safety or general welfare under the Criteria set forth in 10 V.S.A. § 6086(a).

V. ORDER

Land Use Permit #4C0288-14-EB is hereby issued in accordance with the Findings of Fact and Conclusions of Law of the District Commission and of the Board herein. Jurisdiction over this matter is returned to the District #4 Environmental Commission.

Dated at Montpelier, Vermont this 21st day of April, 1988.

ENVIRONMENTAL BOARD


Leonard U. Wilson, Chairman
Ferdinand Bongartz
Lawrence H. Bruce, Jr.
Arthur Gibb
Samuel Lloyd

FF 4C0288-14-EB