

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

RE: Riverside Industrial
Condominiums
c/o Trapper Brown Corporation
RFD #3 - Box 93C
Plymouth, NH 03264

Findings of Fact and
Conclusions of Law
and Order
Land Use Permit
#4C0313-EB
Revocation Proceedings

On December 1, 1986, a request to commence revocation proceedings in the above matter was filed with the Environmental Board (Board) by the District #4 Environmental Commission (Commission). Land Use Permit #4C0313 as amended approved the construction and occupancy of a 99,750 square foot industrial building located off Elm Street in Winooski, Vermont. The Commission's request cites various violations of permit conditions that were intended to protect the Winooski Site, an important archeological site listed in the National Register of Historic Places.

On January 13, 1987, then Chairman Darby Bradley conducted a prehearing conference to identify what issues the Board would address if revocation proceedings were to go forward, the witnesses and exhibits the parties intended to produce, and what remedies the parties were seeking. The following parties participated in the prehearing conference:

Riverside Industrial Condominiums by Frederick Brown and Gregg Wilson, Esq.
City of Winooski by William Wargo, Esq.
Winooski Planning Commission by Rick Bonneau.
State of Vermont, Agency of Development and Community Affairs, Division of Historic Preservation, by Eric Gilbertson, Giovanna Peebles, Cindy Cook, and Stephen Sease, Esq.

In addition, Katherine Vose, then District Environmental Coordinator for District #4, attended on behalf of the Commission.

During the prehearing conference, it appeared that there was no substantial disagreement among the parties as to the facts and that at least one violation had occurred. The parties indicated that they would prefer to work toward a resolution that would ensure the integrity of the archeological site, rather than seek revocation of the permit. Therefore, proceedings on the revocation were suspended to allow the parties to negotiate a settlement.

On April 22, 1986, the Vermont Division of Historic Preservation filed a final report of settlement with the Environmental Board. On April 23, 1987, a notice of proposed settlement was sent by the Board to all parties.

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On April 27, 1987, the City of Winooski filed a letter accepting the settlement and on May 4, 1987, a statement of agreement was filed on behalf of Riverside Industrial Condominiums. No other responses were received. On December 9, 1987, the Board conducted a deliberative session -and adjourned the proceeding. This matter is now ready for decision.

Findings of Fact

1. Land Use Permit #4C0313 as amended authorizes the construction and occupancy of a 99,750 square foot industrial building located off Elm Street in Winooski, Vermont.
2. Since activity occurred at the site, it became apparent that an important archeological site, the Winooski Site, had been negatively affected by the development.
3. In order to ensure that the Winooski Site would not be disturbed further or destroyed by unauthorized use of heavy equipment or excavations, a barrier will be created.
4. Significant archeological deposits may also have been destroyed during the unauthorized use of equipment at the west end of the archeological site in late 1983.
5. On April 22, 1987, a Settlement Report was filed with the Board. This report is hereby incorporated in these findings. Generally the settlement requires: (a) The installation of a barrier between the development and archeological sites; (b) signs prohibiting excavation or ground disturbance of any kind at the archeological site; (c) payment by the Permittee for reprinting the Winooski Site booklet (Seasons of Prehistory); and (d) on-site discussions of future archeological assessment requirements prior to further development activities.
6. The District Commission has reviewed or will review all changes proposed for the site including the proposed barrier and signs.

Conclusions of Law

The Board concludes that the Settlement Agreement does not contravene the values which Act 250 is designed to protect. Therefore, the Board will accept the agreement and dismiss the revocation request.

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Order

The request to revoke Land Use Permit #4C0313 as amended is hereby dismissed and jurisdiction over this permit is returned to the District #4 Environmental Commission.

Dated at Montpelier, Vermont, this 10th day of December, 1987.

ENVIRONMENTAL BOARD



Jan S. Eastman, Acting Chairman

Lawrence H. Bruce, Jr.

Elizabeth Courtney

Arthur Gibb

Samuel Lloyd

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