

Vermont Natural Resources Board

Notice of Act 250 Jurisdictional Opinion

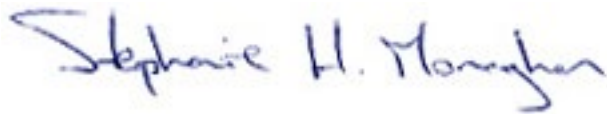
#4-269

On June 3, 2019, the District #4 Coordinator issued Act 250 Jurisdictional Opinion (“JO”) #4-269 pursuant to 10 V.S.A. 6007(c) and Act 250 Rule 3(C), in response to a request made on May 31, 2019 from Greg Dixon on behalf of Jeff Mongeon and Travis Fitzgerald. The Jurisdictional Opinion states that the Project consists of the demolition of three existing residences and outbuildings at 101 Main Street, 109 Main Street and 18 Mansion Street in Winooski, VT, and replacement with a four-story building that has two commercial spaces on the first/garage levels and 74 residential dwelling units on the first through fourth levels (“Mansion Street Apartments”). The JO also states that the Project, on its own, does not trigger jurisdiction as development because of its location in a Neighborhood Development Area and its status as a PHP. Furthermore, demolition of the contemplated structures located at 101 Main Street and 18 Mansion Street has been adequately addressed through review by the Vermont Division for Historic Preservation. Finally, under 10 VSA § 6001(3)(A)(I)(ff), demolition of 109 Main Street has been adequately mitigated through a signed Memorandum of Agreement, dated May 14, 2019, setting forth a procedure by which to address the loss of the historic structure under Criterion 8. Overall, the proposed project does not trigger Act 250 jurisdiction.

Copies of this jurisdictional opinion have been served on all persons specified in 10 V.S.A. 6007(c) and Act 250 Rule 3(C). A copy of the jurisdictional opinion may be obtained by contacting the District Coordinator at the address/telephone number below. Reconsideration requests are governed by Act 250 Rule 3(C)(2) and should be directed to the District Coordinator at the address listed below.

Any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 and the 5% surcharge required by 32 V.S.A. § 1434a(a), which is \$262.50. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Dated at Essex Junction, Vermont this 3rd day of June, 2019.



Stephanie H. Monaghan, District Coordinator
District #4 Commission
111 West Street
Essex Junction, VT 05452
802-879-5662
stephanie.monaghan@vermont.gov

Natural Resources Board
111 West Street
Essex Jct., VT 05452
Act 250 Jurisdictional Opinion
#4-269

This is a Jurisdictional Opinion based upon available information and a written request from the Landowner/Agent or Other Person. Any Notified Person or entity will be bound by this opinion unless that person or entity files a request for reconsideration with the District Coordinator (10 V.S.A. § 6007 (c) and Act 250 Rule 3 (b)) or an Appeal with the SUPERIOR COURT, Environmental Division within 30 days of the issuance of this opinion

☒ I hereby request a jurisdictional opinion from the District Coordinator or Assistant District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below: **Greg Dixon, P.E., Krebs & Lansing, 164 Main Street, Suite 201, Colchester, VT 05446**

Project Description:

Demolition of three existing residences and outbuildings at 101 Main Street, 109 Main Street and 18 Mansion Street in Winooski, VT, and replacement with a four-story building that has two commercial spaces on the first/garage levels and 74 residential dwelling units on the first through fourth levels ("Mansion Street Apartments"). The project is a Priority Housing Project ("PHP") with at least 20% of the units designated as affordable housing.

On March 8, 2019, District #4 Coordinator issued a Project Review Sheet stating the following: "The proposed project is a PHP that is located in a Neighborhood Development Area. The demolition of the 3 existing residences and associated outbuildings has been reviewed by Vermont Division for Historic Preservation for both historic structures/resources and potential archeological sites. DHP signed off on the Project. In addition, the structures were examined for evidence of bat colonies – none were found. The proposed project does not constitute development under Act 250 Rule 2."

Demolition of the existing buildings was reviewed with the Vermont Division for Historic Preservation (VTDHP). James Duggan, VTDHP Senior Coordinator, visited the site and evaluated the buildings' condition. VTDHP then reviewed the impacts to historic buildings/structures, historic districts, historic landscapes/settings, and known or potential archeological resources. They found that none of the structures on site are eligible for historical consideration. The developer then went through the process of removing 109 Main Street from the Vermont State Register of Historic Buildings. The project hired UVM CAP program to evaluate the land for archeological significance. UVM CAP determined the proposed project area has been disturbed by historic activities and is unlikely to contain important intact archeological sites. With this information, VTDHP recommended that there will be no historic resources affected by this project.

Due to a clerical error by the Vermont Division for Historic Preservation, the removal of 109 Main Street from the State Register of Historic Buildings was rescinded. The Vermont Advisory Council on Historic Preservation met again on May 9, 2019 to discuss the building's removal from the register. The Council changed its decision and re-listed 109 Main Street on the Vermont State Register of Historic Buildings. The developer has worked with VTDHP to generate a Memorandum of Agreement (MOA), outlining a procedure to demolish 109 Main Street while mitigating the undue adverse impact to Criterion 8.

Existing act 250 permit: **No Act 250 found**

Project Type: ☐ Commercial ☐ Residential ☐ Municipal/State ☒ Mixed

AN ACT 250 PERMIT IS REQUIRED: ☐ YES ☒ NO

BASIS FOR DECISION:

The proposed project is a PHP that is located in a Neighborhood Development Area. The demolition of the 3 existing residences and associated outbuildings has been reviewed by Vermont Division for Historic Preservation for both historic structures/resources and potential archeological sites. The VTDHP signed off on the structures located at 101 Main Street and 18 Mansion Street. The structure located at 109 Main Street is listed on the State Register of Historic Places and required further review. The developer and the VTDHP entered into a Memorandum of Agreement (“MOA”) outlining a procedure by which to demolish 109 Main Street while mitigating any adverse effect under Criterion 8. Pursuant to 10 VSA § 6001(3)(A)(I)(ff), “...demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated.”

In this case, the Project, on its own, does not trigger jurisdiction as development because of its location in a Neighborhood Development Area and its status as a PHP. Furthermore, demolition of the contemplated structures located at 101 Main Street and 18 Mansion Street has been adequately addressed through review by the VTDHP. Finally, demolition of 109 Main Street has been adequately mitigated through a signed MOA, dated May 14, 2019, setting forth a procedure by which to address the loss of the historic structure under Criterion 8.

Overall, the proposed project does not trigger Act 250 jurisdiction.

SIGNATURE: 

DATE: **June 3, 2019** ADDRESS:

Stephanie H. Monaghan, District Coordinator
stephanie.monaghan@vermont.gov

Environmental Commission District #4
111 West Street, Essex Junction, VT 05452
Telephone: (802)879-5662

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(B). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. As of May 31, 2016, with the passage of Act 150, Act 250 Rule 3(C) (Reconsideration by the Board) is no longer in effect. Instead, any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 which is \$295.00. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

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CERTIFICATE OF SERVICE

I hereby certify on this 3rd day of June 2019, a copy of the foregoing JURISDICTIONAL OPINION #4-269 for GREG DIXSON, ON BEHALF OF JEFF MONGEON AND TRAVIS FITZGERALD, RE MANSION STREET APARTMENTS - 101 MAIN STREET, 109 MAIN STREET AND 18 MANSION STREET, WINOOSKI, VT, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to NRB.Act250Essex@vermont.gov

Jeff Mongeon/Travis Fitzgerald
c/o Greg Dixon, P.E.
Krebs & Lansing
164 Main Street, Suite 201
Colchester, VT 05446
greg.dixon@krebsandlansing.com

Chair, Selectboard/Chair, Planning Commission
City of Winooski
27 West Allen Street
Winooski, VT 05404
cjbarrett@winooski.vt.org

Chittenden County Regional Planning Commission
c/o Charlie Baker, Exec. Dir.
Regina Mahony, Planning Program Manager
110 West Canal Street, Suite 202
Winooski, VT 05404
permitting@ccrpcvt.org

Elizabeth Lord, Land Use Attorney
Agency of Natural Resources
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Montpelier, VT 05602-3901
ANR.Act250@vermont.gov

Barry Murphy/Vt. Dept. of Public Service
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Montpelier, VT 05620-2601
barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov

Craig Keller/John Gruchacz/Jeff Ramsey/C. Clow
VTrans Policy, Planning & Research Bureau
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AOT.Act250@vermont.gov

Vt. Agency of Agriculture, Food & Markets
116 State Street, Drawer 20
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Division for Historic Preservation
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scott.dillon@vermont.gov; james.duggan@vermont.gov
ACCD.ProjectReview@vermont.gov

Seven Days/Classified Ad Section
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Diane Snelling, Chair
Donna Barlow Casey, Executive Director
Greg Boulbol, General Counsel
Evan Meenan, Associate General Counsel
Natural Resources Board
10 Baldwin Street
Montpelier, VT 05633-3201

ADJOINING LANDOWNERS/INTERESTED PARTIES

Available via:
https://anrweb.vt.gov/PubDocs/ANR/Planning/JO%204-269/Mansion-Street-Apartments_Abutters-List_REV_5-31-19.pdf

Dated at Essex Junction, Vermont, this 3rd day of June, 2019.



Jessica Mason
Natural Resources Board Technician
802-879-5614
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FOR YOUR INFORMATION

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452