

State of Vermont
NATURAL RESOURCES BOARD
DISTRICT 6 ENVIRONMENTAL COMMISSION
10 Baldwin Street, Montpelier, Vermont 05602

Act 250 Jurisdictional Opinion

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 regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below: Sam Ruggiano, P.E., Ruggiano Engineering, Inc., 5 Lake Street, St. Albans, VT 05478.

PROJECT DESCRIPTION:

On March 3rd, 2014, Mr. Ellsworth Moore, Landowner, subdivided one ±100-acre lot off Bachand Road in Swanton, Vermont into four building lots and one deferred lot. On September 16th, 2016, Mr. Moore subdivided original Lot #4 into four new lots. On March 27th, 2019, Mr. Moore met with the District 6 Coordinator seeking a determination regarding whether subdividing an additional six lots will trigger Act 250 jurisdiction and require an Act 250 Permit.

Existing Act 250 permit: There is no existing Act 250 Permit on the subject property.

Project Type: ☐ Commercial ☒ Residential ☐ Municipal/State ☐ Mixed
 ☐ Agriculture ☐ Silviculture ☐ Other

Has the landowner subdivided before? ☒ Yes ☐ No ☐ N/A

AN ACT 250 PERMIT IS REQUIRED: ☐ YES ☒ NO

BASIS FOR DECISION:

The sections of the statute which govern this analysis are 10 V.S.A. §§ 6001(19) & 6081(a). Taken together, these provisions state that if a "person" subdivides 10 or more lots within a radius of five miles of any point on any subdivided lot, or within the same jurisdictional area of the same District Commission, and within any continuous period of five years, an Act 250 permit is required. To make the requested determination, it is necessary to identify Mr. Moore's total "lot count" as of March 27th, 2019.

Following Mr. Moore's first subdivision on March 3rd, 2014, his lot count was five and this was also the point at which the "continuous period of five years" began. Following the second subdivision of September 16th 2016, three new lots were created for a total lot count of eight. As of March 4th, 2019, the first five subdivided lots can be removed from the total lot count, reducing Mr. Moore's lot count down to three. Therefore, if Mr. Moore subdivides an additional six lots as proposed, jurisdiction will not be triggered and an Act 250 permit will not be required. Should Mr. Moore then subdivide an additional lot on or before September 16th, 2021, an Act 250 permit will be required for the 10th subdivided lot and each additional subdivided lot thereafter. Beginning on September 17th, 2021, Mr. Moore's total lot count will decrease to six total lots.

Dated at Essex Junction, Vermont this 4th day of April 2019.



BY: _____
Josh Donabedian, District Coordinator
District #6 Commission
10 Baldwin Street, Montpelier, VT 05602
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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.