

State of Vermont
NATURAL RESOURCES BOARD
DISTRICT 7 ENVIRONMENTAL COMMISSION

374 Emerson Falls Road, Suite 4 - St. Johnsbury - Vermont 05819-2099

RE: Highland Center for the Arts Trust, LTD Application #7R1359-1
P.O. Box 25 **FINDINGS OF FACT AND**
Greensboro, VT 05841 **CONCLUSIONS OF LAW**
10 V.S.A. §§ 6001-6093 (Act 250)

I. INTRODUCTION

On August 11, 2016, Highland Center for the Arts Trust, LTD filed application #7R1359-1 for a project described as revisions to the ± 26,000 square foot performing arts complex located at 2875 Hardwick Street, in Greensboro, VT (for which permit #7R1359 was previously issued to the Greensboro Arts Alliance and Residency). The arts complex was under construction when the #7R1359-1 application was filed. The #7R1359-1 project includes changes to architectural design, hours of operation, café and theater occupancy, roof line, roof colors, and sign. The Applicant's legal interest is ownership of the ± 109 acre tract identified in a deed recorded in the land records of Greensboro, Vermont (Book 54, Pages 491-494).

The Commission held a hearing on this application on September 15, 2016, and also conducted a site visit on this date. At the end of the hearing, the Commission recessed the proceeding pending the submittal of additional information. The Commission adjourned the hearing on June 20, 2017 after receipt of the additional information, an opportunity for parties to respond to that information, and the completion of Commission deliberations.

As set forth below, the Commission finds that the Project complies with 10 V.S.A. § 6086(a) (Act 250).

II. JURISDICTION

Jurisdiction attaches because the Project is a material change to a permitted development or subdivision, and thus requires a permit amendment pursuant to Act 250 Rule 34.

III. AMENDMENT APPLICATION – RULE 34(E)

The threshold question on an amendment application is “whether the applicant proposes to amend a permit condition that was included to resolve an issue critical to the issuance of the permit.” Act 250 Rule 34(E)(1).

In this application, the applicant does not seek to amend such a critical permit condition, so the Commission may consider the merits of the amendment application without conducting the rest of the Rule 34(E) analysis.

IV. PARTY STATUS AND FRIENDS OF THE COMMISSION

A. Parties by Right

Parties by right to this application pursuant to 10 V.S.A. § 6085(c)(1)(A)-(D) who attended the hearing are:

- (i) The Applicants, by Robert Halpert, Ted Donlon, Mr. MacNeil, and Krissie Ohlrogge

B. Interested Parties

Any person who has a particularized interest protected by Act 250 that may be affected by an act or decision of the Commission is also entitled to party status. 10 V.S.A. § 6085(c)(1)(E).

i. Preliminary Party Status Determinations

Pursuant to Act 250 Rule 14(E), the District Commission made preliminary determinations concerning party status at the commencement of the hearing on this application. The following persons requested party status pursuant to 10 V.S.A. § 6085(c)(1)(E), and were either admitted as parties or denied party status, as indicated below:

- (ii) William B. Niemi. Admitted under criterion 8 aesthetics and scenic beauty

ii. Final Party Status Determinations

Prior to the close of hearings, the District Commission re-examined the preliminary party status determinations in accordance with 10 V.S.A. § 6086(c)(6) and Act 250 Rule 14(E) and found no reason to change its preliminary determination.

C. Friends of the Commission

The District Commission allowed the following nonparties to participate as Friends of the Commission pursuant to 10 V.S.A. § 6085(c)(5). Unless otherwise noted below, each was granted the rights of full participation allowed under 10 V.S.A. § 6085(c)(5):

- (iii) Sheila Dillon
- (iv) Christine Armstrong
- (v) The Niemi Trust, by William Niemi Jr. (also known as Brian Niemi).
- (vi) Rusty Newhouse
- (vii) Ellen Celnik
- (viii) Lisa Armstrong

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicant has met the burden of proving compliance with the following criteria through submittal of the application:

- | | |
|---------------------------|-------------------|
| 1 - Air Pollution | 1(D) - Floodways |
| Water Pollution | 1(E) - Streams |
| 1(A) - Headwaters | 1(F) - Shorelines |
| 1(B) - Waste Disposal | 1(G) - Wetlands |
| 1(C) - Water Conservation | 2 - Water Supply |

3 - Impact on Existing Water Supplies	9(D) - Earth Resources
4 - Soil Erosion	9(E) - Extraction of Earth Resources
5 - Transportation	9(F) - Energy Conservation
6 - Educational Services	9(G) - Private Utility Services
7 - Municipal Services	9(H) - Costs of Scattered Development
8 – Natural Areas	9(J) - Public Utility Services
8 – Historic Sites	9(K) - Effects on Public Investments
8(A) - Wildlife Habitat & Endangered Species	9(L) – Settlement Patterns
9(A) - Impact of Growth	10 - Local and Regional Plans
9(B) - Agricultural Soils	
9(C) - Productive Forest Soils	

Therefore, the application shall serve as the Findings of Fact on these criteria.

The findings of fact are based on the application, Exhibits # 1 -21, and other evidence in the record. Findings made in this decision are not limited to the specific criterion in which they appear, and may apply to other sections of the decision. To the extent that any proposed findings of fact are included in this decision, they are granted; otherwise, they are denied.

Under Act 250, projects are reviewed for compliance with the ten criteria of Act 250, 10 V.S.A. § 6086(a)(1)-(10). Before granting a permit, the District Commission must find that the Project complies with these criteria and, therefore, is not detrimental to the public health, safety or general welfare. The burden of proof under Criteria 1 through 4 and 9 and 10 is on the applicant, and on the opponent under Criteria 5 through 8, and 9A if the municipality does not have a duly adopted capital improvement program.

Criterion 8 - Aesthetics

Findings of Fact

Aesthetics, Scenic or Natural Beauty

1. The Project consists of revisions to the ± 26,000 square foot performing arts complex located at 2875 Hardwick Street, in Greensboro, VT, for which permit #7R1359 was previously issued, around 24 months prior to issuance of this decision (July 2015), and following a 2015 pre-construction site visit and hearing. Reference is made to the #7R1359 decision which includes a detailed Criterion 8 analysis, and substantial additional Findings of Fact and permit conditions which remain in effect.
2. The arts complex was under construction at the time of #7R1359-1 application was filed. The partially constructed #7R1359 arts complex project, including the partially completed subject #7R1359-1 Project, was toured and viewed as a component of the site visit, and appeared to be nearing completion.
3. The #7R1359-1 Project includes changes to architectural design, hours of operation, café occupancy, roof line, roof colors, and exterior signage.
4. A portion of the Project involves operational changes (hours of operation, café and theater occupancy), and a portion involves physical changes – architectural design, roof line, roof colors, exterior sign). All of the Project changes involve potential aesthetic impacts, as such the Commission is evaluating all of the changes under Criterion 8.

5. Some of the physical changes had already been constructed at the time of the Commission's site visit, as further noted below; the fact that construction of certain items had been completed provided a helpful opportunity for the Commission to readily view and evaluate important "as-built" conditions within the rural project setting.
6. The proposed colonial red roof color is a relatively prominent color, and contrasts against the other building finish colors, significantly increasing the overall aesthetic impact of the arts complex, as viewed by the Commission during its site visit. The Applicant believes that the red color suggests a rural barn look, however in rural Vermont, roofing materials are not red (barn siding is often red, but roofing is not). The "galvanized" color roofing material used for other roof areas, while not necessarily the most aesthetically pleasing option, is nonetheless a commonly found finish material and color that the Commission finds reasonably compatible with the rural setting.
7. The additional dark brown timbers placed at elevation on the silo contrast sharply with the underlying light silo siding color, thereby increasing the overall visual impact of the silo, as viewed by the Commission during its site visit. A smaller number of contrasting timbers are part of the previously approved #7R1359 arts complex project design. The Applicant has proposed to modify the color of all of the timbers (original #7R1359 timbers, and the additional #7R1359-1 timbers) to a specific cypress moss color. This color change would eliminate the dark brown timber color, thereby substantially reducing the color contrast effect, and thereby substantially reducing the visual impact of this component of the Project.
8. The building siding has changed from a more traditional looking horizontal type, to vertical, and this has also changed and/or increased the cumulative aesthetic impact of the arts complex.
9. Specific view points of concern have been identified, and the Commission directed the Applicant to develop a revised and more robust landscaping plan to screen and / or substantially visually buffer the Project as viewed from the specific identified view points. The identified viewpoints of concern correspond to the location of a stopped vehicle travelling south on Lakeshore Road and reaching its intersection with Center Road (from where there is a prominent view of the Project), and the viewpoint of travelers on Center Road.
10. Use of landscaping to mitigate the colonial red roof color is very challenging due to the height and prominent color involved, and inclusion of carefully selected and planned fast-growing softwoods is critical to the success. A substantial blend of large tree types, and some shrubs, to include mostly fast growing softwood trees, densely dispersed along the road, and where strategically effective in the open areas of land between the view points and the project, to create the appearance of a naturalized forested area, should substantially improve the aesthetics from the identified viewpoints, and from where it is reasonable to expect that some glimpses of the building could or would be experienced through the vegetation, at times, and certainly prior to vegetation maturity.
11. The Applicant provided a landscaping plan, or "Visual Mitigation Plan", including renderings of the projected views, with the landscaping, that are expected to occur at time of planting, and at years 5, 10, and 20 following installation. The Applicant also depicted winter conditions which existed as of March 2017. The renderings of the

projected views show that, with plant maturity, the landscaping should provide a satisfactory visual buffer from the view points of concern. There is one specific area which may benefit from additional planting, as follows: the constructed walking path between the arts center and Center Road (in proximity of its intersection with Lakeshore Road) establishes an unplanted visual opening; this occurs in a critical area where drivers of cars stopped at the nearby intersection may have a direct line of sight to the red roof. The Applicant rightfully points out that the walking path was depicted on the plans reviewed and approved under #7R1259; however, the red roof was not – as such, the aesthetic impact of the red roof within the nearby conditions and landscape (including the visual opening of the walking path) is subject to evaluation as a component of the subject application. The Commission believes that additional plantings along the walking path may be needed, and suggests extending the proposed nearby planting to the opposing side of the walking path, thereby minimizing the degree of visual opening created by the path.*

The Commission will include the following condition in its permit, and will also require completion of the supplemental landscaping by October 15, 2017 (unless an extension is granted in writing:

The Permittee shall notify the District Commission following completion of the landscaping component of the Project. The notification shall be in writing and shall be submitted within 15 days of completion. Thereafter, Permittee shall submit a written report 3 years after completion of landscaping, 6 years after completion of landscaping, and 10 years after completion of landscaping. These reports shall include photographs taken from the identified viewpoints, shall document plant survival, mortality, and replacement of failed plantings. The District Commission reserves the right to schedule hearings and site inspections to review conditions, and to evaluate and impose additional conditions under Criterion 8, as it deems necessary to ensure visual buffering of the Project from the identified viewpoints, and particularly as viewed from the intersection of Center Road and Lakeshore Road.

12. Concerning operating hours, the Commission previously found, in part, as follows, as a component of previous application #7R1359 for the arts complex:

The operating hours of the Project will be 8:00 AM to 10:30 PM for its entire public use (including the use of the rehearsal studios, café, and any performances). Any activities occurring outside of these hours will not be public, would be limited and exclusive to support staff, and would thus be minimal in scope and impact (e.g., a janitor coming in at 7:00 AM to clean).

Outdoor events will be conducted between the hours of 8:00 AM and 9:30 PM. "Construction" work occurring as a component of operations (scenic shop, tent erection) will take place between 9:00AM and 6:00 PM only.

The District Commission reserves the right to evaluate and impose additional conditions with respect to Criterion 1 Air Pollution and Criterion 8 Aesthetics, as it relates to noise emissions, including but not limited to hours of operation. The District Commission reserves this right for a period of time commencing with the issuance of this permit and expiring five (5) years from the date of issuance of this Permit. [condition number 22, permit #7R1359]

13. The Project proposes to expand the operating hours to 7 AM to 12 PM (midnight). The requested 7 AM opening represents a time of day when most or many people are awake, and the expanded hour of AM operations (7 AM to 8 AM) should not be unduly disruptive or adverse to the rural setting, in terms of potential for additional related impacts from noise, traffic, etc. The expansion of operations into the late evening, i.e. the requested additional operating hours (10:30 PM to 12 PM midnight), has potential to unreasonably disrupt the rural late night tranquility of the area, e.g. with later night-time noise emanating directly from the Project site, or otherwise created off-site via additional traffic, and light pollution from vehicle headlights along otherwise quiet rural roads. Information distributed locally to renters of property in Greensboro (e.g. vacation renters) instructs these occupants to maintain quiet hours commencing at 10 PM. In response to concern from some parties about noise attributable to the requested expanded PM hours of operation, and impact on the rural character of the area, at the hearing the Applicant modified the requested PM hours of operation to exclude café operations, i.e. the café would close at 10:30 PM per the existing hours of operation; the Applicant further explained that the PM extended hours request is related to show time start and duration, with some shows commencing at 7 PM and others commencing at 8 PM. Due to the additional impacts from noise, traffic, and light, in the rural setting, attributable to late night operations, the Commission finds that the full requested extended PM operations may generate unduly adverse impacts, and thus will limit, by permit condition, the number of events with fully extended PM hours to ONE monthly (with all other remaining activities and operations to cease by 11 PM in lieu of the currently permitted 10:30 PM). The Commission expects this will ensure reasonable aesthetic impacts, as might otherwise also occur occasionally from other properties in the rural setting, e.g. individuals hosting an evening wedding or special party. The Commission will include the following updated conditions in its permit, governing hours of operation, with the right to further evaluate hours of operation, e.g. in response to a request or information received from a Party, for a period of ten (10) years:

The operating hours of the Project will be 7:00 AM to 11:00 PM for its entire public use (including the use of the rehearsal studios, and any performances), excepting that (a) operating hours may be extended to 12 PM midnight not more than ONCE monthly and (b) the café shall always close by 10:30 PM. Any outdoor events shall be conducted between the hours of 8:00 AM and 9:30 PM. "Construction" work occurring as a component of operations (scenic shop, tent erection) shall take place between 9:00 AM and 6:00 PM only. Any activities occurring outside of these hours will not be public, will be limited and exclusive to support staff, and will be minimal in scope and impact (e.g., a janitor coming in at 6:30 AM to clean).

The District Commission reserves the right to schedule hearings and site inspections to review conditions, and to evaluate and impose additional conditions with respect to Criterion 1 Air Pollution and Criterion 8 Aesthetics, as it deems necessary, and as it relates to noise emissions and other aesthetic impacts attributable to hours of operation. The District Commission reserves this right for a period of time commencing with the issuance of this permit and expiring ten (10) years from the date of issuance of this Permit.

14. The wastewater and potable water supply permit was amended for the project on April 20, 2016 (WW-7-2404-2). This amended WW permit revised the design flow use allocation for the restaurant to operate as a 40 seat restaurant (from the previous 25 seat restaurant with 50 seats on occasion). Also, the amended WW permit reduces the

number of folding chairs from 130 to 29 chairs which could be brought into the theater on days that the café is open with 40 seats available.

15. The Project does not violate any clear written community standard.
16. The proposed revised design for the exterior signage uses natural materials and is not unreasonably large or out of character with the area.

Conclusions of Law

Prior to granting a permit, the Commission must find that the project under Criterion 8 "will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas." 10 V.S.A. § 6086(a)(8). This Project involves concerns under Criterion 8 related to aesthetics and noise.

AESTHETICS and NATURAL AND SCENIC BEAUTY

The Commission uses a two-part test to determine whether a Project meets the portion of Criterion 8 relating to aesthetics and natural and scenic beauty. First, it determines whether the Project will have an adverse effect. Second, it determines whether the adverse effect, if any, is undue. In re Rinkers, Inc., No. 302-12-08 Vtec, Decision and Order at 12 (Vt. Envtl. Ct. May 17, 2010)(citations omitted); see also, Re: Quechee Lakes Corporation, #3W0411-EB and #3W0439-EB, Findings of Fact, Conclusions of Law, and Order at 18-20 (Vt. Envtl. Bd. Nov. 4, 1985); In re Halnon, 174 Vt. 514 (mem.)(applying Quechee test in Section 248 context).

The burden of proof under Criterion 8 is on any party opposing the Project, 10 V.S.A. § 6088(b), but the Applicant must provide sufficient information for the Commission to make affirmative findings. In re Rinkers, No. 302-12-08 Vtec, Decision and Order at 10-11 (Vt. Envtl. Ct. May 17, 2010)(citing Re: Susan Dollenmaier, #3W0125-5-EB, Findings, Conclusions and Order at 8 (Vt. Envtl. Bd. Feb. 7, 2005); In re Eastview at Middlebury, Inc., No. 256-11-06 Vtec, slip op. at 5 (Vt. Envtl. Ct. Feb. 15, 2008), aff'd, 2009 VT 98. "Either party's burden, however, may be satisfied by evidence introduced by any of the parties or witnesses . . ." In re McShinsky, 153 Vt. 586, 589 (1990) (quoting In re Quechee Lakes Corp., 154 Vt. 543, 553-54 (1990)).

1. Adverse Effect

To determine whether the Project will have an adverse aesthetic effect, the Commission looks to whether the Project will "fit" the context in which it will be located. In making this evaluation, the Commission examines a number of specific factors, including: the nature of the project's surroundings; the compatibility of the project's design with those surroundings; the suitability of the colors and materials selected for the project; the locations from which the project can be viewed; and the potential impact of the project on open space. Quechee Lakes Corp et al. #3W0411-EB and #3W0439-EB Findings of Fact, Conclusions of Law and Order at 18 (Vt. Envtl. Bd., Nov. 4, 1985)(cited in Rinkers, No. 302-12-08 Vtec, Decision and Order at 12-13).

The Project is in a rural area characterized by open space farm land, and municipal uses, at the "outskirt" of the small village center of Greensboro. As identified in the #7R1359 decision, the architectural design and scope of the arts complex improvements are relatively substantial and unique, and the use is not commonly found in the project area. The #7R1359-1 Project architectural design changes, notably the colonial red roof, increase this effect. With the use of cypress moss color in lieu of dark brown, the additional wooden timbers on the silo are not a

substantial aesthetic change in terms of the visual impact as viewed from the identified viewpoints.

Although the design includes substantive landscaping to reduce its aesthetic impact from identified view points along public roadways, the Project is not necessarily compatible with its more traditional rural Vermont surroundings, and may thus have an adverse aesthetic impact (particularly in the short term before landscaping matures). Accordingly, we will determine whether the potentially adverse impact is undue. *

* Dissenting opinion of Keith Johnson:

The scope of included landscaping exceeds that needed to ensure that the Project (including the red roof color), will not adversely impact the aesthetic character of the area. Some landscaping is warranted to soften the visual effect of the Project, but the total scope of included substantive landscaping, and monitoring with reporting (via permit condition), are unnecessary to avoid an adverse impact. Also, the existing visual "opening" created by the previously permitted walking path (in vicinity of the intersection of Lakeshore Road and Center Road) is not problematic. It is noted that the large municipal fire station located nearby also features a red color.

2. Undue Adverse Effect

An adverse aesthetic impact is undue if any of the following is true: (1) the Project violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area; (2) the Project offends the sensibilities of the average person, or is offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area; or (3) the Applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the Project with its surroundings. In re Rinkers, 302-12-08 Vtec, Decision and Order at 15 (May 22, 2010)(citing In re: Times & Seasons, LLC, 2008 VT 7, ¶ 8; In re McShinsky, 153 Vt. at 592).

(a) Clear, Written Community Standard

In evaluating whether a project violates a clear written community standard, the Commission looks to town plans, open land studies, and other municipal documents to discern whether a clear, written community standard exists to be applied in review of aesthetic impacts of a project. Hannaford Brothers Co. and Southland Enterprises, Inc., #4C0238-5-EB, Findings of Fact, Conclusions of Law, and Order at 18 (Vt. Envtl. Bd. 4/9/02). A clear, written community standard must be intended to preserve the aesthetics or scenic beauty of the area where the project is located. Re: Green Meadows Center, LLC, The Community Alliance and Southeastern Vermont Community Action, #2WO694-I-EB, Findings of Fact, Conclusions of Law, and Order at 36 (Vt. Envtl. Bd. 12/21/00).

A plan which states "consideration should be made . . ." is not a clear, written community standard. Barre Granite Quarries, LLC and William and Margaret Dyott, #7C1079(Revised)-EB, Findings of Fact, Conclusions of Law, and Order at 81 (Vt. Envtl. Bd. Dec. 8, 2000). Although the proposed Project does not meet the specific goals or objectives cited above there are no clear community standards relevant to the proposed Project's impacts on aesthetics.

The relevant portions of the 2012 Greensboro Town Plan were reviewed as a component of the #7R1359 application, and the Commission did not receive any substantive demonstration of

non-conformance of the current Project (physical changes, operational changes) with the Town Plan. The Commission concludes that the proposed Project does not violate a clear community standard.

(b) Offensive or Shocking Character

Criterion 8 "was not intended to prevent all change to the landscape of Vermont or to guarantee that the view a person sees from their property will remain the same forever." Re: Okemo Mountain, Inc. #2S0351-S-EB Findings of Fact, Conclusions of Law, and Order (Dec. 18, 1986). Criterion 8 was intended to ensure that as development occurs, reasonable consideration will be given to visual impacts on neighboring landowners, the local community, and on the special scenic resources of Vermont. Rinkers, No. 302-12-08 Vtec, Decision and Order at 11-12; Horizon Development Corp., #4C0841-EB, Findings of Fact, Conclusions of Law, and Order (Vt. Env'tl. Bd. Aug. 21, 1992).

In consideration of the Project's rural setting, and the visual impact of the Project, as detailed in the Findings above, we find that the Project may shock or offend some persons, but will not be offensive to the average person, with the inclusion of robust and monitored landscaping; the Project is visible from public roadways, however the design provides substantive landscaping which, with maturity and monitoring, will provide substantial and reasonable visual buffering. The Commission will ensure that the landscaping is effective, through monitoring at 3, 6, and 10 years following initial planting, and as further described in the Commission's findings.

Given all of these considerations and conditions, we find that the Project is not offensive or shocking.

(c) Generally Available Mitigating steps

The question under this factor of the aesthetics analysis is whether the Applicants have "failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings." In re Times & Seasons, 2008 VT 7, ¶ 8. If a project does have an adverse aesthetic effect, the Applicants must "take generally available mitigating steps to reduce the negative aesthetic impact of a particular project," otherwise, "[f]ailure to take advantage of available alternatives may render an aesthetic impact unduly adverse." In re Stokes Communications Corp., 164 Vt. 30, 39 (1995)(quoted in In re Rinkers, 302-12-08 Vtec, Decision and Order at 19 (May 22, 2010). A generally available mitigating step "is one that is reasonably feasible and does not frustrate [either] the project's purpose or Act 250's goals."

To mitigate the aesthetic impacts of the Project, the Applicant has modified the color of a design element (dark brown contrasting timbers to be instead a far less contrasting cypress moss), have included substantive landscaping to screen or buffer the project as viewed from identified view points along public roadways, and will operate within reasonable and compatible hours of operation as more specifically defined in the Commission's findings above. Given all of these considerations, we find that the Applicants have taken the available mitigating steps to minimize the adverse impacts of the proposed Project on the scenic or natural beauty of the area.

(d) Conclusion

Based on the above, the Commission concludes that the Project will not have an undue adverse effect on the aesthetics or natural and scenic beauty of the area. The Project complies with Criterion 8 - aesthetics.

V. SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes that the Project, if completed and maintained as represented in the application and other representations of the Applicants, and in accordance with in the findings and conclusions of this decision and the conditions of Land Use Permit #7R1359-1, will comply with the Act 250 criteria. 10 V.S.A. § 6086(a).

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #7R1359-1 is hereby issued.

DATED at St. Johnsbury, Vermont, this 30th day of June, 2017.

By /s/ Eugene Reid
Eugene Reid, Chair
District #7 Environmental Commission

Commissioners participating in this decision:

Keith Johnson, Nicole Davignon

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division 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 \$265.00 entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Dewey Building, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing by the district commission was requested. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k).

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 828-1660. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.