



**ACT 250 JURISDICTIONAL OPINION
JO 9-089**

State of Vermont
Natural Resources Board
District 9 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201
<https://nrb.vermont.gov/>

[phone] 802-476-0185

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 or an appeal with the Superior Court, Environmental Division within 30 days of the issuance of this opinion (see below). This Opinion identifies Act 250 Jurisdiction only. Other permits may be required (e.g., <https://dec.vermont.gov/permits>). For more information, please contact the Agency of Natural Resources Environmental Assistance Office: (<https://dec.vermont.gov/assistance/permits>).

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.

Town of Bristol
Attn: Valerie Capels
1 South Street
P.O. Box 249
Bristol, VT 05443
townadmin@bristolvt.org

- Landowner
- Agent
- Other

Project Description: Construction of a new Town of Bristol Public Works Garage upon a ±4.70-acre parcel.

Project Location: The northeast corner of the intersection between Hewitt Road and Route 116 in Bristol (SPAN: 093-029-10943).

Existing Act 250 permit number(s) or series: No existing Act 250 permitted developments or subdivisions are implicated by this project as proposed.

Project Type: Commercial Subdivision Municipal/State Mixed
 Farming/Forestry Housing Other _____

Has the landowner or affiliated person subdivided before? Yes No N/A



AN ACT 250 PERMIT IS REQUIRED: YES NO

BASIS FOR DECISION:

As stated above, the parcel in question that is the subject of this Jurisdictional Opinion (JO) is located at the northeast corner of the intersection between Hewitt Road and Route 116 in Bristol, Vermont. Publicly available State of Vermont mapping tools currently depict this new ±4.70-acre parcel as originally a portion of a larger ±36.11-acre parcel, under ownership of Thomas & Pamela Lathrop.

Act 250 Land Use Permit #9A0152 was issued on November 21, 1985, to Thomas & Denise Lathrop and Claire & Ruth Lathrop, for a project generally described as construction of a ±18,000 square-foot building to house a lumber business with related site improvements. This project is located at the southeast corner of the intersection between Hewitt Road and Route 116 in Bristol, directly across the street from the ±4.70-acre parcel addressed herein. The #9A0152 Findings of Fact and Conclusions of Law and Order describes the jurisdictional parcel as follows: "The tract of land consists of 4.67± acres with 2+ acres involved in the project area."

A review of all approved site plans associated with the original #9A0152 Land Use Permit depicts this parcel and immediately surrounding lands to be all on the southern side of Hewitt Road, with no lands on the north side of Hewitt Road depicted or approved on any plans. Similarly, a review of the remainder of the #9A0152 permit file reveals that at no point was any reference made to any lands on the northern side of Hewitt Road, or to the size of the original overall parcel at that point in time.

Subsequently, Permit Amendment #9A0152-2 was issued on May 2, 2001, to Thomas Lathrop, for the purpose of incorporating ANR Water Supply and Wastewater Disposal Permit #WW-9-0398. A review of the #WW-9-0398 permit file reveals that this Permit incorporates and approves a site plan (dated 10/04/1985, last revision 01/16/2001) that depicts the original ±4.67-acre parcel under jurisdiction via Permit #9A0158. No references are made to and no lands are depicted on the northern side of Hewitt Road.

When considering this information together, it is the District Coordinator's conclusion that Land Use Permit #9A0152 was never meant to encompass any lands beyond what was immediately involved in the specifically approved project, which does not include lands on the northern side of Hewitt Road. Accordingly, it is also the Coordinator's conclusion that the ±4.70-acre parcel that is subject to this JO is not under existing Act 250 jurisdiction via Permit #9A0158 or otherwise, which therefore makes this a matter of "original jurisdiction."

As a matter of original jurisdiction, and as the project is to serve municipal purposes, this JO concludes that the project as proposed does not constitute a "development" pursuant to 10 V.S.A. § 6001(3)(A)(v) and Act 250 Rule 2(C)(5)(b), **therefore an Act 250 permit is not required.**

Dated March 29, 2024.



By _____

Josh Donabedian

District 9 Coordinator

Joshua.Donabedian@vermont.gov

Mail: 10 Baldwin Street, Montpelier VT 05633-3201

Physical: 111 West Street, Essex Junction, VT 05452

Any party may file within 30 days from the date of a decision of the District Coordinator a request for reconsideration with respect to the jurisdictional opinion, pursuant to Act 250 Rule 3(B). Any reply to a request for reconsideration shall be filed within 15 days of the service of the request, unless otherwise provided by the District Coordinator.

Any person aggrieved by an act or decision of a District Commission or District Coordinator, or any party by right, may appeal to the Environmental Division of Vermont Superior Court within 30 days of the act or decision pursuant to 10 V.S.A. § 8504. Such appeals are governed by Rule 5 of the Vermont Rules for Environmental Court Proceedings. The appellant must file a notice of appeal with the clerk of the court and pay any fee required under 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. The Natural Resources Board's copy may be sent to NRB.Legal@vermont.gov and/or 10 Baldwin Street, Montpelier, VT 05633-3201.

Please note that there are certain limitations on the right to appeal, including interlocutory appeals. See, e.g., 10 V.S.A. § 8504(k), 3 V.S.A. § 815, and Vermont Rule of Appellate Procedure 5. For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 951-1740. The Court's mailing address is Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

The foregoing statements regarding requests for reconsideration and appeals are intended for informational purposes only. They neither supplant any rights or obligations provided for by law nor do they constitute a complete statement of the rights or obligations of any person or party.

CERTIFICATE OF SERVICE

I hereby certify that I, Lori Grenier, Natural Resources Board Technician, District 9 Environmental Commission, sent a copy of the foregoing **Jurisdictional Opinion JO 9-089** by U.S. Mail, postage prepaid, on this March 29, 2024 to the following individuals without email addresses, and by electronic mail, to the following individuals with email addresses:

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.

Town of Bristol, Attn: Valerie Capels
townadmin@bristolvt.org

Bristol Selectboard
John "Peeker" Heffernan, Chair
PO Box 249
Bristol, VT 05443
peeker@gmavt.net

Bristol Planning Commission
Susan Kavanagh, Chair
c/o Town Clerk
PO Box 249
Bristol, VT 05443
clerk@bristolvt.org

Addison County Regional Planning Commission
Adam Lougee, Executive Director
14 Seminary Street
Middlebury, VT 05753
alougee@acrpc.org

Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901
anr.act250@vermont.gov

FOR INFORMATION ONLY

Bristol Town Clerk
Sharon Lucia
clerk@bristolvt.org

State of Vermont
Dept. of Public Service
barry.murphy@vermont.gov
PSD.VTDPS@vermont.gov

Vermont Agency of Transportation
AOT.Act250@vermont.gov

Vermont Agency of Agriculture, Food and
Markets
AGR.Act250@vermont.gov

Vermont Division for Historic Preservation
ACCD.ProjectReview@vermont.gov

Natural Resources Board Chair
10 Baldwin Street
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NRB.Legal@vermont.gov
nrb.act250agenda@vermont.gov

/s/ Lori Grenier
Natural Resources Board Technician
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