

Introduction:

I wanted to inquire on the possibility of triggering ACT 250 given out trajectory of adding units to the market in Bennington.

My team has redeveloped several properties and we have either converted commercial units to residential rental units or gut renovated residential multi-family properties and laid them out in a more efficient way to include additional units in the layout. Within the last five year period, within a radius of five miles of any point on any involved land, we have added 5 rental units to the market. We have another 4 units in the pipeline for Q1 of 2023. We have also identified about 15 units that we could add to the market by converting 3 bedroom units with two entrances (within our portfolio) into two one bedrooms (although we would not want to do them all). There is common ownership either fully or in part of all of these properties. We have never sold or offered for sale any of these rental units.

Conclusion:

According to 10 V.S.A. § 6001(3)(A)(iv), "development" is defined as "the construction of housing projects such as cooperatives, condominiums, or dwellings . . . with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years." In this case, the construction of the housing project at 319 Pleasant Street meets the definition of development, as it involves the construction of 10 or more units.

Furthermore, according to 10 V.S.A. § 6001(14)(A), a "person" is defined as "individuals and entities affiliated with each other for profit, consideration, or any other beneficial interest derived from the partition or division of land." In this case, the owners of the property at 319 Pleasant Street, as well as the property development team and property manager, would be considered one "person" for Act 250 jurisdictional purposes, as we would all derive a beneficial interest from the project.

Therefore, we need to submit an Act 250 land use permit application and obtain an Act 250 land use permit before starting construction on the 319 Pleasant Street project. The application must be completed online using the ANROnline platform, and exhibits must also be provided electronically. The application fee is based on the construction cost and is calculated according to the formula outlined in 10 V.S.A. § 6083a.

Additional Information considered:

10 V.S.A. § 6081 states: (a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit.

(23) "Unit" means an individual and discrete residence within a dwelling, condominium or cooperative project, including but not limited to an apartment within an apartment building, each separate residence of a duplex or multiplex home, or a room or suite of rooms within a hotel, motel, rooming house, nursing home, group home, residential care facility or dormitory. With respect to single family homes within housing projects, each home shall be counted as a unit.

(See Following Pages for more details)

Thank you for your prompt reply and the additional email. Based on the definition of a unit, it seems that ACT 250 permitting will be required for the 10th unit that we plan to add to the market.

I have attached a map showing the locations of completed projects (marked in red), future projects (marked in orange), and a PHP and other owner project (marked in blue). The yellow line on the map is about a mile long and indicates the distance between the two farthest properties from each other.

I will now provide details about the six properties that we plan to develop or have already developed, which will result in the addition of nine units to the market. My business partner and I have an ownership stake in all of these properties, with the exception of 321 Pleasant Street, in which only my business partner has an ownership stake. In 323 Pleasant Street, we have a third, local partner, and in 809 Main Street, we have a third, non-local partner.

Completed Projects:

1. (3) Units added - 2020 & 2021 - 701/705 Main Street, Bennington – 7 Unit once complete
 1. In 2020, we purchased a vacant two-building property (701 Main and 705 Main). At the time of purchase, 701 Main had one commercial unit and two residential units, while 705 Main had two residential units.
 2. In 2020, we converted the commercial unit in 701 Main into two residential units, resulting in a four-unit residential property and the addition of our first two units to the market in December 2020.
 3. In 2021, we completed a third unit in 705 Main Street, which was the third unit that we added to the market.
2. (1) Unit added – 2021 – 219 Pleasant Street, Bennington – 11 Unit once complete
 1. In 2020 and 2021, we gut renovated a blighted 10-unit multi-family property and turned it into an 11-unit multi-family property. This project was completed in December 2021, resulting in the addition of our fourth unit to the market.

Future (2023) Projects:

3. (1) Unit to be added – 2023 – 323 Pleasant Street, Bennington – 5 Unit once complete
 1. In August 2022, we purchased a four-unit multi-family property at 323 Pleasant Street.
 2. In 2022, we completely gut renovated the first floor of the property and redesigned it to accommodate an additional unit. We expect to complete this project in February 2023, adding our fifth unit to the market.
4. (1) Unit to be added – 2023 - 321 Pleasant Street, Bennington – 2 Unit once complete
 1. This is a single family home that we have owned since 2015 or so. It recently went vacant and we intend to apply for VHIP in January to renovate the property (again...) and this time will turn it into a 2 unit multi-family property; adding our 6th unit to the market.
5. (2) Units to be added – 2023 – 809 Pleasant Street, Bennington – 6 Unit once complete
 1. We purchased this six-unit property at 809 Pleasant Street in 2019, which consists of two commercial units and four residential units.
 2. As of January 15, 2023, the commercial units will have been vacant for 90 days. At that time, we plan to apply for VHIP and redevelop the first floor of the property, converting the two commercial units into two residential units.

6. (1) Unit to be added – 2023 – 108/110 Dewey Street, Bennington – 3 Unit once complete
 1. This is a 2 unit multi-family property that we purchased in Feb. of 2020. We anticipate the unit may become vacant soon.
 2. If/when 110 Dewey becomes vacant, we will leave the unit vacant for 90 days and then apply for VHIP and split 110 Dewey into two units which will result in our 9th unit added to the market.

As can be seen above, there are many different situations/circumstances surrounding the addition of a unit to the market. On my project pipeline document, we have another 13 units identified as potential candidates to create two units from one just from units within our portfolio; which are surrounded by similar situations and circumstances to the projects outlined above. That said, realizing the 10th unit could be a trigger for ACT 250, we now need to do a bit more due diligence. Especially since purchasing property and adding a unit during those initial renovations typically makes a deal possible. 701/705 Main, 219 Pleasant, and 323 Pleasant are all perfect examples of that.

Below are additional units that I believe should be considered in this analysis.

Other owners/Priority Housing Projects (PHP):

1. (2) Units added – December 2023 – 319 Pleasant Street, Bennington
 1. This is a property that my business partner and I are currently assisting my sister (our property manager) and her fiancé (one of our carpenters) in acquiring. It is a vacant 2 unit multi-family property.
 2. Our goal would be to develop the property into a 4 unit multi-family property. Adding two units to the market.
 3. I mention this because the only difference with this project is that the owners would be different. Everything else about the project in terms of development team and property manager would be the same as projects 1-6 above. I ask because the statute states “controlled by...”
2. (37) Units added – March 2025 – 650 Main Street, Bennington (Benn High)
 1. In addition to 30,000 s.f. in community space (Meals on Wheels, the YMCA, and the Senior Center) there will be 15 perpetually affordable units and 22 market rate units.
 2. Linda Matteson worked diligently on analyzing this project and it has been determined to meet the criteria of a PHP. We plan to break ground 10/1/23 and be under construction for 18 months.

I very much look forward to hearing your thoughts on the additional units to the market and if the 10th will require an ACT 250 Permit. Assuming it would, what would be the process, how much would it cost, and how long would you expect it to take?

Thank you very much for your time in advanced.

Zak Hale
Partner/CFO
Hale Resources, LLC
802-375-5410

