

**STATE OF VERMONT
ENVIRONMENTAL COURT**

In re Killington Resort Parking Project Site Plan Approval	} } } } } }	Docket No. 155-11-14 Vtec (Appeal from Killington Planning Comm)
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Decision on Pending Motion

Killington/Pico Ski Resort Partners, LLC (“Applicant”) applied for approval of its proposed reconfiguration of certain parking lots that serve the main base lodge area of the Killington Ski Resort. When the Town of Killington, Vermont Planning Commission granted site plan approval for the proposed parking reconfiguration project, the homeowners association for an abutting condominium development, Pinnacle Condominium Association, Inc. (“Appellant”), timely appealed that determination to this Court. No other party has appeared in this appeal.

Applicant is represented in this matter by Christopher D. Roy, Esq; Appellant is represented by Jon S. Readnour, Esq.

Pursuant to a Scheduling Order issued by the Court on March 18, 2015, the parties began informal settlement discussions and secured the assistance of a mediator. The parties thereafter agreed upon the terms of a full settlement of their disputes in this appeal on June 24, 2015. They then set about securing revisions to the proposed site plan for the proposed project and detailing the agreed-upon revisions. On November 4, 2015, Applicant filed its Assented-To Motion for Placing Appeal on Inactive Status and for Deferred Entry of Judgment. Appellant has consented to this motion; the Court has not received any objection to the pending motion.

Based upon the parties’ settlement terms, the Court does hereby **GRANT** Applicant’s motion upon the following terms and conditions:

The Court has this day granted two additional motions filed by Applicant in related appeals now pending before this Court: in the matter entitled In re Killington Village Master Plan Act 250 Application, No. 147-10-13 Vtec, that applicant¹ has filed an Assented-To Motion for Withdrawal of Opposition by Pinnacle Condominium Association, Inc.; the other matter is

¹ In the Master Plan proceeding, the applicant is a separate entity, known as SP Land Company, LLC.

entitled In re Killington Resort Parking Project Act 250 Amendment Application, No. 173-12-13 Vtec, in which Applicant has filed an Assented-To Motion to Substitute Plan Exhibits Showing Revised Road H Design, To Implement Other Agreed-Upon Project Changes, and To Withdraw the Opposition of Pinnacle Condominium Association, Inc. These two additional motions were also filed on November 4, 2015.

Other parties have appeared in these two other appeals: in the Master Plan appeal, Gregory J. Boulbol, Esq., appears as attorney for the Vermont Natural Resources Board; Elizabeth Lord, Esq., appears as attorney for the Vermont Agency of Natural Resources; Nathan H. Stearns, Esq. and C. Daniel Hershenson, Esq., appear as attorneys for Appellants Stephen Durkee, Mountainside Properties, Inc., Mountainside Development, Inc., Fireside Properties, LLC, and Killington Village Properties, Inc.; Carl H. Lisman, Esq. appears as attorney for Interested Person Highridge Condominium Owners' Association; Robert E. Woolmington, Esq., appears as attorney for Interested Persons Rutland County Regional Planning Commission, Two Rivers Ottauquechee Regional Planning Commission and the South Windsor County Regional Planning Commission; and Melvin B. Neisner, Esq. appears as attorney for Interested Persons Sherburne Volunteer Fire Dept., Mike Moriaty, the Mountain Green Condo Association, and the Edgmont Home Owners' Association.

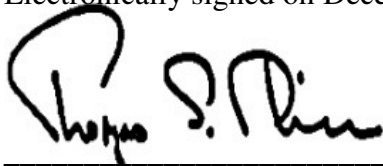
In the Parking Project Act 250 appeal, the same attorneys appear for the following parties, in addition to Applicant and Pinnacle: Stephen Durkee, Mountainside Properties, Inc., Mountainside Development, Inc., Fireside Properties, LLC, and Killington Village Properties, Inc. appear as Appellants; and the Natural Resources Board and the Agency of Natural Resources appear as Interested Persons.

Both the Master Plan and the Parking Project Act 250 appeals have already been tried; the evidence is now closed in both proceedings and the matters are now under advisement. Applicant's pending motions in each of those appeals requests that the evidentiary portion of those proceedings be re-opened so that the revised site plans and supporting materials that were the product of Applicant's settlement with Pinnacle Condominium Association, Inc. may be offered for admission and all other parties may have the opportunity to review, cross-examine the sponsoring witness(es), and present their own testimony and other evidence. Given that each of the pending motions were served on all parties on November 4, 2015 and the Court has not received any objection or responsive memoranda from any party, the Court has this day granted

all pending motions, as noted in the respective Entry Orders from each appeal that accompany this Decision.

Therefore, as to this appeal (Killington Parking Project Site Plan Approval, No. 155-11-14 Vtec), the Court does hereby **GRANT** the Assented-To Motion, agreed upon by all parties in this proceeding. Judgment is hereby **STAYED**, pursuant to those parties' request, on the condition that the revised site plan and supporting materials for the proposed parking project are admitted into evidence in the pending appeals and further conditioned upon a final determination being rendered which incorporates such revised plans. In the event that the revised plans are not accepted and incorporated into a final judgment in Docket Nos. 147-10-13 Vtec and 173-12-13 Vtec, the parties' assented-to judgment shall become null and void. In the interim, the Court Manager shall place this appeal on **INACTIVE STATUS**.

Electronically signed on December 11, 2015 at Newfane, Vermont pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink, appearing to read "Thomas S. Durkin", written over a horizontal line.

Thomas S. Durkin, Judge
Environmental Division