

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 173-12-13 Vtec

Killington Resort Parking Project Act 250 Permit Application Appeal

ENTRY REGARDING MOTION

Count 1, Act 250 District Commission Decision (173-12-13 Vtec)

Title: Motion to Amend/Alter Decision (Motion 12)

Filer: Stephen Durkee

Attorney: Nathan H. Stearns

Filed Date: March 21, 2016

Response in Opposition filed on 03/30/2016 by Christopher D. Roy, Attorney for Appellee Killington/Pico Ski Resort Partnership, LLC

The motion is MOOT and therefore Denied.

On March 4, 2016, this Court issued its Merits Decision and Judgment Order in the above referenced Docket. Appellant Stephen Durkee and his related entities filed a timely post-judgment motion that expressed concerns about the Court's findings and legal conclusions concerning traffic and conformance with Act 250 Criterion 5. We regard Appellant's motion and concerns as moot, given the Court's issuance of detailed findings and legal conclusions concerning traffic and Criterion 5 in the related appeal concerning the Killington Act 20 Master Plan proceedings.

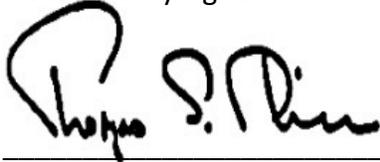
As noted in our Merits Decision in the Parking Project appeal, "the parties and the Court agreed [at that trial] that traffic impacts, including cumulative traffic impacts, are more appropriately analyzed in the master plan appeal." In re Killington Resort Parking Project Act 250 Permit App. Appeal, No. 173-12-13 Vtec, slip op. at 22 (Vt. Super. Ct., Env'tl. Div. Mar. 4, 2016)(Durkin, J.). We reached this conclusion due to the fact that while the Parking Project contemplates significant improvements, particularly to the day skier parking areas, those projects themselves are unlikely to generate traffic increases or impacts. Rather, the developments contemplated in SPLC's master plan will be the cause of traffic increases and impacts to this region.

In our Master Plan Merits Decision, issued today, we provide extensive findings and legal analysis of the possible traffic impacts that will flow from the Phase I developments of the master plan. As contemplated by the parties and the Court during the Act 250 Parking Project

appeal, we endeavored to address all traffic impacts from these coordinated improvements to the Killington Resort (particularly Phase I of the master plan), within our master plan Merits Decision. We therefore understand that the concerns Appellant raised here have been addressed. It is for this reason that we conclude that Appellant's pending motion is **MOOT**.

So ordered.

Electronically signed on June 21, 2016 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

Notifications:

Nathan H. Stearns (ERN 3585), Attorney for Appellant Stephen Durkee
Nathan H. Stearns (ERN 3585), Attorney for Appellant Mountainside Properties, Inc.
Nathan H. Stearns (ERN 3585), Attorney for Appellant Mountainside Development, Inc.
Nathan H. Stearns (ERN 3585), Attorney for Appellant Fireside Properties, LLC
Nathan H. Stearns (ERN 3585), Attorney for Appellant Killington Village Prop. Inc. I
Christopher D. Roy (ERN 1352), Attorney for Appellee Killington/Pico Ski Resort Prtnr
Jon S. Readnour (ERN 2166), Attorney for Interested Person Pinnacle Condo. Association, Inc
Gregory J. Boulbol (ERN 1712), Attorney for Interested Person Natural Resources Board
Elizabeth Lord (ERN 4256), Attorney for Interested Person Agency of Natural Resources
C. Daniel Hershenson (ERN 3586), Attorney for party 2 Co-counsel