

Mad River Neighborhood Association

PRESS RELEASE

March 29, 2010

RIVERS ROCK QUARRY APPEAL DENIED

Judge Thomas Durkin for the State Environmental Court issued a decision on Thursday, March 25, 2010 denying the appeal of Rivers Development, LLC for the development of an industrial rock quarry on Route 100B in Moretown. This is the third major loss for Rivers after the Town of Moretown Development Review Board denied his local permit and the State District Commission #5 denied his Act 250 permit.

The appeal was denied under three Act 250 criteria (aesthetics/noise, earth extraction and Town Plan) and three zoning regulation sections (earth extraction, performance standards, and conditional use review). Like the previous decisions, the Court could find no conditions that would address these conflicts.

The Court determined that the proposed quarry would have an undue adverse impact on the area from new heavy industrial noise being “heard at nearby residences, along Route 100B, and at nearby recreational and fishing sites” and “we conclude that the proposed Rivers quarry would not ‘fit’ into its surrounding area”.

The decision states “Testimony revealed that the Route 100B corridor has been recognized as an especially scenic road since at least the early 1970s.” and “The quarry will contradict the very characteristics that brought the scenic designation upon this area; it will offend an average person visiting the area, expecting to enjoy its scenic quality,”

The Court also concluded “that the Rivers quarry will impose an unduly harmful impact upon area land uses and development.” and “Rivers could not provide assurances that fly rock will not descend upon neighboring properties and perhaps onto Route 100B”. The decision states that “Rivers is recommending that neighbors within 1,500 feet of the quarry suspend their use and enjoyment of their outdoor property whenever a blast is to occur”. Sections of the Mad River and Route 100B regularly enjoyed by the public are in this 1,500 foot blast zone.

“I am heartened and relieved by this decision,” said Waitsfield resident Phil Huffman. “I bike and drive to work on that stretch of road, and enjoy canoeing that section of the Mad River. It is one of the most beautiful stretches of river corridor in the State of Vermont, and it plays a key role for both residents and visitors as the northern gateway to the whole Mad River Valley.”

David Grayck, lawyer for the opposing parties, said "The Court's conclusion that the Quarry violates Act 250 and Moretown Zoning is well supported by the overwhelming evidence. The Court concluded that the Quarry, as a new, heavy-industrial use, could not properly fit within the existing rural, agricultural, and residential neighborhood, and that it must be denied in protection of the public health, safety, and welfare. In this regard, the Court's decision implemented the basic principle that Vermont's environmental laws are there for the protection of the public, not any single or group of individuals. Given the strong evidentiary foundation to the Court's decision, there are virtually no grounds whatsoever for a reversal by the Vermont Supreme Court, if there is an appeal."

“The Mad River Neighborhood Association has waited a long time for this decision”, said MRNA president Bob McMullin. “Six years has been long enough. We knew, the town knew, and the district commission knew from the beginning that this was an inappropriate land use. We certainly hope this is the end of it, and we can get on with our lives. Enough time, money and emotional energy have been spent. ”

END

The full decision is available at

<http://www.vermontjudiciary.org/GTC/Environmental/Opinions.aspx>

For more information contact mrna@madrivert.com

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www.MRNAvt.org

"That every member of society hath a right to be protected in the enjoyment of life, liberty, and property...",
Article 9, Vermont Constitution
