

Middlebury Development Review Board (DRB)

TO: Applicant and interested persons
DATE: March 9, 2010
SUBJECT: Recess Memo: Fenn Gravel Pit

Following the public hearing on the Fenn application on February 22, 2010 the DRB deliberated on procedural matters and has directed issuance of this recess memorandum to the applicant and all interested persons.

Scheduling:

The Fenn Gravel Pit hearing will be reconvened on **April 12, 2010 at 7pm at the American Legion building on Boardman Street**. Unfortunately the Ilsley Library Meeting Room was not available for the 12th.

The DRB has also scheduled **Monday, May 10th 2010 at 7pm in the Ilsley Library Basement Meeting Room** as the continuation hearing date from April 12th, if required. At the last hearing the DRB had tentatively reserved April 26 as a possible continuation hearing date, however, due to scheduling conflicts of DRB members that date is no longer an option.

The applicant and interested person group representatives are requested to keep April 12th and May 10th available.

Order of proceedings: preparation for remaining hearings:

As provided in the Middlebury DRB Rules of Procedure Section VI(A), the DRB has determined that the order and sequence of these proceedings shall be modified from the numbered sequence in Section VI(A) and going forward shall be as follows:

The DRB directs the interested persons, through their petition group representatives, to present their evidence on April 12th and May 10th. This presentation shall be outlined in writing with a schedule for presentation and list of expert witnesses, if any, which shall be submitted by 4pm on April 3rd, 2010. Given the coordination of the interested person group representatives during the hearings thus far, the DRB expects the interested persons to continue to coordinate their preparation and presentations and to efficiently utilize the allotted time during the remaining hearings. The DRB requests that any expert witnesses' testimony and exhibits be prefiled in order to make efficient use of scheduled hearing time.

There have been seven hearings held on this matter thus far. The DRB has determined under 24 VSA 1206(c) that adequate opportunity has been provided for interested persons to ask questions and cross-examine applicant's witnesses on the written prefiled material they submitted. The hearing time has included extensive periods of oral questions and a subsequent opportunity for written questions with responses provided. The DRB finds that the applicant's witnesses have sufficiently responded as of the last hearing. The DRB finds there is not sufficient justification to order re-call of Mr. Revell, as there is adequate information in the record regarding his direct testimony.

Should there be any final questions of applicant's witnesses these shall be submitted in writing by the interested persons group representatives, by 4pm on April 3rd, 2010 to the applicant and DRB Clerk/Secretary at the Town offices. The DRB will then determine under 24 VSA 1206 whether any submitted questions are relevant, material and not unduly repetitious and the DRB will then direct applicant to respond or an applicant witness to appear as the DRB deems appropriate and necessary.

The interested persons are encouraged to communicate directly with the applicant and the applicant's representatives. Nothing that the DRB has directed for these proceedings should be construed - or have been construed - to prevent the parties from seeking clarification or resolving any questions, or stipulation of any item.

Should you have any questions concerning this notice or wish to be removed from this mailing list please contact the Middlebury Planning and Zoning Office at 388-8100 x210.