

**TOWN OF DUMMERSTON  
DEVELOPMENT REVIEW BOARD  
LAND USE DECISION  
ADDENDUM**

Applicant: Renaud Gravel, Inc.,  
283 Fort Bridgeman Road #2, Vernon, VT 05354

Agent: Stevens & Associates, Cory Freshee  
122 Birge St., PO Box 1586, Brattleboro, VT 05301

Owner of Record: Renaud Gravel Inc., Dummerston, VT 05346

Location of Property: 792 & 830 US Route 5. Dummerston, VT 05301

Request: Clarification of Condition regarding Fencing in October 12, 2012  
Conditional Use Permit, Site Plan Review & Variance Decision  
Re: Application for Zoning Permit #3309

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The matter came before a noticed Special Meeting of the Dummerston Development Review Board (DRB) held on Thursday, November 8, 2012 at the Dummerston Town Offices, Dummerston Center.

Present and participating were the following members of the DRB: Herb Rest, Chair, Cynthia Wilcox, Jack Lilly, Lew Sorenson and alternate, Hugh Worden. DRB member John Warren and alternate Steve Jarosak recused themselves from the October 12 decision and did not participate with the Board. Present and representing the applicants were Mike Renuad, Cory Freshee of Stevens & Associates, applicant's agent, and Christopher Dugan, applicant's attorney. Also present were Dummerston Selectboard members Zeke Goodband and Steve Glabach, Josh Laughlin representing the Town of Putney, Dummerston Road Foreman Lee Chamberlin, John warren (but not participating as a DRB member) and Zoning Administrator Charlotte Annis.

**FINDINGS OF FACT**

1. On October 12, 2012 the DRB issued a Land Use Decision (Exhibit #35) approving, with conditions, Zoning Permit #3309 for a proposed gravel pit on property commonly referred to as Hidden Acres Camping Resort. That decision's Findings of Fact describe the proposal, property and relevant considerations.
2. On November 1-2, 2012 the applicant, the Dummerston Selectboard and the Town of Putney requested that the Board reconsider one of the conditions of approval requiring a fence at the southerly side of the proposed gravel pit where it adjoins a campground on the same property.

Specifically the applicant requests that the details of the fence allow a moveable construction fence that would be relocated as the excavation proceeds, would be less costly, and would allow continued use of hiking trails on the portion of the site that would not be excavated for many years.

3. The DRB scheduled this meeting at the request of the applicant and Dummerston Selectboard to clarify the fencing condition. No other considerations of the gravel pit or DRB decision are at issue, and it is noted that any actual amendment to the permit approval requires a new Conditional Use Permit/Site Plan review approval after application, notice and public hearing. It is also noted that the applicant preserves their option to appeal the DRB decision to the Vermont Environmental Court.
4. The condition in question, C-5, states: *The gravel pit area shall be protected with a six foot high security fence to prevent unintended access on its southerly side from the rear of the ABF Trucking yard to I-91. The fence shall include an access road gate secured during non operating hours.*
5. Three Findings of Fact in the October 12 decision support the fencing condition:
  - Finding #7 enumerates the several Zoning Bylaw sections applicable to the gravel pit proposal. Bylaw Section 650,(6) and Section 660,(8) call for safety measures in considering this land development.
  - Finding #8 describes the 1985-86 prior Town approvals for the Hidden Acres Campground on the property. The Site Plan Review approval by the Planning Commission required a 4-foot chain-link fence at the campground property line bordering the gravel pit to the north (now SB Lands) and the Zoning Board approval also required a fence at this location.
  - Finding #10 states: *The proposed gravel pit and the existing campground result in a potential incompatibility of uses. Equipment and blasting preparation noise may be bothersome to neighbors. The working gravel pit could be an attractive nuisance to campers, especially children. No fence or other separation, other than a stockpiling of overburden, is proposed. Gravel pit truck traffic entering and leaving the site, especially during early summer weekday early morning hours, may also result in an incompatibility of uses.*
6. In addition to the liability issue for the applicant, the DRB is properly concerned with safety and land use compatibility. These concerns are especially relevant in this case where the gravel extraction operations, including blasting and heavy equipment are on the same property and adjoin a campground frequented by visitors, especially children, unfamiliar with the hazards related to the pit and operations.
7. The applicant, in support of the request, proposes placement of an orange plastic construction fence, 4 feet in height along the south edge of the active pit. This fence would include “no trespassing” signs and would be relocated as the active excavation proceeds southerly. The applicant also presented alternate 4-foot woven wire fencing or “chicken wire” fencing, but prefers the construction fencing because of its visibility and ease of relocating. The applicant

agrees to extend the fence at least 20 feet beyond any active excavation area to adjoin areas of established 2:1 slopes. The applicant also proposes to construct an additional vehicular gate (a swinging 3-inch horizontal steel bar or pipe) on the new access road before it descends down to the pit operating area. This is in addition to the existing gate at the rear of the ABF Trucking location.

### CONCLUSIONS AND DECISION



- A. The proposed alternate 4-foot high construction fencing as described in exhibits and testimony meets the DRB concern for safety and land use incompatibility.
- B. The DRB concludes that the applicant's proposed alternate fencing also meets the original condition of approval C-5, with the exception of the 4-foot rather than 6-foot height, which can be changed only by amending the permit after proper notice and public hearing. If the applicant wishes to amend this height standard, a new application may be brought before the DRB anytime prior to the excavation authorized by the October 12, 2012 DRB decision.
- C. This addendum supplements the October 12, 2012 Land Use Decision, its Findings of Fact and conditions. That Decision remains in full force and effect unless and until modified.

The following members of the Dummerston Development Review Board participated and concur in this decision. The Decision is subject to appeal as provided by Vermont statute.

Herb Rest, Jack Lilly, Lew Sorenson, Cynthia Wilcox and  
Hugh Worden

Dated: November 12, 2012

DUMMERSTON DEVELOPMENT REVIEW BOARD

**Additional Exhibits**  
**Renaud Gravel Inc. (#3909)**  
**Land Use Decision Addendum**

35. October 12, 2012 DRB land Use Decision
36. November 8, 2012 DRB attendance sign-in sheet
37. November 1-2, 2012 email exchange requesting reconsideration
38. Agent's modified drawing C-2 showing proposed moveable fence location
39. Agent's pictures showing proposed orange construction fencing and alternate woven wire and "chicken wire" fencing