

**WAITSFIELD DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION**

Application #:	3684-CU
Land Owner:	Mad River Park Corporation
Applicant:	Laura Kingsbury
Property Address:	264 Mad River Park
Parcel Number:	06001.000
Meeting Dates:	March 22, 2016
Proposal/Type:	Request to allow an additional mixed use, extraction of earth resources (gravel), on a 3.2-acre area of the larger 37-acre parcel. Landscape screening is proposed along an adjacent residential boundary. The application was submitted to cure a violation; the excavation and site work was begun without a permit and involved more fill than allowable under the Zoning Bylaw exemption.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through May 17, 2010:
 - a. Section 2.06 Industrial District (IN).
 - b. Section 4.05 Extraction of Earth Resources.
 - c. Section 4.07 Mixed Uses.
 - d. Section 5.03 Conditional Use.
2. Waitsfield Town Plan, as adopted on October 22, 2013.

B. MATERIALS SUBMITTED

1. On December 7, 2015, abutter Jeff Skoldberg submitted concerns and questions about the unpermitted activity at this site to the DRB.
2. On February 9, 2016, the applicant's representative, McCain Consulting, submitted application materials and a proposed site plan.
3. On February 26, 2016, the applicant's representative submitted supplemental application materials to address gaps that the PZA had identified in earlier materials.
4. On March 22, 2016, the applicant's representative submitted a revised site plan with additional landscaping and screening detail.

C. FINDINGS OF FACT

1. The property is a 37-acre +/- parcel with existing commercial buildings located at 264 Mad River Park. The parcel is identified as #06001.000 and is located in the Industrial Zoning District.
2. The project area is a smaller, 3.2-acre +/- portion of the total parcel. The applicant proposes to extract gravel and regrade the property in order to prepare the site for sale. Gravel is proposed to be stock-piled on-site and will be removed at a rate not to exceed 10,000 cubic yards per year.
3. The proposal includes screening and landscaping along the property boundary adjacent to a residential property via 15 existing 6-10' pine and spruce trees. Additional landscaping will be proposed when the end user has been determined.
4. The application was submitted in order to rectify a violation of the Zoning Bylaws. The applicant had a land transfer in progress and was preparing the site for the new expected use, but the deal fell through. The applicant began excavation and site work prior to obtaining a permit; the amount of fill involved exceeds the amount allowable by the exemption in the Bylaws.
5. On November 4, 2016, the PZA immediately stopped work upon receiving notice of this violation. The applicant cooperated and made good faith efforts to submit a proper application. Due to travel, the PZA granted the applicant's request to post-pone the hearing after receiving the application.
6. The public hearing was held on Tuesday, March 22, 2016. The abutting property owners were sent notice on February 26, 2016 and the notice appeared in the March 3, 2016 *Valley Reporter* issue.
7. The board opened the hearing and the Zoning Administrator provided an overview of past events that led to this application.
8. The applicant's representative attended the hearing on the applicant's behalf and presented the proposal to extract earthen material from the site to prepare it for commercial sale. He explained that 15 trees had been planted where others were cut; they were not planted in a row but in strategic locations to fill gaps between the Park and the Skoldberg's properties.
9. After further discussion, the parties agreed that the 15 trees already planted would not provide sufficient screening and that any additional trees should be taller when planted than these were, at 8-10 feet tall. They propose to screen with 20-30 additional trees and a hedgerow between the two properties.
10. The new trees and tight cedar hedgerow will be planted in early spring of 2016. The applicant will check in on their growth progress 10-12 months after being planted. The regraded area will be seeded.
11. The proposed gravel extraction will be at removal rate of about 10,000 cubic yards per year for 2 years. This required an administrative amendment to the Park's Act 250 permit.

12. The applicant's representative explained that the low point on this project area moves stormwater to an existing swale so the regrading should not pose a runoff issue.
13. The board agreed to allow the applicant's representative and the abutting property owners, the Skoldbergs, to come to an agreement about a final landscaping and screening plan which will be submitted prior to any zoning permit being issued.
14. The board closed the hearing and stated that a written decision would be issued within 45 days.

D. CONCLUSIONS OF LAW

Based on its review of the application materials, submitted site plans, presented testimony, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes this application as proposed, and when finalized and implemented in accordance with the Conditions of Approval listed below, does meet the conditional use criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.

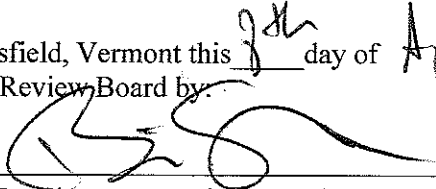
E. DECISION

Application #3684-CU is hereby APPROVED, subject to the following conditions:

1. The gravel extraction shall not exceed 10,000 cubic yards per year for a total of two years.
2. The 3.2+/- acre project area shall be regraded, as proposed on the site plan dated March 22, 2016, within one month of completion of the gravel extraction.
3. The 50-foot buffer area proposed between the applicant's property and the Skoldberg's property shall be maintained.
4. Prior to issuance of any zoning permit related to this approval, the applicant and the Skoldbergs shall submit, by May 15, 2016, a mutually agreeable, final landscaping and screening plan which shall identify:
 - a. A sufficient number, which shall be 20 or more, of trees to be planted in the buffer area proposed on the site plan dated March 22, 2016;
 - b. The sizes and species of trees to be planted in the buffer area proposed on the site plan dated March 22, 2016; and
 - c. The number and species of hedges to be planted in a tight row along the property boundary proposed on the site plan dated March 22, 2016.
5. The applicant shall install all hedges and trees, in accordance with the final landscaping and screening plan, no later than June 30, 2016.
6. The applicant shall inspect all hedges and trees planted in accordance with this approval for both health and sufficiency of screening 10-12 months after they have been planted. Additional trees shall be planted by the applicant if significant screening voids, determined by the Skoldbers, are observed at this time.

7. If any tree or hedge that is part of the final landscape and screening plan dies, it shall be replanted by the applicant during the next planting season.
8. Any changes to the site plan shall require prior Development Review Board approval.
9. This decision is subject to any and all applicable local, state, and federal permit approvals.

Dated at Waitsfield, Vermont this 3rd day of April, 2016 for the Town of Waitsfield
Development Review Board by:



Brian Shupe, Development Review Board Acting Chair

Voting in the Affirmative: Gib Geiger, John Donaldson, Rudy Polwin, and Brian Shupe.

Abstaining: None.

Voting in the Negative: None.

Absent: Chris Cook and Chris Jernigan.

Appeal

Pursuant to Title 24 VSA §4471 and §4472, an interested person who has participated in the review of this application may appeal this decision to the Environmental Division of the Vermont Superior Court by filing a Notice of Appeal directly to the Court, 32 Cherry Street, Suite 303, Burlington, Vermont 05401, by certified mail within thirty (30) days of the date this decision is issued. A copy of the notice must also be sent to the Zoning Administrator or the Municipal Clerk who is required to provide a list of interested persons to the appellant within five days of receipt of the Notice. The appellant is required to send a copy of the Notice, via certified mail, to each interested person.