

**FAYSTON DEVELOPMENT REVIEW BOARD**  
**MINUTES**  
**TUESDAY, FEBRUARY 2, 2021**  
**Unapproved**  
Via ZOOM

Attending DRB Members: Shane Mullen (Chair), Pete Ludlow, Mike Quenneville, Ky Koitzsch, Jared Alvord; ZA: JB Weir; Public: Gunner McCain, Abby Dreyer, Karen Sauther, Alan Thorndike

The meeting opened at 6:02 p.m.

Chair Mullen re-opened the hearing for applications #3599-#3600 (parcel ID# 01-026.000, located at 2142 North Fayston Road, Fayston. Applicant Abby Dreyer requests approval under Article 8 of the Fayston Land Use Regulations for a 6-unit Planned Residential Development (#3600). Applicant also requests approval under Article 7 of the Fayston Land Use Regulations for a major subdivision of one 114.33-acre lot into two lots of 108.33 acres and 6 acres (application #3599). Pursuant to Section 8, Planned Residential Development review is conducted simultaneously with major subdivision review.

Chair Mullen noted that there were no members of the public in attendance at the hearing. The Board had deemed three individuals Interested Parties in the initial hearing on this application. None were present for this meeting. Nonetheless, having attended the opening hearing of the application and being deemed Interested Parties, that status remains unchanged.

Gunner began by providing a summary of the additional materials provided to the Board per its request after last meeting. A revised plan set along with a memorandum in response to the Board's request for additional materials (dated 10/26/21) was submitted into evidence. Included within the responsive memorandum was a project narrative itemizing responses in accord with the initial request. Applicant's narrative noted that the project proposes six residential buildings, each of which will be limited to one bedroom only, and that these are so-called "tiny homes" or cottages. The narrative stated the requested waivers sought by the applicant. These requests included waiver of road standards to allow the existing driveway to be used as the road to access the PRD – a road which would be between 12' – 14' (as opposed to 18' wide per Section 6.1) in width with three pull-offs and brush-cleared to improve site-distancing. The applicant also requests to combine the subdivision and conditional use hearings into one. Applicant requests a waiver to submit the survey mylar after the project is approved is requested. Applicant also seeks a waiver to allow for the six units to be on one single parcel per Section 8. Applicant also requests a waiver of the property line setback around the perimeter of the PRD parcel.

The Board also requested applicant state a commitment to a specific use of the project, e.g. minimum lease term of six months. Applicant noted that the specific use of the project will be to provide a residential community of modest homes that allow residents to live simply and at lower cost than typical subdivisions. Applicant will remain the owner of the parcel and will enter into lease agreements with the residents, which will vary in duration depending upon the length of time each resident lives or stays in the community. Applicant added that the project

will be a *de facto* affordable housing community; the board clarified that for the purposes of review of the land use regulations, this project is not considered an affordable housing project.

Per the Board's request for a phasing plan, applicant stated that the cottages will be some combination of either pre-constructed tiny homes which are brought in on wheels and connected to the community wastewater disposal system, community water system, and electrical/internet service, and wood frame homes constructed on site and connected to these systems and services. The first home in the community will be the existing building on Site #3 which will be retrofitted to become a one-bedroom cottage. This retrofit will be completed in 2021. A second cottage, most likely on Site # 3 will also be built in 2021. The remaining four cottages will be phase in at a maximum rate of 2/year.

The Board had also requested an outline of the operations and maintenance needs of the project. Applicant submitted a Maintenance and Operations Agreement prepared by attorney Thorndike purporting to satisfy the Board's request. Per this agreement, applicant as the property owner and landlord will be responsible for the operation and maintenance of the project, including road maintenance and repairs, trash and recycling pick-up, community wastewater disposal system, community water system, electrical/internet service, and other such operations and maintenance needs. Applicant will be responsible for payment of costs for these services and will recoup some or all of the costs by means of the rental payments.

The Board also requested a description of deeds, covenants and other restrictions that would govern the project. Applicant referred to attorney Thorndike's Maintenance and Operations Agreement and noted that any successive owner to applicant Dreyer would have the same duties and responsibilities as she with regard to the occupants of the PRD.

In addition, per the Board's request, applicant's revised plan set clearly defined the open space allotment, including location, dimension and acreage. The Board had requested applicant delineate a 50-foot buffer around the perimeter of Lot 2. Applicant did not delineate such, purporting to not be applying as a mobile home park.

Gunner noted that he did meet with the fire department at the site with regard to adequacy of access and turnaround. The plans were revised per that discussion, with an expanded road entrance and a revised cottage location to allow for greater turnaround area. Tripp Johnson from the Waitsfield/Fayston Fire Department submitted comments prior to the meeting stating more space was necessary for the turnaround. Gunner stated that he would follow up with Tripp and get a better idea how much more space should be allotted.

Per the Board's request, the six proposed home sites were delineated on the plans. In addition, some of the "preliminary" stamps were removed from the plans as requested, while others remained stamped preliminary. All plans will be stamped as final once approved.

The Board had also requested updated information on road construction design, including profile, cross-section, width of travel lane/shoulder, and materials specification. Gunner provided a Road Plan depicting the existing road, proposed pull-offs, proposed edge clearing, and road profile is included with the submitted plans. The Board has also requested a grading

plan for the building envelopes. Conceptual grading around the proposed cottage sites is depicted on the revised plans as submitted.

The Board had also requested the applicant provide existing and proposed traffic generation rates and volumes. Per applicant's narrative, at the first meeting it was stated that residential projects generate 10 trip ends/site/day, as per a standard subdivision. Applicant states that, based on the ITE Trip Generation Manual, a PRD containing six homes generates only 45 trip ends per day, which includes 3 morning (typically 7-9 AM) peak hour trip ends and 4 afternoon/evening (typically 4-6 PM) peak hour trip ends. The existing house on applicant's adjoining property generates 10 trip ends, 1 each AM/PM peak hour, and the apartment generates 7 trip ends, also 1 each peak hour. Total trip ends will be 62/day, 5 during the AM peak and 6 during the PM peak. Per Table 6.1 of the Fayston Land Use Regulations, for a design speed of 25 mph a project with 62 trip ends requires an 18' wide road with no shoulders. Applicant has requested a waiver of this standard and maintain the current driveway's width, which has been described as being between 12 and 14 feet wide.

Per the Board's request, the applicant depicted the right-of-way on the site plans. The Board had also requested that all existing and proposed utility lines be shown on the plans. Gunner noted that all utilities will be buried. The proposed layout (subject to power company review and approval) is depicted on the plan. Heating fuel storage will be in above ground tanks at each site. Per request to show how trash management would be handled, Gunner noted on the road plan that trash will be managed via screened dumpsters/recycling bins located at the existing open area near the town road. Gunner added that the proposed barn has been removed from the pending application proposals.

Shane asked about whether conditional use review was pertinent to this proposal. Gunner said that it was requested on account of disturbance of slopes between 15% - 25% in grade some of the house site locations. ZA Weir noted that the application did not include any conditional review request. The Board agreed that the steeper slope disturbance could be reviewed as part of the subdivision and PRD application.

Shane asked about the specific types of housing structures that are proposed for construction. In other words, the Board wants to know how many of the dwellings will be tiny homes on wheels as opposed to cottages or the like. Shane noted that Section 4.10 defines a "mobile home park" as a parcel of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate three or more mobile homes. Furthermore, a "mobile home" is defined as a prefabricated dwelling unit that is (1) designed for continuous residential occupancy; and (2) is designed to be moved on wheels, as a whole or in sections. Accordingly, given that a tiny home on wheels constitutes a mobile home then, the Board would like to know at least how many homes will be on wheels. The applicant stated that there would be no more than three total tiny homes on wheels.

Shane inquired about the Maintenance & Operations agreement and why no mention of minimum lease terms or affordability of rental rates was included therein. Gunner stated that they are not making formal commitments to that. The units will be affordable because the

applicant wants them to be. Gunner asked why this is within the purview of the Board in deciding upon this application. Shane stated that the applicant is proposing very significant waivers from the land use regulations, including waivers from road width and setback waivers down to zero. Without some sort of commitment to affordability or minimum lease terms, there is nothing on paper that could prevent the applicant or future owner from turning this PRD into a set of short term rentals, which would be a dramatic departure from the character of the neighborhood and the principles of the Town Plan. The applicant is fine to commit to a minimum lease term and Attorney Thorndike will revise the Management and Operations agreement to reflect at least a 6-month minimum lease term. Attorney Thorndike did not believe a maximum rental amount would be practical.

Shane asked about the reasoning behind the request to waive the road standards. Specifically, based upon the applicant's calculation of a PRD road per ITE Trip Generation Manual, under Section 6.1 of the Fayston land use regulations Abby Road should be 18' wide. Applicant has requested a waiver of that standard to allow for the road to be 12' – 14' in width. Gunner stated that it has to do with cost to upgrade the road while maintaining the affordability of the development so as to ensure affordability of the homes themselves.

Shane asked about the waiver from all setbacks. Gunner responded that there are some setbacks delineated on the plans, adding that the reduced or non-existent setbacks present no burden as the setbacks pertain to either applicant's retained lands or to the driveway to her principal dwelling. Gunner contends that these plans provide a more efficient use of the land, and any subsequent owner will understand what they are purchasing. The plans propose an approximately 15' setback from the property line that runs up the road, and about a 12' setback from the northeastern property line. There is concern that these non-conforming setbacks could lead to issues if ownership of applicant's primary residence with remaining lands and the PRD village ever split. Per the land use regulations, the DRB can approve setback waivers for side and rear property lines down to 10 feet, and centerline setbacks from 65 feet down to not less than 45 feet. The Board believes it would be best if, at the very least, the units could all meet the minimum thresholds for setback waivers. Gunner stated that he could change the plans to allow for a 10-foot setback from unit #1 to the property line. Shane would also like to see an entire setback line drawn around the perimeter. Gunner will revise the plans such that all units will be no closer than 10 feet to the property lines and no closer than 25 feet to the centerline of the road.

Having decided that conditional use review could proceed pursuant to the PRD/subdivision review despite not being applied for specifically, the Board reviewed the proposal under Section 5 conditional use. The Board found all the conditional use application requirements to have been met. The Board reviewed the general and specific review standards pursuant to Section 5 and found that much has already been addressed.

The Board reviewed the proposed stormwater management and erosion control measures as depicted on the plans. Shane asked whether a Construction General Permit would be necessary. Gunner said he did not believe so as the project will not result in earth disturbances over one acre. Erosion control measures are delineated on the project detail sheet and include silt-fencing, erosion control blankets and stone-line ditching. Shane asked Gunner if he would be okay with a

condition that called for biodegradable erosion control blankets be used on slopes greater than 3H-1V. Gunner responded in the affirmative.

Having reviewed the application pursuant to the conditional use standards of Section 5, the Board found that any potential adverse effects from this project did not constitute an undue adverse effect.

The Board proceeded to request additional or revised materials for the next hearing. The applicant needs to work out the remaining emergency access issues with the fire department and provide the Board with a formal written approval on access and turnaround from the department before next meeting. The applicant shall submit a revised plan that references not more than three tiny homes on wheels. Per Section 4.10 of the Fayston LURs, three or more tiny homes on wheels situated on a single parcel constitute a mobile home park. However, the DRB is willing to waive this designation per Section 8 for Planned Residential Developments. Applicant must also provide a revised Management and Operation Agreement that states a minimum lease term of six months. Applicant must submit a revised plan that shows setbacks for the PRD lot at no less than 25 feet to the centerline of the access road and 10 feet to the side property lines. Applicant should also submit a revised erosion control plan that delineates the use of biodegradable erosion control blankets on slopes greater than 3H:1V.

Pete moved to continue the hearing until the March 9 meeting date. Ky seconded. There being no discussion, all in favor, motion passed.

Mike moved to approve the Minutes of January 5, 2021. Ky seconded. There being no discussion, all in favor, motion passed.

The meeting adjourned at 7:37 p.m.

The next meeting of the Fayston Development Review Board is March 9, 2021.