Town of Fayston, Vermont

Planning Commission Minutes (Unapproved)

Monday July 14th, 2025

Fayston Town Office

Attendees: Planning Commission: Freddie Graves, Langford Davidson, Andrew McNealus, Michael Duell, Paul Quinlan (by Zoom) **Zoning Administrator:** Jason Wilson **Public by Zoom**: Lisa Loomis, Tom Bisbee, Susanne Lowen **In-Person**: Jared Cadwell, Laura Arnesen, Janet Saylor, Ben Bridgewater, Wendy Bridgewater, Sally Dwyer, Luke Foley, Mike Martini, Woody Dugan, Marie Saylor, Laura Guion, Paul Zanzone (by Zoom)

1. **Call to Order** at 5:33PM by Langford Davidson
2. **Agenda Modifications:** None
3. **Approval of June 9th, 2025 Minutes:**
   Langford motioned to approve the 6/9/25 minutes; Freddie seconded. All approved.
4. **Public Comments:** None
5. **Fayston Land Use Regulations Amendments- Public Hearing on the proposed amendments to the Fayston Land Use Regulations. Related documents including the PC report and proposed Revisions List can be found on the Town of Fayston website:**

   https://faystonvt.com/departments-documents/planning-commission-notices-documents/

   Michael Duell provided a background: Since the Fayston Land Use Regulations were last updated in 2023, some issues have been identified that required clarification or revision, including some due to new or revised State Statutes. Over the past year and a half, the Planning Commission has been thinking through how to get some of the issues in compliance with the statutes and clarify the others, debating the changes, reviewing them with the public, and now bringing our recommendations forward for review with the public.

   Langford Davidson reviewed the different areas that had been changed. Below are the areas where there was discussion:

   ADUs

   Langford stated that the State of Vermont changed the way that they look at ADUs after the pandemic and the housing crisis. They said that the review of an accessory dwelling unit can be no more stringent than that for a single-family home. So currently, in our ADUs we have

that an accessory dwelling of greater than 30, but no more than 90% of existing level floor area of a principal dwelling or accessory structure may be created subject to conditional use. But because of the law change, we could no longer send people to conditional use. After discussion, we changed it as follows: If your home is larger than 4,000 square feet, the largest ADU you can have is 30% of your livable floor area; if your house is between 1,600 4,000 square feet, you're allowed to build a 2,000 square foot ADU; if your house is smaller than 1,600 square feet, you can build 75% of your principal dwelling, or 900 square feet, whichever is larger.

With the way the regulation currently reads, we were concerned that we may backdooring the opportunity to put in duplexes on single family lots. If you want to subdivide, you should subdivide. If you want to build a duplex, you should build a duplex. These things are not hard to do.

Several members of the public agreed that the changes that were made sounded reasonable.

Trails

Langford explained that the link in the LUR pointing to the New York Department of Environmental Conservation document was broken, and this link was corrected to point to the Vermont Department of Natural Resources website. Other changes included a change from bicycle trails to all trails, and adding a definition of "trail" (the same as the State's definition).

Michael stated that the other change was to add that no permit is needed (exemption) if the construction guidelines are followed.

Sally Dwyer: Does the term trails apply to what's on public or private land? **Langford:** It refers to any trail in the town that is constructed. **Freddie:** That part is still unclear.

Wendy Bridgewater: "Shall" is a legal requirement, not a suggestion. The definitions of trail and path are not specific enough.

Ben Bridgewater: Are these trails new trails to be constructed in the future or will previously existing trails have to conform? **Langford:** If the trails washed out, you must rebuild to these new standards. **Ben:** Why add this bureaucracy?

Janet Saylor: The original language was bike trails only, so we've expanded it from no longer just bike trails to everything. What was before a very limited use situation has now expanded to all of our trails.

Woody Dugan (Fayston Conservation Commission): One of my concerns is, are we referring to public access trails, or are we making a distinction between "path" and "trail". **Michael:** The LUR has a definition of "Path": "A path is a clear way for pedestrians and/or bicycles that may or may not be improved." This is in the current set of definitions.

Wendy: It sounds like there is no differentiation. **Michael:** The definition of trail is from the State statute. We wanted to keep the definition broad and not define it by characteristics. You do not need to pull a permit to put a trail on your property. But we are asking you to follow certain guidelines. **Wendy:** It is dictating, not just suggesting these guidelines, because it says "shall". **Ben:** How do you enforce this?

Woody: Historically, a "fence viewer" was someone who settled disputes about how people maintained their fences. This person was able to enforce who/how the fence was maintained. There are no fence viewers anymore, so the objective of these regulations is to protect ourselves and our neighbors.

Jared Cadwell: The New York State standards were referenced, did those standards ever come into play with the DRB? **Langford/Freddie:** Not that we've heard of.

Ben: Is the Town required to maintain a path that they have thrown up? **Freddie:** No. **Ben:** Why is the Town not required to do this and the people are? They throw up these roads because they don't want to maintain them any longer. Some of the older roads built to old standards are holding up better than newer roads built to newer standards.

Freddie: We received more information recently from the State which is writing standards for private trails. There is another set of rules from Act250. A lot of the parts of State are working in silos. What does the Town want? We don't have a problem we're trying to, correct? Why are we being so onerous?

Wendy: If you simply change "shall" to "should", it will take care of a lot of the problem.

Mike Martini: I'm a member of the Mad River Riders; how will this affect our trails in the Valley? **Michael:** According to Bob (the head of the MRR), they are following the standards in the State document. They agree the proposed changes to the LURs are an improvement. As do the members of the VAST system, who are also following the standards. **Mike Martini:** 60% of the mountain bike trails in the Valley are on private property. Is it up to the private property owners to handle the upkeep? **Langford:** In the case of the Mad River Riders, the organization maintains the trails. They have a full-time trail maintenance person who works year-round. Most of them are in Waitsfield, some are in Fayston. In exchange for using private land, they're maintaining those trails on private land for public use, and they're doing better to understand the standards for public use.

Ben: My issue is maintenance standards on private property not for public use.

Langford: Is the issue the word "shall"? Is the issue that the definition is broadened from just bicycle trails? Is the exemption, ok?

Jason: If you were to construct a trail or path, it is a permitted use. Currently there is no exemption. Some of them are conditional uses depending on the trail type. If you go to the front tables of your LURs, that's what they state. There's no exemption built into the LURs to construct any type of trail. If you are on a parcel that has a residence already there, that trail would be an accessory use to what is there, and if there's nothing on there, then that trail would then be deemed an outdoor recreational facility

Langford: We are trying to make it so you don't have to pull a permit.

Jason: Some are permitted use, some are conditional use. Outdoor recreational facilities allowed as a permitted use in this district are limited to hiking trails, bicycle trails, horseback riding trails, cross country ski trails, bass trails, trail shelters; all other outdoor recreation facilities require conditional use. So, it would be an accessory use.

Janet Saylor: "Facility" indicates public usage. When you change bike trails to all trails, all uses will be regulated. What you've done is to take the non-situation we were all okay with -- even the bikers are okay with meeting those standards, facilities are okay with meeting those standards. And now you have taken this complicated situation and separated them out into all the categories/definitions. And you've regulated all those, you're planning to put in exceptions. You've taken a non-issue and created massive, entangled issue, when you could simply fix the link or just wait for the State to impose their regulations. We all agree that erosion is a problem, and a lot of the problems are either old class 4 roads or old garden roads from 50 years ago that allow water to run quickly down the hill.

Langford: Look at the exemptions list, there are many things that you don't need a permit for. There is now added to the exemptions a new "building and maintenance of trails", which must be built according to the standards. **Freddie:** They are exempt as long as you use the standards. When the folks from the State were here, they said building to those standards creates more environmental damage than when you walk on your deer path. **Langford:** No one's taking an excavator to build a deer path. **Freddie:** But it's not clear.

Mike: Who will be enforcing this?

Woody: I improved a logging path on Janet's property. Let's say she is changing things and now the stream is coming for my house. What in the Town regulations will address this? **Freddie:** I don't think there is anything that does. **Langford:** That's what this new language is intended to do.

Ben: I've seen a lot of damage done by loggers; that's more concerning to me. **Langford:** Loggers are supposed to do the final closeout/erosion control measures on logging trails. **Ben:** There is no oversight except for a forester. **Langford:** Both the State and our LUR's say that you must follow the AMPs when you log your property.

Langford: Misha from the Mad River Path was supportive of these changes.

Laura Arnesen (MRV Recreation District): We have been coordinating the VOREC grant which is the umbrella to the conservation and recreation visioning. We have written standards, and look at ANR documents, we think this is a positive move to make these changes.

Wendy: You are talking about public trails. The letter didn't mention a difference between the two. My objection is the "Shall" which is legally enforceable against the property owner.

Luke Foley (Friends of the Mad River): Adopting the best management practices on trails seems like something that is in line with everything that the coalition of this Valley has been working together to accomplish. The majority of our trail systems are interwoven between public and private. In general, people don't want to be told what to do. But here what you're being told to do is to make sure that we're not creating erosion issues that impact our neighbors. Let's make sure that the trails we build stick around and don't wash away down the slope. And let's make sure that you know what you're doing is in alignment with the shared vision of all the towns in the watershed. I think it's you know, it's really important that we make sure that we do everything possible to mitigate erosion.

Wendy: I don't have a problem with encouraging those practices, I have a problem with legally mandating them. Luke: One thing to keep in mind is that when the legal language is included, that often opens up the opportunity to access grants and other funds.

Wendy: You're asking for more land to be posted by adding these restrictions.

Ben: I've seen a lot of damage done by loggers; that's more concerning to me. **Freddie:** We had a State Rep here who said that the guidelines were developed for the public lands. **Woody:** The spirit of the recreation visioning forum was to provide guidelines, to advise on good practices. I believe that's the intention here.

Janet: I see overlap of "path" and "trail". You could define a path as something for private use of friends and family, with no "shall". When "shall" is used, it opens the property owner up to significant liability. **Freddie:** How do we protect someone like Janet who is doing the responsible thing and just trying to mitigate against problems she may foresee?

Langford: This is not your last opportunity to have comments on this. We will try to incorporate your concerns and then we will bring it to a warned Selectboard meeting.

Jared: My takeaways are that we frequently see major flooding events; everyone is responsible for taking care of their private property in a responsible, environmentally resilient manner. I understand the intent of holding everyone to a standard. "Should" and "shall" are distinctly different. There is only so much Jason can enforce. The "fence viewer" role has long been abolished. There should be an active link of resources that a private landowner can consult for trail maintenance and construction. I don't think "Shall" is practical. We should be strongly recommending, trying to guide people/educate.

Andrew: "Shall" was intended to add teeth. It was copied from the Forestry section in the LUR's. **Michael:** If it's "should" there is no way to enforce anything to protect downstream neighbors and the watershed if someone upstream incorrectly builds a trail that leads to more erosion.

Ben: I think new trails "shall" be built to these standards but old trails that were previously there "should" be rebuilt to the standards.

Janet: Any organization "shall" absolutely. Private trail owners shouldn't be held to the same standards. **Ben:** Primarily for older trails that may need to be rebuilt. Public use and private use are different and should be handled differently.

Laura: If someone builds a bad trail and it impacts a neighbor negatively, this is what you are trying to address with the language. It doesn't matter whether it's public or private. **Langford:** Yes, it doesn't matter if it's public or private.

Freddie: I talked with Susan Baird of Act250 this morning and she said, "trails are a bitch". On trails, should we wait until the State figures out what they are doing?

Suzanne Lowen: My understanding is that this is related to new trail construction. Is it correct that these revisions apply to both the construction of new trails and repairs to existing trails? Would it require that people upgrade trails to standards if they are functioning well? **Langford:** Yes. **Jason:** I would say no, it says "construction and maintenance". **Suzanne:** This should be clarified. **Langford:** "Building" is new trails, "maintaining" is existing. **Jason:** Perhaps that should be changed to "construction" and "reconstruction" instead of "construction" and "maintenance".

Sally: There is a specific issue about trails on Big Basin, but this is not for discussion at this time.

The Zoning Administrator received an email for the Planning Commission from Misha Golfman of the Mad River Path which we read during the meeting:

> "I am aware that the Fayston Planning Commission is proposing meaningful changes to its Land Use Regulations.
>
> I wanted to reach out and add the voice of Mad River Path in support of sustainable trail-building practices. There is a growing recognition that the future of sustainable recreation depends on the development of resilient and ecologically sound recreational infrastructure. For the past three years, MRV recreation and conservation groups worked together to develop guidelines for trail development in line with ecological integrity. This work corresponds to that done at the state level. I appreciate that Fayston is recognizing this body of work and moving towards a more sustainable future by incorporating the trail standards in its LUR's"

The Zoning Administrator also received a letter for the Planning Commission from Brian Litmans of the Fayston Conservation Commission. Its opening sentence reads as follows:

> "Dear Members of the Planning Commission, The Fayston Conservation Commission is writing in support of the Planning Commission's proposed revision to the Town of Fayston's Land Use Regulations (LURs) pertaining to trails and the use of State recommended guidelines."

Electricity to Campers

Langford: Is everyone ok with allowing people to hook up electricity and water (not septic) to campers when they're parked? **Public**: No concerns stated.

Other

Mike Martini: I see trees falling across the brook. **Langford:** The Selectboard is going to let logs stay in the river except if they are threatening a bridge. The State Amp's don't allow you to cut within 50' of a waterway. **Luke:** I can share some links about this. The state has river engineers who you can bring out for free. There are forms you can fill out which help homeowners protect their property. Also, Friends of the Mad River will help advise on this.

Wendy: Is he outdoor recreation facility definition intended to be public or private? Can you look into that?

Woody: Thank you for your hard work.

Freddie: Thank you all for coming.

6. **Liaison Reports:**

a. **MRVPD, Paul:** The MRVPD met on 6/19/25, there was a presentation by Laura Arnesen and Phil Huffman; they have completed Phase 1. They were operating under the supervision of the Recreation District; the umbrella organization is now changing to the MRVPD (Josh Schwartz and Sam Robinson). There was also a brief report from Sugarbush.
b. **CVRPC, Andrew:** The last planning meeting covered the Montpelier Town Plan. If we work with them on reviewing our Town Plan, it will be helpful. The CVRPC will meet with the Planning Commission and Selectboard and will review new maps that will cover Act250 rules.
c. **Mad River Path, Michael:**
    i. Warren SB approved a local matching grant for a part of the MRP from Warren to Riverside Park. MRP has applied for the full grant knowing that Warren supports the match
    ii. The Mad River Path is currently working other grant applications
    iii. Continuing to work to develop funding streams for the Path co-located with the Wastewater Treatment path.

7. **Other Business:**
There was discussion of working through the comments at this hearing and making changes to the amendments in the September meeting, and having the joint meeting with the Selectboard and CVRPC on 8/11/25 (Selectboard will need to agree to come to the meeting).

Langford: Should we consult with the Town lawyer about the trails and recent Supreme Court decisions? There is some discussion legally about whether the Town can even regulate this issue. **Jason:** It can't hurt to get some legal advice on this. **Freddie:** What about consulting with the VLCT?

Michael: Can we discuss the information we just received from the public today? **Jason:** We need to warn it before we discuss. The Planning Commission doesn't generally go into executive session. **Freddie:** We have to have 100% transparency.

8. **Announcements:** None

9. **Adjourn***: Langford motioned adjourn the meeting; Freddie seconded. All approved and the meeting adjourned at 7:37 PM*