

**Development Review Board, Town of Fayston, VT  
Notice of Decision for Application No. 3403-3404**

**Applicant(s): Christina Castegren (Ermione, LLC)**

**Parcel ID: #01-103**

**Reason for Application: Minor Subdivision**

**Public Hearing Attendees:** Attending: DRB Members: Chair: Jon Shea, Jim Halavonich, Kevin Wry, Mike Quenneville, and Leo Cohen. ZA: John Weir. Public (1/10/2017): Gunner McCain, Milfred Cushman, Marie Saylor, Carol Chamberlin, Corrie Miller, Ben Bridgewater, Wendy Bridgewater, and Martha Bisbee. Public (2/14/2014): Gunner McCain, Milfred Cushman, Marie Saylor, Carol Chamberlin, Corrie Miller, Ben Bridgewater, Wendy Bridgewater, Liz Bisbee, Chuck Martel, Shane Mullen, Karen Sauther, Mark Bannon, Sally Dwyer, Chuck Farnsworth

**Introduction and Procedural History:**

1. The Development Review Board application was filed on November 21, 2016 requesting approval under Article 7 of the Fayston Land Use Regulations to amend a previously approved 8-lot major subdivision of one 93.3-acre lot into four lots of 29.7 acres, 16.5 acres, 31.4 acres, and 15.7 acres. The application also requests conditional use approval under Article 3, Section 3.4 of the Fayston Land Use Regulations to develop on slopes in excess of 15% in grade. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.
2. Notice of the hearing was properly published. On December 22, 2016 the legal warning for a public hearing for review of this application was published in the Valley Reporter. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.
3. Abutters to the property were properly notified of the hearing.
4. The application and plans were considered by the Development Review Board at two public hearing which occurred on January 10, 2017 and February 14, 2017. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended August 29, 2012.

**The following exhibits were submitted to the Development Review Board:**

Exhibit A. Subdivision application #3403

Exhibit B. Conditional use application #3404

Exhibit C. Letter to adjoining landowners with project description

Exhibit D. Warning placed in the Valley Reporter on December 22, 2016. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Exhibit E. Preliminary site plan (dated November 18, 2016)

Exhibit F. Sheet C-1 - Overview Plan (dated November 18, 2016, revised February 10, 2017)

Exhibit G. Sheets C2-C6 - Site Plans (dated February 10, 2017)

Exhibit H. Sheet SW-1 - Stormwater & EPSC Overview Plan (dated February 10, 2017)

Exhibit I. Sheet SW-4 - Stormwater Details (dated February 10, 2017)

Exhibit J. Sheet EC-1 - EPSC Notes & Details (dated February 10, 2017)

Exhibit K. Sheet S-1 - Slope Plan (dated February 10, 2017)

Exhibit L. Preliminary Road Maintenance Agreement

**Findings:**

1. The Board found the application to be complete at a public hearing held January 10, 2017.
2. The Board declared the application one for a minor subdivision at a public hearing held January 10, 2017.
3. Pursuant to the applicant's request in writing, the Board moved to waive the preliminary sketch review requirement.
4. This application seeks to reconfigure the previously approved 8-lot major subdivision of one 93.3-acre lot into four lots of 29.7 acres, 16.5 acres, 31.4 acres, and 15.7 acres. The applicant also requests conditional use approval to develop on slopes in excess of 15% in grade. The subject property is parcel 01-103.000, located off Boyce Road, in the Town of Fayston, VT. Subdivision approval is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended August 29, 2012, Articles 6 and 7. Conditional use approval is requested pursuant to review under the same, Articles 3 and 5.
6. The property is located in the Rural Residential District as described on the Town of Fayston Zoning Map on record at the Town of Fayston municipal office, also described under Article 2, Table 2.4 of the Town of Fayston, VT land use regulations.
7. The applicant's parcel is adjacent to land owned by the Bisbee Family Trust, Ethan and Mary Bisbee, Eardensohn Family Trust, Marie Saylor (Trustee), Stanley and Ethel Grandfield, Mad River Equities, LLC, and Jane Barnett.

8. The Board found Wendy and Ben Bridgewater to have interested party status. Marie Saylor has interested party status as a matter of right. Marth and Liz Bisbee (on behalf of the Bisbee Family Trust) have interested party status as a matter of right.
9. The Board denied Corrie Miller (on behalf of the Friends of the Mad River) interested party status.
10. Applicant Ermione, LLC (obo Christina Castegren) seeks to abandon the previous permit for an 8-lot subdivision, and instead have a 4-lot configuration. The new lots would be configured as follows: Lot 1 will be 29.7 acres, Lot 2 will be 16.5 acres, Lot 3 will be 31.4 acres, and Lot 4 will be 15.7 acres. Each lot will contain a proposed single-family home with associated infrastructure.
11. Boyce Road is a Class III town road until just after the house owned by Ben and Wendy Bridgewater, wherein it becomes a Class IV road up to and beyond the gate on applicant's property.
12. The previously approved development road was constructed by the prior owner, although it would need further development in order to access the proposed lot 4.
13. Since approval of the original Newis subdivision, the driveway regulations have changed. Therefore, the applicant will need to include pull-offs every 500 feet.
14. With regard to State permitting, the original Act 250 permit for the Newis subdivision expired because the permit was never acted upon. For the current proposed subdivision, there is no Act 250 jurisdiction. A Construction General Permit will need to be obtained on account of runoff. In addition, an Operational Stormwater Permit will need to be obtained. This is triggered by one acre of impervious surface. This permit will be required to treat runoff from impervious surfaces due to the expansion of the road to access applicant's lots. Existing impervious surface is not included.
15. There are existing drainage and runoff issues with the section of Class IV Boyce Road in and around the vicinity of applicant's property, the Bridgewaters' property and Marie Saylor's property.
16. Upon the applicant upgrading the class IV portion of Boyce Road on the applicant's property, the applicant will not ask the Town to maintain that section of Boyce Road.
17. Pursuant to Section 6.4 (M) (2) of the Fayston land use regulations, it is required that all proposed roads and rights-of-way will be adequately maintained either by the applicant, a homeowners' association or through other legal mechanisms.
18. The applicant has included within the preliminary road agreement that maintenance of the portion of Boyce Road below Marie Saylor's driveway will be shared.
19. The Board finds that the applicant must meet the requirements of Section 6.6 (B) such that emergency vehicle access must be provided to a minimum distance of 50 feet of all structures.

20. For any development on those slopes in excess of 15% in grade, proper erosion control measures such as silt fencing will be utilized. The applicant has provided a stormwater and erosion control plan for all lots, and has designated all slopes between 15% and 25% in grade.
21. The applicant has provided a preliminary sketch of the proposed dwelling on lot 4 to comply with Section 6.3 (C) (3) and the Board finds that the proposed dwelling will not adversely affect prominent hilltops and ridgelines.
22. The applicant has proposed the dwelling on lot 4 will not be serviced by utilities.
23. All four proposed lots have approved septic designs.
24. The Board reviewed the proposed development envelopes depicted on the site plans and found that those envelopes met the standards set forth in Section 6.2 (C) of the Fayston Land Use Regulations.
25. The Board also found that the applicant's proposed development plans were adequate in the protection of natural and cultural resources and met those standards as set forth in Section 6.3 of the Fayston Land Use Regulations.

**Decision:**

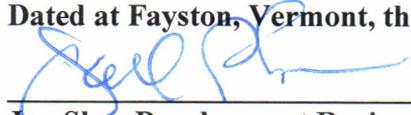
DRB members voted unanimously to approve applications #3403-3404 for a minor subdivision and development on slopes in excess of 15% in grade with the following conditions:

**Conditions:**

1. All utilities serving any of the proposed lots must be buried underground.
2. Obtain and follow all State permits, including but not limited to a Construction General Permit and an Operational Stormwater Permit.
3. All exterior lighting shall be downcast.
4. All structures must be colored with earth-toned material and roofing materials must be of a non-glaring color.
5. Emergency vehicle access shall be provided to within a minimum distance of 50 (fifty) feet of all structures per Section 6.6 (B). Adequate turnaround space shall be provided.
6. The proposed house must be moved at least 10 (ten) feet from any slope in excess of 25% in grade.
7. Applicant shall prepare a road maintenance agreement similar to that presented to the Board as part of the application, and shall include an agreement among adjoining landowners to share in the cost of maintenance of the portion of Class IV road not on the applicant's property. Any subsequent decision by the Town of Fayston to take over maintenance of the road (i.e. make it a class III road) obviates the need for this condition.

8. Emergency services must have the ability to access the property from the gate at all times.
9. Submit to the town clerk the required mylar plat for recording within 180 days of the date of this decision.

**Dated at Fayston, Vermont, this 5<sup>th</sup> day of April, 2017.**



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**Jon Shea Development Review Board Chair**

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [Development Review Board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.