TOWN OF WILLISTON
DEVELOPMENT REVIEW BOARD
December 11, 2018, 7:00 PM
Town Hall Meeting Room | 7900 Williston Road

Minutes approved January 8, 2019 as written.

A video recording of the meeting is broadcasted by Channel 17 and available at www.cctv.org. The minutes and project proposal information/site plans can be found with "Agenda & Minutes" under "Public Records and Documents" on the town website, http://www.town.williston.vt.us.

Members in attendance: *Scott Rieley (Chair), Peter Kelley (Vice-Chair), John Hemmelgarn, Jill Spinelli, Paul Christenson*

Planning & Zoning Staff: *Matt Boulanger, Melinda Scott, Emily Heymann, Brad Falco*

Attendees who signed in: *Gary Howard, Jason Adams, Lori Marino, Benjamin Avery, Jesse Lauer, Paul O'Leary, Alex Kourebanas, Christopher Senesac, Barry Blakely, Pete Watson, Doug Goulette*

AGENDA

I. Public Forum
II. Public Hearing

DP 17-01.1 Pre-App BlackRock Construction requests pre-application review to amend allocation schedule for 8 dwelling unit equivalents in the Northridge subdivision located north of Metcalf Drive and east of Coyote Lane in the RZD.

DP 19-09 Gary Howard requests pre-application review of a 3-lot subdivision of 121 acres of land (2 residential and 1 open space lot) on Butternut Road located east of 846 Butternut Road and west of 1120 Butternut Road in the ARZD.

DP 19-11 Adams Real Properties, LLC seeks pre-application review of a 9-lot mixed-use subdivision of 41 acres of land located at 700 Mountain View Road in the RZD.

DP 19-08 Big Three, LLC seeks to amend Conditional Use Permit # 05-16 to allow for restructuring Catamount Country Club at 1400 Mountain View Road in the RZD.

III. Communication, Final Plans and Other Business
IV. Minutes from November 27, 2018 DRB meeting
V. Adjournment

7:01 PM Opened public forum

No comments from audience

7:02 PM Opened public hearing for DP 17-01.1

DP 17-01.1 Pre-App BlackRock Construction requests pre-application review to amend allocation schedule for 8 dwelling unit equivalents in the Northridge subdivision located north of Metcalf Drive and east of Coyote Lane in the RZD.

Peter Kelley recused himself from the board for the hearing and closed deliberations of this agenda item as a homeowner in the neighboring Southridge neighborhood, citing concerns of potential conflict of interest.

Representing the application: Ben Avery, Blackrock Construction, 68 Randall Street, S. Burlington

Emily Heymann read the staff report and explained the request.

Mr. Avery made a correction to report. 21 units, not 22 are proposed. Anticipate beginning project in the winter. 13 units currently allowed for project. The procedural allocation for the Growth Management hearing is to be in March 2019.

Mr. Rieley asked which year applicant wanted to move allocation to.

Mr. Avery stated years 2020 and 2021.

Pete Watson, 126 Coyote Lane, asked for clarification of current project build per year if this pre-application were to be approved to go to growth management.

Mr. Avery answered 13 units in 2019.

Ms. Heymann clarified number of units allocated per fiscal year. She stated that growth management allocation chart would be attached and posted with the minutes.

Ms. Spinelli asked Mr. Watson what his perspective was of impact of amending growth allocation.

Mr. Watson stated he wanted the development to happen as soon as possible.

Laurie Marino 160 Harte Cir – Stated she was on Act 250 Commission. Stated board should reevaluate project, references traffic generation, wetland impact, wildlife impact, and aesthetic impact, safety concerns. Thinks whole project needs to be reconsidered. Mentioned evidence of bobcat and potentially lynx in proposed development area.

Mr. Rieley explained that the appeal period is over for that portion of the project and explained what this hearing was in regards to.

Ms. Marino mentioned concern in village master plan regarding intersection of Route 2 to Oak Hill Road. Concerned about clearing land behind her home and impact it will have on her. She asks that start date and allocation not be allowed to happen sooner. She believes that the later the better for beginning development.

Mr. Watson asked about work beginning on property. Stated he heard and saw development activity on site.

Mr. Avery stated no work has begun to his knowledge.

Ms. Marino stated drilling had started on site. Stated that the police were called.

Mr. Rieley recommended talking to staff to find out what is happening on site. He explained why there might be activity on site before construction.

Mr. Avery stated that no building had begun on the site.

Ms. Marino stated that there should be notice of work prior to that work beginning.

Mr. Rieley explained relation of town and board between residents and developers.

Mr. Rieley asked for more questions or comments from board or audience.

Ms. Spinelli asked which units will be affordable or market rate.

Mr. Avery explained which units are multifamily and single family and which would qualify as affordable units.

Mr. Avery explained drilling would occur to test for edge of bedrock. Did not know testing would happen today.

Ms. Spinelli confirmed with Mr. Avery that market would drive development demand.

Mr. Kelley asked about a buildout development plan for the different phases of the project.

Susan Lord, 745 Metcalf, asked how anything could be approved on town level if project has not passed Act 250.

Mr. Rieley explained town level of review.

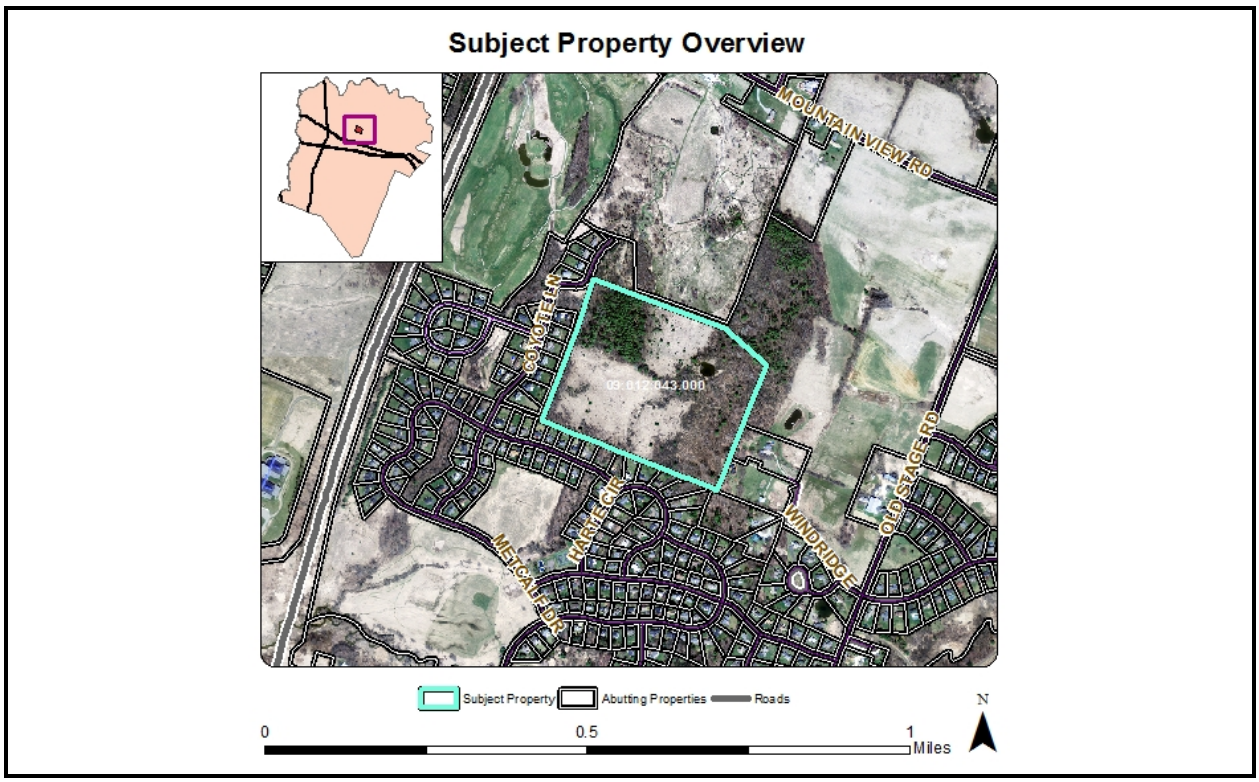
Ms. Mario asked about town's interest in start date.

Ms. Spinelli explained end date was more pressing than start date.

There were no further comments or questions from the board, applicant, or audience.

7:33 PM Closed public hearing for DP 17-01.1

Application No: DP 17 – 01.1	**Name:** Northridge Residential Subdivision
Hearing Date: December 11, 2018	**Application Stage:** Preapplication
Tax Parcel #: 09:012:043	**Property Address:** North of Metcalf Drive, East of Coyote Run
Zoning District: Residential (RZD)	**Total Acres:** 44 $\pm$ acres



Overview
This is a request for pre-application review for a proposed 59-unit residential development of a 44 ± acre parcel in the Residential Zoning District (RZD). The subject property is an undeveloped parcel located to the north of Metcalf Drive and east of Coyote Lane. This project has growth management allocation for 22 of its units, discretionary permit, and final plan approval from the Williston DRB.

The applicants are applying for pre-application only so the project can be allowed to compete in the March 2019 Growth Management hearing before the DRB, and only for the re-allocation of already-allocated units into sooner years than were possible at the time of its original application. No changes to the project, other than the timing of the construction of these units, is proposed.

There have been no changes to the Williston Development Bylaw impacting this project since its final plan approval in November, 2018.

What is Pre-application?
This is the first step in the development review process, and it is called pre-application. It is not a formal request for project approval or a permit; it is a preliminary level of review. Proposed residential developments potentially receive authorization to proceed the annual residential growth management allocation process held in March of next year (2019).

Motion

Staff notes that the following motion was voted on in error. The motion was seconded by and voted on by Mr. Peter Kelley, who recused himself from the public hearing and from the closed deliberative session of this project. DP 17-01.1 will be added to the January 22, 2019 Development Review Board agenda for a revote.

As authorized by WDB 6.6.3, I, Jill Spinelli , move that the Williston Development Review Board, having reviewed the application submitted and all accompanying materials, including the recommendations of the town's staff and the advisory boards required to comment on this application by the *Williston Development Bylaw*, and having heard and duly considered the testimony presented at the public hearing of December 11, 2018, accept the recommendations

proposed by staff for the review of DP 17-01.1, and authorize the applicant to proceed to Residential Growth Management Allocation.

SECONDED BY: Peter Kelley VOTE: 5 AYES – 0 NAYES

7:33 PM Closed public hearing for DP 17-01.1

7:33 PM Opened public hearing for DP 19-09

DP 19-09 Gary Howard requests pre-application review of a 3-lot subdivision of 121 acres of land (2 residential and 1 open space lot) on Butternut Road located east of 846 Butternut Road and west of 1120 Butternut Road in the ARZD.

Representing the application: Gary Howard, 697 Butternut Road

Melinda Scott read the staff report and explained the request.

Mr. Howard explained access to proposed lots in more detail.

Mr. Rieley asked applicant for more comments.

Mr. Howard stated he had no other comments. He asked about staff wetland delineation request on building lots.

Ms. Scott explained that wetlands should be delineated if they exist on the building lots.

Mr. Rieley explained applicant should determine if wetlands do or do not exist on site.

Mr. Christenson asked about the spring on lots 1 and 3.

Mr. Howard explained history of spring and stated it is a controlled spring.

Mr. Hemmelgarn asked for clarification of size of conservation area of an abutting parcel.

Ms. Scott explained the size. Further explained how a 200-ft conservation corridor was determined.

Mr. Christenson asked if there was a soil assessment done on the site.

Mr. Howard confirmed.

Jessie Lauer, 1120 Butternut Road, strong supported the driveway relocation. He also asked for recorded 800-ft right of way to a well located on lot 3.

Ms. Spinelli asked for clarification of right of way's location.

Mr. Lauer explained it was in south west corner, to lot 1.
Mr. Howard mentioned he was not sure if well is dry or not.

Mr. Christenson asked about stone wall on property.

Barry Blakey, 985 Butternut, asked for clarification of driveway location.

Mr. Howard explained proposed change to driveway layout and reason for proposed location

Mr. Blakely asked for applicant's vision of building envelope on sites.

Mr. Howard explained envelopes would be toward rear of lot for better view.

Mr. Blakely asked for clarification of Ms. Scott's concerns regarding openspace.

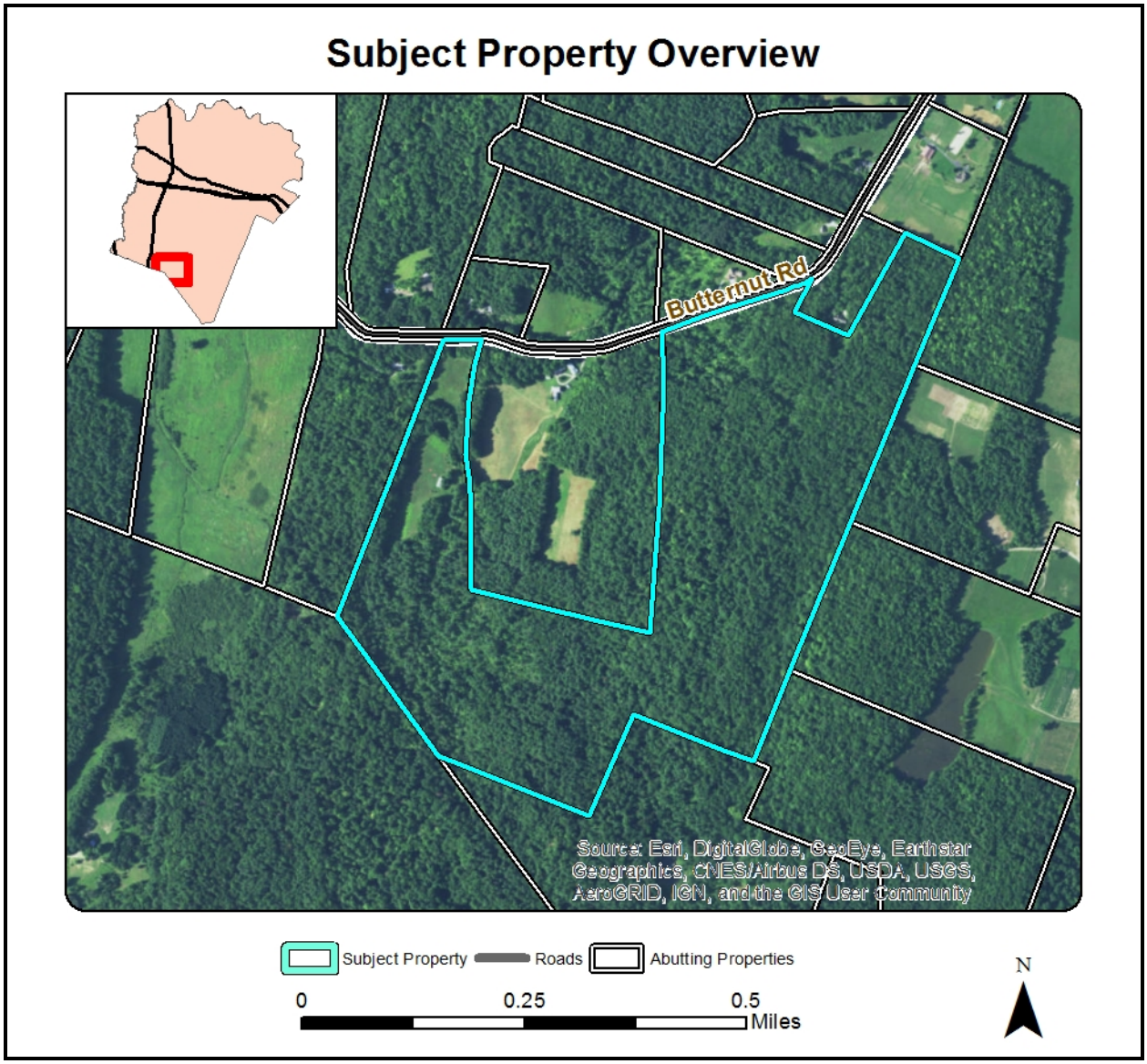
Ms. Scott explained the contiguous open space requirement of the bylaw and desire to connect open space of adjacent conserved lots.

Mr. Rieley asked for additional questions from board and audience

There were no further comments or questions from the board, applicant, or audience.

8:11 PM Closed public hearing for DP 19-09

Application No: DP 19-09	**Name:** Howard 3-lot subdivision
Tax Parcel #: 23:026:051	**Property Address:** 700 Butternut Rd
Zoning District: Agricultural Rural Residential Zoning District (ARZD)	**Total Acres:** 121.79



Overview

This is a request for pre-application review for a proposed three-lot residential subdivision of a 121.79 acre parcel. The parcel is located at 700 Butternut Rd in the ARZD. The property is currently developed with one accessory structure, but has no dwellings. The applicant is proposing to subdivide the single lot into two single-family home lots sized at between 12 and 12.3 acres. The applicant is proposing to set aside 97.47 acres as protected open space.

Project History

The subject parcel south of Butternut Rd has existed since before 1990, except a Boundary Line Adjustment as noted below has changed the parcel size and configuration. The applicant also owns a 4.76 acre parcel to the north of Butternut Rd, which is developed with a single family dwelling. Development on these parcels is governed by the rule related to split parcels:

> 12.1.3.1 Split Parcels. Where a parcel is split by a public road right-of-way or a railroad right-of-way it will be treated as two parcels for the purposes of this bylaw.

Therefore, any development affecting the parcel south of Butternut Road is independent of the parcel north of Butternut Road.

The DRB reviewed a Preapplication for a Boundary Line Adjustment (BLA) affecting two other parcels north of Butternut Rd. owned by Ross and Gary Howard on June 25, 2013, and a Discretionary Permit application for the same on August 13, 2013. On April 4, 2018 the DRB reviewed a Discretionary Permit for a BLA that resulted in the parcel now proposed for subdivision.

FINDINGS OF FACT

1) Use:
The proposed subdivision will be for the purpose of adding 1 new dwelling unit to the parcel, 1 dwelling unit being allowed by right. Single and two-family dwelling units are an allowed use in the ARZD.

2) Residential Density:
The applicant is proposing a subdivision which will result in two dwelling units on 121.79 acres of land, where the maximum allowed residential density in the zone is one dwelling unit per 80,000 square feet (1.84 acres). The *Williston Development Bylaw* (WDB) Chapter 19 *Density* does require that lands with wetlands, wetland buffers, and slopes in excess of 30% be taken out of that density calculation, and that lands with slopes between 15 and 29.9% be calculated at a reduced density of one dwelling unit per ten acres.

Staff has conducted a constraints analysis, shown as follows:

Constraint	Acres	Allowable density/Acre	Allowable Dwelling Units
Wetlands and buffers	4.14	0 Dwelling units/Acre	0
slopes 30% and greater	9.75	0 Dwelling units/Acre	0
slopes 15-29.9%	43.70	ARZD: 1 Dwelling unit/10 acres	4.37
unconstrained	64.2	ARZD: 1 Dwelling unit/ 1.83 acres	34.89
Totals	**121.79**	**n/a**	**39.26**

Because WDB 19.1.3.3 requires rounding down to the nearest whole number when determining residential potential, the maximum number of dwellings allowed on the parent parcel is thirty-nine (39). The applicant has proposed 2 units. The calculated acreage of wetlands is a rough approximation; any additional Class II wetlands or wetland buffers present on the parcel would reduce the amount of the parcel available for the purposes of calculating density, but would not likely affect the current proposed density.

3) Open Space:
As a subdivision of a parcel of land 10.5 acres or greater, WDB 31.7 Open Space Development requires this project to set aside a minimum of 75% of the area of the parent parcel as permanently-protected open space. A new requirement as of May 18, 2018 is that the open space must be platted as a separate lot (WDB 31.7.7). The open space must include steep slopes, wetland areas and setbacks, and any other resources required to be protected under WDB 27. The applicant's proposed 97.4 acres of open space, shown as Lot 3 on the site plan, meets the 75% requirement. All slopes in excess of 30% and all watershed protection buffers are within the open space, as required by WDB 31.7.2.5.

WDB Chapter 31 has provisions for contiguity of open space, as follows:

> ***31.7.3 Must the protected open space be contiguous?*** Yes. The protected open space must be contiguous, except as provided here. It must also be contiguous with any open space on adjoining lots or parcels that is currently protected, or is identified for protection in the Town Plan. The DRB may allow exceptions to this standard where:
>
> > 31.7.3.1 … a small area that is isolated from the rest of the open space on the site is within a watershed protection buffer required by Chapter 29 of this bylaw; or

31.7.3.2 … the only home sites that comply with the standards of this chapter are adjacent to protected open space on an adjoining lot or parcel.

31.7.4 How is contiguity defined? Contiguous open space is generally defined as an area of forest and/or other natural community that is unfragmented by development and remains in a natural state. In establishing standards for contiguity, the Conservation Commission and DRB will consider the context of the proposed development, including the type and relative value of resources as identified in WDB 27, 28, and 29 to be protected, and the configuration of open space that will best ensure the protection of those resources.

The configuration of open space in this proposal is not contiguous with an abutting conserved parcel to the east. Rather, the proposed development Lot 1 abuts this conserved parcel. The Williston Conservation Commission discussed this at length and drafted a recommendation intended to preserve contiguity of open space without putting an undue burden on the landowner, as follows:

> "In order to promote open space contiguity across adjacent parcels, a deed restriction should be drafted for Lot 1 that protects a 200-foot wide forested corridor along its eastern boundary, where accepted forestry practices would be allowed but development and/or clear-cutting would not be allowed."

Upon further consideration, staff has concerns about this recommendation. It is staff's opinion that the proposed project may be considered exempt from the contiguity requirement based on the provision of WDB 31.7.3.2 stated above. Staff notes that the parent parcel is heavily constrained by steep slopes, with the exception of the proposed development lots. Staff also notes that the area proposed for Lot 1 is not designated as Wildlife Corridor on the Significant Wildlife Habitat Official Map, adopted as part of WDB 27; thus, requiring a deed restriction on this lot simply for the purpose of ensuring contiguity with adjacent conserved land may do little to promote functional habitat connectivity. The Habitat Disturbance Assessment required as part of Discretionary Permit application submittal can address this point specifically if necessary.

The proposed open space contains an existing accessory structure, presumably used in support of agriculture. Agriculture is an allowed use of open space.

4) Access:
Access to all three lots will utilize a 50ft right-of-way over abutting parcel 23:26:61 and Lot 3 will utilize a proposed 60ft wide easement over Lots 1 and 2. The applicant will need to provide documentation of legal means of access as part of an application for Discretionary Permit.

WDB 13 allows up to five dwelling units on a shared driveway. WDB 13.2.6 provides additional standards for residential driveways serving multiple dwellings, including the requirement for grade not to exceed 10%. The Williston Department of Public Works has additional standards for private driveways and private streets that must be satisfied.

WDB 31.3.6 requires that parcels have a minimum 40 feet of frontage on a public or private road or drive for all new lots. The proposed lot configuration appears to meet this requirement.

5) Traffic:
Permits for new single family homes will have to be accompanied by impact fees including traffic impact fees. Pre-application is also the stage of review where the DRB may ask for a traffic impact study if they so desire. Staff notes that in Williston, two additional single family units would produce 2.02 new PM peak hour trip-ends. Staff does not recommend that the DRB request a traffic study for this project.

6) Landscaping and Setbacks:
WDB Chapter 31 establishes minimum dimensional setbacks in the ARZD as follows:

Front setback from ROW (Town highway)	50 feet

Front setback from private road	25 feet
Side setback	See Chapter 23, if N/A 15 feet
Rear setback	See Chapter 23, if N/A 15 feet

Required setbacks must be landscaped as a Type I, III, or IV buffer, as required by Chapter 23 of this bylaw. On large lots in the ARZD, existing vegetation is typically utilized for landscape buffers. Access drives, roads, pedestrian ways, underground utility lines, and where such lines are permitted, overhead utility lines, may cross required setbacks at a right angle (±10°). Pedestrian ways may also run parallel to and within a required setback. Parking and loading areas may not be placed within required setbacks.

The applicant has not shown proposed building envelopes on the site plan. Building envelopes must conform to the setback requirements shown above.

7) Home Sites:
WDB 31.8.1 states that homes sites must be shown within that portion of a proposed open space development (25% or less) where development will be permitted, and that designated home sites may not exceed a one-half acre clearing limit. WDB 31.9 states other requirements for home sites, including providing adequate wastewater treatment, adequate water supply, and safe road access. WDB 31.9.6 states that where possible, homes and accessory buildings shall be effectively screened from view from public ways by existing woodland or forest vegetation or the terrain.

8) Water & Wastewater:
The applicant proposes a private well and septic system. System design and state permits are not required at the pre-application review phase. The applicant will need to show the location of any on-site wastewater disposal systems and provide a state Water and Waste Water Discharge permit as part of an application for Discretionary Permit.

9) Wetlands, Waterways, and Conservation Areas: The subject parcel is within a Significant Wildlife Habitat Area (SWHA) due to its designation as both Core Habitat and Wildlife Travel Corridor on the Significant Wildlife Habitat Official Map, adopted as part of WDB 27. WDB 27.5.7 requires that a Habitat Disturbance Assessment (HDA) be prepared by a qualified wildlife biologist and submitted by the applicant as part of a discretionary permit application. The project area is within a Secondary Foreground viewshed area as identified in the Visual Assessment Official Map. WDB 27.9 directs the DRB to consider viewshed impacts to this viewshed and apply conditions of approval to mitigate those impacts as a part of its review of this project.

The proposed development is not anticipated to disturb any land within the watershed protection buffer. Because the project area contains steep slopes, particularly in the area proposed for an access driveway, the proposed project is considered a high risk development. As indicated by WDB 29.3.1, for high risk developments the discretionary permit application shall be accompanied by a professionally-prepared runoff and erosion control plan that shows how compliance with the performance standards of WDB 29.5 will be attained both during the construction of the proposed development and the continuing use of the site.

There are state mapped Class 2 wetlands on the subject parcel. WDB 29.8.1 states that a wetlands delineation prepared by a professional wetlands scientist in accord with the current guidelines of the Army Corps of Engineers must accompany all applications for discretionary permits for development on sites where wetlands are known or suspected to exist. Staff recommends a delineation be required only for wetlands located within or in close proximity to development lots.

10) Trail Easement: There is a desired primitive trail shown on the property in Map 17 of the *Williston Comprehensive Plan.* The Williston Conservation Commission discussed a possible trail easement with the applicant, and the applicant indicated his willingness to provide a trail easement along a mutually desired alignment to be determined and shown on the site plan as part of an application for Discretionary Permit. The applicant stated a desire to continue to allow hunting on his property and requested the town erect signage if

and when a trail is built, notifying trail users of the presence of hunters. Building paths and trails is one of the scoring criteria in Growth Management.

11) Growth Management:
WDB 11.2.2.1 states that one dwelling may be constructed on any undeveloped parcel that was, and has continued to be, in separate ownership since the town adopted its first growth management system in 1990. Since there is no record of subdivision of the subject parcel since 1990, the growth management exemption applies. Thus, the applicant retains the right for one dwelling unit and, if so authorized, will proceed with a residential growth management allocation request for one additional dwelling unit.

Residential growth management allocation is a competitive process. To obtain residential growth management allocation without obtaining an exemption, a project must receive a minimum score of 30 points. More information about the Growth Management scoring criteria can be found in WDB Chapter 11, and staff can provide guidance to applicants who have questions about the Growth Management criteria.

COMMENTS AND RECOMMENDED ACTION

Review by other Boards and Town Departments:
Williston's Police, Fire, and Public Works departments reviewed the project. The Police and Fire Departments had no comments at this time. The Department of Public Works submitted the attached comments dated November 19, 2018 regarding the Public Works Standard Specifications and requirements for Certificate of Occupancy. The DPW requested the applicant provide a response to the following:

1. The Public works minimum ROW is 64 feet
2. Access review will be required if there is further development of Lot 3

Staff recommends the applicant meet with the Director of Public Works to clarify the requirements for the proposed access driveway, prior to submitting an application for a Discretionary Permit.

This proposal was also reviewed by the Williston Conservation Commission (WCC), and their recommendations (attached) are as follows:

1. A Habitat Disturbance Assessment (HDA) should be prepared by a qualified wildlife biologist and submitted by the applicant as part of a Discretionary Permit application.

2. The protected open space must be platted as a separate lot, in conformance with WDB 31.7.7.

3. In order to promote open space contiguity across adjacent parcels, a deed restriction should be drafted for Lot 1 that protects a 200-foot wide forested corridor along its eastern boundary, where accepted forestry practices would be allowed but development and/or clear-cutting would not be allowed. Applicant shall have wetland

4. The applicant should submit a draft trail easement as part of an application for Discretionary Permit, working with the Conservation Commission to determine a desired alignment.

5. Within lots proposed for development, where there are known wetlands or where they are suspected to exist, the applicant is required to have a wetlands delineation prepared by a professional wetlands scientist in accord with the current guidelines of the Army Corps of Engineers, to be submitted as part of an application for a Discretionary Permit.

6. The Discretionary Permit application shall be accompanied by a professionally-prepared runoff and erosion control plan that shows how compliance with the performance standards of WDB 29.5 will be attained both during the construction of the proposed development and the continuing use of the site.

As discussed previously, recommendation #3 was drafted with the intent to preserve contiguity of open space. It is staff's opinion that this recommendation may not, in fact, effectively protect the resources of highest value. Staff proposes instead that the Habitat Disturbance Assessment required at time of Discretionary Permit application submittal address the contiguity standard. With the exception of Recommendation #3 above, staff proposes the DRB adopt Town Department and Board recommendations as DRB recommendations moving forward.

Recommended Action:
Staff recommends that the DRB authorize the applicant to proceed to Growth Management Review in March 2019. Below are Preapplication recommendations for the DRB to consider.

Recommendations:

1. A Habitat Disturbance Assessment (HDA) should be prepared by a qualified wildlife biologist and submitted by the applicant as part of a Discretionary Permit application.

2. The protected open space must be platted as a separate lot, in conformance with WDB 31.7.7.

3. Within lots proposed for development, where there are known wetlands or where they are suspected to exist, the applicant is required to have a wetlands delineation prepared by a professional wetlands scientist in accord with the current guidelines of the Army Corps of Engineers, to be submitted as part of an application for a Discretionary Permit.

4. The Discretionary Permit application shall be accompanied by a professionally-prepared runoff and erosion control plan that shows how compliance with the performance standards of WDB 29.5 will be attained both during the construction of the proposed development and the continuing use of the site.

5. The applicant should provide a written response to the DPW Memo and should also meet with the Director of Public Works and Fire Department Chief to clarify potential requirements for the proposed development, prior to submittal of a Discretionary Permit application.

6. The applicant should meet with Planning Department staff to discuss growth management scoring criteria of Chapter 11.

7. The applicant should submit a draft trail easement as part of an application for Discretionary Permit, working with the Conservation Commission to determine a desired alignment.

8. The applicant shall have a wetlands specialist determine if there are any wetlands present on proposed lots 1 and 2 and submit a letter to staff with their findings.

9. Comments stated by the Williston Conservation Commission, excluding comment #3, in their memo dated December 5, 2018 shall be adopted as pre-application recommendations.

Motion

- **As authorized by WDB 6.6.3, I, John Hemmelgarn, move that the Williston Development Review Board, having reviewed the application submitted and all accompanying materials, including the recommendations of the town's staff and the advisory boards required to comment on this application by the *Williston Development Bylaw*, and having heard and duly considered the testimony presented at the public hearing of December 11, 2018, accept the recommendations**

proposed by staff for the review of DP 19-09, and authorize the applicant to proceed to Residential Growth Management Allocation.

SECONDED BY: Jill Spinelli VOTE: 5 AYES – 0 NAYES

8:11 PM Closed public hearing for DP 19-09

8:12 PM Opened public hearing for DP 19-11

DP 19-11 Adams Real Properties, LLC seeks pre-application review of a 9-lot mixed-use subdivision of 41 acres of land located at 700 Mountain View Road in the RZD.

Representing the application: Jason Adams, Adams Properties, 207 Boyer Circle. Doug Goulette, Lamoreaux & Dickinson, 14 Morse Drive, Essex Junction

Emily Heymann read the staff report and explained the request.

Mr. Rieley asked for clarification on open space and on staff's opinion on wetland buffers and delineation.

Mr. Goulette gave overview of parcel's geography.

Mr. Christenson asked how sewer would get across wetland buffer.

Mr. Goulette explained typical methods and materials.

Mr. Christenson asked if there were mitigation strategies in place in case of sewer line failure.

Mr. Goulette explained mitigation strategy.

Ms. Heymann presented clarification on staff recommendation on building envelopes on existing lots.

Mr. Christenson asked about number of parking spaces required for daycare facility.

Ms. Heymann explained parking space requirement for this facility and calculation used.

Mr. Adams explained he has a possible tenant for the childcare facility and they have no issues with parking at their other location.

Mr. Hemmelgarn asked for explanation on size of lot 7.

Mr. Goulette explained reasoning for the size decided for lot 7.

Mr. Hemmelgarn mentioned there is a primitive trial on lot 7 currently, and access would be restricted if lot is developed.

Ms. Spinelli asked about access to Lot 7.

Mr. Goulette explained frontage on Hanon Drive.

Christina Newnan, 371 Hanon Drive, is interested in Lot 7 across the street from her home. She stated that she was told that her neighborhood was completely developed when purchasing her house.

Mitch McClellan, 464 Hannon Drive, is concerned about daycare and traffic generation. He mentioned the potential of traffic cutting through neighborhood. Traffic calming measures requested to mitigate increase.

Mr. Rieley asked for more questions from applicant, board, and audience.

Mr. Goulette explained why they chose modest development vs large multifamily

There were no further comments or questions from the board, applicant, or audience.

8:41 PM Closed public hearing for DP 19-11

Williston Development Review Board (DRB) Staff Report	
Application Stage: Pre-application	**Hearing Date:** December 11, 2018
Application No: DP 19 – 11	**Project Name:** Adams Subdivision
Property Address: Mountain View Road between Katie Lane & Hanon Drive	**Zoning District:** Residential Zoning District (RZD)
Tax Parcel #: 04:010:027.a	**Existing Lot Size:** 41.42 Acres

Overview
This is a request for pre-application review of a proposed 9-lot subdivision of 41.42-acre parcel to create nine (9) residential dwellings, one (1) commercial childcare facility and one (1) openspace parcel. The undeveloped property is located south of Mountain View Road between Katie Lane & Hanon Drive in the Residential Zoning District (RZD).

Project History

PROJECT ELEMENTS

This is the first time this request is being reviewed by the DRB.

Proposed Use

The applicant proposes a child care facility, nine (9) residential dwellings, and 18.65 acres of openspace. Residential dwellings and child care centers are allowed uses in the RZD as stated in WDB Chapter 39.1.

Subdivision

The applicant proposes to subdivide the 41.42 acres parcel into 9 lots: the childcare facility on Lot 1, a multi-family building with 3 dwellings on Lot 2, single-family dwellings on Lots 3-8, and 18.65 acres of open space on Lot 9.

Access

The applicant proposes a new private road off Mountain View Road to access the child care facility and 8 residential dwellings. A private driveway off Hanon Drive is proposed to access the single-family dwelling on Lot #7. Hanon Drive and Mountain View Road are public roads.

Sidewalks and Paths

The applicant proposes sidewalks and a crosswalk along the private road. The applicant proposes a gravel pedestrian path that connects to Brennan Park. The path is proposed on Lot 9 open space. The path aligns with a desired primitive trail alignment shown on Map 17 of the *Williston Comprehensive Plan*.

Residential Density

Residential density in Williston is calculated on a dwelling unit equivalent (DUe) per acre basis. The *Williston Development Bylaw* (WDB) 11.3.2 states:

> ***11.3.2 How is a dwelling unit defined?*** For the purposes of this chapter and for calculating density under WDB Chapter 19, one dwelling is defined as a dwelling unit containing 2 or more bedrooms. A dwelling containing only one bedroom or less (studio) is counted as 0.5 of a dwelling unit.

WDB Chapter 19 *Density* does require that lands with wetlands, wetland buffers, and slopes in excess of 30% be taken out of that density calculation, and that lands with slopes between 15 and 29.9% be calculated at a reduced density of one dwelling unit per acre in the RZD.

Staff has made an assessment of these constraints and has determined that the subject parcel is constrained as follows:

Constraint	Acres	Allowable Density in RZD (DUe/ Acre)	Allowable Dwelling Unit Equivalents
wetlands	20.24	0	0
slopes 30% and greater	0	0	0
slopes 15-29.9%	0.16	1	0.16
unconstrained	21.02	3	63
Totals	**41.42**	**n/a**	**63.16**
Total Dwelling Units Proposed:			**9**

The applicant is proposing 9 total dwelling unit equivalents (DUe) in the form of 9 units with two or more bedrooms and no units with one or fewer bedrooms.

Minimum Lot Size

WDB 19.A allows a smaller minimum lot size (or area per dwelling unit where individual lots are not proposed) than the density calculation. For open space developments in the RZD, the minimum area per dwelling unit is 5,445 square feet (.125 of an acre). The proposed lots range in size from 17.11 acres to 0.29 acres. The 3 multi-family units are proposed on a 0.60-acre parcel (Lot 2), averaging 0.20 acres per dwelling. Proposed residential lots are in compliance with the lot size requirements.

The minimize lot size required for nonresidential uses in the RZD is 20,000 SF (0.46 acres) as stated in WDB 19.3.1.2. The child care facility is proposed on 1.58 acres and is in compliance with this requirement.

Wetlands, Waterways, and Core Habitat

The subject parcel contains a stream, wetlands, and deer-wintering area. These areas, as well as required watershed protection buffers, are identified on the site plan. The proposed project is not anticipated to impact any rare, threatened or endangered species, unique natural communities, farmlands of local importance, or special flood hazard areas. The subject parcel is within a Significant Wildlife Habitat Area (SWHA) and is designated as core habitat as defined by WDB 27. A Habitat Disturbance Assessment (HDA) and wetlands delineation will be required as part of the discretionary permit application.

The wooded portion of Lot 7 contains a wetland and associated watershed protection buffers, as well as a state-mapped deer wintering area, and is within a Significant Wildlife Habitat Area. Though this land is not included with Lot 9 openspace, it is excluded from the proposed building envelope on Lot 7. The building envelope on Lot 7 must be adequately delineated to prevent encroachment into the wetland and deer-wintering area. The board must decide if an additional recommendation is necessary to ensure the protection of the deer-wintering area and wetland on Lot 7.

Openspace

The applicant proposes an 18.65-acre openspace parcel (Lot 9). Unlike the ARZD, there is no quantitative minimum requirement for open space conservation in the RZD. However, WDB Chapter 39 notes that proposed developments in the RZD must generally be consistent with Williston's goal of creating compact, walkable neighborhoods while conserving open space. This open space must include steep slopes, watershed protection buffers, and any other resources required to be protected under WDB 27 and 29. There is no requirement in the RZD for the protected open space to be platted as a separate lot.

Most, but not all, of the watershed protection buffers are located on Lot 9 open space. Portions of the 50' wetland buffers are present on Lots 1-6 and 8. WDB 39.8.2.1 requires that the protected open space must include all lands within the watershed protection buffers. Per WDB 29.9.6, watershed protection buffers must remain undeveloped, mowing or cutting of vegetation is prohibited. Oftentimes, the presence of a building envelope on a privately-owned parcel is not sufficient for the enforcement of these requirements, even when the building envelope or buffer is delineated with boulders or fencing. Staff recommends Lot 1-6 and 8 be reconfigured to exclude the watershed protection buffers. The board must decide if an additional recommendation is necessary.

Water & Wastewater

The property is located within the municipal water and sewer service area. A new water line is proposed to connect Lots 1-6, & 8 to the watermain north of Mountain View Road. Lot #7 will connect to the water line on Hanon Drive. The proposed sewer line connection for all lots is on Hanon Drive, because there is no municipal sewer line along Mountain View Road. Infrastructure design must be included with the discretionary permit application. The applicant is advised to meet with the Director of Public Works and Fire Chief prior to submitting the application, and staff has drafted a recommendation below.

Outdoor Lighting

Outdoor lighting is proposed as part of this application but details have not been provided at this stage of the application process. The applicant will have to provide a photometric plan showing compliance with the requirements of WDB 24 as part of an application for a discretionary permit.

Setbacks and Landscaping

Chapter 23 of Williston's Unified Development Bylaw (WDB) requires that the proposed residential and commercial use be buffered from the neighboring properties. The applicant will be required to submit a landscaping plan with the discretionary permit application.

Traffic

The DRB can require a traffic study as part of the pre-application recommendations. Based on the pre-application proposal, the development is anticipated to generate 128.4 PM peak hour trips. Administrative permit applications for all of the proposed dwellings and child care facility will have to be accompanied by impact fees including traffic impact fees. The DRB can require a traffic study as part of the pre-application recommendations.

	# of PM peak hour trips	# proposed in development	Total trips
Single-family dwelling	1.01 per unit	6	6.06
Multi-family dwelling	0.78 per unit	3	2.34
Child care facility	1.00 per child	120	120
Anticipated PM Peak Hour Trips			**128.4**

Snow Storage

The site plan for the discretionary permit must include proposed snow storage areas.

Design Review

This project is not subject to design review.

Growth Management

Per WDB Chapter 11, one (1) dwelling may be constructed on any undeveloped parcel that was, and has continued to be, in separate ownership since the town adopted its first growth management system in 1990. There is no record of subdivision of the subject parcel since 1990, so the growth management exemption applies. Thus, the applicant retains the right for one dwelling unit and, if so authorized by the DRB, will proceed with a residential growth management allocation request for eight (8) additional dwelling units.

Residential growth management allocation is a competitive process. To obtain residential growth management allocation without obtaining an exemption, a project must receive a minimum score of 30 points. More information about the Growth Management scoring criteria can be found in WDB Chapter 11, and staff can provide guidance to applicants who have questions about the Growth Management criteria.

Please note, the applicant can, at any time, request an administrative permit to construct one (1) dwelling as well as a discretionary permit to subdivide the commercial lot and build the child care facility. Only the subdivision and construction of 8 dwelling units are restricted to the growth management process.

Comments and Recommended Action

Police, Fire, and Public Works

The Police Department did not respond to the request for comments. The Fire Department commented in a memo dated November 30, 2018. Their memo is attached to this report. In a memo dated November 19, 2018 the Department of Public Works responded with the following:

1. The Public works standards state paths must be paved.
2. Extend sidewalk/path to Mountain View.

Conservation Commission

The Conservation Commission reviewed the application on December 5, 2018. Their complete report is attached and their recommendations are as follows:

1. A Habitat Disturbance Assessment (HDA) should be prepared by a qualified wildlife biologist and submitted by the applicant as part of a Discretionary Permit application.

2. On Lot 7, development should be restricted to a defined building envelope to protect Significant Wildlife Habitat and wetlands.

3. The applicant should have a wetlands delineation prepared by a professional wetlands scientist in accord with the current guidelines of the Army Corps of Engineers, to be submitted as part of an application for a Discretionary Permit.

4. The Discretionary Permit application should be accompanied by a professionally-prepared runoff and erosion control plan that shows how compliance with the performance standards of WDB 29.5 will be attained both during the construction of the proposed development and the continuing use of the site.

Recommended Action

Staff recommends that the DRB authorize DP 19-11 to proceed to Growth Management Review in March 2019 with the following recommendations:

Recommendations

1. All comments stated by the Fire Department in their memo dated November 30, 2018 shall be adopted as pre-application recommendations.

2. All comments stated by the Department of Public Works in their memo dated November 19, 2018 shall be adopted as pre-application recommendations.

3. All comments stated by the Williston Conservation Commission in their memo dated December 5, 2018 shall be adopted as pre-application recommendations.

4. The applicant shall meet with the Director of Public Works and Fire Department Chief to clarify requirements for the proposed development, prior to submittal of a Discretionary Permit application.

5. The applicant shall meet with staff to discuss growth management scoring criteria of Chapter 11.

6. The applicant shall provide Development Review Board with a traffic study.

7. Building envelopes in Lot 1-6 and 8 be reconfigured to exclude the watershed protection buffers.

8. Applicant shall explore a primitive path connecting Katie Lane and Hanon Drive.

MOTION

As authorized by WDB 6.6.3, I, ___Peter Kelley___, move that the Williston Development Review Board, having reviewed the application submitted and all accompanying materials, including the recommendations of the town's staff and the advisory boards required to comment on this application by

the Williston Development Bylaw, and having heard and duly considered the testimony presented at the public hearing of December 11, 2018, accept the recommendations for the review of DP 19-11, and authorize the applicant to proceed to Residential Growth Management Allocation Review.

SECONDED BY: John Hemmelgarn VOTE: 5 AYES – 0 NAYES

8:41 PM Closed public hearing for DP 19-11

8:42 PM Opened public hearing for DP 19-08

DP 19-08 Big Three, LLC seeks to amend Conditional Use Permit # 05-16 to allow for restructuring Catamount Country Club at 1400 Mountain View Road in the RZD.

John Hemmelgarn recused himself from hearning and closed deliberation of this agenda item because he is a neighboring property owner, citing concerns of a potential conflict of interest.

Representing the application: Paul O'Leary, O'Leary – Burke Civil Associates, 13 Corporate Drive, Essex Junction. Alex Kourebanas, Big Three, LLC, 1400 Mountain View Road

Matt Boulanger read the staff report and explained the request.

Mr. Rieley asked if a three-hole golf course is still a golf course if a banquet facility coluld be considered to be accessory to a driving range.

Mr. Boulanger explained reasoning for saying it might still be considered a golf course.

Mr. Christenson expressed feeling that three-hole golf course is a back door avenue to keeping the banquet facility.

Mr. O'Leary explained applicant's vision for future of the site and current golf course on site. The site is mainly a practice site as-is. Banquet hall is needed to keep his business running. Not proposing any changes to site currently. Not asking for increase in size to banquet facility.

Ms. Spinelli asked about number of patrons at facility.

Mr. Kourebanas stated 200 for sit down meals and 350 for festival seating.

Ms. Spinelli asked if this calculation included balcony on structure.

Mr. Kourebanas clarified that it did not.

Mr. Kourebanas explained plan for facility and its use.

Ms. Spinelli asked about membership and change in membership with change in size of course. Asked why 3 holes decided.

Mr. O'Leary looked at potential for development and what would make the most sense for maximizing potential development. He had no reference for deciding on a 3-hole course.

Mr. Christenson asked about membership at club.

Mr. Kourebanas owns the club and there is no membership.

Mr. Rieley asked about open space if lot were to be developed.

Mr. Boulanger explained how open space requirements apply to this lot per Williston's Development Bylaw.

Mr. O'Leary wants to ensure the continued operation of the banquet facility.

Ms. Spinelli asked if there was ever time where the use of 9-holes has restricted the use of the banquet facility.

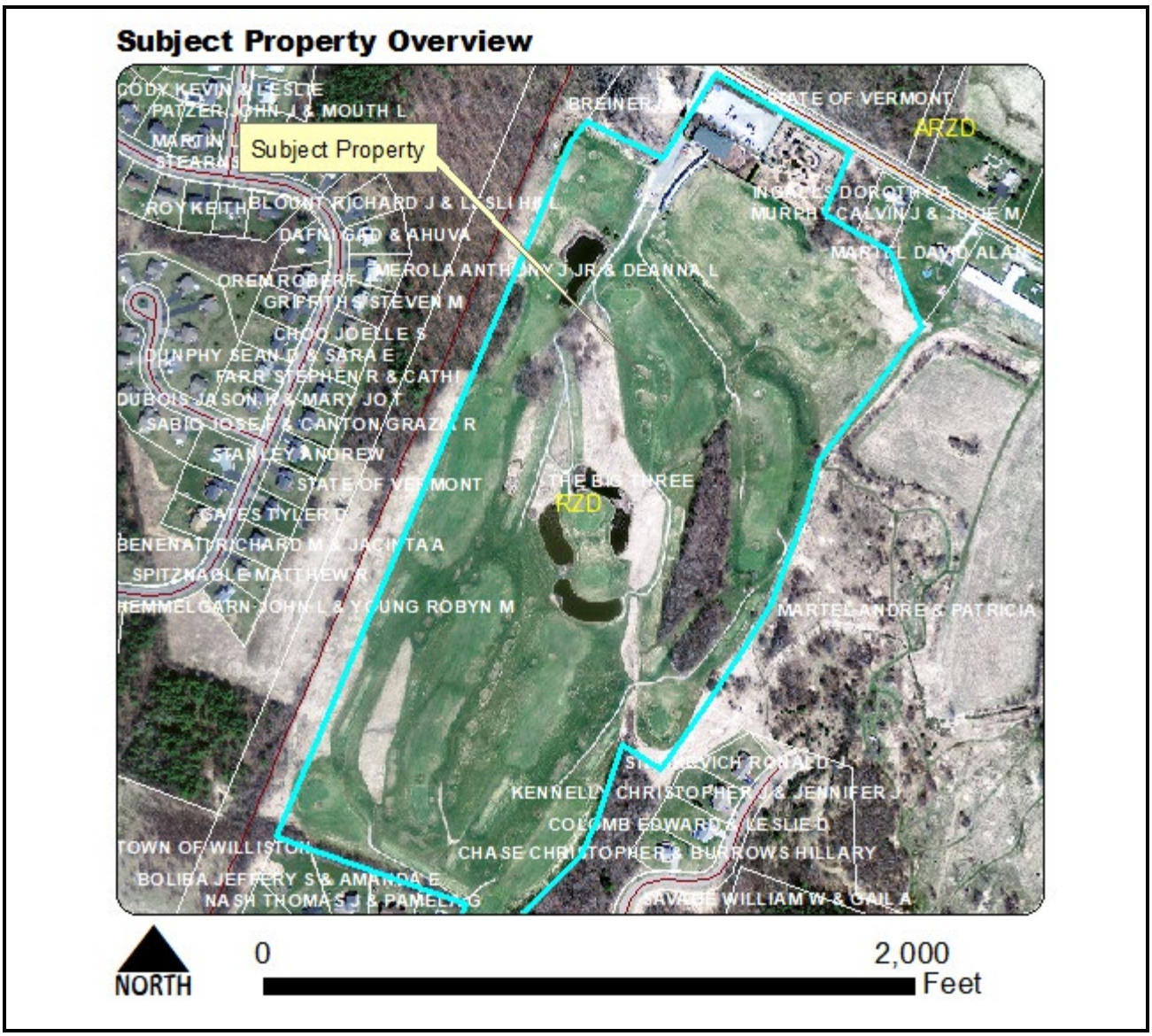
Mr. Kourebanas answered no, stating that golf and banquets happen simultaneously.

Mr. Rieley asked for more questions from board or audience.

There were no further comments or questions from the board, applicant, or audience.

9:04 PM Closed public hearing for DP 19-08

Williston Development Review Board (DRB) Staff Report	
Application Stage: Discretionary Permit	**Hearing Date:** December 11, 2018
Application No: DP 19-08	**Project Name:** Catamount Country Club
Property Address: 1400 Mountain View Road	**Zoning District:** Residential Zoning District (RZD)
Tax Parcel #: 09:009:063:000	**Existing Lot Size:** 59.76 Acres



Overview
This is a request for discretionary permit review of a proposal to modify a site that was approved to exist and operate in its current configuration under a Conditional Use approval by the Development Review Board (CU 05-16, attached). The property is currently developed with a golf course, parking area, and a building that contains a banquet facility, clubhouse, and maintenance facility associated with the golf course.

The DRB approved the banquet facility as an accessory use to the golf course under CU 05-16. Under this application, the applicant wishes to amend that approval such that the banquet facility is accessory to three of the nine holes on the course, allowing the remainder of the course, about 30 acres, to potentially be developed for residential purposes under a future application.

No development is proposed as part of this application. Given the applicant's desire to pursue residential development on a portion of the property and to retain a portion of the golf course and banquet hall (both of which are nonconforming to the allowed uses for the RZD today), staff advised that the applicant first request a discretionary permit for this change to resolve whether a change in the size of the golf course the banquet facility is accessory to is allowable. This is discussed below.

Project History:

This is the first time this proposal is to be reviewed by the DRB. A pre-application review is not required for this project due to the scale of the proposed project.

Recommended Action:
Staff recommends approval of this discretionary permit with recommended findings of fact, conclusions of law, and conditions of approval as provided below.

Findings of Fact:

Nonconforming Uses:
Both the golf course and banquet hall uses were allowed as conditional uses in the Medium-Density Residential Zone (MDR) when they were established. This zoning district, now the "RZD," no longer contains provisions for allowing golf courses "outdoor recreation" or banquet halls" in the RZD. Thus, these uses, legally established but no longer allowed in the district, are considered "legal nonconforming" uses under WDB 2.5. Pursuant to WDB 2.5, they cannot be expanded, and if they are discontinued for more than 12 months, they cannot be re-established. Staff's recommendation is that the proposal to reduce the size of the golf course reduces the legal nonconformity, and that the nonconformity related to the banquet hall is not proposed to be changed.

Proposed Use:
No change of use is proposed. However, the land area dedicated to the golf course will be reduced to less than half of the 59.76 acre parent parcel. The banquet hall use is proposed to remain as it has operated since approval under CU 05-16.

Residential Component:
This project does not contain a residential component.

New Structure:
No new structures are proposed.

New Site Work:
No site work is proposed.

Subdivision and/or Boundary Line Adjustment:
No subdivision or boundary line adjustment is proposed.

Outdoor Lighting:
No new outdoor lighting or changes to existing outdoor lighting are proposed.

Setbacks and Landscaping
No new development generating any setback or landscaping requirements is proposed.

Street Trees
No streets or street trees are proposed.

Outdoor Storage
The applicant is not proposing outdoor storage.

Wetlands, Waterways, and Conservation Areas
Wetlands and/or waterways are present on the site. No impacts to wetlands or waterways are proposed.

Access
No changes to access are proposed.

Traffic
No new uses generating additional traffic are proposed. Reducing the size of the golf course is not expected to increase traffic.

Parking
The project does not generate a requirement for additional parking.

Stormwater
No changes to stormwater treatment are proposed.

Water & Wastewater
The subject parcel is in the town's sewer service area. No changes to water or wastewater service are proposed.

Utilities
No changes to utilities are proposed.

Snow Storage
No changes to snow storage are proposed.

Solid Waste
No changes to solid waste handling are proposed.

1. **Design Review**

2. This project is not subject to design review.

Comments from Public Works, Fire Department.
3. This project was reviewed by the police, fire, and public works departments. The police department had no comments on the application. Public works and fire comments have been attached to this report and are proposed to be adopted as conditions of approval.

Conclusions of Law

1. The existing golf course and banquet hall uses identified as part of this discretionary permit **are not** allowable uses in the Residential Zoning District.

2. The existing golf course and residential uses were permitted under CU-05-16 and were legally established at the time of that approval.

3. Based on #1 and #2 above, the golf course and banquet hall use are legal nonconforming uses.

4. The size and scope of the golf course use would be reduced under the proposal before the DRB, reducing the nature and extent of the legal nonconformity in accordance with the provisions of WDB 2.5.

5. The size and scope of the banquet hall, approved under CU 05-16 as allowed (per condition #9 of that approval) "only as long as the golf course is operable and functioning."

6. The golf course on the property, while smaller, will remain "operable and functioning" as represented by the applicant.

Conditions of Approval

4. The banquet hall use, as conditioned by the approval of CU 05-16, may only remain as long as the proposed smaller golf course "remains operable and functioning."

5. This approval only pertains to an allowance for the banquet hall use on the property to continue as permitted by CU05-16, but with a reduced-size, three-hole golf course as represented by the applicant.

6. All conditions of CU 05-16 remain in full force and effect unless they are specifically modified by these conditions.

7. The applicant shall file final plans for approval and signature by the DRB or Administrator as delegated within one year from the date of the notice of determination of the decision of the DRB, or this approval shall be considered null and void as required by WDB 6.9.1. Final plans must address all of these conditions of approval and must include all items required by the Final Plans Checklist.

8. Final plans shall be in conformance with all of the WDB requirements and standards, and conditions of approval as required by the DRB. The final plans shall also address all comments and requirements identified in the following items:

    a. Plan changes in response to Williston Public Works Department memo dated 11/19/2018 and a written response to the department outlining the changes that were made in response to their comments.

    b. Williston Fire Department memo dated 11/13/2018 and a written response to the department outlining the changes that were made in response to their comments.

9. Any other required legal documents, such as easement agreements, shared parking agreements, offers of dedication of land, or warrantee deeds shall be submitted to the town staff and shall be subject to the approval of the town's attorney prior to the signing of final plans.

10. All development approved by this decision shall conform to the final plans unless authorized by the DRB as described in WDB 6.10.

11. Following the signing of final plans, the applicants shall first obtain an administrative permit(s) prior to starting any work proposed as part of this project.

12. In accordance with WDB 6.7.4, discretionary permits approved for non-residential development shall have one year from the date the final plans are signed to obtain administrative permits in accordance with the provisions of WDB Chapter 5, or the discretionary permit approval shall expire.

13. The applicant shall obtain any and all required permits and authorizations as required by either the State of Vermont or the U.S. Army Corps of Engineers prior to commencing any work in association with this project as specified by WDB 1.3.1, and shall provide documentation of any applicable state or federal permits.

14. This approval incorporates by reference all application forms and checklists, the plans and drawings presented by the applicant, and all verbal representations made by the applicant at the Development Review Board meetings and hearings regarding the subject application to the extent that they are not in conflict with other conditions or regulations WDB 1.3.4.

15. This decision runs with the land and is binding on any future owners, heirs, or assigns of the subject property.

Motion

As authorized by WDB 6.6.3, I _____, move that the Williston Development Review Board, having reviewed the application submitted and all accompanying materials, including the recommendations of the town's staff and the advisory boards required to comment on this application by the *Williston Development Bylaw*, and having heard and duly considered the testimony presented at the public hearing of December 11, 2018, and the Findings of Fact and Conclusions of Law proposed by staff for the review of the DP 19-08, and approve this Discretionary Permit subject to conditions above.

This approval authorizes the applicant to file final plans, obtain approval of these plans from staff, and then seek an Administrative Permit for the proposed development, which must proceed in strict conformance with the plans on which this approval is based.

SECONDED BY: VOTE: # AYES – # NAYES

Deliberative session for agenda item DP 19-08 is continued until January 8th.

9:04 PM Closed public hearing for DP 19-08

III. Communication, Final Plans, and Other Business

9:04 PM Deliberations opened
10:24 PM Deliberations closed

IV. Minutes from November 13, 2018 DRB meeting

I, Peter Kelley, make the motion to approve the minutes of November 27, 2018 as written:

SECONDED BY: John Hemmelgarn VOTE: 5 AYES – 0 NAYES

V. Adjournment

10:30 PM Jill Spinelli made the motion to adjourn.

Project proposal documents and site plans are posted with Agendas & Minutes and organized by the public hearing date. For further information, please call the Planning & Zoning offices at 878-6704 or visit the offices in the Town Hall Annex at 7878 Williston Road.