

MEMO

To: Development Review Board

From: Emily Heymann, Senior Planner and DZA; Matt Boulanger, Planning Director and ZA

CC: Tom Hergenrother and Adam Hergenrother of Northridge-Williston LLC; Denise Martin

Date: October 8, 2024

Re: DP 17-01.6; Responses to Denise Martin Comment Email submitted October 8, 2024

*The comment letter of Denise Martin is attached and copied below in regular font. Planning staff responses are identified in **bold**.*

Dear Matt,

I have been reviewing the documents for the upcoming DRB meeting concerning Blackrock's request to not install the path down the center of the houses that are in the interior block. I would support withdrawal of this part of the development and use the funds instead to take care of what they have not completed.

I noticed in the letter dated Oct 4 a number of items are listed that need to be completed. Would this apply to what they need to do before the neighborhood residents assume the responsibilities of the HOA?

- **In all situations involving the turnover of a Homeowners Association (HOA) from a declarant/developer to homeowners, Planning staff strongly recommends the prospective members retain a lawyer to help them navigate the process. Homeowners in Northridge will want to consider and gain an understanding of what their responsibilities will be once they have taken over the common elements, including those required improvements. In addition to improvements required by the town, the homeowners should be aware of other possible permits, such as State Act 250 Permit and DEC Stormwater Discharge.**
- **Northridge Williston Homeowners Association, Inc. has been created. According to the Secretary of State's online business database, it was incorporated on September 17, 2018 (State Business ID 0347850). Tom Hergenrother, Adam Hergenrother, Ben Avery, and Northridge-Williston, LLC/Incorporator are the listed principals. Adam Hergenrother is the listed registered agent.**
- **The Town of Williston does not oversee the turnover of an HOA from the developer/declarant. The only requirement of the bylaws is that owner's association or similar mechanism be created for improvements that remain private (WDB 7.2.3). Furthermore, it is not the responsibility of the Town to monitor and enforce the requirements of Vermont Statute Chapter 27 or 27A as it pertains to condominium or common interest forms of ownership.**
- **The following documents are attributed to the 'Northridge Williston Homeowners Association' in the Williston Town Clerk Land Records and publicly viewable as follows:**

- Declaration of Covenants, Restrictions, Easements and Liens; Filed 7/21/2028; 13 pages; Volume 589, page 734,
- Declaration ratifications and amendments, August 15, 2022, Book 599, page 724
- Bylaws; Filed 7/21/2018; 9 pages, Book 589, page 747
- Miscellaneous (Ratification of and Amendment to the Northridge Williston LLC Declaration of Covenants, Easements, Restrictions and Liens); Filed 08/15/2022; 1 page Book 599, page 724
- Miscellaneous (Town Recording of Permit Issued for Stormwater Discharge Permit by the Vermont Department of Environmental Conservation); Filed 05/08/2024; 1 page; Book 613, page 76
- **WDB 7.2.3 states, “Continuing maintenance of improvements that will not come into ownership of the town or another public agency is the responsibility of the owner. Any development that results, or may reasonably be expected to result, in the creation of multiple ownerships, including subdivisions and condominiums, shall create an owner’s association or similar mechanism that is responsible for continuing maintenance of required improvements.”**

I have several concerns related to Blackrock’s not fully fulfilling its current obligations as the development’s HOA. Other than mowing lawns on Choe drive and the common areas, none of the required plantings of shrubs/trees have been taken care of. This would include addressing erosion and reseeding areas (including sections where some work done last year grass did not survive), or weeding /pruning/fertilizing shrubs and trees in the common areas.

Last winter a small sink hole formed in my back yard, and with each heavy rain it worsened. Despite repeated requests this spring and early summer for it to be fixed, it was not taken care of and I used my own funds to get it repaired before major repairs were needed. (I was told it would be taken care of when the playing field was seeded. To my knowledge this has not happened yet.)

- **We would be looking at plantings like trees and shrubs in our inspection to determine if they were generally in good health with no structural issues (sometimes a tree gets broken by an excavator etc.) Any damaged or sickly trees and shrubs need to be replaced before a CO is issued. For areas that are to be grassed, we are primarily concerned that grass is established such that we don’t have bare soil and erosion issues.**
- **Planning staff status-inspection of Northridge on August 6th included only the street trees and neighborhood park area – it did not include any areas to sides or rear of the Kadence Circle homes or the Chloe Circle ownership lots.**
- **Homes on Kadence Lane are footprint lots surrounded by commonland. Planning staff inspection and issuance of Certificate of Occupancy of those homes included landscape plantings and erosion control in the vicinity of the footprint lot. If those common elements have failed or plantings had died since installation, they may be required to be fixed prior to close out of the overall Northridge permits.**

On a larger scale, the worse areas that have not been maintained are adjacent to and along the bike path where many of the planted shrubs and trees are choked with weeds and this summer visibility on the path was hampered by the overgrowth extending over the pavement. A request was made to at least have the company that mows to mow along the edges of the bike path, but this was ignored.

One of my questions has to do with who is responsible for maintaining the property along the bike path? Whether it is the town or the HOA, if nothing is done before Blackrock signs off, there will be deferred maintenance that will need to be addressed and more funds spent than necessary if the current HOA was taking care of it properly. It seems like such a waste of time and resources on plantings and then not take care of them. And given that a sink hole developed in my back yard, which is in close proximity of the stone reinforced embankment along the bike path, is there some way to way to evaluate the stability of the embankment?

- **It is the responsibility of Northridge-Williston LLC and/or the Northridge Williston HOA to maintain the bike path and surrounding landscaping. The bike path and surrounding property are all privately owned and maintained. Though the town is seeking an Irrevocable Offer of Dedication (IOOD) and Warranty Deed for the bike path, it is not eligible for public acceptance.**
- **Management and utilization of HOA funds is a private matter between the developer/declarant and the homeowners, it cannot be adjudicated by the Town of Williston.**

I am not sure you are the person I should be addressing my concerns to. If not, I would appreciate it if you could give me the appropriate person to contact. In any case, thank you for taking the time to read this. I appreciate the hard work you and others involved in town government do.