

WILLISTON CONSERVATION COMMISSION
November 18, 2024

Review Stage: Discretionary Permit

APPLICATION NO: DP 24-09

PROJECT NAME: Benedetto Subdivision

PROPERTY ADDRESS: 1318 Butternut Road

EXISTING LOT SIZE: 10.76 acres

ZONING DISTRICT: ARZD

TAX PARCEL: 13:123:039.000

PROJECT SUMMARY

This is a discretionary permit review for a proposed subdivision at 1318 Butternut Road in the ARZD. The subject parcel is 10.76 acres and contains a barn and a single-family home served by onsite septic and a drilled well. The applicant has proposed two (2) new home sites located in a field that appears to have been used as pasture for the last 20 years. Since the parcel is greater than 10.5 acres, it is subject to Williston’s open space protection provision.

The applicant has proposed a design which creates three (3) building lots and separates the open space lot into three (3) parcels, one for each building lot. They have proposed that the deeds will restrict uses on the open space lots and link each one to a building lot.



Lot 1: existing dwelling & barn, 1.53-acres
 Lot 1A: open space, 4.39-acres

Lot 2: proposed dwelling, 0.46-acres
 Lot 2A: open space, 1.37-acres

Lot 3: proposed dwelling, 0.70-acres
 Lot 3A: open space, 2.31-acres

The proposed project will create less than four dwellings and is therefore exempt from the requirements of Growth Management and Inclusionary Zoning under WDB 11.2.2.1.

STAFF RECOMMENDATION

The WCC should discuss the open space requirements and site design, edit Finding #4, and provide any additional recommendation(s) to the DRB. They should also discuss watershed protection buffer delineation, see Recommendation #1.

PROJECT HISTORY

The Conservation Commission reviewed the proposal at their meeting of December 6, 2023. At the time, the parent parcel was thought to be smaller than 10.5 acres, and therefore not subject to the open space requirements. A survey of the property found that the parcel is greater than 10.5 acres.

At the December 6 meeting, the WCC made the following recommendations:

WCC Recommendation:	Applicant's Response:
The site plan submitted with the Discretionary Permit Application shall show all wetlands and their buffers on the property as shown on a wetland delineation for the proposed development prepared by a professional wetlands scientist and confirmed by the Vermont Wetlands Office.	Complies. Site plan identifies wetlands and their buffers.
Proposed development must not encroach into watershed protection buffers other than the exceptions listed in 29.8.2. Watershed protection buffers must be clearly demarcated on the site plan and on the ground to prevent future disturbance. The applicant shall work with staff to decide on the method by which the watershed protection buffer is demarcated on the ground.	Proposed development will not encroach upon wetlands or their watershed protection buffers. Applicant has worked with staff and proposes signage demarcating the watershed protection buffers on the 100' interval. See Sheet LA-01.
The applicant needs to submit a professionally-prepared runoff and erosion control plan as part of the discretionary permit application.	Runoff and erosion control plan prepared by TCE, Bowman 10/18/2024.
A Habitat Disturbance Assessment is not recommended since no construction is proposed in the SWHA.	N/A
A trail easement is not required.	N/A

SITE PLAN REVIEW

After review of this application for development, the Conservation Commission finds that the following natural resources as defined in WDB Chapters 27, 28 and 29 may be affected:

- | | |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Open Space Development | <input type="checkbox"/> Primitive Trails |
| <input type="checkbox"/> Core habitat (SWHA)* | <input type="checkbox"/> Farmlands of local importance |
| <input type="checkbox"/> Wildlife travel corridors (SWHA)* | <input checked="" type="checkbox"/> Scenic viewsheds |
| <input type="checkbox"/> Unique natural communities (UNC) | <input type="checkbox"/> Special flood hazard areas (SFHA) |
| <input type="checkbox"/> Uncommon, rare, threatened or endangered species (URTES) | <input checked="" type="checkbox"/> Streams, wetlands, lakes & ponds |

*Significant Wildlife Habitat Area

ERF PRIORITIZATION AND OFFICIAL MAP

The parcel is assigned a conservation priority level of **medium** in the ERF Prioritization Map.



SIGNIFICANT WILDLIFE HABITAT AREA
WDB 27.5

The subject parcel contains Strategic Wildlife Habitat Area (SWHA) designated as Core Habitat and Wildlife Travel Corridor on the Significant Wildlife Habitat Official Map, adopted as part of WDB 27.

The SWHA is located along the north-east boundary of the parcel in Lot 1A. The site plan shows no construction within the SWHA. There is no SWHA in proposed Lot 2/2A or 3/3A.



UNCOMMON, RARE, THREATENED, AND ENDANGERED (URTE) SPECIES
WDB 27.6

None of the subject parcel is within an area mapped with Uncommon, Rare, Threatened, or Endangered (URTE) species. WDB 27.6 is not applicable to this project.

UNIQUE NATURAL COMMUNITIES
WDB 27.7

None of the subject parcel is within an area mapped with a Unique Natural Community. The Habitat Disturbance Assessment did identify a vernal pool on the neighboring parcel. WDB 27.7 is not applicable to this project.

FARMLANDS OF LOCAL IMPORTANCE
WDB 27.8

The subject parcel is not identified as containing Farmland of Statewide importance on the Land Evaluation/Site Assessment (LESA) map therefore WDB 27.8 does not apply.

SCENIC VIEWSHED
WDB 27.9

The subject parcel is within an area mapped as a Secondary Foreground Viewshed in the Visual Assessment Official Map. The viewpoint is at the Butternut Road / Route 2a Intersection over 1 mile away.

WDB 31.7.2.3 states that landowners who wish to develop parcels including scenic viewsheds will work with the Conservation Commission and DRB to maximize protection of the identified views

Neither the DRB nor the WCC recommended any mitigation for possible viewshed impacts at pre-application.



SPECIAL FLOOD HAZARD AREAS
WDB 28

None of the project area is within a Special Flood Hazard Area (SFHA), as identified on the most current flood insurance maps and studies published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), or its successor, and as provided by the Secretary of the Vermont Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753. WDB 28 is not applicable to this project.

WATERSHED HEALTH
WDB 29

These standards help protect water quality and watershed health in Williston by regulating construction site erosion and stormwater management in new developments and on redevelopment sites. This chapter also establishes standards for the provision and protection of watershed protection buffers along streams and around wetlands and lakes.

29.4 Runoff and Erosion Control Plans

WDB 29.4 establishes runoff and erosion control standards for larger developments and development in vulnerable areas. A low risk development is one in which the cumulative land disturbance is greater than $\frac{1}{4}$ (one-quarter) acre, but less than two (2) acres, in which all land that will be disturbed is outside the watershed protection buffers established by Chapter 29, and in which all land that will be disturbed has a slope of less than eight percent (8%).

The proposal disturbs more than 2 acres and is therefore high risk. WDB 29.3.1 requires the discretionary permit application for high-risk developments be accompanied by a professionally prepared Erosion Prevention and Sediment 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. The applicant has provided a professionally prepared erosion prevention and sediment control plan which demonstrates compliance with WDB 29.5.

WDB 29.8 Wetlands Protection

There are Class II and III wetlands identified on the site plan. No development is proposed within Class II or III wetlands. WDB 29.8 protects Class II wetlands and states that the DRB may, upon recommendation of the WCC, require that Class III wetlands with significant functional values remain in their natural vegetation.

WDB 29.9 Watershed Protection Buffers

WDB 29.9.7 states that watershed protection buffers must be clearly demarcated on the site plan and on the ground to prevent future disturbance. This may be accomplished by using plantings, fences or other landscape features like boulders.

The applicant has worked with staff and proposes to install signage on a 100' interval that demarcates the watershed protection buffer along the north, east, and south edges of the property.

The WCC should confirm if signage placed at a 100' interval is sufficient to delineate the watershed protection buffers. See Recommendation #1.

OPEN SPACE WDB 31

The proposed site plan identifies three (3) "building lots" that are 'floating' within three (3) open space lots. This is the first time the WCC/DRB has reviewed an application for an open space subdivision that proposes open space as separately ownable lots for each building lot.

The WCC should discuss if the proposed site plans meet the requirements of WDB 31.7 and 31.8 and specifically, if the proposed open space is contiguous, then edit Finding #4 accordingly. They should then decide if they would like to provide an additional recommendation to the DRB.

31.7 Open Space Development

WDB 31.7.2 provides a list of lands that must be included within protected open space including watershed protection areas, conservation areas, farmlands, and steep slopes. The proposed open space includes all required protected lands.

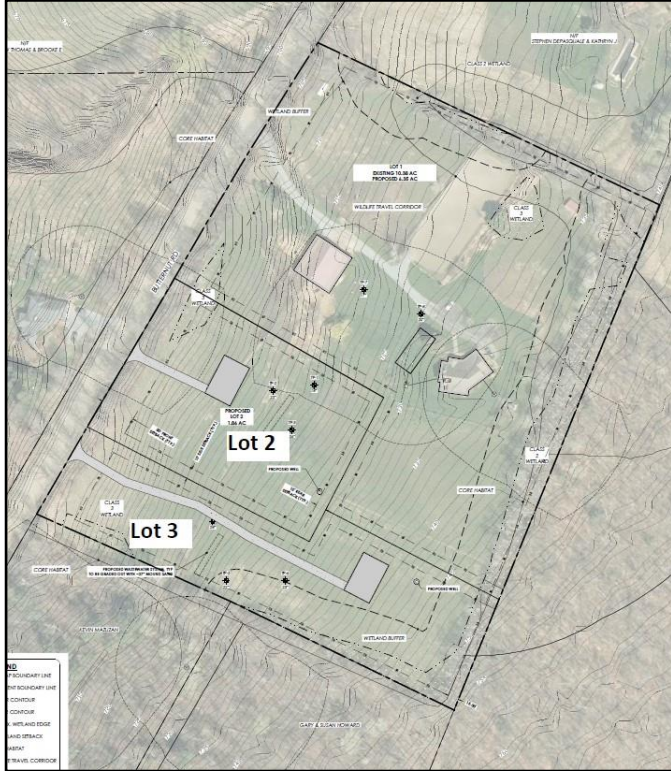
WDB 31.7.3 states that open space must be contiguous within a subdivision and with surrounding parcels, except where doing so is not feasible due to small isolated areas of watershed buffer or site constraints. WDB 31.7.4 states "contiguous open space is generally defined as an area of forest and/or 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."

Most of the subject site is pasture surrounded by wooded area or fields mapped as SWHA on adjacent parcels. The bylaw gives the DRB and WCC discretion in determining the configuration of open space, but WDB 31.7.3 requires that open space be contiguous. The bylaw does not provide further guidance in 31.7 for what "contiguous open space" looks like, especially in areas that are not specifically mapped for habitat protection, wetlands, important farmland, or steep slopes.

WDB 31.7.7 states that protected open space must be platted as a separate lot. The singular language in this requirement suggests that open space will be one (1) lot, but it does not clearly require it. The current plat does not show pin locations for "building lots" or show them with the same symbology as "open space" lots. The plat must show a driveway easement for building lots 2 & 3.

31.8 Housing Design in Open Space Developments

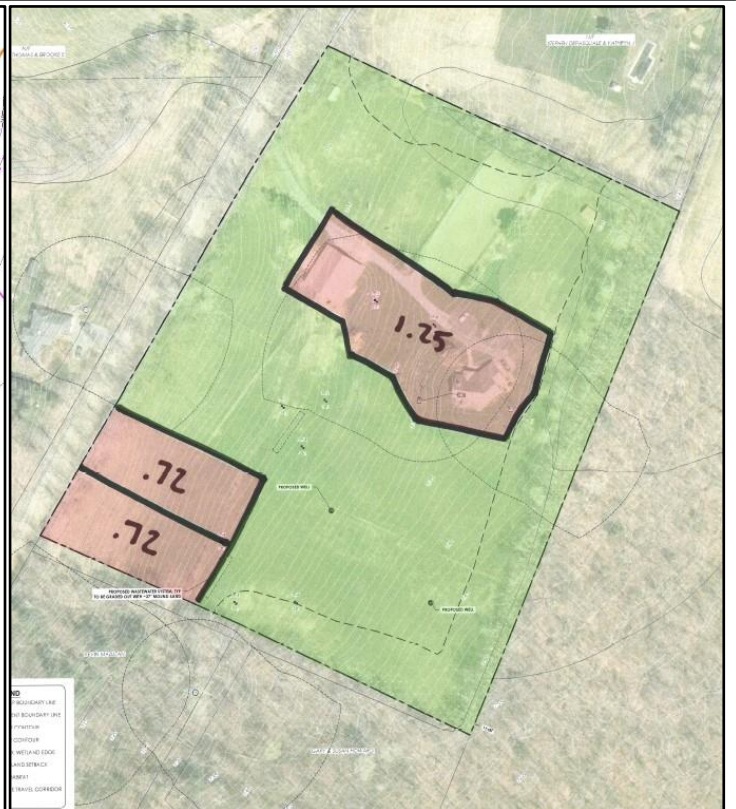
WDB 31.8 states that “housing (or other) development may take place on no more than 25% of any site of more than 10.5 acres.” WDB 31.8.1 further states that specific home sites must be designated on a portion of a proposed open space development that is 25% or less of the developable area. The bylaw does not specify whether the area proposed for development needs to be contiguous or if the “portion” of land used for development can be separated by open space and therefore spread over an area that is greater than 25% of the parcel.



Top Left: Pre-application site plan without open space lots.

Bottom Left: Discretionary Permit site plan with (3) building lots (shaded red) and (3) open space lots (shaded green).

Bottom Right: Concept sketch drawn by staff showing (2) clustered building lots and (1) open space lot.



FINDINGS AND RECOMMENDATIONS

Findings

1. The proposed project is located in the Agricultural/Rural Residential Zoning District.
2. The project includes a 10.76-acre parcel at 1318 Butternut Road.
3. The parcel is subject to the Williston Development Bylaw's open space requirements for parcels larger than 10.5 acres and must therefore set aside 75 percent of its land area as designated open space.
4. The proposed open space **is/is not** contiguous and therefore **should/should not** be approved under Williston's development standards for open space subdivisions.
5. The subject parcel is designated as medium priority for conservation in the ERF prioritization map.
6. There are no desired trails, as identified on the Town Official Map, on the subject property and no trails are proposed.
7. The proposed project is not anticipated to impact Uncommon/Rare/Threatened/Endangered Species, Unique Natural Communities, or Special Flood Hazard Areas.
8. The subject parcel is within a Significant Wildlife Habitat Area due to its designation as Core Habitat and a Wildlife Travel Corridor on the SWHA Official Map. The proposed development will not impact the SWHA.
9. The subject parcel is within the Secondary Foreground Viewshed area.
10. The subject parcel is not identified as containing Farmland of Statewide importance on the Land Evaluation/Site Assessment (LESA) map.
11. The proposed project is considered a high-risk development according to WDB 29.5 as a development which proposes to disturb more than 2 acres. The applicant has provided a professionally prepared erosion prevention and sediment control plan which demonstrates compliance with WDB 29.5.
12. There are Class II and III wetlands on the parcel. No development is proposed within the Class II or Class III wetlands or any associated watershed protection buffers.

Recommendations:

1. Signage delineating watershed protection buffers on a 100' interval as proposed **is/is not** acceptable.
2. Open space must be one parcel and the proposed building lots shall be clustered closer together to reduce fragmentation of the open space.