

**TOWN OF WILLISTON
DEVELOPMENT REVIEW BOARD
October 8, 2024 7:00 PM
Town Hall Meeting Room | 7900 Williston Road**

Minutes approved October 22, 2024 as written.

A video recording of the meeting is broadcasted by Town Meeting TV 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: *Peter Kelley (chair), Scott Rieley (vice chair), David Turner, Paul Christenson, Lisa Braden-Harder*; **Absent:** *Nathan Andrews*

Planning & Zoning Staff: *Emily Heymann, Andrew Plumb, Hanna Hartman*

Attendees who signed in: *Chuck and Deb Goller, Matt Mitchell, Mark McElroy, Christine Dougherty, Marie Kerbaugh, Molly McLane*

AGENDA

- I. Public Forum**
- II. Public Hearing**

DP 25-02 Jacob & Caitlin Glaser and Mark & Hieu McElroy c/o Brian Currier requests discretionary permit review of a Boundary Line Adjustment to transfer 5.07 acres from a 99.73-acre parcel to a 3.99-acre parcel located at 195 Windridge Road in the Residential Zoning District (RZD).

DP 17-01.6 BlackRock Construction c/o Greenfield Growth LLC Ben Avery requests a discretionary permit amendment to remove from the NorthRidge Subdivision final plans the unbuilt gravel path proposed behind the homes at 182, 196, 214, 228, 346, 360, 376, 390 Chloe Drive in the Residential Zoning District (RZD).

- III. Communication, Final Plans and Other Business**
 - IV. Minutes from September 24, 2024, DRB meeting**
 - V. Adjournment**
-

7:04 PM Opened public forum

There were no comments from audience.

7:05 PM Opened public hearing for DP 25-02

DP 25-02 Jacob & Caitlin Glaser and Mark & Hieu McElroy c/o Bryan Currier requests discretionary permit review of a Boundary Line Adjustment to transfer 5.07 acres from a 99.73-acre parcel to a 3.99-acre parcel located at 195 Windridge Road in the Residential Zoning District (RZD).

Representing the application: Bryan Currier of O'Leary-Burke Civil Associates at
at 13 Corporate Drive, Essex 05452.

Andrew Plumb read the staff report and explained the request.

Pete Kelley asked if this application is formalizing a specific plan. Andrew confirmed that this discretionary permit process is required of the BLA due to the amount of land being transfer; the discretionary permit for the Specific Plan development is anticipated as a sperate application in the coming months.

Bryan Currier stated that the right of way depicted on plat should be viewed as an monumented easement by the applicant. The land is monumented, but not owned outright by the parties with access rights. Emily Heymann did not see a concern with that, and correspondence from the surveyor or applicant's attorney prior to final plans should be sufficient.

Pete Christenson asked if there is going to be access to the triangle cut off by the pond for maintenance or mowing? Paul Christenson was confused by the black & red lines on the Specific Plan concept plan (adopted into Appendix K of the bylaw). Bryan confirmed that the entire area will become part of the McElroy parcel, and therefore be maintained by the McElroys. Paul confirmed with Bryan that the access point on the right side of the BLA map, which will be accessed via McElroy property.

Mark McElroy asked Bryan what the distinction is between a right of way and an easement. Bryan explained that a right of way owned fee simple is dedeed, whereas an easement is land you have a right to use but you do not own it.

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

7:15 PM Closed public hearing for DP 25-02

WILLISTON DEVELOPMENT REVIEW BOARD STAFF REPORT

Discretionary

DP 25-02

Permit

Glaser Boundary Line Adjustment

PERMIT NUMBER

REVIEW PHASE

PROJECT NAME

SW Corner of Old Stage Road & Mountain View Road; 195 Windridge Road, Williston, VT

09:012:082.000;
09:012:033.000

Jacob & Caitlin Glaser; Mark and Hieu McElroy

PROPERTY ADDRESS

PARCEL ID NUMBER

PROPERTY OWNER

October 8, 2024

Jacob & Caitlin Glaser

Bryan Currier, O'Leary-Burke Civil Associates

HEARING DATE

APPLICANT

REPRESENTATIVE

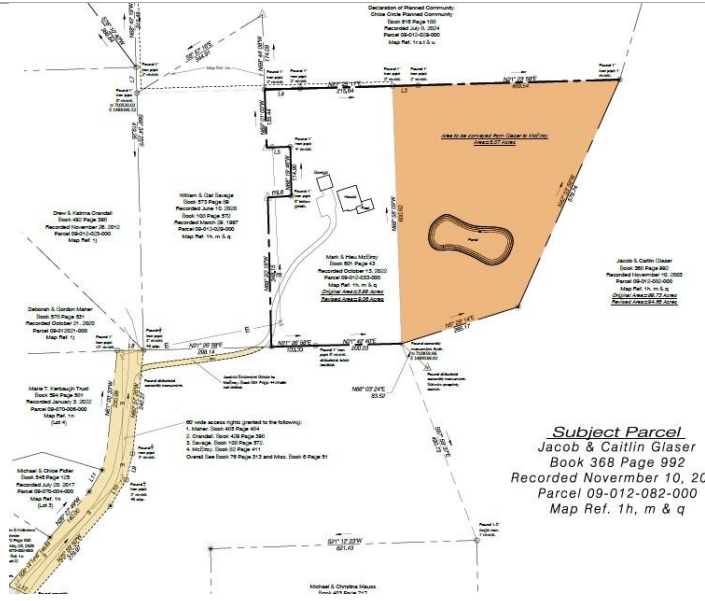
BRIEF SUMMARY OF REQUEST

This is a request for a boundary line adjustment to transfer 5.07 acres from Jacob & Caitlin Glaser at the SW Corner of Old Stage Road & Mountain View Road to Mark and Hieu McElroy at 195 Windridge Road.

Glaser Parcel (vacant) – decreases from 99.73 acres to 94.66 acres.

McElroy Parcel (dwelling) – increases from 3.99 acres to 9.06 acres.

The proposed BLA is specifically identified in the approved WDB Appendix K Glaser Specific Plan.



99.73	Residential & Vacant	No Change	Town Road(s)
PROPERTY SIZE	CURRENT USE	PROPOSED USE	ACCESS
Residential	No	No	N/A
ZONING DISTRICT	DESIGN REVIEW	CONSERVATION REVIEW	ADVISORY BOARDS

APPLICABLE BYLAW CHAPTERS:

- | | | |
|--|--|--|
| <input type="checkbox"/> 2. Nonconforming Lots, Uses, and Structures | <input type="checkbox"/> 16. Maintenance | <input type="checkbox"/> 24. Outdoor Lighting |
| <input type="checkbox"/> 4. Permit Exemptions | <input type="checkbox"/> 17. Non-Residential Accessory Uses and Structures | <input type="checkbox"/> 25. Signs and Public Art |
| <input type="checkbox"/> 10. Boundary Adjustments | <input type="checkbox"/> 18. Compatibility, Potential Hazards, and Nuisances | <input type="checkbox"/> 26. Street Trees |
| <input type="checkbox"/> 11. Growth Management | <input type="checkbox"/> 19. Density, Transfer of Development Rights | <input type="checkbox"/> 27. Conservation Areas |
| <input checked="" type="checkbox"/> 12. Subdivisions and Final Plans | <input type="checkbox"/> 20. Residential Improvements | <input type="checkbox"/> 28. Special Flood Hazard Areas |
| <input type="checkbox"/> 13. Access, Connectivity, Traffic Studies | <input type="checkbox"/> 21. Telecommunication Facilities | <input type="checkbox"/> 29. Watershed Health |
| <input type="checkbox"/> 14. Off-Street Parking and Loading | <input type="checkbox"/> 22. Design Review | <input checked="" type="checkbox"/> 31-42. Zoning District |
| <input type="checkbox"/> 15. On-Site Infrastructure | <input type="checkbox"/> 23. Landscaping | <input type="checkbox"/> 43-45. Impact Fees |

Chapters 1, 3, 5-9, 30, 46 and Appendices are not usually discussed in DRB staff reports.

RECOMMENDED ACTION

Take Testimony & Close

Tonight

Approve

HEARING¹

DELIBERATE²

DECISION³

Procedural notes: ¹When continuing, the DRB must specify reason or request additional information and announce a date certain. ²The DRB cannot deliberate or decide until a hearing has been closed. ³The DRB has 45 days to issue a decision after closing a hearing.

Staff recommends the DRB approve the application with conditions as drafted.

ATTACHMENTS

- | | | |
|--|-------------------------------------|---|
| <input checked="" type="checkbox"/> Narrative Letter | <input type="checkbox"/> Photos | <input type="checkbox"/> Public Testimony |
| <input checked="" type="checkbox"/> Site Plan(s) | <input type="checkbox"/> Elevations | <input type="checkbox"/> Other (specify): |

PROJECT HISTORY

This is the first time the DRB has reviewed this request. Project history includes:

DATE OF APPROVAL	PERMIT NUMBER	DESCRIPTION
January 16, 2024	N/A	Selectboard approval of Glaser Specific Plan
November 29, 2023	DP 24-06 Pre-App	Pre-app review of proposed Glaser subdivision
February 11, 2003	SUB 03-10	Concept approval for Ezerman to convey 7 acres to Mauss (Windswept Farm) and 90 acres to Glaser. This application did not move forward to final review.
October 9, 1990	SUB 90-17	Savage & Evans 3-Lot Subdivision approved by Williston Planning Commission.
1983	N/A	Concept review of "Littlefield 500-unit subdivision." Plan included lands that were subsequently subdivided into developments known today as Northridge, Turtle Pond, Heritage Meadows, Old Stage Estates, and the Town Disc Golf Course behind WCS.

ADVISORY BOARDS

Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB

<input type="checkbox"/> CONSERVATION COMMISSION (WCC)	N/A	N/A
NAME	TRANSMITTAL DATE	CONDITION
<input type="checkbox"/> HISTORIC AND DESIGN ADVISORY COMMITTEE (HDAC)	N/A	N/A
TRANSMITTAL DATE	TRANSMITTAL DATE	CONDITION

INTERDEPARTMENTAL REVIEW

Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB

<input type="checkbox"/> PUBLIC WORKS	September 10, 2024	N/A
DEPARTMENT	MEMO DATE	CONDITION
<input type="checkbox"/> FIRE	September 9, 2024	N/A
DEPARTMENT	MEMO DATE	CONDITION
<input type="checkbox"/> POLICE	September 2, 2024	N/A
DEPARTMENT	MEMO DATE	CONDITION

NOTES:


All three comment memos stated that the respective department had no comments.

PUBLIC COMMENT

No comment letters were received at the time of mail out (October 3, 2024).

PROJECT ELEMENTS

☒ Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB.

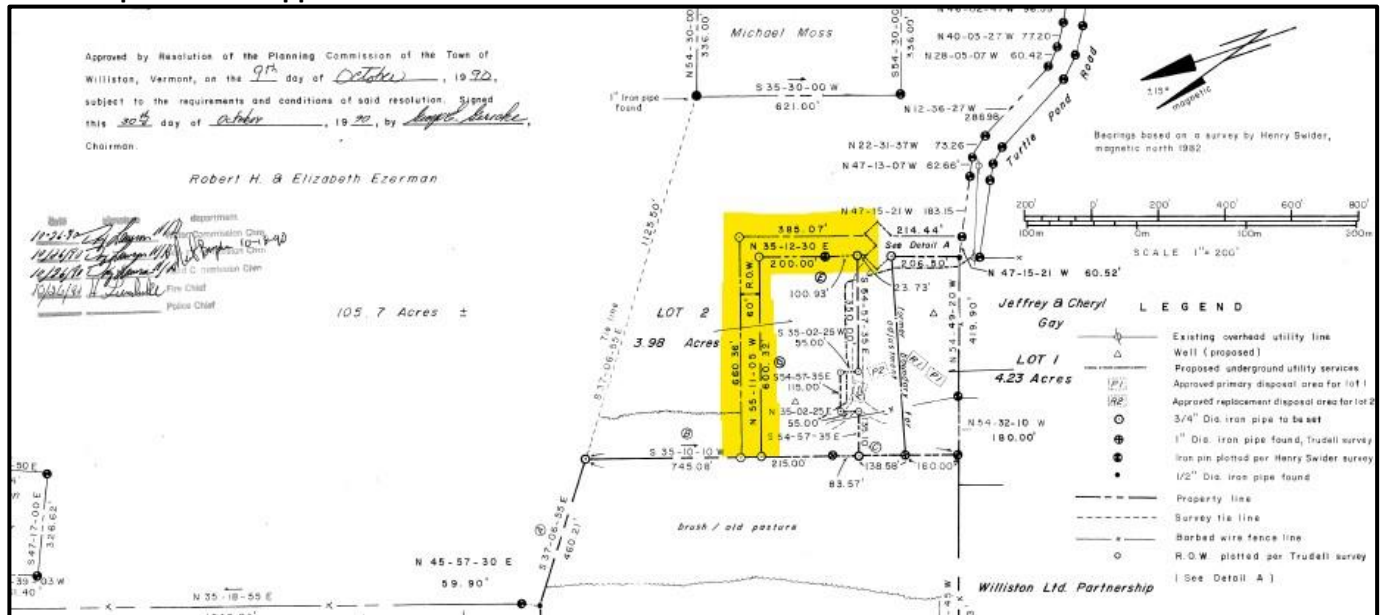
☐	Glaser Specific Plan	N/A
	WDB Appendix K	DECISION
	<p>The approved Glaser Specific Plan specifically identifies this boundary line adjustment. The Plan states that the Glaser’s plan to transfer ownership of the land surrounding the pond to the McElroys prior to the proposed transfer of the remaining open space on the ±99.72-acre Glaser parcel to the town.</p>	
	<p>BYLAW EXCERPT:</p> <p><i>“The pond boundary line adjustment may increase from 1.5 acres to 4.8-5.5 acres, reducing town owned open space from 38.5± acres to 33± acres. This pond, c.2010, is located on the 97-acre subject parcel, directly adjacent to the house at 195 Windridge Road. Jack and Caitlin Glaser sold 195 Windridge Road (ID 09-012-033.000) to Mark and Hieu McElroy in October 2022. The pond is a liability and maintenance responsibility and should not be conveyed to the town. The site plan before the Selectboard excludes 1.5 acres in an unusual rectangular configuration around the pond. Increasing the boundary adjustment land area will allow for a regular lot shape to reduce conflict between private and town-owned lands.</i>”</p>	<p>EXHIBITS:</p> 
☐	Residential Zoning District	Standard
	WDB 39	DECISION
	<p>Dimensional Standards</p> <p>Complies. The proposed Glaser and McElroy parcels comply with the dimensional standards for the Residential Zoning District (RZD). The existing 3.99-acre McElroy parcel contains one (1) dwelling. The proposed 9.06 McElroy parcel will meet the dimensional standards for the RZD. The proposed 94.66-acre Glaser parcel will comply with the frontage requirements for the RZD.</p>	

Compliance anticipated. Final Plans and plats must include all existing rights-of-way. Staff have identified an existing private right-of-way on the Glaser property (ID 09:012:082.000) that is not shown on the proposed plat.

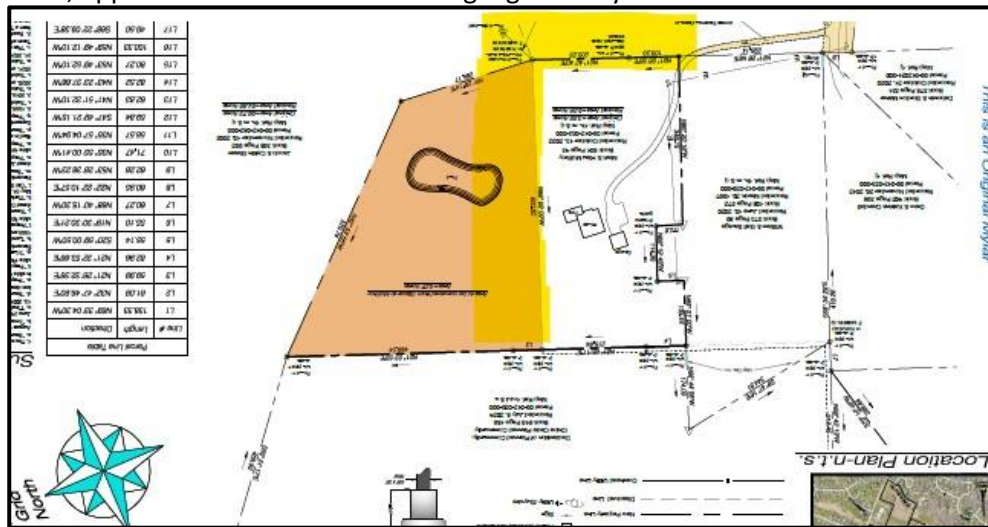
WDB 12.3.1 requires that final plans and plats must include everything on the Final Plan Checklist. The Final Plans Checklist requires that “all existing easements, rights-of-way, driveways, roads, and utilities shall be shown...”

As seen on the subdivision plat for SUB 90-17 Savage & Evans 3-Lot Subdivision and described in the Williston Land Records Book 82, Page 411-413, there is an existing private ROW on the Glaser property.

The final plat for this application shall include this ROW. See Condition 1a.



Proposed Plat below; approximate location of ROW highlighted in yellow:



DECISION AND MOTION

FINDINGS OF FACT

1. The applicant proposes a boundary line adjustment transferring 5.07 acres.
2. No new lots are created, and no development is proposed.

CONCLUSIONS OF LAW

1. The proposed development can meet the development standards of WDB Chapter 39 for the Residential Zoning District as well as all other applicable sections of the WDB if the proposed development meets the conditions of approval listed below.

CONDITIONS OF APPROVAL

1. The applicant shall file a plat 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.
 - a. ~~The final plat must include the right of way described in Williston Land Records Book 82, Page 411-413.~~
2. Plats of boundary adjustments must comply with the surveying and monument standards established by Chapter 12
3. 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.
4. 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 David Turner, 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 October 8, 2024, accept the Findings of Fact and Conclusions of Law for DP 25-02 and approve this Discretionary Permit subject to the Conditions of Approval 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: Lisa Braden-Harder VOTE: 5 AYES – 0 NAYES

7:16 PM Opened public hearing for DP 17-06.1

DP 17-01.6 BlackRock Construction c/o Greenfield Growth LLC Ben Avery requests a discretionary permit amendment to remove from the NorthRidge Subdivision final plans the unbuilt gravel path proposed behind the homes at 182, 196, 214, 228, 346, 360, 376, 390 Chloe Drive in the Residential Zoning District (RZD).

Representing the application: Bryan Currier of O'Leary-Burke Civil Associates at
at 13 Corporate Drive, Essex 05452.

Emily Heymann read the staff report and explained the request.

Scott Rieley asked for an update on the list of outstanding work. Emily visited the site during the week of September 30th and the dirt mound grading was in progress and there was some concrete pouring done for the sidewalks. The majority has not been completed.

Pete requested that Emily explain the comment letter and staff responses, which is regarding the homeowner's association takeover process. Emily summarized the document, which can be found on page 10-12 of these minutes.

Pete asked Bryan if he had any comments on the staff report. He did not.

Paul asked if the right of way will still exist even if there is not a path? Emily explained that it will continue to be plated as a right of way, which will be owned by the HOA.

Scott asked Bryan why they are not waiting until the other project elements have been finished. Bryan responded that this requested amendment is because of an alignment between intentions of the Town, homeowners, and developers to remove the gravel path.

Emily explained that when the Town was inspecting everything, it became apparent that this is the uncompleted item that theoretically could be removed from the plan, as all other uncompleted projects were named on the growth management application.

Dave asked if the backyard buffers up to the next property look to be correct? Holly McLane of 327 Chloe Circle asked if she could answer Dave's question. Some houses have cedar hedges and fences that they put in themselves, and Holly doesn't know if the fences are on the accurate property lines. Dave clarified that he is curious because of the requirement to put trees in as part of the property buffers. Emily said they could investigate that issue more.

Holly commented that a homeowner has built a children's play area in the common land, which could be a liability. She stated that Blackrock continues to take away from what they said they would build, especially with the revision of the pool size, etc. She feels that it hasn't been explained why this path is being taken away, and ultimately the land is not useable or level, so it needs to be cleaned up, regardless of if there is a path put in.

Matt Mitchell of 228 Chloe Circle stated that path would be directly behind his property. When the initial plan was proposed, the tree line was directly on the property line. 10-15 feet of trees beyond property line were cleared without discussion. If they were to try to put a path in, it would be very narrow and thin out the forested area

between the two properties. Blackrock did plant some small shrubs on the back property line, and two out of the three trees have died, and the shrubs are 'nonexistent.' Jim Kozlowski removed trees himself. Ultimately, Matt feels it would be difficult to create a 4–5-foot path without removing more trees.

Emily stated that even if the DRB decides tonight to remove the plan, the developers still will have a year to file final plans, and so they could choose to build the path as originally proposed before that deadline. Additionally, the landscaping standards of Chapter 23 determine buffering between the parent parcel and neighboring parcels, and the landscaping between individual parcels within Northridge is not a bylaw requirement. The private right of way would remain private. If the property owners want to eliminate the common land, it could be done with a boundary line adjustment in the future.

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

7:41 PM Closed public hearing for DP 17-06.1

SECONDED BY: David Turner VOTE: 0 AYES – 5 NAYES

7:41 PM Closed public hearing for DP 17-06.1

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.

7:41 PM Closed public hearing for DP 17-06.1

WILLISTON DEVELOPMENT REVIEW BOARD STAFF REPORT

DP 17-01.6

Discretionary Permit

Northridge – Gravel Path

PERMIT NUMBER

REVIEW PHASE

PROJECT NAME

Chloe Circle – interior block

09-COM-043-000

NorthRidge Williston, LLC

PROPERTY ADDRESS

PARCEL ID NUMBER

PROPERTY OWNER

April 25, 2023

BlackRock Construction, LLC

Benjamin Avery

HEARING DATE

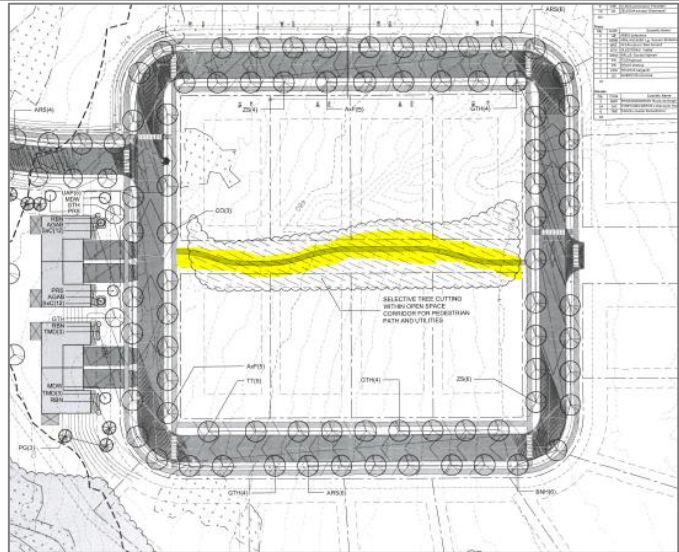
APPLICANT

REPRESENTATIVE

BRIEF SUMMARY OF REQUEST

This is a request to amend Final Plans for DP 17-01, the NorthRidge subdivision, to eliminate a proposed gravel path.

The unbuilt path is within a 35.38' wide private right-of-way located behind the homes at 182, 196, 214, 228, 346, 360, 376, 390 Chloe Drive.



0.82 acres

Residential

No Change

Private Road

PROPERTY SIZE

CURRENT USE

PROPOSED USE

ACCESS

Residential

No

No

N/A

ZONING DISTRICT

DESIGN REVIEW

CONSERVATION REVIEW

ADVISORY BOARDS

APPLICABLE BYLAW CHAPTERS:

- 2. Nonconforming Lots, Uses, and Structures
- 4. Permit Exemptions
- 10. Boundary Adjustments
- 11. Growth Management
- 12. Subdivisions and Final Plans
- 13. Access, Connectivity, Traffic Studies
- 14. Off-Street Parking and Loading
- 15. On-Site Infrastructure

- 16. Maintenance
- 17. Non-Residential Accessory Uses and Structures
- 18. Compatibility, Potential Hazards, and Nuisances
- 19. Density, Transfer of Development Rights
- 20. Residential Improvements
- 21. Telecommunication Facilities
- 22. Design Review
- 23. Landscaping

- 24. Outdoor Lighting
- 25. Signs and Public Art
- 26. Street Trees
- 27. Conservation Areas
- 28. Special Flood Hazard Areas
- 29. Watershed Health
- 31-42. Zoning District
- 43-45. Impact Fees

Chapters 1, 3, 5-9, 30, 46 and Appendices are not usually discussed in DRB staff reports.

RECOMMENDED ACTION

Take Testimony & Close

Tonight

Approve

HEARING¹

DELIBERATE²

DECISION³

Procedural notes: ¹When continuing, the DRB must specify reason or request additional information and announce a date certain. ²The DRB cannot deliberate or decide until a hearing has been closed. ³The DRB has 45 days to issue a decision after closing a hearing.

Staff recommends that the DRB conduct a public hearing on the request, close the hearing, deliberate, and consider conditions of approval for the amendment, which have been drafted by staff and are attached to this report. Staff notes specific condition #19 – no action on final plans can be taken until the Development Agreement and guarantees for private improvements are renewed pursuant to WDB Chapter 7 and as expounded among in a Zoning Administrator letter dated August 12, 2024.

PROJECT HISTORY

This is the first time the DRB is reviewing amendment #6. Prior approvals include:

September 27, 2016	DP 17-01	NorthRidge subdivision reviewed as pre-application
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
March 28, 2017	DP 17-01	NorthRidge (Phase I) received allocation for 21 Dwelling Unit Equivalents and a score of 44.5 points
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
March 13, 2018	DP 17-01	NorthRidge received Discretionary Permit approval
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
June 12, 2018	DP 17-01	DRB approved final plans for NorthRidge
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
December 11, 2018	DP 17-01.1	DRB reviewed a pre-application for NorthRidge Phase I to amend its allocation schedule at Growth Management hearing to allow more units to be built sooner.
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
March 26, 2019	DP 17-01.1	The Growth Management application for NorthRidge was withdrawn, so the original allocation schedule was not amended.
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
November 12, 2019	DP 17-01.2	Pre-application approval for the remaining 18 units to move forward to growth management review in the upcoming calendar year.
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
March 24, 2020	DP 17-01.2	NorthRidge (Phase II) received allocation for 18 Dwelling Unit Equivalents and a score of 48 points.
DATE OF APPROVAL	PERMIT No.	DESCRIPTION
October 13, 2020	DP 17-01.3	NorthRidge (Phase I) proposed amendment to establish footprint lots for units along Zoey Drive and construct a 6' high stone retaining wall along 300' of the proposed recreation path North of Metcalf Drive
DATE OF HEARING	PERMIT No.	DESCRIPTION
October 13, 2020	DP 17-01.4	NorthRidge (Phase II) proposed amendment to eliminate a lot and place two duplex units on footprint lots, increasing the size of lot 26, and to modify the landscaping plan for the gravel path between lots 15-18 and 19-22
DATE OF HEARING	PERMIT No.	DESCRIPTION
April 25, 2023	DP 17-01.5	Modify community elements (pool, poolhouse, sidewalks) in Kadance Circle
DATE OF HEARING	PERMIT No.	DESCRIPTION

ADVISORY BOARDS

<input type="checkbox"/>	CONSERVATION COMMISSION (WCC)	N/A	N/A
	NAME	TRANSMITTAL DATE	CONDITION
<input type="checkbox"/>	HISTORIC AND ARCHITECTURAL ADVISORY COMMITTEE (HAAC)	N/A	N/A
	TRANSMITTAL DATE	TRANSMITTAL DATE	CONDITION

INTERDEPARTMENTAL REVIEW

<input type="checkbox"/>	PUBLIC WORKS	September 23, 2024	N/A – No Comment
	DEPARTMENT	MEMO DATE	CONDITION
<input type="checkbox"/>	FIRE	September 18, 2023	N/A – No comment
	DEPARTMENT	MEMO DATE	CONDITION
<input type="checkbox"/>	POLICE	N/A	N/A
	DEPARTMENT	MEMO DATE	CONDITION

PUBLIC COMMENT

No comment letters were received at the time of mail out (October 3, 2024).

NAMES: N/A

<input type="checkbox"/>	Enforcement and Guarantees	Specific – Condition #19
	WDB 7	DECISION
<p>The Development Agreement and Letters of Credit must be renewed before any more permits, including final plans for this request DP 17-01.6, certificates of occupancy, and zoning compliance certifications are approved. WDB Chapter 7 requires a Development Agreement and that all public and private improvements be guaranteed. All improvements in Northridge are private and can be guaranteed by escrow or letter of credit. The NEFCU letters of credit expired in June 2023 and April 2024.</p> <p>As part of this development agreement, cost-estimates and close out schedule for all outstanding work is required. P&Z and DPW staff compiled a list of outstanding work, including but not limited to:</p> <ol style="list-style-type: none"> 1. Pool house, pool, playground, practice field with soccer nets, sidewalks, landscaping per DP 17-01.5 Final Plans 2. Street trees and landscaping per DP 17-01.3 & 17-01.4 Combined Final Plans L-101 and L-102. 3. Chloe Circle interior block 4' wide gravel path (note: may be eligible for removal from the approved plan set via a discretionary permit amendment) 4. Repair and/or replace damaged (cracked & chipped) curbs 5. Repair and/or replace cracked and lifting sidewalks 6. Inlet protection needs to be removed 7. Silt fence removed 8. Top lift/wearing layer for roads 9. Compliance with SW Permit 8008-9050 10. Hydrant Flag 11. *added 10/3/2024* Irrevocable Offers of Dedication and Warranty Deeds for roads and bike path, excluding the 32.38' wide right-of-way through the Chloe Circle center block 		

This matter is before the DRB for review because "Build Path and Trails" is a Growth Management criterion. Modifications to any residential subdivision should not change the vested Growth Management score.

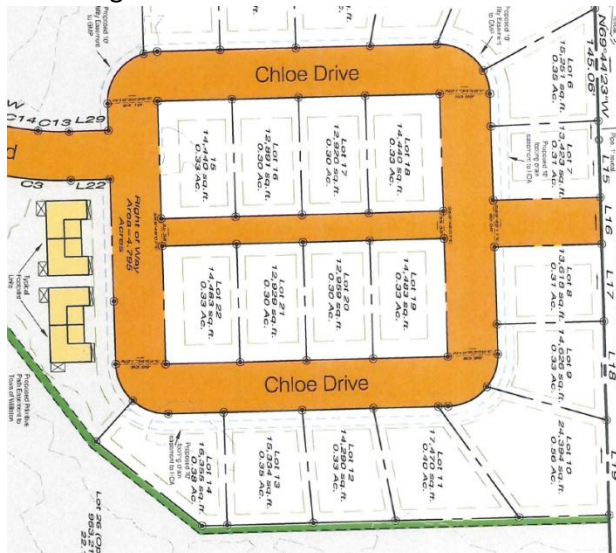
Planning staff recommends that it is acceptable to removal of the unbuilt gravel path from the final plans. This change does not impact the vested Growth Management score. The 5/10 score was primarily based upon the 500' bike path and floating trail easement, with no explicit mention of this gravel path. This area is still platted as right-of-way and the plat is not changing. The homes are served by sidewalks on both sides of Chloe Circle. Constructing the gravel path would require grading and removal of trees.

This application does not modify the other 'Build Path and Trail' elements. The 500' bike path was constructed. The floating trail easement is not changing.

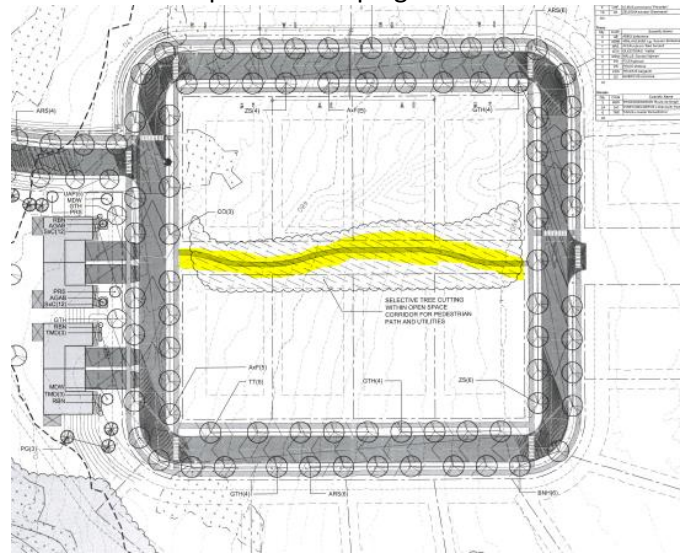
2020 Growth Management Summary:

The DRB's review and decision should be based upon the 2020 score. NorthRidge received a score of 48 points, including 5/10 points for 'Build Paths and Trails.' 2020 Questionnaire statement: "We are building approximately 500' of new bike path. We have also granted a floating trail easement through the open space that would be approximately 2000' feet. Both have access to pedestrian connectivity."

Northridge Plat screenshot:



Final Plans Excerpt – Landscaping Plan



BYLAW EXCERPT:

11.8.5 Build Paths and Trails (0-10 points). This criterion favors proposed residential subdivisions that build their portion of the paths and trails called for by the 2016-2024 Williston Comprehensive Plan (see Policy 6.6).

- The majority of the proposed dwelling units are served by the town's path and trail system, with the developer building all on-site path segments and dedicating all on-site trail segments – 1-10 points, depending on the length of the path or trail segment/s.
- no path or trail connection is built or dedicated – 0 points

DECISION AND MOTION

FINDINGS OF FACT

1. This application is based upon the October 15, 2019 version of Chapter 11 in the Williston Unified Development Bylaw (WDB).
2. The applicant proposes to remove an unbuilt gravel path from the final plans and landscaping plan set that was proposed for the platted right-of-way behind the homes at 182, 196, 214, 228, 346, 360, 376, 390 Chloe Drive.
3. The 2020 Growth Management score for “WDB 11.8.5 Build Paths and Trails” is 5 out of 10 points.
4. The applicant’s 2020 Growth Management questionnaire referred to “*building approximately 500’ of new bike path*” and “*granted a floating trail easement through the open space.*”

CONCLUSIONS OF LAW

1. The use(s) proposed as part of this discretionary permit are allowable uses in the Residential Zoning District.
2. The proposed development can meet the development standards of WDB Chapter 39 for the Residential Zoning District as well as all other applicable sections of the WDB if the proposed development meets the conditions of approval listed below.
3. Eliminating the gravel path does not change the Growth Management score of 5/10 points for WDB 11.8.5 Build Paths and Trails.

CONDITIONS OF APPROVAL

1. 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.
2. Final plans shall be in conformance with all of the WDB requirements and standards, and conditions of approval as required by the DRB.
3. 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.
4. The applicants shall enter into a development agreement with the town guaranteeing any required public or private improvements. The applicant shall post any required letters of credit or escrow amounts to guarantee the completion of these improvements in accordance with town standards and the conditions of approval prior to the approval of final plans for the proposed development, as specified by WDB 7.1.
5. All development approved by this decision shall conform to the final plans unless authorized by the DRB as described in WDB 6.10.

6. Any exterior lighting shall utilize full cut off fixtures and shall be in compliance with the lighting level requirements of WDB Chapter 24.
7. Any landscaping, including street trees, shall be in compliance with the standards of WDB Chapters 23 and 26, and the Williston Public Works Standard Specifications, and these landscaping details shall be included in the landscaping plan submitted as part of final plans.
8. Any required vehicular and bicycle parking shall be provided as required by WDB Chapter 14 and indicated on the site plan approved by the DRB. A parking table describing the number of parking spaces, including both vehicular and bicycle parking, and the calculation of how the proposed parking meets the requirements of WDB Chapter 14 shall be included on the site plan submitted for Final Plans.
9. 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.
10. 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.
11. Prior to obtaining any administrative permits associated with this development proposal, the applicant shall provide full payment of any required impact fees as specified under WDB Chapter 45.
12. Prior to obtaining any administrative permits for this development proposal, the applicant shall obtain any necessary sewer allocation for the proposed development and shall provide documentation of allocation with their permit application.
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. There shall be no mowing or application of lawn chemicals including fertilizers, herbicides and pesticides, or storage of materials within any watershed protection buffers as specified under WDB 29.9.5.
15. Any public improvements required by the approval of this proposed development (including, but not limited to roads, sidewalks, water & sewer connections) must be built in accordance with the Town's specifications as specified by WDB 7.1.3.
16. 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.
17. No occupancy or use of any proposed buildings shall take place until a certificate of compliance has been issued signifying that all conditions of any required permits from the Town have been satisfied. Verification that the Williston Fire and Public Works Departments' requirements have been satisfied shall also be required prior to the issuance of a certificate of compliance.
18. This decision runs with the land and is binding on any future owners, heirs, or assigns of the subject property.
- 19. Final Plans shall not be approved until the Northridge subdivision is brought into compliance with WDB Chapter 7 Guarantees for public and private improvements.**

MOTION

As authorized by WDB 6.6.3, I Scott Rieley, 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 October 8, 2024, accept the Findings of Fact and Conclusions of Law for DP 17-01.6 and approve this Discretionary Permit subject to the Conditions of Approval 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: David Turner VOTE: 0 AYES – 5 NAYES

7:41 PM Closed public hearing for DP 17-06.1

III. Communication, Final Plans, and Other Business

7:43 PM Deliberations opened

7:53 PM Deliberations closed

IV. Minutes from September 24, 2024 DRB meeting

I, Paul Christenson, make the motion to approve the minutes of September 24, 2024 as written:

SECONDED BY: Scott Rieley VOTE: 4 AYES – 0 NAYES – 1 ABSTENTION

V. Adjournment

7:58 PM Pete Kelley 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.