WILLISTON PLANNNG COMMISSION STAFF REPORT

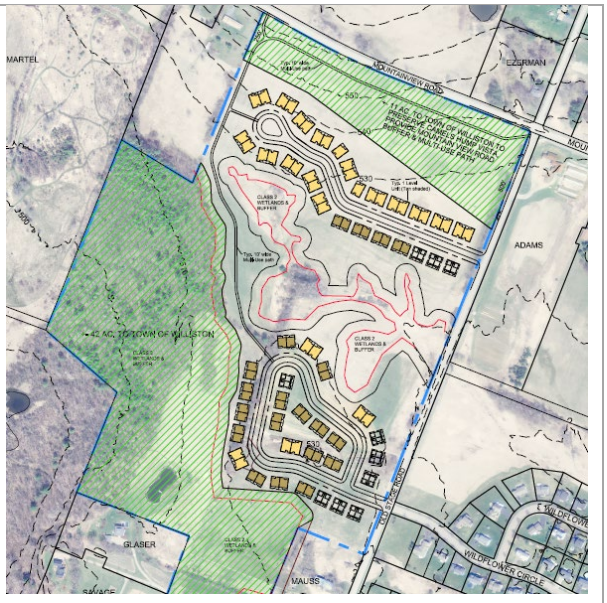
Specific Plan – Community Meeting	**Glaser Specific Plan**
REVIEW PHASE	PROJECT NAME

1095 Old Stage Road	09-012-082-000	Jacob "Jack" & Caitlin Glaser
PROPERTY ADDRESS	PARCEL ID NUMBER	PROPERTY OWNER
December 6, 2022	Ken Belliveau Land Use Planning Consulting	David Burke, O-Leary Burke Civil Associates
MEETING DATE	REPRESENTATIVE 1	REPRESENTATIVE 2

BRIEF SUMMARY OF REQUEST

This is an application for a Specific Plan for a 93 to 100-unit residential subdivision. This property is in the Residential Zoning District (RZD) and town's sewer service area. Public open space is proposed as the substantial benefit in two locations: 42± acres of pasture, wetland, and forest adjacent to Windswept Farm (Mauss) and 11± acres of viewshed along Mountain View Road. Open space would be offered for town ownership. See the applicant's narrative letter for more details.

The applicant has provided a letter to the Planning Commission, an updated site plan for their proposal with 93 units, and a hypothetical site plan to demonstrate one possible outcome under conventional zoning.



97-acres	Vacant (Agricultural)	Residential	Town Road(s)
PROPERTY SIZE	CURRENT USE	PROPOSED USE	ACCESS
Residential	No	Yes	N/A
ZONING DISTRICT(S)	DESIGN REVIEW	CONSERVATION REVIEW	ADVISORY BOARDS

STAFF NOTES

Overview: On October 4th, the Planning Commission reviewed the application and authorized it to move forward to Community Meeting by making a tentative determination that a substantial benefit may result. The Commission began the community meeting on November 15th and continued to December 6th in order to hear all public comment/questions. Following the Community Meeting, the Planning Commission must again decide if a substantial community benefit could result and can choose to establish an advisory committee. If the Commission moves the application forward, then they can establish a committee charge, appoint committee members, and assign a deadline at the December 20th meeting.

Three (3) decision options are drafted on page 4. When making the determination of substantial benefit, the Planning Commission shall consult, as appropriate, with the Conservation Commission, Dept of Public Works, or other town boards and officials (WDB 9.2.2.7). It may be appropriate to consult with the Selectboard, and/or Recreation & Parks Department, particularly as to what "*at applicant's expense*" means in this scenario. The applicant should bear the transaction costs of conveying land to town and preparing lease agreements for Windswept Farm's use of pastures. If the open space is donated to the town, there will be perpetual costs associated with land maintenance and management. The Commission could: 1) move forward and seek consultation as part of the committee charge for developing the Specific Plan, or 2) seek consultation before deciding about substantial community benefit.

Defining a Substantial Benefit:
The Planning Commission must consider if the substantial benefit could comply with WDB 9.2.2.1, "*conserving one or more open space assets identified in the town's Comprehensive Plan, or another open space asset acceptable to the Conservation and Planning Commissions*." WDB 9.2.2 defines a substantial benefit as: *"an action or actions, to be taken by the applicant/s at their expense, which implements the town's Comprehensive Plan."* WDB 9.2.2.8 states, "*Mere Compliance is NOT a Substantial Public Benefit. Compliance with the requirements of this bylaw is a minimum expectation, not a substantial benefit to the community. Substantial benefits must be actions above and beyond what an applicant would be required to take to comply with this bylaw."* **There is no requirement for proportionality. WDB 9 provides no further guidance on the proportionality between the substantial benefit provided, the size/scale of the proposed development, and the bylaw amendments needed to support the Specific Plan.**

Existing Open Space Standards:
The purpose of the Residential Zoning District (RZD) is "*to encourage a somewhat more compact, diverse, and pedestrian-friendly pattern of residential development that also protects important open space resources*." The RZD open space development standards of WDB 39.8 require or encourage protection of natural resources as private open space (see attached Bylaw Audit). There is no quantitative minimum area required. Some standards are more rigid, like the protection of slopes and watershed buffers. Other standards are more malleable, like the protection of scenic vistas and farmlands, because they are guided by weaker verbs like "*should*" and "*may*." WDB 39.8 includes statements like, "*partial protection of a viewshed may be combined with development through good site planning*," "*people should expect to have views that include residential neighborhoods in the RZD*," and "*protecting farmland is not a primary goal of the RZD*."

Substantial Benefit, Above & Beyond the Bylaw Requirements:
Viewshed – Offering 11± acres of important viewshed area goes above & beyond. The "*fields southwest of the intersection of Mountain View and Old Stage roads*" are described in Town Plan Section 13.2 as a "*scenic property that currently has no formal protection from incompatible uses*." Based on staff's experience administering the bylaw with the DRB, statements with "*should*" or "*may*" are optional and not fully enforceable. The viewshed is highly desirable for development. It should be expected that under conventional development review, far less viewshed would be protected (i.e., more houses closer to Mountain View Road) and any remaining open space would be private, not public, land. There is no guarantee that private open space would remain accessible to Windswept Farm.

Pasture & Forest – Offering 42± acres (roughly ½ wetland/pasture & ½ forest) may go above & beyond. The bylaw would require habitat and wetland protections as private open space. However, it would not require dedication of open space to the town, nor the continued use by Windswept Farm or other agricultural use. Protecting "*working landscapes*" is a goal of Town Plan Section 13.3.3, but "*not a primary goal of the RZD*" per WDB 39.8. The substantial benefit would need to include the preparation of legal documents (draft leases/agreements) so the town can allow Windswept Farm to continue using the pastures.

Requested Bylaw Amendment to Growth Management:
The most significant bylaw amendment requested is to WDB Chapter 11 Growth Management (GM). The purpose of Growth Management is to limit the pace of development consistent with the town's capacity to provide infrastructure and services, but also seeks: *"given the limited capacity of the town's infrastructure, to encourage residential subdivisions that successfully implement the goals of the Town Plan (WDB 11.1.1.2)."*

Growth Management allocation in this part of town is oversubscribed and highly competitive. The town-wide Growth Target is 80 DUe/year, including 20 DUe/year in this part of town. Five (5) subdivisions are expected to seek allocation for 114.5 DUe in the upcoming GM hearing in March 2023. There's only 23 DUe available across FY2024-2033 for the DRB to allocate. This means subdivisions like DP 20-18 Summerfield (122 DUe total) and DP 22-01 Trinity (58 DUe total) will be participating in Growth Management for the next 4-9 years or longer to get all their requested allocation.

The more subdivisions that compete, the more important a high score becomes and the longer it takes for big subdivisions to get all their allocation. Staff estimates a 30-point score, the minimum score required to compete,

including 5 points for permanent protection of open space. The Planning Commission and applicant should expect the subdivision design to evolve and provide greater detail as it strives for a score higher than 30 points. In the attached bylaw audit, staff highlights criteria where the applicant could reasonably improve their score, potentially up to 59 points. Keep in mind, Growth Management doesn't adequately capture the value of the proposed substantial benefit. There are no scoring criteria for allowing a farm to continue operations or protecting an important view.

Administrative Procedures & Growth Management:
A specific plan cannot change "a*dministrative procedures established in this bylaw or state statute (WDB 9.3.6.2*)." Staff interprets this to mean Specific Plan procedures, permits procedures/hearings, appeal periods, filing of property plats and final plans, etc. In the WDB Table of Contents, Chapter 11 is grouped with the first twelve chapters under "administration." However, the procedures of Growth Management are unique to Williston, not a statutory requirement. The 80 DUe/year growth target is derived from the Town Plan and the scoring criteria are qualitative in nature like other development standards of Chapter 13-29. ***Staff's interpretation is that it would be acceptable to incorporate Glaser allocation (i.e., 100 DUe as 25 DUe/year as separate from the 80 DUe/year Growth Target) into Chapter 11 as a bylaw amendment. If the Planning Commission has a different interpretation of WDB 9.3.6.2, then that should be discussed before moving forward. The applicants are not interested in a Specific Plan unless it includes amendments to Growth Management.***

Evolution of Subdivision Design: The site plan submitted is a concept level. In conventional development review, subdivision design evolves from pre-application (sketch/concept plan) to discretionary permit (detailed site plans & drawings) as applicant's achieve a Growth Management score and meet other bylaw requirements. It is not uncommon for subdivision street layouts, open space configuration, number of units, or private amenities to change from pre-application to discretionary permit. Therefore, the Planning Commission and applicant should expect this subdivision to evolve as the applicant, staff, and advisory committee develop the Specific Plan. Ideally, major bylaw design standards will be addressed as part of the Specific Plan so there are no surprises during the subsequent DRB review and permitting.

DECISION OPTIONS PER WDB 9.3.3.2

OPTION 1 – NO SUBSTANTIAL BENEFIT

Staff Recommendation: Discuss how the substantial benefit can be improved before choosing this option.

In accordance with WDB 9.3.3.2, I _____, move that the Williston Planning Commission determine that an open space substantial benefit is NOT likely to result and decide NOT to continue the process for Glaser Specific Plan.

OPTION 2 – SUBSTANTIAL BENEFIT WITH ADVISORY COMMITTEE

Findings of Fact:

1. The specific plan option may only be used where the Planning Commission determines that a substantial benefit to the town could result.

2. "*Conserving one or more open space assets identified in the town's Comprehensive Plan, or another open space asset acceptable to the Conservation and Planning Commissions*" is listed as a substantial benefit per WDB 9.2.2.1

3. The applicant proposes open space to be offered to The Town of Williston in two distinct areas: 11± acres viewshed along Mountain View Road and 42± acres of pasture, forest, and wetlands near Windswept Farm. The open space must remain an acceptable asset per WDB 9.2.2.1, even if the subdivision and open space design evolves during the Specific Plan process.

4. The Williston 2016-2024 Comprehensive Plan Section 13.2 states, "Scenic Viewsheds - The town will protect and maintain the visual character that defines Williston, including open fields and meadows, wooded slopes and ridgelines, and scenic viewpoints."

5. The Williston 2016-2024 Comprehensive Plan Section 13.3.3 states, "Protect Other Working Landscapes. Other working landscapes include tree farms, commercial wood lots, nurseries, sand and gravel mines, and fee-based outdoor recreation."

6. Amendments to WDB Chapter 11 Growth Management, such as a separate allocation schedule for Glaser, is not considered a change to administrative procedures as defined in WDB 9.3.6.2.

THEREFORE, in accordance with WDB 9.3.3.2, I _____, move that the Williston Planning Commission determine that an open space substantial benefit could result and to appoint an advisory committee to work with the applicants to develop the Glaser Specific Plan. This decision authorizes staff to prepare a committee charge, propose committee appointments, and a deadline for our review and approval at the next meeting on December 20, 2022. Authorizing this application to proceed to next phase of review does not guarantee any future outcome.

OPTION 3 – SUBSTANTIAL BENEFIT WITHOUT AN ADVISORY COMMITTEE

Findings would be same as option 2, but staff does not recommend this option.