

STATE OF VERMONT
ADDISON COUNTY, SS

DEVELOPMENT REVIEW BOARD
TOWN OF CORNWALL

IN RE: BEAVER BROOK PROPERTIES LLC MAJOR SUBDIVISION –
PRELIMINARY PLAN APPLICATION HEARING APPLICATION NUMBER:
drb#19-001

DECISION AND PRELIMINARY PLAN AND PLAT APPROVAL
(Findings of Fact, Conclusions of Law, and Order)

The Cornwall Development Review Board (“DRB”) hereby issues its Decision and Preliminary Plan and Plat Approval based upon a preliminary application for a thirteen (13) lot subdivision of land pursuant to Article II, §240 of the *Town of Cornwall Subdivision Regulations* (“CSR”), dated February 26, 2008 and the *Town of Cornwall Zoning Regulations* (“CZR”), dated February 26, 2008. The preliminary application (“Application”) and the hearing record is comprised of the documents referenced in Attachment A – Exhibit List (“*Exhibits*”).

Duly Noticed Sketch Plan Review meetings pursuant to CSR §230 were held by the DRB on March 1, 2018 and June 12, 2018. On June 12, 2018, the DRB classified the proposed project as a major subdivision under CSR §232. The Application was received on November 9, 2018 with additional material provided on December 12, 2018. The Application was determined to be substantially complete by the Cornwall Zoning Administrator on December 17, 2018. The Application was considered by the DRB at public hearings held on January 10, 2019, September 4, 2019, November 6, 2019, and January 9, 2020. A special meeting was also held on February 25, 2019. A site visit took place on September 9, 2019. The evidentiary hearing for preliminary plat approval was closed at the conclusion of the hearing held on January 9, 2020.

All references to the “Preliminary Plat” herein refer to the plat showing a subdivision survey of lands of Beaver Brook Properties LLC, North Bingham Street & VT Route 74, Cornwall, Addison County, Vermont prepared by Ronald L. LaRose dated October 22, 2018 and last revised December 11, 2019 (*Exhibit YYY*). All references to the Preliminary Plan herein refer to Progress Print Drawings Nos. 1-8 dated 12/10/19 prepared by Green Mountain Engineering and submitted for Preliminary Site Plan Review (*Exhibit XXX*) (“Drawings”) as approved with conditions as hereinafter stated in Section III, 1-21.

Based upon the Application, the Exhibits and the testimony presented at the public hearings held on this Application, the DRB hereby finds, concludes, and orders as follows:

I. FINDINGS OF FACT

1. Applicant.

The Applicant is Beaver Brook Properties LLC (“Applicant” or “Beaver Brook”), a domestic limited liability company registered in the State of Vermont which owns the property (Parcel ID#080240) and the existing buildings located thereon which are the subject of this Application and hearing. The principal members of Beaver Brook Properties LLC are Matt Bonner and Churchill Franklin.

2. Parcel.

The property and existing buildings ("Parcel") are located on the northeast corner of North Bingham Street and Route 74 in the Town of Cornwall and are further described in a warranty deed recorded in the Cornwall Land Records at Book 82, Page 612. The Parcel consists of 166.8± acres, of which 124.57± acres (Lot 11) is proposed to be placed under a Vermont Land Trust (VLT) conservation easement which will restrict the future use of Lot 11 to agricultural and forestry purposes. The remaining 42± acres are proposed to be subdivided into 9 building lots (Lots 1–9), 2 common lots (Lots C1 and C2), and 1 lot (Lot 10) which will be protected from any land development involving residential or commercial uses through a restrictive covenant to be placed and recorded on Lot 10 prior to the initiation of any construction on the Parcel or the conveyance of any Lot to a third party ("Project").

3. Lot Layout.

a. The current zoning districts encompassing the Parcel under the CZR include both the "West Cornwall Village District" ("V2") and the "Low Density Residential District" ("LDR"). Within the V2 and the LDR, one and two-family dwellings, as proposed by the Applicant for Lots 1-9, are permitted uses.

- The minimum lot size in the V2 is 1.0 acre with a minimum frontage of 100 feet, depth of 200 feet, front yard setback of 35 feet, rear yard of 25 feet, and side yard of 15 feet (CZR §§200, 240).
- The minimum lot size in the LDR is 4.0 acres with a minimum frontage of 300 feet, depth of 300 feet, front yard of 100 feet, and side and rear yards of 50 feet (CZR §§200, 260).
- With the approval of the DRB, lots do not need to have frontage on a public road, but such interior lots must have access to a public road by a permanent easement or right-of-way at least 50 feet in width. For such interior lots the minimum setback for all yards is equal to the front yard minimum for lots in the applicable district (CZR §§406 and 501).

All these requirements are met in connection with each of the proposed lots, as depicted on the Progress Print Drawings Nos. 1-8 dated 12/10/2019 and submitted for Preliminary Site Plan Review and the Preliminary Plat marked as *Exhibits XXX* and *YYY*, except that Lots 9 and 10 are depicted as being entirely in the V2, but each such Lot is in fact partially in the LDR. Adjustments to the setbacks and building envelope on Lot 9, and to the setbacks on Lot 10, can and must be made so that each meets the applicable requirements before final approval.

b. Lots 1 through 8 are small lots which range in size between 1± acre and 1.42± acres and comprise the main residential portion of the Project. They are clustered in the southwest corner of the Parcel, bounded by Route 74 to the south and North Bingham Street to the west.

- Lot 1 contains an existing two-family house listed in the Vermont State Register of Historic Places which will remain and be preserved in place on the Register and be used as a one or two-family dwelling.

- Lot 2 includes a church listed in the Vermont State Register of Historic Places. The Church will remain and be preserved in place on the Register and be used for storage by the owner of Lot 2.
 - Lot 3 has an existing structure which has been historically used as a carriage barn and is listed in the Vermont State Register of Historic Places. The existing structure will be used for storage by the owner of Lot 3.
 - Prior to final approval, the Applicant shall specify and articulate, to the DRB's satisfaction, the legal mechanism by which the existing structures on Lots 1 and 2 will be maintained and preserved in their current historic condition.
 - Lots 2 through 8 will contain seven new residential dwellings to be located within the identified building envelopes as depicted on Drawings 3 and 4 (*Exhibit XXX*) which will be either one or two-family residential dwellings.
- c. Lot 9 is a standalone 6.76± acre building lot located to the north of Lots 1 through 8. Any new dwelling on this Lot will be located to conform with the dimensional requirements of the CZR prior to final approval.
- d. The Project will also contain two common lots. Lot C1 contains 3 small historic sheds and 1 historic barn, all of which are listed in the Vermont State Register of Historic Places and all of which will remain in place and preserved and maintained in a stable and safe condition and be used for storage purposes. Prior to final approval, the Applicant shall specify how it intends to assure continued preservation and maintenance. Lot C2 will be the site of two proposed shared septic mounds.
- e. The clustering of the small Lots 1-8 in the V2 portion of the proposed development is consistent with CZR §240, which encourages future residential use as a PUD or in a manner that will extend the existing settlement pattern on small lots. It is also consistent with CSR §472 and §474, which encourage cluster development. The proposed building sites and setbacks are consistent with existing development patterns, as required by CSR §474. The overall Lot layout, including the planned conservation easement to be conveyed on Lot 11, the proposed preservation of Lot 10, the use of Lot C2 for the common septic system, and the open nature of Lot C1, maintains a significant amount of open space, consistent with CSR §§472 and 473. The proposed layout is also compatible with the Town Plan, which specifies that: (a) future residential development will be encouraged to extend the existing settlement pattern of West Cornwall, (b) a range of housing options such as multi-family housing should be allowed, and (c) panhandle lots behind existing homes should be explored. The restrictive covenants, restrictions and easements set forth in the proposed Declaration Of Covenants, Restrictions and Easements of Beaver Brook Subdivision ("Declaration") (*Exhibit UUU*) and the proposed By-Laws of Beaver Brook Homeowners' Association, Inc. ("By-Laws") (*Exhibit SSS*) do address the maintenance of common subdivision features and do provide for an architectural review process intended to "replicate an authentic 19th Century Vermont colonial or farmhouse design . . ." to assure that any new structures are consistent with West Cornwall's architectural character. The Declaration provides for a mechanism to

preserve existing historic structures on Lots C1 and 2. Prior to final approval of this subdivision, the Applicant will need to further clarify and articulate how the Declaration and By-Laws provide for a legally enforceable mechanism to reasonably assure the continuing preservation of existing historical buildings on Lots 1 and 2 and that future land development on Lots 1-8 will be architecturally compatible with the West Cornwall Village. Prior to final approval, the Town Attorney shall review and approve the Declaration and By-Laws in form and substance consistent with these stated purposes.

- f. **Views and Aesthetics.** The Applicant has tried to minimize the view shed impacts of the Project. The land slopes naturally to the east and down from North Bingham Street. All proposed houses are located away from the edge of North Bingham Street. The building envelopes have been carefully placed. Lot 3 and the northern portion of Lot C1 have been located to limit the impact on the view shed of the abutting neighbor directly across North Bingham Street. New houses on Lots 4 and 5 will be located near the edge of wood lines. All utilities will be buried underground.

4. Character of Land.

The Parcel comprises a total of 166.8± acres. The Applicant proposes to conserve 124.57± acres (Lot 11) via a conservation easement with the Vermont Land Trust and to permanently protect 19.91 acres from development (Lot 10). Project land located within the proposed building envelopes is suitable for development in terms of its physical characteristics. Excluding the wetland area, the soils are firm, moderately drained, and not excessively steep.

- a. **Wetlands.** The location of Class II wetlands in the portion of the Parcel proposed to be developed has been delineated and shown on the application site plans for Lots 4, 5, 9, and 10. These wetlands are subject to the Vermont Wetland Rules, including a 50-foot buffer around the wetlands. No land development will occur within these identified wetlands. The Vermont State Department of Environmental Conservation has determined that there are no vernal pools on the Parcel.
- b. There are no rivers or streams near the portion of the Parcel proposed to be developed. Beaver Brook runs through Lot 11, which is proposed to be conserved. There are no floodplains on the Parcel.
- c. **Natural Cover.** The proposed Project minimizes grading and seeks to retain the natural contours of the land and to conserve the natural cover and soil.
- d. **Preservation of Existing Features.** The Applicant has given due regard to the preservation of exceptional trees, wetland, open land, and other natural and historic features.
- e. **Shade Trees.** In keeping with the open land, no shade trees are proposed along North Bingham Street or the access road within the Project.
- f. **Open Space.** As proposed, the Project dedicates portions of the Parcel to open space, conserves Lot 11 for agriculture, forestry, and wildlife habitat, and protects Lot 10 for wildlife habitat. Subject to compliance with the DRB's conditions herein, the proposed Project is consistent with the standards set forth in CSR §477.
- g. **Deer Wintering.** There are no identified deer wintering areas on the portion of the Parcel proposed to be developed.

5. Water Supply.

- a. **Wells.** Each of Lots 2–8 will be served by an individual on-site drilled bedrock well, sited in accordance with the State of Vermont Wastewater System and Potable Water Supply Rules. (Lot 1 has an existing well and Lot 9 will be served by its own on-site drilled bedrock well.) Wells on Lots 1–8 are generally sited to be 200 feet from each other (except for two wells which are located 185 feet apart) and the required distance (150 feet uphill) from the two community disposal areas. All the new wells are sited in excess of 200 feet from any off-site well. Reasonable water yields are expected for each lot with no well interference either between the on-site wells or with any off-site wells located adjacent to the Project. The DRB's expert hydrogeologist, Craig Heindel, Waite Heindel Environmental Management, reviewed the well log data for existing wells within a 2,000-foot radius of the proposed Project, finding that the average well yield was 22.7 gallons per minute (gpm). The individual maximum well demand of the 7 new wells ranges from 0.58 to 0.97 gpm, and the overall maximum day demand of the Project is calculated at 5.6 gpm. Waite Heindel concluded that this is not an unreasonable volume of water to be obtained from the bedrock aquifer beneath the site of the Project without causing any measurable impact on the long-term viability of the aquifer.
- b. **Water Treatment.** Water pumped from the aquifer, which is made up of fractured limestone, dolostone, and marble, may be hard due to the presence of calcium and magnesium. As a result, owners of Lots in the Project may choose to use water softeners. Based on the opinions offered by the Applicant's expert hydrogeologist, Steven Revell, Green Mountain Engineering, and the DRB's expert hydrogeologist, Craig Heindel, Waite Heindel Environmental Management, there should be no adverse effects of the softener backwash, particularly if the water softeners used are Demand Initiated Regeneration (DIR) types.

6. Wastewater.

Wastewater will be treated and disposed of in accordance with a wastewater permit issued by the State of Vermont pursuant to the Wastewater System and Potable Water Supply Rules. For Lots 1-8, the system will consist of a combination of underground septic tanks, effluent piping, two floating outlet dosing chambers and two community shared mound-type septic disposal fields located on Lot C2. The two community shared mounds will be designed for a maximum total of 25 bedrooms. Lot 9 will have its own system. Final approval will be conditioned upon approval by the State of Vermont of a combined water and wastewater system substantially as depicted in Drawing No. 7 (*Exhibit XXX*).

7. Stormwater System.

The Project's proposed stormwater system includes both water quality and water quantity controls as required by the Vermont Agency of Natural Resources Stormwater Regulations. Rooftop disconnections will be used to lessen the volume of runoff reaching any downstream treatment practice. Rooftop runoff will be captured via roof leaders or a drained stone splash guard surrounding the building footprint. Water will be conveyed to a specific discharge location where it will be dispersed across a grassed area. Driveways will be graded so that runoff is routed through a stone-filled diaphragm. In addition, the project will utilize a sediment settling basin prior to volume control treatment practice. Grass-lined ditches will be sited along the access road to capture runoff volume and convey water to a long interception ditch. The ditch will convey stormwater runoff with the discharge to the pretreatment settling basin. The primary treatment practice is for runoff volume control using a retention pond with a slow-

release outlet structure that will drain to the northeast via a discharge pipe to daylight. An area of medium-sized diameter stone will be placed at the discharge area to dissipate the flow of surface runoff energy and minimize erosion. Released water will then sheet flow across several hundred linear feet of medium density forested land before reaching the Beaver Brook. Final approval will be conditioned on permit approval by the State of Vermont substantially as depicted on Drawing No. 8 (*Exhibit XXX*).

8. Utilities, Energy Conservation and Construction Planning and Timing.

The Applicant will install all common infrastructure prior to transfer or occupancy of any Lots, except for wells, which the Applicant will install on each building Lot after it is sold. All infrastructure will be installed in compliance with State and Local permits and as depicted in Drawings 1-8 (*Exhibit XXX*). Utilities will be buried underground, with unobstructed easements 20 feet in width with access to the street. The proposed Project is designed to take advantage of southeast, south, and southwest orientations as much as possible. The Applicant will, by covenant, limit the hours of construction on the Parcel to weekdays from 7:00 am to 5:00 pm. No blasting on the Parcel is expected to occur.

9. Roads and Traffic.

- a. **Road.** Lots 1–8 will be accessed from North Bingham Street via an existing access road, which will be upgraded in accordance with State of Vermont Standards for Residential Driveways B-71 to form a drive that connects with individual residential driveways.
- b. **Traffic Safety.** The Applicant submitted a May 7, 2019 Traffic Evaluation Report prepared by Green Mountain Engineering. The existing access road will provide access to Lots 1-8 and is located approximately 495 linear feet north from the center of the Route 74 intersection, within the limits of the paved portion of North Bingham Street, which has a posted speed limit of 35 miles per hour. Sight distances from the Project satisfy Vermont Agency of Transportation requirements for Minimum Stopping Distance and Minimum Intersection Sight Distance. Lot 9 will be accessed from North Bingham Street by a new residential driveway. The Project will add traffic from 8 new houses, a few of which could potentially be two-family units. The Report projects that there will be approximately 7 trips generated during the a.m. peak hours and approximately 8 trips generated during the p.m. peak hours, with a total of 80 trips generated each workday, using the intersection with Route 74. This is a 4.1 % increase in daily traffic volume (calculated to be 1,957 vehicles per day for 2018) at the intersection. There have been zero fatalities or injuries at the intersection reported for 2012 through 2016. There are no “High Crash Locations” within the Town of Cornwall. The Traffic Evaluation Report concluded that it is unlikely that the proposed project would cause any adverse negative impacts at the intersection.

10. School and Municipal Services and Facilities.

In December, 2018 the Applicant provided letters from the Cornwall Road Foreman, the Cornwall Volunteer Fire Department, and the Principal of the Cornwall Elementary School confirming that the proposed subdivision will not place an unreasonable burden on the Town’s municipal, educational or governmental services, or facilities.

11. Subdivision Organization & Restrictions.

The Applicant proposes to impose a Declaration of Covenants, Restrictions and Easements which will apply to Lots 1-8 of the subdivision. (*Exhibit UUU*). All future

conveyances of subdivided Lots 1-8 will be subject to said Declaration as approved to include a procedural mechanism for architectural review and approval by the proposed homeowners' association in addition to permit review by the Town. The Applicant further proposes to create and incorporate a homeowners' association to oversee and manage all common elements of the subdivision subject to a proposed set of By-Laws. Prior to final subdivision approval, the Applicant and the Town Attorney shall mutually agree on the form and substance of the above-referenced documents.

12. Performance Bond.

The Applicant has submitted *Exhibit WWW* which states an estimate of the post-permit approval site improvement costs totaling between \$185,000 and \$225,000. In order to assure completion of all common features of the Project as proposed, the DRB intends to require the Applicant to submit a performance bond, in a form and in an amount acceptable to the Cornwall Selectboard, said bond to remain in place until such time as all common facilities and features have been satisfactorily constructed. As a condition of final subdivision approval, the Applicant shall submit an estimate of the total costs of a construction of all common elements certified by an engineer along with a timetable for construction.

II. CONCLUSIONS OF LAW

1. The Applicant has submitted a substantially complete Application for approval of a Preliminary Plan and Preliminary Plat for a major subdivision pursuant to Article II of the CSR.
2. The DRB has evaluated the request for approval under the relevant criteria listed in Article IV of the CSR as stated above.
3. Based on the findings referenced above, the DRB concludes that the Preliminary Plan meets the design standards referenced in Article IV of the CSR subject to the conditions and restrictions as stated above and hereinafter referenced.
4. This Preliminary Plan and Preliminary Plat approval does not constitute approval of the subdivision plan or plat. CSR §246. Prior to final approval, the DRB may require further or additional changes to the subdivision or require that approval be made subject to further or different conditions.

III. PRELIMINARY APPROVAL WITH CONDITIONS

Based on the Findings of Fact and the evidence presented in the form of Exhibits and testimony, the DRB hereby approves the Preliminary Plan and Preliminary Plat subject to the following conditions:

1. The Preliminary Plan is approved as depicted on Drawing Nos. 1-8 (*Exhibit XXX*) and subject to all easements, private roads, lot locations, building envelopes, well locations, pond locations, common areas and utilities as depicted therein. The Preliminary Plat is approved as depicted on *Exhibit YYY* subject to the following conditions.
2. The Applicant shall, pursuant to CSR §245, submit 3 copies of the Preliminary Plat to the Town Clerk's Office for signature by the Chair of the DRB with the following signature block attached: This Preliminary Plat received preliminary approval by the Cornwall Development Review Board on February __, 2020, subject to all terms and conditions as stated in its Decision of February 19, 2020, a copy of which is attached and incorporated by reference. This does not constitute final subdivision approval.

Cornwall DRB

BY: _____
Its Chair and Duly Authorized Agent

3. Pursuant to CSR §247, within 6 months of this approval, the Applicant shall submit 10 copies of an application for approval of a Final Subdivision Plan and Final Plat with the plat substantially the same as the Preliminary Plat filed as *Exhibit YYY*, but revised (a) to include the boundary between the V2 and LDR Districts, and (b) to adjust as necessary any setbacks and the building envelope for Lot 9 and the setbacks for Lot 10.
4. Applicant shall submit the eight most recent drawings from Green Mountain Engineering (*Exhibit XXX*, 1–8), revised to the extent necessary to ensure that the dimensions match the dimensions to be shown on the final subdivision plat. *Exhibit XXX-4* (“Proposed Lot 9 Layout Site Plan”), shall be revised to correct the reference to “Lot 11 127.49 acres +/-” to “Lot 10 19.91 acres +/-”.
5. Applicant shall submit a letter from the Cornwall Road Foreman or Road Commissioner confirming the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed Project within an appropriate level of service and confirming that the access road and drive stubs comply with the *Cornwall Road Access Policy*.
6. Applicant shall submit an updated letter from officials of the Cornwall Volunteer Fire Department confirming that the proposed Project is designed in such a manner to allow sufficient access for response vehicles to all existing structures and all proposed structures within their respective building envelopes and that the Fire Department has the ability to provide service to the proposed Project.
7. This approval incorporates by reference all Findings of Fact contained herein and all Exhibits referenced in Attachment A and is conditioned on the accuracy of all statements and representations of the Applicant and its agents and consultants.
8. This approval is conditioned upon the Applicant conveying a recorded conservation easement to the Vermont Land Trust for Lot 11 in its entirety and providing a copy of the easement to the Cornwall Zoning Administrator promptly upon receipt. No construction or land transfers to a third party or purchaser of a Lot shall occur until the recording of a conservation easement to the VLT has occurred.
9. Prior to the start of any construction or the issuance of any building permit within the Project, Applicant shall provide to the Zoning Administrator proof of Act 250 approval and copies of all necessary State and Federal permits and any amendments thereto (including without limitation State Water Supply Permits, State Wastewater Disposal Permits, and State Stormwater Permits) approving the Project substantially as shown and depicted on Drawing Nos. 1-8 (*Exhibit XXX*).
10. Prior to the commencement of construction, land development, the sale of any individual lot, or the issuance of any building permit, the Applicant shall cause to be recorded, after review and approval by the Town Attorney, in the Cornwall Land Records the Declaration, the By-Laws, Association Articles of Incorporation, and proposed deed restrictions in form and content which will satisfactorily impose those covenants and restrictions referenced in *Exhibits SSS* and *UUU*, as well as assure

that existing historical structures are preserved and maintained.

11. No land development or construction of the Project shall occur or building permit shall be issued within this Project, nor any individual Lot sold or transferred, until such time as the Applicant posts a bond to be approved by the Cornwall Selectboard and the Town Attorney in an amount to be determined based upon an estimate of the cost to construct all common elements of the subdivision as certified by an engineer.
12. A maximum total of 25 residential bedrooms shall be permitted for Lots 1-8.
13. Mailboxes are to be clustered together and sited adjacent to the common access road off North Bingham Street (subject to USPS approval of location).
14. All deed conveyances for Lots 1-8 shall be subject to the Declaration as approved.
15. The access road for Lots 1-8, and the driveway for Lot 9 shall be a private road and shall be constructed in accordance with the State of Vermont Standards for Residential Driveways B-71 and with any other applicable standards contained in the Vermont State Standards for the Design of Transportation Construction and Rehabilitation on Freeway Roads and Streets dated July 1, 2007 as amended, as required by CSR §451.4. The proposed access road will use the existing curb cut. A 911 approved street name shall be identified for the proposed road. A curb cut permit for Lot 9 shall be obtained from the Cornwall Road Foreman.
16. No Lot shall be sold or transferred until Applicant has physically and visually identified the boundary of the wetland buffer on Lots 4 and 5 using a permanent demarcation, such as a split rail fence, row of boulders or small signs.
17. Prior to, or concurrent with, the initial sale of a single Lot, all utilities, the access drive, and shared septic serving the Project shall be installed and occur as one coordinated project.
18. Utilities shall be located underground within proposed rights-of-way and will be run entirely underground from and to the building sites.
19. All Project construction and trucking will be limited to weekdays during the hours of 7:00 am to 5:00 pm. Should blasting be required, abutting neighbors shall be notified at least 48 hours prior to the event.
20. Lot 10 shall not be used for residential or commercial purposes. Any conveyance of Lot 10 shall be subject to a covenant preventing use of the Lot for any residential or commercial purpose in a form and substance to be approved by the Town Attorney in substantially the following form:
 - a. "This Lot is being conveyed SUBJECT TO AND BURDENED BY a covenant and restriction that the lands and premises SHALL NOT:
 - i. Be used for residential purposes; or
 - ii. Be used for commercial purposes.
 - b. NOTWITHSTANDING THE FOREGOING, the following activities shall be allowed, and shall not be construed to violate the aforesaid covenant and restriction: non-commercialized, non-motorized private trails.
 - c. In order to modify the terms and conditions of this covenant and restriction, the owner of the burdened lands and premises shall be required to obtain a written permit amendment in recordable form from the DRB. Any deed conveyance of Lot 10 shall also reference the final subdivision approval as issued by the DRB.
21. The Applicant, the proposed Beaver Brook Homeowners' Association, Inc. and Lots 1 and 2 successors shall be subject to covenants in a form acceptable to the Town

- Attorney requiring that all existing structures on their respective lands be reasonably preserved and maintained in their historic and architecturally significant condition.
22. Upon notification that a hearing date has been set by the Cornwall DRB, the Applicant shall provide written notice of said hearing to all interested parties and adjoining property owners as required by 24 V.S.A. §4464(a)(1).

Subject to all the Conditions set forth above, the Cornwall Development Review Board hereby grants Preliminary Plan and Preliminary Plat approval of Application drb#19-001 submitted by Beaver Brook Properties LLC, dated November 8, 2018, for a major 13 lot subdivision of Parcel ID #080240.

Dated at Cornwall, Vermont, this 19th day of February, 2020.

CORNWALL DEVELOPMENT REVIEW BOARD

Barbara Greenwood, Chair
Barbara Greenwood

Joseph Severy, Vice-Chair
Joseph Severy

David Anderson
David Anderson

Magna Dodge
Magna Dodge

Sharon Johnson
Sharon Johnson

NOTICE: This decision does not constitute final subdivision approval of the Project proposed by the Applicant and is subject to further review and revision upon submission of an application for final subdivision approval. This decision may be subject to appeal before the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. §4471 and Rule 5(b) of the *Vermont Rules for Environmental Court Proceedings*.

NOTICE: State Permits may be required in connection with this Project as proposed by the Applicant. The Applicant must contact Vermont State agencies to determine what permits must be obtained before any construction may commence.

ATTACHMENT A – EXHIBIT LIST

BEAVER BROOK LLC PRELIMINARY SUBDIVISION APPLICATION

LIST OF EVIDENCE FILED FROM APPLICANT AND INTERESTED PARTIES

March 1, 2018—Sketch Plan Review 1

1. *Exhibit A*—Sketch Plan Application
2. *Exhibit B*—The presentation/notes
3. *Exhibits C, D, and F*—Written comments submitted by E. Napier, K. Branch, J. Warren, respectively
4. *Exhibit E*—An *Addison County Independent* article, dated February 15, 2018

June 12, 2018—Sketch Plan Review 2

5. *Exhibit A*—Revised Sketch Plan materials, dated May 29, 2018
6. *Exhibit B*—Drawing, dated May 29, 2018
7. *Exhibit C*—Replacement Drawing, dated June 7, 2018
8. *Exhibit D*—Email correspondence between M. Bonner and B. Greenwood, dated June 1, 2018
9. *Exhibit E*—Cornwall Conservation Commission written comments, June 2–5, 2018
10. *Exhibit F*—Letter from E. Napier, June 11, 2018

January 10, 2019—Preliminary Hearing 1

1. *Exhibit A*—Proof of Service, notice of Hearing mailed to abutters
2. *Exhibit B*—Hearing Warning and tear-sheet from the *Addison County Independent* showing the Warning published on December 20, 2018
3. *Exhibit C*—Application for Subdivision of Land, dated November 8, 2018; filed December 12, 2018
4. *Exhibit D*—Booklet supplied with the Application, containing current materials as well as materials from the March and June 2018, Sketch Plan Review Meetings
5. *Exhibit E*—Green Mountain Engineering, Infrastructure Design Summary, includes material on the Stormwater Treatment System and the Wastewater Treatment and Disposal System.
6. *Exhibit F*—Stephen Revell, Proposed 8-Lot Water System, December 4, 2018
7. *Exhibit G*—Stephen Revell, Green Mountain Engineering, Site Specific Effluent Mounding Analysis, Lots 3–5; dated December 4, 2018
8. *Exhibit H*—Stephen Revell, Green Mountain Engineering, Site Specific Effluent Mounding Analysis, Lots 1, 2, 6–8; dated December 4, 2018
9. *Exhibit I*—Green Mountain Engineering, Traffic Evaluation Report, dated December 5, 2018
10. *Exhibit J*—Ronald L. LaRose, Subdivision Survey, dated October 22, 2018
11. *Exhibit K*—Green Mountain Engineering, Site Plan Drawings, dated November, 2018
 - K1*—Cover Sheet,
 - K2*—Existing Conditions Site Plan,
 - K3*—Proposed Conditions Site Plan with Stormwater Infrastructure
12. *Exhibit L*—Cornwall Conservation Commission written comments, dated December 29, 2018
13. *Exhibit M*—Project Layout Materials from the June 12, 2018, Sketch Plan Review Meeting

14. *Exhibit N*—Document containing comments on the proposed project from 7 community residents, received at the Hearing (B. Barry, M.J. Broughton, B. Hill, E. Karnes Keefe, T. Keefe, E. Napier, and A. Quinttus)
15. *Exhibit O*—Document containing comments on the proposed project from Allison Quinttus, received at the Hearing.
16. *Exhibit P*—A copy of Vermont Land Trust's orthophoto of the property

September 4, 2018—Preliminary Hearing 2

17. *Exhibit Q*—DRB request for information and materials dated January 17, 2019
18. *Exhibit R*—Letter from William and Janet Warren; dated January 31, 2019
19. *Exhibit S*—Proof of service for the notification of this Hearing and the September 9, 2019, Site Visit.
20. *Exhibit T*—Warning, as published in the *Addison County Independent* on August 19, 2019
21. *Exhibit U*—B. Greenwood email to the Applicants forwarding excerpts “The Historic Architecture of Addison County,” identifying historic structures located on this property and listed in the State Register, dated February 27, 2019
22. *Exhibit V*—Email from E. Karnes Keefe attaching form nominating the Walker Bingham House for listing in the State Register; dated March 7, 2019
23. *Exhibit W*—Comments from E. Napier, M.J. Broughton, E. Karnes Keefe, T. Keefe, A. Pelkey, S. Pelkey, and A. Quinttus; dated March 11, 2019

Filed May 9, 2019:

24. *Exhibit X*—West Cornwall Subdivision Presentation; dated June 3, 2019
25. *Exhibit Y*—Steven Revell, Green Mountain Engineering, revised Hydrogeology Report; dated April 6, 2019
26. *Exhibit Z*—Traffic Evaluation Report, prepared by Green Mountain Engineering; May 7, 2019
27. *Exhibit AA*—Draft Declaration of Covenants, Restrictions and Easements
28. *Exhibit BB*—Letter from Amey Ryan, IPJ Real Estate, commenting on the Cornwall real estate market; dated April 27, 2019
29. *Exhibit CC*—Article by Halsten Willis entitled Downsizing the American Dream: the new trend toward ‘missing middle housing,’ Feb 14 (no year specified)
30. *Exhibit DD*—Draft survey prepared by Ronald L LaRose, revised May 8, 2019
31. *Exhibit EE*—Drawing #1—Cover sheet prepared by Green Mountain Engineering; dated May 2019
32. *Exhibit FF*—Drawing #2—Existing Conditions Site Plan; dated May 2019
33. *Exhibit GG*—Drawing #3—Proposed Conditions Site Plan with Infrastructure Stormwater; dated May 2019

Filed June 11, 2019:

34. *Exhibit HH*—B. Greenwood email to Applicants identifying missing materials; dated May 17, 2019
35. *Exhibit II*—Cover letter from B. Deppman; dated June 5, 2019
36. *Exhibit JJ*—2019 Annual Report for Beaver Brook Properties LLC filed with the Vermont Secretary of State
37. *Exhibit KK*—Letter from Jamie Simpson, Green Mountain Engineering, re wetland considerations; dated June 4, 2019
38. *Exhibit LL*—B. Greenwood email to B. Deppman; dated June 18, 2019

Filed August 6, 2019:

- 39. *Exhibit MM*—Cover letter from B. Deppman; dated August 5, 2019
- 40. *Exhibit NN*—Draft By-Laws of West Cornwall Village Homeowners Association, Inc.
- 41. *Exhibit OO*—Draft Declaration of Covenants, Restrictions and Easements of West Cornwall Village
- 42. *Exhibit PP*—Draft Warranty Deed
- 43. *Exhibit QQ*—B. Greenwood email to B. Deppman; dated August 8, 2019
- 44. *Exhibit RR*—Email from M. Bonner forwarding communications from Zapata Courage, Vermont State Wetlands Ecologist; dated August 27, 2019
- 45. *Exhibit SS*—Email from Mary Dodge, Chair of the Cornwall Conservation Committee, dated August 30, 2019
- 46. *Exhibit TT*—Comments from B. Hill; dated August 25, 2019
- 47. *Exhibit UU*—B. Greenwood email to the Applicants; dated January 17, 2019
- 48. *Exhibit VV*—Email from Jamie Simpson, Green Mountain Engineering, to M. Bonner; dated September 3, 2019
- 49. *Exhibit WW*—Comments from E. Napier, E. Karnes Keefe, T. Keefe, A. Quinttus, M.J. Broughton

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- 50. *Exhibit XX*—Draft survey prepared by Ronald L. LaRose, dated October 22, 2018, revised October 11, 2019; filed October 11, 2019
- 51. *Exhibit YY*—Drawing No. 1—Cover Sheet/Index of Drawings; Green Mountain Engineering, filed October 11, 2019
- 52. *Exhibit ZZ*—Drawing No. 2—Existing Conditions Site Plan; filed October 11, 2019
- 53. *Exhibit AAA*—Drawing No. 3—Proposed Lot Layout Site Plan; filed October 11, 2019
- 54. *Exhibit BBB*—Drawing No. 4—Proposed Water and Wastewater Infrastructure Site Plan; filed October 11, 2019
- 55. *Exhibit CCC*—Drawing No. 5—Proposed Stormwater Infrastructure Site Plan; filed October 11, 2019
- 56. *Exhibit DDD*—Draft By-Laws of West Cornwall Village Homeowners Association, Inc.; filed October 11, 2019
- 57. *Exhibit EEE*—Draft Declaration of Covenants, Restrictions and Easements of West Cornwall Village; filed October 11, 2019
- 58. *Exhibit FFF*—October 11, 2019, email from Jamie Simpson, Green Mountain Engineering, to Zapata Courage, Vermont State Wetlands Ecologist, re: further investigation of wetlands
- 59. *Exhibit GGG*—Email from M. Bonner advising of needed corrections to the plans filed October 11, 2019; dated October 28, 2019
- 60. *Exhibit HHH*—Email from B. Deppman attaching proposed language for restrictions on Lot 10, and red-lined copy of revised draft Declaration of Covenants, Restrictions and Easements of West Cornwall Village; dated November 1, 2019
- 61. *Exhibit III*—Table showing proposed lot dimensions; filed October 31, 2019
- 62. *Exhibit JJJ*—Follow up wetland classification report prepared by Zapata Courage, Vermont State Wetlands Ecologist; dated October 21, 2019; filed October 31, 2019
- 63. *Exhibit KKK*—Review and Opinion prepared by Waite Heindel, Environmental Management; dated October 24, 2019

- 64. *Exhibit LLL*—Email comments from Misse Smith concerning cattail habitat at the property and mosquitoes; dated September 25, 2019
- 65. *Exhibit MMM*—Email from B. Greenwood to Applicants concerning advice from the Town Attorney on interior lots and frontage; dated September 26, 2019
- 66. *Exhibit NNN*—Email from A. Pelkey, S. Pelkey, A. Quinttus, E. Napier, E. Karnes Keefe, T. Keefe enumerating their concerns
- 67. *Exhibit OOO*—Resumé of Craig Heindel; accepted and marked November 6, 2019
- 68. *Exhibit PPP*—Map of property showing the wetland area requested by Mary Dodge; accepted and marked November 6, 2019

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- 69. *Exhibit QQQ*—Updated language for Lot 10 Covenants
- 70. *Exhibit RRR*—A redline/'track changes' copy of By-Laws of Beaver Brook Homeowners' Association, Inc.
- 70. *Exhibit SSS*—A clean/'final' copy of By-Laws of Beaver Brook Homeowners' Association, Inc.
- 71. *Exhibit TTT*—A redline/'track changes' copy of Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision
- 72. *Exhibit UUU*—A clean/'final' copy of Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision
- 73. *Exhibit VVV*—Email from Zapata Courage, Vermont State Wetlands Ecologist, re vernal pools; dated December 4, 2019
- 74. *Exhibit WWW*—Approximate Post-Permit Site Improvement Costs
- 75. *Exhibit XXX*—Progress Print for Preliminary Site Plan Review Drawing Nos. 1-8 prepared by Green Mountain Engineering dated 12/10/2019
 - Exhibit XXX -1: Drawing No 1 – Cover Sheet*
 - Exhibit XXX -2: Drawing No 2 – Existing Conditions Site Plan*
 - Exhibit XXX -3: Drawing No 3 – Proposed Lot Layout Site Plan*
 - Exhibit XXX -4: Drawing No 4 – Proposed Lot 9 Layout Site Plan*
 - Exhibit XXX -5: Drawing No 5 – Proposed Property Easements Site Plan*
 - Exhibit XXX -6: Drawing No 6 – Proposed Infrastructure Overall Site Plan*
 - Exhibit XXX -7: Drawing No 7 – Proposed Water & Wastewater Infrastructure Site Plan*
 - Exhibit XXX -8: Drawing No 8 – Proposed Stormwater Infrastructure Site Plan*
- 76. *Exhibit YYY*—Plat of Ronald L. LaRose Showing A Subdivision of Lands of Beaver Brook Properties, LLC dated October 27, 2018, last revised December 11, 2019
- 77. *Exhibit ZZZ*—Email from M. Bonner listing the materials filed the previous day; dated December 14, 2019
- 78. *Exhibit AAAA*—Warranty Deed (draft) for Lot purchase in the Beaver Brook Subdivision; filed December 13, 2019
- 79. *Exhibit BBBB*—Letter from E. Napier, January 9, 2020