

**Cornwall Development Review Board (DRB)
MINUTES • June 12, 2018 • 7:00–8:30pm
Cornwall Town Hall**

MEMBERS PRESENT: Barbara Greenwood, Joe Severy, Gary Barnett, Magna Dodge, Shari Johnson;

ALTERNATES PRESENT: David Anderson, Cheryl Cesario (*recused*)

ATTENDEES: 22 members of the public in attendance

1. CALL TO ORDER: 7:00pm. Barbara opened the meeting.

2. QUORUM: Established.

3. AGENDA: Magna MOVED/Joe SECONDED to approve the Agenda. *Motion passed*

4. MINUTES:

- **April 4, 2018**—Magna MOVED/Gary SECONDED to approve the April 4 Minutes. *Motion passed*
- **April 25, 2018**—Joe MOVED/Gary SECONDED to approve the April 25 Minutes as amended. *Motion passed* Magna was away that date, abstained from vote.
- **May 2, 2018**—Magna MOVED/Shari SECONDED to approve the May 2 notice of meeting cancellations. *Motion passed*

5. Process and Procedure

- Barbara opened the meeting by introducing the DRB members, noting that Cheryl Cesario, an Alternate, had recused herself. She then proceeded to explain the purpose of a Sketch Plan meeting and described the order in which the presentation and subsequent comment periods would be called. The applicant will present, the DRB members will then ask any questions, followed by the Conservation Commission representative (Mary Dodge), and then the members of the public. After the public comments, the applicant will have an opportunity to address the gathering, and the DRB will ask any additional questions they may have.
- When the time comes for public comment, each commenter shall identify him/her self and state where they reside. Each will then be allotted three (3) minutes for their commentary or question. It was requested that any commentary from the prior Sketch Plan meeting not be repeated.
- If the Sketch Plan Review is completed at this meeting, the DRB will classify the proposed subdivision as major or minor.
- The oath was then administered to attendees expecting to participate.
- Members of the DRB were asked if any ex parte communication had occurred between them and the applicant. Barbara noted that in scheduling this meeting, she and Matt Bonner had exchanged emails and Matt had provided additional subdivision information. That email will be entered as an exhibit.
- **Exhibits**
 - Revised Sketch Plan materials, dated May 29, 2018, labeled as *Exhibit A*
 - Drawing, dated May 29, labeled as *Exhibit B*
 - Replacement Drawing, dated June 7, labeled as *Exhibit C*
 - Email correspondence between Bonner and Greenwood, dated June 1, labeled *Exhibit D*
 - Conservation Commission written commentary, June 2–5, labeled as *Exhibit E*
 - Letter from Elizabeth Napier, June 11, labeled as *Exhibit F*

6. Beaver Brook Sketch Plan Review

- Matt opened his presentation with a review of the revised May 29 proposal for the project. He noted that the number of proposed lots has been reduced to 9 plus the acreage slated to be conserved through the Vermont Land Trust (*VLT*). He also noted that the list of adjacent property owners and the map indicating their locations had been updated and is now current.
- Next, Matt reviewed the project acreage and explained the process of conserving land through the VLT. The total acreage is 167 acres, of which 123 are planned to be conserved, with the remaining 44 being developed into 9 parcels. VLT does not purchase the land, it purchases a conservation easement which effectively removes the development rights from the parcel, thus conserving it for non-development uses. To do this, a buyer for the land itself must be found so that the land sale and the easement sale can happen at the same time. The land sale can only be made to a farmer.
- Matt went on to explain the map and the proposed use and structure of the development lots. The project will not be a PUD (no density bonus involved). The lots will be 1 acre-plus, with the remainder of the 44 acres held as common ground, to be kept as open space. It is planned that shared septic will be located within those 44 acres.
- Larger maps were on the DRB table and available in the Town Office.

• **Board Comments/Questions**

- **Gary**—asked about affordability and if plans in that regard had changed. **Matt**—all lots are expected to be at the same price point; the State formula regarding affordability and income was used; price points expected to be in the range of \$200,000–\$400,000 per lot.
- **Shari**—is it proposed that Lot 1 will be built on? **Matt**—no, Lot 1 contains the original Bingham house.
- **Joe**—questioned the septic testing. **Matt**—Lot 9, where any shared septic would be located, has had test holes drilled, the land appears to be well suited for a septic system.
- **Gary**—will there be individual wells? **Matt**—that is what they are anticipating, won't know with certainty until the hydrological studies are done. There is the possibility of sharing.
- **Barbara**—why shared septic? **Matt**—a shared system is more aesthetic, and more financially feasible. He again noted the suitability of the Lot 9 soil for such a purpose.
- **Magna**—expressed concern about the timeframe; how will the development be phased in? **Matt**—it is anticipated that various hearings, studies, permitting will take the better part of a calendar year, thus they expect—if approved—the project will not be fully started until about this time in 2019. By then it will have been decided what to sell and in what state of development (land only, built on, ...).
- **Magna**—how will endless years of construction be prevented? **Matt**—not sure at this point; they still need to determine more precisely where to set price-points and what affordability entails.
- **Magna**—asked if there was any trepidation caused by the locale. **Matt**—none at all, the locale is perfect for people with or without children, or who need close-by access to Middlebury, and who are looking for a place with near neighbors.
- **Shari**—who will do the construction? **Matt**—that has yet to be determined; the partnership will construct all the infrastructure for a total build-out (roads, water, septic. Utilities), but the residences' builder(s) have not been decided on, nor whether lot owners will select their own or the partners will determine.
- **Barbara**—what about design? If one outfit does not do all the building, how will cohesiveness be maintained? **Eric**—if there will be more than one builder, the partners will develop design guidelines to be followed.
- **Barbara**—Act 250? **Matt**—will apply.

- **Barbara**—why the change from the earlier (March) 20-lot proposal to this revised 10-lot proposal? **Matt**—both economics and the earlier review’s feedback played their parts; it was a business decision based on sensitivity to the community feedback received.
- **Conservation Commission (CC) Comments**
 - **Mary Dodge**—took a moment to explain the CC’s process for their review findings, and noted that the CC appreciates the large expanse of conserved land. However, of the other 9 lots, Lot 8 is of particular concern, and Lot 7 has issues for the CC as well.
 - **Lot 8**—home to a bio diverse wildlife population; part of a critical wildlife travel corridor with links to other north and west wildlife areas; development on Lot 8 could have a significant negative impact on the corridor. The CC would like to see Lot 8 reconfigured. There is sufficient acreage in Lot 9 that could be used to replace sections of Lot 8.
 - **Lot 7**—lacks the same degree of bio diversity found on Lot 8, nevertheless it, too, provides significant travel areas; the CC would like to see development on Lot 7 kept away from the corridor, and the north section allowed to remain “wild.”
 - **Matt**—would like to work with Mary and the CC to see what alternative solutions might be teased out.
- **Additional Board Comments**—None
- **Public Comments/Questions**

Barbara—before commencing with the public comment section, in response to a concern from Bethany Menkart that this meeting was not as well attended as the previous one and that it should have been better warned so people would be aware of it, Barbara noted that notification of this meeting met and exceeded the requirements, that this was not a hearing and required no “warning,” that notices had been posted per Statute, that a notice had even been posted to Front Porch Forum, and that all materials had been available at the Town Office for review by the public. Commenters were reminded to state name and location, and that they had 3 minutes.

 - **Mickey Heinecken**—Sperry Road; noted that Habitat for Humanity had built 4 housing units in Cornwall; he expressed the hope that the partners would consider *real* affordable housing (\$200,000-plus lots are not within the affordable realm); HH units run roughly \$130,000 and can be difficult for some buyers even at that price point; he also hopes that a working partnership between HH and Beaver Brook can be brought about.
 - **Michelle Carter**—South Bingham; asked what will be done with Lot 3 which has the old Greek Revival church on it. **Matt**—that has been an issue; the partnership looked at converting it into a dwelling, but it does not lend itself to that. Perhaps the buyer will grant an easement allowing public use. The matter will receive more thought.
 - **Bethany Hill**—North Bingham; asked if the map were to scale. **Matt**—yes
 - **Katharine Branch**—West Street; asked about the amenities noted in the proposal. **Matt**—indicated it was a bit early to be too definitive, but they hope to include trails and a public garden.
 - **Elizabeth Keefe**—South Bingham; concerned about traffic, is a study in the works? **Matt**—yes, there are plans for a traffic study, with a focus on safety and the Rte 74/North Bingham/South Bingham intersection. The study will be part of the application package.
 - **Mike Broughton**—South Bingham; questioned number of dwelling units and wondered what consideration had been given to any neighborhood mind-change if there were many renters rather than owners living there. **Matt**—noted that the LDR allows only one- or two-family dwellings.
 - **Jim Duclos**—Ridge Road; added that a structure could have up to four separate units under Conditional Use (hearing required).
 - **Colin Kriwox**—Rte 74; concerned about the number of lots that are on the market: Foote Farm has 5 lots in the \$85,000–100,000 range, Matt’s property on West Street still has available lots; he sees potential for conflict between affordable and high-value lots.

- **A. Quinttes**—South Bingham; with so many unknowns, wonders how all utilities can be put in; wonders if the lots with existing outbuildings will have enough coverage available for a new structure of decent size; questioned septic for Lots 7 and 8. **Matt**—Lots 7 and 8 are likely to have their own septic systems, as with Lot 1.
- **Bethany Menkart**—West Street; quoted the bylaws, §310, which require that information on previous subdivision(s) be presented. Why was this not done? **Matt**—directed her to page 2 of the proposal where she had overlooked the information she sought.
- **Bethany Menkart**—West Street; asked if the two apartments in the Bingham House were both going to be Air B&Bs. **Matt**—No, neither was nor planned to be. Air B&Bs have never been part of any discussion for this project.
- **Cheryl Cesario**—West Street; commented on the importance of the proposed sale to her and husband, Marc, of the conserved land to her business; they graze cows over a wide range of parcels throughout Cornwall, keeping land open is of great importance to them.
- **Rudy Olsen**—Rte 30; asked to what extent a DRB decision to approve the project is based on the sale of the development rights to VLT; if the process of completing the conservation sale can take years, he is concerned about what will happen in regard to any lot sales/construction plans in the interim. **Matt**—similar situation to his property on West Street; sales and construction move ahead while waiting.
- **Mary Jane Broughton**—South Bingham; water issues: how deep? How much flow? Effect on neighboring wells? **Matt**—these are hydrological issues and will be addressed when the water study is done.
- **Tom Keefe**—South Bingham; perc tests to be done for all lots? **Matt**—yes, will be part of application package.
- **Tom Keefe**—South Bingham; the March meeting mentioned something about a “Green.” Nothing similar appears in this revision. He sees significant safety issues regarding children at play near the corners. **Matt**—still part of the plan.
- **A. Quinttes**—South Bingham; what is the “buffer” that is mentioned? **Eric**—street trees.
- **Mike Broughton**—South Bingham; to whom is a Green important?? **Eric**—the partners tried to pay close attention to the needs and desires for this section of town as expressed by the people of Cornwall in the *Town Plan*. Among the requests for future development were the inclusion of common areas and street trees.
- **Tom Keefe**—South Bingham; 200 years without a Green, why now? **Eric**—because the *Cornwall Town Plan* requests it, per the desire of Cornwall’s residents.
- **A. Quinttes**—South Bingham; not seeing any mention of a Green or Commons on the revised map was a great relief to her.
Others in the audience backed her opinion with a show of hands of those not wanting a Green. Tom Keefe reiterated, with emphasis on “at that location.”

• **Additional Board Comments**—None

6B. PROJECT CLASSIFICATION—Gary MOVED, Magna SECONDED, that the Beaver Brook project be classified as a Major Subdivision. **Motion passed.**

6C. SKETCH PLAN REVIEW CLOSED—Barbara closed this portion of the Sketch Plan Review, noting that attendees were welcome to stay as the Board continued with its business.

6D. MATERIALS TO BE INCLUDED with the Preliminary Plan (*Subdivision Regulations §320*, plus additional as indicated)

- Everything that is in the Sketch Plan Review of this meeting
- Everything that is noted in §320 of the Subdivision Regulations (see end of document)
- Results of a traffic study to include safety, specifically.
- Evidence that traffic will not negatively impact safety (§320 9)

- Results of a hydrological study to include impact on existing wells in the area.
- **Escrow**—Per §321, the partners are to deposit an initial \$20,000 with the Town Clerk, to cover technical review and other fees and expenses incurred by the DRB and Town of Cornwall in this matter. The deposit, by check, will be held in an escrow account. The partners may be called upon to add additional funds to the escrow account as needed.
- Minor changes to the plan are acceptable, for example:
 - The reconfiguring of Lots 7 and 8.
 - Submission of a plan that differs from this meeting's is acceptable, provided only that it addresses issues brought up by the CC in regard to Lot 8, and Mickey Heinecken in regard to Habitat for Humanity.
 - Addition of up to one additional lot will be allowed, provided it is for affordable housing (à la a Habitat for Humanity dwelling).
- Additionally, the DRB requested that all lot bounds and other important features be marked on the ground so that the DRB can walk the property and effectively see what is proposed to go where. This to be done at least 25 days prior to the Hearing.

7. CORRESPONDENCE

- **CC Reviews**—Letter from Mary Dodge laying out a draft proposal for application reviews to assist DRB. Barbara will respond with DRB's thoughts/suggestions.

8. OTHER BUSINESS—None

9. MEMBERS' AVAILABILITY FOR UPCOMING MEETINGS—

- **July 16, 2018**—Gary unavailable, Shari uncertain, Cheryl unknown; others all available.
- **August 1, 2018**—Joe uncertain, Cheryl unknown; all others expect to be available.

NEXT MEETING: July 16 (Monday) at 7:00 pm, Town Hall

ADJOURNMENT—Gary MOVED, Magna SECONDED, to adjourn at 8:50PM. ***Motion passed***

Respectfully Submitted,
Robin Conway, DRB Secretary

Per #6D above:

Note: Number of copies of documentation to be 10. References to Planning Commission = DRB.

Cornwall Subdivision Regulations,

§320 MAJOR SUBDIVISION PRELIMINARY PLAN

The Preliminary Plan shall consist of one original and 7 copies (8 total) of the following maps and information. Information may be preliminary. Maps shall be at a scale no greater than 100 feet per inch.

1. A completed subdivision permit application form obtainable from the Town Clerk, the application fee and any funds the Planning Commission has determined will need to be escrowed to cover Cornwall's technical review or inspection costs as established per Section 233 of these Regulations.
2. All information submitted from the Sketch Plan Review.
3. A statement of the compliance of the proposed subdivision with the Town Plan, Zoning Regulations and

other bylaws in effect. If the applicant seeks a variance from any provision of the Zoning Regulations through the Planned Unit Development section of the Zoning Regulations or otherwise, the applicant shall submit a clear statement regarding the variance(s) requested and why the variance is appropriate under Cornwall's Zoning Regulations.

4. A complete survey of the boundaries of the subdivision parcel by a Vermont licensed surveyor including, but not limited to, information concerning the date, true north point and scale. In addition to the outside boundary survey, the map should depict a map of the proposed lots, building envelopes, easements and other infrastructure.
5. A statement and maps, if necessary, or other documents demonstrating that the applicant has considered the impact the development may have on Cornwall's waters and has designed the project to comply with the standards contained in Sections 410–413 of these Regulations. Additionally, applicants proposing a subdivision or PUD containing commercial spaces shall describe the type and volume of any waste produced by any commercial entities and how the waste will be disposed of. Additionally, the applicant will describe the steps they have taken to screen the delivery/disposal area from the road and neighboring properties. (Applicants are advised to look to the *Cornwall Zoning Regulations, Section 394*, governing Site Plan review.)
6. Description of proposed water supply. A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If the source is a community water supply system, the applicant shall present evidence of the right to use such system and the adequacy of such a system to meet water supply requirements of the project.
7. Description of proposed sewage disposal system. A report prepared in conformance with state subdivision regulations from an engineer, hydrologist or other person qualified to render an opinion describing the type of system proposed and stating that the system will be designed to meet the State of Vermont Water Supply and Wastewater Rules, including a map depicting the approximate location of the infrastructure necessary for the system. If a community sewage disposal system is to be used, the applicant shall submit evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage.
8. Description of stormwater systems. A report from an engineer, hydrologist or other person qualified to render an opinion describing the type of stormwater system proposed and stating that the system will be designed to meet the *State of Vermont Stormwater Regulations* governing both construction and permanent infrastructure and a map depicting the systems. Additionally, the applicant will supply preliminary grading plans showing areas of cut and fill and revised contours, at a contour interval sufficient to demonstrate the scope of the earthwork.
9. Description of transportation infrastructure and impact. A report and map from an engineer, or other qualified person, describing and depicting existing and proposed transportation infrastructure including street right-of-way lines, widths of streets, typical road, walkway, and other transportation infrastructure. For larger projects, or as deemed necessary by the Commission, in its sole discretion, applicant may be required to provide evidence that the traffic generated by the project will not cause the capacity of roadways and intersections in the area to be exceeded. Information to be provided should include but not be limited to current traffic volumes, current excess capacities or deficiencies, trip generation estimates and their impact on capacities, and sight stopping distances for new road intersections with Town highways.
10. Description of impacts on school and other municipal services. Applicant shall describe the municipal services that the project will impact and provide evidence demonstrating that any impact will be acceptable to the local officials responsible for providing the service.
 - a. Schools. A letter from the school official responsible for the Cornwall Elementary School showing that school age population projected for the project can be accommodated in the existing facilities in conformance with school capital improvement program and budget.
 - b. Road Access. A letter from the Road Commissioner regarding the capacity of roads, intersections and bridges in the immediate vicinity of the proposed subdivision to accommodate additional traffic generated by the proposed subdivision within an appropriate level of service.
 - c. Fire. A letter from officials of the Cornwall Volunteer Fire Department confirming that the proposed subdivision is designed in such a manner to allow them sufficient access for response vehicles and that

they have the ability to provide service to the proposed subdivision.

Applicants unable to provide letters from local officials shall provide any other evidence they or the Planning Commission determines will be appropriate to satisfy the condition, including additional compensation the applicant will provide towards mitigating the impact created.

11. Description of Natural Resource impacts. A report describing and a map depicting the natural resources on the property and how the proposed application will impact each of the following:
 - a. Describe the general character of the land as it currently exists and how it will exist after the development. Depict significant wetlands, floodplains, streams, brooks, steep slopes, rock outcroppings scenic areas, ridgelines, exceptional trees or other significant natural or historic features and describe methods used to preserve those features or otherwise reduce impacts, if any, to them.
 - b. Describe and depict the lot layout and configuration, building envelopes, if any, and why the applicant chose to configure the development in the manner depicted.
 - c. Describe the steps the applicant took to limit retain natural cover and limit impacts of construction.
 - d. Describe any landscaping proposed. Depict landscaping plans showing plant types, ground cover, lighting and signage, and existing features and trees to be maintained.
 - e. Describe any agricultural activities currently on or adjacent to the parcel proposed to be subdivided and depict any prime agricultural soils on the property. Describe any steps taken to minimize the impacts on the soils or operations in light of the requirements listed in Section 481 of these Regulations.
 - f. Describe steps the applicant has taken to reduce the visual impact of the proposal in light of the requirements listed in Section 482 of these Regulations.
 - g. Describe and depict any deer wintering areas on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 483 of these Regulations.
 - h. Threatened and endangered species. Describe and depict any threatened or endangered species know to exist on the property and, if they exist, any steps taken to mitigate impacts on them in light of the requirements listed in Section 484 of these Regulations.
 - i. Describe and depict all land proposed to be dedicated to open or public uses or to be reserved for screening and buffer purposes and the methods for assuring and maintaining such dedication or reservation.
 - j. Provide any proposed covenants and/or deed restrictions which are intended to cover all or part of the subdivision.
 - k. Describe the homeowners' association or other form or management organization, if such is proposed, and provide copies of the association documents.
12. Description of utilities serving the project. A report and map from an engineer, or other qualified person, describing and depicting existing and proposed utilities infrastructure including utility easements, provisions for connections with municipal infrastructure, if any, location of electric telephone and cable infrastructure, and any energy conservation measures incorporated into the design
13. A description of the construction activities including hours of operation, hours of trucking, blasting, if any, or any other steps applicant has taken to reasonably reduce construction impacts.
14. Establish temporary markers on the site adequate to enable the Commission to locate and appraise the basic layout of the lots and infrastructure in the field. On the map, show an existing street intersection or provide the distance from one corner of the property to the nearest existing street.