

April 9, 2020

VIA EMAIL and HAND DELIVERY

Barbara Greenwood, Chair
Cornwall Development Review Board
Town of Cornwall
2629 Route 30
Cornwall, VT 05753

Re: Beaver Brook Properties LLC – West Cornwall Village Subdivision

Dear Chair Greenwood and DRB Members:

In your Decision and Preliminary Plan and Plat Approval dated January 9, 2020 (the “DRB Preliminary Decision”) you raised some requests for revisions and clarifications. Filed herewith in both electronic and paper format are the following documents:

1. Cornwall DRB Application for Subdivision of Land from Beaver Brook Properties, LLC dated April 9, 2020;
2. Matrix showing adjacent property owners (which has been updated to replace 5 Trillium with Elias/Rounds). We understand you will provide us with a Notice of Hearing to send to the list of Interested Persons you provided to us. Please provide the Notice of Hearing to me by email to bdeppman@middlaw.com so I may send it out to the entire list in a timely manner);
3. Subdivision Plat entitled "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, RLS, dated October 22, 2018 and last revised March 2, 2020 (each of the packets provided includes a reduced hard copy printed on 11 x 17, and three full size copies are also being provided per your request);
4. Set of eight (8) Drawings entitled “Beaver Brook Properties, LLC Beaver Brook Subdivision Cornwall, Vermont” prepared by Green Mountain Engineering dated December 10, 2019 and last revised February 19, 2020;
5. Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision (both redline and clean versions) updated to address issues raised in the DRB preliminary Decision;
6. Lot 10 – Beaver Brook properties, LLC covenant language which has been updated to comply with the DRB Preliminary Decision;
7. By-Laws of Beaver Brook Homeowners Association, Inc. which have been updated to comply with the DRB Preliminary Decision;

8. Correspondence from Cornwall Fire Chief Berno dated March 2, 2020;
9. Right of Way/Road Access Permit from the Cornwall Road Foreman dated February 28, 2020;
10. Copy of the Forest Conservation Plan and Current Use map for the Beaver Brook Properties, LLC property;
11. Copy of the draft Grant of Development Rights, Conservation Restrictions, Option to Purchase and Right of Enforcement of the United States document anticipated for execution relative to Lot 11; and,
12. National Bank of Middlebury letter dated April 9, 2020.

Additionally, I offer the following comments and explanations regarding certain issues which have been raised:

- The Homeowners' Association will be established and be ready to start administering the association before the first Lot is sold. Upon the sale of the first Lot, we plan to record the Declaration, By-Laws, deed for Lot 10 establishing the covenant, and the deed for the Common Lots (being conveyed to the Association). These documents would all be recorded immediately prior to the recording of the first Lot sold. Of course, for disclosure and marketing purposes, copies of these documents would be provided to the listing agent for dissemination to prospective purchasers well before being recorded.
- The articles of incorporation will likely be filed after the final permit issues from the Town of Cornwall but prior to the final Act 250 Permit being issued.
- Once the first Lot is sold, the Association will be in charge the matters described in the Declaration and By-Laws as being the responsibility of the Association.
- In addressing the issues raised regarding the historic structures, we made revisions to the Declaration based upon advice received from Architectural Historian for the State of Vermont. You will see these changes found in Article VII. As a reminder, criterion 8 of the Act 250 process requires the District Environmental Commission to take into account the effects of proposed projects on historic sites. So, Vermont's Division for Historic Preservation will review this project as part of the Act 250 Permit process.
- The DRB requested we include specific rights of enforcement. These are found in Article 11 of the Declaration.
- We would like to clarify Paragraph 8 of the "Findings of Fact" (found on page 6) of the DRB Preliminary Decision. The Applicant will likely either install a new well prior to transferring a Lot, or the purchaser of a Lot will install the well after purchase. It is unlikely the Applicant would drill a well for the Lot Owner after the Lot has sold. We hope you will revise this in the final permit decision.
- Condition 8 (found on page 8) of the DRB Preliminary Approval does not correctly state the plan for the sale of development rights on Lot 11. The sale to the Vermont land trust will take place after Lot 11 is sold to a farmer qualifying for Vermont Land Trust purposes. Lot 11 is under contract to sell to a farmer who has qualified to sell the development rights to Vermont Land Trust and the farmer has a binding purchase and sale agreement with Vermont Land Trust.

- You asked us to submit a written estimate from a professional engineer regarding the costs of the infrastructure. Matt and Churchill have found this is not a service professional engineers offer with regard to estimating costs for road construction and electrical line installation, etc. Instead, we propose to obtain and provide a written estimate from a construction manager/estimator that will be sufficiently detailed to give you confidence it is reasonably reliable for your purposes. Unfortunately, during the time of the Governor's "Stay Home, Stay Safe" order, we are not able to obtain a written cost estimate since these activities are not deemed "essential" and they cannot be performed well without a visit to the property. As soon as we are able to provide this requested information, we will do so. In the meantime, we are providing a letter from the National Bank of Middlebury that we hope will satisfy your request for a commercial surety/bond as it shows the Matt and Churchill have sufficient funds to cover the upper end of the estimated costs for completion of the infrastructure improvements.
- Finally, the septic design will have a capacity of a total of 29 bedrooms. Four of those bedrooms will be allocated to the existing house on Lot 1. That will leave 25 bedrooms for allocation among Lots 2 through 8.

I believe we have addressed all of the issues raised in the DRB Preliminary Decision. Please let me know if you have any remaining questions or concerns.

Very truly yours,

Deppman Law PLC

By:


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BHD/kgm
Enclosures

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