

May 15, 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:

I am following up on Attorney Carroll's correspondence dated April 30, 2020 (he is being copied with this letter and enclosures) and offer the following enclosures:

1. Lot 10 covenant language revised per Attorney Carroll's request;
2. By-Laws of Beaver Brook Homeowners' Association, Inc. which has been further revised per Attorney Carroll's request;
3. Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision which has been further revised pursuant to Attorney Carroll's request; and,
4. Right of Way/Road Access Permit from the Cornwall Highway Foreman dated May 13, 2020 with one-page attachment;
5. Cornwall Volunteer Fire Department correspondence from Chief David Berno; and,
6. Beaver Brook Site Analysis Cost Estimate from Naylor & Breen Builders, Inc. dated May 5, 2020 with one-page attachment.

Additionally, I have responses to Attorney Carroll's points raised in his April 30, 2020 correspondence. My responses are as follows (my numbering convention matches his numbering from his correspondence):

- 2) a) We agree with all of items (1) – (5). We agree with provision (6) but reiterate the timing of the sale to a qualified "farmer" and granting of a conservation easement to Vermont Land Trust may actually be the transfer of the underlying fee to the qualified "farmer" subject to a purchase and sale obligation of the qualified "farmer" purchaser to complete a simultaneous transaction involving Vermont Land Trust. I believe this is consistent with items we have presented during the DRB hearings.
- 2) b) Done.



- 2) c) Done.
- 2) d) See item 6 referenced above and enclosed herewith. Additionally, with regard to the posting of a bond or a letter of credit, Matt and Churchill agree to provide a performance bond (or similar guarantee satisfactory to the DRB) in an amount equal to the estimated site improvement costs, prior to commencing the site improvements, and prior to selling any Lots. Matt and Churchill would like to see Lots 9-11 exempted from the bond, as none of the infrastructure for which the bond is being required involves Lots 9-11.
- 2) e) The project has always contemplated 25 new bedrooms with 4 additional existing bedrooms being allocated to the farmhouse if the existing system for the farmhouse fails. I think any confusion over this issue has arisen simply because so much of the focus has been on the new 25 bedrooms. The total capacity of the designed system is 29 total bedrooms (25 new bedrooms).
- 3) a) Done.
- 3) b) You are welcome.
- 3) c) We have not made this change. Our feeling is imposing a rule about hours of construction and blasting may be something the DRB wishes to impose with a permit condition, but it is not something we are interested in including in our covenants. The reason for this is, in our opinion, the building season in Vermont is very short as it is. Further limiting the hours of operation for excavators and earthmovers, etc., hinders their ability to complete the job in a cost-effective manner. Shorter workdays means more days on the job, which increases the cost. Also, we do not envision any need for blasting as part of this project. Having said the foregoing, the DRB appears to want this limitation, so we expect to see it as a condition should you decide to issue a final permit.
- 3) d) Done.
- 3) e) I have further revised the sections and hopefully they are now satisfactory.
- 4) a) We agree the Bylaws will be recorded.
- 4) b) I believe we have now addressed these concerns as stated above and in the revised documents enclosed.
- 5) You are welcome.
- 6) See enclosed correspondence (items 4 and 5 referenced above) addressing these issues.
- 7) I am advised the revised plat contains the following changes:
  - \* updates to the signature block on the plat;
  - \* inclusion of the boundary between V2 and LDR districts; and,
  - \* to include the setbacks and building envelopes for Lot 9 and the setbacks for Lot 10.

I hope you find these responses satisfactory and in order.

Please contact me with any questions or comments you might have.

Very truly yours,

Deppman Law PLC

By:

  
Benjamin H. Deppman, Esq.  
[bdeppman@midlaw.com](mailto:bdeppman@midlaw.com)

BHD/kgm  
Enclosures (10 copies)

cc: Matthew E. Bonner, w/encs., *via email only*  
Churchill G. Franklin, w/encs., *via email only*  
Joan W.D. Donahue, Esq., w/encs., *via email only*  
James Carroll, Esq., w/encs., *via email only*

Lot 10 – Beaver Brook Properties, LLC

This Lot is conveyed SUBJECT TO and BURDENED BY a covenant and restriction that the lands and premises SHALL NOT:

- a. Be used for residential purposes; and,
- b. Be used for commercial purposes.

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 trails.

The Beaver Brook Homeowners' Association, Inc. (the "Association") shall have the right to enforce the covenant set forth herein by bringing an action in Vermont Superior Court for damages, injunctive and/or equitable relief. In addition to any action for damages the Association may bring, the Association shall be entitled to preliminary, temporary and/or permanent injunctive relief, without being required to provide any bond or surety, to prevent or halt any violation of said covenant. In the event action is brought to enforce or interpret said covenant, the substantially prevailing party in such action shall be entitled to an award of their or its reasonable attorneys' fees and costs of suit in addition to any other remedy or award granted by the Court.

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 written approval in recordable form from the Beaver Brook Homeowners Association, Inc. as well as from the Town of Cornwall Development Review Board.

Reference is made to Condition \_\_\_\_ of the Town of Cornwall Development Review Board Permit \_\_\_\_\_ dated \_\_\_\_\_.



**BY-LAWS**  
**OF**  
**BEAVER BROOK HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I**

NAME AND LOCATION

Section 1.01. Name. The name of the Corporation is Beaver Brook Homeowners' Association, Inc. and is hereinafter referred to as the "Association."

Section 1.02. Location. The Association is a Vermont Mutual Benefit Non-Profit Corporation and has its principal place of business in Cornwall, Vermont, and relates to the property depicted on a subdivision plans 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, consisting of eight (8) drawings and filed with the Town of Cornwall Development Review Board recorded in Map Slides \_\_\_\_\_ - \_\_\_\_\_ of the Town of Cornwall Land Records and on a survey 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, and recorded at Map Slide \_\_\_\_\_ of the Cornwall Land Records (hereinafter the "Subdivision Plans". Meetings of members and/or Board Members and/or officers may be held at such places within the State of Vermont as may be Designated by the Board of Board Members.

**ARTICLE II**

DEFINITIONS

Section 2.01. "Assessment" shall mean fees the Association assesses against and collects from Lot Owners to cover expenses the Association is responsible for, including regular monthly fees.

Section 2.02. "Association" shall have the same meaning as it is defined in the Declaration.

Section 2.03. "By-Laws" shall mean these Bylaws of Beaver Brook Homeowners Association, Inc., as they may be amended from time to time.

Section 2.04. "Common Lots" shall mean Lots C1 and C2 as shown and depicted on the Subdivision Plans.

Section 2.05. "Declaration" shall mean the Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision dated \_\_\_\_\_, 2020 and recorded in Book \_\_\_\_, Page \_\_\_\_, of the Cornwall Land Records.

Section 2.06. "Board Member" means a member of the Executive Board.

Section 2.07. "Executive Board" shall have the meaning as set forth in Article IV of these By-Laws.

Section 2.08. "Property" shall have the same meaning as it is defined in the Declaration

Section 2.09. "Bedroom" shall have the same meaning as it is defined in the Declaration.

Section 2.10. "Lot Owner" shall have the same meaning as it is defined in the Declaration.

Section 2.11. "Project" shall have the same meaning as it is defined in the Declaration.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Membership. Membership in the Association is governed by ownership of a Lot or Lots at the Property.

Section 3.02. Voting Rights. ~~The votes of the Association shall be based upon the following formula: the Lot Owners shall each have a fractional interest in the Association with the numerator being the total number of Bedrooms (whether developed or not with dwelling) owned by or allocated to the Lot Owner and the denominator being the total number of Bedrooms permitted for the entire Project (twenty-nine (29)). In the event the total number of Bedrooms permitted for the Project exceeds the number of Bedrooms actually allocated to Lots at the time an allocation has been made to all Lots and said allocation is provided to all Lot Owners and filed with the Association, the denominator shall be reduced to the number of Bedrooms actually allocated until such time as the allocation increases (if ever). Initially, the total number of Bedrooms allocated to Lots 1-8 is 29. Four (4) bedrooms have been allocated to Lot 1. An allocation of number of Bedrooms shall be made in connection with each Lot in accordance with the WW Permit, and, prior to the time of sale of any such Lot. For example, and by way of illustration only, a purchaser of Lot 4 and Landowner may agree to allocate three (3) Bedrooms to Lot 4 so the purchaser can build a three (3) bedroom single family residence. At that time, three (3) Bedrooms are allocated to Lot 4. If the new owner of Lot 4 only constructs a two (2) Bedroom home, the allocation remains three (3) Bedrooms per the agreed upon allocation. If said purchaser builds a three (3) Bedroom home, and later desires to add an additional Bedroom, the Association can agree to increase the allocation for Lot 4, so long as the total allocation for the Lots does not exceed 29 Bedrooms.~~

~~he votes of the Association shall be based upon the following formula: the Lot Owners shall each have a fractional interest in the Association with the numerator being the total number of Bedrooms allocated to said Lot Owner and the denominator being the total number of Bedrooms permitted for the Project. In the~~



~~event the total number of Bedrooms permitted for the Project exceeds the number of Bedrooms actually allocated to Lots and constructed, the denominator shall be reduced to the number of Bedrooms actually allocated and constructed until such time as the allocation increases and the additional bedrooms are constructed.~~

## ARTICLE IV

### EXECUTIVE BOARD

#### ELECTION AND TERM OF OFFICE

Section 4.01. Number. The affairs of the Association shall be managed by an Executive Board of three (3) members (each, a "Board Member", each of whom shall own an interest in a Lot. Notwithstanding the foregoing, however, the initial Executive Board shall be appointed by Beaver Brook Properties LLC acting in its sole discretion and shall serve at the pleasure of the Beaver Brook Properties LLC, so long as Beaver Brook Properties LLC retains majority vote in the Association by virtue of the number of Lots owned. After Beaver Brook Properties LLC no longer retains control, elections for the Executive Board shall be conducted as set forth below. The Board Members shall also be the Officers as set forth in Article VIII.

Section 4.02. Election. Except during the period of time Beaver Brook Properties LLC retains control, the Board Members shall be elected annually and shall hold office for one (1) year or until successors are duly elected and qualified. Election of the Board Members shall be by ballot cast at the annual meeting of the Lot Owners. At such election, the Lot Owners (or their proxies) may cast, in respect to each vacancy on the Executive Board, as many votes as they are entitled to exercise under the provisions of the voting rights set forth in 3.02. The person (or, in the event of more than one vacancy on the Executive Board, persons) receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.03. Removal. Except during the period of time Beaver Brook Properties LLC retains control, any Board Member may be removed from the Executive Board, with or without cause, by a majority vote of the Association as voted at a meeting properly noticed for such purpose.

Section 4.04. Compensation. No Board Member shall receive compensation for any service rendered to the Association. However, any Board Member may be reimbursed for actual (out-of-pocket) expenses incurred in the performance of Association related duties.

Section 4.05. Action Taken Without a Meeting. The Board Members shall have the right to take action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board Members. Any action so approved shall have the same effect as though taken at a meeting of the Executive Board. Email correspondence evidencing consent and approval shall be sufficient to constitute "written approval" as used herein.

## ARTICLE V

### MEETINGS OF EXECUTIVE BOARD

Section 5.01. Regular Annual Meetings. Commencing at 7:00 PM on the second Tuesday in February following the first sale of a Lot, regular annual meetings of the Executive Board shall be held at 7:01 PM on the second Tuesday in February of each year, at such place as may be fixed from time to time by resolution of the Executive Board. Should said meeting fall on a legal holiday, that meeting may be postponed to the same time and place on the next day which is not a legal holiday. The annual meeting of the Executive Board is intended to take place immediately after the annual meeting of Lot Owners as stated in Article VII. If the annual meeting of Lot Owners has not concluded by 7:01 PM as set forth above, the beginning of the annual meeting of the Executive Board shall be delayed until one minute following the conclusion of the annual meeting of Lot Owners.

Section 5.02. Special Meetings. Special meetings of the Executive Board shall be held when called by the President and shall be called by the Secretary at the request of any two Board Members. The Secretary shall give at least five (5) days' notice, either personally or in writing, specifying the time, place and purpose of the meeting.

Section 5.03. Quorum. A majority of the Board Members shall constitute a quorum for the transaction of business. Except as otherwise expressly provided, every act/decision done or made by a majority of the Board Members present at a duly held meeting at which a quorum is present shall be regarded as the act of the Executive Board. If a quorum shall not be present at a meeting of the Executive Board, a majority of those present may adjourn the meeting from time to time without notice until a quorum is present.

## ARTICLE VI

### POWERS AND DUTIES OF THE EXECUTIVE BOARD

Section 6.01. Powers. The Executive Board shall have the power:

- (a) To adopt and publish rules and regulations governing the use of the common elements and the personal conduct of the Lot Owners (and their guests, tenants and family members, etc.) and to establish penalties for the infraction thereof;
- (b) To exercise for the Association all powers, duties and authority vested in or delegated to the Association not reserved to the Lot Owners by other provisions of the Act or the Declaration or these By-Laws.
- (c) To Declare if they deem appropriate the office of a Board Member on the Executive Board to be vacant in the event such Board Member shall be absent from three consecutive regular meetings of the Executive Board.

Section 6.02. Duties. It shall be the duty of the Executive Board:

- (a) To cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Lot Owners at the annual meetings or at any special meeting, when such special meeting is requested in writing by at least one-fourth (1/4) of the votes entitled to vote;
- (b) To supervise all officers, agents and employees of the Association, and to see that all duties are properly performed;
- (c) To perform all duties and obligations delegated to the Executive Board by the terms of the Declaration;
- (d) To provide itemized invoices to each Lot Owner for any Assessments (whether regular or special) of the Association, each such invoice to be sent to each Lot Owner at the Lot Owner's address (as provided by each Lot Owner to the Association for that purpose) at least thirty (30) days before it is due;
- (e) To issue, upon demand by a Lot Owner at any time a certificate setting forth whether the assessments on such Lot Owner's Lot have been paid and whether there is any outstanding balance. The Executive Board may charge the requesting Lot Owner a reasonable fee for issuing any such certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid; and,
- (f) To maintain the improvements on the Common Lots.
- (g) To serve as the Architectural Review Board and enforce the Development Review Requirements as stated in the Declaration.
- (h) To serve as officers of the Association as set forth in Article VIII.

## **ARTICLE VII**

### **MEETINGS OF LOT OWNERS**

Section 7.01. Annual Meeting. The annual meeting of Lot Owners shall be held at 7:00 PM on the second Tuesday in February of each year, at such place as may be fixed from time to time by resolution of the Executive Board. Should said meeting fall on a legal holiday, that meeting may be postponed to the same time and place on the next day which is not a legal holiday.

Section 7.02. Special Meetings. Special meetings of the Lot Owners, unless otherwise prescribed by the Act, may be called by the President, and shall be called by the Secretary at the written request of a majority of the Executive Board, or upon written request of at least one-fourth (1/4) of the votes of the Association who are entitled to vote. The Secretary shall give at least five (5) days' notice, either personally or in writing, specifying the time, place and purpose of the meeting.

Section 7.03. Quorum. The presence at a meeting of Lot Owners entitled to cast, or of proxies entitled to cast, at least fifty percent (50%) of the votes of the Membership shall constitute a quorum for any action except as otherwise provided in the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power

to adjourn the meeting from time to time, without notice until such quorum is present or represented.

Section 7.04. Proxies. At all meetings of the Lot Owners, each Lot Owner may vote in person or by proxy in which the Designated representative is another Lot Owner. All proxies shall be in writing in a form provided by and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance of any Lot by the Lot Owner having executed any such proxy.

Section 7.06. Multiple Persons Constituting One Lot Owner. In the event multiple persons (husband and wife, siblings, partners, etc.) own title to a Lot, the sum of those owners shall constitute one (1) Lot Owner. The Executive Board and other Lot Owners may rely upon the actions of any individual person purporting to act on behalf of a majority of (or all) persons constituting one Lot Owner (e.g., in the event a Unit is owned jointly by a husband and wife, and only one spouse attends a meeting, the attending spouse may exercise their voting rights even absent a proxy from the other spouse).

Section 7.07. Ownership Entity. Lots may be owned by an entity such as a limited liability company, corporation, partnership, trust, etc. In such event, the Executive Board and other Lot Owners need not insist upon proof of authority from the said entity. Instead, the Executive Board and Lot Owners may rely upon reasonable representations of authority made by persons purporting to exercise the rights of said Lot Owner.

## **ARTICLE VIII**

### **OFFICERS AND THEIR DUTIES**

Section 8.01. Enumeration of Officers. The Officers of the Association shall be President, Secretary, and Treasurer, each of whom shall also be Board Members.

Section 8.02. Election of Officers. The election of officers shall take place at the first meeting of the Executive Board following each annual meeting of the Lot Owners.

Section 8.03. Term. The officers of the Association shall be elected annually by the Executive Board and shall hold office for one year or until their successors are duly chosen and qualified, unless any such officer shall sooner resign, or shall be removed, or otherwise becomes disqualified to serve.

Section 8.04. Resignation and Removal. Any officer may be removed from office with or without cause by the Executive Board. Any officer may resign at any time by giving written notice to the Executive Board.

Section 8.05. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The newly elected officer shall serve for the remainder of the term of the officer s/he replaced.

Section 8.06. Duties. The duties of the officers are as follows:

- (a) President. The president shall preside over all meetings of the Executive Board; shall see that orders and resolutions of the Executive Board are carried out; shall sign all written instruments regarding the Common Elements and shall co-sign all checks, if any.
- (b) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Executive Board and of the Lot Owners; keep appropriate current records showing the Lot Owners together with their addresses; shall keep records of all proxies; and shall perform such other duties as may be required by the Executive Board.
- (c) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Executive Board; shall sign all checks of the Association; shall keep proper books of account; shall upon reasonable request of any Lot Owner, make the books of the Association available to Lot Owners for inspection; shall prepare an annual budget and a statement of income and expenditures to be presented to the Lot Owners at the regular annual meeting, and deliver a copy of same to each Lot Owner; and, send invoices for Assessments or other authorized charges as provided herein.



**ARTICLE IX**

MISCELLANEOUS

Section 9.01. Conflicts. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 9.02. Fiscal Year. The Fiscal Year of the Association shall begin on the first (1<sup>st</sup>) day of July and end on the thirtieth (30<sup>th</sup>) day of June of every year, except that the first fiscal year shall begin on the date the Declaration is filed for record in the Cornwall Land Records and shall end on the next ensuing June 30<sup>th</sup>.

DATED AT \_\_\_\_\_, Vermont this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
, Secretary and duly  
authorized agent

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
OF BEAVER BROOK SUBDIVISION

This Declaration is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by Beaver Brook Properties LLC ("Landowner"), regarding certain lands located in Cornwall, Vermont.

**WHEREAS**, the Landowner wishes to subdivide and develop a certain piece of land depicted on a 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, and recorded at Map Slide \_\_\_\_\_ of the Cornwall Land Records (hereinafter the "Subdivision Plan" and/or the "Survey"). The Project is also depicted on a set of eight (8) Drawings entitled "Beaver Brook Properties, LLC Beaver Brook Subdivision Cornwall, Vermont" prepared by Green Mountain Engineering, consisting of:

1. Cover Sheet;
2. Existing Conditions Site Plan;
3. Proposed Lot Layout Site Plan;
4. Proposed Lot 9 Layout Site Plan [NOTE: see Section 1.3];
5. Proposed Property Easements Site Plan;
6. Proposed Infrastructure Overall Site Plan;
7. Proposed Water & Wastewater Infrastructure Site Plan; and,
8. Proposed Stormwater Infrastructure Site Plan.

Said Drawings are dated December 12, 2019 and last revised February 19, 2020 and filed with the Town of Cornwall Development Review Board and recorded at Map Slides - of the Cornwall Land Records (referred to herein as the "Drawings" or a "Drawing"). The Project is known as the Beaver Brook Subdivision (the "Project").

**WHEREAS**, said Project will require certain stormwater drainage and treatment easements and facilities; water supplies, wastewater collection, treatment, and disposal easements and systems; conservation of agricultural lands and natural areas; easements and rights of way for access, construction, maintenance, repair and plowing of the private roads located within the subdivision; construction, maintenance, and repair of utilities other community facilities; beautification on common lands, as well as architectural review requirements for each Lot Owner;

**WHEREAS**, the Landowner desires to create a system whereby the stormwater drainage and treatment easements and facilities, wastewater collection, treatment, and disposal easements and systems, conservation of agricultural lands and natural areas, construction, maintenance, repair and plowing of the private roads located within the subdivision, construction, maintenance, and repair of utilities and other community facilities, beautification on common lands, as well as design review

requirements for each Lot Owner are implemented, enforced, maintained, operated, or repaired;

**NOW THEREFORE**, the Landowner declares that the Property shall be held, transferred, sold and conveyed subject to the following conditions, easements, restrictions, and covenants all of which are intended to run with the title to the land:

## **ARTICLE I** **Definitions**

The following words when used in this Declaration or any supplemental declaration shall have the following meanings:

**Section 1.0:** "Association" shall mean and refer to the Beaver Brook Homeowners' Association, Inc., a non-profit corporation.

**Section 1.1:** "Property" shall mean Lots 1-8, C-1 and C-2, as depicted on the Subdivision Plan and the Drawings.

**Section 1.2:** "Lot" shall mean any of Lots 1 through 8 as depicted on the Subdivision Plan and Drawings and located at the Property.

**Section 1.3:** "Lot 9" shall mean Lot 9 shown and depicted on Drawing 4. Lot 9 is not subject to this Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision. Notwithstanding the foregoing, Lot 9 is subject to the applicable permits and permit conditions issued in connection with the Project to the extent they specifically refer or relate to Lot 9 in addition to the matters shown and depicted on Drawing 4 that relate to said Lot 9.

**Section 1.4:** "Common Lot" shall mean either or both of Lots C1 and C2 as depicted on the Subdivision Plan and Drawings and located at the Property.

**Section 1.5:** "Lot Owner" shall mean and refer to the record owner by one or more persons or entities, of the fee simple title to any of Lots 1-8 located within the Property, but, notwithstanding any applicable theory of the mortgage, shall not mean and refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. The Landowner shall be the "Lot Owner" of each lot for which it has obtained governmental approvals so long as it is the record owner.

**Section 1.6:** "Stormwater Drainage and Treatment Facilities" shall mean: the system designed and created to manage storm water runoff and drainage within the subdivision, including, but not limited to surface pretreatment areas, the storm water detention pond and all related pipes, equipment, and facilities related to the proper functioning of said system, including all facilities as may be required under regulation of any applicable local, state, or federal jurisdiction.

**Section 1.7:** "Wastewater Collection, Treatment and Disposal Systems" shall mean: the systems designed and created to manage the treatment, pumping, and disposal of wastewater on the property, including, but not limited to pump stations,

pipes, tanks, equipment, distribution centers, and arty and all other equipment or facilities related to the proper. functioning of said system, including all facilities as may be required under regulation of any applicable local, state, or federal jurisdiction.

**Section 1.8:** "Executive Board" shall have the same meaning as it is defined in Article IV of the By-laws.

**Section 1.9:** "Member" shall mean and refer to all Lot Owners.

**Section 1.10:** "Landowner" shall mean Beaver Brook Properties, LLC and its successors and assigns.

**Section 1.11:** "Bedroom" shall mean any room within a building or structure that is permitted, used, or serves as sleeping quarters.

**Section 1.12:** "By-Laws" shall mean the By-Laws of Beaver Brook Homeowners Association, Inc.

## **ARTICLE II** **Easements and Maintenance -Surface Drainage**

**Section 2.0:** The Lots are encumbered by surface drainage easements as shown and depicted on Drawing 5, entitled "Proposed Property Easements Site Plan" and on Drawing 8, entitled "Proposed Stormwater Infrastructure Site Plan", and as required by permits issued by the State of Vermont and/or United States. In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and a stormwater permit issued by the State of Vermont and/or United States, the stormwater permit and any plans filed in connection therewith shall control

**Section 2.1:** The Lot Owner of each Lot encumbered by said drainage easement(s) shall maintain each easement area in a manner that will allow the passage of stormwater and other natural surface drainage. Routine maintenance of the drainage area shall be the responsibility of the encumbered Lot Owners, including the periodic mowing of vegetation, and the removal of accumulated debris, except for the detention pond on Lots 4 and 5 which shall be the responsibility of the Association. Drainage pipes within any easement area shall not be obstructed or diverted, and stone in stone-lined swales shall not be removed.

**Section 2.2:** The Association shall have the right to periodically inspect, maintain or repair the drainage facilities within the surface drainage easement areas, including the use of heavy equipment.

**Section 2.3:** The Association and/or its agents shall be allowed reasonable access to all surface drainage easement areas in order to periodically inspect, maintain or repair the drainage facilities. In addition, upon reasonable notice to the Association, the State of Vermont will be allowed reasonable access to all surface drainage easement areas for the purpose of monitoring and inspecting said facilities consistent with applicable permits and regulations.



**ARTICLE III**  
**Easements and Maintenance-Wastewater Treatment and Collection**

**Section 3.0:** All Lots will be encumbered by wastewater treatment and collection easements to ensure proper maintenance of the septic tanks, filtration systems, and pump stations that connect to the overall Wastewater Collection, Treatment and Disposal Systems, all as depicted on Drawing 5, entitled "Proposed Property Easements Site Plan" and/or Drawing 7, entitled "Proposed Water & Wastewater Infrastructure Site Plan". Lot owners shall be responsible for construction and repair of the septic tank, filtration system, and pump station serving just their Lot to the point of connection to a shared sanitary sewer line all as installed by the Landowner. Maintenance of the septic tank, filtration system, and pump station on each Lot shall be the responsibility of the Association so as to ensure proper operation of the overall system. Any necessary repairs shall be at the direction of the Association, but the cost shall be borne by the Lot Owner. Each Lot Owner shall comply with the guidelines of the Association with regard to the disposal and treatment of domestic wastewater so as to ensure the longevity of the overall Wastewater Treatment, Collection, and Disposal System.

**Section 3.1:** All Lot Owners shall comply with the Wastewater System and Potable Water Supply Rules (effective April 12, 2019, as the same may be amended from time to time) and any permit issued in connection with this Project for wastewater systems (a "WW Permit") and the accompanying Approved Plans filed in conjunction therewith (the "Approved Plans"). In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and the WW Permit and/or Approved Plans, the WW Permit and Approved Plans shall control.

**Section 3.2:** The following Lots are encumbered by a wastewater collection easement on a portion of the Lot: Lot C1, Lot 5, Lot 6, Lot 7, and Lot 8. Said easements are for the transfer of wastewater effluent from dwelling units to septic tanks and/or pump stations on nearby Lots to the collection and disposal system located on Lot C2, all as generally depicted on the Drawings and on said Approved Plans. The location of each twenty foot (20') wide sewer easement shall be fixed, being ten feet (10') on either side of the centerline of the sanitary sewer lines and/or pump station(s) and/or other improvements once installed.

**Section 3.3:** The Lot Owner of each Lot encumbered by said wastewater collection and treatment easements shall maintain the easement areas in a manner that will not adversely impact the proper functioning of said systems. Routine maintenance of the area shall be the responsibility of the encumbered Lot Owners, including the periodic mowing of vegetation, removal of debris and routing of surface water drainage away from such systems.

**Section 3.4:** The Association shall have the right to periodically maintain or repair the wastewater collection and treatment easements, including the use of heavy equipment for such purpose.

**Section 3.5:** The Association and/or its agents shall be allowed reasonable access to all wastewater collection and treatment easement areas in order to periodically

maintain or repair the systems as specified above. In addition, upon reasonable notice to the Association, the State of Vermont will be allowed reasonable access to all wastewater collection and treatment easement areas for the purpose of monitoring and inspecting said systems.

#### **ARTICLE IV**

#### **Easements and Maintenance – Water Supplies and Well Shields**

**Section 4.0:** All Lot Owners shall comply with the Wastewater System and Potable Water Supply Rules (effective April 12, 2019, as the same may be amended from time to time), and any permit issued in connection with this Project for water supply systems (a “WW Permit”) and the accompanying Approved Plans filed in conjunction therewith (the “Approved Plans”). In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and the WW Permit and/or Approved Plans, the WW Permit and Approved Plans shall control.

**Section 4.1:** All Lots shall be encumbered by easements for well shields/well isolation distances as depicted on Drawings 6 and 7 as well as on the Approved Plans.

**Section 4.2:** All Lot Owners shall install demand-initiated regeneration water softeners as part of the water supply system serving their Lot if recommended or required by the terms of the WW Permit.

#### **ARTICLE V**

#### **Easements and Maintenance - Utilities**

**Section 5.0:** The Lots are encumbered by twenty foot (20') wide utility line easements and rights of way and are generally located within the fifty foot (50') wide easements and rights of way for ingress and egress as shown and depicted on Drawing 3 entitled “Proposed Lot Layout Site Plan” and Drawing 4, entitled “Proposed Property Easements Site Plan” and the Subdivision Plan. The easements and rights of way shall not unreasonably interfere with the roads serving the Lots. The easements and rights of way authorize the installation, construction, maintenance, replacement and repair of utility lines to serve the Lots in the Association. The final location of each twenty foot (20') wide utility line easement shall be fixed, being ten feet (10') on either side of the centerline of the utility line and/or pad mount(s), transformer(s), and/or other improvements once installed.

**Section 5.1:** The Lot Owner of each lot encumbered by said easement and right of way shall maintain the easement area in a manner that will allow the utility lines and related utility infrastructure to be free from damage from trees, root systems, vehicles, and the like. Routine maintenance of the drainage area shall be the responsibility of the encumbered lot owners.

**Section 5.2:** The Association shall have the right to periodically inspect, maintain or repair the utility lines and related facilities within the easement areas, including the use of heavy equipment.



**Section 5.3:** The Association and/or its agents shall be allowed reasonable access to all utility easement areas in order to periodically inspect, maintain or repair the utility lines and/or facilities.

## **ARTICLE VI** **Easements and Maintenance – Access**

**Section 6.0:** The Lots are benefited and encumbered by easements and rights of way for ingress and egress all as depicted on Drawing 3 entitled “Proposed Lot Layout Site Plan” and Drawing 5, entitled “Proposed Property Easements Site Plan” and the on the Site Plan. Routine maintenance (including snow removal, sanding, plowing, salting, and regular grading and/or application of additional gravel as needed to maintain the roadway in a good and passable condition) of all shared portions of the roadways shall be the responsibility of the Association all as set forth in Article VIII. Any portion of any roadway not shared with at least one other Lot Owner shall be the sole responsibility of the Lot Owner benefiting from and/or utilizing any such portion of the roadway. All roadways shall be maintained in a good and workmanlike manner. Any damage in excess of normal wear and tear to any portion of any roadway(s) serving Lots in the Association shall be repaired at the sole cost and expense of the Lot Owner who caused (or whose agent caused) the damage reasonably requiring such repair.

**Section 6.1:** The Lot Owners shall keep the roadways open and shall not park cars or equipment on the roadways in a manner that causes blockages to other users of the roadways and/or restricts access in any way by emergency vehicles.

## **ARTICLE VII** **Existing Structures**

**Section 7.0:** The existing structures located on the Association property (the “SHED”, “EXISTING BUILDING”, “EXISTING BUILDING” and “EXISTING BARN” all on Lot C1) and depicted on the Drawings and the Subdivision Plan shall be maintained in a stable and safe condition by the Association for storage purposes, all in accordance with the Secretary of the Interior’s Standards for Rehabilitation (currently found at: <https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>), **as amended from time to time**. Any other use proposed for the existing structures on the Association land may be undertaken only if a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.

**Section 7.1:** The “DUPLEX” located on Lot 1 and depicted on the Survey shall be used for residential purposes. The “CHURCH” located on Lot 2 and the “EXISTING BUILDING (GARAGE)” on Lot 3 as depicted on the Drawings, shall be used by the respective owners of Lot 2 and Lot 3 solely for storage purposes. The structures shall be maintained in a stable and safe condition by the respective Lot Owner and



shall be maintained in accordance with the Secretary of the Interior's Standards for Rehabilitation (currently found at: <https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>), as amended from time to time. Any other proposed use for the existing structures on Lot 1, Lot 2 or, Lot 3 may be undertaken only if the use is properly permitted by the Town of Cornwall and State of Vermont, as applicable.

**Section 7.2:** The Association may vote to obtain proper state and municipal permits to build, maintain, and repair buildings and structures for common recreational, agricultural or storage purposes on the Common Lands owned by Association as depicted on the Subdivision Plan and as prescribed in Article X below. Lot Owners may choose whether to participate in such facilities, and participating Lot Owners shall share the cost of constructing, maintaining, and repairing such facilities in a manner established by the Association, so long as said proposal is: a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and/or new structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.

## ARTICLE VIII

### Costs of Maintenance, Repair and Compliance - Roads, Drainage, Storm water, Wastewater, Utilities, Beautification, and Agricultural Land Maintenance

**Section 8.0:** Subject to the provisions of Section 8.2, the Lot Owners shall pay the cost of maintaining, plowing, repairing, and complying with permits for common private roads, existing buildings and structures, drainage systems, stormwater treatment facilities, wastewater collection, treatment, and disposal facilities, electrical and communications utilities, beautification and property taxes assessed on Common Lots, as such costs may be assessed from time to time by the Association.

**Section 8.1:** The Association shall assess expenses to the Lot Owners based upon the following formula: the Lot Owners shall each pay a fractional share of each assessment with the numerator being the total number of Bedrooms (whether developed or not with dwelling) owned by or allocated to the Lot Owner and the denominator being the total number of Bedrooms permitted for the entire Project (twenty-nine (29)). In the event the total number of Bedrooms permitted for the Project exceeds the number of Bedrooms actually allocated to Lots at the time an allocation has been made to all Lots and said allocation is provided to all Lot Owners and filed with the Association, the denominator shall be reduced to the number of Bedrooms actually allocated until such time as the allocation increases (if ever). Initially, the total number of Bedrooms allocated to Lots 1-8 is 29. Four (4) bedrooms have been allocated to Lot 1. An allocation of number of Bedrooms shall be made in connection with each Lot in accordance with the WW Permit, and, prior to the time of sale of any such Lot. For example, and by way of illustration only, a purchaser of Lot 4 and Landowner may agree to allocate three (3) Bedrooms to Lot 4 so the purchaser can build a three (3) bedroom single family residence. At that



time, three (3) Bedrooms are allocated to Lot 4. If the new owner of Lot 4 only constructs a two (2) Bedroom home, the allocation remains three (3) Bedrooms per the agreed upon allocation. If said purchaser builds a three (3) Bedroom home, and later desires to add an additional Bedroom, the Association can agree to increase the allocation for Lot 4, so long as the total allocation for the Lots does not exceed 29 Bedrooms.

**Section 8.2:** Notwithstanding the provisions of Section 8.0, the Association shall have the right to assess fines or penalties to individual Lot Owners in accordance with Vermont Law and this Declaration in the event a Lot Owner or Lot Owners fewer than all Lot Owners are the cause of or should be held responsible for correcting damages caused to the common private roads, drainage systems, stormwater treatment facilities, wastewater disposal system(s) and/or shared utilities.

## **ARTICLE IX**

### **Architectural Review Requirements**

**Section 9.0:** In addition to applying for and receiving all necessary permits for construction, each Lot Owner must abide by Architectural Review Requirements as follows:

- a. Architectural plans and landscaping plans must be submitted to the Executive Board for approval prior to construction of a structure on any Lot. The design must demonstrate compliance with the following requirements. Reasonable approval shall not be withheld.
- b. All houses, garages, barns, sheds and other buildings must be constructed with an exterior design and finish materials that substantially replicate an authentic 19<sup>th</sup> Century Vermont colonial or farmhouse design, or be consistent with homes already found in the vicinity of the Property so the new construction is reasonably similar and complementary to the existing neighborhood, with an emphasis on exterior design detail (i.e. eave returns, window trim, symmetry, etc.). Modern finish materials may be substituted only if it is determined that they realistically resemble authentic period materials. Materials including standing seam roofs, architectural shingles, clapboard siding, and cedar shingles are all acceptable. Electric lighting may be substituted for period lighting methods. Detached or semi-detached garages are encouraged. Materials inside the finished exterior surface may be of a modern, energy and labor-saving design consistent with state energy codes.
- c. Substitution of alternative period architectural designs not already found in the neighborhood of the Property, that do not resemble modern tract housing, may be approved subject to the written waiver from the Executive Board and each Lot Owner in the Association.
- d. Landscaping plans should complement the rural and naturalized woodland or meadow setting. Large "suburban" lawns shall be

discouraged. Grassed areas may be used around structures as an accent feature and as a storm water filter strip. Grassed play areas for children may be approved at the rear or side of structures. Selection of trees and woody shrubs should be native species or non-native species that complement the native species found in the Cornwall area. No restrictions will be placed on the selection of annual or perennial flowering plants.

**Section 9.1:** The Landowner expressly reserves the right to amend these Architectural Review Requirements within eighteen months of the sale of the first lot, if less than four (4) lots have been sold during that time. Such amendment would be subject to review and approval of the Cornwall Development Review Board to ensure compliance with all applicable planning and environmental standards.

## **ARTICLE X** **Restrictions on the "Common Land"**

**Section 10.0:** The Association is owner of certain Common **Lotsands** depicted on the Drawings and Subdivision Plan. Said Common **Landots** are subject to the following restrictions:

- a. No structures, including buildings, pools, tennis courts, bathhouses, barns or similar structures, may be constructed on the Common Land as shown on the Drawings and Subdivision Plan unless the contemplated improvement is a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and/or new structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.
- b. Any changes to the drainage and storm water treatment facilities, the wastewater treatment, collection, and disposal facilities, and the private road facilities, shall be subject to the review and approval by the applicable town, state, and federal agencies.
- c. Any structures constructed on the Common Land shall be submitted for review to the Executive Board. Such facilities shall comply with the Architectural Review Requirements and blend with the rural agricultural landscape.
- d. Any structure proposed by the Association shall be subject to permit review and approval by the Cornwall Development Review Board to ensure compliance with all applicable permits and regulations.

## **ARTICLE XI** **Right of Enforcement**

**Section 11.0.** Each Lot Owner and the Association shall have the right – independently or together – to enforce the covenants, easements and restrictions set forth in this Declaration by bringing an action in Vermont Superior Court for damages, injunctive and/or equitable relief. In addition to any action for damages an aggrieved Lot Owner, group of Lot Owners, or the Association may bring, said Lot Owner, group of Lot Owners, or the Association shall be entitled to preliminary, temporary and/or permanent injunctive relief, without being required to provide any bond or surety, to prevent or halt any violation of this Declaration.

**Section 11.1.** In the event action is brought to enforce or interpret this Declaration, the substantially prevailing party in such action shall be entitled to an award of their or its reasonable attorneys' fees and costs of suit in addition to any other remedy or award granted by the Court.

DATED AT \_\_\_\_\_, Vermont this \_\_\_\_ day of \_\_\_\_\_, 2020.

BEAVER BROOK PROPERTIES, LLC

By: \_\_\_\_\_  
Churchill Franklin, Member and duly authorized agent

STATE OF VERMONT                    )  
COUNTY OF ADDISON                ) SS.

At \_\_\_\_\_, Vermont this \_\_\_\_ day of \_\_\_\_\_, 2020 personally appeared Churchill Franklin, Member and duly authorized agent of Beaver Brook Properties, LLC and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of Beaver Brook Properties, LLC.

Before me, \_\_\_\_\_  
Notary Public  
My commission expires: 1/31/2021  
My commission number: \_\_\_\_\_



TOWN OF CORNWALL

2629 Route 30  
Cornwall, Vermont 05753-9299  
(802) 462-2775

RIGHT OF WAY / ROAD ACCESS PERMIT

Applicant / Property Owner \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
Contact Phone Numbers \_\_\_\_\_  
Property location \_\_\_\_\_  
Project Description \_\_\_\_\_  
Date(s) of visual inspection \_\_\_\_\_  
Date(s) of on site meetings \_\_\_\_\_

Sight distance evaluation Acceptable - already has existing Driveway

Drainage evaluation including culvert, ditching and erosion control requirements \_\_\_\_\_  
A driveway Culvert will not be needed

I have reviewed the proposed Beaver Brook Subdivision plan and I am familiar with the overall proposed project. In my opinion, the roads, intersections and bridges in the immediate vicinity of the project have sufficient capacity to accommodate additional traffic generated by the project, and hereby confirm the access road and drive stubs in the project comply with the Cornwall Road Access Policy.

Additional requirements particular to this project \_\_\_\_\_  
The existing Driveway must be brought up to Standard shown on Form B-71

This permit is issued subject to compliance with all Town of Cornwall policies regarding road access and the requirements listed above. Revocation of this permit may have consequences with regard to the validity of issued Zoning Permits.

Permit issued Date May 13 2020 By H. J. Hill Highway Foreman

Permit Revoked Date \_\_\_\_\_ By \_\_\_\_\_  
For the following reasons \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





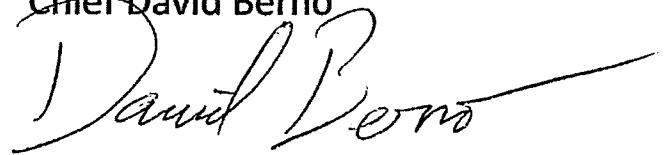


## Cornwall Volunteer Fire Department

1952 Route 30 Cornwall Vt 05753

I Have reviewed the proposed Beaver Brook Subdivision plans and I am familiar with the overall proposed project. In my opinion, the project is designed in a manner to allow sufficient access for emergency response vehicles to all existing structures and all proposed structures within their respective building envelopes, and fire department has the ability to provide service to the project

Chief David Berno

A handwritten signature in black ink that reads "David Berno". The signature is written in a cursive style with a long horizontal stroke extending to the right.



# NAYLOR & BREEN BUILDERS, INC.

Commercial • Multi-Family Residential • Institutional • Custom Residential

To: Matt Bonner  
From: Naylor & Breen  
Subject: Site Analysis Cost Estimate  
Date: 5-5-2020

**Beaver Brook**  
**Site Analysis Cost Estimate**

Matt,

Based on our review of the Beaver Brook Development plans dated 12/10/20 please find our attached Estimate.

Please extend our compliments to GME for working with the existing topography and available utilities on the parcel to come up with such a cost-effective plan. It seems to fit the property well from an aesthetic point of view as well as from a feasibility perspective.

Please let us know if you have any questions or concerns,

Tanner Romano

Digitally signed by Tanner Romano  
DN: C=US,  
E=tromano@naylorbreen.com,  
O=Naylor & Breen, CN=Tanner  
Romano  
Date: 2020.05.05 14:39:19-04'00'

## Beaver Brook Conceptual Estimate

### Civil and Utilities Only

#### SCHEDULE OF VALUES

Description	GMP Task List	Total
ESPC		\$5,000.00
New Roadways	675 CY	\$23,625.00
Topping to existing roadways	200 CY	\$7,000.00
Cross Culverts	200 LF	\$11,000.00
Pump Stations/Mounds/and Sewer stubs	2 EA/2800 CY/1800LF	\$154,400.00
Grass lines swales	180 CY	\$3,600.00
Stormwater Ponds	1 SUM	\$5,000.00
UG Electrical distribution, conduit, bedding, pull strings	1000 LF	\$12,500.00
Transformers and bases	2 EA	\$11,000.00
Site restoration to disturbed areas (outside of the above)	1 SUM	\$2,500.00
<b>Subtotal</b>		<b>\$235,625.00</b>
<b>TOTAL AMOUNT</b>		<b>\$235,625.00</b>

\*\*\*\*\* Assumes being able to waste spoils on-site or on property nearby.

#### Alternates & Unit pricing

Description	Notes per changes made	PENDING
<b>Total chosen options</b>		

declined

\*\* - This notation marks options that might have overlapping value and will be adjusted into the estimate based on choices the owners make