

IN RE: BEAVER BROOK PROPERTIES LLC MAJOR SUBDIVISION APPLICATION
– FINAL PLAT AND FINAL PLAN APPROVAL WITH CONDITIONS

NOTICE OF DECISION
(Findings of Fact, Conclusions of Law, and Order)

The Cornwall Development Review Board (“DRB”) hereby issues its Notice of Decision based upon the application for approval of a final subdivision plat and plan 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.

A duly noticed public hearing was held on June 3, 2020. The evidentiary hearing for final plat and plan approval was closed at the conclusion of such hearing.

As submitted, the Final Plat Application is comprised of the documents referenced on Exhibit A. All references to the “Final Plat” as contained herein refer to the subdivision 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 March 2, 2020 (*Exhibit 8*). All references to the Final Plan herein refer to Green Mountain Engineering Approved Drawings Nos. 1 – 8, dated December 10, 2019 and revised February 27, 2020 (*Exhibits 9 – 16*).

Based upon the Application, the Exhibits and the testimony presented at the public hearing 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 and represented to be under contract for conveyance to a “qualified farmer” and the conveyance of a conservation easement to the Vermont Land Trust which will restrict the future use of Lot 11 to agricultural and forestry purposes prior to any land development occurring on Lots 1-9 and common lots C1 and C2. 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 Approved Drawings Nos. 1-8 dated 12/10/2019, revised February 27, 2020 (*Exhibits 9 – 16*).

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.
- Lots 2 through 8 will contain seven new residential dwellings to be located within the identified building envelopes as depicted on Drawing 3 (*Exhibit 11*) 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 in the building envelope shown on Drawing 4 (*Exhibit 12*).
- 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. 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 30*) and the proposed By-Laws of Beaver Brook Homeowners’ Association, Inc. (“By-Laws”) (*Exhibit 29*) address the maintenance of common subdivision features and 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 1, 2, 3 and C1.
- f. ***Views and Aesthetics.*** The Applicant has attempted 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 septic disposal areas. All the new wells are sited more than 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 29 bedrooms. Lot 9 will have its own system.

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.

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 lot owner will install after the sale or transfer of the lot and prior to occupancy. All infrastructure will be installed in compliance with State and Local permits and as depicted in Drawings 1-8 (*Exhibits 9 - 16*). 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 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, some 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. Letters from the Cornwall Road Foreman and the Cornwall Volunteer Fire Department were updated in May 2020. The letters confirm 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 30*). 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 prior to any land development. 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. (*Exhibit 29*).

12. Performance Bond.

The Applicant has submitted a letter with a one-page attachment from Naylor & Breen Builders, Inc. detailing a conceptual cost estimate of \$235,625 for civil and utility site improvement and infrastructure to be installed post-permit approval (*Exhibit 33*). To assure completion of all common features of the Project as proposed, the Applicants will be required to post a performance bond or letter of credit in a form and in an amount acceptable to the Cornwall Selectboard and the Town Attorney, said bond to remain in place until such time as all common facilities and features have been satisfactorily constructed.

II. CONCLUSIONS OF LAW

1. The Applicant has submitted a substantially complete Application for final approval of a major subdivision pursuant to Article II of the CSR.
2. The DRB has evaluated the request for final subdivision plat 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 Final Plat and Final Plan of the Applicant meets the design standards referenced in Article IV of the CSR subject to the conditions and restrictions as stated above and hereinafter

referenced.

III. FINAL PLAT AND FINAL PLAN 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 Final Plat and Final Plan subject to the following conditions:

1. Pursuant to CSR §240.1, a mylar for the Final Plat (*Exhibit 8*) shall be recorded in the office of the Cornwall Town Clerk within ninety (90) days of this Approval revised only to include the relevant zoning districts, building envelopes, and a Cornwall DRB signature block indicating Final Plat Approval.
2. The Beaver Brook subdivision and Final Plat and Final Plan are approved subject to all easements, private roads, lot locations, building envelopes, wetland location and other restrictions as noted on the Final Plat (*Exhibit 8*) and Green Mountain Engineering Approved Drawings dated December 10, 2019 and last revised February 27, 2020 (*Exhibits 9 – 16*).
3. As represented by the Applicant, this Application for final subdivision approval is premised on a common understanding that Lot 11 in its entirety (124.57± acres) is currently under contract to be sold to a “qualified farmer” which obligates the Applicant to convey, pursuant to conditions stated in the contract, a VLT Conservation Easement and Option to the VLT substantially as submitted by the Applicant (*Exhibit 25*). Should the sale not occur as represented by the Applicant, the Applicant shall notify the Cornwall Zoning Administrator and file an Application seeking an amendment to the subdivision plat and plan as approved herein before the commencement of any land development, construction or transfers of Lots within the subdivision. The DRB shall, for the purposes of considering such an application, retain continuing jurisdiction over this subdivision approval.
4. Prior to the commencement of any land development, construction, or the issuance of any building permit, Applicant shall provide to the Zoning Administrator:
 - (a) Proof of Act 250 approval
 - (b) 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 (*Exhibits 9 -16*).
5. Prior to the commencement of any land development, construction, sale of Lots 1 -8, or 10 or the issuance of a building permit, the following documents shall be recorded in the Cornwall Land Records:
 - (a) Declaration of Covenants, Restrictions and Easements substantially in the form presented (*Exhibit 30*), but with the amendments required by these conditions.
 - (b) By-Laws of the Beaver Brook Homeowners’ Association, Inc. substantially as approved (*Exhibit 29*).
 - (c) The use covenant on Lot 10 substantially as approved (*Exhibit 28*).
 - (d) Beaver Brook Homeowners’ Association, Inc. Articles of Incorporation.

6. Prior to the commencement of any land development, construction, sale of Lots 1 -8, or 10, or the issuance of a building permit, the following shall be conveyed to Beaver Brook Homeowners' Association, Inc:
 - (a) Lots C1 and C2 in fee.
 - (b) All common right of way, utility, water, sewer, and stormwater easements as depicted on the Green Mountain Engineering Approved Drawings (*Exhibit 9-16*). These easements will be held in common with owners of Lots 1-8.
7. This approval is conditioned upon transfer of Lots C1 and C2 and all easements noted in 6(b) above, and upon Beaver Brook Homeowners' Association, Inc. assuming all subdivision permit obligations and responsibilities for Lots C1 and C2 as well as for all common elements of the Beaver Brook subdivision.
8. With respect to Lots 1 through 8 only, no land development or construction, and no sale of any of Lots #1 – 8, shall occur until such time as the Applicant, or its successors, posts a bond or letter of credit in the amount of at least \$235,625 or, at the discretion of the Selectboard, in an amount in excess of \$235,625 if reasonably necessary as of the date of issuance to pay for the installation of all civil and utility infrastructure costs referenced in the Naylor & Breen Builders, Inc. estimate (*Exhibit 33*). This bond or letter of credit will be in form and content as approved by the Cornwall Selectboard and the Town Attorney.
9. This approval is conditioned on the Declaration of Covenants, Easements and restrictions as submitted by the Applicant (*Exhibit 18*) being revised to contain the following amendments:
 - (a) Section 7.1: Deletion of the word “solely” in second sentence describing the usage of the Church on Lot 2 and Existing Building (Garage) on Lot 3 by the respective owners of Lots 2 and 3.
 - (b) Article 8.1: The second sentence of Article 8.1 shall be revised and a third sentence added as follows: “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. In the event the total number of Bedrooms permitted for the Project exceeds the number of Bedrooms actually allocated to Lots after all Lots are sold, transferred or assigned by the Landowner, the denominator shall be reduced to the number of Bedrooms actually allocated. No adjustment of the denominator shall occur prior to the sale, transfer or assignment of all Lots by the Landowner.”
 - (c) Section 9.0 (c): Existing language replaced in its entirety with: “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, provided that any land development which proposes to deviate from the design criteria set forth in Section 9.0(b) shall also require the prior approval of the Cornwall Development Review Board.”
 - (d) Section 9.1: In the first sentence, replace the phrase “within eighteen months” with: “within twenty-four months.” Replace the second sentence with: “Such amendment shall be subject to review and approval by the Cornwall Development Review Board.”

- (e) Article IX: Include a new Section 9.2 which provides: “There shall be no amendments to Article IX without the review and approval of the Cornwall Development Review Board.”
10. A maximum total of 29 residential bedrooms shall be permitted for Lots 1-8; 25 bedrooms may be allocated among Lots 2-8.
 11. All deed conveyances for Lots 1-8 shall be subject to the Declaration as approved.
 12. Lot 10 shall not be used for residential or commercial purposes. Any conveyance of Lot 10 shall be subject to the approved covenant (*Exhibit 28*). To modify the terms and conditions of such covenant, 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 reference the final subdivision approval as issued by the Cornwall Development Review Board.
 13. Prior to, or concurrent with, the initial sale of any of Lots 1-8, all utilities, the access drive, and shared septic serving the Project shall be installed and occur as one coordinated project.
 14. Utilities shall be located underground within proposed rights-of-way and will be run entirely underground from and to the building sites.
 15. 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.
 16. Each of the access road for Lots 1–8 and the driveway for Lot 9 shall be a private road and 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 access road. A curb cut permit for the Lot 9 driveway shall be obtained from the Cornwall Road Foreman.
 17. Mailboxes shall be clustered together and sited adjacent to the common access road off North Bingham Street (subject to USPS approval of location).
 18. 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.
 19. This approval incorporates by reference all Findings of Fact contained herein, all Exhibits referenced on Exhibit A, and is conditioned on the accuracy of all statements and representations of the Applicant and its agents and consultants.
 20. This Final Plat and Final Plan Approval, and all conditions and findings contained herein, shall be binding upon the Applicant and its successors and assigns.
 21. The Applicant shall be responsible for paying all fees and costs associated with notifying and serving all interested parties with a copy of this decision as required by CSR §244 and 24 V.S.A. §4464(b)(3).

Subject to all the Conditions set forth above, the Cornwall Development Review Board hereby grants Final Plat and Final Plan approval of Application drb#20-001 submitted

by Beaver Brook Properties LLC, dated April 9, 2020, for a major 13 lot subdivision of Parcel ID #080240.

Dated at Cornwall, Vermont, this 7th day of July, 2020.

CORNWALL DEVELOPMENT REVIEW BOARD

Barbara Greenwood, Chair
Barbara Greenwood

David Anderson, Vice-Chair
David Anderson

Magna Dodge
Magna Dodge

Sharon Johnson
Sharon Johnson

Joseph Severy
Joseph Severy

NOTICE: 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 PROPERTIES LLC FINAL SUBDIVISION APPLICATION

LIST OF EVIDENCE FILED FROM APPLICANT AND INTERESTED PARTIES

Materials Accepted into Evidence June 3, 2020 at Public Hearing

- *Exhibit 1*: Warning published in the *Addison County Independent*, April 23, 2020; posted in Town in 3 places and on the website
- *Exhibit 2*: Envelope containing proof of service on abutters and interested persons. Several non-abutter letters were returned as undeliverable.
- *Exhibit 3*: Updated list of abutters (used for mailing the warning)
- *Exhibit 4*: Page with published warning from April 23, 2020 issue of the *Addison County Independent*

Materials filed April 9, 2020

- *Exhibit 5*: Attorney Deppman letter to DRB, April 9, 2020
- *Exhibit 6*: Application for Subdivision of Land, April 9, 2020
- *Exhibit 7*: List of adjacent property owners (replaced with corrected list, *Exhibit 3*)
- *Exhibit 8*: 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. (Note: 3 full size copies received, and ten 11”x17” copies—1 full-size copy marked *Exhibit 8a* for this Hearing, a second will be for filing in the Town file, the third will be returned to the applicants, per regulations. An 11”x17” copy marked as *Exhibit 8b*.)
- *Exhibit 9*: Green Mountain Engineering Drawing No. 1, *Cover Sheet*, revised February 27, 2020
- *Exhibit 10*: Green Mountain Engineering Drawing No. 2, *Existing Conditions Site Plan*, revised February 27, 2020
- *Exhibit 11*: Green Mountain Engineering Drawing No. 3, *Proposed Lot Layout Site Plan*, revised February 27, 2020
- *Exhibit 12*: Green Mountain Engineering Drawing No. 4, *Proposed Lot 9 Layout Site Plan*, revised February 27, 2020
- *Exhibit 13*: Green Mountain Engineering Drawing No. 5, *Proposed Property Easements Site Plan*, revised February 27, 2020
- *Exhibit 14*: Green Mountain Engineering Drawing No. 6, *Proposed Infrastructure Overall Site Plan*, revised February 27, 2020
- *Exhibit 15*: Green Mountain Engineering Drawing No. 7, *Proposed Water & Wastewater Infrastructure Site Plan*, revised February 27, 2020
- *Exhibit 16*: Green Mountain Engineering Drawing No. 8, *Proposed Stormwater Infrastructure Site Plan*, revised February 27, 2020
- *Exhibit 17*: Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision, clean copy, stated to be updated to address issues in DRB preliminary decision [replaced by updated draft; see *Exhibit 30*]

- *Exhibit 18*: Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision, redlined copy, stated to be updated to address issues in DRB preliminary decision
- *Exhibit 19*: Lot 10 Beaver Brook Properties LLC covenant language, stated to be updated to address issues in DRB preliminary decision [replaced by updated version; see *Exhibit 28*]
- *Exhibit 20*: By-Laws of Beaver Brook Homeowners' Association, Inc., stated to be updated to comply with the DRB preliminary decision [replaced by updated version; see *Exhibit 29*]
- *Exhibit 21*: Correspondence from Cornwall Fire Chief David Berno dated March 2, 2020 [replaced by updated version; see *Exhibit 32*]
- *Exhibit 22*: Right of Way/Road Access Permit from the Cornwall Road Foreman dated February 28, 2020 [replaced by updated version; see *Exhibit 31*]
- *Exhibit 23*: Forest Conservation Plan for the Beaver Brook Properties LLC property
- *Exhibit 24*: Current Use Map for the Beaver Brook Properties LLC property
- *Exhibit 25*: Exhibit B – Grant of Development Rights, Conservation Restrictions, Option to Purchase, and Right of Enforcement of the United States said to be anticipated for execution relative to Lot 11 [*confirmed by Attorney Deppman to be part of conveyance paperwork for Lot 11 purchase; June 3, 2020*]
- *Exhibit 26*: National Bank of Middlebury Letter to the DRB; April 9, 2020

Materials filed May 15, 2020

- *Exhibit 27*: Attorney Deppman letter to the DRB; dated May 15, 2020
- *Exhibit 28*: Lot 10 Beaver Brook Properties LLC covenant language, revised at the Town Attorney's request [replaces *Exhibit 19*]
- *Exhibit 29*: By-Laws of Beaver Brook Homeowners' Association, Inc., revised at the Town Attorney's request [replaces *Exhibit 20*]
- *Exhibit 30*: Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision, revised at the Town Attorney's request [replaces *Exhibit 18*]
- *Exhibit 31*: Right of Way/Road Access Permit from the Cornwall Highway Foreman with one-page attachment (*Standard B-71, Standards for Residential and Commercial Drives*), dated May 13, 2020 [replaces *Exhibit 22*]
- *Exhibit 32*: Undated note from Chief David Berno of the Cornwall Volunteer Fire Department [replaces *Exhibit 21*]
- *Exhibit 33*: Naylor & Breen Builders, Inc. letter with one-page attachment, entitled "*Beaver Brook Conceptual Estimate, Civil and Utilities Only, schedule of values;*" dated May 5, 2020 [confirmed by Attorney Deppman to be the estimate of costs to complete the construction of the infrastructure for Lots 1-8; June 3, 2020]

Other Materials

- *Exhibit 34*: Memorandum from James F. Carroll, Town Attorney, to Attorney Deppman regarding Document Review; dated March 26, 2020
- *Exhibit 35*: Letter from James F. Carroll, Town Attorney, to Attorney Deppman regarding review of documents submitted with application; dated April 30, 2020

- *Exhibit 36*: Copy of The Secretary of the Interior's *Standards for Rehabilitation*, printed from www.nps.gov on April 27, 2020
- *Exhibit 37*: Email from Barbara Greenwood to Matt Bonner summarizing *ex parte* phone discussion; May 14, 2020 [Note for the record: Bonner replied to the email, confirming that the summary was accurate]
- *Exhibit 38*: Written comments from Elizabeth Napier; dated May 15, 2020
- *Exhibit 39*: Written comments from Thomas Keefe and Elizabeth Karnes Keefe; submitted May 12, 2020
- *Exhibit 40*: Written comments from Allison Quinttus; dated May 29, 2020