

Town of East Montpelier

# ZONING PERMIT

## NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: April 7, 2017

Effective Date: April 22, 2017

Location: 0 Towne Hill Road

Owner: Cherry Tree LLC

For: 3-Lot Subdivision

Lot 1: 4.22 acres; Lot 2: 3.21 acres; Lot 3: 3.26 acres

Application # 17-004

Approved by: **C. Bruce Johnson, ZA**

Do not start project or commence use prior to the Effective Date. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

**APPEALS TO DRB:** A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

**WARNING:** State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

# TOWN of EAST MONTPELIER

P.O. Box 157  
East Montpelier, VT  
05651-0157

C. Bruce Johnson, ZA  
eastmontadmin@comcast.net  
(802) 223-3313 ext. 204

April 7, 2017

John & Patty Connor  
30 Cherry Tree Hill Road  
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #17-004

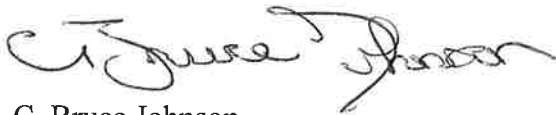
Dear Mr. & Ms. Connor:

Please find enclosed the written decision of the East Montpelier Development Review Board approving your subdivision application #17-004 as presented. You have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #17-004 for a 3-lot subdivision of the Cherry Tree LLC property on Towne Hill Road. You have 180 days to duly file and record a mylar copy of the approved subdivision plat with the East Montpelier Town Clerk as required by the East Montpelier Land Use & Development Regulations Section 6.6 coupled with 24 V.S.A. §4463(b). The mylar must be certified by me, the zoning administrator, as a true copy of the approved subdivision plat prior to recording.

Please remember that land development on the three lots will require additional permitting, both at the local and state level. Further, when you've developed the private drive and associated access points for the individual lots, we'll have to determine a road name and E-911 addresses. Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson  
East Montpelier Zoning Administrator

**TOWN OF EAST MONTPELIER  
DEVELOPMENT REVIEW BOARD**

**FINDINGS & DECISION**

In the matter of:       Cherry Tree LLC  
                                  0 Towne Hill Road  
                                  Parcel # 05-021.050   Tax Map # 11-00-75.000

East Montpelier Zoning Application #17-004

**INTRODUCTION & PROCEDURAL HISTORY**

1. On February 8, 2017, John & Patty Connor, on behalf of Cherry Tree LLC, filed an application with the Town of East Montpelier to subdivide the Cherry Tree LLC undeveloped property located on the north side of Towne Hill Road just east of Cherry Tree Hill Road. The proposal would divide the 10.7-acre parcel into 3 lots: Lot 1 of 4.22 acres; Lot 2 of 3.21 acres; and, Lot 3 of 3.26 acres.
2. The property in question is located in the Rural Residential/Agricultural District – Zone D, where the minimum lot size is 3 acres and subdivisions require approval from the Development Review Board.
3. Applicants appeared before the DRB on February 21, 2017 for an East Montpelier Land Use & Development Regulations Section 6.3 sketch plan review of the proposed subdivision. The DRB declared the proposal to be a minor subdivision for purposes of regulatory review under LUDR Section 6.
4. A public notice was duly published in the Times Argus on February 25, 2017 for a hearing, which was conducted on March 21, 2017.
5. Applicants, applicants’ representative Craig Chase, abutting neighbors Janice Walrafen and Ellen Leonard, and Zoning Administrator Bruce Johnson appeared and participated in the March 21, 2017 hearing. Bryan Pfeiffer submitted a letter of concern regarding butterfly habitat on the parcel. There was no additional public comment.
6. The Board members who voted on this issue at the March 21, 2017 hearing were Curtis, Greenwald, Lane, Kappel, Cueto, Santor, Watson, and Hill.

## **FINDINGS OF FACT**

1. Cherry Tree LLC is the owner of an undeveloped 10.7-acre parcel in East Montpelier. The parcel has public road frontage along Towne Hill Road. The lot is situated east of three developed properties along Cherry Tree Hill Road. The proposal is to split the parcel into three lots: Lot 1 of 4.22 acres; Lot 2 of 3.21 acres; and, Lot 3 of 3.26 acres.
2. The property is located in Zone D – the Rural Residential & Agricultural District, where a conforming lot requires 3 acres and 250 feet of road frontage. All three lots meet the minimum lot size and road frontage criteria.
3. Access to the three lots will be from a private drive with a single curb cut on Towne Hill Road at the east end of the parcel. The East Montpelier Selectboard has approved the multi-residential curb cut in East Montpelier Access Permit 17-006.
4. The access drive will be over a Class 2 wetland, which covers much of the land near Towne Hill Road. Applicants are engaged in a permitting process with the Vermont Agency of Natural Resources to receive the necessary wetlands permit. The DRB was presented with a letter from Bryan Pfeiffer regarding important butterfly habitat in and around the wetlands zone. Mr. Pfeiffer expressed no concern regarding the subdivision; he simply requested that the butterfly habitat be protected during construction activity and otherwise preserved to the extent possible.
5. Each lot will be served by an individual well for potable water. The parcels will be served by a community septic field located at the western end of the property on new Lot 1. Water & wastewater system designs are in place, but the permit process is on hold pending the wetlands permitting decision.
6. There will be deed language and a homeowners association to deal with easements and other issues related to the community septic system and the common drive.

## **CONCLUSIONS**

The standards for the issuance of a subdivision permit are set forth in Sections 6.7 through 6.10 of the East Montpelier Land Use & Development Regulations. It is found that the standards in Sections 6.7, 6.8, & 6.9 have been reviewed, and the proposed subdivision meets all applicable requirements. It is further found that Section 6.10 does not apply to this project.

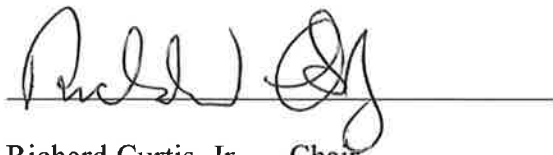
## DECISION

By unanimous vote, the DRB approves Zoning Permit #17-004 to allow the subdivision of Cherry Tree LLC Parcel #05-021.050 as presented.

This subdivision approval is subject to the East Montpelier Land Use & Development Regulations Section 6.6 plat recording requirements which, among other directives, mandate the filing of a mylar copy of the approved subdivision plat in the East Montpelier land records within 180 days of the date of subdivision approval.

**Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 7<sup>th</sup> day of April, 2017.

A handwritten signature in black ink, appearing to read "Richard Curtis, Jr.", is written over a horizontal line.

Richard Curtis, Jr. -- Chair  
East Montpelier Development Review Board

**Notice:** The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Permit # 17-004  
Zoning District D  
Overlays WR

**ZONING PERMIT APPLICATION**  
**TOWN OF EAST MONTPELIER**  
PO Box 157, East Montpelier, VT 05651

Date Received: 2/8/17  
Parcel # 05-021050  
Tax Map # 11-00-75.000

\*\*\*\*\*  
A. 1. Name of Landowner Cherry Tree LLC Phone No. 802-229-1416  
2. Address of Landowner 30 Cherry Tree Hill Rd. East Montpelier, VT 05651  
3. Applicant (other than owner) John & Patty Connor Phone No. S/A  
4. Address of Applicant S/A  
5. Location of Property TOWNE HILL ROAD

**B: Application is made (check appropriate boxes):**

- |                                     |   |   |
|-------------------------------------|---|---|
| To:                                 | For:  | For:  |
| <input type="checkbox"/> Construct  | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input checked="" type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair     | <input type="checkbox"/> Multi-family dwelling                            | <input type="checkbox"/> Boundary adjustment            |
| <input type="checkbox"/> Alter      | <input type="checkbox"/> Accessory Structure                              | <input type="checkbox"/> Extraction of earth resources  |
| <input type="checkbox"/> Extend     | <input type="checkbox"/> Commercial / Business                            | <input type="checkbox"/> Ground water withdrawal        |
| <input type="checkbox"/> Remove     | <input type="checkbox"/> Light Industrial                                 | <input type="checkbox"/> Landfilling                    |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial                                       | <input type="checkbox"/> Other                          |

Describe work to be performed Create 3 lots for residential construction

C. Lot description: see plans

1. acreage .....	4. depth side yards ..... Ft. .... Ft. (building to lot lines)
2. road frontage ..... Ft.	
3. depth front yard ..... Ft. (Road centerline to building)	5. depth rear yard ..... Ft. (building to lot line)

**Important** - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

**READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:**

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Landowner Patricia Connor Date 2-7-2017  
Applicant JOHN AND PATRICIA A. CONNOR Date 2-7-2017

\*\*\*\*\*  
Zoning Permit Fee: \$ 300.00 Cash  Check  # 6106 Date 2/8/17 Rec'd by D.B.  
DRB Hearing Fee: \$ \_\_\_\_\_ Cash  Check  Date \_\_\_\_\_ Rec'd by \_\_\_\_\_

Make checks payable to the "Town of East Montpelier"

**D. Warning:** State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to Peter Kopsco, our region's state permit specialist, before beginning any construction.

**Notice:** Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages:  
Residential Building Energy Standards: [http://publicservice.vermont.gov/energy\\_efficiency/rbes](http://publicservice.vermont.gov/energy_efficiency/rbes)  
Commercial Building Energy Standards: [http://publicservice.vermont.gov/energy\\_efficiency/cbes](http://publicservice.vermont.gov/energy_efficiency/cbes)

**E. Action by Zoning Administrator:**

1.  Granted     Denied Date ..... Reason.....

2. Appealed to Development Review Board ..... By .....  
Date

**Notice:** Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 17-004 Date Issued 04/07/17 Effective Date 04/22/17

**DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.**

4. Permittee is required to submit a Certificate of Compliance form to the Zoning Administrator in accordance with East Montpelier Land Use & Development Regulations Section 7.4:

Yes (form included with permit)     No

  
.....  
Zoning Administrator

**F. Action by Development Review Board:**

1. Public Notice Date ..... 2.28.17 .....

2. Date(s) of Hearing ..... 3.14.17 postponed to 03/21/17 .....

3.  Granted     Without conditions     With conditions (See written decision for conditions)

4.  Denied (See written decision for reasoning)

  
.....  
Chairman, Development Review Board

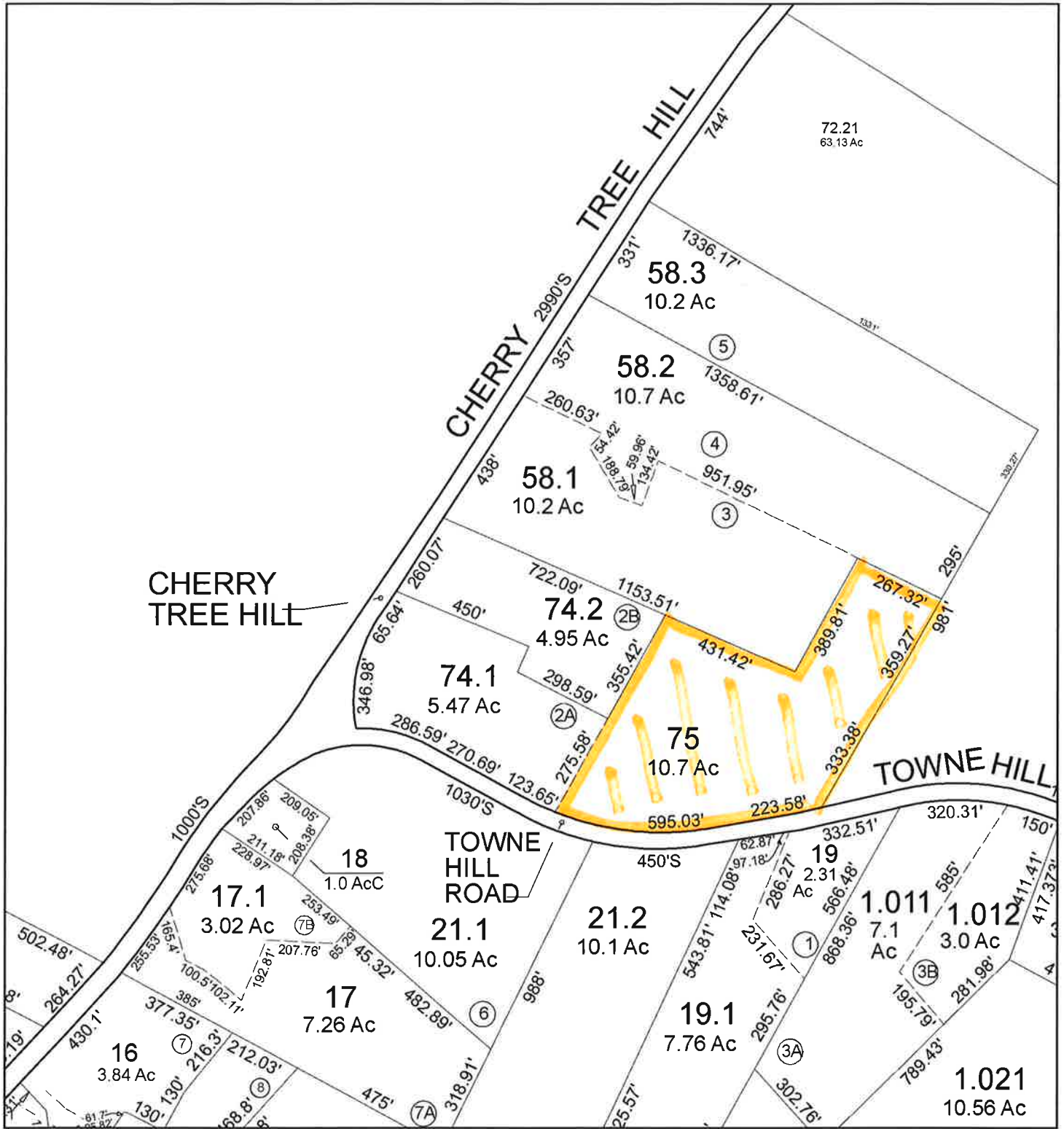
The DRB's written decision was issued on: April 7, 2017

The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

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**Cherry Tree LLC -- O Towne Hill Road  
East Montpelier**



2/9/2017

