

# Town of East Montpelier

# ZONING PERMIT

# NOTICE

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

Date Issued: May 11, 2017

Effective Date: May 26, 2017

Location: O Captain Kidd Road

Owner: Duane Wells

For: 3 Lot Subdivision of 16-033 Lot 10:

Lot 10 of 3.14 acres; Lot 11 of 3.04 acres; Lot 12 of 9.05 acres

Application # 17-013

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.

Permit # 17-013  
Zoning District D  
Overlays ---

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

Date Received: 4/12/17  
Parcel # 09-105,900  
Tax Map # 12-02-29.030

- A. 1. Name of Landowner Duane Wells Phone No. ....  
2. Address of Landowner 45 Cutler Heights, Montpelier, VT 05602  
3. Applicant (other than owner)..... Phone No. ....  
4. Address of Applicant.....  
5. Location of Property Captain Kidd & Banfield Roads

**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. To subdivide the existing 15.22 acre Lot 10 fronting Captain Kidd and Banfield Roads into three lots: Lot 10 of 3.14 to be served by a 25' right-of way from the cul-de-sac on Captain Kidd Road; Lot 11 of 3.04 acres with 319' for frontage on the Captian Kidd cul-de-sac; and Lot 12 of 9.05 acres, comprising the entire Banfield Road frontage of 1093' to be conveyed to adjoining property owner Kirkpatrick. All lots are to be development deferred.

**C. Lot description:**

- |                                    |   |
|------------------------------------|---|
| 1. acreage <u>15.22</u>            | 4. depth side yards <u>n/a</u> Ft. .... Ft. |
| 2. road frontage <u>1412</u> Ft.   | (building to lot lines)                     |
| 3. depth front yard <u>n/a</u> Ft. | 5. depth rear yard <u>n/a</u> Ft.           |
| (Road centerline to building)      | (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 *Duane Wells* Date 4/10/17  
Applicant ..... Date .....

Zoning Permit Fee: \$ 375.00 Cash Check #3790 Date 4/12/17 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 .....

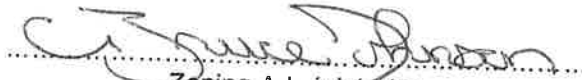
**Notice:** Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 17-013 Date Issued 05/11/17 Effective Date 05/26/17

**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 4.15.17

2. Date(s) of Hearing 5.2.17

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: May 11, 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.

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.

# 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

May 11, 2017

Duane Wells  
45 Cutler Heights  
Montpelier, VT 05602

Re: East Montpelier Zoning Application #17-013

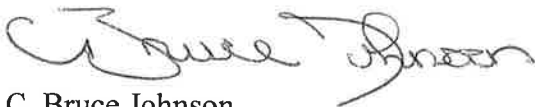
Dear Mr. Wells:

Please find enclosed the written decision of the East Montpelier Development Review Board approving your subdivision application #17-013 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 #17-013 for a 3-lot subdivision of your 2016 Wells subdivision remainder Lot 10 (part of 2006 Wells Captain Kidd Road subdivision remainder Lot 9). 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. 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:        Duane Wells  
                                 Part of Lot 9 of 2006 Wells Captain Kidd Road Subdivision (06-101);  
                                 Now known as Lot 10 of 2016 Wells Subdivision (16-033)  
                                 Parcel # 09-105.900   Tax Map # 12-02-29.290

East Montpelier Zoning Application #17-013

**INTRODUCTION & PROCEDURAL HISTORY**

1. On April 12, 2017, Duane Wells filed an application with the Town of East Montpelier to subdivide his undeveloped property located between Captain Kidd, Banfield, and Clark Roads. The proposal would divide the 15.22-acre parcel into 3 lots: Lot 12 of 9.05 acres with frontage on Banfield and Clark Roads; Lot 11 of 3.04 acres with frontage on Captain Kidd Road; and, Lot 10 of 3.14 acres served by an access easement over Lot 11.
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. A public notice was duly published in the Times Argus on April 15, 2017 for a hearing, which was conducted on May 2, 2017.
4. Property owner Duane Wells; abutting property owners Ross & Devon Mroczek and Deidre Lamberton; John Lyons and Zoning Administrator Bruce Johnson appeared and participated in the May 2, 2017 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the May 2, 2017 hearing were Curtis, Kappel, Welch, Santor, Watson, and Cueto.

## **FINDINGS OF FACT**

1. Duane Wells owns a 15.22-acre undeveloped parcel in East Montpelier, known as remainder Lot 10 of the 2016 Wells subdivision (East Montpelier Permit 16-033), which itself is a portion of the original remainder Lot 9 of the 2006 Wells Captain Kidd Road subdivision (East Montpelier Permit 06-101). The parcel has road frontage along Banfield, Clark, and Captain Kidd Roads. The remainder lot is an essentially rectangular parcel with a 20-foot wide by 457-foot long appendage off the southwest corner. He proposes to split the parcel into three lots: Lot 12 of 9.05 acres; Lot 11 of 3.04 acres; and, Lot 10, which includes the narrow appendage, of 3.14 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. The proposed new Lot 12, the 9.05-acre parcel, has over 1,400 feet of frontage on Banfield and Clark Roads, both Class 3 town roads. Proposed new Lot 11 has 319 feet of frontage on Captain Kidd Road, a Class 3 town road. Proposed new Lot 10 is assessed by a 25-foot wide easement over proposed new Lot 11.
3. Applicant intends to maintain ownership of new Lots 10 & 11 for the present time. Applicant intends to convey new Lot 12 to another party. No development is currently anticipated for the lots, although Applicant anticipates development of Lots 10 & 11 at some point in the future.
4. No access, water, or wastewater permits have been sought for the three lots.

## **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**

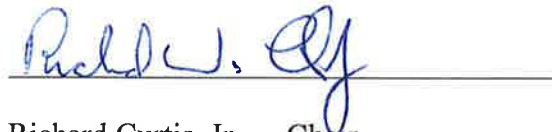
By unanimous vote, the DRB approves Zoning Permit #17-013 to allow the subdivision of Wells Parcel #09-105.900 as presented.

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 11<sup>th</sup> day of May, 2017.



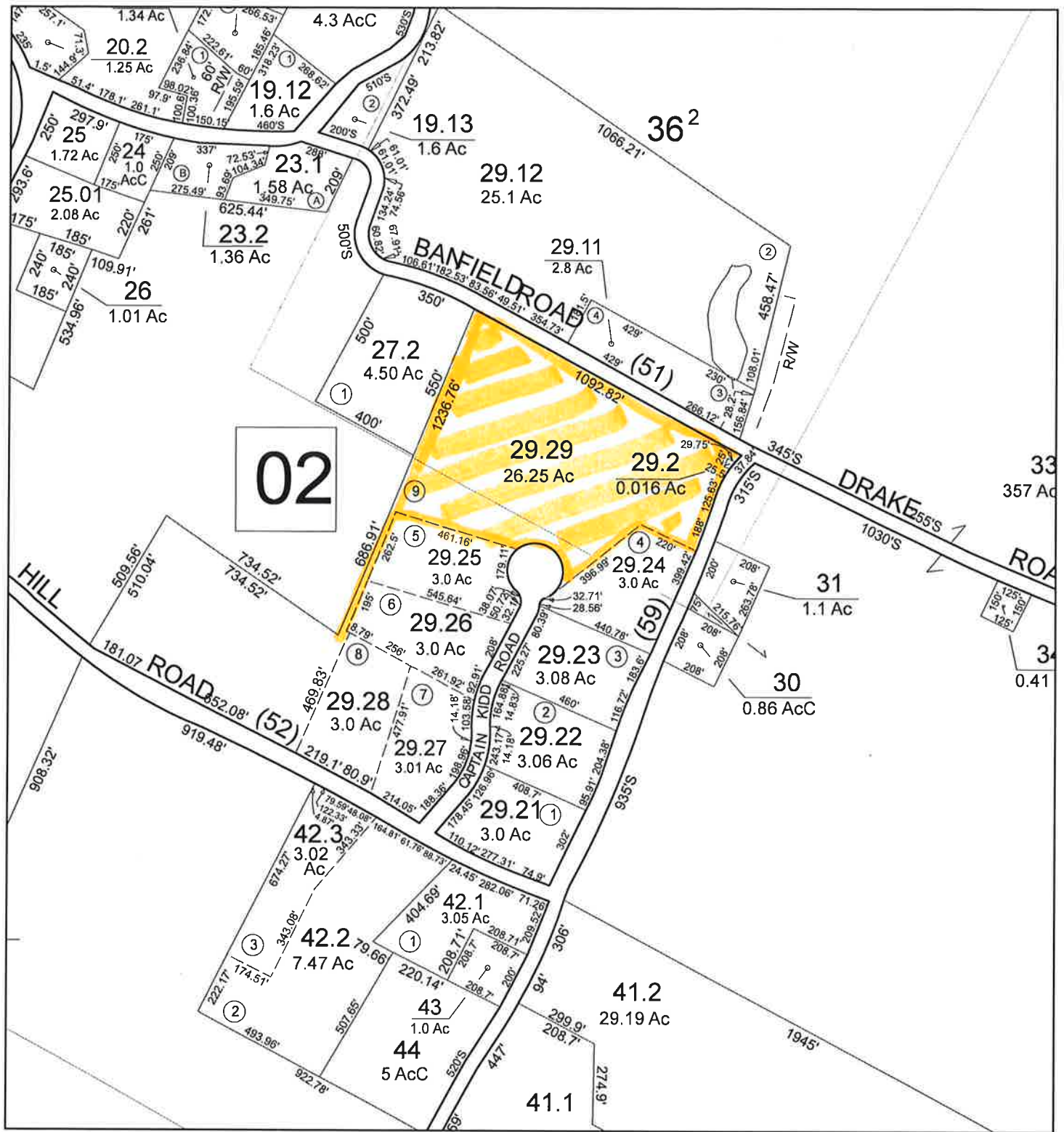
Richard Curtis, Jr. -- Chair  
East Montpelier Development Review Board

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**Wells -- Lot 10 Captain Kidd Road  
East Montpelier**



4/14/2017

