

Town of East Montpelier

ZONING PERMIT

NOTICE

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

Date Issued: June 8, 2018

Effective Date: June 23, 2018

Location: VT Rte. 145 to Plainfield line

Owner: Fairmont Dairy LLC

For: 2-Lot Subdivision

Lot 3A of 35.0 acres; Lot 3B of 97.6 acres

Application # 18-012

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

June 8, 2018

Fairmont Dairy, LLC
Attn: Richard Hall
141 Lylehaven Road
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #18-012

Dear Mr. Hall:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the Fairmont Dairy, LLC subdivision application #18-012 subject to the following condition:

- New Lot 3A is to be transferred to abutting property owner Tylor Bigras of 152 Jourdan Road and merged with that property for use of the existing access to 152 Jourdan Road.

Fairmont Dairy, LLC has 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 #18-012 for a 2-lot subdivision of the Fairmont Dairy, LLC property at issue in this matter. 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.

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: Fairmont Dairy LLC
For a portion of property located at:
Parcel # 09-080.300
Tax Map # 12-02-54.000

East Montpelier Zoning Application #18-012

INTRODUCTION & PROCEDURAL HISTORY

1. On May 9, 2018, Fairmont Dairy LLC filed an application with the Town of East Montpelier to subdivide a portion of its property located between VT Rte. 14 S and the Plainfield town line. The portion of Parcel #09-080.300 known as Lot 3 of the 2014 Rappaport subdivision 14-050 is the subject of this application. The proposal would divide the 132.6-acre parcel into 2 lots: Lot 3A of 35.0 acres and Lot 3B of 97.6 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. A public notice was duly published in the Times Argus on May 19, 2018 for a hearing, which was conducted on June 5, 2018.
4. Fairmont Dairy LLC representative Kris Jurentkuff, abutting property owners Scott & Kelly Phillips and Tylor Bigras, and Zoning Administrator Bruce Johnson appeared and participated in the June 5, 2018 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the June 5, 2018 hearing were Curtis, Cueto, Lane, Dworkin, Welch, Lange, and Hill.

FINDINGS OF FACT

1. Fairmont Dairy LLC owns a 132.6-acre parcel in East Montpelier that is part of the property known as East Montpelier Parcel #09-080.300. The proposal seeks to subdivide the parcel into two lots: one of 35.0 acres and the other of 97.6 acres.

2. This subdivision is of the parcel created as Lot 3 of the 2014 Rappaport subdivision 14-050 of the 355 VT Rte. 14 S element of Lylehaven Farm. Lot 3, an undeveloped agricultural lot, was one of a number of parcels transferred by Mr. Rappaport to Fairmont Dairy LLC. Fairmont Dairy LLC now proposes to further subdivide Lot 3.
3. This parcel has been consolidated for tax purposes with another Fairmont Dairy LLC, formerly Rappaport, parcel – both share the same parcel and tax map numbers. For zoning purposes, however, this is a separate lot and can be subdivided without reference to the other parcel.
4. The subject 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 Lot 3A contains 35.0 acres and 664 feet of frontage along VT Rte. 14 S. Proposed Lot 3B has 97.6 acres and 4,212 feet of frontage along Clark Road.
5. There are no structures on the parcel. Lot 3A is mostly wooded and is to be transferred to abutting property owner Tylor Bigras; Lot 2 is mostly farmland to be retained by Fairmont Dairy LLC. No development of either lot is currently contemplated.
6. The VT Agency of Transportation does not recognize any existing access on VT Rte. 14 S. Fairmont Dairy LLC has chosen not to apply to VTrans for a curb cut permit on VT Rte. 14 S to provide access to Lot 3A. Lot 3A will be transferred to Tylor Bigras, owner of an abutting 11.16-acre parcel located at 152 Jourdan Road (parcel #09-085.800; tax map #12-02-35.800). For the purposes of this subdivision Lot 3A is to be merged with the 152 Jourdan Road parcel and access to the joined 46.16-acre parcel will be by the existing curb cut at 152 Jourdan Road.

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

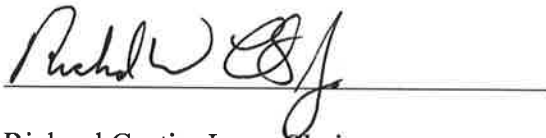
By unanimous vote, the DRB approves Zoning Permit #18-012 to allow the subdivision of a portion of Fairmont Dairy LLC Parcel #09-080.300, known as Lot 3 of the Rappaport 2014 subdivision 14-050, subject to the following condition:

- New Lot 3A is to be transferred to abutting property owner Tylor Bigras of 152 Jourdan Road and merged with that property for use of the existing access to 152 Jourdan Road.

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) 476-0195 to speak to the state Permit Specialist before beginning any construction.

Dated this 8th day of June, 2018.

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 # 18-012
Zoning District D
Overlays WR

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

Date Received: 5/9/18
Parcel # 09-080 300
Tax Map # 12-02-54 000

- *****
- A. 1. Name of Landowner Fairmont Dairy, LLC Phone No. 802-272-8553
2. Address of Landowner 95 Lyle Young Road, East Montpelier, VT 05651
3. Applicant (other than owner) Phone No.
4. Address of Applicant.....
5. Location of Property Clark Road & VT RTE 14S

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 further subdivide Lot 3 of the previous Rappaport Subdivision with 132.6 acres on both sides of Clark road into 2 lots: Lot 3A with 35.0 Acres and Lot 3B with 97.6 acres. Currently, there are no buildings on the lot.

C. Lot description:

- | | |
|--|---|
| 1. acreage <u>132.6 Acres +/-</u> | 4. depth side yards Ft. Ft.
(building to lot lines) |
| 2. road frontage <u>664' (RTE14S)</u> 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 Diane Hill Date 5/9/18

Applicant Date

Zoning Permit Fee: \$ 250.00 Cash _____ Check #1077 Date 5/9/18 Rec'd by D.S.

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) 476-0195 to speak to the 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/topics/energy_efficiency/rbes
Commercial Building Energy Standards: http://publicservice.vermont.gov/topics/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 # 18-012 Date Issued 06/08/18 Effective Date 06/23/18

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.


.....
Zoning Administrator

F. Action by Development Review Board:

1. Public Notice Date 5.11.18

2. Date(s) of Hearing 6.5.18

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: June 8, 2018

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.
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Surveyors & Septic Designers, Inc

301 North Main Street, Suite 1
Barre, Vt. 05641
Phone 802-479-9636
Fax 802-479-4017

email: cdchase@chasesurveyors.com
billchase@chasesurveyors.com
kjurentkuff@chasesurveyors.com

May 9, 2018

Bruce Johnson, Zoning Administrator
Town of East Montpelier
P.O. Box 157
East Montpelier, VT 05651

RE: Proposed subdivision of lands of Fairmont Dairy, LLC

Dear Bruce,

Please find attached what we believe to be a complete application for the subdivision of a parcel owned by Fairmont Dairy, LLC. The description of the proposed subdivision is as follows:

Proposed Subdivision

VT RTE 14S & CLARK ROAD; Tax Map Number: p/o 12-02-54.000; Parcel I.D.: p/o 09-080.300

Current Deed: Book 129/Page 192 (11/20/2014)

Parcel Deed: Book 29/Page 59 (3/23/1970)

- The existing Lot 3 (shown on Reference #5 entitled, "Subdivision Survey 'Route 14 Carveout' Jerome L. Rappaport"), an undeveloped lot of 132.6 acres will be subdivided further into Lot 3A with 35.0 acres and Lot 3B with 97.6 acres on both sides of Clark Road.
- Lot 3A has 664' ± of road frontage on VT RTE 14S
- The adjacent parcel of Mr. Rappaport acquired in 1979 (Book 29/Page 291 – see reference #4 entitled, "Subdivision Survey 'Wooded Carveout' Jerome L. Rappaport") and held under separate title as of the date of this application, is not included in this subdivision. This property is included in Tax Map Parcel 12-02-54 for tax assessment purposes.
- No new development is proposed as part of this subdivision.
- Waivers listed below are requested for this subdivision

Waivers

As this subdivision is minor in nature, proposes no new development, and has very little, if any, impact upon the goals and objectives laid out in the ordinance and Town plan, waivers as provided for under Section 6.2 are sought for certain plan and material requirements. The requested waivers are as follows:

- Boundary survey - Only those portions of Lot 3 deemed necessary for the definition of the subdivision line between Lots 3A & 3B have been re-surveyed for this subdivision plan. Metes and bounds and acreages of the balance of the property have been provided per Reference #1 entitled, "LYLEHAVEN FARMS Jerome L. Rappaport, Lawrence & Barbara LaPerle Purchase, East Montpelier, Vermont" dated Sept. 1985 by Dwight Baker and recorded in the town of East Montpelier land records in hanger 30, map 134.
- Natural and physical features – Physical features as they appear on the VT Agency of Natural Resources Natural Resources Atlas have been included on separate plans extracted directly from the Atlas. We ask that the Board waive any additional mapping requirements for these features.

- 10' interval contours – 20' interval contours and a slope zone analysis have been included on the plans extracted from the ANR Atlas. As no development is proposed, we ask that the Board waive the 10' interval requirement.
- Proposed features – No development is proposed.

In closing, I'd like to stress the minimal impact of this subdivision on the landscape of the Town. No development is proposed, and should any be proposed in the future, that work will be reviewed by the Board in accordance with the applicable regulations. The agricultural lands will continue substantially intact. When contrasted against the development activities on the properties surrounding these parcels – Phillips Road, Captain Kidd, and Country Club Road in Plainfield – this subdivision represents what is probably the best-case that could be anticipated. We hope that you and the Board agree. Thank you.

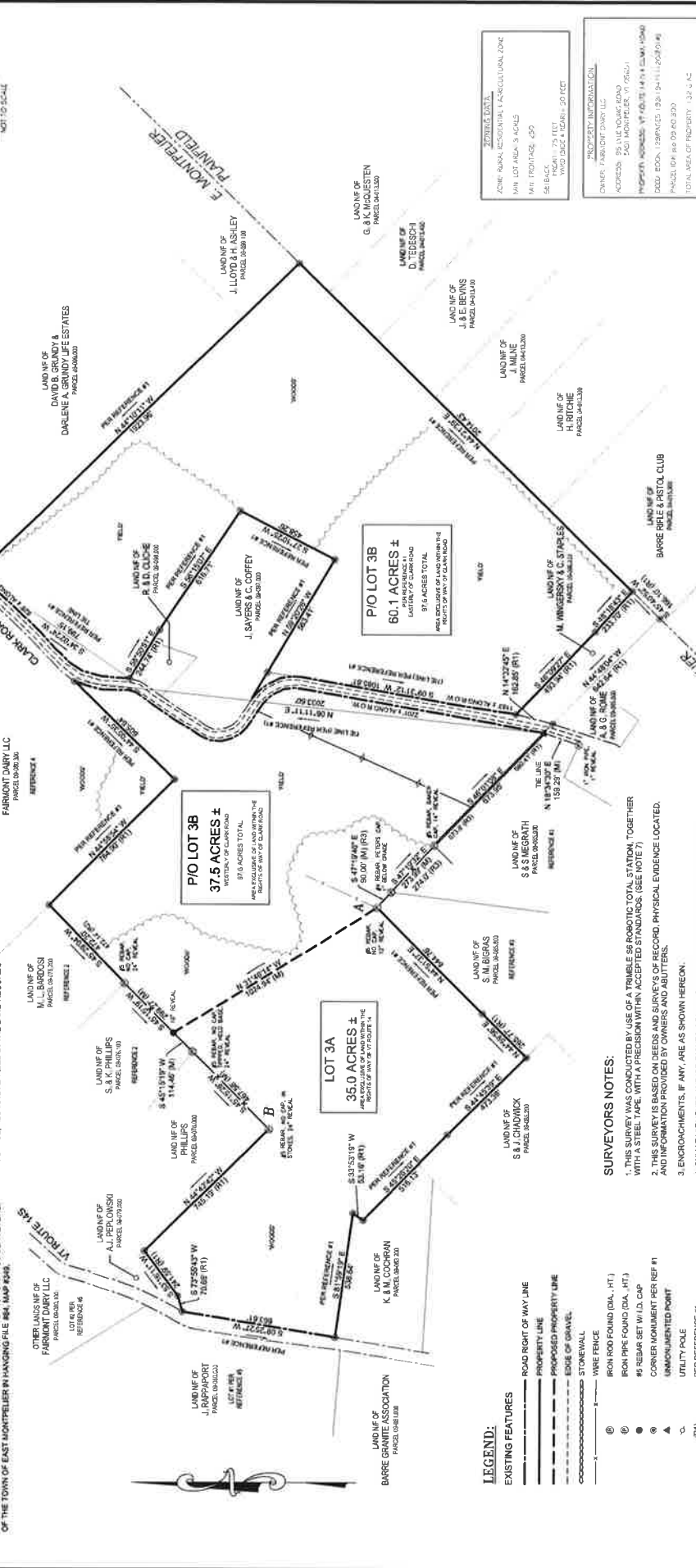
Sincerely,



Timothy Morris
Crew Chief



LOCATION MAP
LOT 13-24-24



FAIRMONT DAIRY, LLC
SUBDIVISION SURVEY
CLARK ROAD AND VT ROUTE 145
EAST MONTPELIER, VERMONT

OWNER: FAIRMONT DAIRY, LLC
ADDRESS: 95 VINE YOUNG ROAD
560 MONTPELIER, VT 05601

PROJECT ADDRESS: VT ROUTE 145 & CLARK ROAD
DEED BOOK: 128 PAGES 1921 (S) 11-202 (P) 4

PARCEL ID# 180 09 00 200

TOTAL AREA OF PROPERTY: 39.7 AC

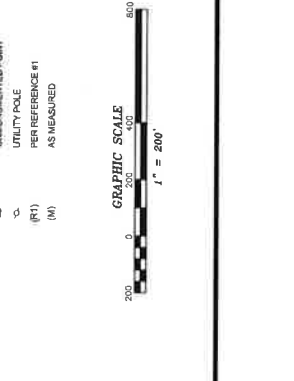
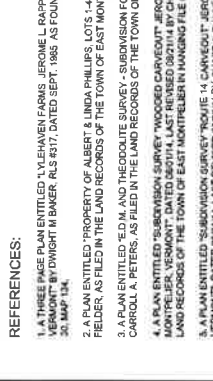
Chase
Surveyors & Septic Designers, Inc.

5/8/18 *Will R. Chase*

NOTHING UNLESS SEALED WITH AN INKLESS STAMPING SEAL.

- REFERENCES:**
1. A THREE PAGE PLAN ENTITLED "LYLHAVEN FARMS - JEROME L. RAPPAPORT, LAWRENCE & BARBARA LARLELE PURCHASE EAST MONTPELIER, VERMONT, DATED SEPT. 1985, AS FOUND ON FILE IN THE TOWN OF EAST MONTPELIER LAND RECORDS IN HANGER 30, MAP 13A.
 2. A PLAN ENTITLED "PROPERTY OF ALBERT & LINDA PHILLIPS, LOTS 1-4, EAST MONTPELIER, VERMONT, DATED JULY 28, 1989 BY RICHARD R. FELDER, AS FILED IN THE LAND RECORDS OF THE TOWN OF EAST MONTPELIER IN HANGER FILE #26, MAP #186.
 3. A PLAN ENTITLED "ED M. AND THEODORE SURVEY - SUBDIVISION FOR GERALD AND JILL JOURDAN EAST MONTPELIER, VT.", DATED 11/28/86 BY CAROL A. PETERS, AS FILED IN THE LAND RECORDS OF THE TOWN OF EAST MONTPELIER IN HANGER FILE #57, MAP #128.
 4. A PLAN ENTITLED "SUBDIVISION SURVEY 'WOODS CANYON' - JEROME L. RAPPAPORT VERMONT ROUTE 145 & CLARK ROAD, EAST MONTPELIER, VERMONT, DATED 09/07/14, LAST REVISED 09/27/14 BY CHASE & CHASE SURVEYORS, WILLIAM R. CHASE RLS #52 AS FILED IN THE LAND RECORDS OF THE TOWN OF EAST MONTPELIER IN HANGER FILE #64, MAP #251.
 5. A PLAN ENTITLED "SUBDIVISION SURVEY 'ROUTE 14, CANYON' - JEROME L. RAPPAPORT 335 VERMONT ROUTE 145, EAST MONTPELIER, VERMONT, DATED 03/27/14, LAST REVISED 06/29/16 BY CHASE & CHASE SURVEYORS, WILLIAM R. CHASE, RLS #59 AS FILED IN THE LAND RECORDS OF THE TOWN OF EAST MONTPELIER IN HANGER FILE #64, MAP #251.

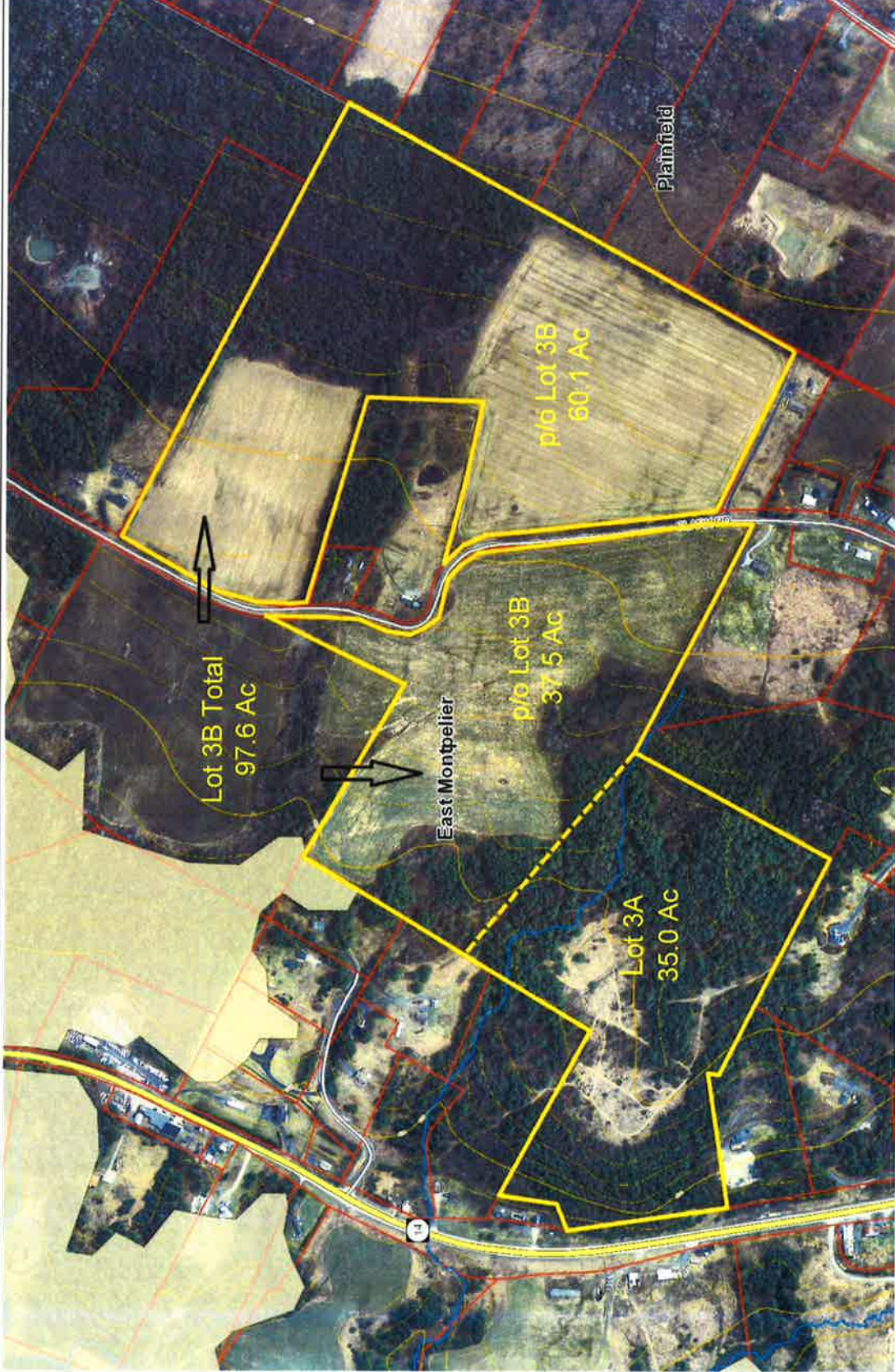
- SURVEYOR'S NOTES:**
1. THIS SURVEY WAS CONDUCTED BY USE OF A TRIMBLE S8 ROBOTIC TOTAL STATION, TOGETHER WITH A STEEL TAPE, WITH A PRECISION WITHIN ACCEPTED STANDARDS. (SEE NOTE 7)
 2. THIS SURVEY IS BASED ON DEEDS AND SURVEY'S OF RECORD. PHYSICAL EVIDENCE LOCATED, AND INFORMATION PROVIDED BY OWNERS AND ADJUTERS.
 3. ENCROACHMENTS, IF ANY, ARE AS SHOWN HEREON.
 4. ONLY EASEMENTS AND/OR RIGHTS OF WAY ENCOUNTERED DURING RECORD RESEARCH NECESSARY TO DETERMINE PARCEL BOUNDARIES HAVE BEEN DEPICTED HEREON. THE PROPERTY MAY BE SUBJECT TO OTHER EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND RESERVATIONS.
 5. BEARINGS SHOWN HEREON ARE BASED ON THE BEARING FROM MONUMENTS FOUND AT POINTS OF INTERSECTION OF BOUNDARIES. BEARINGS FROM MONUMENTS NOT SHOWN ARE BASED ON RELATIONSHIP BETWEEN LINES, VARIATIONS WITH PROX SURVEYS WILL BE NOTED DUE TO DIFFERING METHODS OR METHODOLOGIES, BUT ARE NOT INDICATIVE OF A CHANGE IN BOUNDARY LOCATION.
 6. THE RIGHTS-OF-WAY OF VT ROUTE 145 & CLARK ROAD ARE BASED UPON REFERENCE #1 AS NOTED HEREON.
 7. ONLY THE PORTIONS OF LOT 1 OF REF #4 AND REF #1 BEING NECESSARY FOR THE DEFINITION OF THE SUBDIVISION LINE BETWEEN LOTS 3A, 3B HAVE BEEN RESURVEYED FOR THIS SUBDIVISION PLAN. METERS & ABBREVIATIONS OF BALANCE OF PROPERTY ARE PER REFERENCE #1.





Fairmont Dairy, LLC - Natural & Physical Features Plan - May 9, 2018
 Vermont Agency of Natural Resources

vermont.gov



LEGEND

- Vernal Pools Confirmed - AEVCE
- Deer Wintering Areas
- Parcels (Standardized)
- Roads
 - Interstate
 - Principal Arterial
 - Minor Arterial
 - Major Collector
 - Minor Collector
 - Local
- Not part of function Classification System
- Waterbody
- Stream
- Parcels (Non-Standardized)
- Town Boundary

1: 5,000
 1in = 417 ft
 1cm = 50 meters

NOTES
 Map created using ANR's Natural Resources Atlas.
 Natural & Physical Features of Subdivision.

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

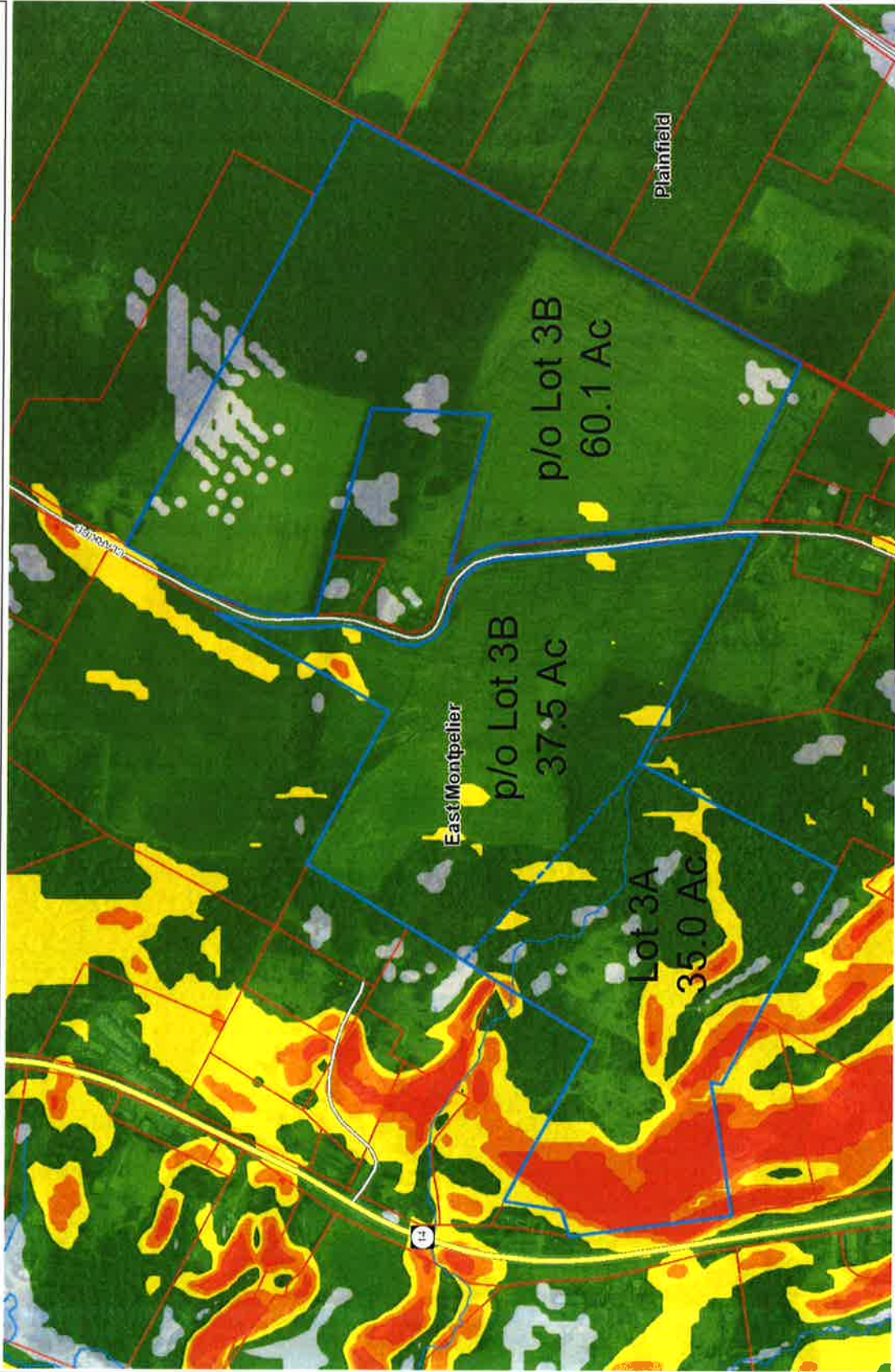


WGS_1984_Web_Mercator_Auxiliary_Sphere
 © Vermont Agency of Natural Resources, May 9, 2018



Fairmont Dairy, LLC - Slope Zone Analysis
 Vermont Agency of Natural Resources

vermont.gov



LEGEND

Parcels (Standardized)

Roads

- Interstate
- Principal Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Local
- Not part of Function Classification System

Waterbody

Stream

Parcels (Non-Standardized)

Town Boundary

Slope

- <5%
- 5-15%
- 15-20%
- 20-25%
- >25%

1: 5,000

1in = 417 ft

1cm = 50 meters

NOTES

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833.0
 0 415.00 833.0 Feet
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