

TOWN of EAST MONTPELIER

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East Montpelier, VT
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(802) 223-3313 ext. 204

September 5, 2018

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

Re: East Montpelier Zoning Application #18-012

Dear Mr. Hall:

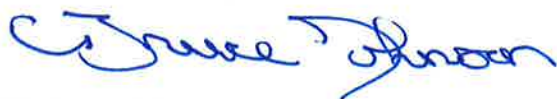
Please find enclosed the revised written decision of the East Montpelier Development Review Board approving the Fairmont Dairy, LLC subdivision application #18-012 as presented and removing the condition contained in the original June 8, 2018 decision. The revision reflected your decision to shift the access for Lot 3A to VT Rte. 14 S. No change was made to the subdivision plat.

Fairmont Dairy, LLC has the right to appeal this revised 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.

The original zoning permit issued on June 8, 2018 remains valid. The required mylar of the approved plat was filed for recording on June 11, 2018.

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**

REVISED 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.
6. The DRB decision was issued June 10, 2018. On July 6, 2018 Fairmont Dairy requested that the DRB reconsider its decision in light of new information regarding the planned access to Lot 3A. At its meeting on July 10, 2018 the DRB agreed to consider revising its decision if Fairmont Dairy received approval from the VT Agency of Transportation for an access to Lot 3A off of VT Rte. 14 S. VTTrans issued a Letter of Intent to permit the requested access use on August 23, 2018. The DRB scheduled the consideration of the request to alter for a September 4, 2018 hearing.

7. Fairmont Dairy LLC representative Kris Jurentkuff and Zoning Administrator Bruce Johnson appeared and participated in the September 4, 2018 hearing. There was no additional public comment.
8. The Board members who voted on this issue at the September 4, 2018 hearing were Kappel, Cueto, Lane, Dworkin, Hill, Welch, Watson, and Lange.

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 expected to be sold; Lot 3B is mostly farmland to be retained by Fairmont Dairy LLC. No development of either lot is currently contemplated.
6. At the time of the original hearing on June 5, 2018 the VT Agency of Transportation did not recognize any existing access on VT Rte. 14 S and Fairmont Dairy LLC had chosen not to apply to VTrans for a curb cut permit on VT Rte. 14 S to provide access to Lot 3A. The original DRB decision was premised on a stated understanding that Lot 3A would 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). The original decision contained a condition that Lot 3A would 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. The underlying understanding regarding the sale and merger turned out to be in error.
7. On August 23, 2018 the VT Agency of Transportation issued a Letter of Intent to allow access from VT Rte. 14 S to Lot 3A.

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.

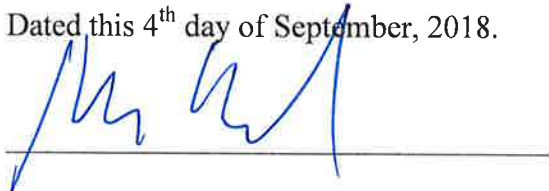
DECISION

By unanimous vote, the DRB authorizes a revised decision approving 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, 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) 476-0195 to speak to the state Permit Specialist before beginning any construction.

Dated this 4th day of September, 2018.



Steve Kappel -- Vice-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.