

# Town of Montgomery

## Development Review Board

### FINDINGS AND DECISION

Donald M Jr and Sandra C Crocker

### REQUEST FOR CONDITIONAL USE PERMIT AND APPROVAL OF LOTS ACCESSED BY RIGHT-OF-WAY

JANUARY 28, 2021

### INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by Donald M Jr and Sandra C Crocker for a **Conditional Use Permit for Planned Unit Development (PUD) of 3 residential lots: with remaining land open space Section 5.1 and request for Approval of lots accessed via Right-of-Way of record. Section 6.10(D) under the TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS.**
2. The application was received by the Zoning Administrator on **December 28, 2020.**
3. A **Public Hearing** was warned for **January 28, 2021**
4. Notice of the Hearing was posted on **January 7, 2021** at **Montgomery Town Post Office, Montgomery Village Post Office, Montgomery Public Safety Building, Montgomery Town Website** and published in **The St. Albans Messenger on January 8 or 11, 2021.**
5. Interested party status asserted by adjoining land owners: Richard Charnov, Ted Jacobs, Sarita Khan, Sonia Candrian, and Jason Haddick as prescribed by 24 V.S.A. Section 4465, and under the **TOWN OF MONTGOMERY ZONING BY-LAWS AND REGULATIONS, Article 9, interested person (b) a person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed.**
6. This application was considered by the Montgomery Development Review Board at a **Public Hearing on January 28, 2021, via Zoom.**
7. Present at the Hearing, via Zoom, were **Development Review Board Members: Parma Jewett: Chair, Lynda Cluba: Clerk, Suzanne Wilson, Merle VanGieson and Wendy Howard.** Also, present was **Ellen Fox, Zoning Administrator, adjoining land owners: Richard Charnov, Ted Jacobs, Sarita Khan, Sonia Candrian, Jason Haddick and Consulting Engineer: Roy Hango.**
8. At the outset of the **Hearing, Parma Jewett, Chair of The Development Review Board** afforded an opportunity for persons wishing to speak to take the oath. All parties wishing to offer testimony were sworn in.
9. The Chair also asked if any Board members felt they had a conflict of interest. No response.
10. The meeting was called to order at 6:42 pm

### FINDINGS

Based on the Application, sworn testimony, exhibits, and other evidence the **Development Review Board** makes the following findings:

1. The subject property is **160 acres, located off Route 242 at end of Cote Rd, in the Town of Montgomery, Vermont. Parcel ID #242.043X.**
2. This property is located in the **Rural Residential District** as described on the **Town of Montgomery Official Zoning Map** on record at Town of Montgomery Municipal Office and Section 3 of the **Town of Montgomery Zoning By-Laws and Regulations**
3. The application requires review under the following sections of the **Montgomery Zoning By-Laws:**
  - a. Section 5.1 Conditional Use Approval
  - b. Section 5.1 (E) 1-5 Review Standards
  - c. Section 5.1 (G) Conservation District Standards
  - d. Section 5.1 Table 5 – Application Requirements
  - e. Section 5.2 Planned Unit Development Approval
  - f. Section 6.10 (D) Access to lots without frontage

## Findings of Fact

1. The subject property is located in the Rural/Residential Zoning District off of Route 242 at the end of the Cote Rd. in Montgomery Center
2. Property consists of 160 acres accessed by Class 3 Town Road # 17 (Cote Rd)
3. Site will consist of 4 lots per a Project Location Plan provided by the applicants and prepared by Roy Hango, Consulting Engineer.
4. Applicants wish to create a Planned Unit Development containing 3 residential lots less than the required 4 acres, according to Montgomery Zoning By-laws in the Rural/Residential Zoning District, in order to conserve as much land as possible and not encroach on the woodlands surrounding the hay field.
5. The 3 lots for development would be in the first hay field and the remaining 151 acres would be put into a conservation easement preserved for the wildlife.
6. Each lot will be accessed by right of way.
7. Project plan includes location of right of way, size of lots and lot lines, location of septic, drilled wells, driveways and dwellings
8. Applicants have a forest plan in place and are currently enrolled in the Current Use program for the year 2021
9. Applicants have contacted Vermont Land Trust for information regarding a conservation easement but have not completed the process.
10. They have stated they will be responsible for the taxes on the total parcel.

## DECISION

Based on the findings, the Montgomery Development Review Board concludes that the request for Application for Conditional Use Permit for Planned Unit Development of (3) residential lots: with remaining land as open space and request for Approval of lots accessed by right of way is **APPROVED with the condition that the remaining 151.94 acres be put into conservation for perpetuity**

**Roll Call Vote: Parma, YES; Sue YES; Lynda YES; Wendy YES; Merle NO Motion passed 4-1.**

A copy of this decision shall be mailed to the Applicant by certified Mail, and a copy shall be mailed to every person or body appearing and having been heard at the Hearing, and the Clerk of Montgomery as a part of the Public Records.

An Interested Person may appeal a decision of the Development Review Board to the Environmental Division, in writing, within thirty days of the date the decision was issued.

If no appeal of the decision is filed within the thirty (30) day appeal period, all parties shall be bound by the decision and shall not thereafter contest it. Section 4472 (d).

Dated at Montgomery Center, Vermont, this 25th day of February 2021



Lynda Cluba, Clerk Montgomery Development Review Board

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