



# TOWN OF FRAMINGHAM

150 CONCORD STREET ▪ MEMORIAL BUILDING ▪ FRAMINGHAM, MA 01702-8325

## **Transfer of Development Rights By-Law Facts and Information Special Spring Town Meeting - 2016**

During the Special Spring Town Meeting, the Agricultural Advisory Committee, the Board of Selectmen, and the Planning Board proposed to amend the existing Transfer of Development Rights (TDR) By-Law and further amend the Zoning Map to include a TDR Overlay District. This document has been developed to provide information for Town Meeting Members, interested parties, and stakeholders in Framingham who wish to better understand the proposed TDR amendments. This document is comprised of three sections as follows:

1. Giving Parcel Information;
2. Receiving Parcel Information; and
3. Questions posed on May 16<sup>th</sup> at the Planning Board's Public Hearing on TDR, the May 18<sup>th</sup> TDR Brown Bag Lunch Event, and anticipated questions to be addressed on the Thursday, May 19, 2016 at the continued Planning Board TDR public hearing.

Please feel free to contact either the Community & Economic Development Office at (508) 532-5500 or the Planning Board Office at (508) 532-5450 for additional information, clarification, questions or comments.

### **Giving Parcel Information**

- **What is a Giving Parcel?**

Under Section I.E. of the Framingham Zoning By-Law a Giving Parcel is defined as

*A Developable Farm and/or Developable Open Space Parcel that is located within a Residential Zoning District and contains five or more buildable acres.*

- **Where are the Giving Parcels located?**

Any parcel of land with more than 5 acres of undeveloped land located within the Single Family Residential Zoning Districts (R-1, R-2, R-3, and R-4) and the General Residential (G) Zoning District is eligible to be considered as a Giving Parcel.

- **How many lots could be potentially used for the Transfer of Development Rights? What is the estimated square footage of Development Rights that could be potentially transferred from the Giving Parcels to the Receiving Parcels?**

It is estimated that there are approximately 57 potential Giving Parcels. Of these 57 potential Giving Parcels there are 15 that are enrolled in M.G.L. c. 61 or M.G.L. c. 61A which are programs protecting open space, forest lands, and agricultural lands. Based on this information there is roughly 4,023,500sf of Development Rights that could potentially be transferred from the Giving Parcel area to the Receiving Parcel areas. (Please note that a civil engineer would have to perform a land survey to arrive at a precise number of Giving Parcel Lots)



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Estimated Giving Parcel Information*		
Zoning District	Estimated Number of Development Lots	Estimated Number of Development Rights
R-4 Development Right Potential	393 Lots	2,554,500sf
R-3 Development Right Potential	189 Lots	1,134,000sf
R-2 Development Right Potential	0 Lots	0sf
R-1 Development Right Potential	67 Lots	335,000sf
G Development Right Potential	0 Lots	0sf

\*Estimated - based on wetlands and access - a land survey would need to be conducted to verify actual number of Giving Parcels

- What happens after the Development Rights are sold from a Giving Parcel?**  
Once the Development Rights have been sold from a Giving Parcel to a Receiving Parcel, the Giving Parcel has a Conservation Restriction<sup>1</sup> (CR) or Agricultural Preservation Restriction<sup>2</sup> (APR) placed on the land.
- Can a Giving Parcel owner sell the Development Rights and then sell the land?**  
Yes, a Giving Parcel owner can sell the Development Rights from his or her parcel and then sell the land to someone else. However, the land will remain as open space in accordance with the Conservation Restriction (CR) or the Agricultural Preservation Restriction (APR). Therefore, the right to subdivide and develop the land is forfeited.

### Receiving Parcel Information

- What is a Receiving Parcel?**  
Under Section I.E. of the Framingham Zoning By-Law a Receiving Parcel<sup>3</sup> is currently defined as follows:  
*A Receiving Parcel consisting of one or more contiguous parcels in one ownership throughout, or any combination of parcels of land consolidated under a joint development agreement where all such owners jointly apply for a TDR special permit, which has been designated as a Chapter 43D: Priority Development site: 1672 Worcester Road, 1800 Worcester Road, 1898RR Worcester Road, 1900R Worcester Road, 1900RR Worcester Road, 100 Crossing Blvd, 149 Crossing Blvd, 150 Crossing Blvd, 175 Crossing Blvd, 200*

<sup>1</sup> **Conservation Restriction (CR):** A restriction and agreement in perpetuity for the protection of Open Space, in accordance with M.G.L. c. 184, § 31. A CR is a legally binding set of restrictions that is monitored and enforced by the Massachusetts Department of Conservation Services, the Town’s Conservation Commission and/or a land trust.

<sup>2</sup> **Agricultural Preservation Restriction (APR):** A restriction and agreement in perpetuity with owners of an Active Farm Parcel, in accordance with M.G.L. c. 184, § 31. An APR is a legally binding set of restrictions that is monitored and enforced by the Massachusetts Department of Agricultural Resources, a town conservation commission and/or a land trust. Owners of Active Farms may voluntarily enter into these agreements by selling the APR for a negotiated price based on the appraised value of the restriction.

<sup>3</sup> Amendments to the Receiving Parcels are being proposed at the Special Town Meeting of May 24, 2016



*Crossing Blvd, 225 Crossing Blvd, 150 Gates Street, 100 Staples Drive, 200 Staples Drive, 400 Staples Drive, 500 Staples Drive, 740 Cochituate Road, 750 Cochituate Road, and 156 Speen Street, 0 Pleasant Street Connector, 9 Pleasant Street Connector, 15 Pleasant Street Connector, 10 California Ave, 11 California Ave, 40 California Ave, 1 The Mountain Road, 5 The Mountain Road, 100 The Mountain Road, 0 Pennsylvania Ave, 100 Pennsylvania Ave, 105 Pennsylvania Ave, 115 Pennsylvania Ave, 125 Pennsylvania Ave, 135 Pennsylvania Ave, 137 Pennsylvania Ave, 145 Pennsylvania Ave, 0 New York Ave RR, 1 New York Ave, 2 New York Ave, 31 New York Ave, 33 New York Ave, 45 New York Ave, 47 New York Ave, 49 New York Ave, 51 New York Ave, 55 New York Ave, 74 New York Ave, 84 New York Ave, 86 New York Ave, 86R New York Ave, 88 New York Ave, and 92 New York Ave.*

- **How many existing Receiving Parcels are there?**

There is a total of 52 existing Receiving Parcels within the Town.

- **What is the existing Receiving Parcels zoning classification? What are the underlying zoning districts for the proposed TDR Overlay District?**

The existing Receiving Parcels are zoned General Manufacturing (M), Light Manufacturing (M-1), and Technology Park (TP). The proposed TDR West Overlay District consists of Technology Park (TP) Zoning District and Light Manufacturing (M-1)<sup>4</sup>. The area proposed in the TDR East Overlay consists of General Manufacturing (M), Light Manufacturing (M-1), and Business (B).

- **What is the total area of the West TDR Overlay District?**

The proposed West TDR Overlay District included the existing Technology Park (TP) Zoning District and 9/90 Corporate Center shown in the map. The total land area of the TP Zoning District is 190.267 acres. The total land area of the 9/90 Corporate Center is 143.817 acres.

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<sup>4</sup> Some of the existing Receiving Parcels within 9/90 Corporate Center along Route 9/Worcester Road are split zoned – a majority of the parcel is located within the M-1 Zoning District, while a small portion of the land is located within the Business (B) Zoning District. Please noted the area within the B Zoning District is limited and only uses permitted with the zoning district are permitted, unless a variance is granted.



- What is the total area of the existing Receiving Parcels within East Framingham?**  
 The existing land area at the TJX Companies campus is 20.902 acres.
- What is the total area of the East TDR Overlay District (shown in Green)? What is the total area of the East TDR Overlay District (shown in Yellow)?**  
 At the Monday, May 12, 2016 Planning Board public hearing the previously proposed East Overlay District parcels were decreased and split into 2 categories. Category 1 consists of parcels that were agreed upon on at the May 16, 2016 TDR Public Hearing. Category 2 consists of parcels that require additional information.

The total land area shown in Green is 231.3213 acres. The total land area shown in Yellow is roughly 133.2159 acres. Green and Yellow area has been identified in the map below.



- What is the existing height permitted in the General Manufacturing (M), Light Manufacturing (M-1), Technology Park (TP), and Business (B) Zoning Districts as compared with the proposed use of TDR.

Zoning District	Principle Use	Existing Height	Height with use of the proposed TDR
General Manufacturing (M)	Any non-residential use	6 Floors/ 80'	10 Floors
Light Manufacturing (M-1)	Any non-residential use	6 Floors/ 80'	10 Floors
	Any residential use	3 Floors/40'	7 Floors
Technology Park (TP)	Any Principal Use	6 Floors/100'	10 Floors
Business (B)	Any non-residential use	6 Floors/ 80'	10 Floors
	Any residential use	3 Floors/40'	7 Floors



- **What is the existing Floor Area Ratio (FAR) permitted in the General Manufacturing (M), Light Manufacturing (M-1), Technology Park (TP), and Business (B) Zoning Districts as compared with the proposed use of TDR.**

Zoning District	Principle Use	Existing Floor Area Ratio (FAR)	Height with use of the proposed TDR
<b>General Manufacturing (M)</b>	Any non-residential use	0.32	1.0
<b>Light Manufacturing (M-1)</b>	Any non-residential use	0.32	1.0
	Any residential use	N/A	N/A
<b>Technology Park (TP)</b>	Any Principal Use	1.0 <sup>5</sup>	1.0
<b>Business (B)</b>	Any non-residential use	0.32	1.0
	Any residential use	N/A	N/A

**Questions asked at the May 16<sup>th</sup> TDR Public Hearing and the May 18<sup>th</sup> TDR Brown Bag Lunch Event**

Anticipated questions that will be addressed at the Thursday, May 19, 2016 continued Planning Board TDR public hearing include the following:

- **If a Receiving Parcel is permitted a use variance, can they still use TDR?**
- **Can uses variances be prohibited in an overlay district, but not the underlying zoning district?**
- **Who are the co-sponsors of this article?**  
The Agricultural Advisory Committee, the Board of Selectmen, and the Planning Board are the co-sponsors of the Articles related to TDR.
- **Why is the Agricultural Advisory Committee not listed as a co-sponsor?**
- **How are people notified?**
- **Should the mixed-use be addressed separately from the other Receiving Parcels?**
- **What are the potential traffic impacts related to the expansion of TDR?**

**The role of TDR and traffic impacts should be considered from two perspectives. With TDR amendments adopted, implemented, development will be encouraged in areas where substantial development – and supporting infrastructure – already exists. Also, receiving parcel projects remain subject to Planning Board review, for issues including traffic and mitigation. Without the proposed TDR amendments, development in open space areas may increase, with traffic increases that may not be supported by existing infrastructure.**

<sup>5</sup> In accordance with Section II.F.5 of the Framingham Zoning By-Law – a project within the Technology Park (TP) Zoning District can currently receive a special permit for an FAR of 1.0. The base FAR is dependent upon use and ranges from 0.25-0.8. Therefore, the max FAR in the TP Zoning District would be 1.0.



- **What are the Pros and Cons of the proposed TDR expansion?**

Any assessment of the TDR expansion should be considered in context of two realities. First, development will occur in Framingham. Second, the current TDR bylaw is not working – proponents are not purchasing TDRs and putting them to use in Receiving Parcels. Any assessment of impacts should also account for open space actually preserved.

Key “pros” include:

- Increased prospects TDR purchase for use in Receiving Parcels
- Increased prospects for protecting open space and land use diversity.
- Another tool to encourage development where the Town wants it – and discourage development where the Town does not want it
- New investment boosting the Town’s visibility – and prospects for follow-on private investment
- Increase the effectiveness of an option that involves no cost to the Town.

Potential “cons” include:

- Infrastructure. Large projects in receiving parcels may create new traffic, water, or wastewater requirements. However, these issues are assessed through Planning Board review, with mitigation requirements imposed as needed.
- Town services. Research conducted supporting Central Business District amendments suggest service impacts would be limited:
  - Fire. As the Town learned through the CB amendments process, projects with height include advanced fire controls and may not generate additional firefighter – or equipment requirements.
  - Police. Additional police staffing & equipment requirements result from overall increases in the Town’s population.
  - Schools. Multifamily use, in context of mixed use, will likely attract few tenants with school-aged children. Projects with substantial height and limited nearby open space provide few recreation opportunities – and are less attractive to this demographic.

- **Will the small businesses along Cochituate Road be pushed out by large scale development?**

- **Why hasn’t TDR been used to date?**

TDR hasn’t been used to date, for two basic reasons. First, the original bylaw defined a limited set of Receiving Parcels, limiting potential TDR demand. Second, the region’s commercial real estate market is still recovering from the 2008 downturn and remains weak. Regionally, there remains substantial empty office space; the market must absorb much of this space before demand for substantial new projects emerge.



- **How does the Master Land Use Plan address the increase in development, specifically height and FAR?**

- **Will the increase in height create shadows?**

Large natural features and human-built structures generate shadows. The extent to which these shadows impact nearby commercial or residential districts depends on many factors, including foundation height, building height, and location.

#### **Other communities that have TDR**

- Groton, MA
- Hadley, MA
- Hatfield, MA
- Montague, MA
- Northampton, MA
- Falmouth, MA
- Plymouth, MA
- Raynham, MA
- Barnstable County, MA
- Alewife (Cambridge) – Alewife Transfer of Development Rights (TDR) Districts, Cambridge, MA
- Newington, NH
- Hopkinton, NH
- Hudson, NH
- Plymouth, NH
- Montgomery Country, Maryland
- New Jersey Pinelands
- King County, WA
- Davis, CA
- Boulder County, CO
- Alachua County, FL
- Calvert County, MD
- Cecil County, MD