

Framingham Planning Board

Memorial Building ▪ Room 205 ▪ 150 Concord Street
 Framingham, MA 01702-8373
 (508) 532-5450 ▪ planning.board@framinghamma.gov

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**Planning Board Members:**

Christine Long, Chair
 Lewis Colten, Vice Chair
 Victor Ortiz, Clerk
 Thomas F. Mahoney
 Stephanie Mercandetti

**DECISION OF THE FRAMINGHAM PLANNING BOARD
 ON THE APPLICATION OF D.W. STEPHAN, TRUSTEE OF STEPHAN FAMILY REALTY TRUST
 FOR THE PROPERTIES LOCATED AT 1062 EDMANDS ROAD**

DECISION DATED NOVEMBER 7, 2016

THIS DECISION WAS GRANTED UNDER THE OCTOBER 2015 (APRIL 2016 PENDING ATTORNEY GENERAL APPROVAL)

FRAMINGHAM ZONING BY-LAW

General Property Information

Project Number: PB-024-16
 Property Address: 1062 Edmands Road
 Assessor's Information: 033-14-1194-000
 Zoning District: Single Family Residential (R-4)

Application Information

Application(s): Transfer of Development Right Yield Plan - Giving Parcel Determination
 Sections of the Framingham Zoning By-Law under review: Section V.O
 Date application(s) were filed with the Planning Board: October 4, 2016
 Date application(s) were filed with the Town Clerk: October 4, 2016

General Project Contact Information

Applicant Name: D.W. Stephan, Trustee of Stephan Family Realty Trust
 Applicant Address: 1062 Edmands Road, Framingham, MA 01701
 Project Contact Name: Connorstone Engineering, ATTN: George Connors
 Engineer Company: Connorstone Engineering, Inc., Southwest Cutoff, Suite 7, Northborough, MA 01532

Legal Ad & Public Hearing Information

MetroWest Daily News Run dates of the Legal Ad: (14 days prior) October 10, 2016 and (7 days prior) October 17, 2016
 Date of abutter/7 Abutting municipality/parties of interest mailing: October 04, 2016, re-sent on October 21, 2016
 Date of opening public hearing: October 27, 2016
 Date(s) of continued public hearings: November 7, 2016
 Applicant's Representatives in attendance at the Public Hearing(s): Attorney Arthur White, Benjamin & White, P.C and Attorney George Connors, Connorstone Engineering, Inc.
 Planning Board members in attendance at the public hearing(s): Christine Long, Chair; Lewis Colten (absent on November 7, 2016), Vice-Chair; Victor Ortiz, Clerk; Thomas Mahoney; and Stephanie Mercandetti

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Planning Board Approval Information

Date of the TDR Yield Plan: August 12, 2016, revised November 7, 2016

PROJECT DESCRIPTION

On October 4, 2016, the Applicant submitted a Transfer of Development Right Yield Plan to the Planning Board for review and a determination as to the number of building lots permitted by-right, in accordance with Section V.O Transfer of Development Rights (TDR) By-Law of the Framingham Zoning By-Law. The number of lots proposed by the Applicant by-right is 50 lots, which would allow a total of 325,000sf of Development Rights to be transferred from the property to a Receiving Parcel.

The number of lots determined by the Planning Board for the purposes of Development Rights under the TDR By-Law is only for the purposes of determining how many Development Rights can be transferred from the property to a Receiving Parcel. Therefore, if an applicant were to develop the lots by a conventional subdivision, then the applicant would be required to go through the Preliminary Subdivision Plan Review and the Definitive Subdivision Plan Review; a Definitive Subdivision Plan Review; or an Agricultural Preservation Development, Section V.M of the Framingham Zoning By-Law; Open Space Cluster Development, Section V.L of the Framingham Zoning By-Law; or any applicable By-Law.

TECHNICAL REVIEW TEAM MEETING

On October 6, 2016, the Technical Review Team (TRT) reviewed the project at 1062 Edmands Road. A summary of the Technical Review Team meeting can be found in the electronic file and the hard copy paper file for the project.

Technical Review Team Members Present: Raphaela Morais-Peroba, Planning Board; Amanda Loomis, Planning Board; Michael Tusino, Building Inspections; Keith Strange, Police Department; Tam Nguyen, Department of Public Works, Engineering; Marianne Iarossi, Community & Economic Development; Rob McArthur, Conservation Commission; Mark Leporati, Fire Department; and Joseph Mazzola, Fire Department

Present for the Applicant: Attorney Arthur White of Benjamin & White, P.C and Attorney George Connorstone, Connorstone Engineering, Inc.

HEARING

The Framingham Planning Board held a total of two public hearings during the review of the Project located at 1062 Edmands Road. Framingham Planning Board Members present during the public hearings held for the Project were Christine Long, Chair; Lewis Colten (absent on November 7, 2016), Vice-chair; Victor Ortiz, Clerk; Thomas Mahoney; and Stephanie Mercandetti. During the course of the public hearings, the following individuals appeared on behalf of the Applicant: Attorney Arthur White of Benjamin & White, P.C and Attorney George Connorstone, Connorstone Engineering, Inc.

Summary of Meeting Minutes

During the public hearing process Attorney White and Attorney Connors presented the TDR Yield Plan to the Planning Board. The August 12, 2016 TDR Yield Plan presented 49 lots. Based on

comments from the public hearing and staff the Applicant's project team revised the TDR Yield Plan and was able to establish 50 lots by-right.

During the public hearing process, the Planning Board requested additional information and/or clarification regarding the following items:

- Christine Long requested clarification as to how the project will connect to Angelica Drive. Attorney White stated that there is a house that is currently on the market that if purchased by the applicant could provide access in addition to a town easement. Ms. Long further asked for a comparison of the previous subdivision plan of 61 lots (dated September 17, 1997) to the plan being presented showing 49 buildable lots (August 12, 2016).
- Thomas Mahoney stated his concerns with the wetland lines which are from 1997, which could have changed since 1997, thereby changing the lot count. Attorney Connors explained the marriage of the two plans as presented to the Planning Board for the purposes of determining a TDR Yield Plan.
- Stephanie Mercandetti requested clarification regarding the wetland delineation. Ms. Mercandetti stated that she wants to be sure of the validity of the number of lots.
- Lewis Colten requested information as to whether there is currently a Receiver for the Development Rights. Attorney White stated that there is not a Receiver at this point.

During the course of the public hearing process the Planning Board took under advisement all information received from members of the public that provided input during the review of this Project. The Planning Board arrived at this Decision based on the Framingham Zoning By-law, information submitted by the Applicant, comments from town boards and officials and members of the public. Findings made from the application and public hearing process resulted in the development of the conditions contained within this Decision.

FINDINGS

Having reviewed the application, including all plans and reports filed by the Applicant and its representatives; having considered the correspondence from the Fire Department, the Police Department, Department of Inspectional Services (Building & Wire), the Department of Community & Economic Development, the Conservation Commission, and the Department of Public Works within the Town of Framingham; having considered testimony from members of the public; and having viewed the site, the Planning Board determines that the TDR Yield Plan complies with all applicable provisions of the Framingham Zoning By-Law, including the requirements of Sections V.O. of the Framingham Zoning By-Law. Specifically, the Planning Board makes the following findings:

1. The total area of the property located at 1062 Edmands Road is 111.978 acres (4,877,765sf); with a total of 7.2 acres (314,420sf) of land classified as Moderate Slope; and a total of 34.9 acres (1,518,875sf) of land classified as wetlands.
2. The development of the "Concept Yield Plan" for Eastleigh Farms dated August 12, 2016 was prepared solely for the purposes of depicting the number of residential lots that could be configured by-right on the property located at 1062 Edmands Road. The Applicant understands that other plans and documentation would have to be submitted to and approved by multiple

municipal agencies and boards as part of an approval process for construction as stated in the letter from Vito Colonna, P.E., Connorstone Engineering, Inc., Subject: Development Transfer Rights (TDR), Eastleigh Farms, Edmands Road, Framingham, MA, dated November 3, 2016.

3. The August 12, 2016 TDR Yield Plan presents a total of 49 lots. The revised November 7, 2016 TDR Yield Plan presents a total of 50 lots.
4. The Single Family Zoning District allows for 6,500sf per Giving Parcel lot. Therefore, the property yields a total of 325,000sf of Development Rights.
5. The number of lots, as determined by the TDR Yield Plan is not considered as developable lots for construction but is being determined merely to provide a possible yield plan for transferring rights to development elsewhere. The owner/applicant/developer would need to apply for a Preliminary Subdivision Review Plan and a Definitive Subdivision Review Plan; or a Definitive Subdivision Review Plan; or an Agricultural Preservation Development By-Law (Section V.M of the Framingham Zoning By-Law) or the Open Space Cluster Development By-Law (Section V.L of the Framingham Zoning By-Law); or any other relevant zoning.
6. Upon sale of the Development Rights, whether the entire parcel or a portion thereof shall be placed under an Agricultural Preservation Restriction (APR) and/or Conservation Restriction (CR) in accordance with the Section V.O. Transfer of Development Rights By-Law of the Framingham Zoning By-Law.
7. The Concept Yield Plan as prepared by Connorstone Engineering, Inc. dated August 12, 2016 shows a connection to Walkers Way. If the property at 1062 Edmands Road were to be developed, the Applicant would have to take appropriate steps to acquire the additional property on Walker's Way or Angelica Drive as stated in the letter from Attorney Arthur White, Re: Transfer of Development Rights Yield Plan, 1062 Edmands Road (Eastleigh Farm), dated November 7, 2016.

CONDITIONS

1. Upon Development Rights being sold from the property located at 1062 Grove Street, the Applicant shall place the relevant parcels/lots under an Agricultural Preservation Restriction and/or Conservation Restriction in accordance with M.G.L. c. 184, Section 32 and Section V.O Transfer of Development Rights By-Law of the Framingham Zoning By-Law.
2. If all of the Development Rights are sold to one Receiving Parcel then the entire Developable Farm shall be placed under an APR and/or CR in perpetuity. The entire Giving Parcel shall include all areas identified as non-buildable areas which include wetlands, wetland buffers, and Moderate Slopes, in addition to the buildable lots as identified in the TDR Yield Plan.
3. If a portion of the Development Rights are sold to a Receiving Parcel or the entire Developable Farm is sold to multiple Receiving Parcels then the Developable Farm associated with the square footage to be transferred shall be placed under an APR and/or CR. This shall include all building lot areas associated with the residential building unit square footage, infrastructure and roadways associated with the building lots and all non-buildable areas including wetlands, wetland buffers, and Moderate Slopes as identified in the TDR Yield Plan. Wherever a fraction

of a Residential Building Size is being transferred to a Receiving Parcel occurs, said fraction shall be rounded up to the nearest whole number to be transferred. The portion of the land to be placed under an APR and/or CR shall be selected with the intent of creating contiguous tracks of land and where possible shall be contiguous with abutting farm and open space lands.

4. If a portion of the Development Rights is sold, then the Applicant shall provide the Planning Board with a copy of the TDR Yield Plan that denotes the Lots that have been placed under an Agricultural Preservation Restriction and/or Conservation Restriction.
5. If the land is to remain as an agricultural use, then the farm shall be allowed to construct structures associated with the operations of the farm on up to 5 percent of the APR area. Structures associated with the farm may include: barns, farm store, housing for farm help, etc.
6. Any modifications to the TDR Yield Plan shall be submitted to the Planning Board denoting the modifications on the TDR Yield Plan in addition to a summary of the modifications.

VOTE

The Planning Board voted four in favor, zero opposed, and zero in abstention to grant approval of the Transfer of Development Rights (TDR) Yield Plan pursuant to Section V.O of the Framingham Zoning By-Law. Said TDR Yield Plan dated August 12, 2016, revised November 7, 2016 depicts a total of 50 lots for the purposes of TDR Development Rights transfer and not for the purposes of construction. The property is located at 1062 Edmands Road in the Single Family Residential (R-4) Zoning District.

Transfer of Development Rights Yield Plan – Receiving Parcel Lot Determination

Christine Long.....yes
Victor Ortiz.....yes
Thomas Mahoney.....yes
Stephanie Mercandetti.....yes

By: _____
Christine Long, Chair, Framingham Planning Board
Date of Signature: November 7, 2016

EXHIBITS

Not attached unless indicated

The Applicant has filed with the Planning Board various plans and reports required under the requirements of the Framingham Zoning By-Laws and Framingham General By-Laws. During the review process, the Applicant and its professional consultants also submitted revisions to plans in response to requests by the Planning Board and by the various Town Departments that reviewed the Project. All of these plans, reports and correspondence are contained in the Planning Board's files and are hereby incorporated into this Decision by reference.

1. Form M – Transfer of Development Rights Yield Plan for the property at 1062 Edmands Road, project number PB-024-16, stamped with the Town Clerk on October 4, 2016
2. Site Plan “Preliminary” Lot Layout Sketch of Land in Framingham, Mass. Prepared by MacCarthy & Sullivan Engineering, Inc. dated September 17, 1997
3. Transfer of Development Rights Eastleigh Farms in Framingham, MA – Concept Yield Plan, prepared by Vito Colonna, P.E., Connorstone Engineering, Inc., dated August 12, 2016
4. Letter from the Law Offices of Benjamin & White, P.C., Re: Transfer of Development Rights Yield Plan, 1062 Edmands Road (Eastleigh Farms), dated November 7, 2016, received on November 7, 2016
5. Letter from Vito Colonna, P.E., Connorstone Engineering, Inc., Subject: Development Transfer Rights (TDR), Eastleigh Farms, Edmands Road, Framingham, MA, dated November 3, 2016, received on November 7, 2016
6. Letter from Three Oaks Environmental, LLC, dated November 3, 2016, received on November 7, 2016
7. Maryann DiPinto, Three Oaks Environmental, LLC, resume, received on November 7, 2016
8. Google Maps, 1062 Edmands Road Vernal Pools Assessment, received on November 7, 2016
9. Letter of response from George Connors, Counselor at Law, Re: Eastleigh Farms TDR, dated November 7, 2016, received on November 7, 2016

The Planning Board received correspondence various Town Departments who review the project. The aforesaid correspondence is contained in the Planning Board files and is incorporated herein by reference.

1. Legal Ad for the Property at 1062 Edmands Road, stamped with the Town Clerk on October 4, 2016, and published in the MetroWest Daily Newspaper on Monday, October 10, 2016 and Monday, October 17, 2016
2. Technical Review Team – Technical Review Team Meeting Report for 1062 Edmands Road, date of the meeting: October 6, 2016
3. Letter of comment from the Department of Public Works, Re: Transfer Development Rights Eastleigh Farms Training – 1062 Edmands Road, Framingham, dated October 24, 2016
4. Letter of comment from the Conservation Commission, Subject: 1062 Edmands Road – Concept Yield Plan – Conservation Review, dated October 27, 2016
5. Correspondence received from ACCELA, from the Department of Community & Economic Development, received on October 31, 2016

6. Correspondence received from ACCELA, from the Police Department, received on October 11, 2016
7. Correspondence received from ACCELA, from the Department of Inspectional Services (Building Department), received on October 7, 2016
8. Correspondence received from ACCELA, from the Fire Department, received on October 18, 2016