

**Staff Report**



**Zoning and  
Land Regulation  
Committee**

**Questions? Contact:**

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*Public Hearing:* **May 26, 2020**

*Zoning Amendment Requested:*

**RM-16 (Rural Mixed-Use, 16 acres and up) District TO RR-2 (Rural Residential, 2 to 4 acres) District**

*Size:* **2.8 Acres**

*Survey Required:* **Yes**

*Reason for the request:*

**Proposed transfer of a development right to allow division of an existing residential lot to create an additional residential lot.**

**Petition 11557**

*Town/Section:*

**RUTLAND, Section 35**

*Applicant*

**KRENZ LIVING TR**

*Address:*

**9 SHADY WILLOW ROAD**



**DESCRIPTION:** Applicant proposes to divide the ~20 acre RM-16 zoned property, resulting in separation of the existing residence onto a smaller, 3.75 acre RR-2 zoned parcel, and creation of a new buildable RM-16 zoned parcel. The applicant wishes to sell the existing house and build a smaller, new house on the RM-16 zoned parcel. The net addition of one new building site would be accomplished by transferring a development right from the ~200 acre William Nelson farm located in sections 27 and 33 of the town of Rutland. TDR-R and TDR-S overlay zoning is requested for the respective RM-16 zoned receiving and FP-35 zoned sending properties.

**OBSERVATIONS:** Existing land uses of the subject property are rural residential and open space. The perennial Frogpond Creek, with associated floodplain and wetland areas, transects portions of the property. The green shaded area on the map above corresponds to the floodplain, wetland, and 75' wetland buffer area. Surrounding land uses include agriculture and open space. An existing accessory building would be separated onto the RM-16 property. There are two residences located within ½ mile of the property.

**TOWN PLAN:** The property is located in the town's agricultural preservation area.

**RESOURCE PROTECTION:** Approximately 70% of the property is located in resource protection corridor associated with the creek and corresponding floodplain, wetland, and 75' wetland buffer areas. There appears to be a several acre area of upland on the proposed RM-16 parcel outside of the environmentally sensitive areas that would be accommodate the planned residential development.

**STAFF:** Town of Rutland comprehensive plan policies allow for consideration of transfers of development rights on a “case by case” basis. Proposed transfers should further the town’s farmland preservation goals and objectives, which seek to protect large tracts of productive farmland. The ~200 acre Nelson farm is located along Old Stage Road approximately 1.7 miles to the Northwest of the subject property and remains eligible for 4 density units (a/k/a “splits”). The farm consists of approximately 90% cropland and 10% lowland / wetland. The Nelson farm previously served as a “sending” area in 2016, when one density unit was transferred to the Carr property.

If the present petition is approved, the proposed transfer would result in the preservation of an additional 35 acres of land, for a total of 70 of the 200 acre farm. See map of proposed 70 acre sending property at right.

Allowing the proposed transfer appears to forward the town’s objectives of preserving large tracts of farmland. Pending any concerns expressed by the town in its review, or by neighboring residents at the public hearing, the proposal appears reasonably consistent with town plan policies.



Staff recommends approval with the following conditions:

1. Applicant shall record a notice document on the RM-16 zoned property indicating that the lot was created as a result of a transfer of development rights.
2. The approximate extent of the sensitive environmental features (floodplain, wetland / 75’ wetland buffer) shall be delineated on the final CSM. Any new structural development shall be located outside of the environmentally sensitive areas of the property.
3. The boundary of the proposed RR-2 parcel shall be amended to include the replacement septic area on the lot.
4. The TDR-S Sending area overlay zoning district shall be applied to the ~200 acre Nelson farm (tax parcels: 051034285005, 051033180003, 051027395007, 051027390002, 051027385009, and 051027380004).
5. A notice document shall be recorded on the ~200 acre Nelson farm indicating that 3 possible splits remain available.
6. TDR sending property owner (Nelson) shall record a deed restriction on a minimum of 70 acres of the property prohibiting nonfarm development in accordance with town plan policies.

**TOWN:** The Town Board approved the petition conditioned upon the appropriate documents being recorded with the Register of Deeds to document the transfer of development rights.