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MEMO

DATE: March 20, 2024

TO: Windham Town Council
THROUGH: Barry Tibbetts, Town Manager
FROM: Amanda Lessard, Planning Director
Cc: Windham Planning Board

RE: Planning Board Recommendation – LD 2003 Compliance: #24-09 Comp Plan Amendment & #24-10 Chapter 120 Land Use Ordinance and Map Amendment

Overview

At the Planning Board meeting on March 11, 2024 ([PB 24-013](#) and [PB-014](#)), public hearings were held on the attached proposed amendment to the 2016 Comprehensive Plan, Future Land Use Map and Chapter 120 Land Use Ordinance, Article 3 Definitions, Article 4 Zoning Districts, and Article 5 Performance Standards, related to affordable housing developments and Amendment to the Official Land Use Map. These amendments are necessary in order to comply with State Law LD 2003. The amendments had previously been unanimously supported by the Long Range Planning Committee (LRPC) and the Town Council Ordinance Committee.

State Law [LD 2003](#), An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, was enacted in April 2022 to facilitate the creation of additional housing units. The law requires municipalities to allow certain types of housing development and densities based on a location in areas designated as Growth Areas in a Comprehensive Plan. During 2023 the Town Council adopted amendments to the Land Use Ordinance but there are a few additional actions required for the Town to fully comply with the law: Comprehensive Plan Amendment, Land Use Map and Ordinance Amendments.

Comprehensive Plan Amendment

LD 2003 requires that the Growth and Rural Areas defined in Windham's [2016 Comprehensive Plan](#) Future Land Use Map now determine density allowances. The map created in 2016 has loosely-defined boundaries that do not align with the town's zoning.

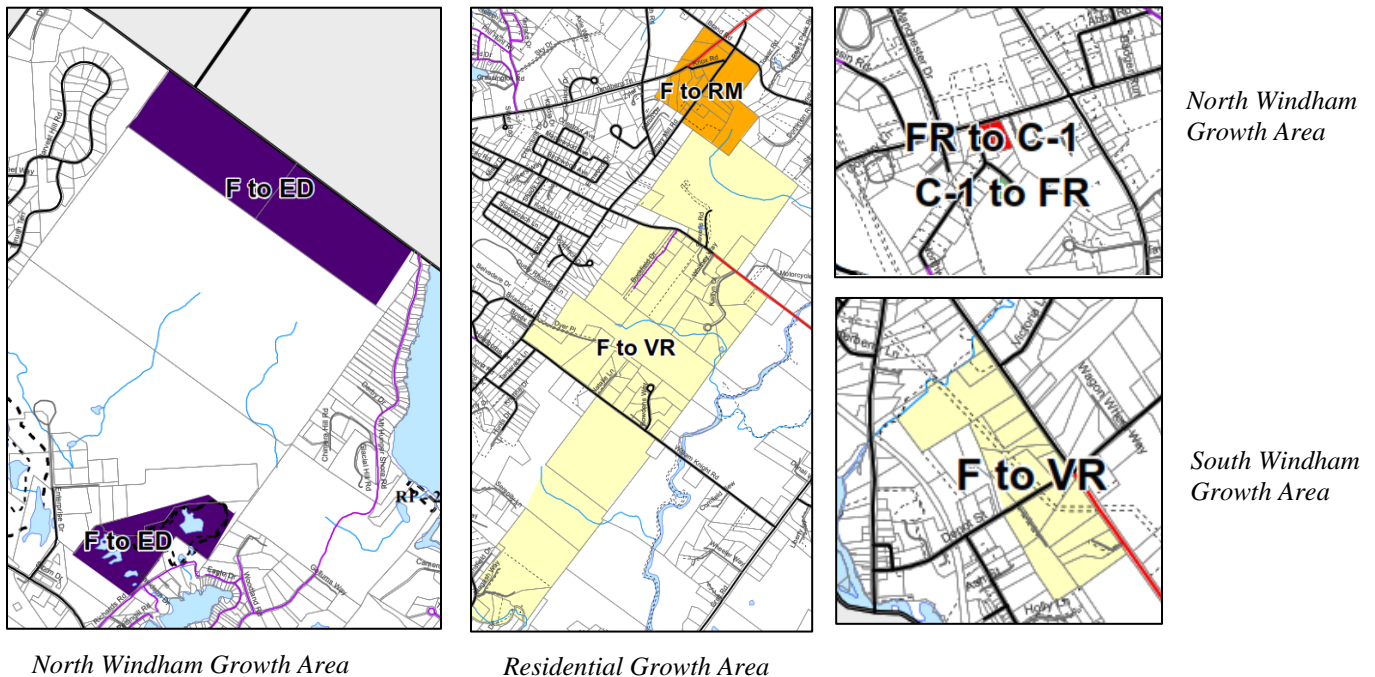
Per the State Statute for Comprehensive Plans, there are 3 growth categories a community can use on their Future Land Use Map: Growth Areas (where growth is to be expected and encouraged); Transitional Areas (established neighborhoods and where further development will not necessarily be encouraged or discouraged); and Rural Areas (where future development is to be directed away from, but development can occur).

In order to clarify growth area boundaries, staff reviewed existing zoning boundaries, property boundaries, public infrastructure (roads and utilities), existing conditions and future development potential. Staff proposes a new map that reduces the size of growth areas and expands the transitional areas around Route 302. This minor change to the Future Land Use Map is intended to not substantively change the growth

areas that were informed by the public outreach efforts made to develop the 2016 plan that supports the community’s core values and vision for Windham in 2030. See attached proposed amendment and maps comparing the existing and the proposed Future Land Use Map.

Land Use Map Amendment

While staff recommends reductions in areas designated as Growth Areas, there are a few areas that remain in the designated Growth Areas that require changes to the current zoning to allow for the housing development required under LD 2003. Staff proposes to rezone 104 parcels, totaling 823 acres, to align the zoning with the proposed Future Land Use Map relative to the North Windham Growth Area, Residential Growth Area and South Windham Growth Area shown here:



The change in the land area zoned can be seen in an attached document.

Tables comparing the district requirements (lot size, frontage, density, setbacks) and uses can be viewed on the Town’s [eCode website](#) to show the impacts of the proposed zoning amendment.

Land Use Ordinance Amendment: Affordable Housing

After the Town’s adoption of performance standards for Affordable Housing Development (§ 120-501.1), the legislature amended the statute to revise the definition of affordable housing development and the Council adopted the new zoning districts for the Windham Center Growth Area. An amendment to the Land Use Ordinance is proposed to Article 3 Definitions, Article 4 Zoning Districts, and Article 5 Performance Standards to amend the definition of Affordable Housing Development to align with the statutory definition and makes those standards eligible to developments in the Windham Center (WC) and Village Residential (VR) Districts.

Planning Board Review and Recommendation

Two members of the public provided testimony in opposition to the proposed amendments to the Comp Plan and Land Use Map, one member of the public neither for nor against during the Planning Board’s public hearing held on March 11, 2024. The comments in opposition to the proposal were specifically focused on the Residential Growth Area and the amendment to the map to change the zoning from the Farm (F) District to the Village Residential (VR) District as this area has a number of existing farms and there was concern about changing the permitted use would reduce the ability of owners to keep animals, sell agricultural products, and produce their own food. There was concern that increased side and rear setback would be problematic for existing buildings. They supported increasing the density requirements without changing the allowed uses. The final comment was a request for the definition of Affordable Housing.

The Board discussed the requirements of the law, the goal to have the Comp Plan align with the zoning, and the need for housing. The Board questioned how the Growth Areas were determined, if the state required a certain amount of designated Growth Areas, and the implications of not rezoning a growth area. The Board questioned if there were any existing piggeries, poultry facilities or other existing uses that would be made nonconforming and were told there were none – agriculture is a permitted use in F and VR. The Board also commented on the significant amount of growth and changes to the laws that have occurred since the Comprehensive Plan was adopted and the public may have a different opinion of where residential development should occur. Following discussion of the proposed changes, the Board made the following motion:

To recommend with comment approval of all the changes proposed (amendment to the 2016 Comprehensive Plan Future Land Use Map, Chapter 120 Land Use Ordinance and Official Land Use Map) with the following changes: To not rezone the F to VR area and shrink the residential growth area. The Board commented that the Council should consider and update/review of the Comprehensive Plan.

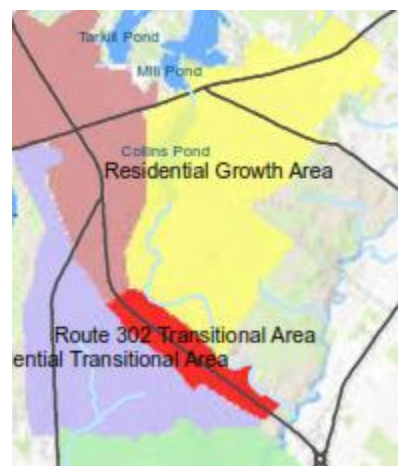
Motion: Everett Krikken
2nd: Rick Yost

Vote:7-0

Staff notes that if the Town Council wants to consider the Planning Board recommendation to further amend the Comprehensive Plan and Land Use Map, the revision must return to the Planning Board for a public hearing and recommendation. The Board’s recommendation would eliminate the “F to VR” area in the Land Use Map Amendment middle graphic above (59 parcels, 500.33 acres) and make the following changes to the Future Land Use Map:



Proposed Residential Growth Area



Planning Board Recommended Residential Growth Area