

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

## MEMO

DATE: November 17, 2017

TO: Tony Plante, Town Manager

FROM: Amanda Lessard, Planner, on behalf of the Planning Board *AL*

Cc: Ben Smith, Director of Planning  
Planning Board

Dustin Roma, P.E., DM Roma Consulting Engineers

RE: Planning Board Recommendation: Zoning Map Amendment Request – River Road,  
Tax Map 5; Lot 1-1  
Farm Residential (FR) to Medium-Density Residential (RM)

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At the Planning Board's meeting on November 13, 2017, a public hearing was held on Bryan Mill's request to rezone a portion of a 5.98 acre undeveloped property on River Road, from Farm Residential (FR) to Medium-Density Residential (RM). The property is located in South Windham, between Route 202 and Gambo Road, identified on Tax Map 5; Lot 1-1.

One member of the public expressed concern that allowing additional multi-family development would cause additional traffic on River Road when the intersection with Route 202 was already unsafe.

Following discussion of the proposed changes, the Board made the following motion:

To recommend approval of the proposed zoning map amendment to rezone a portion of the property identified as Tax Map 5; Lot 1-1, from FR to RM.

Motion: Nick Kalogerakis

2<sup>nd</sup>: Bill Walker

Vote: 3-1 (Margaret Pinchbeck opposed)

Based on discussion at the meeting, the Board supported additional residential development at this location considering there would be no impact on any existing agricultural uses, the surrounding area was already densely developed, and that it was appropriate for the zoning to follow the property lines. The dissenting vote was due to concerns that rather than the rezoning of one parcel, consideration should be given to the larger area and making sure that the overall zoning was consistent with implementation of the recently adopted Comprehensive Plan.

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

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## MEMO

DATE: November 6, 2017

TO: Windham Planning Board

FROM: Amanda Lessard, Planner *ALL*

Cc: Ben Smith, Director of Planning  
Chris Hanson, Director of Code Enforcement  
Dustin Roma, P.E., DM Roma Consulting Engineers

RE: Zone Change Application – River Road, Tax Map 5 Lot 1-1  
Planning Board Meeting & Public Hearing – November 13, 2017

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A public hearing is scheduled for the Planning Board meeting on November 13, 2017, for the zone change request from Farm Residential (FR) to Medium-Density Residential (RM) for a portion of the 5.98 acre undeveloped property on River Road, identified as Tax Map 5; Lot 1-1. The property is located in South Windham, between Route 202 and Gambo Road.

The purpose of the zone change request is to allow for a multifamily residential development with the ability to locate the dwellings set back further from River Road. Currently the front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR. New Two-Family and Multifamily Dwellings are not a permitted use in the FR zone, while they are permitted in the RM zone, at a net residential density of 15,000 square feet per dwelling unit. Please note that the current application is for the rezoning of property only. The development that the applicant is proposing would also require subdivision approval.

State statute requires all proposed zoning changes and zoning map amendments to be consistent with the goals and objectives of the Comprehensive Plan.

The Planning Board discussed this zone change request at their meeting on October 23, 2017 and requested additional information from the 2005 request to change the zoning of this property from Industrial (I) to Medium-Density Residential (RM). The Town Council ultimately approved a zoning map amendment to the existing FR zone. Those application materials and meeting minutes are included in the packet.

After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council similar to the following:

**MOTION:** To (**recommend/recommend with comments/not recommend**) approval of the proposed zoning map amendment to rezone a portion of the property identified as Tax Map 5; Lot 1-1, from FR to RM.

**Vote 6-0**

05-192 To act on an order to take action on a request to lower the speed limit on a section near and around the corner at 85 Land of Nod Road.

**David T:**

Moves for this article, 2<sup>nd</sup> by Carol W.

**Julie Lunt-Farley & Jason Farley:**

Safety around that corner is an issue. The current speed limit is 35 mph, and as you know we are requesting it to be reduced to 20 mph because of safety issues. We also would like to obtain access to a back lot which contains 32 acres of land. In my letter last week it did indicate that one of the reasons why we wanted to gain access to that is to put 6 lots in. Our main purpose in purchasing that from a family member was to eliminate a large sub-division going in there. There will be some land that will be left over that we may wish to grant to the Land Trust.

**Tony Plante:**

I would like to make it clear that if the Council approves this article that what this approves is actually sending a request to the Maine Department of Transportation and consultation with the Maine State Police that will review the speed limit request and determine whether any action needs to be taken.

**Liz W:**

Last week when I was talking about this my take on it was that it really is a dangerous situation down there and there is no way you can go 35 mph up at that end of the road, and I was thinking that even if it got lowered it would be dangerous, and I would not vote to send this on, but I have been thinking and I want to let the Councilors know where my thoughts are on this, because that whole thing is dangerous and if it does get lowered than it is going to benefit everybody else who lives there and make it safer. I will be supporting this.

**Vote 6-0**

05-193 To act on an order to take action on a request to lower the speed limit on a section of Route 302 in the vicinity of Colonial Park Road.

**David T:**

Moves for this article, 2<sup>nd</sup> by John M.

**Vote 6-0**

05-194 To act on an order to adopt a proposed amendment to the Town's Zoning Map whereby properties identified as tax map #5, lots #1, #1A, #1B, and #2, or por-

tions thereof, would be rezoned from Industrial (I) District to Medium Density Residential (RM) District.

**Liz W:**

Moves for this article, 2<sup>nd</sup> by David T.

**Mike S:**

I move to amend the article to change the words *Medium Density Residential to Farm Residential*, 2<sup>nd</sup> by David T.

**John M:**

I am in favor of the amendment and making it farm residential is one of the two options recommended by the Comprehensive Plan Implementation Committee and it also allows for single family cluster sub-division which we would not be able to have with the medium residential type zoning. Looking over the existing zoning map, farm residential will add another dimension to the area around the South Windham village in terms of adding some zoning diversity.

**Liz W:**

I am the Council liaison for the Comp Plan Committee and at their last meeting we had gotten information from the Council about what their opinion was concerning the consistency of this through the Comprehensive Plan, and they wanted me to clarify number 4 under their consensus opinion that was given. I will read what #4 said and I will read how they want it clarified: Options which are consistent with the comprehensive plan include Farm and Farm residential, overlay/contract zones within the Industrial zones where there are existing industrial uses. They clarified it to say: *Options which are consistent with the Comp Plan are Farm Residential and Farm. Where there are existing industrial uses overlay/contract zones could be used to protect existing industrial uses.*

**Vote 6-0 on amendment**

**Vote 6-0**

05-195 To act on an order to accept Victoria Drive, so-called, located in River Edge Sub-division as a public road.

**David T:**

Moves for this article, 2<sup>nd</sup> by John M.

**Mike S:**

The reason we are accepting this is because it has been built to town standards and it seems that when we ask for town standards to be met and they are met, that it would make sense for us to accept it.

To: Robert Muir, Town Council Chairman  
CC: Tony Plante, Town Manager  
From: Comprehensive Master Plan Implementation Committee  
Date: November 7, 2005  
RE: Article (05-177) Council Request for Review and Comment on Proposed Rezoning

In our consensus opinion, it appears that the current lots as identified in Tax map #5, lots #1, 1A, 1B & 2 or portions thereof that:

1. The Industrial Zone is inconsistent with respect to the Comprehensive Plan because of is a rural designated area (See. Map 1-1 (Future land use) and Page 1-5 Rural Character policy guidance.)
2. Medium Residential zone is not consistent because it allows development to be too dense with no requirements for set asides of natural areas.
3. Items 1 and 2 stated above apply to the contiguous industrial zone to the west of US 202.
4. Options which are consistent with the comprehensive plan include Farm and Farm residential, overlay/contract zones within the Industrial zones where there are existing industrial uses.

# TOWN OF WINDHAM

Office of Community Development  
8 School Road  
Windham, Maine 04062

Voice 207.892.1901 or 1902  
Fax 207.892.1916

June 2, 2005

Mr. Robert Muir, Chairman  
Windham Town Council  
8 School Road  
Windham, Maine 04062

Re: Proposed Amendment to the Official Zoning Map.

Mr. Muir:

This letter is to inform you that the Windham Planning Board, at their May 23, 2005 meeting, reviewed and discussed a proposed amendment to the Official Zoning Map of the Town of Windham, whereby properties identified as tax map #5, lots #1, #1A, #1B, and #2, or portions thereof, would be rezoned from Industrial (I) District to Medium Density Residential (RM) District. Upon review and consideration of the proposed rezoning request, the Planning Board took the following action:

**Motion by:** Keith Williams; **Seconded by:** David Nadeau;

“That item #05-09, Peters/Toms Rezoning Request, be forwarded to the Windham Town Council with the recommendation that the properties be rezoned from Industrial (I) District to Farm-Residential (FR) District in order to comply with the Future Land Use Map (map 1-1) found in the Comprehensive Master Plan.”

**Vote:** (1-3) Motion fails. (D. Nadeau, K. Brown, R. McDonald)

**Motion by:** Ryan McDonald; **Seconded by:** Keith Williams;

“To forward a recommendation to the Town Council to rezone the property from Industrial (I) District to Medium Density Residential (RM) District, and furthermore, that this recommendation is not consistent with the adopted Comprehensive Master Plan and that the Town Council should consider adjusting the Comprehensive Master Plan, particularly the Future Land Use Map.”

**Vote:** (2-2) Motion fails. (D. Nadeau, K. Brown)

*"Maine's Community of Choice"*

**Motion by:** Keith Williams; **Seconded by:** Ryan McDonald;

“That item #05-09, Peters/Toms Rezoning Request, be forwarded to the Windham Town Council with the results of the Planning Board’s two (2) votes, and that it be noted that the Planning Board is split on whether or not the properties should be rezoned to Farm-Residential (FR) District or Medium Density Residential (RM) District, with an explanation as to why the Planning Board is split “


**Vote:** (4-0) Motion passes.

The reason why the Planning Board struggled with the rezoning request and ended up with a split vote is that the future land use map found in the Comprehensive Master Plan indicates that this area of Windham should be “rural” even though the area is currently zoned Industrial (I) District. In addition, one of the issues that the Planning Board discussed as part of their deliberation is what constitutes a “rural” area, especially when the future land use map indicates that the land area across the road from these properties (i.e. River Road) is designated as a “growth area”. Lastly, the Planning Board acknowledged that the Comprehensive Master Plan, and particularly the future land use map, may need some “tweaking” by the Town Council. As such, the Planning Board respectfully requests that the Town Council hold a joint workshop to discuss the Planning Board’s concerns with the respect to the Comprehensive Master Plan and the future land use map contained within it.

Attached please find a copy of the petitioners’ rezoning request, a copy of the proposed rezoning map reflecting the areas and/or properties to be rezoned from Industrial (I) District to Medium Residential Density (RM) District, and a copy of the rezoning language in proper form. Once the Planning Board has completed its review of the May 23, 2005, Planning Board minutes and formally accepted these minutes, I will forward a copy of the approved minutes to the Town Council for review and consideration.

Should the Town Council have any specific questions or concerns regarding the proposed rezoning request, please feel free to contact me at your convenience.

Respectfully,



George M. Dycio  
Town Planner

GMD/

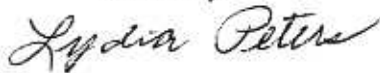
c: Roger E. Timmons, Community Development Director  
✓ amendment file

To The Windham Planning Board

My name is Lydia Peters and I own two lots here in Windham and part of each lot is in the Industrial Business Zone. Lot # 1 is lot 1 on Windham tax map 5 and the second lot is: lot 1-A on Windham tax map 5. The front of each lot is in the R M zone and the back of each is in the Industrial zone. I would like to request that all of each lot be zoned to R M. My reasons for this request are clear and straight forward. 1, the town is not now, nor will they be using this land for any industry, therefore it is just a tax burden to me. 2, if I could get this land re-zoned, I would be able to divide some of it off and use the money for upkeep and taxes for the home I now live in and have for Many years.

I appreciate your reviewing this issue and thank you, in advance for your help, to me, in solving this problem

Sincerely

A handwritten signature in cursive script that reads "Lydia Peters".

Lydia Peters



April 13, 2005

Windham Planning Board

I wish to have my land in Windham considered to be re-zoned from "Industrial Business Zone" to "R M Zone". I own lot 2 on Windham's tax map 5. I feel this property will never be used for industrial use and is better suited as a residential zone.

I understand Mrs. Lydia Peters is also requesting a change at the same time. My land abuts her land on my south easterly side.

Thank you for considering my request.

Sincerely,

A handwritten signature in cursive script that reads "Don Toms". The signature is written in dark ink and is positioned above the printed name.

Don Toms  
8 Gambo Road  
Windham, Maine  
Tel - 892-4702

Properties to be rezoned from  
Industrial (I) District to  
Medium Density Residential (RM) District

