



**Town of Windham**  
**Planning Department**  
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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 - #24-11 Chapter 185 Shoreland Zoning Ordinance and Map Amendment

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### Overview

At the Planning Board meeting on [March 11, 2024](#), a public hearing was held on the attached proposed amendment to the Official Land Use Map Resource Protection (RP) District freshwater wetlands which are inland waterfowl and wading bird habitat and Chapter 185 Shoreland Zoning Ordinance related to permit application requirements for photographic evidence. The amendments had previously been unanimously supported by the Natural Resources Advisory Committee (NRAC) and by a vote of 2-1 by the Town Council Ordinance Committee.

The Shoreland Zoning Ordinance [Section 185-13A](#) defines the Resource Protection District, in part, as including “Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat (IWWH), including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Maine Department of Environmental Protection as of May 1, 2006.” Since the Town last updated the shoreland zoning map on October 12, 2021 (see current [Land Use Map](#)), the state IWWH data layer has been updated based on Maine IF&W staff site visits that removed the moderate or high value classification of several wetlands in Windham.

The Shoreland Zoning Ordinance [Section 185-16C](#) is proposed to be amended to comply with a 2019 state law change, [38 M.R.S. § 439-A\(10\)](#), that expects municipal ordinances to require an applicant for a permit for development within the shoreland zone to provide photographic evidence pre- and post-construction.

### Summary of the Proposed Amendments

#### Land Use Map Amendment

- North Area
  - Remove from Shoreland Zone
    - Adjacent to Sandbar Road (RP & LR)
    - Rezoned to Farm (F) (13 parcels)
  - Add to RP
    - Adjacent to Richards Road (7 parcels)
  - Expand RP from 100 feet to 250 feet
    - Tarkill Pond (34 parcels) § 120-410.1. Commercial District I North (C-1N)

- South Area
  - Reduce RP to 75 feet – Zoning to return to pre-2021 Amendment
    - Between Land of Nod/Pope/Route 302 (13 parcels)

#### Chapter 185 Shoreland Zoning Ordinance

- § 185-16C Administration
  - Applicant for a permit for development shall provide photographic of shoreline vegetation & the site of proposed development:
    - Preconstruction with application
    - No later than 20 days after completion of the development

#### **Planning Board Review and Recommendation**

No members of the public spoke for or against the proposed amendment during the Planning Board's public hearing held on March 11, 2024.

The Board discussed why the RP District was being retained on the South Area map given that it was no longer rated by IF&W as a moderate or high value inland waterfowl and wading bird habitat. Staff noted that this wetland area has been zoned as RP since the Town first adopted a shoreland zoning map/ordinance in 1974, where it was noted as a low value wetland. Following discussion of the proposed changes, the Board made the following motion:

To recommend approval of the proposed amendment to the Code of the Town of Windham Chapter 185 Shoreland Zoning Ordinance and Official Land Use Map related to permit application requirements for photographic evidence and Resource Protection (RP) District freshwater wetlands which are inland waterfowl and wading bird habitat.

Motion: Everett Krikken  
2<sup>nd</sup>: Kathleen Brown

Vote:7-0