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MEMO

DATE: May 18, 2023

TO: Windham Planning Board
FROM: Amanda Lessard, Planning Director
Cc: Steve Puleo, Planner

RE: Land Use Ordinance Amendments: Article 12 Open Space Impact Fee
Planning Board Meeting & Public Hearing – May 22, 2023

Overview

At their meeting on March 28, 2023, the Town Council requested that the attached proposed ordinance change related to open space impact fees be forwarded to the Board for review and recommendation as required by [Section 120-107](#) of the Land Use Ordinance.

The Land Use Ordinance was amended 1-28-2020 by Order #20-028 to add [§ 120-1205](#) open space impact fee. Open Space is one of the capital improvements for infrastructure that State Statute ([30-A M.R.S. §4354](#)) gives municipalities the authority to impose impact fees to all development that creates an impact on the improvement for which the fee has been established. The fee must be proportional to new development's share of the improvement, and the development on which a fee is assessed must reasonably benefit from the improvement.

In accordance with [§ 120-1201H](#), the Town Council shall periodically review each impact fee and may propose changes in the impact fee. Any change in the fee will be reflected on the [Master Fee Schedule](#). The original impact fee assumes that the current ratio of publicly accessible open space per thousand persons should be maintained as the Town grows and assumes a cost per acre to expand open space. In reviewing more recent land sale data, the open space impact fee methodology has been updated to reflect current market rate land values. The fee continues to be calculated based on a per capita basis and then assessed based on the expected occupancy levels of various types of residential housing. Under the change in the cost to expand publicly accessible open space, the open space impact fee is proposed to double, where under the range of occupancies a new single-family home would be assessed between \$608 and \$1,163 as an open space impact fee. The revised methodology for determining the fee is attached.

At the Board's meeting on April 24, 2023, the Board asked for more information about the amount of open space in Windham. The list of parcels was included in the packet of the original adoption of the Open Space Impact Fee and can be seen by view the second attachment in [Order #20-028](#).

Zoning Amendment Process

There are no specific standards in the Town ordinance by which to judge the proposed zoning change, but State statute requires all proposed zoning to be consistent with the goals and objectives of the Comprehensive Plan. There are a number of open space related goals and strategies included in the

Town's [2016 Comprehensive Plan Update](#), including creating a source of funding for the purchase of development rights or of land as opportunities present themselves to the community. The Town's 2022 Open Space Master Plan identifies priorities for acquiring new properties.

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to hold a public hearing and vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. A public hearing is scheduled for the May 22, 2023 Planning Board meeting. 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 amendments to the Land Use Ordinance Chapter 120 Article 12 Open Space Impact Fee.