

Town of Windham

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MEMO

DATE: October 9, 2019

TO: Windham Town Council
THROUGH: Don Gerrish, Interim Town Manager
FROM: Amanda Lessard, Planning Director *AL*
Cc: Long Range Planning Committee
Ben Smith, AICP, North Star Planning
Jennifer Curtis, Planner

RE: Long Range Planning Committee Report – Rural Windham Rezoning

On September 25, 2018 the Town Council directed the Long Range Planning Committee (LRPC) to review and revise the boundaries and standards of the areas designated as Rural Areas in the Comprehensive Plan Update, adopted in 2017. The goal of the review and revisions are to bring town zoning ordinances more into compliance with the policy to generally direct new residential growth away from Rural Areas. For the purposes of this effort, the existing Farm and Farm Residential Zoning Districts were chosen as the limits of work, as these zoning districts generally match up with the Rural Areas designated in Comprehensive Plan. Zoning will specify how much, where, and what kind of development will be allowed. Rezoning is not going to be the only answer to reducing development in rural areas. There are other programs and policies that could and should be implemented to address the rate of growth and conserving open space in rural Windham.

In support of this rezoning effort, the LRPC held two community workshops in November 2018 to present issues to and hear concerns from members of the public on growth in rural Windham. The majority of participants expressed concern related to community character and the balance between the built and natural environment. Participants also commented that recent cluster developments have resulted in development that looks more crowded and less rural.

The LRPC took the public input from the community workshops along with the public input from the Comprehensive Planning process to develop an approach to rezoning the Farm and Farm Residential zoning districts that:

- Considers that there are important rural areas in Windham where open space should be preserved and ensures that large lots are available for those rural uses that obtain their value from the land.

- Has other areas that will continue to allow for lower density residential development that would be protected from some of the more incompatible rural uses like mineral extraction, sawmills, piggeries, etc.
- Creates two new zoning districts that have greater differences in the types of allowed uses and the number of homes that could be built, and
- Separates net density from minimum lot size and proposes a maximum lot size in order to create large blocks land to remain undeveloped or be used for other non-residential rural land uses.

The LRPC held a public forum on July 10, 2019 to present their approach to rezoning to the public. The public was asked for input on what the right net density and maximum lot size is for rural Windham and to let the LRPC know if it's on the right track with regard to zoning map changes and use changes. During discussion at the meeting concerns were expressed about loss of property rights, and lack of focus on slowing the rate of growth or incentives to prevent development in rural Windham. At the meeting there was no consensus about what the right number is for rural density, but there appeared to be agreement that the state context alternative was not appropriate and too rural for Windham.

The LRPC has evaluated the public input, revised proposed zoning changes to reflect public feedback and is now seeking additional direction from the Town Council. A draft of proposed ordinance and map changes is enclosed.

406 Zoning Districts**A. ~~Farm-Rural~~ District ~~-(R)(F)~~****1. Intent**

The ~~Farm-Rural~~ district is intended primarily for rural land uses and very low density residential land uses. Development is restricted in order to protect farmlands, woodlands, working lands, open space, wildlife habitat and scenic areas.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the ~~Farm-Rural~~ District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Agriculture, Piggery
- Agriculture, Poultry Facility
- Agriculture Entrepreneurial
- Bed and Breakfast Inn
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Contractor Services, Landscaping
- Contractor Storage Yard
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Major
- Kennel, Minor
- Mineral Extraction
- Place of Worship
- Public Building
- Public Utility Facility
- Research Laboratory
- Retail Sales, Nursery
- Riding Stable
- Sawmill, Permanent
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

• Assisted Living Facility

• ~~Bed and Breakfast Inn~~

- ~~Boarding Home for Sheltered Care~~
- ~~Kennel, Major~~
- ~~Medical Office~~
- ~~Nursing Home~~
- ~~Public Utility Facility~~

- ~~Recreation Facility, Indoor~~
- Recreation Facility, Outdoor
- ~~Retail Sales, Convenience~~
- ~~Rooming House~~

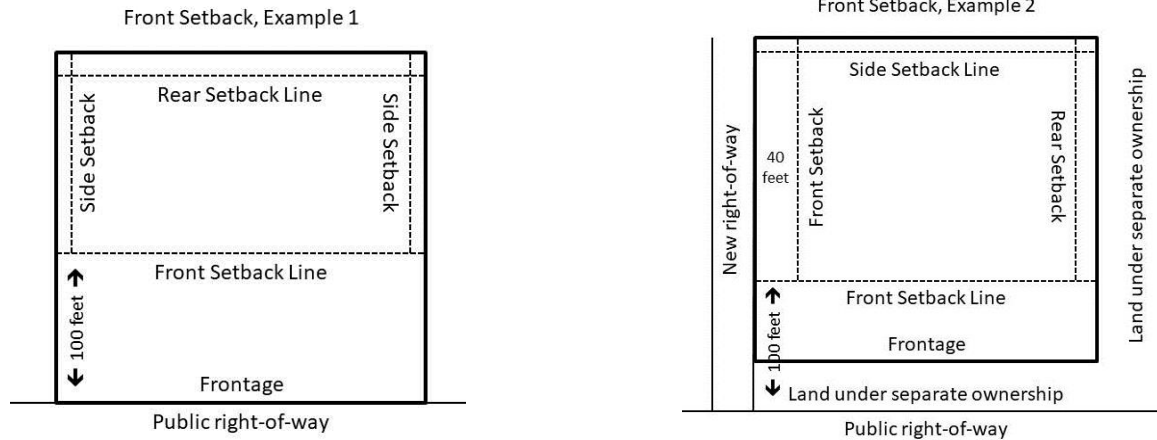
4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the ~~Farm~~ Rural District:

- (a) Minimum Lot Size:
 - (1) Standard ~~(Non-Cluster)~~ 8040,000 s.f.
 - (2) Cluster Conservation Subdivision:
 - (a) All Subdivision lots connected to public water 320,000 s.f.
 - (b) Subdivision served by wells or a private system 320,000 s.f.
 - ~~(3) Rooming House~~ 4 acres
- (b) Maximum Lot Size: 80,000
 - (1) Maximum Lot Size shall apply to all new lots created after [EFFECTIVE DATE OF ORDINANCE] ~~Cluster Subdivision~~ 50,000 s.f.
 - ~~(2) Cluster Subdivision: one (1) lot within subdivision~~ 60,000 s.f.
 - (2) Lots of 10 acres or more are exempt from Maximum Lot Size standards.
- (c) Net Residential Density, 60,000 s.f. 1 dwelling unit/3 acres:
 - (1) This density standard shall be calculated from existing lots of record as of [EFFECTIVE DATE OF ORDINANCE]
 - (2) Accessory Apartments will not be counted in the calculation of overall Net Residential Density
- (d) Minimum Frontage:
 - (1) Standard ~~(Non-cluster)~~ 200 ft.
 - (2) Cluster Conservation Subdivision 100 ft.
 - (3) Cluster Conservation Subdivision, where frontage is entirely on cul-de-sac 50 ft.
- (e) Minimum Front Setback:
 - (1) From existing Public Streets as of [EFFECTIVE DATE OF ORDINANCE] 100 ft.



(i) The setback line required in (e)(1) for existing Public Streets shall be measured across any land in a separate deed that would otherwise result in a Side Setback being applicable (see Example 2, above).

(ii) The 100 foot setback from existing Public Streets may be reduced to 50 feet if a Buffer Strip of existing wooded vegetation is preserved at the property's Frontage.

(2) From existing Private Roads or Ways, or any new Street or road Standard (Non cluster) 40 ft.

- (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.

~~(23)~~ Cluster Conservation subdivision 25 ft.

~~(34)~~ Non-Residential Use: Minimum Landscaped Buffer Strip 15 ft.

(f) Minimum Side Setback: 10 ft.

~~(1)~~ Standard (Non cluster) 10 ft.

~~(2)~~ Cluster Subdivision: 10 ft.

(g) Minimum Rear Setback: 10 ft.

~~(1)~~ Standard (Non cluster): 10 ft.

~~(2)~~ Cluster Subdivision: 10 ft.

(h) Maximum Building Height: 35 ft.

(1) Agriculture, Public Buildings, Church Steeples No Limit

(i) Maximum Building Coverage: 25%

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Farm-Rural District:

- (a) Automobile Repair Services in existence prior to August 7, 2014.

- (1) All repair operations shall be conducted inside an enclosed building.
 - (2) No more than three vehicles shall be serviced or stored on the property at any one time.
 - (3) Hours of operation shall be Monday through Saturday from 8:00 A.M. to 5:00 P.M.
- (b) Cluster Conservation Subdivision. (See Sec. 900 Subdivision Review)
- ~~(1) Cluster subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.~~
- (c) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm-Rural District
- (d) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
- (1) No more than three (3) dwelling units may be created per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- ~~(e) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.~~
- ~~(f)~~ Research Laboratory. This use in the Farm-Rural District must conduct investigative research that is primarily related to the items defined in the definition of, “Agriculture.” Refer to Section 300 Definitions.
- ~~(g)~~ Contractor Services, Landscaping. This use shall be an accessory use to a Retail Sales, Nursery use under the following conditions:
- (1) The Contractor Service, Landscaping and Contractor Storage Yard use shall not exceed fifty (50) percent of the gross area (both interior and exterior areas) occupied by the principle Retail Sales, Nursery use.
- ~~(h)~~ Any new lot created in the Rural Zone after [EFFECTIVE DATE OF ORDINANCE] must plant one street tree for every 50ft of Frontage along any Public or Private Way, inclusive of any driveways or other curb cuts.
- (1) These trees must be evenly spaced and placed within the right-of-way as close to the property as possible. In the event the lot owner does not have the right to plant within the right-of-way, the street trees will be placed on the new lot as close to the right-of-way as possible.
- ~~(h) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):~~

- ~~(1) — Boarding Home for Sheltered Care~~
- ~~(2) — Medical Office~~
- ~~(3) — Nursing Home~~
- ~~(4) — Retail Sales, Convenience~~
- ~~(5) — Retail Sales, Nursery~~
- ~~(5) — Service Business, Landscaping~~

B. ~~Farm~~Rural-Residential District (RFR)**1. Intent**

~~The Town, as a rapidly growing community, recognizes that certain areas of the town will experience residential growth while the basic rural agricultural orientation remains. It is the intent of this chapter to allow these uses to coexist and develop harmoniously.~~ The Rural Residential zone is a rural zoning district that will maintain the rural character Windham's fields and forests interspersed with low density residential development. Limits on the highest impact rural uses are designed to balance rural living with rural businesses.

2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Farm~~Rural~~-Residential District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Agriculture Entrepreneurial
- Bed and Breakfast Inn
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Single-Family Detached
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- ~~Mineral Extraction~~
- Place of Worship
- Public Building
- Public Utility Facility
- Retail Sales, Convenience
- Riding Stable
- Sawmill, Temporary
- ~~Shipping Container~~
- Use, Accessory
- Wireless Telecommunications Tower and Facility

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- ~~Agriculture, Piggery~~
- ~~Agriculture, Poultry Facility~~
- ~~Assisted Living Facility~~
- ~~Bed and Breakfast Inn~~
- ~~Boarding Home for Sheltered Care~~
- ~~Kennel, Major~~
- ~~Medical Office~~

- ~~Nursing Home~~
- ~~Public Utility Facility~~
- ~~Recreation Facility, Indoor~~
- Recreation Facility, Outdoor
- ~~Retail Sales, Convenience~~
- ~~Retail Sales, Nursery~~
- ~~Riding Stable~~
- ~~Sawmill, Permanent~~

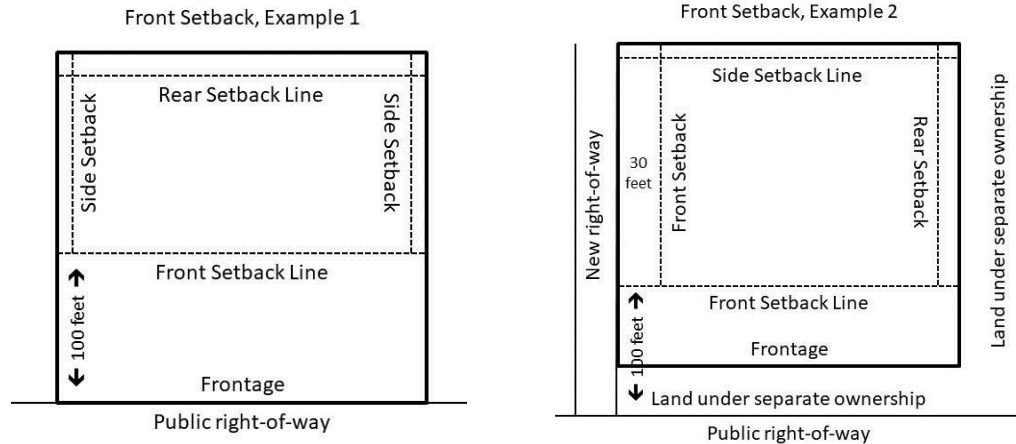
4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the ~~Farm~~Rural-Residential District:

- (a) Minimum Lot Size:
 - (1) Standard ~~(Non-cluster)~~ 350,000 s.f.
 - (2) Cluster Conservation Subdivision:
 - (i) All subdivision lots connected to public water 20,000 s.f.
 - (ii) Subdivision served by wells or a private system 20,000 s.f.
- (b) Maximum Lot Size: 50,000 s.f.
 - (1) Maximum Lot Size shall apply to all new lots created after [EFFECTIVE DATE OF ORDINANCE](1) Cluster Subdivision ~~35,000~~
 - (2) ~~Cluster Subdivision, one (1) lot within subdivision~~ 45,000 s.f.
- (c) Net Residential Density: 40,000 sf, 1 dwelling unit/2 acres
 - (1) This density standard shall be calculated from existing lots as of [EFFECTIVE DATE OF ORDINANCE]
 - (2) Accessory Apartments will not be counted in the calculation of overall Net Residential Density
- (d) Minimum Frontage:
 - (1) Standard ~~(Non-cluster)~~ 150 ft.
 - (2) Cluster Conservation Subdivision 75 ft.
 - (3) Cluster Conservation Subdivision, where Frontage is entirely on cul-de-sac 50 ft.
- (e) Minimum Front Setback:
 - (1) From existing Public Streets 100 ft.



(i) The setback line required in (e)(1) for existing Public Streets shall be measured across any land in a separate deed that would otherwise result in a Side Setback being applicable (see Example 2, above).

(ii) The 100 foot setback from existing Public Streets may be reduced to 50 feet if a Buffer Strip of existing wooded vegetation is preserved at the property's Frontage.

(2) From existing Private Roads or Ways, or any new Street or road 30 ft.

(i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.

(2) ~~Cluster Conservation~~ Subdivision 25 ft.
 (3) Non-Residential Use: Minimum Landscaped Buffer Strip 15 ft.

(f) Minimum Side Setback: 10 ft.
 (1) ~~Standard (Non-cluster)~~ 10 ft.
 (2) ~~Cluster Subdivision:~~ 10 ft.

(g) Minimum Rear Setback: 10 ft.
 (1) ~~Standard (Non-cluster):~~ 10 ft.
 (2) ~~Cluster Subdivision:~~ 10 ft.

(h) Maximum Building Height: 35 ft.
 (1) Agriculture, Public Buildings, Church Steeples No Limit

(i) Maximum Building Coverage: 20%

6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the ~~Farm~~Rural-Residential District:

~~(a) Agriculture, Poultry Facility~~

- ~~(1) A facility may raise twenty-five (25) or fewer birds at any one time.~~
- ~~(b) Agriculture, Piggery. Piggeries shall conform with the standards for "Agriculture, Piggery" in Section 503 of the Performance Standards.~~
- (c) Cluster Conservation Subdivision (*See Sec. 900 Subdivision Review*)
- (1) Cluster Conservation subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area:
- (i) Lots completely contained by the FR District: 5 acres
 - (ii) Lots with area in both the F and FR Districts: 5 acres
- (d) Curb Cuts. See "Curb Cuts and Driveway Openings" in Section 500 Performance Standards for standards applicable to the Farm-Rural Residential District
- (e) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
- (1) No more than three (3) dwelling units may be created per lot.
 - (2) All dwelling units shall have a minimum area of 500 s.f.
- ~~(f) Medical Office. See "Medical Office" in Section 500 Performance Standards for size limitations.~~
- (g) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
- ~~(1) Boarding Home for Sheltered Care~~
 - ~~(2) Medical Office~~
 - ~~(3) Nursing Home~~
 - ~~(4)~~ Retail Sales, Convenience
- (h) Any new lot created in the Rural Zone after [EFFECTIVE DATE OF ORDINANCE] must plant one street tree for every 50ft of Frontage along any Public or Private Way, inclusive of any driveways or other curb cuts.
- (1) These trees must be evenly spaced and placed within the right-of-way as close to the property as possible. In the event the lot owner does not have the right to plant within the right-of-way, the street trees will be placed on the new lot as close to the right-of-way as possible.

Agriculture Entrepreneurial Use

Purpose: To create a new use category accessory to Agriculture uses in the Farm/Rural and Farm Residential/Rural Residential Zoning Districts that would allow working farms to generate additional income from uses such as indoor or outdoor events, recreation facilities, weddings, manufacturing, retail sales, restaurants, bed and breakfast/lodging and other on-farm activities not directly related to Agriculture.

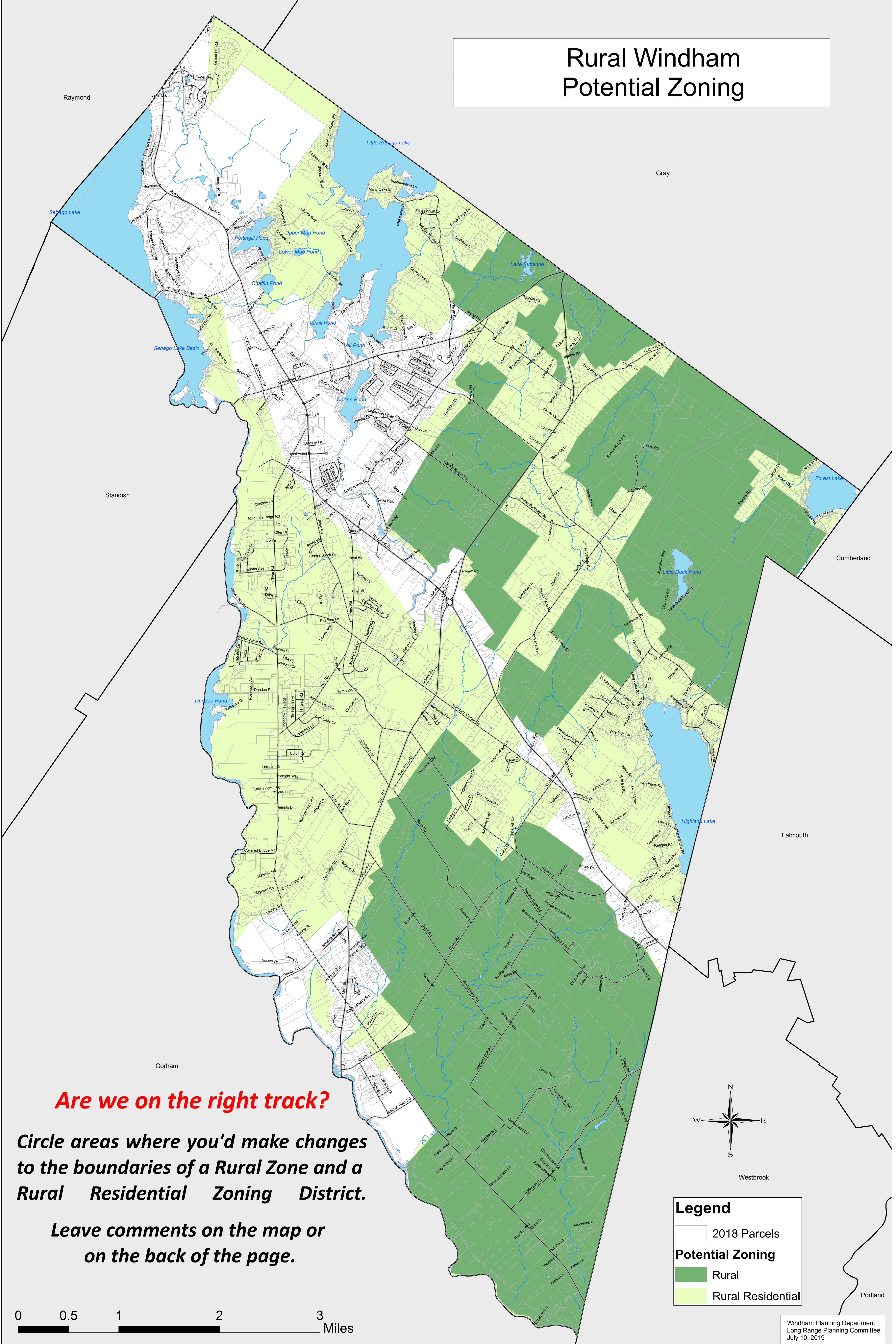
Definition

Agriculture Entrepreneurial Use. A use accessory to Agriculture which is dependent upon the property, buildings or on-site agricultural products or animals. Agriculture Entrepreneurial Uses may include Bed and Breakfast Inns, Indoor and Outdoor Recreation Facilities, Riding Stables, public or private events such as meetings, parties, weddings, receptions, and dances, as well as the processing or food manufacturing of agricultural products produced on-site.

District Standards

- A. An Agriculture Entrepreneurial Use may be established subject to Site Plan Review approval by the Planning Board, as well as an annual license to be issued by the Town Council.
- B. The property serving as the site for an Agriculture Entrepreneurial Use shall be at least five (5) contiguous acres and primary Agriculture use. The property may or may not have a residential use.
- C. Noise. The standards in Section 812.S shall apply.
- D. All Agricultural Entrepreneurial Uses shall be limited to the hours of 8:00 am to 10:00 pm.
- E. All lighting associated with the Agricultural Entrepreneurial Use shall be turned off by 11:00 pm.
- F. Operation Limits for public or private events, sporting and recreation uses, and other types of periodic uses.
 - (1). Individual events shall be limited to 250 people per event
 - (2). No more than twenty-four (24) individual events may be held in a calendar year.
 - (3). Notice. At least two (2) weeks prior to the start of each month, the operator/owner shall mail a notice to abutting properties and the Town of Windham Code Enforcement Office listing events to be held in the upcoming month. The notice shall include the days planned for events, hours of operation and a contact and phone number.
 - (4). Traffic
 - a. The Planning Board may require parking attendant(s) to direct traffic into the facility and towards available parking at the start of the event.
 - b. Temporary directional signage shall be located on any entrance and within the parking area to ensure orderly flow of traffic. Temporary signs shall be placed prior to all events and removed at the conclusion of the event.

Rural Windham Potential Zoning



Are we on the right track?

Circle areas where you'd make changes to the boundaries of a Rural Zone and a Rural Residential Zoning District.

Leave comments on the map or on the back of the page.

Legend

2018 Parcels

Potential Zoning

Rural

Rural Residential