

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

MEMO

DATE: July 22, 2020

TO: Windham Town Council

THROUGH: Barry Tibbetts, Town Manager

FROM: Amanda Lessard, Planning Director

Cc: Windham Planning Board

Chris Hanson, Director of Code Enforcement

Long Range Planning Committee

RE: Planning Board Recommendation - Growth Management Ordinance and Zoning Map Amendment, RCCFO District

At the Planning Board's meeting on July 13, 2020, a public hearing was held on the proposed Growth Management Ordinance and Zoning Map Amendment. The proposed ordinance language was developed by the Long Range Planning Committee following several workshops with the Town Council to discuss concerns associated with residential growth in Town. State law ([30-A MRSA §4360](#)) allows municipalities to enact a rate of growth ordinance to set limits on the number of building or development permits that are permitted and differentiate those limits in designated rural areas and designated growth areas. The number of building or development permits for new residential dwellings must be set at 105% or more of the mean number of permits issued for new residential dwellings within the Town during the 10 years immediately prior to the year in which the number is calculated. Based on the building permit data through 2019 included in your packet, the average number of permits issued for the last 10 years is 89, so the minimum permit cap allowed would be 93.

The enclosed growth management ordinance proposes a limit of 100 growth permits per year, to be allocated monthly at 9 per month. Unused monthly permits would be carried forward to the next month. Of the 100 growth permits, 83 will be for single family detached dwellings, 14 for two-family dwelling structures, and 3 for multi-family dwelling structures. No more than 40 growth permits per year will be issued in the Farm and Farm Residential Districts. No more than 20 growth permits per year may be issued in any one subdivision, and no more than 15 growth permits per year may be issued to any one individual. The ordinance will not apply to replacement dwellings, dwelling units on gift lots, senior housing, or accessory apartments.

The ordinance establishes administrative procedures for growth permit applications that includes a point system to determine the order in which permits will be issued in the event there are more applications than permits available. Finally, the ordinance establishes a reserve pool of growth

permits and criteria for the Town Council to allocate growth permits from the reserve for affordable housing and when permits from the annual allocation are no longer available.

As senior housing is proposed to be exempt from the growth management ordinance and retirement communities are a permitted use within the Retirement Community and Care Facility Overlay District, the boundary of this overlay is proposed to be amended to remove a portion of the zoning district on Routes 202 and 115 that is not located in a growth area or served by public water.

Four (4) members of the public commented on the proposed growth management ordinance and zoning map amendment. Three (3) members of the public opposed the changes. One comment was against the elimination of the senior housing overlay in an area that had previously been approved for senior housing. The other comments against the growth management ordinance were that the market will manage growth, it could create a temporary situation where people felt like they had to get a growth permit, and this could accelerate growth. One member of the public commented in favor of the growth management ordinance as a well thought out responsible answer to concerns about growth in subdivisions and in rural areas.

Following the public hearing members of the Board discussed that a cap would make growth predictable so it does not put a strain on municipal services, the map amendment made sense if the cap was imposed, the economy would control growth and that the historical permits showed a long term manageable trend, that growth was good for local businesses, and concerns that contractors would find a way to take all the growth permits limiting options for residents. The Board also noted concern that the public may not be aware of these ordinance changes or be able to participate because the meetings were being held remotely.

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

To recommend approval of the proposed Growth Management Ordinance and zoning map amendment.

Motion: Haden Brooks

Second: Tyler Dunlea

Vote: 0-4.

All Planning Board members opposed recommending the Growth Management Ordinance and zoning map amendment.

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MEMO

DATE: July 9, 2020

TO: Windham Planning Board
FROM: Amanda Lessard, Planning Director *ALL*
Cc: Jenn Curtis, Planner
Chris Hanson, Director of Code Enforcement
Long Range Planning Committee

RE: Growth Management Ordinance and Zoning Map Amendment, RCCFO District
Planning Board Meeting & Public Hearing – July 13, 2020

At their meeting on June 9, 2020, the Town Council voted to forward the enclosed proposed ordinance and zoning map amendment to the Board for review and recommendation. The proposed ordinance language was developed by the Long Range Planning Committee following several workshops with the Town Council to discuss concerns associated with residential growth in Town. State law ([30-A MRSA §4360](#)) allows municipalities to enact a rate of growth ordinance to set limits on the number of building or development permits that are permitted and differentiate those limits in designated rural areas and designated growth areas. The number of building or development permits for new residential dwellings must be set at 105% or more of the mean number of permits issued for new residential dwellings within the Town during the 10 years immediately prior to the year in which the number is calculated. Based on the building permit data through 2019 included in your packet, the average number of permits issued for the last 10 years is 89, so the minimum permit cap allowed would be 93.

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The ordinance establishes administrative procedures for growth permit applications that includes a point system to determine the order in which permits will be issued in the event there are more applications than permits available. Finally, the ordinance establishes a reserve pool of growth permits and criteria for the Town Council to allocate growth permits from the reserve for affordable housing and when permits from the annual allocation are no longer available.

As senior housing is proposed to be exempt from the growth management ordinance and retirement communities are a permitted use within the Retirement Community and Care Facility Overlay District, the boundary of this overlay is proposed to be amended to remove a portion of the zoning district on Routes 202 and 115 that is not located in a growth area or served by public water.

Zoning Amendment Process

There are no specific standards in the Town ordinance by which to judge the proposed ordinance or zoning change, but State statute requires all proposed zoning changes, zoning map amendments and rate of growth ordinances be consistent with the goals and objectives of the municipal Comprehensive Plan. Windham's [2016 Comprehensive Master Plan Update](#) adopted in June 2017 designates rural and growth areas and includes 39 goals and 91 strategies to implement those goals. The Future Land Use Plan and Housing goals and strategies recommend amending local ordinances to clearly define the desired scale, intensity, and location of future development, encourage the development of affordable/workforce housing, and allow for accessory apartments in growth areas.

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 ordinance and map amendment to be officially approved. A public hearing is scheduled for the July 13, 2020 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 Growth Management Ordinance and zoning map amendment.