

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

Voice 207.894.5960 ext. 2

Fax 207.892.1916

**Long Range Planning Committee
Conference Room 1, Town Office
Wednesday August 21, 2019
7:30 – 9:00 AM**

AGENDA

1. News/updates
2. Public Comment
3. Correspondence
4. F/FR zoning district changes
 - a. See attached Section 400 draft changes. Revisions since last meeting:
 - i. Front Setback options with buffers
 - ii. Sawmill, Temporary permitted use in RR
 - b. Permitted Uses
 - i. Discuss feedback from WEDC
 - c. Zoning Map
5. Other Business
6. Next Meeting:
 - a. Regular Meeting - Wednesday September 4, 2019

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~~

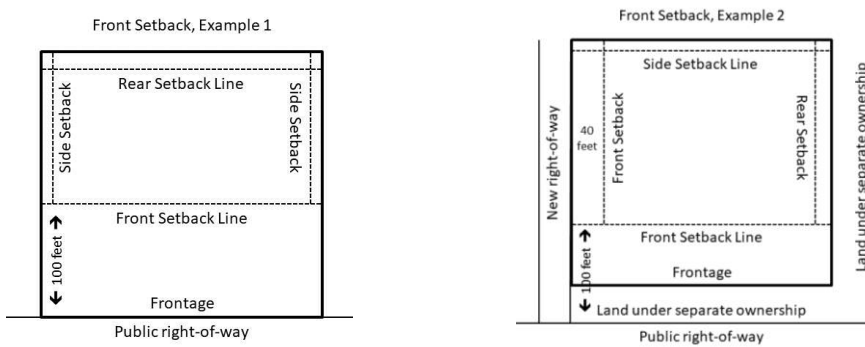
4. Prohibited Uses

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./ 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 is 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):~~

Commented [ALL1]: This cross reference will need to be updated as part of the final ordinance changes

- ~~(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

Commented [ALL2]: Changed to keep as permitted use. Already limited by definition to 2 months/yr. Currently permitted in F, FR, RL, RM, C-1.

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~~

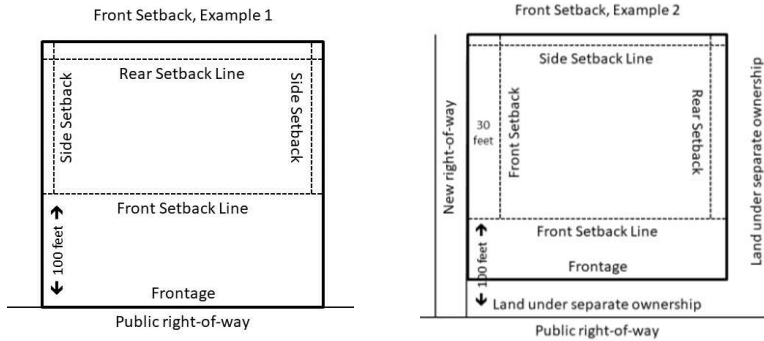
4. Prohibited Uses

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 s.f.
 - (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 ~~FarmRural~~-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.

Commented [BWS3]: This cross reference (and others in any other sections of the ordinance will need to be changed

Commented [BWS4]: This might be worded to apply only along Front or Side setbacks. Current wording is for trees anywhere the lot has frontage on a public or private road.

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.



F. JAY MEYER
Admitted in ME & VT
jmeyer@troubhheisler.com

Trough Heisler
ATTORNEYS AT LAW

August 20, 2019

Amanda Lessard, Planning Director
Town of Windham Planning Department
8 School Road
Windham ME 04062

Timothy Nangle, Town Councilor
Town Council Land Use Ordinance Subcommittee
8 School Road
Windham ME 04062

Re: Zoning Changes for "Rural Windham"

Dear Director Lessard and Councilor Nangle:

On behalf of my clients Green Laboratories LLC and Diamed, Inc., I am writing to comment upon certain zoning changes currently under consideration for "Rural Windham." In summary, my clients are opposed to the proposed changes insofar as they would change the zoning of my clients' business location from Farm (to be renamed Rural) to Rural Residential, thereby eliminating Research Laboratory as a permitted use at that location. My clients are also concerned that the change of zone to Rural Residential may result in increased and denser residential development in the vicinity of their large and relatively isolated property. Therefore, we believe that my clients' business location should continue to be zoned Farm/Rural.

Green Laboratories LLC and Diamed, Inc. operate laboratory facilities on a 27+/- acre parcel of land at 2 Inland Farm Road owned by Winnetka Ltd. Co. These facilities are used to test the purity and potency of natural products (e.g., herbal and other botanical compounds) and nutritional supplements, among other things. The large property, with significant separation from neighboring agricultural and residential uses, is ideal for my clients' clean, low impact light commercial use. Currently, the property is in the Farm zone and Research Laboratory is a permitted use there under Section 406(A)(2) of the Windham Land Use Ordinance.

Enclosed please find a copy of a map titled "Rural Windham Potential Zoning", marked to show my clients' business location. I am also enclosing a chart showing permitted and excluded uses in the potential new zones. As shown on the map, the zoning at my clients' location would be changed from Farm/Rural to Rural Residential. Currently and under the proposed rezoning, Research Laboratory is a permitted use in the Farm/Rural district but would not be allowed in the Farm Residential/Rural Residential Zone as indicated by the chart. Although my clients' current use would be grandfathered, any expansion or temporary discontinuation of that use could jeopardize their laboratory operations.

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We believe that my clients' current use is appropriate and compatible with other uses in the area. However, if the zoning in that area were changed to Farm Residential/Rural Residential that change would likely result in increased, higher density residential development in the vicinity of my clients' facility. Such a change could reduce the separation that effectively buffers my clients' use from adjacent properties. Although the current use as a laboratory has little if any impact on neighboring properties, it is nevertheless desirable to maintain some separation between such light commercial use and nearby residential properties.

For the foregoing reasons, we believe that the current zoning of this location should remain Farm/Rural rather than being changed to Farm Residential/Rural Residential. This would have the effect of retaining Research Laboratory as a permitted use at that location. The location is close to the proposed boundary between the relocated Rural and Rural Residential zones, so a slight adjustment of that boundary would be sufficient to avoid any adverse impact upon my clients and their operations.

Thank you for your attention to these comments. Please let me know if you have any questions or would like to receive additional input from my clients.

Sincerely,

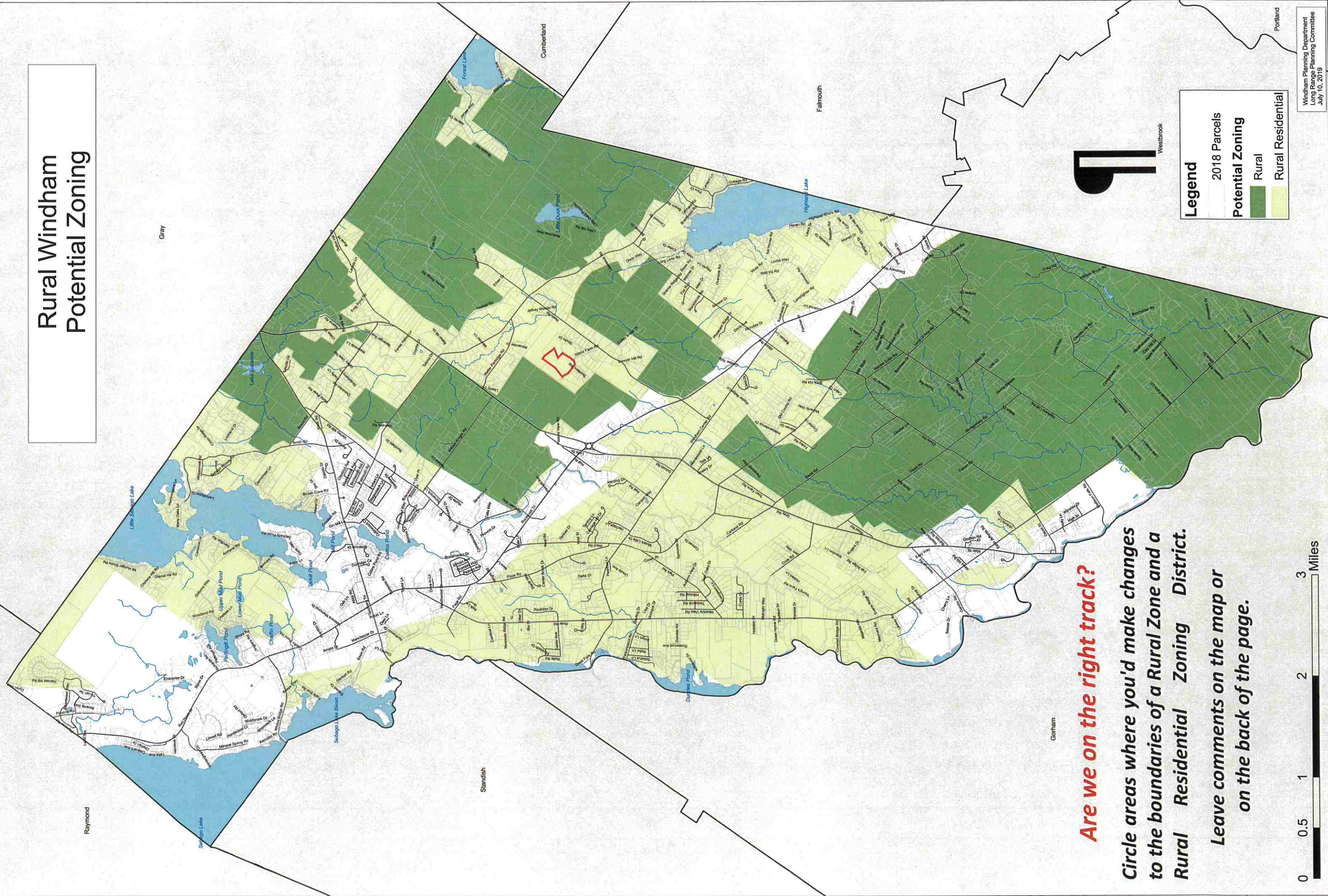


F. Jay Meyer

enclosures

cc: Michael Ringel (w/ enclosures)

Rural Windham Potential Zoning



Legend

- 2018 Parcels
- Potential Zoning
 - Rural
 - Rural Residential

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.



What's Allowed?

	Existing			Potential		
	Farm	Farm Residential		Rural	Rural Residential	
Agriculture	P	P		P	P	
Agriculture, Piggery	P	C		P	X	
Agriculture, Poultry Facility	P	C		P	X	
Assisted Living Facility	C	C		X	X	
Bed and Breakfast Inn	C	C		P	P	
Boarding Home for Sheltered Care	C	C		X	X	
Building, Accessory	P	P		P	P	
Campground, Commercial	P	P		P	X	
Campground, Personal	P	P		P	P	
Cemetery	P	P		P	P	
Child Care, Family Home	P	P		P	P	
Dwelling, Multifamily*	P	P		P	P	
Dwelling, Single-Family Detached	P	P		P	P	
Dwelling, Two-Family*	P	P		P	P	
Forestry	P	P		P	P	
Golf Course	P	P		P	P	
Home Occupation 1	P	P		P	P	
Home Occupation 2	P	P		C	C	
Kennel, Major	C	C		P	X	
Kennel, Minor	P	P		P	P	
Medical Office	C	C		X	X	
Mineral Extraction	P	P		P	X	
Nursing Home	C	C		X	X	
Place of Worship	P	P		P	P	
Public Building	P	P		P	P	
Public Utility Facility	C	C		P	P	
Recreation Facility, Indoor	C	C		X	X	
Recreation Facility, Outdoor	C	C		C	C	
Research Laboratory	P	X		P	X	
Retail Sales, Convenience	C	C		X	P	
Retail Sales, Nursery	P	C		P	X	
Riding Stable	P	C		P	P	
Rooming House	C	X		X	X	
Sawmill, Permanent	P	C		P	X	
Sawmill, Temporary	P	P		P	X	
Service Business, Landscaping	P	X		P	X	
Shipping Container	P	P		P	X	
Use, Accessory	P	P		P	P	
Wireless Telecommunications Tower and Facility	P	P		P	P	
Agriculture Entrepreneurial Use				P	P	
Elderly Housing Overlay	P	P		X	X	

* Multi & 2-Family only with conversion of an existing dwelling that was in existence prior to May 13, 1986

For more detail on each use refer to Land Use Ordinance Section 300 Definitions

P - Permitted
 C - Conditional
 X - Not Allowed

What do you think about the Potential Uses in the Rural & Rural Residential Districts?

Mark above where you'd make changes and provide other thoughts below:
