I. Council Action Requested.

To refer a request to rezone properties located at 1089, 1105, 1109 and 1111 Roosevelt Trail as summarized in a memo from Ben Smith, Town Planner and as requested in writing from each property owner to the Planning Board for its review and recommendation.

II. Basis for Council Action.

Council approval of this item is required because;

a.) Section 107 of the Land Use Ordinance (Chapter 140 of the Code of the Town of Windham) states “After review and recommendation by the Planning Board, this chapter may be amended in accordance with the Town Charter.”

III. Issue Summary.
And here's the attachment...

---

From: Ben Smith  
Sent: Thursday, September 13, 2012 3:51 PM  
To: 'Tony Plante'  
Cc: 'Tammy Hodgman'  
Subject: zone change request for Council

Tony –

Submitting the attached zone change request for 4 properties in North Windham between the town line and the Claman Sanctuary, from RL to C-3. Looking for guidance from the Council, per our discussion a couple weeks ago.

Thanks,

Ben

---

Ben Smith, AICP  
Assistant Planner  
Town of Windham

office: (207) 894-5960, ext. 2  
cell: (207) 712-1069  
www.windhamweb.com

NOTICE: Under Maine’s Freedom of Access (“Right to Know”) law, documents— including emails — in the possession of public officials about town business are considered public records. This means if anyone asks to see it, we are required to provide it. There are very few exceptions. We welcome citizen comments and want to hear from our constituents, but please keep in mind that what you write in an email is not private and will be made available to any interested party.
MEMO

DATE: September 13, 2012

TO: Tony Plante Town Manager
FROM: Ben Smith, Assistant Town Planner
Cc: Leo Tetreault, Keller Williams Realty
     Brooks More, Director of Planning

RE: Zoning Amendment Request – Properties north of Route 302 from RL to C-3 zoning district

Overview
The Town has received a letter from Leo Tetreault dated August 6, 2012, requesting a zoning change on behalf of four property owners in the Residential Light district along eastern side of Route 302 in North Windham, north of Enterprise Drive. Mr. Tetreault has supplied letters from each of the owners of the four subject properties. A follow-up letter dated August 28, 2012, relates this request to the goals and objectives of the Town’s Comprehensive Plan. These letters, along with a map of the properties and the surrounding area prepared by Planning staff, are attached.

The four properties, from north to south are:
- 1111 Roosevelt Trail (Map 78, Lot 7B) – Windham Way Motel, owned by Windham Way Development
- 1109 Roosevelt Trail (Map 78, Lot 7) – Sebago Canvas Shop, owned by the Heirs of Stephen Viherek
- 1105 Roosevelt Trail (Map 78, Lot 7A) – Little Log Cabin Learning Academy, owned by Blake Development
- 1089 Roosevelt Trail (Map 77, Lot 3), a single family home, owned by Brian and Dana Galbraith

The properties are currently zoned Residential Light (RL). The applicants are requesting a zone change that would make these properties Commercial 3 (C-3).
The purpose of the C-3 district is to “provide areas for a mixture of light, low–traffic generating commercial uses and single-family housing.” Permitted uses in the C-3 that are not permitted in RL are:

- Adult Business Establishment
- Business and Professional Office
- Child Care, Facility
- Dwelling, Mixed Use
- Medical Office*
- Recreation Facility, Indoor*
- Retail Sales
- Retail Sales, Convenience*
- Retail Sales, Nursery*
- Retail Sales, Outdoor
- Theater
- Warehousing, Private
- Warehousing, Public

* = Conditional Use in the RL district

Conditional Uses allowed in the C-3 that are not conditional uses in RL are:

- Automobile Repair Services, Minor
- Campground, Commercial
- Campground, Personal
- Club
- Hotel
- Industry, Light
- Restaurant
- Shipping Container**

** = Permitted Use in RL

Zoning Amendment Process

Staff is seeking guidance from the Town Council on how to proceed with this zoning amendment request, given that the request is coming from multiple property owners in the same vicinity. If the Town Council chooses to send this request through the formal public process of changing the ordinance, it can be addressed in one of at least two ways.

1. **Handle this request as an individual zoning change request.** The applicant would submit the materials that are included with this memo for the four specific properties to the Planning Board for review and a public hearing, and the Planning Board would forward the materials along with a recommendation on the request back to the Town Council for its own public process prior to a vote on the proposed changes.

2. **Use this request as a chance to review the zoning for a wider area.** Even though Mr. Tetreault has supplied letters from four property owners, he requests a zone change for approximately ten properties from Shane’s Way near the town line with Raymond, to 1089 Roosevelt Trail, two properties up from the Claman Sanctuary. The Council may initiate a review of zoning for this wider area, similar to the recent zoning review and change for the portion of Route 302 between Ward Road and the Route 302/202 rotary.
August 6, 2012

Scott Haymen Planning Board Chair
8 School Rd.
Windham, ME 04062

Dear Mr. Haymen,

I am writing on behalf of the property owners along a stretch of Roosevelt Trail Windham who would like to bring a proposed change of zoning to a C3 zone from its present RM Zone along the west bound side of Roosevelt Trail beginning at 1089 Roosevelt Trail including property at 1 Shanes Way & extending to 1117 Roosevelt Trail. The zone change request would be for the frontage lots along the corridor only and no other separate interior lots.

The current zoning ordinance now in place for this area of town on the westbound side of RT 302 does not accurately reflect the character and makeup of the existing businesses already established along this stretch of road which are operating under conditional use permits. Furthermore it is the opinion of the current owners that the current zoning has been a hindrance to further economic development of this area due to the limited RM zoning which does not support many proposed uses buyer prospects have wanted to establish.

The current zoning classification has had a negative effect on current market values of the properties for sale due to the limited restrictive use of those particular properties, which include a residence at 1089 Roosevelt Trail and the second being an 1105 Roosevelt Trail, an existing Day Care facility operating under the conditional use permit.

Many people looking for a residence do not favorably consider RT 302 as a residence location due to the high traffic and limited privacy of the location. It is the opinion of those owners polled, who are current owners in this area that a zone change would help to increased future business opportunities and serve to improve property values and potentially increase town tax revenues.

I am enclosing letters from 4 owners who are in support of this proposal and would appreciate the consideration of the Planning Board and Economic Council who made the recommendation that we make this request. I can be reached at POB 103 Raymond Maine 04071 207-650-3829.

Respectfully,

Leo Tetreault
Broker KWR
cc Tony Plante
July 24, 2012

Town of Windham Maine
Board of Economic Development
5 School St.
Windham, Maine 04062

Dear Members of the Economic Council,

As a resident and business owner along the RT 302 corridor near the Raymond town line I am petitioning the town along with a number of other residents and property owners to re-examine the current zoning of the properties along the west bound stretch of Roosevelt Trail from 1077 Roosevelt Trail to 1117 Roosevelt Trail including 1 Shanes Way. I am respectfully requesting your board to consider a re-zoning to a commercial use zone to more accurately reflect the nature of the real estate along this stretch of RT 302. Doing so would help improve the economic opportunities this area could realize if a commercial re-zoning would be allowed.

The current RL zone does not fit the character or make up of the businesses already established along the west bound side of RT 302 and it is prohibitive to the economic growth of this part of town.

I have been made aware that your board recently rezoned a stretch of RT 302 on the North side of the retail district near Varney Mill Road & RT 302 for a new retail establishment and the Danielle Way Industrial park area which was faced with a similar zone issue. I would appreciate the same consideration for our area of town. Thank you for your time and timely response.

Respectfully,

[Signature]
Brian & Dana Galbraith
Owner
July 24, 2012

Town of Windham Maine
Board of Economic Development
5 School St.
Windham, Maine 04062

Dear Members of the Economic Council,

As a resident and business owner along the RT 302 corridor near the Raymond town line I am petitioning the town along with a number of other residents and property owners to re-examine the current zoning of the properties along the west bound stretch of Roosevelt Trail from 1077 Roosevelt Trail to 1117 Roosevelt Trail including 1 Shanes Way. I am respectfully requesting your board to consider a re-zoning to a commercial use zone to more accurately reflect the nature of the real estate along this stretch of RT 302. Doing so would help improve the economic opportunities this area could realize if a commercial re-zoning would be allowed.

The current RL zone does not fit the character or make up of the businesses already established along the west bound side of RT 302 and it is prohibitive to the economic growth of this part of town.

I have been made aware that your board recently re-zoned a stretch of RT 302 on the North side of the retail district near Varney Mill Road & RT 302 for a new retail establishment and the Danielle Way Industrial park area which was faced with a similar zone issue. I would appreciate the same consideration for our area of town. Thank you for your time and timely response.

Respectfully,

[Signature]

Windham Way Development
Owner
July 24, 2012

Town of Windham Maine
Board of Economic Development
5 School St.
Windham, Maine 04062

Dear Members of the Economic Council,

As a resident and business owner along the RT 302 corridor near the Raymond town line I am petitioning the town along with a number of other residents and property owners to re-examine the current zoning of the properties along the west bound stretch of Roosevelt Trail from 1077 Roosevelt Trail to 1117 Roosevelt Trail including 1 Shanes Way. I am respectfully requesting your board to consider a re-zoning to a commercial use zone to more accurately reflect the nature of the real estate along this stretch of RT 302. Doing so would help improve the economic opportunities this area could realize if a commercial re-zoning would be allowed.

The current RL zone does not fit the character or make up of the businesses already established along the west bound side of RT 302 and it is prohibitive to the economic growth of this part of town.

I have been made aware that your board recently rezoned a stretch of RT 302 on the North side of the retail district near Varney Mill Road & RT 302 for a new retail establishment and the Danielle Way Industrial park area which was faced with a similar zone issue. I would appreciate the same consideration for our area of town. Thank you for your time and timely response.

Respectfully,

[Signature]

Blake Development LLC
Owner
July 24, 2012

Town of Windham Maine
Board of Economic Development
5 School St.
Windham, Maine 04062

Dear Members of the Economic Council,

As a resident and business owner along the RT 302 corridor near the Raymond town line I am petitioning the town along with a number of other residents and property owners to re-examine the current zoning of the properties along the west bound stretch of Roosevelt Trail from 1077 Roosevelt Trail to 1117 Roosevelt Trail including 1 Shanes Way. I am respectfully requesting your board to consider a re-zoning to a commercial use zone to more accurately reflect the nature of the real estate along this stretch of RT 302. Doing so would help improve the economic opportunities this area could realize if a commercial re-zoning would be allowed.

The current RL zone does not fit the character or make up of the businesses already established along the west bound side of RT 302 and it is prohibitive to the economic growth of this part of town.

I have been made aware that your board recently rezoned a stretch of RT 302 on the North side of the retail district near Varney Mill Road & RT 302 for a new retail establishment and the Danielle Way Industrial park area which was faced with a similar zone issue. I would appreciate the same consideration for our area of town. Thank you for your time and timely response.

Respectfully,

[Signature]

Heirs of Stephen J Viherek
Owners
August 28, 2012

Scott Haymen
Planning Board
8 School Rd
Windham, ME 04062

Dear Mr. Haymen,

I recently submitted a zone change hearing on behalf of several owner of property along the Western Side of RT 302 beginning at the Time Warner building and extending to just before the Raymond Town Line. I had an initial meeting with a member of the Economic Development council and was asked to show how this request fits into the Towns master plan for the town and submit this request again.

My comment draws from the Towns Comprehensive Planning Document and I believe the request meets both the intended vision and economic development goals as expressed in the plan.

It is stated in the town’s plan that the primary objective and economic goal is to develop the RT 302 corridor and future commercial development should be focused along that route. The request made targets the western side of the road on property that already has commercial tenants under conditional use permitting. It would make sense and a logical next step to re-zone an area of RT 302 that already resembles that character and fits in with the goals of the town.

The town’s vision is stated that it wishes to improve economic development and increase the tax base for specific areas of the community. This area of town has already development by property owners who have chosen to settle along this corridor and attempt to live and maintain a way to earn a living. A commercial zone change would accomplish this and encourage future investment in this area of town which will further enhance potential tax earnings for the community.

Finally the town plan states changes concerning how land can and should be developed should seek to balance community needs and the rights of property owners. Many of these residents have already demonstrated their desire and intent to live and work along this corridor as indicated by the various permitted uses already in place, but these same property owners have been restricted to a narrow permitted use which has limited their opportunity to move ahead and attract new investors.

Several owners have attempted to sell their property and the buyers thus far have chosen not to invest because the permitted use allowed is not broad enough under the current zoning to fit the intended desired use of a new investor. This has resulted in sellers lowering their prices to such an extent so as to attract someone to purchase the property. The net effect is a reverse of the towns plan to attract new business and increase the economic opportunities along this corridor. I encourage your board to take a serious look at this request and the merits of this change and how it fits the town’s plans for future growth.

Respectfully,

Leo Yeletault broker
KWR

Keller Williams
Experienced, Reliable Service

Maine Castles
Your Home is Your Castle