



PLANNING, DEVELOPMENT AND SUSTAINABILITY

PLANNING DIVISION

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MEMO

To: Johnson County Board of Supervisors
From: Nate Mueller, AICP, CFM – Assistant Director, Joe Wilensky, AICP – Assistant Planner
RE: Johnson County Planning, Development & Sustainability's Response to amendments proposed by the local citizen group to the proposed Windham Village Plan 2022.

A self-formed local group has proposed edits to the proposed Windham Village Plan 2022 plan. PDS staff has reviewed the proposed amendments and offers the following response.

Proposed Alternative Boundaries

PDS Staff does not support either of the alternative village boundaries proposed by the citizen group as outlined below.

1. Restricting the village boundary to only the area of the historical plat and partial rezonings – as shown on the first proposed map – would create an exceedingly small area for potential growth (44 acres). Not only is this far smaller than any other village (less than 1/3 the area of the current smallest village of River Junction, and less than 1/5 of the next smallest village of Cosgrove), but it's smaller than single developments that have been created in the county; and smaller even than many single *parcels* within the County. Creating a growth area that can't accommodate more than a minimal amount of actual growth is poor planning practice, and could potentially create growth pressures in other parts of the county including environmentally sensitive areas or agriculturally productive areas.
2. The second proposed map is closer to the Potential Boundary supported by PDS, as well as the Alternative Boundary submitted by members of the public during the initial comment period in the fall of 2022. However this boundary omits the property of one of the landowners who has explicitly requested to be *included* in the proposed Windham Village Boundary. Staff and the Board have tried to be receptive to reasonable requests by landowners to have their property on the edges of the proposed boundaries excluded. Likewise, the Board should also be receptive to reasonable requests of property owners at the edges of the potential boundaries to be included as part of the Village boundary – especially when such inclusions can be accomplished without having to implicate any intervening properties to also be included.

Proposed Text Amendments

With the possible exception of item #1, PDS Staff does not support the seven additional restrictive land use goals proposed by the citizen group as outlined below.

1. *Property within Windham Village shall not be rezoned to MH – Heavy Industrial, SWDRR – Solid Waste Disposal and Resource Reclamation, CH – Highway Commercial, RMF – Residential Multi-Family, or RMH - Manufactured Housing Residential.:*

PDS does not have any concerns if language is added to the proposed plan to prohibit the most intensive industrial (MH - Heavy Industrial and ML – Light Industrial) and Solid Waste Disposal (SWDRR – Solid Waste Disposal and Resource Reclamation) uses within the village boundary.

PDS staff is less comfortable with prohibiting CH – Highway Commercial zoning as many of the properties on both sides of Black Diamond Rd within Windham are already zoned CH- Commercial Highway. While not unheard of, prohibiting a zoning designation that is already prevalent in an area has the potential to create land use conflicts in the future. Staff recognize that other Commercial zoning designations would provide the opportunity for low-intensity, small-scale businesses beyond home occupations that could serve residents as outlined in one of the Plan’s Land Use and Growth Goals; however staff would not recommend removing CH - Highway Commercial zoning at this time.

In regards to prohibiting the higher-density residential districts, the Comprehensive Plan notes a continuing goal of encouraging growth in incorporated cities and established villages as a way to balance overall community growth and the preservation of environmentally sensitive areas and agriculturally productive areas¹. Additionally, the Plan calls for growth to support a diversity of housing types, and provide for affordable housing to the extent reasonable in unincorporated areas². Staff feel that removing housing opportunities by prohibiting higher density residential zoning districts in designated growth areas is contrary to these goals.

2. *In any one calendar year, no more than one single-family home or one low-intensity, small-scale business that supports the local community and is compatible with historical development shall be permitted to begin construction in Windham Village.*

Prohibiting the issuance of building permits in designated growth areas is directly contrary to the purpose and intent of having growth areas, and staff do not support artificially capping the number of building permits that can be issued in any portion of the county. This would also be contrary to the growth goals of the Comprehensive Plan wherein Villages are identified as growth areas and while Windham currently lacks a boundary and dedicated village plan, it has been identified as a growth area in the County’s Land Use and Comprehensive Plans dating back to 1998.

Prohibition of managed growth in identified growth areas may also shift development pressure to agriculturally and environmentally significant land outside the village, which is contrary to the goals of the Comprehensive Plan³ and State Code⁴.

3. *This Village Plan may be amended by a majority vote of property owners and residents of Windham Village.*

Village Plans are a component of the County’s Comprehensive Plan. Per Iowa Code 335.5.4, Comprehensive Plans (and amendments thereto) can only legally be approved or denied by the Board of Supervisors.

4. *No Wind Energy Facility as defined by Section 8:5.3.B.11 of the Johnson County Unified Development Ordinance shall be constructed or located within one mile of the boundary of Windham Village.*

¹ Section 5.2 of the 2018 Comprehensive Plan.

² Section 2, Sustainability Goal 3 of the 2018 Comprehensive Plan.

³ Section 5.2 and Section 2, Sustainability Goal 3 of the 2018 Comprehensive Plan.

⁴ State Code Section 335.5

The County uses village plans to guide land use regulations *within* the established boundary of the village. The prohibition of land uses outside of a village boundary is not consistent with the intent or application of any other Village Plan.

The Comprehensive Plan contains very clear, specific, and widespread support for renewable energy. A blanket prohibition on Wind Energy facilities on land appropriately zoned for such uses – and following the appropriate review and approvals – is counter to the Comprehensive Plan’s goals to promote renewable wind energy⁵.

Through the public hearing process, members of the public, including Windham area residents, would have the opportunity to support or object to any Commercial Wind Energy Facility development application in the County⁶.

5. *No Utility Scale Solar Energy System as defined by Section 8:1.4.B.195 of the Johnson County Unified Development Ordinance shall be constructed or located within Windham Village.*

The Comprehensive Plan contains very clear, specific, and widespread support for renewable energy – specifically solar – at both the private and utility scale. A blanket prohibition of solar energy facilities on land appropriately zoned for such use is counter to the broader goals of the Comprehensive Plan.⁷

Through the public hearing process, members of the public, including Windham area residents, would have the opportunity to support or object to any utility scale solar development application in the county⁸.

6. *Any new development of property within Windham Village must first be approved by a majority of property owners and residents of Windham Village.*

Per Iowa Code 335 and UDO Section 8:1.27, development applications (subdivisions, rezonings, Site Plan, etc.) can only legally be approved or denied by the Board of Supervisors.

7. *It is foreseeable that the assessed value of a property in Windham Village will be revised upward by the county if that property is improved by its redevelopment. However, that upward revision of assessed value may not be used as justification to revise the assessed value of any other property in Windham Village for a period of ten (10) years*

Response from County Assessor Tom Van Buer

The Assessor does not believe that their office has the legal authority to execute the request per two Iowa State Code requirements:

Iowa Code 441.21.1.a states that:

A property subject to taxation shall be valued at its actual value which shall be entered opposite each item, and, except as otherwise provided In this section shall be assessed at one hundred percent of its actual value, and the value so assessed shall be taken and considered as the assessed value and taxable value of the property upon which the levy shall be made.

441.21.1.b (1) goes on to say:

⁵ Section 2.2 and 5.3 of the Comprehensive Plan as amended in May 2022.

⁶ Section 8:1.27 of the UDO.

⁷ Section 2.3, 3.3, 4.2, and 5.3 of the Comprehensive Plan as amended in May 2022.

⁸ Section 8:1.27 of the UDO.

The actual value of all property subject to assessment and taxation shall be the fair and reasonable market value of such property except as otherwise provided in this section. "Market value" is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property.

I [Tom Van Buer] do not know of any code that would allow for the freezing of an assessed value as laid out in this proposal. If they can provide a legal framework to allow for their request and all the requirements of that code were followed, I would follow what the code says. For example an urban revitalization program allows the board to create an area that they want development to happen and they create what rules they want to allow for a reduction in value based on improvements made.