City Council Workshop & Meeting
October 17, 2016
Agenda

5:30 P.M. Workshop

A. Mid Maine Waste Action Corporation (MMWAC) Update – John King (10 minutes)
B. Star Program Update – Yvette Bouttenot (20 minutes)
C. Neighborhood Challenge Grant – Yvette Bouttenot (20 minutes)
D. Cooperative Housing Update – Yvette Bouttenot (5 minutes)
E. Economic Development Update – Michael Chammings (15 minutes)
    a. Community Concepts Financial Corporation (CCFC) Update
    b. TIF 19 Resolve

7:00 P.M. City Council Meeting

Roll call votes will begin with Councilor Gilbert

Pledge of Allegiance

I. Consent Items – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.

1. Order 70-10172016*
Appointing Wardens and Ward Clerks for the November 8, 2016 Election.

II. Minutes

- October 3, 2016 Regular Council Meeting

III. Communications, Presentations and Recognitions

- Proclamation - Food Day
- Community Little Theater Presentation
- Auburn Police Department Badge Pinning Ceremony

IV. Open Session – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda.*

V. Unfinished Business

1. Ordinance 08-10032016
Adopting the General Assistance Appendices A and C, effective 10/01/2016 to 9/30/2017. Public hearing and first reading.

VI. New Business

2. PUBLIC HEARING – Consolidated Annual Performance and Evaluation Report

3. Order 71-10172016

Approving the renewal of the Auto Graveyard/Junkyard permit for TY Auto located at 249 Merrow Road. Public hearing.

4. Ordinance 09-10172016

Amending the zoning map in the area of 1863 Pownal Road. Public hearing and first reading.

5. Order 72-10172016

Authorizing the Finance Director to appropriate $40,000 of unallocated bond proceeds for the purpose of funding the necessary technical assistance to complete a study and plan of Auburn's Agricultural and Resource Protection District.

6. Ordinance 10-10172016

Amending Chapter 60, Article XVI, Division 2, Subdivision 1, Sec. 60-1301 (4) to update references to State Stormwater Standards to allow the City to maintain Delegated review Authority.

7. Order 73-10172016

Authorizing the Acting City Manager to execute the Downtown Auburn Transportation Center Ground Lease.

8. Order 74-10172016

Authorizing the Acting City Manager to sign a Memorandum of Understanding between the Lewiston-Auburn Transit Committee (LATC) and the City of Auburn.

9. Order 75-10172016

Disposition of building located at 741 Broad Street under dangerous building statute. Hearing for parties with interest in property.

VII. Executive Session

VIII. Reports

a. Mayor's Report

b. City Councilors' Reports

c. City Manager Report

IX. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda.*

X. Adjournment

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be

scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion of personnel issues
B. Discussion or consideration by a school board of suspension of expulsion
C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency
D. Labor contracts
E. Contemplated litigation
F. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;
G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and
H. Consultation between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: October 17, 2016

Author: Sue Clements-Dallaire, City Clerk

Subject: Mid Maine Waste Action Corporation Update

Information: John King will be here to provide the City Council with an update of the past year's operations.

Advantages: The update keeps the citizens and the Council informed.

Disadvantages: N/A

City Budgetary Impacts: N/A

Staff Recommended Action: None

Previous Meetings and History: N/A

Attachments: None

City of Auburn
City Council Information Sheet

Committee Meeting Date: October 17, 2016

Author: Yvette Bouttenot

Subject: Storefront Traffic Accelerates Revitalization (STAR) Program

Information: On May 16, 2016 the City Council approved the Community Development Action Plan with an amendment to re-allocate $200,000 of CDBG funds from the Economic Development Loan Program to establish the STAR Program. The criteria for the program will be to offer $50,000 forgivable loans to business owners or to owners of properties with storefronts located in the Downtown, New Auburn or Union Street CDBG Target Areas. The funds will be used to finance the purchase of equipment and/or inventory and for construction improvements in buildings which house storefront businesses. The Program Guidelines being developed will be based on the Gardiner Growth Initiative.

Advantages: Increases economic growth in Auburn designed to encourage the creation or enhancement of business enterprises by providing financing in the form of a forgivable loan. Creates new employment opportunities for low- and moderate-income (LMI) households.

Disadvantages: High risk loans

City Budgetary Impacts: $200,000 – CDBG Funds

Staff Recommended Action: Review of the proposed guidelines for the Storefront Traffic Accelerates Revitalization (STAR) Program.

Previous Meetings and History: City Council Meeting, May 16, 2016 – establish the STAR Program re-allocating $200,000 CDBG funding from the Economic Development Loan Program. August 18, 2016 - update before the City Council Sub-Committee for Economic and Community Development.

Attachments: None

City of Auburn
City Council Information Sheet

Committee Meeting Date: October 17, 2016

Author: Yvette Bouttenot

Subject: Neighborhood Challenge Grant

Information: On May 16, 2016 the City Council approved the Community Development Action Plan with an amendment to re-allocate $25,000 of CDBG funds from the Rehabilitation Loan Program to establish the Neighborhood Challenge Grant. Staff has developed an outline of suggested guidelines to implement the program in three target areas: Downtown, Union Street and New Auburn. This is a competitive process and scoring criteria will be used to determine the winners. Examples of projects can include gateway signage, crosswalks, lighting, and installation of benches, bike racks or park equipment.

Advantages: Beautification of neighborhoods

Disadvantages: Competitive process could put some neighborhoods at a disadvantage

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City Budgetary Impacts: $25,000 – CDBG Funding

Staff Recommended Action: Review of the proposed guidelines for the Neighborhood Challenge Grant.

Previous Meetings and History: City Council Meeting, May 16, 2016 – establish a Neighborhood Challenge Grant by re-allocating $25,000 from the CDBG Rehabilitation Loan Program; August 18, 2016 update before the City Council Sub-Committee for Economic and Community Development

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Attachments: None

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: October 17, 2016
Author: Yvette Bouttenot

Subject: HOME Program – Co-operative Housing Project

Information: The City Council acted to establish an Auburn Cooperative Housing Program by re-allocating HOME funds of $225,000 intended to purchase two single family dwellings. Staff proceeded in this direction by contacting Craig Saddlemire of Raise-Op, a Co-Operative Housing Cooperative with ongoing projects in Lewiston. On July 11, 2016 staff received correspondence from the Raise-Op Housing Cooperative (attached) stating that although they were very interested in pursuing a project in Auburn they were unable to move forward given Auburn's proposed timeline. Staff discussed using a RFP to reach out to potential developers.

At the time staff was faced with a HOME Fund Commitment Shortfall of $347,504 (letter attached). The funds needed to be committed by August 30 or the City would have had to return the funds to HUD. In order to avoid the forfeiture of funds the Auburn Lewiston HOME Consortium committed funds to five Homeowner Rehab Projects in Auburn and Lewiston, a Cooperative Housing Project in Lewiston and funded the purchase of a single family dwelling in Auburn and committed a budget of $120,850 for acquisition and rehab. The proceeds from the sale of the property along with a 2nd property that is currently available for sale will then be used to fund the Auburn Cooperative Housing Program along with the balance of $104,150 still in place. Staff projects the sale of the two properties will generate $140,000 in revenue.

In the spring of 2017 staff will develop a RFP process intended for developers of Cooperative Housing Projects. We project to have available funds of $244,150 to commit to the Co-op Project.

Advantages: The purchase of the single family dwelling along with several other projects in both Auburn and Lewiston averted the forfeiture of HOME funds.

Disadvantages: The Cooperative Housing Project was postponed until spring, 2017

City Budgetary Impacts: None

Staff Recommended Action:

Previous Meetings and History: May 16, 2016 – City Council Amendment to 2016 Action Plan

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Attachments: Letter from Raise-Op Cooperative Housing and from Dept of Housing and Urban Development

Raise-Op Housing Cooperative (207) 312-3640 raiseop207@gmail.com www.raiseop.com

July 11, 2016

RE: COOP HOUSING IN AUBURN

To: Michael Chammings, Yvette Bouttenot, and Hal Barter,

Thank you so much for reaching out to the Raise-Op and working with us over the past month to discuss the idea of the Raise-Op developing a property in Auburn. The Raise-Op remains very interested in such a project, however, we feel the timeline presented is too soon for us to develop and implement a responsible plan.

Typically, we require about a year of research and planning before we purchase a new property, during which time we include members in determining the organization's growth, plans for how many members we wish to add, how they will be recruited and trained, and how the development will be funded. Even with the generous proposal to finance the development with Auburn's HOME allocation, we do not have the capacity to commit the funds by September 1st, 2016. We are currently engaged in coordinating an extensive renovation of 9 housing units and meeting space, as well as interviewing and training new member applicants. This will keep us very busy through the fall and winter of this year.

Therefore, we must decline the invitation to utilize the Auburn HOME program for 2016.

We will continue to research opportunities for expansion in Auburn, and we hope you will consider us a willing partner for future projects.

Sincerely,

Shaad Masood, President
Raise-Op Housing Cooperative

U.S. Department of Housing and Urban Development

Office of Community Planning Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston, Massachusetts 02222-1092

Fax (617) 565-5442
Tel (617) 994-8350

New England

Michael Chammings
Economic and Community Development Director
City of Auburn
60 Court Street
Auburn, ME 04210

Dear Mr. Chammings:

JUL 25 2016

Subject: HOME Program 2014 Funds Commitment Deadline

Please be advised that our records indicate that you are in danger of missing your commitment deadline, which occurs on August 31st 2016. If not committed within the 24-month period, the funds will be deobligated.

The HOME Program statute provides that HOME funds are available to participating jurisdictions (PJs) for commitment to affordable housing for a period of 24 months after the last day of the month in which the Department of Housing and Urban Development (HUD) notifies the PJ of HUD's execution of the HOME Investment Partnerships Grant. These provisions are implemented by regulation at 24 CFR 92.500(d).

Attached is a copy of the Deadline Compliance Status Report which identifies the cumulative commitment requirement amount through July 21, 2016 as well as the amount committed as reported in IDIS through the date of the report. The report also shows a current commitment requirement shortfall of $347,504. This information is updated monthly on the HOME website at: http://www.hud.gov/offices/cpd/affordablehousing/reports/#dcr.

Prior to the requirement deadline, we are giving you the opportunity to update IDIS with any commitments not previously recorded and to identify and correct errors in IDIS. Please note that any cancellation of activities may negatively impact your ability to meet your requirements.

For more information on these requirements refer to HUD Notice CPD 07-06, Commitment, CHDO Reservation, and Expenditure Deadline Requirements for the HOME Program. If you have any questions or require assistance, please contact Paula Newcomb, Community Planning & Development Representative at 617-994-8378, or via email at paula.a.newcomb@hud.gov.

Sincerely,

Robert D. Shumeyko
Director

Enclosures

City of Auburn
City Council Information Sheet

Council Workshop Date: October 17, 2016

Author: Michael Chammings, Director of Economic and Community Development

Subject: Community Concepts Financial Corporation (CCFC) Update

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Information: The Council approved a budget that included allocating funds to CCFC to make loans to small businesses that leveraged additional financial resources to allow more lending to be provided within the City.

Advantages: Money leveraging; CCFC will maintain at least a 1:1 match of lending within the City.

Disadvantages: None.

City Budgetary Impacts: None.

Staff Recommended Action: Schedule for action.

Previous Meetings and History: Budget meetings and July 21, 2016 Community and Economic Development Committee Meeting.

Attachments: Draft Memorandum of Understanding and Agreement (MOU).

Memorandum of Understanding and Agreement Between
Community Concepts Finance Corporation and the City of Auburn

Community Concepts Finance Corporation (CCFC) & The City of Auburn (The City) enter into this Memorandum of Understanding and Agreement ("MOU") dated as of October __, 2016 (the "Effective Date").

Recitals:

WHEREAS, CCFC is a Maine nonprofit corporation & Community Development Finance Institution which provides Loan products to businesses in Maine and The City is a Municipality in Maine with a desire to stimulate economic development;

WHEREAS, CCFC has a track record of deploying loan funds in a fair and sustainable manner, to foster the growth of businesses and economic development;

WHEREAS, The City has allocated funds through the budget process to make loans to small businesses through CCFC while leveraging additional financial resources to allow more lending to be provided within The City; and

WHEREAS, The City and CCFC desire to state their mutual understandings and intentions with respect to the administration of a loan pool designed to benefit and attract businesses to Auburn, in anticipation of entering a definitive agreement with respect to the implementation and administration of the program.

NOW THEREFORE, CCFC and The City hereby agree as follows:

1. Negotiation of a Definitive Agreement

Following the execution of this MOU, The City and CCFC shall negotiate and enter a definitive agreement for the administration and implementation of the loan pool described herein (the "Definitive Agreement"). The loan pool shall not be funded, and no loans shall be made, until the Definitive Agreement has been duly executed by the parties.

2. Responsibilities of CCFC

The Definitive Agreement shall require CCFC to do the following:

(A) CCFC shall create a designated loan pool named City of Auburn Loan Fund (The Pool).

(B) CCFC shall contribute one-half of the initial funding of the Pool, with CCFC's initial contribution to be $100,000.00 (One Hundred Thousand Dollars).

(C) CCFC will follow its own internal underwriting guidelines as provided to and deemed reasonably acceptable to the City.

(D) CCFC will provide matching funds for all principal contributed by The City to The Pool, and will ensure that all loans made by the Pool disburse funds equally contributed by The City and CCFC, in order to maintain at least a 1:1 match of lending within The City at all times, and to ensure The City is never lending more than CCFC.

(E) CCFC will only loan Pool funds to for-profit businesses expanding in or moving to The City.

(F) CCFC will view the Downtown (TIF District #10, as amended) as a priority for all Pool lending.

(G) CCFC will provide a quarterly report to The City to include the name of the borrower, original amount of the loan and the status of the loan at the end of the quarter. Said report will be provided within 30 days of the end of each calendar quarter.

(H) CCFC will seek to collect The Pool funds in the same manner as all other loan pools under its control.

(I) CCFC will use The Pool as a revolving fund relending as principal is repaid.

2. Responsibilities The City

The Definitive Agreement shall require the City to do the following:

(A) The City will contribute one half of the funding for the Loan Pool, with the City's initial contribution to be $100,000.00 (One Hundred Thousand Dollars).

(B) The City will use reasonable efforts to promote the Loan Pool to potential borrowers.

(C) The City will provide timely feedback from clients to continuously improve the process.

(D) The City will provide written notice to CCFC if it desires to no longer fund The Pool. CCFC will return funds to The City as repaid to CCFC less any written off funds which may have occurred over the life of the agreement.

(E) The City will provide CCFC a detailed map showing TIF District #10 as amended.

3. Mutual Understandings

(A) Both parties agree that any mutually funded loans will be based on a pari passu basis and any incurred loss will be equally shared between both entities.

(B) Both parties agree The Pool is intended as an economic development investment. CCFC shall secure collateral is to mitigate any potential borrower default, according to mutually acceptable guidelines.

(C) This is a revolving fund and as principal is repaid CCFC shall immediately work to re-loan available funds.

(D) All notices shall be provided to the following individuals:

CCFC: CEO of CCFC 17 Market Square Paris, ME 04281	The City: City Manager Auburn Hall 60 Court Street Auburn, ME 04210

4. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Maine, exclusive, however, of such State's rules respecting the choice of law. Any disputes in this MOU or the Definitive Agreement shall be resolved through binding arbitration, to be conducted by JAMS according to its streamlined arbitration rules and procedures.

5. Term This MOU shall remain in effect unless notice of termination is given in writing by either party to the address provided in 3D, or until a Definitive Agreement is executed, whichever shall occur first.

6. Further Assurances and Actions. CCFC and The City both covenant and agree to take such further actions and to execute such instruments as either deem reasonable necessary or beneficial to implement the covenants set forth herein.

7. Waiver. The waiver or breach of any term, condition or covenant contained in this agreement shall be effective only if waived in writing and shall not be considered a waiver of any subsequent breach of any other term, condition or covenant.

8. Severability. In the event that any portion of this Agreement is declared void or unenforceable by a court of competent jurisdiction, the remaining portion shall remain in full force and effect, unless both parties to this MOU agree to the contrary in a written amendment hereto with respect to any particular provision.

9. Entire Agreement. This Agreement contains the entire understandings of the parties. It may not be changed orally, but only by an Agreement in writing signed by the parties hereto.

Executed as of the Effective Date.

Community Concepts Finance Corp.	The City of Auburn
_____	_____
By: Its: CEO	By: Its: Acting City Manager

City of Auburn
City Council Information Sheet

Council Workshop Date: October 17, 2016

Author: Michael Chammings, Director of Economic and Community Development

Subject: TIF 19 Resolve

Information: The City of Auburn designated the #19 Hartt Transportation Industrial Park Municipal Tax Increment Financing District on December 15, 2014, which received conditional approval of the Commissioner of the Department of Economic and Community Development on March 11, 2015 and full approval on December 18, 2015.

It was discovered that the original assessed value (OAV) included in the #19 District's application was incorrect due to a typo ($1,178,340 instead of the correct OAV of $1,278,600), the Department of Economic and Community Development will consider corrections of this TIF program in the form of a technical revision without requiring a new public hearing or formal Development Program amendment; however, the Council must authorize such technical revisions in this case.

This typo causes issues with the Hartt Credit Enhancement agreement, with the pending #20 Spring Street TIF and any future TIFs.

Advantages: Corrects the original assessed values (OAVs) for current and pending TIFs and authorizes the City Manager to make such further revisions to the Development Program as he/she deems reasonably necessary, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Disadvantages: Slight shift in the tax shelter formula.

City Budgetary Impacts: Minimal.

Staff Recommended Action: Schedule for action.

Previous Meetings and History: N/A

Attachments: Draft resolve.

IN CITY COUNCIL 2016

WHEREAS, the City of Auburn (the "City") designated a tax increment financing district pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Act"), and adopted a development program (the "Development Program") therefor, called the **#19 Hartt Transportation Industrial Park Municipal Tax Increment Financing District** (The "District") on December 15, 2014, which received conditional approval of the Commissioner of the Department of Economic and Community Development on March 11, 2015 and full approval on December 18, 2015; and

WHEREAS, in connection with each tax increment financing ("TIF") application submitted to the Department of Economic and Community Development, the City must provide a summary of the original assessed values for each of the City's existing TIF districts, and in so doing in connection with the most recent application submitted for the #20 62 Spring Street Tax Increment Financing District application, it was discovered that the original assessed value included in the #19 District's application was incorrect due to a typo; and

WHEREAS, the Department of Economic and Community Development will consider corrections of TIF development programs such as this in the form of a technical revision without requiring a new public hearing or formal Development Program amendment; however, the Council must authorize such technical revisions in this case; and

NOW THEREFORE, ORDERED AS FOLLOWS:

Section 1. The City of Auburn hereby authorizes the City Manager to correct the Original Assessed Value of the District to $1,278,600 (corrected from $1,178,340) in order to fix the typo that appeared in the original Development Program; such authorization to include:

(a) Correcting any mention of the Original Assessed Value contained in the Development Program,

(b) Directing the Assessor to execute and submit an Amended Assessor's Certificate that certifies to this corrected Original Assessed Value, and

(c) To correct, as necessary, the references to the Original Assessed Value contained within the Credit Enhancement Agreement entered into by and between the City and Hartt Transportation Systems, Inc.

Section 2. The City Manager, or his duly appointed representative, is hereby authorized and empowered, at his/her discretion, from time to time, to make such further revisions to the Development Program as the City Manager, or his duly appointed representative, deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and/or the Development Program by the Department, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Draft

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: June 6, 2016 **Order: 70-10172016**

Author: Sue Clements-Dallaire, City Clerk

Subject: Appointing Wardens and Ward Clerks for the November 8, 2016 Election

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Information:

Warden and Ward Clerk Appointments are made every two years. Appointments were made in January of 2016 for the 2016-2017 term, however there were several positions that were not filled. The City Clerk has nominated the following Wardens and Ward Clerks to fill those vacant positions for the November 8, 2016 election.

David Foster – Warden
Irene Noyes - Warden

Donna Martin - Ward Clerk
Christine Sirois - Ward Clerk
Jeannine Pelletier - Ward Clerk
Levi Gervais - Ward Clerk

Advantages: Passage of the order fills these positions and ensures that we are in compliance with State Election Law and City Ordinance.

Disadvantages: It is becoming more of a challenge to find qualified, committed candidates to fill all of these positions.

City Budgetary Impacts: N/A

Staff Recommended Action: Recommend passage.

Previous Meetings and History: Two year appointments were made 1/4/2016, however not all positions were filled and some are unable to work this election.

Attachments: Order 36-06062016

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 70-10172016

ORDERED, that the City Council hereby appoints the following individuals as Wardens and Ward Clerks for the November 8, 2016 Election.

David Foster – Warden
Irene Noyes - Warden

Donna Martin - Ward Clerk
Christine Sirois - Ward Clerk
Jeannine Pelletier - Ward Clerk
Levi Gervais - Ward Clerk

Mayor LaBonté called the meeting to order at 7:07 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present.

I. Consent Items

1. Order 63-10032016*

Adopting the By-laws of the Auburn-Lewiston Advisory Cable TV Committee.

2. Order 64-10032016*

Approving the temporary sign request for St. Dominic Academy's Annual Holiday Festival.

3. Resolve 09-10032016*

Supporting the LA (Lewiston Auburn) Good Food Charter.

4. Order 65-10032016*

Approving the renewal of the Auto Graveyard/Junkyard permit for M & P Auto located at 227 Merrow Road.

5. Order 66-10032016*

Approving the renewal of the Auto Graveyard/Junkyard permit for Randy's Auto Parts located at 899 Broad Street.

6. Order 67-10032016*

Approving the renewal of the Auto Graveyard/Junkyard permit for Prolerized New England Company, LLC located at 522 Washington St. N.

7. Order 68-10032016*

Approving the renewal of the Auto Graveyard/Junkyard permit for Isadore T. Miller Co., a Division of Schnitzer NE located at 78 & 80 Hotel Road.

8. Order 69-10032016*

Approving the renewal of the Auto Graveyard/Junkyard permit for Don's No Preference Towing, DBA Morris Auto Parts & Sales, located at 940 Washington St. N.

Motion was made by Councilor Burns and seconded by Councilor Walker for passage of consent items as presented. Passage 7-0.

II. Minutes

- September 19, 2016 Regular Council Meeting

Motion was made by Councilor Walker and seconded by Councilor Burns to accept the minutes of the September 19, 2016 meeting as presented. Passage 7-0.

III. Communications, Presentations and Recognitions

- Tizz E.H. Crowley was presented with the Spirit of America Award

- Eric Cousens discussed State Stormwater Standards (this item was carried over from workshop)

IV. **Open Session** – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda.*

Steve Damien, South Witham Road asked if improvements could be made on the South Witham Road to fill in some of the ruts.

Joe Gray, Sopers Mill Road, complimented the Auburn Police Department for doing a good job they did during the Dempsey Challenge event. He also commented that he was disappointed that there wasn't an opportunity for public input during the workshop discussion. He also asked why he was not appointed to the Cable TV Advisory Committee when appointments were made a few weeks ago adding that there were 3 vacancies, and only his application.

Dan Herrick, 470 Hatch Road, commented on the last Planning Board meeting and the discussion on the 1863 Pownal Road property. He said that he was also disappointed that there wasn't an opportunity for public input during the workshop discussion tonight adding that he does not support funding the Agricultural Study.

V. **Unfinished Business - none**

VI. **New Business**

9. **Ordinance 08-10032016**

Adopting the General Assistance Appendices A and C, effective 10/01/2016 to 9/30/2017. Public hearing and first reading.

Motion was made by Councilor Burns and seconded by Councilor Titus for passage of Ordinance 08-10032016.

Public hearing – no one from the public spoke. Passage 7-0. A roll call vote was taken.

10. **Resolve 10-10032016**

Initiating the public process to consider an amendment to the General Business Zoning District to modify the light industrial use group.

Motion was made by Councilor Burns and seconded by Councilor Walker for passage of Resolve 10-10032016.

Public comment – no one from the public spoke. Passage 7-0.

VII. **Executive Session -** None

VIII. **Reports**

Mayor's Report – the Mayor had a power point presentation in regards to the new high school.

City Councilors' Reports

Councilor Young – reported on the Dempsey Challenge. Pictures can be found on mainerunningphotos.com.

Councilor Pross – no report

Councilor Stone - reported that the Park Avenue project is coming along. He also reminded everyone that the University of Maine Women's Hockey league will be coming to the Norway Savings Bank Arena and people should get their tickets soon.

Councilor Titus – also reported on the Dempsey Challenge, and reported on the Androscoggin County Budget Committee meeting.

Councilor Gilbert – reported on the Environment and Transportation Council Committee's last meeting.

Councilor Walker – reported on the South Main Street project.

Councilor Burns – no report

City Manager – also reminded citizens that the University of Maine women's hockey team will be here on the 15th, Central Maine Community College has also started a team this year. Friday the 14th is their first game at the Norway Savings Bank Arena.

He also handed out to Council the tentative fourth quarter Council calendar so they can see what is coming up adding that it is a draft and is subject to change.

IX. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not on this agenda.*

No one from the public spoke.

X. Adjournment

Motion was made by Councilor Stone and seconded by Councilor Walker to adjourn. All were in favor, the meeting adjourned at 8:13 PM.

A True Copy.

ATTEST Susan Clements-Dallaire
Susan Clements-Dallaire, City Clerk

OFFICE OF THE MAYOR
CITY OF AUBURN

PROCLAMATION

FOOD DAY FOR THE CITY OF AUBURN

WHEREAS, the health and well-being of our citizens is of primary concern for the City of Auburn; and

WHEREAS, promoting safer, healthier diets is a critical factor in improving citizens' overall health and quality of life and local organizations such as the St. Mary's Nutrition Center are supporting area residents in learning how to create healthier, locally sourced meals at home; and

WHEREAS, supporting sustainable family farms, farm stands, farmers' markets and local agriculture benefits the local economy and Auburn is home to many including Valley View Farm, Bell Farms, South Auburn Organic Farm, Wallingford's and others in addition to farm stands and local food markets like the well-known Blackie's and 4 Season Farm Market and access to nearby markets like the blossoming Bates Mill 5 Farmers' Market in Lewiston; and

WHEREAS, Auburn's investment in market analysis and business assistance needs for local food, agricultural, and natural resource-based enterprises is further demonstration of the importance of this sector to growing our local economy; and

WHEREAS, obtaining fair pay and safe conditions for food and farm workers, and supporting the training and development of that workforce, is beneficial for both the producer and consumer so that the food we produce and consume is safe and accessible; and

WHEREAS, community-centered efforts like those of Lewiston-based Lots to Gardens, which supports management of Auburn's community garden near the PAL Center, Portland-based Cultivating Community and the Auburn School Department to connect the science and business planning of agriculture to students will help build the foundation for Auburn's local food efforts into the future;

WHEREAS, expanding access to food and reducing hunger is of critical importance to aid those who live in food deserts and efforts led by Good Food Council of Lewiston-Auburn, Auburn-based Good Shepherd Food Bank, and the growing food BackPack initiative in our locals schools are modeling the way to support our local residents in overcoming this challenge;

WHEREAS, the Auburn City Council has passed a resolve to consider in decision-making the food system values in the LA Community Food Charter created by the Good Food Council of LA;

NOW, THEREFORE, I, Jonathan P. LaBonte**,** Mayor of the great City of Auburn, do hereby
proclaim Monday, October 24, 2016 as **FOOD DAY** in the City of Auburn, and I urge all citizens to participate in the activities in Lewiston-Auburn planned by Healthy Androscoggin and Lots to Gardens or consider visiting a local farm stand.

IN WITNESS WHEREOF, I have hereunto Set my hand and caused
the Seal of the City of Auburn, Maine
to be fixed this 17th day of October, 2016

Mayor Jonathan P. LaBonté

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: 10/17/2016 **Ordinance** 08-10032016

Author: Dorothy Meagher

Subject: Adoption of Appendices for General Assistance, Effective 10/01/2016 to 09/30/2017

Information: I'm seeking the approval of the new General Assistance Appendices A, the GA overall maximums and Appendix C (Lewiston / Auburn MSA) the housing accordance to Ordinance 24-23 in Chapter 24. Once the appendices A and C, are adopted they will replace the FY 15-16 maximums for those appendices.

The maximums are established as a matter of state law based on certain federal and HUD values. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22, M.R.S.A. §4305(4).

Advantages: By adopting the new appendices A and C the program will be in compliance for the 70% reimbursement from the State.

Disadvantages: By not adopting the appendices, the program can be penalized and lose the State reimbursement.

City Budgetary Impacts: The overall maximum (Appendix A) is an average increase of 4%. The rental increase (Appendix C) is an average increase of 6% over last year's rates.

Staff Recommended Action: Approval of the increase to the General Assistance Appendices A & C as required by state statutes and ordinance.

Previous Meetings and History: This is a yearly approval needed by council when any changes are done to the appendices. This item was presented to the Council at the 9/19/2016 workshop, and a public hearing and first reading took place on 10/3/2016. First reading passed, 7-0.

Attachments:
Appendix A, Overall Maximums
Appendix C, Rental Maximums
Adoption form for 16-17
Ordinance 08-10032016

GA Overall Maximums Appendix A

Metropolitan Areas

COUNTY	Persons in Household 1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	703	777	981	1,227	1,437
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	596	673	836	1,082	1,254
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	575	678	855	1,086	1,241
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	838	975	1,220	1,638	1,717
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	967	1,011	1,316	1,693	2,070
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	750	796	1,058	1,542	1,759

Non-Metropolitan FMR Areas Rental Appendix C

Waldo County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	116	497	138	592
1	127	547	156	671
2	149	639	184	793
3	211	908	255	1,096
4	215	926	269	1,155

Washington County	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	98	420	121	521
1	102	439	131	563
2	120	515	156	669
3	157	674	200	862
4	191	819	244	1,048

Metropolitan FMR Areas

Bangor HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	125	539	149	640
1	135	583	164	707
2	173	744	209	898
3	219	944	263	1,132
4	255	1,097	308	1,326

Penobscot Cty. HMFA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	101	432	124	533
1	111	479	140	603
2	139	599	175	753
3	186	799	230	987
4	213	914	266	1,143

Lewiston/Auburn MSA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	411	119	512
1	112	484	141	608
2	144	618	180	772
3	187	803	230	991
4	210	901	263	1,130

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDINANCE 08-10032016

ORDERED, that the City Council hereby amends the General Assistance Ordinance to incorporate the following maximum levels of assistance to be effective on and after October 1, 2016 through September 30, 2017 as follows:

Appendix A – GA Overall Maximums

Effective: 10/01/16-09/30/17

Persons in Household

COUNTY	1	2	3	4	5*
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	575	678	855	1,086	1,241

Appendix C

Effective: 10/01/16-09/30/17

Rental

Lewiston/Auburn MSA	Unheated		Heated	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	411	119	512
1	112	484	141	608
2	144	618	180	772
3	187	803	230	991
4	210	901	263	1,130

Passage of first reading on 10/3/2016 7-0.

City of Auburn
City Council Information Sheet

Committee Meeting Date: October 17, 2016

Author: Yvette Bouttenot

Subject: Consolidated Annual Performance and Evaluation Report (CAPER)

Information: The Consolidated Annual Performance and Evaluation Report (CAPER) highlights the activities that have been accomplished in the 2015-2016 program year and also measures them against the goals identified in the 5 Year Consolidated Plan for the CDBG and HOME funds. The report is due to HUD ninety days after the end of the program year or September 30, 2016. An extension has been granted until October 18, 2016 in order to hold a public hearing before the City Council as stated in the Citizen Participation Plan.

Advantages: N/A

Disadvantages: N/A

City Budgetary Impacts: N/A

Staff Recommended Action: Public hearing to give citizens the opportunity to comment on the CAPER.

Previous Meetings and History: None

Attachments: CAPER Summary

APPENDIX
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT FOR PROGRAM YEAR JULY 1, 2015 TO JUNE 30, 2016 (FY2015) AUBURN CONSORTIUM, MAINE

This document is the City of Auburn's annual report that assesses the effectiveness of using Community Development and HOME Investment Partnerships (HOME) Program funds to address the objectives of the 2015 - 2019 Consolidated Plan. This Consolidated Annual Performance and Evaluation Report (CAPER) is for the period July 1, 2015 to June 30, 2016 (PY2015). The report provides an assessment of annual goals and objectives; Community Development, HOME and other supporting resources; and the number of households and/or persons assisted. Last, the report includes an assessment of performance towards meeting the five year objectives.

The eight high priority goals identified in the 2015 - 2019 Consolidated Plan are 1) support people in their efforts to transition out of poverty, 2) prevent deterioration of housing stock, 3) promote jobs and development, 4) make neighborhood streets safer and more walkable, 5) prevent homelessness, 6) increase owner occupancy, 7) improve parks and establish community gardens, and 8) support construction of new affordable housing units. There is one low priority goal which is to support fair housing. This evaluation reports on these nine goals.

1. FY2015 Accomplishments

a. EXPENDITURES

The 2015 Action Plan includes activities for Auburn that were funded with $762,987 from Community Development resources for activities and administrative costs. This leveraged $229,502 from other resources. The following table compares the Community Development funding available in FY2015, Community Development funds spent, private dollars leveraged by activity:

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

	FY2015= EXPENDITURES AND LEVERAGED FUNDS		
ACTIVITIES	CDBG EXPENDITURES	LEVERAGED FUNDS	TOTAL
ADMINISTRATION/PLANNING			
Program Administration	$154,589	0	$154,589
Goods & Services	10,368	0	10,368
Neighborhood Revitalization Plan	4,750	0	4,750
ECONOMIC OPPORTUNITIES			
Small Business Program	0	0	0
AFFORDABLE HOUSING			
Housing Project Administration	68,000	0	68,000
Rehabilitation Loan Program	233,833	88,256	322,089

Lead Testing and Clearance	3,440	0	3,440
CCI Weatherization	12,872	16,229	29,101
Code Enforcement	32,855	0	32,855
PUBLIC IMPROVEMENTS			
Union Street Playground	24,343	0	24,343
New Auburn River Trail	82,639	0	82,639
Community Garden	7,332	5,000	12,332
DEMOLITION			
115 Whitney/88 Newbury	23,897	0	23,897
PUBLIC SERVICES			
Androscoggin Head Start	8,500	53,000	61,500
Recreation Scholarships	15,500		15,500
Literacy Volunteers	8,635	38,500	46,865
Safe Voices	11,000		11,000
CCI/Bridges out of Poverty	10,465		10,465
Tedford Housing	7,000	28,517	35,517
Auburn Police Dept./Work With Me	33,449		33,449
PAL Center/Youth Diversion	9,520		9,520
TOTAL EXPENDITURES	**762,987**	**229,502**	**992,489**

The cities of Auburn and Lewiston formed a consortium to be eligible to receive HOME funds. This brings a resource to the communities to assist in creating low-income rental housing units, encouraging home ownership, rehabilitating buildings, and assisting homeless persons. The 2015 Action Plan includes goals that were funded from $531,123 of HOME resources for activities and administrative costs in both Auburn and Lewiston. This leveraged $189,719 and $10,000 in HOME match.

The following chart compares the HOME funding available in FY2015 with the HOME funds spent, public and private dollars leveraged and match funds, all of which addressed the goal of quality affordable housing:

HOME INVESTMENT PARTNERSHIPS PROGRAM

FY2015 EXPENDITURES AND MATCH FUNDS

ACTIVITIES	HOME FY2014 EXPENDITURES	PRIVATE/PUBLIC DOLLARS LEVERAGED	MATCH FUNDS	TOTAL PROJECT EXPENDITURES
AUBURN				
Administration	23,666	0	0	23,666
Housing Administration	10,853	0	0	10,853
Goods & Services	193	0	0	193
Homeowner Rehab	111,293	0	0	111,293
Homebuyer/132 Hampshire Street	85,474	71,161	10,000	166,653
Homebuyer/62 Harvard	129,511	0	0	129,511
Security Deposits	16,803	0	0	16,803
LEWISTON				
Administration	15,023	0	0	15,023

Homebuyer	7,256	118,558	0	125,814
Homebuyer/11 Walker	115,209	0	0	115,209
Homeowner Rehab	0	0	0	0
Security Deposits	15,842	0	0	15,842
Total	**$531,123**	**$189,719**	**$10,000**	**$730,842**

b. Accomplishments, Progress and Barriers towards Meeting Objectives

The objective, strategy, accomplishments and progress towards meeting the nine goals follow

Since Lewiston is a member of the HOME consortium the CAPER includes housing goals and demographics of beneficiaries for both Auburn and Lewiston.

GOAL: SUPPORT PEOPLE IN THEIR EFFORTS TO TRANSITION OUT OF POVERTY

Five social service received CDBG grants to support this goal:

- Androscoggin Head Start and child care provided services to 15 Auburn households
- Auburn Recreation Department provided scholarships to 36 Auburn children.
- Literacy Volunteers of Androscoggin provided services to 184 Auburn households.
- Auburn Police Department/Work With Me Program assisted 60 youth in Auburn Schools with job skills training
- Community Concepts, Inc. provided services to 5 Auburn families through its Bridges Out of Poverty Program

GOAL: PREVENT DETERIORATION OF HOUSING STOCK

The City of Auburn offers a variety of programs to prevent deterioration of the housing stock. Loans are available to property owners with terms and rates depending on the income of the owner and the location of the property. Deferred loans are offered for people under 65% of the median income level; amortized loans are offered to landlords and owner occupied properties that are located in one of the CDBG target areas. Homeowners outside the target areas are offered 0% loans if their income is below 80% of area medium income.

HOUSING REHABILITATION

The Spot and Residential Programs are funded with Community Development Block Grant funds, and Homeowner Rehabilitation is funded with HOME Investment Partnerships Program funds. Each program is designed to serve a particular housing need:

PROGRAM	DESCRIPTION	ACCOMPLISHMENTS
SPOT	The Spot Rehab Program assists owner-occupied buildings to eliminate conditions detrimental to public health and safety.	11 property 15 units rehabbed
Residential	The Residential Rehab Program assists property owners of both owner-occupied and investor-owned buildings to eliminate substandard housing conditions and improve or update long-term maintenance items. The program is available in target areas.	4 property 7 units rehabbed
Lead	Lead loans are used to supplement Lead Abatement Projects funded through the Lewiston Auburn Lead Hazard reduction Program	4 properties 8 units made lead safe
Homeowner Rehabilitation	The Homeowner Rehabilitation Program assists owner-occupied units only where the owner's income is less than 80% of area median income. The program is available throughout the city.	4 property 6 units rehabbed
Acquisition/Rehabilitation/62 Harvard Street	A building was purchased and renovations have been completed. The property is now available for purchase	1 property acquired and rehabbed
Weatherization	CDBG funds are earmarked to weatherize homes of low income persons through a subgrant to Community Concepts, Inc.	2 properties 3 units weatherized
Code Enforcement	Code Enforcement is part of the Planning and Permitting Department. They have initiated the Targeted Code Enforcement Program in three target areas, Downtown, New Auburn and Union Street.	111 housing violations corrected
Exterior Rehab	Exterior Rehab Grants were made available to property owners with building in the three downtown target areas.	4 properties

The projects listed in the above table may have received assistance that fall into more than one category therefore there are duplication in the numbers.

GOAL: PROMOTE JOBS AND DEVELOPMENT

The City offered a Small Business Loan Program to encourage the creation or enhancement of business enterprise with low interest financing. No applications were received in FY2015.

GOAL: MAKE NEIGHBORHOODS STREETS SAFER AND MORE WALKABLE

Funds had been earmarked for upgrading sidewalks in the target areas. The Hampshire Street Reconstruction Project in the Union Street Target Area will make use of $312,000 in funding for sidewalks upgrades. The project is scheduled for spring of 2017.

GOAL: PREVENT HOMELESSNESS

- Safe Voices provided services to 66 Auburn households.
- Tedford Housing provided services to 6 Auburn households.
- The Auburn Security Deposit Program assisted 24 households who were homeless or at-risk of homelessness to secure an apartment. The same program in Lewiston assisted 22 households.

GOAL: INCREASE OWNER OCCUPANCY

ACQUISITION/REHAB/SALE

132 Hampshire Street, Auburn: A building was purchased and renovated in FY2014. With the completion of the rehab, the building was marketed for sale and sold to a qualified homebuyer in April, 2015.

HOME OWNERSHIP ASSISTANCE PROGRAM

Homebuyer: The Homebuyer Loan Program offers qualified buyers a resource for affordable home ownership opportunities. The goal of the program is to make it possible for low-income households to purchase market rate homes, and to increase owner occupancy in throughout the City. The amount of the loan will be established based on housing costs at 32% of household income.

Thirteen applications were accepted for the homebuyer program. By the end of this program year three remain in the program. Five withdrew because they no longer qualified.

One homeowner completed the process and purchased a home in Lewiston.

GOAL: IMPROVE PARKS AND ESTABLISH COMMUNITY GARDENS

Improve Parks: The Union Street Playground at 31 Chestnut Street received funding for the purchase of new bleachers, benches and trash cans.

Establish Community Garden: Auburn's first Community Garden was established in the Union Street Target Area. The lead entity was the St. Mary's Nutrition Center who has had much success with the Lots to Garden Program in Lewiston. A site was selected on Webster Street across from Webster School Apartments and near the Auburn Police Athletic League (PAL) Center. A collaborative effort

with the City of Auburn, St. Mary's Nutrition Center, The National Park Service Trails and Conservation Assistance Program, the University of Maine Cooperative Extension and the Androscoggin Land Trust.

The garden includes 24 plots of raised beds, with several made handicap accessible. The fenced in lot has a shed for tools and other garden supplies, compost bins and a water meter for gardeners. The City of Auburn's Parks and Recreation Department processed applications from interested gardeners. A garden coordinator was hired to oversee the daily operations and functions of the garden and to assist gardeners with their needs.

In addition to the $20,000 of CDBG funds, the project leveraged funding from a Harvard Pilgrim Health Care Foundation Food Fund, Community Garden/Farming Grant, national Park Service and Fiskars Project Orange Thumb. Also, Goodwill Industries offered assistance through the Take 2 program to assist with the construction of the raised beds and the Lewiston Regional Technical Center for building the shed.

The garden was just getting going by the end of this program year. Additional reporting on its successes will be available in November, 2016. Two additional garden sites are being planned.

GOAL: SUPPORT CONSTRUCTION OF NEW AFFORDABLE HOUSING UNITS

The HOME Investment Partnership Funds of $100,000 had been earmarked for development of a rental housing project at 62 Spring Street. The project will include 39 units of mixed rate housing as well as 2 commercial spaces. The developer submitted an application to the State of Maine for tax credits but did not score high enough to be awarded the funding. The developer plans to submit a new application in October, 2017 with a modified project design. No accomplishments are reported for this program year.

GOAL: SUPPORT FAIR HOUSING

In 2013 The Cities of Auburn and Lewiston adopted a plan to address the impediments to fair housing choice. The plan identified several strategies that a team of Community Development and Housing Authority partners will address. Strategies that were identified in the plan are 1) landlord workshops, 2) tenant workshops, 3) Sharia financing for the Muslim community and 4) Fair Housing Poster Contest. In FY2015 the Auburn Consortium worked on the following:

Poster Contest: The Auburn Lewiston Fair Housing Alliance sponsored a Fair Housing Poster Contest for students at the Middle Schools. The intention of the contest is to raise community awareness of the Fair Housing laws and the history of the Fair Housing Act with middle school children. This year the theme was "Nations and Neighbors Together". The top 13 posters were selected and prizes awarded at a recognition evening to celebrate their participation. A framed copy of the winning poster is displayed at the Community Development office; a calendar is created featuring the 13 finalists and distributed to winners, teachers, judges and other housing providers.

Landlord Forum: The Cities of Auburn & Lewiston along with the Housing Authorities sponsored a Fair Housing Forum for Landlords. The specific topic for the forum was "How to avoid costly fines by addressing lead issues in your properties." The event was advertised through various media including an article in the Lewiston Sun

Journal; the Housing Authorities included a flyer in the monthly mailing; and flyers were posted. Eric Frohmberg, State of Maine Lead Poison Prevention Manager was present to give a presentation on why it is important to correct the lead paint issues in rental properties and how to avoid problems when renting to families with young children. A representative from the EPA was also in attendance along with 60 area landlords of which 47 signed up for the RRP training class.

Sharia Lending: Collaboration with Community Concepts Finance Corp. continued in an effort to establish a cultural lending program. Loans would be made available for the purchase of homes by the new Mainers. The mechanism to allow lenders to offer loans which are compliant with Sharia laws have proven to be difficult in this area because there is not enough need.

LEWISTON GOAL #1: PREVENT HOMELESSNESS

Security Deposits: The Security Deposit Program assists households who are homeless or at-risk of homelessness to secure an apartment**. Thirty three renters were assisted to gain access to housing.**

LEWISTON GOAL #2: IMPROVE THE SAFETY AND ENERGY EFFICIENCY OF THE HOUSING STOCK

Homeowner Rehabilitation: The Homeowner Rehabilitation Program assists owner-occupied units only where the owner's income is less than 80% of area median income. The program is available throughout the city. **No accomplishments in the program year.**

Construction of Rental Units: The City of Lewiston is working with a developer for affordable housing units. The project is not yet ready for funding. **No accomplishments in this program year.**

LEWISTON GOAL #3: CREATE MORE STABLE AND DIVERSE MIXED-INCOME NEIGHBORHOODS

Homebuyer: The Homebuyer Loan Program assists to make home ownership affordable so low-income households can purchase market rate homes, and increases owner-occupancy in targeted areas. **One homebuyer was assisted in FY2015.**

Acquisition/Rehab/Sale: A tax acquired property was donated by the City. The property had been vacant for several years and was in need of whole house rehabilitation. The rehab was completed in the spring of 2015 and the property is now being marketed for sale to a qualified home buyer.

2. Geographic Distribution of Resources

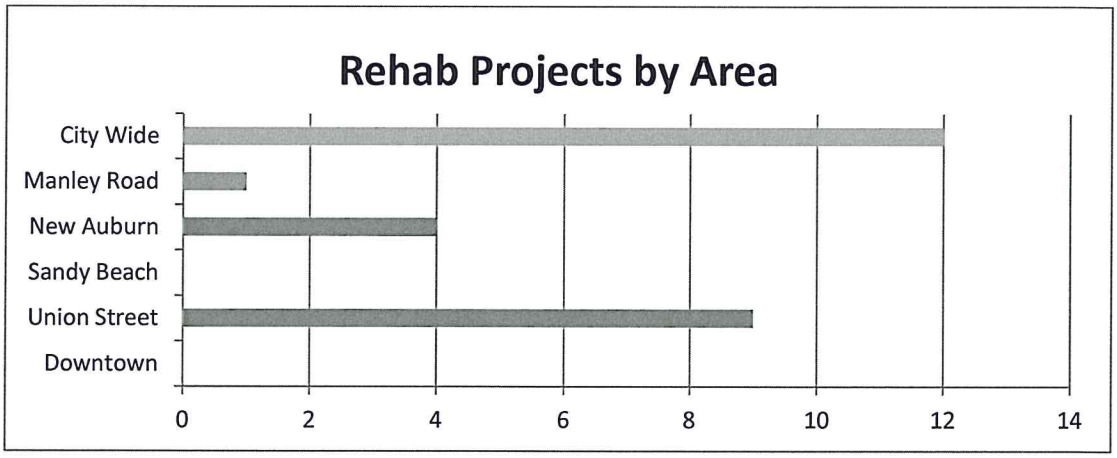
In 1994 Auburn completed the Urban Conditions Study. Although housing was included in this study, the study focused on the living environment that contributed to blight in neighborhoods. The Urban Conditions Study redefined the targeted neighborhoods based on the analysis of factors that contribute to blight. In 2010 the Community Development Department completed an update to the Urban Conditions Study. Boundaries changed slightly. A map of these areas is included in Appendix B. These are the locations where Auburn will invest the majority of its Community Development funds,

especially for public improvements, housing rehabilitation, and commercial loans. These are the areas with the greatest need for public investment. The neighborhoods are: Downtown, Union Street, New Auburn, Sandy Beach, and Manley Road Target Areas.

The Action Plan included public improvements in the Union Street and the New Auburn Target Area. There were no improvements identified in other target areas.

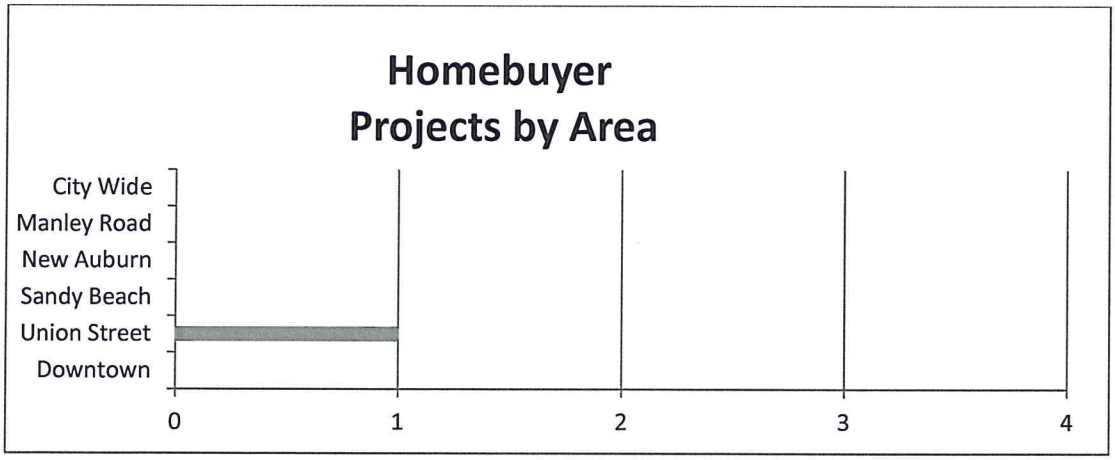
The emphasis for Auburn's Rehabilitation Program activity has been to focus resources in 3 of the 5 target areas. The majority of the rehabilitation dollars were to be spent in the Downtown, New Auburn, and Union Street target areas. Auburn has four rehabilitation programs that are available throughout the city. The Spot Rehab, Residential Rehab, Weatherization, and Home Owner Rehabilitation Programs provide loans with terms based on income.

Rehab activity was heavier in non-target areas. The activities are primarily home weatherization and emergency repairs for low-income homeowners. Many of our clients are having financial difficulties because of low paying jobs or living on limited retirement income. They can no longer pay for improvements through conventional financing methods. Many of these loan terms are on a deferred basis. Rehab of these properties consists mainly of major system failures such as heating, roofing, and septic systems. There were only 3 whole house renovations; 5 projects were funded as a match to a Lead Abatement Project. The following table demonstrates number of projects by area where rehabilitation assistance was provided in FY2015:



Auburn offers a number of programs available to assist households become home owners, all of which are available city-wide:

The following table demonstrates the location where participants of the homebuyer program purchased their homes in FY2015. One homebuyer purchased a property in the Union Street target area.



3. Program Income

Listed below is the amount of program income received in FY 2015. Most of the income was from revolving loan programs where the funds were rolled back into the program from which funds were generated. Miscellaneous income is rolled into the budget to cover general program expenses of the Community Development Program.

PROGRAM INCOME – ALL PROGRAMS

Program	Amount Received	Source
Program Income/Auburn		
Homebuyer Program	$9,095	HOME
Homeowner Rehab Program	120,301	HOME
Security Deposit Program	11,688	HOME
Commercial Program	39,520	CDBG
Rehabilitation Loan Program	282,806	CDBG
Down payment Assistance Loan Program	765	CDBG
Miscellaneous Income	34,586	CDBG
Heating Assistance Program	5,311	CDBG
Total Income	**$504,071**	
Program	Amount Received	Source
Program Income/Lewiston		
Homebuyer Program	$1,870	HOME
Homeowner Rehab Program	4,070	HOME
Security Deposits	2,711	HOME
Rental Income	0	HOME
Total Income	**$8,651**	

4. Loans and Other Receivables

a. Properties Acquired with CDBG Funds and Available for Sale

None

b. Properties Acquired with HOME funds and Available for Sale:

62 Harvard Street, Auburn
11 Walker Street, Lewiston

c. **Loan Portfolio Balances:** The loan portfolio balances and number of outstanding loans as of June 30, are as follows:

LOAN PROGRAM	Source	PORTFOLIO BALANCE	# OF LOANS
Rehabilitation Loan Program	CDBG	$2,167,366.90	382
Down payment Assistance Loan Program	CDBG	2,477.43	2
Commercial Program	CDBG	460,683.91	6
Miscellaneous Income	CDBG	128,056.88	7
Heating Assistance Loan Program	CDBG	81,405.84	99
Neighborhood Stabilization Program	CDBG	640,557.01	7
Homebuyer Program	HOME	468,143.79	21
Homeowner Rehab Program	HOME	755,329.62	62
Security Deposit Loan Program	HOME	23,571.25	55
Rental Housing	HOME	690,000.00	3
Maine Cities	Misc	24,237.57	4
Gorman Foundation	Misc	12,893.75	27
Total Loan Portfolio		**$ 5,481,348.95**	**675**

d. **Deferred Loans:** There are 18 Spot Rehab loans that processed prior to 1994 where the deferral runs until the property is sold. The principal balance of these loans is $60,014. After 1994, the deferred payment loans were awarded for a two-year period. There are 151 deferred payment loans. The principal balance of these loans is $788,985. Income is reviewed every two years and if the household income remains under 65% of AMI, the loan remains deferred. If income increases above 65% level, the loan becomes amortized. Also, if a person reaches the age of 65 and the loan is classified as deferred it will remain deferred until the property is sold or transferred. There are several other deferred loans: an elderly rental project with a principal balance of $320,000 (HOME); a permanent supportive housing project with a balance of $120,000 (HOME); and a family rental project with balance of $250,000 (HOME).

e. **HOME Forgivable Loans:** 4 loans to be forgiven after an occupancy period. The principal balance is $18,700.

f. **Default:** 7 Security Deposit loans were classified as uncollectible in FY2015 for $3,718. The City carries a loss reserve on the balance sheet of $73,229 for CDBG and $3,974 for HOME.

g. **Loan Portfolio Losses in 2015:** The following losses are as a result of 3 loans which went through foreclosure and one loan which was classified as uncollectible.

LOAN PROGRAM	AMOUNT OF LOSS
Rehabilitation Loan program	63,991
Homebuyer	40,000
Homeowner Rehab	5,997
TOTAL	**$109,988**

The end of program year 2015 started a transition for the Community Development Department. A key staff person retired after 35 plus years taking with her much knowledge and expertise. The department was combined with Economic Development, Planning and Permitting, and Code Enforcement to become the Department of Economic and Community Development. We lost a part-time Administrative Assistant and the duties of this position have been absorbed by the Accounting, Compliance and Underwriter, formerly known as the Community Development Coordinator. As we adjust to these changes we will move forward to implement the goals outlined in the Consolidated Plan and annual Action Plan.

2015-19 Consolidated Plan Strategies and Outcomes
Auburn

Activity:	5 Year Objectives	Year 1	Year 2	Year 3	Year 4	Year 5	Ongoing Total	Percentage of Goal Met
a. Support People in their Efforts to Transition out of Poverty	1,000 persons	300					300	30%
b. Prevent Deterioration of Housing Stock	90 homeowner housing	13					13	15%
c. Prevent Deterioration of Housing Stock	100 Homeowner and Rental Housing made Lead Safe	20					20	20%
d. Prevent Deterioration of Housing Stock	40 rental units	10					10	25%
e. Prevent Deterioration of Housing Stock	500 target area buildings inspected by Code Enf	111					111	23%
f. Promote Jobs and Development	20 businesses assisted	0					0	0%
g. Make Neighborhood Streets Safer and More Walkable	3,000 linear feet of repaved sidewalks	0					0	0%
h. Prevent Homelessness	200 homeless assisted with case management	118					118	59%
i. Prevent Homelessness	125 homeless or at risk assisted with security deposits	24					24	20%
j. Increase Owner Occupancy	25 renters assisted to purchase a home	2					2	4%
k. Improve Parks	2 city parks/1 upgraded and 1 new	1					1	50%
l. Support Community Gardens	3 community gardens	1					1	33%
m. Support Construction of Affordable Housing Units	60 new affordable rental units	0					0	0%
n. Support Fair Housing	4 landlord and 4 tenant workshops 4 poster fairs	1 0 1					1 0 1	17%

2015-19 Consolidated Plan Strategies and Outcomes
Lewiston

Activity:	5 Year Objectives	Year 1	Year 2	Year 3	Year 4	Year 5	Ongoing Total	Percentage of Goal Met
a. Prevent Homelessness	125 homeless or near homeless assisted with security deposits	23						19%
b. Improve Safety and Energy Efficiency of Housing Stock	10 homeowner housing rehabilitated	0						0%
c. Improve Safety and Energy Efficiency of Housing Stock	50 affordable rental units constructed	0						0%
d. Create Stable and Diverse Mixed-Income Neighborhoods	17 renters to become owners	1						1%

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: October 17, 2016 Order: 71-10172016

Author: Alison F. Pepin, License Specialist

Subject: Ty Auto, 249 Merrow Road - Automobile Graveyard/Junkyard Permit new application

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Information: This is a new Automobile Graveyard/Junkyard Permit application for Ty Auto, 249 Merrow Road, formerly Buck's Auto, same address. Notice of the application was sent to all abutting property owners and the Auburn Water District. Inspections were conducted by the Code and Fire Departments resulting in approval of application.

Advantages: Allows a new taxpaying business to operate as long as they meet requirements. Junkyards provide a special service to both people searching for inexpensive car parts and to the environment since they reuse valuable vehicle parts that would otherwise go to waste.

Disadvantages: Junkyards can potentially be a source of pollution if they are not properly maintained and regulated.

City Budgetary Impacts: N/A

Staff Recommended Action: Public Hearing and City Council approval

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Previous Meetings and History: Formerly Buck's Auto

Attachments:

1. TY Auto Automobile Graveyard/Junkyard Permit application
2. Inspection Memo – Eric Cousens (Economic and Community Development)
3. Inspection Memo – David O'Connell (Fire Department)
4. 30-A §3753, 30-A §3754, 30-A §3756
5. Orders 71-10172016

Date received: AUG 24 2016

Public Hearing: _____

Date approved: _____

CITY OF AUBURN
AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

****

To the **City of Auburn**, County of **Androscoggin, Maine:**

I/We TY Auto, VICKI POLAND hereby Make application for a permit to establish, operate or maintain an Automobile Graveyard and/or Junkyard at the following described location and in accordance with the provisions of Title 30-A MRSA Sections 3751-3760.

Answer all questions in full.

1. Where is the location of the Automobile Graveyard and/or Junkyard?
   249 MERROW RD, AUBURN
2. Is this application made by or for a company, partnership, corporation or individual:
   TY AUTO, VICKI POLAND
3. Is this property leased? YES Property owned by: CLAY MCLAFFERTY
   Address: 249 MERROW Rd, AUBURN
4. How is "yard" screened?
   - ☒ Fence (type) CHAIN Height: 8 ft
   - ☐ Trees (type)_____
   - ☐ Embankment:_____
   - ☐ Gully:_____
   - ☐ Hill:_____
   - ☐ Other:_____
5. How far is edge of "yard" from center of highway?
   500 ft.
6. Can junk be seen from any part of highway? Yes____ No X
7. Were Junkyard Law, Requirements and Fees explained to you? Yes X No____
8. Is any portion of this "yard" on public property? Yes____ No X
9. Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach, School, Church or Cemetery? Yes____ No X

10. When was "yard" established? _____ By whom? _____

11. When was last permit issued? 2015 By whom? TBUCK CONSTRUCTION

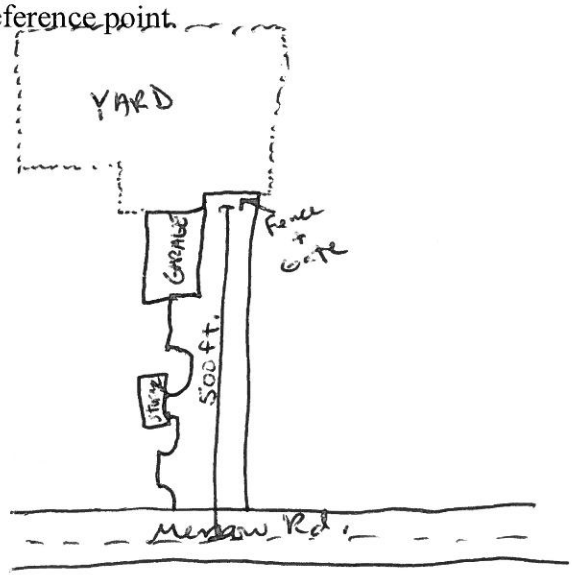
The undersigned certified that the above information is true and correct to the best of his/her knowledge and that he/she is the owner or agent of the property or that he/she has been duly authorized by the owner, individual, partnership, company or corporation to make this application and to receive the permit under the law.

Signed by: Vicki Poland for: Ty Auto, VICKI POLAND
Name of Company, Corporation, Partnership or Individual

Address: 249 MERROW Rd, AUBURN

Make complete sketch of "yard". Show footage of all sides and location in relationship to adjacent properties. Show distance (in feet) from edge of "yard" to center of highway. Fill in Route Number or Local Road Name. Name of nearest City/Town in each direction. Distance from nearest intersection, bridge or other known reference point.

Tax Map No. 186
Lot No. 012
Zone Industrial



Check correct direction:

- ☐ North
- ☐ East
- ☐ West
- ☐ South

1 copy of application to City
1 copy of application to Applicant
1 copy of application to State Police, Augusta
1 Copy of application to Dept. of Transportation, Augusta (Right of Way Division)

City of Auburn, Maine
Office of Economic & Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

To: Mayor and City Council

From: Eric J. Cousens, Deputy Director of Economic and Community

Re: Development 2016 Junkyard License Inspections

Date: September 23, 2016

The City Clerk requested that this office inspect licensed junkyards that have applied for license renewals prior to the Councils consideration of their application. Inspections were completed during the month of September and staff found the following:

In general there are still more cars stored at junkyards in Auburn than usual. It is normal to see fluctuations in storage as worldwide prices for scrap metal fluctuate. I was told again this year by more than one junkyard that steel prices are still low and they hold some cars for when prices rise.

Randy's Auto Parts - 899 Broad St. - No concerns. The site is meeting junkyard requirements.

M & P Auto, Inc. - 227 Merrow Rd. - No Concerns. The site is meeting junkyard requirements.

Morris Auto Parts - 940 Washington ST. N – Last year the inspections revealed that there were some operational violations and we have worked closely with this business over the past year. They have made substantive management and operational changes over the past few months and as of September 20th they are operating in compliance with the applicable junkyard requirements.

Prolerized New England Company – 522 Washington Street- No concerns. The site is meeting junkyard requirements.

Isadore T. Miller Co. – 78 &80 Hotel Road - No concerns. The site is mostly empty and still meeting junkyard requirements.

Ty Auto - 249 Merrow Road - No concerns. The site is mostly cleared and still meeting junkyard requirements.

AUBURN FIRE DEPARTMENT

Office of Fire Prevention

David N. O'Connell
Fire Inspector/Fire Investigator
doconnell@auburnmaine.gov

Sarah L. Hulbert
Fire/EMS Support Specialist
shulbert@auburnmaine.gov

To: **Mayor and City Council**

From: **David O'Connell, Fire Prevention Officer**

Re: **2016 Junkyard License Inspections**

Date: **September 22, 2016**

The City Clerk requested that this office inspect licensed junkyards that have applied for license and license renewals prior to the Councils consideration of their application. Inspections were completed by August 25, 2016, and the following are the recommendations of the Fire Prevention Division;

Randy's Auto Parts - 899 Broad St. - Fire department approves.

M & P Auto, Inc. - 227 Merrow Rd. - Fire department approves.

Isadore T. Miller - 78 & 80 Old Hotel Rd. - Site is vacant, no buildings. No comments or concerns.

Prolerized New England Company - 522 Washington St. N. - Fire department approves.

Morris Auto Mart - 940 Washington ST. N - Fire department approves.

TY Auto - 249 Merrow Rd. – New license, site is vacant. No comments or concerns.

Sincerely,

David O'Connell
Fire Prevention Officer

§3753. PERMIT REQUIRED

A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year; except that, beginning in calendar year 2004, permits issued to an automobile graveyard or junkyard under this section are valid until the first day of October of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. [2003, c. 312, §7 (AMD).]

SECTION HISTORY
1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §4 (AMD). 2003, c. 312, §7 (AMD).

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§3754. HEARINGS

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities. Municipal officers or county commissioners shall require an applicant to provide proof of mailing the notice of the application to all abutting property owners. Municipal officers or county commissioners shall also post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 30 days before the hearing. The municipal officers or county commissioners shall give written notice of the application to the public water supplier if the application is for an automobile graveyard, automobile recycling business or junkyard located within the supplier's source water supply area. The notice may be given by mailing a copy of the application at least 7 and not more than 14 days before the hearing. [2005, c. 424, §2 (AMD).]

SECTION HISTORY
1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §4 (AMD). 1999, c. 761, §5 (AMD). 2003, c. 312, §8 (AMD). 2005, c. 424, §2 (AMD).

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§3754-A. LIMITATIONS ON GRAVEYARD, AUTOMOBILE RECYCLING BUSINESS AND JUNKYARD PERMITS

1. **Highways; Interstate System and Primary System.** A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

(1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;

(2) Well constructed and properly maintained at a minimum height of 6 feet;

(3) Placed outside of the highway right-of-way; and

(4) Acceptable to the municipal officers or county commissioners; and [2003, c. 312, §9 (NEW).]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [2003, c. 312, §9 (NEW).]

[2003, c. 312, §9 (NEW) .]

2. **Limitation on new permits.** A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

[2003, c. 312, §9 (NEW) .]

3. **Public facilities.** A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [2003, c. 312, §9 (NEW).]

B. Within ordinary view from a facility under paragraph A. [2003, c. 312, §9 (NEW).]

[2003, c. 312, §9 (NEW) .]

4. **Public and private water supplies.** A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those

locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

[2005, c. 424, §3 (AMD) .]

5. **Operating standards.** All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [2005, c. 247, §1 (AMD); 2005, c. 247, §7 (AFF).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer; [2003, c. 312, §9 (NEW).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [2005, c. 247, §2 (AMD); 2005, c. 247, §7 (AFF).]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [2005, c. 683, Pt. A, §51 (RPR).]

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed; [2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF).]

F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable; [2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF).]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF).]

[2005, c. 683, Pt. A, §51 (AMD) .]

6. **Rules.** A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.

[2003, c. 312, §9 (NEW) .]

6-A. **Relationship to state storm water requirements.** After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or [2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF).]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF).]

[2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF) .]

7. **Local ordinances.** This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations; [2003, c. 312, §9 (NEW).]

B. Fire and traffic safety; [2003, c. 312, §9 (NEW).]

C. Levels of noise that can be heard outside the premises; [2003, c. 312, §9 (NEW).]

D. Distance from existing residential or institutional uses; [2003, c. 312, §9 (NEW).]

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [2003, c. 312, §9 (NEW).]

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [2003, c. 312, §9 (NEW).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.

[2003, c. 312, §9 (NEW) .]

8. **Applicability.** Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

[2003, c. 312, §9 (NEW) .]

9. **Right of entry.** Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [2003, c. 312, §9 (NEW).]

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [2003, c. 312, §9 (NEW).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass.

[2003, c. 312, §9 (NEW) .]

10. **Standard for permit.** The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.

[2005, c. 424, §5 (NEW) .]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [2005, c. 424, §6 (NEW).]

SECTION HISTORY
2003, c. 312, §9 (NEW). 2005, c. 247, §§1-4 (AMD). 2005, c. 247, §7 (AFF). 2005, c. 424, §§3-6 (AMD). 2005, c. 683, §A51 (AMD).

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§3752. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. **Automobile graveyard.** "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area. [2005, c. 424, §1 (AMD).]

[2005, c. 424, §1 (AMD) .]

1-A. **Automobile recycling business.** "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or

(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business. [2003, c. 312, §4 (NEW).]

[2003, c. 312, §4 (AMD) .]

2. **Highway.** "Highway" means any public way.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. **Interstate System.** "Interstate System" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. **Junkyard.** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture; [2003, c. 312, §5 (AMD).]

B. Discarded, scrap and junked lumber; and [2003, c. 312, §5 (AMD).]

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material. [2003, c. 312, §5 (AMD).]

D. [2003, c. 312, §5 (RP).]

[2003, c. 312, §5 (AMD) .]

5. **Primary System.** "Primary System" means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

6. **Recycling or recycling operations.**

[2003, c. 312, §6 (RP) .]

SECTION HISTORY
1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 745, §1 (AMD). 1993, c. 173, §§2,3 (AMD). 1995, c. 65, §A130 (AMD). 1995, c. 65, §§A153,C15 (AFF). 2003, c. 312, §§3-6 (AMD). 2005, c. 424, §1 (AMD).

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City of Auburn
Public Hearing

A public hearing will be held on Monday, October 17, 2016 at 7:00 p.m. or as soon as possible thereafter, in the Council Chambers of Auburn Hall, 60 Court Street, to consider the new Automobile Graveyard/Junkyard Permit Application for:

Ty Auto – 249 Merrow Rd.

All interested persons may appear and will be given the opportunity to be heard before final action is taken on said applications.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 71 - 10172016

ORDERED, that the City Council hereby approves the Auto Graveyard/Junkyard permit for TY Auto, located at 249 Merrow Road.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: October 17, 2016

Author: Eric Cousens, Deputy Director of Economic and Community Development

Subject: Zoning Map Amendment Request for Pownal Road Area

Information: The City Manager's office received a request from two Councilors for consideration to be given to a zone change in the area of 1863 Pownal Road and passed that along to the Economic and Community Development Department to carry through the review process. Staff brought the request to the Council Committee on Economic and Community Development and the committee directed staff to bring the item to the Planning Board for a recommendation to Council as required by ordinance for any zoning amendment. Staff drafted 4 options for the request and the Planning Board considered the item at the August 9th meeting. After public input and substantial deliberation the Planning Board tabled the item and requested additional information. The following information was provided for the September meeting:

1. Other options including variances and "No Action Letters" and why we do not recommend those options.
2. A copy of a deed restriction that was offered by the buyer of the parcel to limit the creation of any new house lots.
3. A 5th zoning boundary change option that limits the zone change to the odd side of the street effectively reducing the number of potential future lots as requested by the Board.

At the September 13th meeting the board accepted additional public input beginning at about 8:00 minutes into the meeting and continued the extensive deliberation until making a motion to recommend approval at 46:50 minutes into the meeting. The motion to recommend approval with conditions failed 3 to 4 and the deliberation continued until 1 hour 04:05 minutes when a motion was made to recommend to the City Council that no change in Zoning District be approved at this time; the motion passed 4 / 3. The draft minutes of both meetings are attached and the videos of the Planning Board meetings are available at http://www.greatfallstv.net/webstream.htm . Staff will be available to discuss the request and answer questions.

Advantages: See staff report.
Disadvantages: See staff report.

City Budgetary Impacts: See staff report.

Planning Board Recommended Action: The Planning Board recommended that that no change in the Zoning District near 1863 Pownal Road be approved at this time.
Staff Recommended Action: See staff report. New option of reducing the impacted area was supported by staff for Planning Board review.

Previous Meetings and History: July Council Committee on Economic and Community Development and August 9, 2016 Planning Board Meeting, August 22nd Council Workshop, August 9th and September 13th Planning Board, and 10/3/2016 Council Workshop.

Attachments: Planning Board Report to Council, 1863 Pownal Road ZC Staff Report 8-9-16 w/ attachments, Planning Board Meeting Minutes 8.9.16 Showing DVD Times (Pending Approval) , 1863 Pownal Road ZC Staff Report 9-13-16 w/ attachments, 4 Planning Board Meeting Minutes 9.13.16 Showing DVD Times (Pending Approval), Comp Plan Excerpt for Rural Residential strip criteria, 1863 Pownal Rd map and aerial photo, Photo of home from assessment records.

City of Auburn, Maine
Office of Planning & Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

PLANNING BOARD RECOMMENDATION

To: Auburn City Council

From: Eric J. Cousens, Deputy Director of Economic and Community Development

Re: Zoning Map Amendment Request for Pownal Road Area

Date: September 27, 2016

I. **THE PROPOSAL-** The City Manager's office received a request from two Councilors for consideration to be given to a zone change in the area of 1863 Pownal Road. Staff prepared a number of options for consideration by the Planning Board and the Board held a public hearing as required by the ordinance.

II. **PLANNING BOARD ACTION and RECOMMENDATION -** The Planning Board held a public hearing regarding the proposed map amendment on August 9, 2016 and September 13, 2016. Members of the public spoke both for and against the proposal. The Planning Board voted (4/3) to send the City Council a recommendation that no change in the Zoning District near 1863 Pownal Road be approved at this time.

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PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Douglas M. Greene; AICP, RLA
City Planner

Re: Zoning Map Amendment Request for Pownal Road Area

Date: August 9, 2016

I. PROPOSAL- The Auburn City Council has initiated a zoning map amendment for properties located in the southern end of Auburn along Pownal Road from Agricultural-Resource Protection to Low Density Rural Residential Development. The proposed properties are; a portion of 1807 Pownal Road, a portion of 1850 Pownal Road, a portion of PID # 021-012 Pownal Road, 1890 Pownal Road, 1863 Pownal Road and a portion of PID # 021-012-001

The property that triggered this request is 1863 Pownal Road. The property was created by a deed split around 2010 and was done in error. One property was created as an 8 to 9 acre parcel, which does not meet the 10 acre minimum lot size. As a result, this property and the parent tract is in a legally "locked up" situation and neither property can be issued building permits or is unable to be sold through financial institutions. The current owner has gone into foreclosure and has had difficulty in maintaining the large Victorian mansion.

At their June 16th Economic and Community Development Committee meeting, Council Members Walker and Gilbert presented a memo (attached) that proposed a zone change for 1863 Pownal Road and the surrounding area. The Committee voted to have the Planning Board consider a zoning map amendment, hold a public hearing and bring a recommendation on the proposed zone change back to the Council.

II. DEPARTMENT REVIEW-

a. Police- No concerns.
b. Auburn Water and Sewer- This rural area is served by private well and septic systems.
c. Fire Department- Would like the see the home at 1863 become occupied, repairs made and brought up to code. The house currently has no heat and the

Fire Department is concerned about the home being protected during the upcoming winter.

d. Engineering- No concerns.
e. Public Services-No concerns.
f. Economic and Community Development (ECD)- The Planning Office has attempted numerous ways to resolve the illegal lot situation at 1863 Pownal Road to no avail. The Staff is will consider this limited zone change as a way of correcting undersized lot and to bring the property back into productive use.

III. PLANNING BOARD ACTION- The Planning Board is being asked to consider whether the zone change either meets the future land use plan from the 2010 Comprehensive Plan or that evidence has been presented to prove that significant changes have taken place to the physical, economic or social nature of the area that were not anticipated by the last comprehensive plan.

In addition, the 2010 Comprehensive Plan (pages 70-71) lists the specific criteria that need to be present to approve an extension of a rural residential strip.

3. Rural Residential Road Strips

The City has historically zoned narrow strips of land along some rural roads for low density residential development. These strips represent a compromise between the City's goal of limiting residential development in rural areas, and existing conditions along these rural roads. As part of the development of the Future Land Use Plan (see Chapter 2), the City conducted a comprehensive review of where residential strips should and should not be created based upon the following set of criteria. The considerations outlined below apply sequentially – first to identify where strips are appropriate based on current land use patterns, and then to work through where residential strips are inappropriate based on a variety of considerations.

Consideration #1 – Established Residential Pattern

A residential strip ***may be provided*** *along a rural road where there is an established pattern of residential uses along the road. An established residential pattern means at least 6-8 homes per half mile counting both sides of the road. In general, both sides of a road should have a residential strip unless there is a significant reason not to allow residential development based on the following considerations.*

Staff Comment- The existing half mile of Rural Residential zoned land along Pownal Road before the proposed zone change area has 10 homes, which meets criteria #1.

Consideration #2 – Reserve Area Adjacency

A residential strip ***should not be provided*** *along a rural road if the area adjacent to the road is a "reserve area" where the objective is to maintain the land as undeveloped to allow for its conversion to a different use in the foreseeable future. There should be*

some realistic expectation that something will occur that will change the desired land use for the area in the future.
Staff Comment- The area adjacent to the proposed zone change is not designated as a "reserve area".

Consideration #3 – Natural Resource Adjacency
A residential strip ***should not be provided*** *along a rural road if the area adjacent to the road has significant natural resource value. Areas with significant natural value include areas that are zoned Resource Protection or are high value wetlands, 100 Year floodplains, significant wildlife habitats, and areas with steep slopes (>25%).*
Staff Comment- The area adjacent to the proposed zone change is not considered a significant natural resource area.

Consideration #4 – Conservation/Open Space Adjacency
A residential strip ***should not be provided*** *along a rural road where the adjacent land is protected open space, or where there is a reasonable expectation that the land will be preserved as open space in the foreseeable future, and residential development is inconsistent with that open space use.*
Staff Comment- The land adjacent to the proposed zone change is not protected open space nor is there a reasonable expectation to preserve open space in the foreseeable future.

Consideration #5 -- Ability to Provide Public Services
A residential strip ***should not be provided*** *along a rural road if residential development will tax the City's ability to provide municipal services as indicated by the following:*
- *The road is a gravel or dirt road*
- *The road is a poorly maintained paved road that will need to be improved to support residential development along it*

Staff Comment- The proposed zone change will not tax the City's ability to provide municipal services. Given the nearby area already zoned Rural Residential has 10 homes in a half mile, police and fire already must serve the area. All water and sewerage are provided by private wells and septic systems.

Consideration #6 – Water Quality Protection
A residential strip ***should not be provided*** *along rural roads with undeveloped frontage that are located in the watershed of Lake Auburn, unless such development will not have an adverse impact on the lake's water quality.*
Staff Comment- The proposed zone change is not located in the watershed of Lake Auburn.

The Future Land Use Plan (see Chapter 2) shows the areas where low density residential development is proposed to be allowed along rural roads based on these criteria. These criteria should be used in the future to review the areas designated as residential strips as conditions change, or to review property owner-initiated requests for rezoning.

IV. **STAFF RECOMMENDATION-** The Staff considered how the proposal meets the six considerations of the Rural Residential Strips in the 2010 Comprehensive Plan and finds that this area meets those criteria. Criteria 6 does not apply.

Other issues the Staff considered were:

- Correcting non-conformities through a zone change is not a normal procedure.
- The staff wants to minimize the number of lots that would be possible as a result of the zone change to a rural residential zoning type.
- There are some concerns that approving this could be considered a precedent for other areas in Auburn's Agricultural Zone.

Zoning Map Amendment Staff Scenario Options- The memo from Councilman Walker initiating the zone change amendment labeled the existing and proposed zoning in the Pownal Road area as Low Density Country Residential. The zoning in the area is actually Low Density Rural Residential. The staff has created different 4 scenarios (attached) for the Planning Board to consider.

1. Rezone both sides of Pownal Road to the end of 1863 Pownal Road from Agriculture to Low Density Rural Residential to be consistent with the existing zoning. This option rezones approximately 23 acres and creates the potential for 5 new residential lots.
2. Rezone both sides of Pownal Road from Agriculture to Low Density Rural Residential to the end of 1863 Pownal Road but not include Parcel # 021-012-001. This option rezones approximately 20 acres and creates the possibility of 4 new residential lots.
3. Rezone both side of Pownal Road to the end of 1863 Pownal Road from Agriculture to Low Density Country Residential. This option rezones approximately 23 acres and creates the possibilities of 3 new lots.
4. Rezone both side of Pownal Road to the end of 1863 Pownal Road from Agriculture to Low Density Country Residential but not include Parcel # 021-012-001. This option rezones approximately 20 acres and creates the possibilities of 2 new lots.

STAFF RECOMMENDS SCENARIO OPTION 4. While rezoning to Low Density Country Residential is not consistent with the adjoining Rural Residential zoning, it would limit the number of new lots and still meet the Council directive of correcting the non-conformity of 1863 Pownal Road.

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The Staff recommends sending a recommendation of **APPROVAL** to the City Council using Scenario 4 provided in the Staff Report to rezone a 20 acre that consists of; portion of 1807 Pownal Road, a portion of 1850 Pownal Road, a portion of PID # 021-012 Pownal Road, 1890 Pownal Road and 1863 Pownal Road from Agriculture/Resource Protection to Low Density Country Residential with the following findings.

1. The rezoning complies with the Rural Residential Strips criteria from the 2010 Comprehensive Plan.
2. The rezoning will allow the property at 1863 Pownal Road to be purchased, repaired, maintained and put on the tax rolls.

Douglas M. Greene

Douglas M. Greene, A.I.C.P., R.L.A.
City Planner

City Council
Workshop Agenda Item Request Form

City of Auburn

Requesting Councilor's Name: Leroy Walker- Councilor Ward 5

Second Councilor Name: Crestine M. Gilbert

Policy: Change in zoning for City owned property- 1863 Pownal Road

Summary of Issue:
This property has been a zoning problem for years and is costing the City of Auburn a significant amount of loss tax revenue due to a mistake made in dividing lots. We have the opportunity to fix the problem. I think City staff has avoided settling the matter in a reasonable way. As the Council it's time to settle the matter in Auburn's favor.

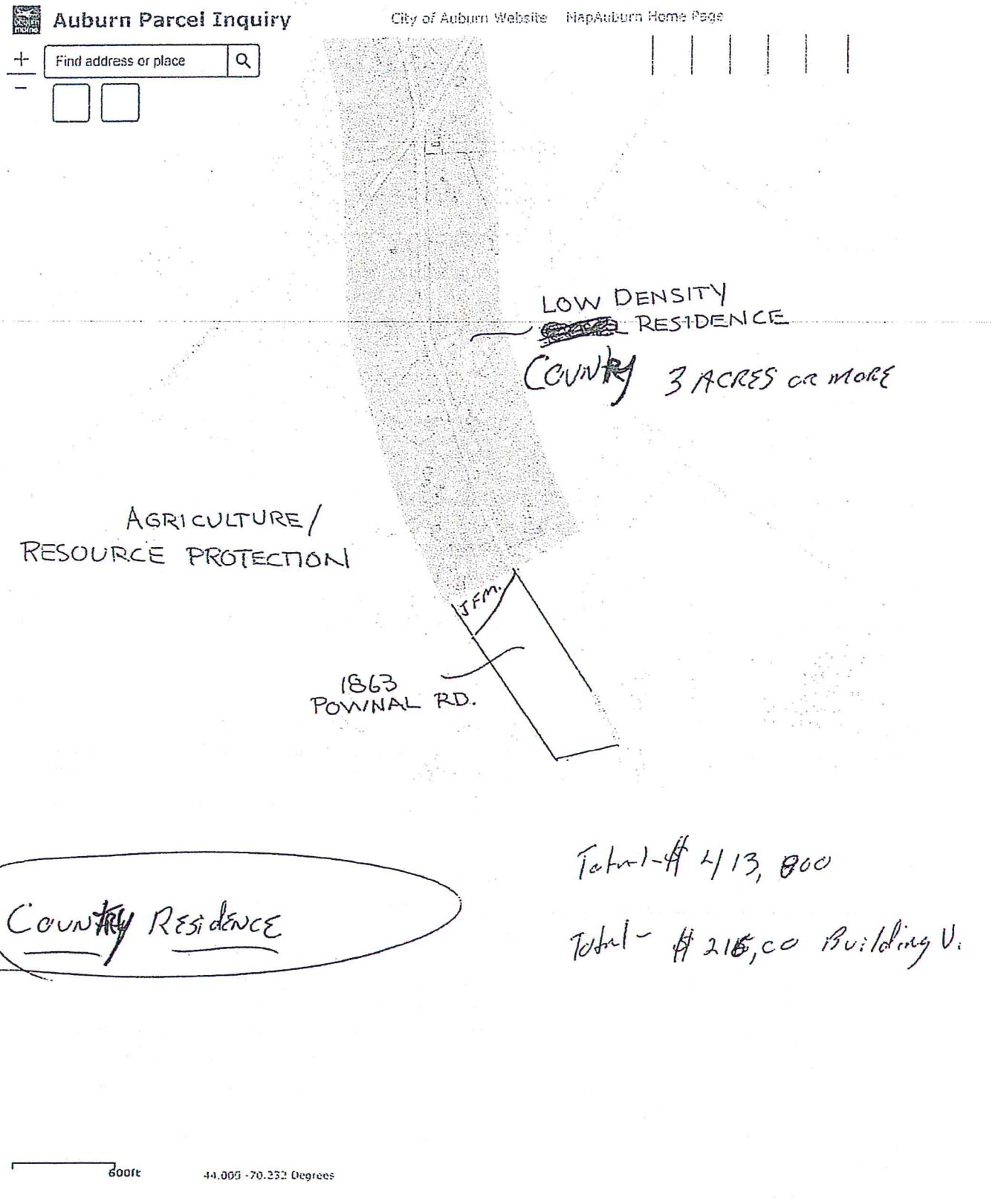
The Property at 1863Pownal Road was created in or about 2010 when it was divided from a 67 acre parcel into two lots: the house lot on an 8.1 acre lot and a 58 acre vacant field and woods lot. Both lots are in the AG/RP zone requiring a minimum lot size of 10 acres. When the City permitted the division, the property at 1863 Pownal Road was left with 1.9 acres less than required. The penalty for this violation is Chapter 60, Sec. 60-40- Reduction of Dimensional Regulations. "No building permit or other municipal permit or license shall be issued to any of the land so transferred or to the land retained until all of such land or lots in conformance with all dimensional requirements." Attempts to correct the violation through the purchase of the needed land from the two contiguous property owners have been unsuccessful. If the zoning issue is not resolved it will be difficult to secure a mortgage and insurance and to do the renovations that are necessary to bring this 1900's house and property back to its former beauty. It needs to be put back on the tax roll and so the non-conforming lot issue needs resolution.

Recommended Action for Consideration: Request the Planning Board to review and make a recommendation on a proposal to amend the Zoning Map in the vicinity of Pownal Road and Jordan School Road, specifically, 1863 Pownal Road, Parcel ID # 021-001, from Agricultural/Resource Protection to Low Density Country Residence (with 3 acre minimum lot size). This is a tax acquired property now owned by the City of Auburn.

There are 4 solutions to this issue, but I think #4 rezoning is the best answer:

1. Have the City issue a "No Action Letter" as a condition of sale.
2. The City , as the current property owner, request that Jenis Holding Company convey back a 1.1 acre lot to make both properties conforming. Sec.60-40 also penalizes any development of the Jenis lot unless the 1863 Pownal Road lot is made conforming. Conveying a strip ofland 57.05' by 840' (47,922sf) along the length of the rear line dividing the two properties is suggested.
3. Purchase 1.1 acres from John F. Murphy Homes at 1805 Pownal Road.
4. Have the City initiate a rezoning to Low Density Country Residence District to include this lot and the two lots across Pownal Road. This action would make all three lots conforming.

Existing Policy References (Comp. Plan, etc): Copies attached: Auburn Maine Code of Ordinances- Sec. 60-146 Dimensional Regulations, Auburn Maine Code of Ordinances- Sec. 60-1445 zoning amendments purpose, Auburn Maine Code of Ordinances- Sec. 60-40 Reduction in dimensional regulations, Auburn Parcel Inquiry for 1863 Pownal Road,


Auburn Parcel Inquiry
City of Auburn Website
MapAuburn Home Page
Find address or place
LOW DENSITY RESIDENCE
COUNTRY
3 ACRES or MORE
AGRICULTURE/ RESOURCE PROTECTION
JFM.
1863 POWNAL RD.
Country Residence
Total-# 413,800
Total- # 215,00 Building V.
600ft
44.005 -70.232 Degrees

ZONING AMENDMENTS

Sec. 60-1445. - Purpose.

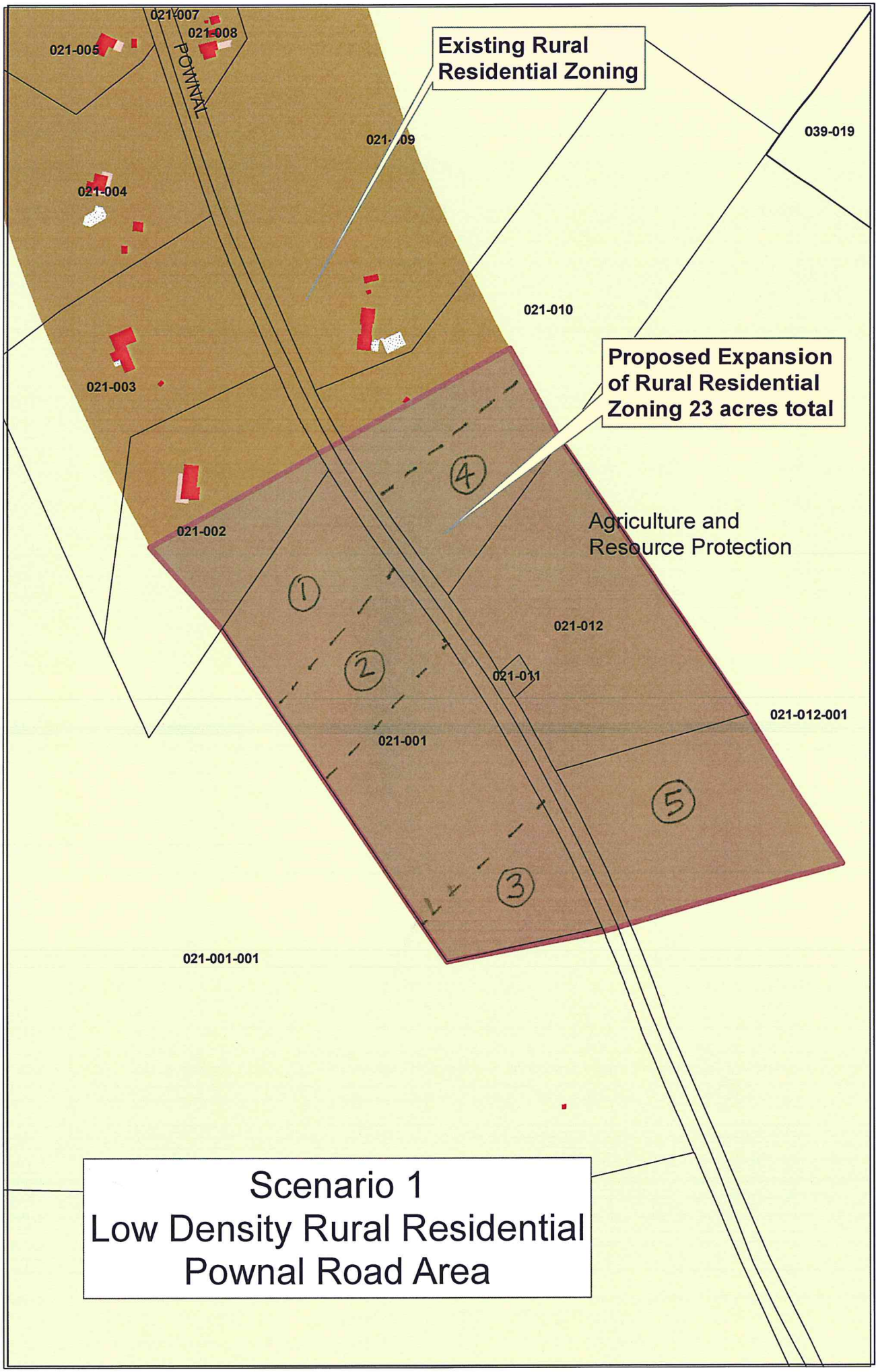
Amendments to the zoning ordinance, including the zoning map, may be initiated by the planning board on its own initiative or upon request by the city council or by a petition signed by not less than 25 registered voters of the city.

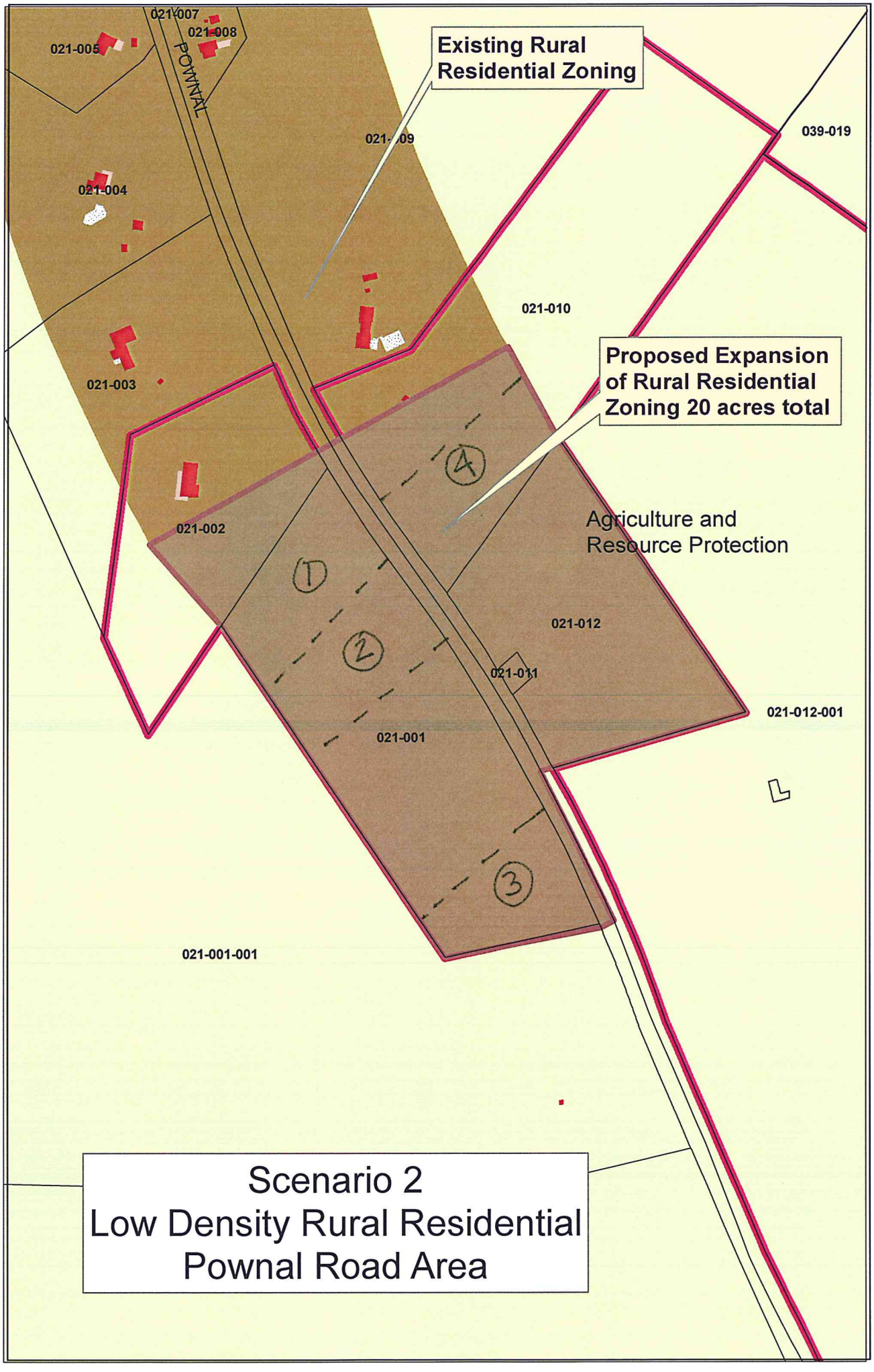
(Ord. of 9-21-2009, § 8.1A)

Sec. 60-40. - Reduction in dimensional regulations.

No lot (except as allowed by the planning board at the time of final approval of a subdivision or development plan) shall be reduced, subdivided, conveyed, divided or otherwise transferred that violates, or creates a lot that violates, any minimum dimensional regulation of this chapter. No building permit or other municipal permit or license shall be issued to any of the land so transferred or to the land retained until all of such land or lots are in conformance with all dimensional regulations. If a serious health or safety issue with the property should arise, the director of planning and permitting services shall determine if a permit should be issued to correct the problem. This provision shall not allow further nonconformity to occur in order to achieve the corrective action necessary. Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback or lot that is reduced below the minimum dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.

(Ord. of 9-21-2009, § 3.1H)


021-007
021-008
021-005
POWNAL
Existing Rural Residential Zoning
021-009
039-019
021-004
021-010
Proposed Expansion of Rural Residential Zoning 23 acres total
021-003
4
021-002
Agriculture and Resource Protection
1
021-012
2
021-011
021-012-001
021-001
5
3
021-001-001
Scenario 1
Low Density Rural Residential
Pownal Road Area


021-007
021-008
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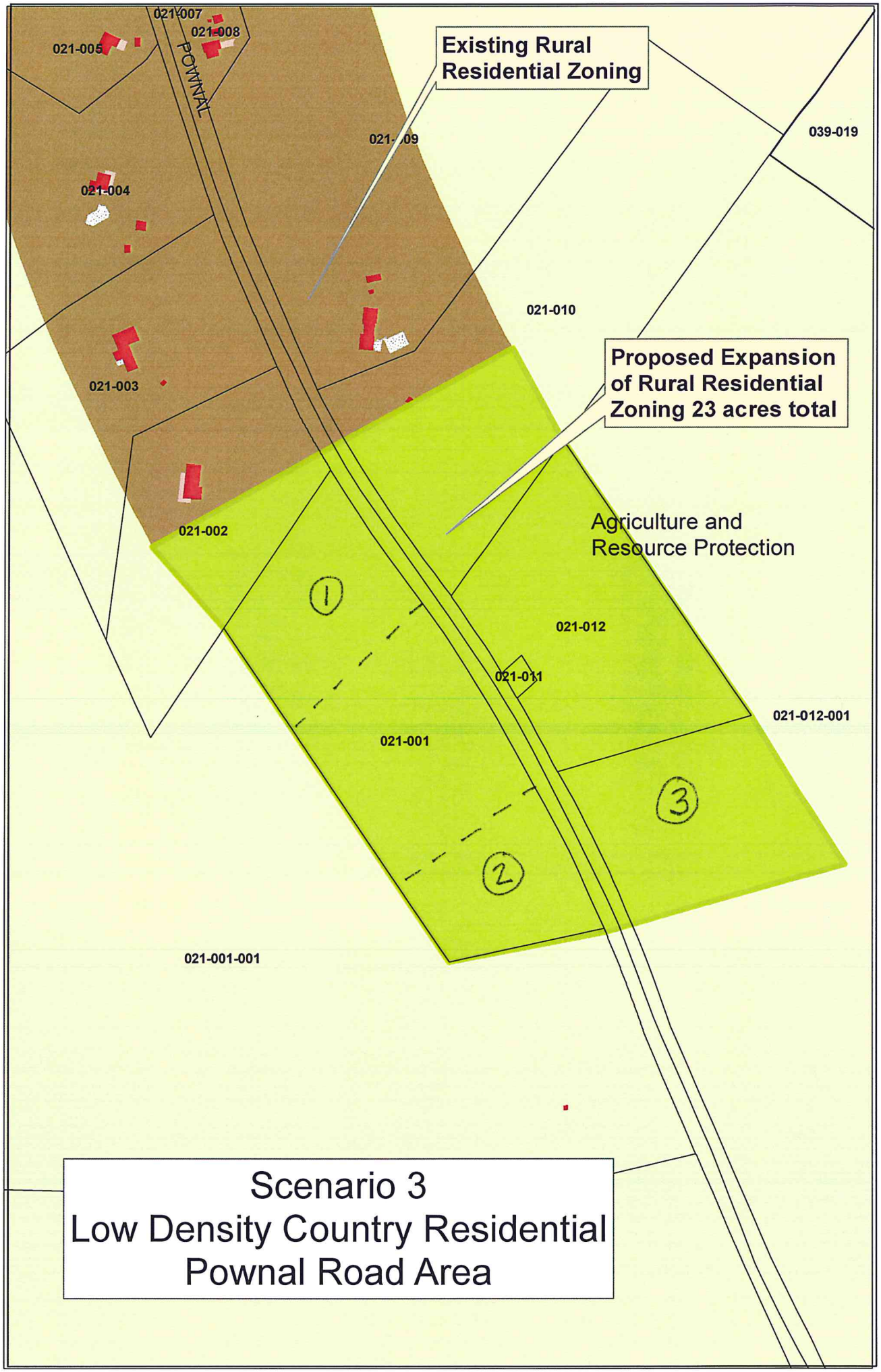
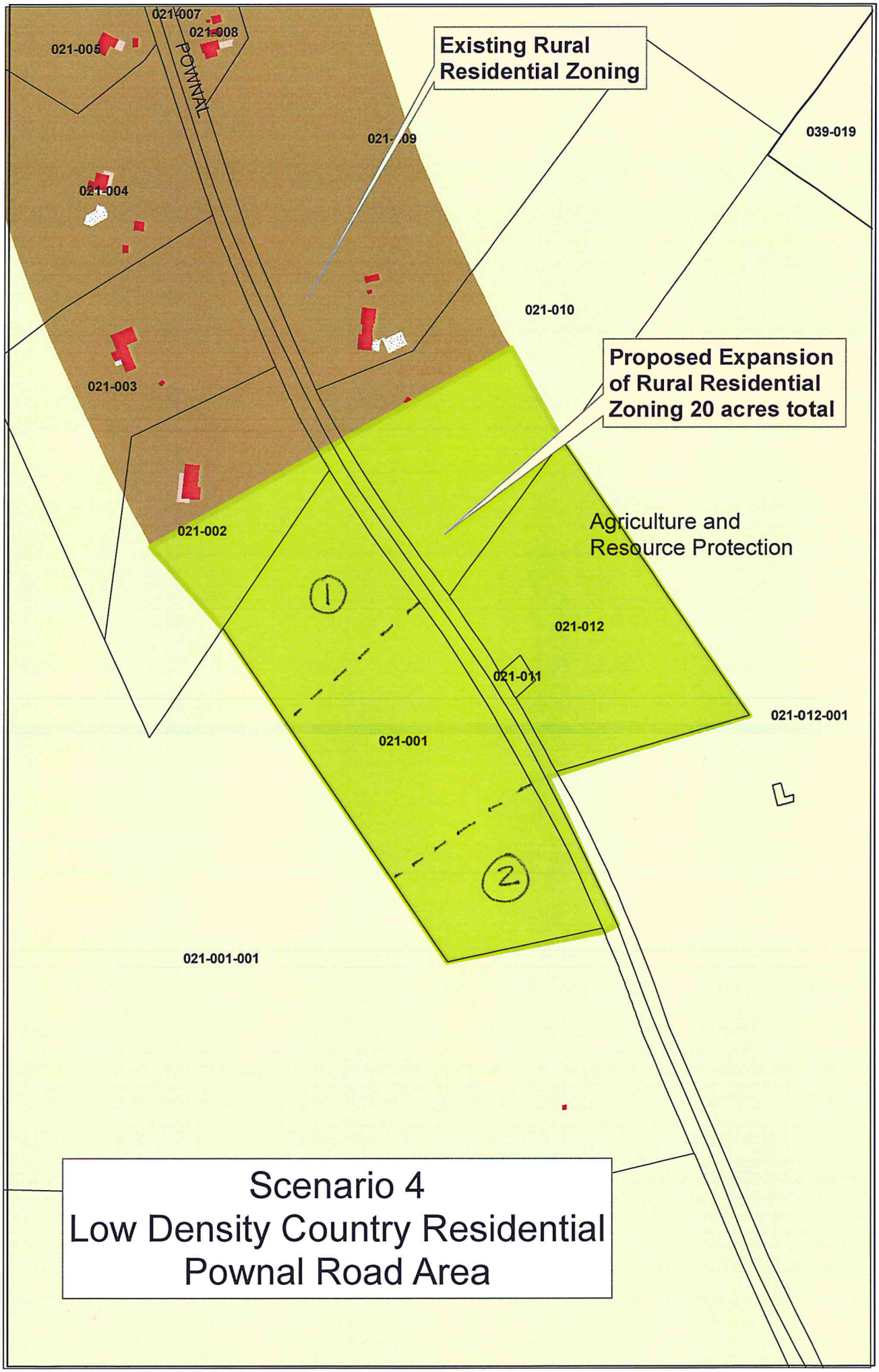
POWNAL
Existing Rural Residential Zoning
021-009
039-019
021-004
021-010
Proposed Expansion of Rural Residential Zoning 20 acres total
021-003
4
021-002
Agriculture and Resource Protection
1
021-012
2
021-011
021-012-001
021-001
3
021-001-001
Scenario 2
Low Density Rural Residential
Pownal Road Area


021-007
021-008
021-005
POWNAL
Existing Rural Residential Zoning
021-009
039-019
021-004
021-010
Proposed Expansion of Rural Residential Zoning 23 acres total
021-003
021-002
Agriculture and Resource Protection
1
021-012
021-011
021-012-001
021-001
3
2
021-001-001
Scenario 3
Low Density Country Residential
Pownal Road Area



Scenario 4
Low Density Country Residential
Pownal Road Area

Auburn Planning Board Meeting Minutes
August 9, 2016

ROLL CALL:

Regular Members present: Mia Poliquin Pross, Robert Bowyer, Evan Cyr, Ken Bellefleur Presiding, Dan Philbrick, and Marc Tardif.

Regular Members absent: Samuel Scogin

Associate Members present: Nathan Hamlyn

Associate Members absent: Elaine Wickman

Also present representing City staff: Douglas Greene, City Planner and Eric Cousens, Deputy Director of Economic & Community Development

Chairperson Bellefleur called the meeting to order and stated Nathan Hamlyn would be acting as a Full member for this meeting. He also stated meeting minutes would be reviewed and acted upon at the end of this meeting.

PUBLIC HEARINGS & NEW BUSINESS:

Special Exception and Site Plan Review for an 8,400 sf commercial building and drive through restaurant located at 410 Center Street, 10 Blackmer Street and 19 West Dartmouth Street submitted by R & D Resources, LLD

Doug Greene presented the Staff Report via PowerPoint.

(09:50 on DVD)
Sean Thies, agent for R & D Resources, LLD continued with the presentation and answered questions from the Board members. The following topics were discussed: parking, pedestrian safety, deliveries, signage, lighting, etc…

(35:45 on DVD)
Open Public Input

David Ruttenberg of 27 West Dartmouth Street said they had nothing but trouble with Tim Horton's from the beginning. He said they never put in the acoustic fence as they agreed to do and the dumpster was picked up at 3:00 in the morning and the banging sound could be heard 3 houses up the street. He mentioned Sysco trucks blocking West Dartmouth Street when they made deliveries and that the promised landscaping was never completed by the developers and never enforced by the City. He said these issues needed to be addressed here somehow.

Paul Bellanceau of 4 University Street said he had issues with vehicle headlights shining through his house windows and the lack of buffering.

Fern Masse of 25 Blackmer Street gave a brief history of the property and asked who was responsible for enforcing the planting of shrubs and trees around the perimeter.

Frank Pepin of 36 West Dartmouth Street stated he was in favor of the proposal.

(46:10 on DVD)
A motion was made by Robert Bowyer and seconded by Evan Cyr to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

A discussion ensued regarding the following: the concerns of the neighbors, provision requiring maintenance of landscape & plantings if it's spelled out on approved plans, willingness of developer to install a tall fence while waiting for shrubbery to grow to address headlight issue, and scheduling of deliveries and dumpster pick up.

Douglas proposed adding the following conditions to the 2 already mentioned in the staff report:

3) Staff will monitor each new tenant and each use – ensure they are not adding to traffic and hours of operation
4) Addition of crosswalk, striping and pedestrian lighting where appropriate
5) 6' to 8' plantings in southern end (in lieu of a fence)
6) Hours of operation concerning dumpster and delivery trucks: After 10:00 am and before 7:00 pm.
7) One-way directional signage

A discussion continued regarding times of truck deliveries and dumpster pick-up.

(59:15 on DVD)
A motion was made by Evan Cyr and seconded by Dan Philbrick to approve the Special Exception and Site Plan Review for an 8,400 sf commercial building and drive through restaurant located at 410 Center Street, 10 Blackmer Street and 19 West Dartmouth Street submitted by R & D Resources, LLD citing that the plans meet conditions for both site plan review and special exception and subject to the following conditions:

1. No development activity shall occur until any bonding and inspection fees are determined by the Department of Engineering.
2. The owner is responsible for maintaining all boundary and buffer area landscaping and will replace any damaged or dead plantings to the approval of the Planning Staff.
3. The Planning Staff shall review and monitor all proposed tenants for their type of use, hours of operation and parking requirements for the project with regards to the traffic analysis submitted with this application.
4. The applicant shall install cross walk striping and pedestrian lighting to the approval of the Planning Staff.
5. The plantings along the southwest and southern boundaries shall have 6-8 foot tall eastern red cedar installed.
6. On site signage shall be used at the Center Street entrance to direct incoming traffic around the building and for employee parking to the rear of the building.
7. The hours of operation for dumpster service and deliveries shall be between the hours of 7

am and 7 pm.

8. The development of the site shall be as per the site plan dated July 12, 2016 and revised as per the conditions listed above.

After a vote of 7-0-0, the motion carried.

George Courbron, agent for John Vallieres, is seeking Special Exception and Site Plan Review of an auto sales and service facility at 204 Minot Avenue pursuant to Section 60-499 (b) (3) Auto sales and service agency, Section 60-1336, and Section 60-1277 Auburn Ordinance.

Doug went over the staff report and presented slides via PowerPoint.

John Vallieres, owner and applicant and George Courbron from Survey Works and agent for Mr. Vallieres spoke about the proposal.

(01:21:00 on DVD)

Open Public Input

A motion was made by Evan Cyr and seconded by Mia Poliquin Pross to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

A lengthy discussion ensued regarding the waiver request and it was decided that the Board members would vote on the waiver request separately.

A motion was made by Dan Philbrick and seconded by Mia Poliquin Pross to approve the waiver request Section 60-607 (13) (d) Off Street Parking for the property of John Vallieres at 204 Minot Avenue. After a vote of 6-1-0, the motion carried. Robert Bowyer opposed.

A motion was made by Dan Philbrick and seconded by Mia Poliquin Pross to approve the Special Exception with the 7 conditions as recorded by the City Planning Office and Site Plan with the 4 conditions as recorded by the City Planning Office of an auto sales and service facility at 204 Minot Avenue pursuant to Section 60-499 (b) (3) Auto sales and service agency, Section 60-1336, and Section 60-1277 Auburn Ordinance with the additional 2 conditions:

1. Bonding and inspection fees must be approved and a notice to proceed obtained from the City Engineer.
2. Prior to development activity, the applicant shall obtain a written maintenance agreement with the City of Auburn for a landscape area on the southern portion of the project that is located with the street right of way.

After a vote of 6-1-0, the motion carried. Robert Bowyer opposed.

(01:39:50 on DVD)

After a brief recess, the meeting was called back to order.

William T. Conway, agent for the Auburn Housing Development Corporation is seeking approval of a 39,152 sf, mixed use building at 62 Spring Street pursuant to Section 60-550,

Downtown Traditional Center T-5.1, and Section 60-556 Form Based Code Plan Types, (b) (3) New construction over 12,000 s.f. of the Auburn Code of Ordinance.

Doug went over the staff report and presented slides via PowerPoint.

Richard Whiting of Auburn Housing Development Corporation, Ethan Boxer-Macomber of Anew Development, LLC, William Conway of Sebago Technics, Inc. and several other members on the development team presented additional information on the proposal.

Open Public Input

(02:19:25 on DVD)
A motion was made by Robert Bowyer and seconded by Evan Cyr to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

A long discussion ensued amongst Board members regarding the waiver request and Form Based Code regulations.

A motion was made by Robert Bowyer to approve the Special Exception and Site Plan Review of the mixed use building at 62 Spring Street based on the site plan dated 7/7/16 and revised on August 3, 2016 based on the 4 Findings listed in the Staff report and that the Planning Board approve the waiver request A thru E listed in the Staff report and subject further to the Conditions that no development activity shall be allowed until a bonding inspection fee has been determined by the Department of Engineering and with the additional amendment that there may be up to 41 dwelling units in the development.

Douglas mentioned that Staff would like to add another condition that the applicant will provide an updated and corrected site plan that reflects the appropriate statistics for the T-5.1.

The motion was seconded by Marc Tardif. After a vote of 7-0-0, the motion carried.

(02:35:00on DVD)

The Auburn City Council initiated a zoning map amendment for the following properties: a portion of 1807 Pownal Road, a portion of 1850 Pownal Road, a portion of PID # 021-012 Pownal Road, 1890 Pownal Road, 1863 Pownal Road and a portion of PID # 021-012-001 from Agricultural Resource Protection District to Low Density Rural Residential District pursuant to Section 60-1445 Amendments to the Zoning Map.

Eric Cousens went over the history of how the property came to be and then went over the Staff report using a PowerPoint presentation.

Eric answered several questions from Board members.

(02:56:45 on DVD)
Open Public Input
A woman from the audience asked if the zone was being changed on both sides of the road.

Dan Herrick of 470 Hatch Road told Board members he had a chance to purchase the property back in the 1970's when it was a 464 acre farm. Along with giving a brief history he commented on the following:

- That the subcommittee is not the full council and that they did not write this proposal.
- The City is now approving rezoning both sides of the road because it is now owned by a developer.
- The lot was split as an illegal lot and added that when a lot is split you have to get a permit.
- Didn't know who from the City permitted it but now the City is trying to come together to fix the mistake.
- Didn't have a problem with fixing it but there are a lot of these in the city that need fixing.

Joe Gray of Sopers Mill Road stated there was a whole lot of back story that we are not getting from Staff mostly because Staff caused the problem and added the following comments:

- The owner who just lost the house had a plan to make it right and Mr. Cousens just blamed her for the demise of the property.
- Former owner asked for it to be rezoned a long time ago but Mr. Cousens said no.
- The property is useless due to vandals stripping the copper and doors but the City is still taxing property extremely high
- It's not fair the way it happened
- The process did not follow the tax acquired policy which doesn't make sense.
- Rezone it all the way to Durham

Previous owner tearfully spoke about her struggles with the City to try to get the property conformed. She asked that the lot gets conformed as Agricultural and that the shooting range does not get approved.

Eric read a letter from Linda Hansen. Ms. Hansen could not be at the meeting so requested that her comments be read as part of Public Comment. She states in the letter that she objects to the rezoning as it seems the City would be rewarding bad behavior.

Kim Visbaras of Hersey Hill Road said he, on behalf of the owner of the property at the time, had worked with an abutter, Jenis Holdings to convey some land to try to make this lot conforming but when his client made what was thought to be a generous offer to purchase the land, Jenis Holdings basically said to go pound sand.

(03:12:15 on DVD)
A motion was made by Dan Philbrick and seconded by Robert Bowyer to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

A lengthy discussion ensued amongst Board members and Staff. The following are some of the items that were discussed:

- Are the 4 options the only options available?
- Taxing City services

- Focus on the lot that isn't legal instead of creating a bunch of new lots and changing the zoning
- Variance option and Council petition
- Current owner willing to have a deed restriction stating that the lot can never be split for any other residential purpose

Evan Cyr stated his preference would be to Table this until a deed restriction is in place before the Board makes a recommendation to rezone.

(03:33:40 on DVD)
Doug explained that the Board can only make a recommendation to the City Council so whether a deed restriction is part of the recommendation or not, it's still up to the City Council as to whether or not they take it into consideration. Eric added the ordinance does not allow for conditional rezoning so holding it hostage over that is pushing the boundaries of what the Board would have authority to do.

Chairperson Bellefleur commented that he would not vote for any of these solutions because it was a spot attempt and not fair to other property owners in similar situations. A long discussion ensued between Board members.

Dan Herrick stated he owns a dead piece of land which he cannot build on because of him (as he pointed to staff).

Eric explained we have zoning standards of which staff is given a set of rules that were approved by the Council.

A motion was made by Marc Tardif and seconded by Evan Cyr to table until the next meeting.

James McPhee asked for 5 minutes of comment time of which he was granted. He spoke about Non-Action Letters as a simple solution to this and explained why.

(03:45:40 on DVD)
After a vote of 7-0-0, the motion carried. Eric asked for direction as to what the Board would like staff to put together for the next meeting. Marc Tardif said he would like staff's opinion on what Mr. McPhee spoke about.

Chairperson Bellefleur stated that he wanted to make clear that there wasn't anything nefarious going on within City government to somehow impose hardships on any particular property.

Reggie Bouffard, Home Builder, is seeking approval of a 2 lot subdivision located at Woodbury Road (PID # 110-008

Douglas went over the staff report and presented slides via PowerPoint.

Kim Visbaras on behalf of the applicant, Gary McFarland, commented that lot 5 will be slightly larger than what is depicted on the plans.

Chairperson Bellefleur commented since there were no members of the public present, he wouldn't open the Public Hearing.

A motion was made by Dan Philbrick and seconded by Evan Cyr to approve the 2 lot subdivision for Mountain View Estates located on Woodbury Road (PID # 110-008) with the Finding #1 in the staff recommendation and the Conditions that no development activity shall occur until the subdivision plan is recorded at the County Board of Registration and that no development activity shall occur until the Division of Engineering has determined if bonding or inspection fees are required. After a vote of 7-0-0, the motion carried.

The Auburn Planning Board has initiated a zoning map amendment in Colonial Ridge PUD for a .81 acre area of the southwest portion of lots 8 and 9 and an adjacent open space area from Industrial District to Suburban Residential District.

Douglas mentioned that this was just a correction. A short discussion ensued.

Open Public Input
No members of the public were present.

A motion was made by Evan Cyr and seconded by Robert Bowyer to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

Robert Bowyer added the following points:

- It is essential to do a change from Industrial to Residential because residence is not a permitted use in the Industrial District.
- The property in the Industrial District is essentially inaccessible because there's a provision in our zoning ordinance that you cannot access an industrial property through a residential district.
- Zoning should be consistent with the Use.

A motion was made by Robert Bowyer and seconded by Dan Philbrick to send a favorable recommendation to the City Council the zoning map amendment in Colonial Ridge PUD for a .81 acre area of the southwest portion of lots 8 and 9 and an adjacent open space area from Industrial District to Suburban Residential District subject to the findings and conditions that are listed in the staff report dated August 9, 2016 and including the comments as presented by Mr. Bowyer.

(04:03:30 on DVD)
After a vote of 7-0-0, the motion carried.

OLD BUSINESS:
Douglas passed around documents regarding the Adaptive Re-use. He said the City attorney suggested we look at contract zoning but staff feels we need to keep working on it.

MISCELLANEOUS:
None

MINUTES:
June 14, 2016 Meeting Minutes Approval Request

A motion was made by Evan Cyr and seconded by Nathan Hamlyn to approve the June 14, 2016 meeting minutes. After a vote of 7-0-0, the motion carried.

ADJOURNMENT

A motion was made by Evan Cyr and seconded by Marc Tardif to adjourn. After a vote of 7-0-0, the motion carried.

City of Auburn, Maine
Office of Planning & Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

AMENDED PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Douglas M. Greene; AICP, RLA
City Planner

Re: Zoning Map Amendment Request for Pownal Road Area

Date: September 13, 2016

I. AMENDED STAFF REPORT- At their August 9th meeting, the Planning Board deliberated a Council initiated zoning map amendment for properties located in the southern end of Auburn along Pownal Road from Agricultural-Resource Protection to Low Density Rural Residential Development. The properties proposed for rezoning at the meeting were; a portion of 1807 Pownal Road, a portion of 1850 Pownal Road, a portion of PID # 021-012 Pownal Road, 1890 Pownal Road, 1863 Pownal Road and a portion of PID # 021-012-001

After lengthy public input and Planning Board discussion, the item was tabled to the September 13th meeting. The Board asked the staff to provide the following additional information at the September 13 meeting.

1. A revised Zoning Map Amendment that would only re-zone the southwest side of Pownal Road from Agricultural Resource Protection to Low Density Country Residential for to an 1.35 acre portion of 1807 Pownal Road (J. F. Murphy Homes Property) and approximate 8.89 acre property at 1863 Pownal Road.
2. A copy of a proposed Declaration of Covenant and Restrictions for 1863 Pownal Road that would permanently restrict that property to one existing dwelling unit.
3. Provide additional information regarding the timeline of events for 1863 Pownal Road.
4. Information pertaining to a "no-decision" option presented at the 8/9 meeting.

These items are attached with this revised and amended Staff Report. In addition, the City Council held a workshop on this item on August 22nd.

II. DEPARTMENT REVIEW- NO NEW COMMENTS since the August 9th meeting.
   a. Police- No concerns.

b. Auburn Water and Sewer- This rural area is served by private well and septic systems.
c. Fire Department- Would like the see the home at 1863 become occupied, repairs made and brought up to code. The house currently has no heat and the Fire Department is concerned about the home being protected during the upcoming winter.
d. Engineering- No concerns.
e. Public Services-No concerns.
f. Economic and Community Development (ECD)- The Planning Office has attempted numerous ways to resolve the illegal lot situation at 1863 Pownal Road to no avail. The Staff is will consider this limited zone change as a way of correcting undersized lot and to bring the property back into productive use.

III. PLANNING BOARD ACTION-

1. At the September 13th meeting, the Planning Board is being asked to bring this item back on the table for further discussion.
2. The Planning Board is being asked to consider a new scenario # 5, which includes 2 properties located in the southern end of Auburn along Pownal Road to be rezoned from Agricultural-Resource Protection to Low Density Rural Residential Development.

At the August 9th meeting, the Planning Board also considered language from the 2010 Comprehensive Plan (pages 70-71) regarding criteria that need to be present to approve an extension of a rural residential strip.

Rural Residential Road Strips

The City has historically zoned narrow strips of land along some rural roads for low density residential development. These strips represent a compromise between the City's goal of limiting residential development in rural areas, and existing conditions along these rural roads. As part of the development of the Future Land Use Plan (see Chapter 2), the City conducted a comprehensive review of where residential strips should and should not be created based upon the following set of criteria. The considerations outlined below apply sequentially – first to identify where strips are appropriate based on current land use patterns, and then to work through where residential strips are inappropriate based on a variety of considerations.

Consideration #1 – Established Residential Pattern

A residential strip ***may be provided*** *along a rural road where there is an established pattern of residential uses along the road. An established residential pattern means at least 6-8 homes per half mile counting both sides of the road. In general, both sides of a road should have a residential strip unless there is a significant reason not to allow residential development based on the following considerations.*

Staff Comment- The existing half mile of Rural Residential zoned land along Pownal Road before the proposed zone change area has 10 homes, which meets criteria #1.

Consideration #2 – Reserve Area Adjacency

*A residential strip **should not be provided** along a rural road if the area adjacent to the road is a "reserve area" where the objective is to maintain the land as undeveloped to allow for its conversion to a different use in the foreseeable future. There should be some realistic expectation that something will occur that will change the desired land use for the area in the future.*

Staff Comment- The area adjacent to the proposed zone change is not designated as a "reserve area".

Consideration #3 – Natural Resource Adjacency

*A residential strip **should not be provided** along a rural road if the area adjacent to the road has significant natural resource value. Areas with significant natural value include areas that are zoned Resource Protection or are high value wetlands, 100 Year floodplains, significant wildlife habitats, and areas with steep slopes (>25%).*

Staff Comment- The area adjacent to the proposed zone change is not considered a significant natural resource area.

Consideration #4 – Conservation/Open Space Adjacency

*A residential strip **should not be provided** along a rural road where the adjacent land is protected open space, or where there is a reasonable expectation that the land will be preserved as open space in the foreseeable future, and residential development is inconsistent with that open space use.*

Staff Comment- The land adjacent to the proposed zone change is not protected open space nor is there a reasonable expectation to preserve open space in the foreseeable future.

Consideration #5 -- Ability to Provide Public Services

*A residential strip **should not be provided** along a rural road if residential development will tax the City's ability to provide municipal services as indicated by the following:*

- *The road is a gravel or dirt road*
- *The road is a poorly maintained paved road that will need to be improved to support residential development along it*

Staff Comment- The proposed zone change will not tax the City's ability to provide municipal services. Given the nearby area already zoned Rural Residential has 10 homes in a half mile, police and fire already must serve the area. All water and sewerage are provided by private wells and septic systems.

Consideration #6 – Water Quality Protection
A residential strip ***should not be provided*** *along rural roads with undeveloped frontage that are located in the watershed of Lake Auburn, unless such development will not have an adverse impact on the lake's water quality.*
Staff Comment- The proposed zone change is not located in the watershed of Lake Auburn.

The Future Land Use Plan (see Chapter 2) shows the areas where low density residential development is proposed to be allowed along rural roads based on these criteria. These criteria should be used in the future to review the areas designated as residential strips as conditions change, or to review property owner-initiated requests for rezoning.

IV. STAFF RECOMMENDATION-

STAFF COMMENTS- The Staff is still concerned that correcting non-conformities through a zone change is not a normal justification for rezoning a property. The Staff is also concerned that approving this Zoning Map Amendment could be considered a precedent for rezoning other areas in Auburn's Agricultural Zone.

STAFF RECOMMENDATION- Last month, the Staff produced 4 possible scenarios for a possible zone change, based on a Zone Change initiated by the City Council. At the end of this item's discussion at the August 9th meeting, the Planning Board asked the Staff to produce a 5th scenario that only proposed Low Density Country Residential for a 1.35 acre portion of 1807 Pownal Road and all of 1863 Pownal Road, which is approximate 8.87 acres. The applicant has produced a Declaration of Covenant and Restrictions, which would permanently restrict 1863 Pownal Road to only one existing home on the 8.9 acres. While this offers protection from future subdivisions, it cannot be used as a condition of the zone change.

PLANNING BOARD ACTION- Should the Planning Board consider Scenario # 5 as the preferred option for "fixing" the illegal lot status of 1863 Pownal Road, they should forward a recommendation of approval to the City Council for the Zoning Map Amendment based on Scenario # 5 with the following findings:

1. Scenario # 5, as presented by staff at the September 13 meeting, meets the six considerations of the Rural Residential Strips in the 2010 Comprehensive Plan. Criteria 6 will not apply.
2. Scenario # 5 minimizes the number of new lots that could be created.
3. The rezoning will allow the property at 1863 Pownal Road to be purchased, repaired, maintained and put on the tax rolls.

Douglas M. Greene, A.I.C.P., R.L.A.
City Planner

021-006

021-007
1680 POWNAL RD

1760 POWNAL RD
021-008

021-005
1727 POWNAL RD

1792 POWNAL RD 021-009

Existing Low Density
Rural Residential District

039-019
145 HOBART RD

021-004
1745 POWNAL RD

1850 POWNAL RD
021-010

1757 POWNAL RD
021-003

1807 POWNAL RD
021-002

POWNAL

Agriculture and
Resource Protection

021-012
POWNAL RD

021-011
1890 POWNAL RD

Proposed Zone
Change to
Country Residential
District

1863 POWNAL RD
021-001

POWNAL RD 021-012-001

POWNAL RD 021-001-001

011-004
FICKETT RD

POWNAL RD 011-002

Scenario 5
Low Density Country Residential

DECLARATION OF COVENANT AND RESTRICTION
FOR AGHRA CAPALL LLC

THIS Declaration of Covenant and Restriction is made effective this day of _____, 2016, by **Aghra Capall LLC**, a limited liability company duly organized and existing under the laws of the State of Maine, with a place of business at 195 Center Street in Auburn, Androscoggin County, Maine, hereinafter referred to as the "LLC", which expression shall include its successors and assigns.

WHEREAS

The LLC owns a certain parcel of improved real property (hereafter the "Real Estate") located at 1863 Pownal Road in Auburn, Androscoggin County, Maine, and being the same premises conveyed to the LLC by deed of Heaven Lee Love and Ralph Searles, Jr. dated July 26, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9422, Page 216; and

WHEREAS,

The LLC has elected to place, without any requirement imposed upon the LLC and without any coercion on the part of any person or entity, a perpetual restriction, running with the land, upon the Real Estate in order to prevent further division of the Real Estate into multiple lots and to restrict development on the Real Estate, which is the purpose of this document to recite (this document hereafter referred to as the "Declaration").

NOW, THEREFORE,

The LLC, for itself and its successors and assigns, declares the Real Estate, as described in the aforementioned deed recorded in said Registry in Book 9422, Page 216, to be subject to the following covenant and restriction:

ARTICLE 1. Restriction. The LLC hereby states and declares that the Real Estate, from the effective date of this instrument set forth above, is and shall be subject to a perpetual restriction,

running with the land, that the Real Estate shall not be divided into multiple lots, without regard to any municipal zoning provisions applicable to the Real Estate, whether hereby existing or hereafter arising. This restriction shall not prevent the LLC from accepting delivery of any subsequent deed which would add additional real property to the Real Estate, but the acceptance of any such deed shall not in any manner affect the nature or scope of the restriction established hereby or any other aspect of this Declaration. Any such additional real property once acquired by the LLC shall be included under the definition of "Real Estate" hereunder, and shall be subject to all terms and conditions set forth herein.

ARTICLE 2. Triggering Events. This restriction shall only take effect upon the following triggering events occurring; (a) the City of Auburn confirming to the LLC in writing that the City will allow permits to be issued to the LLC in order to make repairs and perform maintenance on the residential structure currently located on the Real Estate and to allow accessory structures to the currently existing residential structure to be located on the Real Estate, and (b) the recording of this Declaration in the Androscoggin County Registry of Deeds. In the event subpart (a) of this Article 2 occurs, the LLC shall be legally obligated to promptly accomplish subpart (b) of this Article 2. The cost of recording this Declaration shall be borne by the LLC.

ARTICLE 3. Enforcement. The authority for enforcement of any violation of the restriction imposed upon the Real Estate by this Declaration is hereby granted to the City of Auburn and any real estate property owner whose property abuts the Real Estate. This enforcement authority may be exercised by any of the parties set forth in this Article 2, and shall not require all of said parties to engage in any applicable enforcement action.

IN WITNESS WHEREOF, Gary McFarland, duly authorized Member of Aghra Capall LLC, has caused this instrument to be executed on the day and date first above written.

AGHRA CAPALL LLC

_____
By: Gary McFarland
Its: Member, Duly Authorized

STATE OF MAINE
ANDROSCOGGIN, SS. _____, 2016

Then personally appeared the above-named **Gary McFarland**, duly authorized Member of **AGHRA CAPALL LLC** and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of **AGHRA CAPALL LLC**.

_____
Notary Public/Attorney At Law
Print Name: _____
Commission Expires: _____

1863 Pownal Road Timeline and questions raised by the Council at the Workshop on 8/22/16

Parcel References: Parcel 021-001 is the entire parcel in question totaling nearly 80 acres before the illegal split and after the split, Parcel 021-001 is the home and 8-9 acres with the house and barn. Parcel 021-001-001 is the vacant land parcel estimated at 56.4 Acres based on information submitted as part of the shooting range application. Below are the transfers and timelines that were available in the assessors record and the Registry of Deeds and other timeline information discussed at the meeting.

7/15/2005 – Deed from Richard and Raylene McCubrey to Carol and Jonathan Flink – Book 6409 Page 245 – Parcel 021-001 – 1863 Pownal Road before illegal lot split - Estimated at 80 Acres in Deed – Sale Price $648,500

5/13/2008 – Deed of Foreclosure on Flinks By Sun Trust Mortgage - $0 – Parcel estimated at 8-9 Acres - Staffs opinion is that this foreclosure caused the split of the parcel - Parcel 021-001

11/7/2008 - Deed from Sun Trust Mortgage Inc to Sun Trust Mortgage Inc – Book 7940 Page 284 – Sale Price $525,000 - Parcel 021-001

5/13/2011 – Deed from Sun Trust Mortgage to US Bank National Association – Book 8159 Page 209 – Sale Price $234,900 - Parcel 021-001

11/23/2010 – Bankruptcy Sale of Estate of Jonathan and Carol Flink to Jenis Holdings – Book 8061 Page 172 – Parcel 021-001-001 – Estimated at 56.4 Acres – Sale Price 37,500.

5/19/2011 – Wachovia Bank to Heaven Lee Love and Ralph Searles – Book 8159 Page 214 – Parcel 021-001 –Estimated at 8-9 Acres – Sale Price $140,000

5/13/2013 – Application for Planning Board approval of a Firearms Training Facility – Parcel 021-001-001 Legal notice of Planning Board project sent June 25, 2013 for July 9, 2013 meeting. Substantial public input and concerns raised by neighbors and the application was withdrawn prior to the meeting after notifying staff that they had been unable to correct the lot size violation.

6/2/2016 – As was raised at the Council meeting, it appears based on a file name in the footer of the Councilor request that someone worked on drafting the request on this day.

6/10/2016 – Economic and Community Development Staff receives Councilor Request from City Manager's Office after Agenda Setting Meeting.

6/13/2016 – Staff adds the request to Council Economic and Community Development Committee Agenda for direction.

6/16/2016 - Council Economic and Community Development Committee Considers Councilor Request and recommends that staff follow the ordinance prescribed process and bring the request to the Planning Board for a recommendation to the Council.

7/26/2016 – Deed from Heaven Lee Love and Ralph Searles Jr. to Aghra Capall LLC Recorded at the Registry on 8/3/2016. The City has not yet received a copy of this deed from the registry as of 8/22/2016.

1863 Pownal Road Timeline and questions raised by the Council at the Workshop on 8/22/16

7/27/2016 – Planning Board Notice of public hearing mailed to owners and abutters based on required schedule for 8/9/2016 Board Meeting.

7/28/2016 and 8/2/2016 – Planning Board Notice Appears in Sun Journal based on required schedule for 8/9/2016 Board Meeting.

8/9/16- Planning Board Considers proposal and requests additional information. Board tables item to September 13 meeting.

8/22/2016 – Council agenda includes update and discussion on the proposed zoning change.

Other questions raised at the meeting on 8/22/2016:

1. When did we change the zoning at the intersections of Rt 136 and Jordan School Road and Pownal and Jordan School Roads? Both ends of Jordan School Road (Rt 136 and Pownal) appear to be zoned as they are today on the 2002 zoning map on file in the Economic and Community Development Office. We did not research beyond 2002.
2. When did the South Witham Road zoning change near the Alpaca Farm and how far did the change extend? Ordinance 06-09172012 approved the second and final reading on a zoning change on South Witham Road. Second and final reading vote for passage was 4-3 (Councilors Crowley, Walker, and Gerry). The change did not impact the AG zone but did change an area from Low Density Country Residential (LDCR) to Rural Residence (RR) which went from a lot size requirement of 3 acres with 325 feet of street frontage to a 1 acre minimum with 250' frontage requirement. Both ends of the road were already RR with a section of LDCR in between. The Change replaced about 4,000 feet of LDCR frontage with RR Frontage.

BRANN & ISAACSON
ATTORNEYS AND COUNSELORS AT LAW

DANIEL C. STOCKFORD | Partner
dstockford@brannlaw.com

MEMORANDUM

To: Howard Kroll, City Administrator;
Eric Cousens, Deputy Director of Planning & Development
From: Daniel Stockford, Esq.; Anne Torregrossa, Esq.
Date: May 2, 2016
Re: Request for No-Action Letter

This memorandum is in response to your inquiry regarding the possibility of issuing a "no-action letter" regarding 1863 Pownal Road, which is a nonconforming lot due to its failure to meet minimum lot size requirements.[1] We understand that a representative for a potential purchaser of the property has requested that the City issue a no-action letter, essentially agreeing not to take enforcement action on the basis of the nonconformity. Because no-action letters are not enforceable, and because a no-action letter would likely not accomplish the purchaser's goals anyway, we do not recommend that the City issue a no-action letter in this case.

A no-action letter is generally a letter by municipal officers or a municipal official agreeing not to prosecute a landowner on the basis of a land use or zoning violation. The authority for issuing a no-action letter is the City's inherent prosecutorial discretion on when, and how, to enforce its own ordinances. Both Maine Municipal Association and the State Planning Office recognize no-action letters as a tool for code enforcement officers, but they also recognize that such letters are not binding on future administrations. This is exactly what limits their effectiveness, because a future City Council could decide to pursue enforcement action despite any previously issued letter.

A case decided by the Law Court last year highlights the limitations of a no-action letter. The Phippsburg Board of Selectmen issued a property owner a no-action letter that the Town would not enforce its ordinance against two nonconforming lots and would "consider both lots to be lawful nonconforming lots." On the basis of this letter, the property owner applied for, and received a permit to develop one of the lots. An abutter sued the owner, requesting a declaratory judgment that the lot was not lawfully nonconforming. After a year and a half of litigation, the Law Court agreed with the abutter, and the no-action letter did nothing to protect the owner's development rights. *Day v. Town of Phippsburg*, 2015 ME 13, 110 A.3d 645.

[1] Whether this lot is lawfully nonconforming is a question that we are currently researching and will separately address.

Additionally, it is likely that a no-action letter would not give the City the authority to grant building and other permits that it could not otherwise grant under its ordinances. The no-action letter is simply a statement agreeing not to prosecute. It is not an agreement to violate the City's own permitting ordinances. Even if the City granted a building or other permit, an abutter or other interested party could challenge that decision, just as the abutter did in the *Phippsburg* case. Any such challenge likely would be successful.

DCS/lh

Auburn Planning Board Meeting Minutes
September 13, 2016

ROLL CALL:

Regular Members present: Mia Poliquin Pross, Robert Bowyer, Ken Bellefleur Presiding, Dan Philbrick, Samuel Scogin and Marc Tardif.

Regular Members absent: Evan Cyr

Associate Members present: Elaine Wickman and Nathan Hamlyn

Associate Members absent: None

Also present representing City staff: Eric Cousens, Deputy Director of Economic & Community Development

Chairperson Bellefleur called the meeting to order and stated Nathan Hamlyn would be acting as a Full member for this meeting. He also stated any action on the meeting minutes would take place at the end of this meeting.

PUBLIC HEARINGS & NEW BUSINESS:

Zoning map amendment for a portion of 1807 Pownal Road, a portion of 1850 Pownal Road, a portion of PID # 021-012, 1890 Pownal Road, 1863 Pownal Road and a portion of PID # 021-012-001 from Agricultural Resource Protection District to Low Density Rural Residential District pursuant to Section 60-1445 Amendments to the Zoning Map. ***Proposal was heard and tabled August 9, 2016.***

A motion was made by Dan Philbrick and seconded by Mia Poliquin Pross to take the item off the table. After a vote of 7-0-0, the motion carried.

Eric Cousens explained that staff left the description of the proposed zone change the same as it was for the last meeting because staff wanted to make sure that the description and public notice brought everybody possible that would have been interested or affected to this meeting. He said staff provided 4 additional pieces of information and listed the following:

1) A revised zoning map that would limit any zone change to just the southernmost portion of the John F. Murphy lot and the 1863 Pownal Road lot.
2) A copy of a proposed declaration of covenants and restrictions by the owner of 1863 Pownal Road,
3) A copy of a timeline that staff put together of the transfers and events of 1863 Pownal Road
4) A copy of the opinion of the City Attorney about why a No-Action letter probably would not accomplish the goals of the property owner or solve the problem that the City has outlined.

Eric went on to explain the 5th scenario and presented slides on the projector.

Robert Bowyer asked Eric to further explain the restricted covenants.

(08:00 on DVD)

Open Public Input

Dan Herrick of 470 Hatch Road said this means nothing because he too could promise Board members that he would not build any more homes at 240 Hatch Road other than the one that currently exists and said he would give the Board members the same letter. He mentioned that the City Council would soon be working on the Ag & Resource Protection Zone and that the Comprehensive Plan held no water but our City staff constantly uses the plan as a go-forward mark. He said he has been affected by the Ag Zone for 20 years and told Board members that if they approved this, many others would be coming forward. He suggested that the Board waits until City Council and staff works this through with owners of Ag zoned properties.

Joe Gray of Sopers Mill Road asked how is this fair when one lot gets what they want when for 5 years the previous owner didn't get any consideration from the City at all. He said this was spot zoning and many people will be coming forward to get theirs spot zoned as well.

Peter Moore, owner of a large tract of land on Jordan School Road and Pownal Road stated he didn't think this was a perfect solution but about the best you are going to find. He said the important thing is to get the property back into good repair and back on the regular tax rolls. He wishes it could have been resolved differently but is in favor of what is proposed.

Mike Pelletier of 1282 Pownal Road said he tried to get a permit to build a house but was told by Eric he could only build a barn and could change it later. He said it's been 5 years and is being told by the City it's looking too much like a house. He said he planned on building a log cabin but neighbors are complaining to the City and Council so he doesn't know what to do. He hopes this passes and gets to his property which is a half mile up the road.

Kim Visbaras of 42 Hersey Hill and representing the owner of the property Gary McFarland said there are only 2 options here. If the Board does not recommend that this be solved in some way, this property will basically be blight on the City and secondly, he said this is not spot zoning and explained why. He urged Board members to pass scenario #5.

(19:05 on DVD)

A motion was made by Mia Poliquin Pross and seconded by Samuel Scogin to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

Marc Tardif said this is a unique situation and because the building exists and will be going into disrepair, he would go with scenario #5.

Robert Bowyer said the City is being asked to bail out a series of private actions that were incorrect which created an illegal lot and that this has all the earmarks of being spot zoning. He said he was troubled that this would open up Pandora's Box for others that would want similar treatment and for these reasons he said he would probably vote against it.

The Board members discussed at length all the various options that were on the table. Eric and Mr. Visbaras answered questions that were asked by Board members.

(46:50 on DVD)

A motion was made by Marc Tardif and seconded by Mia Poliquin Pross to forward a recommendation of approval to the City Council for the Zoning Map Amendment based on scenario #5 with the following Findings: 1) Scenario # 5, as presented by staff at the September 13 meeting, meets the six considerations of the Rural Residential Strips in the 2010 Comprehensive Plan. Criteria 6 will not apply. 2) Scenario # 5 minimizes the number of new lots that could be created. 3) The rezoning will allow the property at 1863 Pownal Road to be purchased, repaired, maintained and put on the tax rolls. And also to recommend to the City Council that the restrictive covenants prepared by the applicant be incorporated in this approval.

After a vote of 3-4-0 the motion failed. Robert Bowyer, Chairperson Bellefleur, Samuel Scogin and Nathan Hamlyn opposed.

Members who opposed gave the following reasons for doing so:

- Asking City to solve a problem created by private entities,
- Spot zoning characteristics so if we are to rezone this one property we should do so in the rest of the area,
- Don't want to see this used as a precedent for other petitions,
- Ag Zone has been an issue and needs to be looked at more comprehensively.

Eric asked the Board members to make a recommendation to the City Council; even if the Board is opposed to this, they should make a motion to recommend that it not be approved by the City Council.

Robert Bowyer asked what particular set of boundaries is in the petition in front of the City Council. Eric replied that this was one of the challenges with the proposal. He said there was a map that showed the outline of 1863 Pownal Road and extended the zone the same way Scenario #5 did and there was also a written description that said that it should be both sides of the road. He explained that public notices were sent to property owners affected within the larger area and all those within 500 feet from that area.

(01:04:05 on DVD)
A motion was made by Robert Bowyer and seconded by Samuel Scogin to forward a recommendation to the City Council that no change in Zoning District be approved at this time. After a vote of 4-3-0 the motion passed. Mia Poliquin Pross, Dan Philbrick and Marc Tardif opposed.

Recommendation to the Council on an amendment to Chapter 60, Article XVI, Division 2, Subdivision 1, Sec. 60-1301(14) pursuant to Chapter 60 Article XVII- Amendments, Division 2- Amendment to the Zoning Map of the Auburn Code of Ordinances. The changes amend references to State Stormwater Standards to allow the City to maintain Delegated Review Authority.

Eric explained the proposal to the Board members.

Open Public Input
No members of the public spoke.

A motion was made by Dan Philbrick and seconded by Samuel Scogin to close the Public Input part of the hearing. After a vote of 7-0-0, the motion carried.

(01:08:15 on DVD)
A motion was made by Mia Poliquin Pross and seconded by Dan Philbrick to send a favorable recommendation to the City Council an amendment to Chapter 60, Article XVI, Division 2, Subdivision 1, Sec. 60-1301(14) pursuant to Chapter 60 Article XVII- Amendments, Division 2- Amendment to the Zoning Map of the Auburn Code of Ordinances with the following Finding: Updating the Site Plan Law to reflect the newer State regulations will allow the city to maintain its Delegated Review Authority.

After a vote of 7-0-0, the motion carried.

OLD BUSINESS:
None

MINUTES:
July 12, 2016 Meeting Minutes Approval Request

A motion was made by Robert Bowyer and seconded by Samuel Scogin to approve the July 12, 2016 meeting minutes with the sole correction that the last word on page 5 be changed to Street. After a vote of 7-0-0, the motion carried.

MISCELLANEOUS:
Eric updated Board members regarding the Recommendation on the Capital Improvement Plan which the Planning Board recommended that the City Council fund the Ag District Study. He said the Council did not fund it but there was some interest at the Council level to revisit and said Council asked staff for a study outline to be updated to everything staff has prepared to date. He mentioned the Economic & Community Development Committee was a good place to get some more input before going for a full Council review so would be presenting to that committee on Thursday evening. He said any Ag District Study draft would be brought before the Planning Board for review.

ADJOURNMENT
A motion was made by Marc Tardif and seconded by Dan Philbrick to adjourn. After a vote of 7-0-0, the motion carried.

all areas subject to shoreland zoning under state law. It establishes water body setback requirements and performance standards, and is being updated to reflect current state requirements.

3. RURAL RESIDENTIAL ROAD STRIPS

The City has historically zoned narrow strips of land along some rural roads for low density residential development. These strips represent a compromise between the City's goal of limiting residential development in rural areas, and existing conditions along these rural roads. As part of the development of the Future Land Use Plan (see Chapter 2), the City conducted a comprehensive review of where residential strips should and should not be created based upon the following set of criteria. The considerations outlined below apply sequentially – first to identify where strips are appropriate based on current land use patterns, and then to work through where residential strips are inappropriate based on a variety of considerations.

Consideration #1 – Established Residential Pattern

A residential strip **may be provided** along a rural road where there is an established pattern of residential uses along the road. An established residential pattern means at least 6-8 homes per half mile counting both sides of the road. In general, both sides of a road should have a residential strip unless there is a significant reason not to allow residential development based on the following considerations.

Consideration #2 – Reserve Area Adjacency

A residential strip **should not be provided** along a rural road if the area adjacent to the road is a "reserve area" where the objective is to maintain the land as undeveloped to allow for its conversion to a different use in the foreseeable future. There should be some realistic expectation that something will occur that will change the desired land use for the area in the future.

Consideration #3 – Natural Resource Adjacency

A residential strip **should not be provided** along a rural road if the area adjacent to the road has significant natural resource value. Areas with significant natural value include areas that are zoned Resource Protection or are high value wetlands, 100 Year floodplains, significant wildlife habitats, and areas with steep slopes (>25%).

Consideration #4 – Conservation/Open Space Adjacency

A residential strip **should not be provided** along a rural road where the adjacent land is protected open space, or where there is a reasonable expectation that the land will be preserved as open space in the foreseeable future, and residential development is inconsistent with that open space use.

Consideration #5 -- Ability to Provide Public Services

A residential strip **should not be provided** along a rural road if residential development will tax the City's ability to provide municipal services as indicated by the following:

- The road is a gravel or dirt road
- The road is a poorly maintained paved road that will need to be improved to support residential development along it

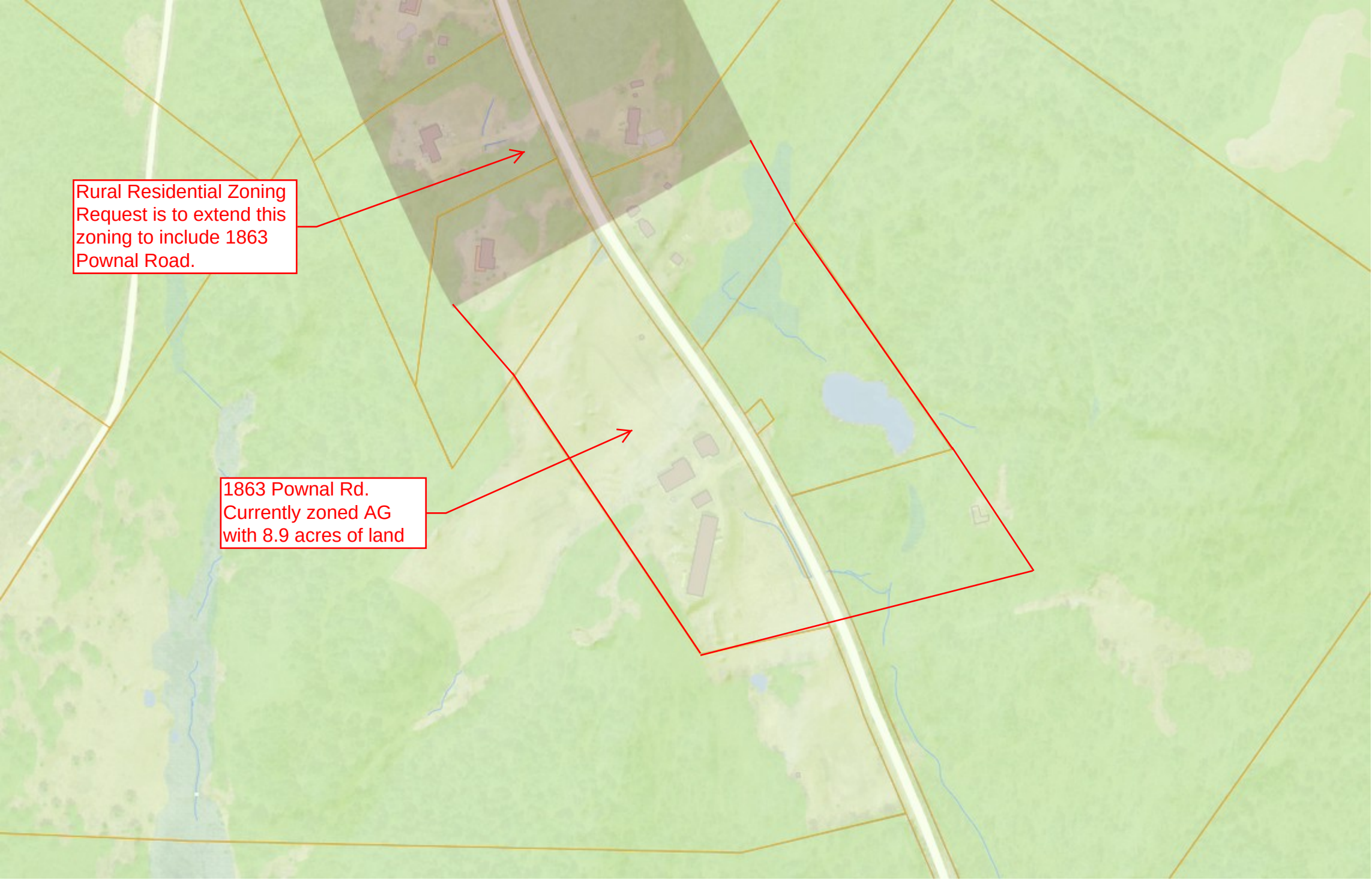
Consideration #6 – Water Quality Protection

A residential strip **should not be provided** along rural roads with undeveloped frontage that are located in the watershed of Lake Auburn, unless such development will not have an adverse impact on the lake's water quality.

The Future Land Use Plan (see Chapter 2) shows the areas where low density residential development is proposed to be allowed along rural roads based on these criteria. These criteria should be used in the future to review the areas designated as residential strips as conditions change, or to review property owner-initiated requests for rezoning.

4. NEIGHBORHOOD BUSINESS DISTRICTS

The City has a number of neighborhood businesses that are located within residential neighborhoods. It is the City's policy to support the retention and improvement of these businesses since they offer a valuable service to the City's residents. It is also the City's policy to encourage the owners of these properties to reinvest in maintaining and improving these buildings. To accomplish these objectives, the Future Land Use Plan (see Chapter 2) designates these properties as Neighborhood Business Districts. The standards for these districts allow the existing nonresidential use to be maintained and improved, as long as it is compatible with the surrounding neighborhood. The standards also allow for replacing an existing use with a new nonresidential use (other than service stations and auto service facilities), as long as it is appropriate for the neighborhood. The primary objective in creating these districts is to encourage the retention of these neighborhood businesses. As long as the property includes nonresidential space, whether occupied or not, the property should remain in the Neighborhood Business District to allow re-occupancy by an appropriate nonresidential use.


Rural Residential Zoning Request is to extend this zoning to include 1863 Pownal Road.
1863 Pownal Rd. Currently zoned AG with 8.9 acres of land

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

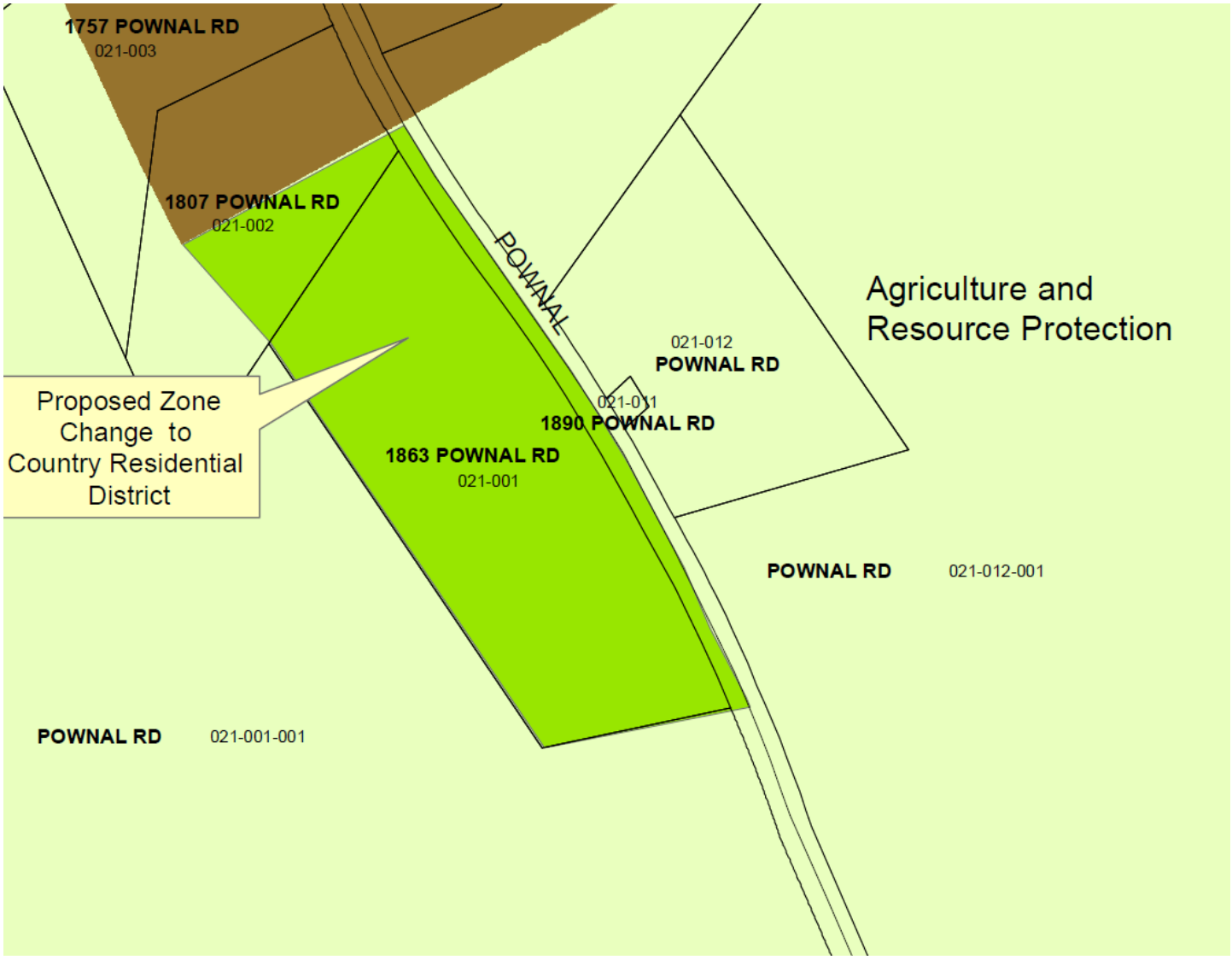
Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDINANCE 09-10172016

Be it ordained by the Auburn City Council, that the zoning map be amended in the area of 1863 Pownal Road to extend the Residential Zoning district to include the portion of 1807 within 450' of the centerline of Pownal Road and the entire parcel at 1863 Pownal Road as shown on the below map. The extension shall be Low Density Country Residential District.



City of Auburn
City Council Information Sheet

Council Meeting Date: October 17, 2016 **Order:**

Author: Doug Greene, City Planner

Subject: Funding request for an Agricultural and Resource Protection District Plan

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Information: At the October 3rd City Council workshop, staff presented a funding request to develop a plan Auburn's Agricultural and Resource Protection (AGRP) District. The request was for $40,000 with an additional $10,000 committed by the Environmental Funders Network (EFN). The presentation included an outline which laid out a brief summary of the current situation of the AGRP district, a Values Statement, Goals and Deliverables of the study, a scope of work, a proposed timeline and budget summary. The outline also addressed questions raised by the Council at an August 22nd workshop.

Advantages: Providing funding for the AGRP study will allow for outside expertise in the evaluation of the current situation in the AGRP zone, assist in the gathering of information from farmers, foresters, mineral resource producers, and rural land owners on their current and future plans on their land, their businesses and what could be done to improve their situation.

Disadvantages: Not funding the AGRP study will make it difficult to proceed with the AGRP study in a timely way.

City Budgetary Impacts: The proposed AGRP study would use $40,000 of unallocated bond funds.

Staff Recommended Action: The staff recommends approving the request to fund the AGRP study.

Previous Meetings and History: : The City Council turned down a text amendment request in the Ag Zone in June of 2014, and asked the Planning staff to initiate a complete study of the AGRP district. The Staff applied unsuccessfully for grant funding in 2015 and since then has periodically come before the City Council to discuss the AGRP study. The staff presented a request for funding to the City Council at their August 22nd and October 3rd workshops.

Attachments:

1. AGRP Plan proposal
2. Staff memo (5/26/16) with overview of AGRP regulations and 2010 Comprehensive Plan
3. Auburn zoning map
4. City Council Order to fund AGRP study

City of Auburn, Maine
Office of Economic and Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

October 17, 2016

A Proposed Plan for Agriculture and Resource Protection in Auburn

1. **Current Situation-** Rural Auburn has a unique Agricultural and Resource Protection (AGRP) zoning district, which has been in place since the early 1960's that contains over 40% of the city's land area, or over 20,000 acres. The purpose of the AGRP regulations has been to manage development and to promote food, agricultural, timber and natural resource production and uses. The AGRP zoning regulations have significantly restricted development for the last 50+ years. Today however, the nature and trends of farming and food production have drastically changed. This means the AGRP regulations have created unintended consequences that should be evaluated as part of the study.

2. **Values Statement**- The City of Auburn values its agricultural heritage, protects the natural beauty of its land, and promotes locally grown food, raising livestock, managing forests and natural resource-based businesses.

3. **Goals and Deliverables of the Study**-
   A. GOAL- Gain an understanding of how AGRP producers and property owners are utilizing their land, what their future plans are and find out if there are barriers to successful operations through property owner interviews and surveys. DELIVERABLES- Database of property owners and a summary report of AGRP interviews that includes identified barriers and opportunities for agriculture, food and natural resource business development.
   B. GOAL- Build a broad community and stakeholder consensus on the future of the AGRP district through an open public forum and readily available study information. DELIVERABLES- Demonstrated involvement of agriculture, food, and natural resource businesses and stakeholders. Public meetings are held; input is gathered and utilized in final report.
   C. GOAL- Determine the economic and community development potential for Auburn's AGRP district and rural areas both at the local and regional level and create policies and regulations that meet that potential and align with the Values Statement. DELIVERABLES- Final report with recommendations and implementation strategy for Council action to maximize rural Auburn's community and economic development potential. The report will also identify additional areas of analysis/information needed.

4. **Scope of Work**- The staff recommends hiring a consultant or consultant group that specializes in agricultural policies and rural economic and community development for critical work elements. This outside expertise is needed to provide technical assistance and remove a perception that staff might be biased towards any pre-determined results. In addition, hiring outside help is necessary as the staff does not have the capacity to complete the AGRP study by themselves.
   A. Staff Role- The staff will:
      - Develop RFP(s) for the selection of a qualified consultant(s)
      - Oversee a selection process for the selection of consultants selection
      - Assist consultants in obtaining data from, city, county and state sources

- Facilitate arrangements for and participate in public meetings
- Oversee a city website dedicated to the AGRP study
- Provide project oversight

B. Consultant Role- A selected consultant or consultant group will:
   - Conduct an initial assessment and report on existing AGRP regulations, the impacts of those regulations whether intended or not, and rural social and economic conditions
   - Facilitate public and stakeholder meetings
   - Conduct AGRP property owner interviews and surveys and submit a report on their findings
   - Assist in gathering input from the Maine Department of Agriculture, Forestry and Conservation, the Maine Farmland Trust, St. Mary's Nutrition Center, and Cultivating Community on agricultural trends in the State of Maine
   - Explore the economic and community development possibilities of Auburn's AGRP and its potential to complement downtown living and development
   - Prepare a final report with recommendations and implementation plan
   - Assist in building City staff and resident capacity for managing AGRP over the long term.

5. Ag Study Timeline- Total time 13 months

A. Consultant Selection
   - Staff develops RFP(s) (month 1)
   - Consultant selection (months 2 to 3)

B. Property Owner and Stakeholder Outreach
   - Begin in month 3 and continue to month 10

C. Public Meetings
   - Begin in month 4, the number of public meetings to be determined

D. Data and Information Analysis and Draft Report
   - Gather data and public input (months 3-8)
   - Develop and revise alternatives based on public response (month 10)
   - Submit final draft report and recommendations (month 11)

E. Adoption Process
   - Final draft to Planning Board (month 11)
   - Planning Board recommendation to City Council (month 12)
   - City Council adoption (month 13)

6. Budget

The city council is being asked to appropriate $40,000 towards the study. These funds would come from unallocated bond proceeds. The Environmental Funders Network (EFN) is offering $10,000 through an existing grant to St. Mary's Nutrition Center to assist in this effort. The EFN is asking that the study and plan prioritize agriculture and natural resources in its community and economic development strategies. They ask that steps be taken to listen and engage with farmers and producers to create a vision and values framework around the role of agriculture in our community and economy. In addition, the EFN supports the importance of a strategic review of the AGRP regulations and wants to support and build staff capacity by means of their contribution.

City of Auburn, Maine
"Maine's City of Opportunity"
Office of Planning & Permitting

PLANNING BOARD REPORT

To: Auburn Planning Board

From: Douglas M. Greene, A.I.C.P., City Planner

Re: Staff Overview of Agriculture Zone Regulations

Date: May 26, 2016

The Planning Staff would like to present an overview of the Agricultural Zone and its current regulations.

1. **Agricultural/Resource Protection Zone and the Comprehensive Plan-** The Comprehensive Plan is the foundation for and gives direction to the City's Zoning Ordinance. The City of Auburn's 2010 Comprehensive Plan contains numerous references to the importance of the Agricultural and Resource Protection Zone by designating areas for development and areas to limit or prohibit development. The most relevant language that relates to the proposed text amendment is found in Chapter 2- Future Land Use Plan as follows:

   "This Future Land Use Plan reaffirms the basic objective of land use planning, that development in Auburn should grow out from the core and from older established neighborhoods. This policy was originally set forth in the City's first comprehensive plan over a half century ago, and has continued to guide the City's land use planning ever since." (pg. 73)

   "The boundaries shown on the Future Land Use Plan are general. They are intended to reflect the general pattern of desired future land use. The allowed uses and development standards set out for each land use designation are intended to serve as guidelines as the zoning ordinance is reviewed and revised. The lists of uses and the discussion of potential development standards are not intended to be all-inclusive. Rather, they are intended to outline the basic character and types of development desired in each land use area to guide the revision of the City's zoning ordinance and other land use regulations." (pg. 73)

   Page 74 of the plan describes how the Comprehensive Plan's future land use plan is organized:
   1. Growth Areas
   2. Limited Growth Areas and
   3. Restricted or No-Growth Areas

   Additional guidance from the 2010 Comprehensive Plan Update is found in the future land use descriptions. On pages 107-110, are the following recommendations that relate to the text amendment.

RESTRICTED/NON-GROWTH AREAS- (pg. 107)

TYPE D- PROTECTION/RESERVE AREAS (pg. 108)

Agricultural/Rural District (AG) (pg. 108)

Objective– Preserve and enhance the agricultural heritage of Auburn and protect the City's natural resources and scenic open space while maintaining the economic value of the land (see Figure 2.3). The district is characterized by a rural, very low density development pattern that limits sprawl and minimizes the City's service costs. The District maintains the current rural development pattern allowing for a broad range of agriculture and natural resource-related uses, while restricting residential development. Recreational development is encouraged both as a means of protecting open space, and as a means to provide reasonable public access to outdoor destinations such as Lake Auburn and the Androscoggin River. The Agriculture/Rural District is intended to serve as a land reserve, protecting valued community open space and rural landscapes, while maintaining the potential for appropriate future development.

Allowed Uses – The Agriculture/Rural District should continue to include the uses allowed in the existing AG/RP zoning district. In addition, a broader range of rural uses should be allowed. Agriculturally-related businesses including retail and service activities and natural resource industries should be permitted. The reuse of existing agricultural buildings should be allowed for low intensity non-agriculture related uses.

Residential uses should continue to be limited to accessory residential development as part of a commercial agriculture or natural resource use, not just traditional farms. The criteria for determining when an accessory residential use is permitted should be based on updated standards that take into account the economic realities of today's commercial agricultural activities, including outside sources of income and part-time and small-scale commercial operations. Residential development may also be part of a commercial recreational use as part of a planned development in which the recreational open space is permanently preserved.

Development Standards – All new development, redevelopment, and expanded uses in the Agriculture/Rural District should be required to meet "best management practices" for stormwater management and environmental protection to ensure adequate protection of natural resources. All development activities in the Agricultural/Rural District should be subject to low impact development (LID) standards such as limiting impervious surfaces, minimizing lot disturbances, creating natural buffers, and capturing and treating runoff through filtration measures.

The City should continue to encourage a very low density development pattern as a means of protecting natural resources and preserving the rural character. The basic residential density standard for the current AG/RP zoning district should be maintained. The standards for the development of accessory residential units should provide greater flexibility in the siting of those units. In an effort to place accessory residential development in areas where it will have the least

impact on natural resource and/or the agricultural value of the land, the standards should allow for a waiver or elimination of road frontage requirements and access from a private driveway.

2. Agriculture and Resource Protection District Restrictions based on Definitions-

The basis of the restriction on residential units in the Agricultural/Resource is found in the definition of Farm: (Auburn Zoning Ordinance, Chapter 60, Article I, Section 60-2, pg. 5)

Farm means any parcel of land containing more than ten acres which is used in the raising of agricultural products, livestock or poultry, or for dairying. The term "farm," under the Agricultural and Resource Protection District, shall be further defined as meeting the following criteria:

(1) At least 50 percent of the total annual income of the farm occupant and his spouse living in the farm residence will be derived from such uses; and

(2) At least ten acres of the farm will be devoted to the production by the occupant of field crops or to the grazing of the occupant's livestock. For purposes of this definition, the term "poultry" means no fewer than 100 foul and the term "livestock" means no fewer than 20 cattle or other animals being raised for commercial purposes.

The definition of *Farm* is then is applied in the Agricultural and Resource Protection Zone by allowing One-family, detached dwellings in the Permitted Uses but only as accessory to farming operations. (Article IV- District Regulations, Division 3- Use Regulations, Section 60-172- Permitted Uses a, 1, a)

Sec. 60-172. Permitted uses; exceptions. (For Agriculture and Resource Protection District)
(a) *Permitted uses.* **The following uses are permitted**:

(1) **One-family detached dwellings**, including manufactured housing subject to all the design standards, except the siting requirements of section 60-173, as set forth in article XII of this chapter, **accessory to farming operations** subject to the following restrictions:

a. No certificate of occupancy shall be issued for any such farm residence until the barns, livestock pens, silos, or other such buildings or structures which are to be erected in connection with the proposed agricultural use as shown on the plans and specifications presented to the municipal officer charged with enforcement are substantially completed.

b. In no case shall any farm residence constructed under the provisions of this section after the effective date of the amended ordinance from which this section is derived continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements as shown on the plans and specifications presented to the municipal officer charged with enforcement.

c. Any residence constructed under this article shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this article.

The restriction and limitation of a one family residence as accessory to farming operations is the key element to implementing the City's Comprehensive Plan's future land use policy and the Zoning Ordinance's regulation in restricting growth in the Agricultural/Resource Protection District.

3. **The Zoning Ordinance Text**

DIVISION 2. - AGRICULTURE AND RESOURCE PROTECTION DISTRICT

Sec. 60-144. - Purpose.

The purposes of this district are to allow for conservation of natural resources and open space land, and to encourage agricultural, forestry, and certain types of recreational uses. It is declared to be in the public interest that these areas should be protected and conserved because of their natural, aesthetic and scenic value, the need to retain and preserve open space lands, their economic contribution to the city, and primarily because these areas are so remote from existing centers of development that any added uncontrolled growth could result in an economic burden on the city and its inhabitants. This section shall be construed so as to effectuate the purposes outline here and to prevent any attempt to establish uses which are inconsistent with these purposes or any attempt to evade the provisions of this division.

(Ord. of 9-21-2009, § 3.31A)

Sec. 60-145. - Use regulations.

(a) Permitted uses. The following uses are permitted:

(1) One-family detached dwellings, including manufactured housing subject to all the design standards, except the siting requirements of section 60-173, as set forth in article XII of this chapter, accessory to farming operations subject to the following restrictions:

a. No certificate of occupancy shall be issued for any such farm residence until the barns, livestock pens, silos, or other such buildings or structures which are to be erected in connection with the proposed agricultural use as shown on the plans and specifications presented to the municipal officer charged with enforcement are substantially completed.

b. In no case shall any farm residence constructed under the provisions of this section after the effective date of the amended ordinance from which this section is derived continue to be occupied as a residence if the principal agricultural use has been abandoned or reduced in scope below the minimum requirements as shown on the plans and specifications presented to the municipal officer charged with enforcement.

c. Any residence constructed under this article shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this article.

(2) Buildings, equipment and machinery accessory to the principal use including, but not limited to: barns silos, storage buildings and farm automobile garages.

(3) Forest products raised for harvest.

(4) Field crop farms.

(5) Row crop farms.

(6) Orchard farms.

(7) Truck gardens.

(8) Plant and tree nurseries.

(9) Greenhouses.

(10) Handling, storage and sale of agriculture produce and processed agricultural products derived from produce grown on the premises.

(11) Livestock operations including poultry farms, cattle farms, dairy farms, stud farms, hog farms, sheep ranches, other animal farms, including farms for raising fur-bearing animals.

(12) Wayside stands.

(13) Two-family dwellings which are created from the conversion of a one-family dwelling structure which was constructed prior to 1900.

(b) Special exception uses. The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVII of this chapter:

(1) Sawmills and their customary accessory land uses and buildings incidental to the harvesting of forest products, subject to the following conditions:

a. Sawmill and accessory activity shall not be detrimental to the neighborhood or the city by reason of special danger of fire or explosion, pollution of rivers or perennial streams or accumulation of refuse.

b. Wood processing operation shall be located no closer than 75 feet from any river or perennial stream, 250 feet from any zoning district boundary or residential dwelling and shall be limited to four persons employed.

c. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which will be equally effective in retarding erosion and will preserve natural beauty.

(2) Veterinary hospitals, where operated by licensed veterinarians, including offices and facilities for temporarily boarding animals.

(3) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.

(4) Bona fide residences required for farm labor. Any residence constructed for farm labor shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this division. The findings and the conditions upon which such altered use may be continued shall be made a part of the permanent records.

(5) Recreational uses of land intended or designed for public use subject to the following conditions:

a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board in the manner and upon the same terms as approvals of initial recreational uses.

b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.

(6) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, subject to the following conditions:

a. Such reconstruction shall comply with all ordinances applicable to new construction. Such reconstruction need not, however, comply with zoning provisions which would otherwise be applicable except for the provisions of article XII of this chapter.

b. In cases where no minimum setback is established by division 5 of article XII of this chapter an open yard space of at least ten feet between the building as reconstructed and each of the property lines shall be maintained.

(7) Rifle, pistol, skeet or trap shooting ranges, public or private.

(8) Cemeteries, subject to the following conditions:

a. At least 20 acres in area.

b. Not located in any environmental overlay district or over any known aquifer.

(9) Municipal sanitary landfills, subject to the following conditions:

a. Not located in any environmental overlay district or over any known aquifer.

b. Provisions shall be made to avoid surface water and groundwater pollution.

c. Provisions shall be made for frequent covering of deposited wastes with earth to counteract vermin, insects, odors, and windblown debris.

(10) Radio, radar, television and radio telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:

a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, building occupants, land uses and properties.

b. In no case shall such tower be located less than one and one-half times its height from the nearest property line.

(11) Wholesale nurseries, subject to the following conditions:

a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.

b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.

(12) Processing and storage of compost and bulking agents from the municipal wastewater sewerage sludge facilities provided that:

a. All compost and amendments are to be stored undercover or screened from the public way and abutting property as determined by the planning board.

b. All federal, state and local ordinances and laws relating to the processing and storage of waste are complied with.

c. An end-use plan must be filed as part of the planning board process.

(13) Licensed hospice care facility provided that it shall be licensed by the state as a Medicare certificate hospice.

(14) Slaughterhouse, stockyard, abattoir, dressing plant in compliance with state and federal regulations subject to the following conditions:

a. The facility shall not be located within the Lake Auburn Watershed Overlay District, the Watershed of Taylor Pond, the Shoreland Overlay District or the Floodplain Overlay District.

b. The proposed use shall not occupy more than 10,000 square feet of building area.

c. The number of employees shall be limited to not more than 15.

d. Accessory retail sales shall be limited to 10 percent of building area or 1,000 square feet, whichever is smaller.

e. Hours of operation shall limited to between 6 a.m. and 8 p.m.

(15) Compost operations, excluding municipal and industrial waste, to process products such as manure, bedding, animal mortalities, waste feed, produce, forestry by-products, leaves and yard trimmings in compliance with state and federal regulations, subject to the following conditions:

a. All compost sites shall be evaluated for suitability by a properly qualified professional, including benchmark water testing prior to approval.

b. Provisions shall be made to avoid surface and groundwater pollution.

c. Provisions shall be made to counteract vermin, insects and odors.

d. Must comply with all applicable state department of environmental protection and state department of agriculture rules and regulations and best management practices.

e. Shall not be located within the Lake Auburn Watershed Overlay District.

(Ord. of 9-21-2009, § 3.31B; Ord. No. 32-02072011-07, 2-7-2011; Ord. No. 06-08012011-07, 8-1-2011)

Sec. 60-146. - Dimensional regulations.

All structures in this district, except as noted shall be subject to the following dimensional regulations:

(1) Minimum lot area, width and depth. No lot shall be created and/or no building shall be erected on a lot containing less than ten acres, exclusive of any bodies of water having a surface area of one-fourth of an acre or more, and measuring not less than 250 feet in width at the street frontage, and 200 feet in depth.

a. A building may be erected on a lot containing not less than 50,000 square feet and possessing the required minimum frontage width provided it is contiguous with other lots or parcels of land in the same ownership containing an aggregate of not less than ten acres; notwithstanding the separation of the said other lots or parcels of land by a road, stream, private right-of-way or other natural boundary from the lot on which the building is to be constructed. This section shall not be construed to prevent the construction of nonresidential accessory farm buildings on any such lot.

b. On legally nonconforming undersized lots, the keeping of horses, mules, cows, goats, sheep, hogs, and similar sized animals for domestic use of the residents of the lot is permitted provided that the land area required per animal unit conforms to the definition of animal farm contained in section 60-2.

(2) Density. The density of year round dwelling units shall not exceed an average of one dwelling per ten acres.

(3) Yard requirements.

a. Rear. There shall be behind every building a rear yard having a minimum depth of 25 feet.

b. Side. There shall be a minimum distance of 15 feet between any building and the side property line.

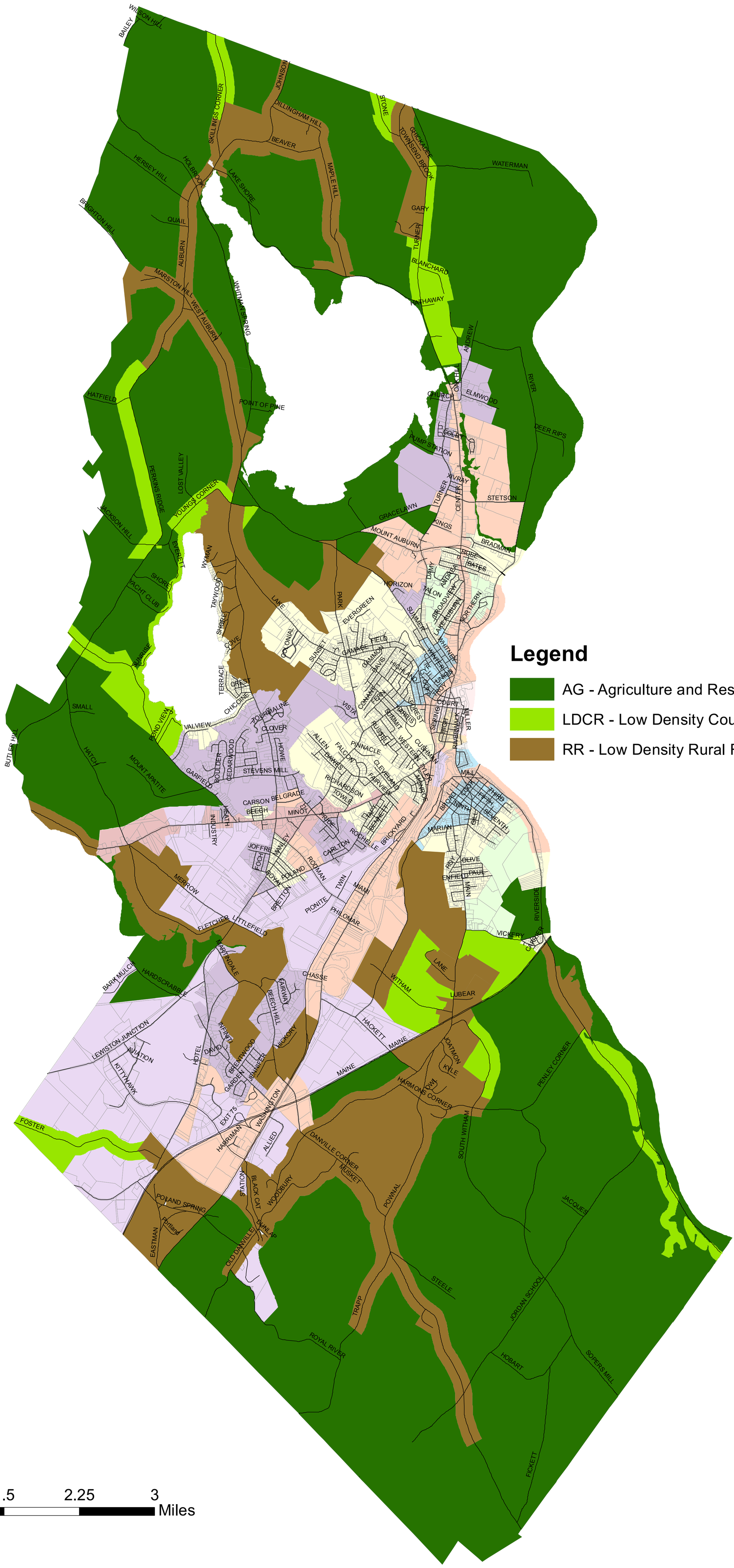
c. Front. There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.

(4) Height. The height of all dwelling structures shall be limited to two and one-half stories of 35 feet in height. Accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.

(5) Off-street parking. Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in articles V through XI of this chapter.

(Ord. of 9-21-2009, § 3.31C)

City of Auburn Ag Zoning- 2015



Legend

- AG - Agriculture and Resource Protection
- LDCR - Low Density Country Residential
- RR - Low Density Rural Residential

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER

ORDERED, that the City Council hereby authorizes the Director of Finance to appropriate $40,000 of unallocated bond proceeds for the purpose of funding the necessary technical assistance to complete a study and plan of Auburn's Agricultural and Resource Protection District.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 72-10172016

ORDERED, that the City Council hereby authorizes the Director of Finance to appropriate $40,000 of unallocated bond proceeds for the purpose of funding the necessary technical assistance to complete a study and plan of Auburn's Agricultural and Resource Protection District.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: October 17, 2016 **Ordinance:10-10172016**

Author: Eric J. Cousens, Deputy Director of Economic and Community Development

Subject: Text Amendment to update State Stormwater Standard References in the Auburn Zoning Ordinance.

Information: The Maine Department of Environmental Protection (DEP) has has updated their stormwater standards and the new standards apply statewide. DEP has asked the City of Auburn to amend references to State Stormwater Standards as found in Article XVI- Administration and Enforcement- Division 2- Site Plan Law, to allow the City to maintain its Delegated Review Authority and issue permits in Auburn on behalf of the State. We review stormwater changes as part of our normal project reviews and we can complete reviews faster and at less cost than permits at the State. The local review also allows us to collect revenue for the permits.

Advantages: Maintains Delegated Review Authority and local permit reviews that are more responsive to business requests and less costly than State Reviews.

Disadvantages: None. Standards apply State wide anyways.

City Budgetary Impacts: Fairly Neutral. Revenues generally cover expenses associated with these permits.

Staff Recommended Action: Hold a public Hearing and Approve First Reading

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Previous Meetings and History: Planning Board September 13, 2016, Council Workshop October 3, 2016.

Attachments: Planning Board Staff Report, proposed ordinance changes, summary of State Stormwater changes, Planning Board Report/Recommendation, Minutes excerpt (DRAFT, pending approval) for Planning Board vote on this item.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDINANCE 10-10172016

Be it ordained by the Auburn City Council, that Chapter 60, Article XVI, Division 2, Subdivision 1, Sec. 60-1301(14) be amended to update references to State Stormwater Standards, as shown below, to allow the City to maintain Delegated Review Authority.

(14) Site developments requiring stormwater permits pursuant to 38 M.R.S.A. § 420-D shall include the required plan and to the extent permitted under 38 M.R.S.A. § 489-A, be reviewed under the procedures of article XVI of this chapter; and they shall meet and comply with 38 M.R.S.A. § 484(4-A) and those Rules promulgated by the Maine Department of Environmental Protection pursuant to the Site Law and section 420-D, specifically Rules 500, 501 and 502, as last amended ~~December 21, 2006~~August 12, 2015. ~~Adopted September 22, 2005, said Rules taking effect November 16, 2005, as enacted by Legislative Resolve, chapter 87, Public Laws of 2005 (LD 625/HP 458), amended March 20, 2006.~~ If a project proposes infiltration and the standards in Rule 500, appendix D are not met, then a waste discharge license may be required from the Maine Department of Environmental Protection. An infiltration system serving a development regulated under the Site Location of Development Act may be required to meet standards in addition to those in appendix D.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: 10/17/2016 Order: 73-10172016

Author: Denis D'Auteuil, Acting City Manager

Subject: Downtown Auburn Transportation Center Ground Lease

Information: The Downtown Auburn Transportation Center (DATC) was originally approved by the City Council in November 2012, and additional funding needs were identified and approved in December 2014. This action in 2014 began the project planning process, and the DATC has been under construction for several months. The DATC is near completion, and a land lease is needed between the City of Auburn and the Lewiston/Auburn Transit Committee (LATC). The City of Auburn is the owner of the land that the Transportation Center sits on and the building will be owned by LATC. On September 20, 2016 the Lewiston Auburn Transit Committee voted to approve the land lease and move it to the Auburn City Council for consideration.

Advantages:

- Allows for the Transportation Center to be opened in October 2016.
- The lease clearly outlines and documents the relationship between the City of Auburn and LATC for the DATC.

Disadvantages:

- It's a 40 year lease with an option by the tenant (LATC) to renew for one additional term of 20 years

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City Budgetary Impacts: None

Staff Recommended Action: Authorize the City Manager to execute the land lease between the City of Auburn and Lewiston/Auburn Transit.

Previous Meetings and History: Presented to Council at the 10/3/2016 workshop.

Attachments:

1. Draft Land Lease
2. Red- lined version of the land lease from LATC attorney
3. Legal description of land

GROUND LEASE

This Ground Lease ("Lease") is entered into this 1st day of October, 2016,between the **CITY OF AUBURN**, a body politic and corporate in the County of Androscoggin, and State of Maine "Landlord")and **LEWISTON AUBURN TRANSIT COMMITTEE**, a quasi-municipal agency established by an inter-local agreement between the City of Lewiston and the City of Auburn("Tenant").

WHEREAS Landlord owns that certain parcel of real property that is thirty-six (36) feet wide by eighty-eight (88) feet wide (approximately 3,168 s.f.) with five (5) foot radius curbing at each corner as shown on and more particularly described in **Exhibit A** attached hereto (the "Property");

WHEREAS Tenant desires to lease the Property from Landlord for the term described herein and has constructed on it a bus transfer facility which Tenant will operate and maintain.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Original Term. The original term of this Lease shall commence October 1, 2016, and shall continue for a period of forty [40] years thereafter.

2. Renewal Option. If the Lease is not then in default, Tenant shall have the option to renew this Lease for one (1) additional term of twenty (20) years, as follows:

A. The renewal term shall commence on the date following the date of termination of the preceding term.

B. Landlord shall provide to Tenant written notification of the expiration of the original term of this Lease not more than 180 days prior to the end of the initial term. Such notification shall include specific reference to this Renewal Option. Tenant may exercise this Renewal Option by written notice to Landlord given not more than 120 days after its receipt of the aforesaid notice from Landlord. The giving of such notice by Tenant shall be sufficient to make the Lease binding for the renewal term without further act of the parties. In the event that Landlord fails to provide the notice described in this paragraph, then the original term of the lease shall continue until 120 days after Landlord provides such notice.

C. Except for the length of the renewal term,

the terms and conditions of the Lease for the renewal term shall be identical with the original term.

3. Basic Rent. Tenant shall pay to Landlord as basic rent the sum of $1.00 per annum ("Basic Rent"). Rent shall be payable on the first day of each year in advance at such place as may be designated by Landlord. The first year's rental has been paid upon execution of this Lease and Landlord acknowledges receipt of such sum.

4. Maintenance Costs and Costs of Operation. In addition to Basic Rent, Tenant shall arrange for and pay directly all future assessments, repair and maintenance, building structure and liability insurance costs, utility charges, costs of operating its business, and other charges which Tenant is required to pay by this Lease.

5. License. Along with the grant to the Tenant of the within Lease, Landlord also grants to Tenant a license for the term of this Lease (as that term may be extended by the exercise by the Tenant of the Renewal Option set forth in section 2 above), to park buses and other transport vehicles along the border of the Property on the City owned portion of Great Falls Plaza (the "License Property") in order to load and unload passengers. During the term of this license Landlord agrees to repair and maintain the License Property in order to facilitate the use by the Tenant permitted hereby. The Landlord covenants not to

i) use or restrict; or
ii) permit the use by another of

the License Property in any manner which unreasonably interferes with the use thereof by the Tenant.

6. Permitted Use. The Property shall be used for the operation of a bus transfer facility and associated uses and for no other purposes without the consent of Landlord.

7. Restrictions on Use. In connection with the use of the Property, Tenant shall:

A. Conform to all applicable laws, ordinances and regulations of federal state and municipal authorities affecting the Property and the use, and correct at Tenant's own expense any failure of compliance created through Tenant's fault or by reason of Tenant's use.

B. Refrain from any use which would be reasonably offensive to or directly interfere with Landlord's use of contiguous property or which would tend to create a nuisance or damage the reputation of the Property.

8. Repairs and Maintenance - Tenant. The following shall be the responsibility of the Tenant:

A. All repairs and maintenance of the structure owned by Tenant including the exterior and interior walls, roof, ceilings, exterior and interior doors and windows and related hardware, light fixtures, switches, wiring, plumbing, foundation and the structural integrity of structure, heating and air conditioning systems, and other components of said structure. Any repairs to the common structural components of the Landlord's contiguous property and the Property necessitated by the negligence of Tenant, its agents, employees and invitees.

B. Any repairs and alterations required under Tenant's obligations to comply with all federal, state and municipal laws, ordinances and regulations as required herein.

C. Repair and maintain in good condition all sidewalks, driveways, curbs, landscaped areas and parking areas contained within the Property, including snow removal where buses will be parked on the License Property, or any other place on the Property where buses are parked.

9. Repair and Maintenance - Landlord. The following shall be the responsibility of Landlord: Repair and maintain the License Property.

10. Reimbursement for Repairs Assumed. If Tenant fails or refuses to maintain the Property or make repairs or make payment to third parties all as required under this Lease, Landlord may, but need not, make the repairs or payments and charge the actual costs to Tenant. Such expenditures shall be reimbursed on demand. Except in an emergency creating an immediate risk of personal injury or property damage, Landlord may not perform cleaning or repairs which are the obligation of Tenant and charge Tenant for the resulting expenses unless at least twenty (20) days before work is commenced, Landlord gives written notice to Tenant outlining with reasonable particularity the repairs required, and Tenant fails within that time to initiate such repairs in good faith.

11. Inspection. Landlord shall have the right to inspect the Property at any reasonable time or times to determine the necessity repairs that are required.

12. Trade Fixtures. Tenant may install or cause to be installed such equipment and trade and other fixtures as are reasonably necessary for the operation of its business ("Trade Fixtures"). Such Trade Fixtures shall remain

personal property, and title thereto shall continue in Tenant, regardless of the manner in which the Trade Fixture may be attached or affixed to the Property.

13. Alterations Prohibited. Tenant shall make no material improvements or alterations on the structure located on the Property, nor construct any additional structures on the Property, without first obtaining Landlord's written consent, which consent shall not unreasonably be withheld.

14. Ownership of Alterations. Except for Trade Fixtures, all buildings, improvements and alterations performed on the structure located on the Property and any additional structures constructed by Tenant (collectively "Tenant Improvements") shall belong to the Tenant until the expiration or termination of the term (or renewal term if the option to renew is exercised) of this Lease. At the expiration of the term or of the renewal term, if the renewal option is exercised, or at earlier termination of this Lease, the value of the Tenant improvements shall be allocated between the Landlord and Tenant as provided in applicable federal law and regulations, if any, and, if none, Landlord and Tenant shall negotiate in good faith to determine the value of Tenant Improvements. In either case, the Landlord shall retain as its own the Tenant Improvements which shall become the property of the Landlord, and the Landlord shall pay to the Tenant the value of such improvements to the extent allocated and attributed to Tenant.

15. Insurance.

a. Before taking possession of the Property, Tenant shall procure and thereafter during the term of this Lease shall continue to carry the liability insurance of a responsible company with liability limits of not less than $400,000 per occurrence combined single limit of liability for causes of action seeking tort damages pursuant to the provisions of the Maine Tort Claims Act and $1,000,000 per occurrence combined single limit of liability for all causes of action seeking tort damages pursuant to federal or state law for which immunity or limitation of damages is not provided by the provisions of the Maine Tort Claims Act, naming Landlord as an additional insured. Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the Property and the License Property, shall protect Tenant against the claims of Landlord on account of the obligations

assumed by Tenant under the indemnification provisions of this Lease, and shall protect Landlord and Tenant against claims of third persons. Tenant shall also insure the Property to its full insurable value against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage, naming Landlord as an additional insured. In addition, Tenant shall bear the expense of any insurance, purchased at Tenant's discretion, insuring the property of Tenant. Certificates reasonably satisfactory to Landlord evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the Property.

b. For as long as it continues to be available, Tenant may satisfy the requirements of the foregoing paragraph by making the necessary arrangement through the Landlord to be covered under the Landlord's existing insurance arrangements with the Maine Municipal Association Risk Pool, provided that Tenant shall reimburse Landlord upon demand for the incremental cost of providing the necessary coverage in that manner. Should coverage become unavailable or impractical through the Maine Municipal Association Risk Pool, for any reason including Landlord's decision to change insurance carriers, the provisions of Section 17(a) shall apply and Tenant shall be required to obtain the indicated coverage.

16. Destruction of Property. In the event the improvements constructed upon the Property are totally or partially destroyed from a risk covered by the insurance required by this Lease and there are more than two (2) years remaining during the original term or any then current renewal term of this Lease, then Tenant shall restore those improvements to substantially the same condition as existing immediately before the damage, but in no event shall Tenant be responsible to expend any amounts on such restoration that exceeds the insurance proceeds received by Tenant. Tenant shall promptly commence and diligently prosecute such restoration to completion. All insurance proceeds shall be the sole property of Tenant. Unless the insurance proceeds are insufficient to pay the costs of such restoration, such damage or destruction shall not terminate the Lease. · If existing laws will not permit restoration, or if the insurance proceeds are insufficient to pay the costs of such restoration, either party may terminate the Lease immediately by giving notice to the other party and each

party shall thereupon be released from any and all damages or liability with respect to this Lease. The provisions of Section 17(B) below shall apply with regard to the division of insurance proceeds.

17. Damages Late in Term. If the improvements constructed by Tenant are totally or partially destroyed from a risk covered by the insurance required by this Lease, but there are less than two(2)years remaining during the primary term or any then current renewal term of this Lease, then within sixty(60)days after the date of destruction, Tenant, at Tenant's sole option, may elect to either:

A. Initiate such restoration in good faith in order to restore the improvements to substantially the same condition as immediately before the damage, in which case this Lease shall continue in full force and effect and Tenant shall promptly commence and diligently prosecute such restoration to completion; or

B. Elect to terminate this Lease by giving written notice to Landlord, in which case the termination shall be effective as of the date of destruction and each party shall thereupon be released from any and all damages or liability with respect to this Lease. All insurance proceeds shall thereafter belong to Tenant.

18. Liens. Except with respect to activities for which Landlord is responsible for which Landlord shall pay as due so as to keep the Property free from all liens, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Property and shall keep the Property free from any liens. If Tenant fails within a reasonable period of time to pay any such claims or to discharge any lien, Landlord may, but not sooner than twenty-five (25) days after written notice to Tenant, do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of one and one half percent per month from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within 10 days after knowledge of the filing, secure the discharge of the lien by posting a bond, or other surety reasonably satisfactory to Landlord, in an amount sufficient to discharge the lien plus any reasonable costs, attorney fees and other charges and damages that could accrue as a result of a foreclosure or sale under the lien.

19. Indemnification. Tenant shall indemnify, defend and hold Landlord harmless from any claim, loss, or liability arising out of or related to any negligent activity of Tenant on the Property and the License Property or any condition of the Property in the possession or under the control of Tenant. Landlord shall indemnify, defend and hold Tenant harmless from any claim, loss, or liability arising out of or related to any negligent activity of Landlord on the Property or the License Property adjacent thereto or any condition of the adjacent License Property in the possession or under the control of Landlord. Landlord shall have no liability to Tenant for any loss or damage caused by third parties or by any condition of the Property, or the License Property unless caused by Landlord's intentional act, omission or negligence. Tenant shall have no liability to Landlord for any loss or damage caused by third parties or by any condition of the Property or the License Property, unless caused by Tenant's intentional act, omission or negligence.

20. Landlord- Warranty Right of Quiet Enjoyment. Landlord warrants that it is the owner of the Property and has the right to lease the Property. Landlord warrants that, provided Tenant is not in default of the Lease, Tenant shall have the right to quiet and exclusive enjoyment of the Property during the lease term.

21. Estoppel Certificates. Either party will within 20 days after notice from the other execute and deliver to the other party a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of annual base rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

22. Assignment. Except as otherwise specifically provided herein, no part of the Property may be assigned or subleased by Tenant, nor may a right of use of any portion of the property be conferred by Tenant on any third person by any other means, without the prior written consent of Landlord which shall not be unreasonably withheld. This provision shall apply to all transfers by operation of law.

23. Default. The following shall be events of default:

A. Failure of Tenant to pay any rent or other charge within 10 days after written notification by Landlord

of the passage of its due date.

B. Failure of Tenant to comply with any material term or material condition or fulfill any material obligation of the Lease within 45 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 45-day period, this provision shall be complied with if Tenant begins correction of the default within the 45-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

C. Insolvency of Tenant, an assignment for the benefit of creditors , the filing by Tenant of a voluntary petition in bankruptcy, an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant, the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing, attachment of or the levying of execution on the leasehold interest and failure of the Tenant to secure discharge of the attachment or release of the levy of execution within 120 days. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the right of Tenant under the Lease.

D. Failure of Tenant for ninety (90) days or more to occupy the Property for the purpose permitted under this Lease unless such failure is excused under other provisions of this Lease.

24. Remedies. Upon the occurrence of an event of default, Landlord may exercise any one or more of the following remedies:

A. In the event of a default, following the giving of notice if required in Section 23 above and the expiration of any applicable cure period, the Lease and Lease term (or any renewal term, if applicable) may be terminated at the option of Landlord upon giving notice of termination in writing to Tenant. If the Lease is not terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. If the Lease is terminated, Tenant's liability to Landlord for damages shall survive such termination, and Landlord may reenter, take possession of the Property and personal property thereon, and remove any persons or property by legal action or by self-help without liability for damages.

B. In the event of termination on default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Lease term, the following amounts as damages: The reasonable costs of re-entry and re-letting including without limitation the reasonable cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property upon termination and to leave them in the required condition, any reasonable remodeling costs, attorney fees, court costs, broker commissions, and advertising costs.

C. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease term, and no action for damages shall bar a later action for damages subsequently accruing.

D. Following reentry by Landlord or abandonment by Tenant, Landlord may relet the Property and in that connection may make any suitable alterations or refurbish the Property, or both, or change the character or use of the Property, but Landlord shall not be required to relet for any use or purpose that Landlord may reasonably consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease , upon any reasonable terms and conditions, including the granting, if required, of some rent free occupancy or other rent concession.

E. If Tenant fails to perform any obligation under this Lease (other than those obligations to repair a remedy for which is provided in Section 11 under this Lease), Landlord shall have the option, but not the obligation, to do so after 45 days written notice to Tenant describing the default. All of Landlord's reasonable expenditures to correct the default shall be reimbursed by Tenant to Landlord on demand.

F. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law. With regard to any breach of a negative or affirmative covenant by Tenant, Landlord shall have, in addition to all other remedies available at law or in equity, the right of specific performance.

25. Obligations on Termination. In addition to the provisions governing expiration or earlier termination in Section 15 hereof, upon expiration of the Lease term, abandonment by Tenant or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Property in good condition, except normal wear and tear and broom clean. Maintenance and repairs for which Tenant is responsible shall be completed at the latest practical date prior to such surrender. Tenant 1 s obligations under this Section shall be subordinate to the provisions of this Lease related to destruction. In addition:

A. Tenant shall remove any or all Trade Fixtures and shall repair any physical damage resulting from the removal. If Tenant fails to remove the Trade Fixtures, Landlord may do so and charge the cost to Tenant.

B. Prior to expiration or termination of the Lease term, Tenant shall remove all furnishings, furniture, and Trade Fixtures which remain its property. If Tenant fails to do so, this shall be an abandonment of such property and Landlord may retain such property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 20 days after removal was required, Landlord may elect to hold Tenant to his obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant 1 s account. Tenant shall be liable to Landlord for the reasonable cost of removal, transportation to storage and storage.

26. Holdover. If Tenant does not vacate the Property at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of this Lease except the provision for term and renewal. Failure of Tenant to remove fixtures, furniture, furnishings or Trade Fixtures which Tenant is required to remove under this Lease shall constitute a failure to vacate to which this Section shall apply if the property not removed will substantially interfere with occupancy of the Property by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant. If a month to month tenancy results from a holdover by Tenant under this Section, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given no less than ninety (90) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month to month tenancy.

27. Recordation. Either Tenant or Landlord may record this Lease.

28. Entire Agreement. This Lease contains the entire agreement between the parties hereto; and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties hereto.

29. Successors and Assigns. Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.

30. Severability. If any provision of this Lease shall at any time be deemed to be invalid or unenforceable by a court of competent jurisdiction (other than any provisions of the payment of rent), this Lease shall not be invalidated thereby, but in such event, this Lease shall be construed as if such invalid or unenforceable provision had been eliminated or reduced to the point of being valid or unenforceable, thereby preserving all of the other terms, conditions and provisions of this Lease.

31. Legal Proceedings. The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of the Landlord and Tenant, the Tenant 1 s use or occupancy of the Property, License Property or any improvements on the Property and/or any claim of injury or damage.

32. Notices. All notices - from Tenant to Landlord, required or permitted by any provision of this Lease, shall be sent by registered or certified mail, and addressed to Landlord (City Manager) at City of Auburn, 60 Court Street, Auburn, Maine 04210 ATTN: Finance Director and City Manager, with a copy to (CITY ATTORNEY) Martin Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O . Box 3070, Lewiston, Maine 04240. All notices from Landlord to Tenant, so required or permitted, shall be sent by registered or certified mail and addressed to Tenant at Lewiston Auburn Transit Committee, c/o Androscoggin Valley Council of Governments, 125 Manley Road, Auburn, Maine, 04210, with a copy to Marc N. Frenette, Esq., Trafton, Matzen, Belleau & Frenette, LLP, 10 Minot Avenue, Auburn Maine, 04210. Either party may, at any time, or from time to time, designate in

writing a substitute address for that above set forth, and thereafter all notices to such party shall be sent by registered or certified mail to such substitute address. Notices shall be effective upon receipt or refusal.

In witness whereof, the parties have executed this Lease on the date set forth above:

LEWISTON AUBURN TRANSIT COMMITTEE	CITY OF AUBURN
_____	_____
By:	By:
Its:	Its:

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the Lewiston Auburn Transit Committee and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

_____
Notary Public/Attorney

_____
(Print Name)

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the City of Auburn and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

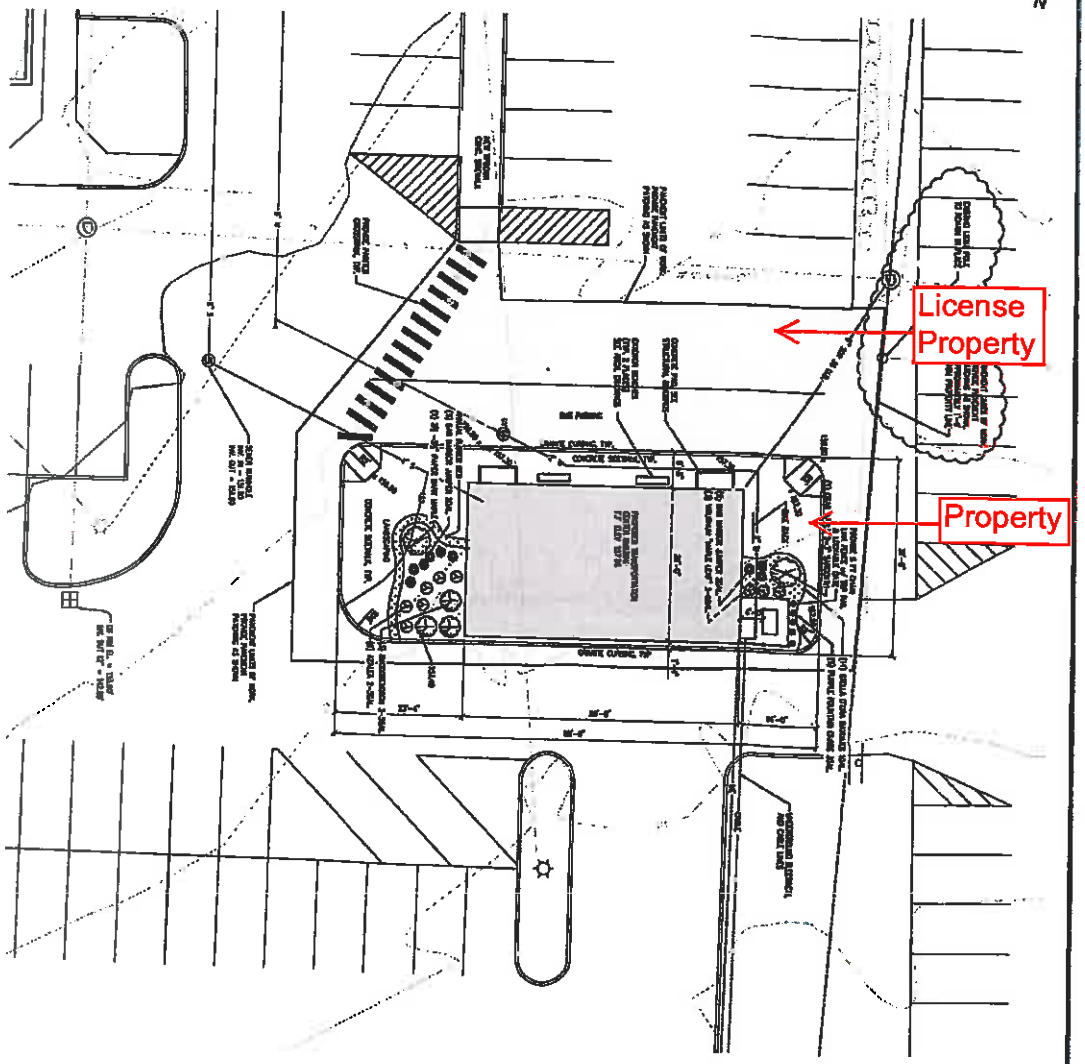
_____
Notary Public/Attorney

_____
(Print Name)

EXHIBIT A
PROPERTY DESCRIPTION

PRINTED: May 17, 2016

PROPOSED PARTIAL SITE PLAN



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PROPOSED PARTIAL SITE PLAN

ISSUED

No.	DESCRIPTION	DR BY	CHKD BY	DATE
	ISSUED FOR BID	SG	SG	5-5-16
1	AMENDMENT #1 - REVISED FOR PROPERTY LINE	SG	SG	5-17-16

DOWNTOWN AUBURN TRANSPORTATION CENTER

GREAT FALLS PLAZA
VAN # 12328.00

AUBURN, MAINE
FED #ME03-0041

PROPOSED BUILDING

5-5-16

OWNER:
MTC
60 MINOT AVENUE
AUBURN, ME 04210

CASCO BAY ENGINEERING

GROUND LEASE

This Ground Lease ("Lease") is entered into this 1st day of October~~July~~, 2016, between the **CITY OF AUBURN**, a body politic and corporate in the County of Androscoggin, and State of Maine "~~("~~Landlord")and **LEWISTON AUBURN TRANSIT COMMITTEE**, a quasi-municipal agency established by an inter-local agreement between the City of Lewiston and the City of Auburn("Tenant").

WHEREAS Landlord owns that certain parcel of real property that is thirty-six (36) feet wide by eighty-eight (88) feet wide (approximately 3,168 s.f.) with five (5) foot radius curbing at each corner as shown on and more particularly described in **Exhibit A** attached hereto (the "~~("~~Property");"),

WHEREAS Tenant desires to lease the Property from Landlord for the term described herein and has constructed on it a bus transfer facility which Tenant will operate and maintain.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Original Term. The original term of this Lease shall commence October 1, , 2016, and shall continue for a period of forty [40] years thereafter.

2. Renewal Option. If the Lease is not then in default, Tenant shall have the option to renew this Lease for one (1) additional term of twenty (20) years, as follows:

A. The renewal term shall commence on the date following the date of termination of the preceding term.

B. Landlord shall provide to Tenant written notification of the expiration of the original term of this Lease not more than 180 days prior to the end of the initial term. Such notification shall include specific reference to this Renewal Option. Tenant may exercise this Renewal Option by written notice to Landlord given not more than 120 days after its receipt of the aforesaid notice from Landlord. The giving of such notice by Tenant shall be sufficient to make the Lease binding for the renewal term without further act of the parties. In the event that Landlord fails to provide the notice described in this paragraph, then the original term of the lease shall continue until 120 days after Landlord provides such notice.

C. Except for the length of the renewal term,

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the terms and conditions of the Lease for the renewal term shall be identical with the original term.

3. Basic Rent. Tenant shall pay to Landlord as basic rent the sum of $1.00 per annum ("Basic Rent"). Rent shall be payable on the first day of each year in advance at such place as may be designated by Landlord. The first year's rental has been paid upon execution of this Lease and Landlord acknowledges receipt of such sum.

4. Maintenance Costs and Costs of Operation. In addition to Basic Rent, Tenant shall arrange for and pay directly all future assessments, repair and maintenance, building structure and liability insurance costs, utility charges, costs of operating its business, and other charges which Tenant is required to pay by this Lease.

5. License. Along with the grant to the Tenant of the within Lease, Landlord also grants to Tenant a license for the term of this Lease (as that term may be extended by the exercise by the Tenant of the Renewal Option set forth in section 2 above), to park buses and other transport vehicles along the border of the Property on the City owned portion of Great Falls Plaza (the "License Property") in order to load and unload passengers. During the term of this license Landlord agrees to repair and maintain the License Property in order to facilitate the use by the Tenant permitted hereby. The Landlord covenants not to

i) use or restrict; or
ii) permit the use by another of

the License Property in any manner which unreasonably interferes with the use thereof by the Tenant.

6. Permitted Use. The Property shall be used for the operation of a bus transfer facility and associated uses and for no other purposes without the consent of Landlord.

7. Restrictions on Use. In connection with the use of the Property, Tenant shall:

A. Conform to all applicable laws, ordinances and regulations of federal state and municipal authorities affecting the Property and the use, and correct at Tenant's own expense any failure of compliance created through Tenant's fault or by reason of Tenant's use.

B. Refrain from any use which would be reasonably offensive to or directly interfere with Landlord's use of contiguous property or which would tend to create a nuisance or damage the reputation of the Property.

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8. Repairs and Maintenance - Tenant. The following shall be the responsibility of the Tenant:

A. All repairs and maintenance of the structure owned by Tenant including the exterior and interior walls, roof, ceilings, exterior and interior doors and windows and related hardware, light fixtures, switches, wiring, plumbing, foundation and the structural integrity of structure, heating and air conditioning systems, and other components of said structure. Any repairs to the common structural components of the Landlord's contiguous property and the Property necessitated by the negligence of Tenant, its agents, employees and invitees.

B. Any repairs and alterations required under Tenant's obligations to comply with all federal, state and municipal laws, ordinances and regulations as required herein.

C. Repair and maintain in good condition all sidewalks, driveways, curbs, landscaped areas and parking areas contained within the Property, including snow removal where buses will be parked on the License Property, or any other place on the Property where buses are parked.

~~D. Maintain the Property in a clean and sanitary condition in accordance with the Janitorial Services Program Schedule annexed hereto as Exhibit B.~~

9. Repair and Maintenance - Landlord. The following shall be the responsibility of Landlord: Repair and maintain the License Property.

10. Reimbursement for ~~Cleaning and~~ Repairs Assumed. If Tenant fails or refuses to maintain the Property ~~in a clean and sanitary condition~~ or make repairs or make payment to third parties all as required under this Lease, Landlord may, but need not, ~~clean the Property,~~ make the repairs or payments and charge the actual costs to Tenant. Such expenditures shall be reimbursed on demand. Except in an emergency creating an immediate risk of personal injury or property damage, Landlord may not perform cleaning or repairs which are the obligation of Tenant and charge Tenant for the resulting expenses unless at least twenty (20) days before work is commenced, Landlord gives written notice to Tenant outlining with reasonable particularity the ~~cleaning or~~ repairs required, and Tenant fails within that time to initiate such ~~cleaning and/or~~ repairs in good faith.

11. Inspection. Landlord shall have the right to inspect the Property at any reasonable time or times to determine the necessity repairs that are required.~~of cleaning and repair.~~

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12. Trade Fixtures. Tenant may install or cause to be installed such equipment and trade and other fixtures as are reasonably necessary for the operation of its business ("Trade Fixtures"). Such Trade Fixtures shall remain personal property, and title thereto shall continue in Tenant, regardless of the manner in which the Trade Fixture may be attached or affixed to the Property.

13. Alterations Prohibited. Tenant shall make no material improvements or alterations on the structure located on the Property, nor construct any additional structures on the Property, without first obtaining Landlord's written consent, which consent shall not unreasonably be withheld.

14. Ownership of Alterations. Except for Trade Fixtures, all buildings, improvements and alterations performed on the structure located on the Property and any additional structures constructed by Tenant {collectively "Tenant Improvements") shall belong to the Tenant until the expiration or termination of the term (or renewal term if the option to renew is exercised) of this Lease. At the expiration of the term or of the renewal term, if the renewal option is exercised, or at earlier termination of this Lease, the value of the Tenant improvements shall be allocated between the Landlord and Tenant as provided in applicable federal law and regulations, if any, and, if none, Landlord and Tenant shall negotiate in good faith to determine the value of Tenant Improvements. In either case, the Landlord shall retain as its own the Tenant Improvements which shall become the property of the Landlord, and the Landlord shall pay to the Tenant the value of such improvements to the extent allocated and attributed to Tenant.

15. Insurance.

a. Before taking possession of the Property, Tenant shall procure and thereafter during the term of this Lease shall continue to carry the liability insurance of a responsible company with liability limits of not less than $400,000 per occurrence combined single limit of liability for causes of action seeking tort damages pursuant to the provisions of the Maine Tort Claims Act and $1,000,000 per occurrence combined single limit of liability for all causes of action seeking tort damages pursuant to federal or state law for which immunity or limitation of damages is not provided by the provisions of the Maine Tort Claims Act, naming Landlord as an additional insured. Such

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insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the Property and the License Property, shall protect Tenant against the claims of Landlord on account of the obligations assumed by Tenant under the indemnification provisions of this Lease, and shall protect Landlord and Tenant against claims of third persons. Tenant shall also insure the Property to its full insurable value against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage, naming Landlord as an additional insured. In addition, Tenant shall bear the expense of any insurance, purchased at Tenant's discretion, insuring the property of Tenant. Certificates reasonably satisfactory to Landlord evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the Property.

b. For as long as it continues to be available, Tenant may satisfy the requirements of the foregoing paragraph by making the necessary arrangement through the Landlord to be covered under the Landlord's existing insurance arrangements with the Maine Municipal Association Risk Pool, provided that Tenant shall reimburse Landlord upon demand for the incremental cost of providing the necessary coverage in that manner. Should coverage become unavailable or impractical through the Maine Municipal Association Risk Pool, for any reason including Landlord's decision to change insurance carriers, the provisions of Section 17(a) shall apply and Tenant shall be required to obtain the indicated coverage.

16. Destruction of Property. In the event the improvements constructed upon the Property are totally or partially destroyed from a risk covered by the insurance required by this Lease and there are more than two (2) years remaining during the original term or any then current renewal term of this Lease, then Tenant shall restore those improvements to substantially the same condition as existing immediately before the damage, but in no event shall Tenant be responsible to expend any amounts on such restoration that exceeds the insurance proceeds received by Tenant. Tenant shall promptly commence and diligently prosecute such restoration to completion. All insurance proceeds shall be the sole property of Tenant. Unless the insurance proceeds are insufficient to pay the costs of such restoration, such

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damage or destruction shall not terminate the Lease. · If existing laws will not permit restoration, or if the insurance proceeds are insufficient to pay the costs of such restoration, either party may terminate the Lease immediately by giving notice to the other party and each party shall thereupon be released from any and all damages or liability with respect to this Lease. The provisions of Section 17(B) below shall apply with regard to the division of insurance proceeds.

17. Damages Late in Term. If the improvements constructed by Tenant are totally or partially destroyed from a risk covered by the insurance required by this Lease, but there are less than two(2)years remaining during the primary term or any then current renewal term of this Lease, then within sixty(60)days after the date of destruction, Tenant, at Tenant's sole option, may elect to either:

A. Initiate such restoration in good faith in order to restore the improvements to substantially the same condition as immediately before the damage, in which case this Lease shall continue in full force and effect and Tenant shall promptly commence and diligently prosecute such restoration to completion; or

B. Elect to terminate this Lease by giving written notice to Landlord, in which case the termination shall be effective as of the date of destruction and each party shall thereupon be released from any and all damages or liability with respect to this Lease. All insurance proceeds shall thereafter belong to Tenant.

18. Liens. Except with respect to activities for which Landlord is responsible for which Landlord shall pay as due so as to keep the Property free from all liens, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Property and shall keep the Property free from any liens. If Tenant fails within a reasonable period of time to pay any such claims or to discharge any lien, Landlord may, but not sooner than twenty-five (25) days after written notice to Tenant, do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of one and one half percent per month from the ·date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within 10 days after knowledge of the filing, secure the discharge of the lien by posting a bond, or other surety reasonably satisfactory to

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Landlord, in an amount sufficient to discharge the lien plus any reasonable costs, attorney fees and other charges and damages that could accrue as a result of a foreclosure or sale under the lien.

19. Indemnification. Tenant shall indemnify, defend and hold Landlord harmless from any claim, loss, or liability arising out of or related to any negligent activity of Tenant on the Property and the License Property or any condition of the Property in the possession or under the control of Tenant. Landlord shall indemnify, defend and hold Tenant harmless from any claim, loss, or liability arising out of or related to any negligent activity of Landlord on the Property or the License Property adjacent thereto or any condition of the adjacent License Property in the possession or under the control of Landlord. Landlord shall have no liability to Tenant for any loss or damage caused by third parties or by any condition of the Property, or the License Property unless caused by Landlord's intentional act, omission or negligence. Tenant shall have no liability to Landlord for any loss or damage caused by third parties or by any condition of the Property or the License Property, unless caused by Tenant's intentional act, omission or negligence.

20. Landlord- Warranty Right of Quiet Enjoyment. Landlord warrants that it is the owner of the Property and has the right to lease the Property. Landlord warrants that, provided Tenant is not in default of the Lease, Tenant shall have the right to quiet and exclusive enjoyment of the Property during the lease term.

21. Estoppel Certificates. Either party will within 20 days after notice from the other execute and deliver to the other party a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of annual base rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

22. Assignment. Except as otherwise specifically provided herein, no part of the Property may be assigned or subleased by Tenant, nor may a right of use of any portion of the property be conferred by Tenant on any third person by any other means, without the prior written consent of Landlord which shall not be unreasonably withheld. This provision shall apply to all transfers by operation of law.

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23. Default. The following shall be events of default:

A. Failure of Tenant to pay any rent or other charge within 10 days after written notification by Landlord of the passage of its due date.

B. Failure of Tenant to comply with any material term or material condition or fulfill any material obligation of the Lease within 4530 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 4530-day period, this provision shall be complied with if Tenant begins correction of the default within the 4530-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

C. Insolvency of Tenant, an assignment for the benefit of creditors , the filing by Tenant of a voluntary petition in bankruptcy, an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant, the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing, attachment of or the levying of execution on the leasehold interest and failure of the Tenant to secure discharge of the attachment or release of the levy of execution within 120 days. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the right of Tenant under the Lease.

D. Failure of Tenant for ninety (90) days or more to occupy the Property for the purpose permitted under this Lease unless such failure is excused under other provisions of this Lease.

24. Remedies. Upon the occurrence of an event of default, Landlord may exercise any one or more of the following remedies:

A. In the event of a default, following the giving of notice if required in Section 23 above and the expiration of any applicable cure period, the Lease and Lease term (or any renewal term, if applicable) may be terminated at the option of Landlord upon giving notice of termination in writing to Tenant. If the Lease is not terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. If the Lease is

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terminated, Tenant's liability to Landlord for damages shall survive such termination, and Landlord may reenter, take possession of the Property and personal property thereon, and remove any persons or property by legal action or by self-help without liability for damages.

B. In the event of termination on default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Lease term, the following amounts as damages: The reasonable costs of re-entry and re-letting including without limitation the reasonable cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property upon termination and to leave them in the required condition, any reasonable remodeling costs, attorney fees, court costs, broker commissions, and advertising costs.

C. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease term, and no action for damages shall bar a later action for damages subsequently accruing.

D. Following reentry by Landlord or abandonment by Tenant, Landlord may relet the Property and in that connection may make any suitable alterations or refurbish the Property, or both, or change the character or use of the Property, but Landlord shall not be required to relet for any use or purpose that Landlord may reasonably consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease , upon any reasonable terms and conditions, including the granting, if required, of some rent free occupancy or other rent concession.

E. If Tenant fails to perform any obligation under this Lease (other than those obligations to repair ~~and clean~~ a remedy for which is provided in Section 11 under this Lease), Landlord shall have the option, but not the obligation, to do so after 45 days written notice to Tenant describing the default. All of Landlord's reasonable expenditures to correct the default shall be reimbursed by Tenant to Landlord on demand.

F. The foregoing remedies shall be in addition to

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and shall not exclude any other remedy available to Landlord under applicable law. With regard to any breach of a negative or affirmative covenant by Tenant, Landlord shall have, in addition to all other remedies available at law or in equity, the right of specific performance.

25. Obligations on Termination. In addition to the provisions governing expiration or earlier termination in Section 15 hereof, upon expiration of the Lease term, abandonment by Tenant or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Property in good condition, except normal wear and tear and broom clean. Maintenance and repairs for which Tenant is responsible shall be completed at the latest practical date prior to such surrender. Tenant 1 s obligations under this Section shall be subordinate to the provisions of this Lease related to destruction. In addition:

A. Tenant shall remove any or all Trade Fixtures and shall repair any physical damage resulting from the removal. If Tenant fails to remove the Trade Fixtures, Landlord may do so and charge the cost to Tenant.

B. Prior to expiration or termination of the Lease term, Tenant shall remove all furnishings, furniture, and Trade Fixtures which remain its property. If Tenant fails to do so, this shall be an abandonment of such property and Landlord may retain such property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 20 days after removal was required, Landlord may elect to hold Tenant to his obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant 1 s account. Tenant shall be liable to Landlord for the reasonable cost of removal, transportation to storage and storage.

26. Holdover. If Tenant does not vacate the Property at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of this Lease except the provision for term and renewal. Failure of Tenant to remove fixtures, furniture, furnishings or Trade Fixtures which Tenant is required to remove under this Lease shall constitute a failure to vacate to which this Section shall apply if the property not removed will substantially interfere with occupancy of the Property by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant. If a month to month tenancy results from a holdover by Tenant under this Section, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given no less than ninety

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(90~~thirty (30~~) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month to month tenancy.

27. Recordation. Either Tenant or Landlord may record this Lease.

28. Entire Agreement. This Lease contains the entire agreement between the parties hereto; and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties hereto.

29. Successors and Assigns. Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.

30. Severability. If any provision of this Lease shall at any time be deemed to be invalid or unenforceable by a court of competent jurisdiction (other than any provisions of the payment of rent), this Lease shall not be invalidated thereby, but in such event, this Lease shall be construed as if such invalid or unenforceable provision had been eliminated or reduced to the point of being valid or unenforceable, thereby preserving all of the other terms, conditions and provisions of this Lease.

31. Legal Proceedings. The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of the Landlord and Tenant, the Tenant 1 s use or occupancy of the Property, License Property or any improvements on the Property and/or any claim of injury or damage.

32. Notices. All notices - from Tenant to Landlord, required or permitted by any provision of this Lease, shall be sent by registered or certified mail, and addressed to Landlord (City Manager) at City of Auburn, 60 Court Street, Auburn, Maine 04210 ATTN: Finance Director and City Manager~~Administrator~~, with a copy to (CITY ATTORNEY) Martin Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O . Box 3070, Lewiston, Maine 04240. All notices from Landlord to Tenant, so required or permitted, shall be sent by registered or certified mail and addressed to Tenant at

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Lewiston Auburn Transit Committee, c/o Androscoggin Valley Council of Governments, 125 Manley Road, Auburn, Maine, 04210, with a copy to Marc N. Frenette, Esq., Trafton, Matzen, Belleau & Frenette, LLP, 10 Minot Avenue, Auburn, Maine, 04210.~~042~~. Either party may, at any time, or from time to time, designate in writing a substitute address for that above set forth, and thereafter all notices to such party shall be sent by registered or certified mail to such substitute address. Notices shall be effective upon receipt or refusal.

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In witness whereof, the parties have executed this Lease on the date set forth above:

LEWISTON AUBURN TRANSIT COMMITTEE	CITY OF AUBURN
_____	_____
By:	By:
Its:	Its:

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the Lewiston Auburn Transit Committee and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

_____
Notary Public/Attorney

_____
(Print Name)

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the City of Auburn and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

_____
Notary Public/Attorney

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(Print Name)

EXHIBIT A

(PROPERTY DESCRIPTION)

EXHIBIT B

JANITORIAL SERVICES PROGRAM SCHEDULE

	Nightly	Weekly	Mnthly	Qtrly	2x/YR	1x/YR
VACCUM CARPET AREAS	X					
SPOT CLEAN STAINS ON CARPET	X					
SWEEP/MOP VINYL TILE AREA	X					
SWEEP/MOP CERAMIC TILE AREA	X					
EMPTY TRASH CANS	X					
TRASH DISPOSAL	X					
RESTROOMS: CLEAN AND DISINFECT	X					
REFILL SUPPLIES AS NEEDED	X					
DUST & WIPE FIXTURES	X					
WIPE AND CLEAN WORK SURFACES	X					
CLEAN INTERIOR OFFICE GLASS	X					
CLEAN KITCHEN TABLE & COUNTERS	X					
DUST BASEBOARD HEAT UNITS		X				
SWEEP/MOP STAIRWAYS		X				
SANITIZE PHONES		X				
VACUUM FURNITURE			X			
BUFF TILE FLOORS				X		
CLEAN COVEBASE & VACUUM EDGES				X		
CLEAN CEILING GRILLS				X		
VACUUM WINDOW TREATMENTS					X	
DUST LIGHT FIXTURES					X	
DUST HIGH AREAS						X
WASH EXTERIOR/INTERIOR OFFICE WINDOWS						X
STRIP/WAX TILE FLOORS WHERE NEEDED						X
CLEAN CARPETS						X

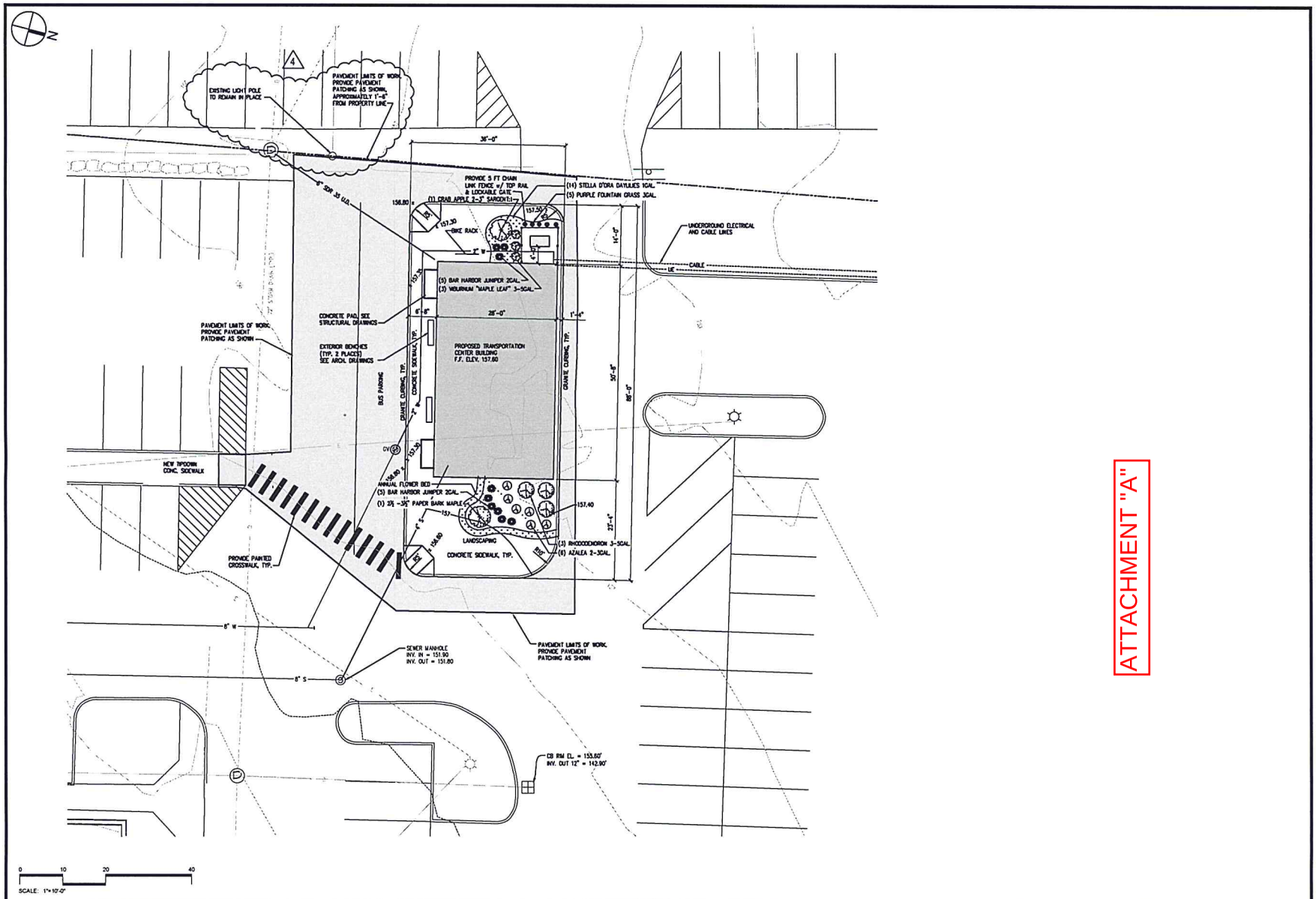
Formatted: Widow/Orphan control

City of Auburn, Maine
Office of Economic and Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

Legal Description for the Downtown Auburn Transportation Center

The Downtown Auburn Transportation Center is located on (PID # 241-007) owned by the City of Auburn. The area to be covered under the Land Lease Agreement between the City of Auburn and the Lewiston Auburn Transportation Committee is an area 36 feet wide by 88 feet wide (approximately 3,168 s.f.) with 5 foot radius curbing at each corner as shown on Exhibit Map "A". Exhibit Map "B" shows the Downtown Auburn Transportation Center in relation to the entire Great Falls Parking Area.

PRINTED: May 17, 2016



PROPOSED PARTIAL SITE PLAN

SCALE: 1"=10'-0"

ATTACHMENT "A"

CASCO BAY ENGINEERING
424 Fore Street
Portland, ME 04101
Phone 207.842.2800
Fax 207.842.2828
www.cascobayengineering.com

CLIENT:
LATC
c/o AVCOG
125 MANLEY ROAD
AUBURN, ME 04210

STATE OF MAINE ERIC DUBE No. 12630 LICENSED PROFESSIONAL ENGINEER
10-5-15

DOWNTOWN AUBURN TRANSPORTATION CENTER
GREAT FALLS PLAZA
WIN #12326.00
AUBURN, MAINE
FED #ME03-0041

PROPOSED BUILDING

ISSUED

No.	DESCRIPTION	DR. BY	CKD BY	DATE
	ISSUED FOR BID	ED	ED	10-5-15
4	AMENDMENT #4 - REVISED FOR PROPERTY LINE	ED	ED	5-17-16

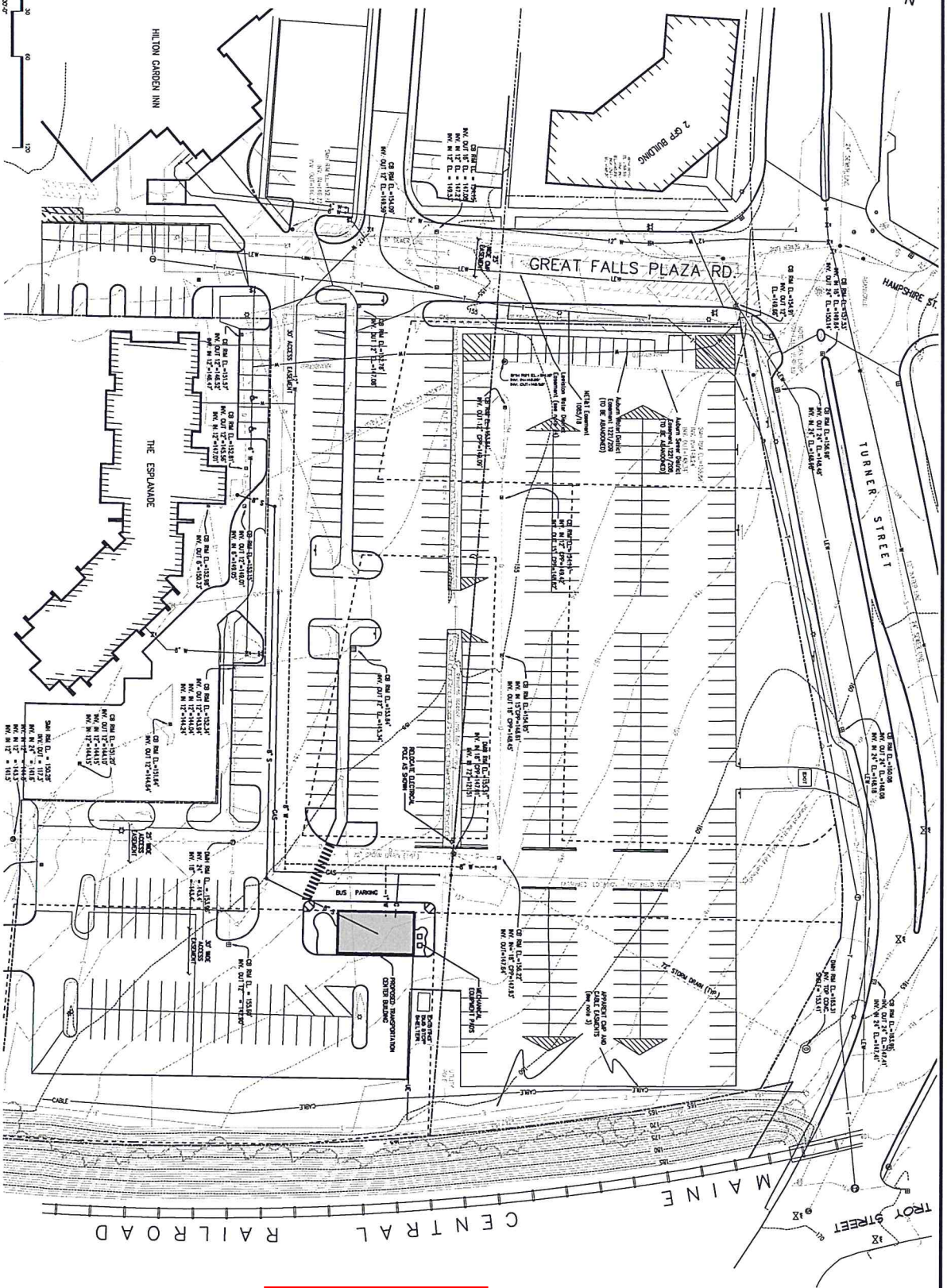
SHEET TITLE:
PROPOSED PARTIAL SITE PLAN

DESIGNED:	ED
DRAWN:	ED
DATE:	10-20-14
PROJECT NUMBER:	14-124

C102

PRINTED: Apr 17, 2015

PROPOSED SITE PLAN



ATTACHMENT "B"

SCALE: 1"=30'-0"

C101

SHEET TITLE: PROPOSED SITE PLAN

DESIGNED: ED
DRAWN: ED
DATE: 10-20-14
PROJECT NUMBER: 14-124

ISSUED

No.	DESCRIPTION	DR. BY	CKD BY	DATE
A	FOR REVIEW	ED	ED	1-29-15
B	PRELIMINARY DESIGN REPORT	ED	ED	3-6-15
C	65% SUBMISSION	ED	ED	4-17-15

DOWNTOWN AUBURN TRANSPORTATION CENTER

GREAT FALLS PLAZA AUBURN, MAINE

PROPOSED BUILDING

PRELIMINARY NOT FOR CONSTRUCTION

CLIENT: LATC c/o AVCOG 125 MANLEY ROAD AUBURN, ME 04210

CASCO BAY ENGINEERING
424 Fore Street
Portland, ME 04101
Phone 207.842.2800
Fax 207.842.2828
www.cascobayengineering.com

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 73-10172016

ORDERED, that the City Council hereby authorizes the Acting City Manager to execute the land lease between the City of Auburn and the Lewiston-Auburn Transit Committee.

City of Auburn, Maine
Office of Economic and Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

Legal Description for the Downtown Auburn Transportation Center

The Downtown Auburn Transportation Center is located on (PID # 241-007) owned by the City of Auburn. The area to be covered under the Land Lease Agreement between the City of Auburn and the Lewiston Auburn Transportation Committee is an area 36 feet wide by 88 feet wide (approximately 3,168 s.f.) with 5 foot radius curbing at each corner as shown on Exhibit Map "A". Exhibit Map "B" shows the Downtown Auburn Transportation Center in relation to the entire Great Falls Parking Area.

Landlord reserves to itself the air space above the height of the existing building, subject, however, to an easement in favor of the Tenant as is necessary for the maintenance, repair and replacement of said building.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: 10-17-2016 **Order: 74-10172016**

Author: Sue Clements-Dallaire

Subject: Downtown Auburn Transportation Center – Memorandum of Understanding

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Information: See attached Memorandum of Understanding

Advantages:

Disadvantages:

City Budgetary Impacts:

Staff Recommended Action:

Previous Meetings and History: 10-3-2016 Workshop

Attachments:

MEMORANDUM OF AGREEMENT

(Possible Shared Use of Bus Transfer Facility)

This memorandum of agreement ("Agreement") is made this _____ day of _____, 2016.

BETWEEN: **City of Auburn**, a body politic and corporate in the County of Androscoggin, State of Maine. (hereinafter referred to as the "City")

AND **Lewiston Auburn Transit Committee**, a quasi-municipal agency established by an inter-local agreement between the City of Lewiston and the City of Auburn (hereinafter referred to as "LATC")

RECITALS

1. The City has entered into a lease (the "Lease") pursuant to which it leases to LATC certain property in Auburn, Maine, (the "Parcel"), located easterly of Turner Street and more particularly described in the Lease on which LATC has constructed a bus transfer facility (the "Building").

2. In addition, the City has granted to LATC in the Lease, a license to use land of the City adjacent to the Parcel (the "License Property").

3. The Land, the Building and the License Property may be collectively referred to herein as the "Facilities".

4. The City has been negotiating with one or more passenger carriers (referred to herein to as a "Passenger Carrier") to provide bus service from the City to one or more destinations outside the Cities of Lewiston and Auburn which does not compete with the bus service provided by LATC (a "Non-Local Bus Service").

5. LATC has been informed of such negotiations and is willing to enter into this Agreement to encourage the continuing of such negotiations for the mutual benefit of the City and LATC.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which each of the parties does hereby acknowledge, the parties, intending to be legally bound, agree as follows:

Section 1: Recitals. The recital clauses set forth above are true and correct and are incorporated herein by reference as though set forth verbatim herein.

Section 2: Shared Use of Facility. Should the City successfully negotiate a Non-Local Bus Service agreement with a Passenger Carrier, LATC will allow reasonable shared use of the Facilities at no charge including, without limitation intended, embarkation and disembarkation of passengers of the Non-Local Bus Service, use of the restrooms by the drivers of the Passenger Carrier and such additional shared uses to which the City and/or the Passenger Carrier and LATC may agree. Such uses shall be subject to reasonable rules as may be established by LATC to avoid unreasonable interference with LATC's use of the facilities for the permitted uses under the Lease.

Section 3: Insurance. The City or the Passenger Carrier, as may be applicable, will maintain a policy or policies of general liability insurance providing coverage for the activities associated with the Non-Local Bus Service in such reasonable amounts as LATC may require, and will provide evidence of such coverage to LATC in the form of a certificate which will identify LATC as a certificate holder entitled to notice prior to cancellation or non-renewal of such policies.

Section 4: Amendment. This Agreement may not be amended, modified or revoked except by a writing signed by the party against whom enforcement of the amendment, modification or revocation is sought.

Section 5: Entire Agreement. This is the entire agreement among the parties. There is no other agreement, oral or written, relating to this Agreement.

Section 6: Counterparts. This Agreement may be signed on any number of counterparts with the same effect as if the signatures were on the same instrument.

Section 7: Facsimiles. Electronic or facsimile signatures on this Agreement shall be given the same effect as the original signatures.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

CITY OF AUBURN

By:_____

Name: _____

Its:_____

LEWISTON AUBURN TRANSIT COMMITTEE

By:_____

Name: _____

Its:_____

GROUND LEASE

This Ground Lease ("Lease") is entered into this 1st day of October, 2016,between the **CITY OF AUBURN**, a body politic and corporate in the County of Androscoggin, and State of Maine "Landlord")and **LEWISTON AUBURN TRANSIT COMMITTEE**, a quasi-municipal agency established by an inter-local agreement between the City of Lewiston and the City of Auburn("Tenant").

WHEREAS Landlord owns that certain parcel of real property that is thirty-six (36) feet wide by eighty-eight (88) feet wide (approximately 3,168 s.f.) with five (5) foot radius curbing at each corner as shown on and more particularly described in **Exhibit A** attached hereto (the "Property");

WHEREAS Tenant desires to lease the Property from Landlord for the term described herein and has constructed on it a bus transfer facility which Tenant will operate and maintain.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Original Term. The original term of this Lease shall commence October 1, 2016, and shall continue for a period of forty [40] years thereafter.

2. Renewal Option. If the Lease is not then in default, Tenant shall have the option to renew this Lease for one (1) additional term of twenty (20) years, as follows:

A. The renewal term shall commence on the date following the date of termination of the preceding term.

B. Landlord shall provide to Tenant written notification of the expiration of the original term of this Lease not more than 180 days prior to the end of the initial term. Such notification shall include specific reference to this Renewal Option. Tenant may exercise this Renewal Option by written notice to Landlord given not more than 120 days after its receipt of the aforesaid notice from Landlord. The giving of such notice by Tenant shall be sufficient to make the Lease binding for the renewal term without further act of the parties. In the event that Landlord fails to provide the notice described in this paragraph, then the original term of the lease shall continue until 120 days after Landlord provides such notice.

C. Except for the length of the renewal term,

the terms and conditions of the Lease for the renewal term shall be identical with the original term.

3. Basic Rent. Tenant shall pay to Landlord as basic rent the sum of $1.00 per annum ("Basic Rent"). Rent shall be payable on the first day of each year in advance at such place as may be designated by Landlord. The first year's rental has been paid upon execution of this Lease and Landlord acknowledges receipt of such sum.

4. Maintenance Costs and Costs of Operation. In addition to Basic Rent, Tenant shall arrange for and pay directly all future assessments, repair and maintenance, building structure and liability insurance costs, utility charges, costs of operating its business, and other charges which Tenant is required to pay by this Lease.

5. License. Along with the grant to the Tenant of the within Lease, Landlord also grants to Tenant a license for the term of this Lease (as that term may be extended by the exercise by the Tenant of the Renewal Option set forth in section 2 above), to park buses and other transport vehicles along the border of the Property on the City owned portion of Great Falls Plaza (the "License Property") in order to load and unload passengers. During the term of this license Landlord agrees to repair and maintain the License Property in order to facilitate the use by the Tenant permitted hereby. The Landlord covenants not to

i) use or restrict; or
ii) permit the use by another of

the License Property in any manner which unreasonably interferes with the use thereof by the Tenant.

6. Permitted Use. The Property shall be used for the operation of a bus transfer facility and associated uses and for no other purposes without the consent of Landlord.

7. Restrictions on Use. In connection with the use of the Property, Tenant shall:

A. Conform to all applicable laws, ordinances and regulations of federal state and municipal authorities affecting the Property and the use, and correct at Tenant's own expense any failure of compliance created through Tenant's fault or by reason of Tenant's use.

B. Refrain from any use which would be reasonably offensive to or directly interfere with Landlord's use of contiguous property or which would tend to create a nuisance or damage the reputation of the Property.

8. Repairs and Maintenance - Tenant. The following shall be the responsibility of the Tenant:

A. All repairs and maintenance of the structure owned by Tenant including the exterior and interior walls, roof, ceilings, exterior and interior doors and windows and related hardware, light fixtures, switches, wiring, plumbing, foundation and the structural integrity of structure, heating and air conditioning systems, and other components of said structure. Any repairs to the common structural components of the Landlord's contiguous property and the Property necessitated by the negligence of Tenant, its agents, employees and invitees.

B. Any repairs and alterations required under Tenant's obligations to comply with all federal, state and municipal laws, ordinances and regulations as required herein.

C. Repair and maintain in good condition all sidewalks, driveways, curbs, landscaped areas and parking areas contained within the Property, including snow removal where buses will be parked on the License Property, or any other place on the Property where buses are parked.

9. Repair and Maintenance - Landlord. The following shall be the responsibility of Landlord: Repair and maintain the License Property.

10. Reimbursement for Repairs Assumed. If Tenant fails or refuses to maintain the Property or make repairs or make payment to third parties all as required under this Lease, Landlord may, but need not, make the repairs or payments and charge the actual costs to Tenant. Such expenditures shall be reimbursed on demand. Except in an emergency creating an immediate risk of personal injury or property damage, Landlord may not perform cleaning or repairs which are the obligation of Tenant and charge Tenant for the resulting expenses unless at least twenty (20) days before work is commenced, Landlord gives written notice to Tenant outlining with reasonable particularity the repairs required, and Tenant fails within that time to initiate such repairs in good faith.

11. Inspection. Landlord shall have the right to inspect the Property at any reasonable time or times to determine the necessity repairs that are required.

12. Trade Fixtures. Tenant may install or cause to be installed such equipment and trade and other fixtures as are reasonably necessary for the operation of its business ("Trade Fixtures"). Such Trade Fixtures shall remain

personal property, and title thereto shall continue in Tenant, regardless of the manner in which the Trade Fixture may be attached or affixed to the Property.

13. Alterations Prohibited. Tenant shall make no material improvements or alterations on the structure located on the Property, nor construct any additional structures on the Property, without first obtaining Landlord's written consent, which consent shall not unreasonably be withheld.

14. Ownership of Alterations. Except for Trade Fixtures, all buildings, improvements and alterations performed on the structure located on the Property and any additional structures constructed by Tenant (collectively "Tenant Improvements") shall belong to the Tenant until the expiration or termination of the term (or renewal term if the option to renew is exercised) of this Lease. At the expiration of the term or of the renewal term, if the renewal option is exercised, or at earlier termination of this Lease, the value of the Tenant improvements shall be allocated between the Landlord and Tenant as provided in applicable federal law and regulations, if any, and, if none, Landlord and Tenant shall negotiate in good faith to determine the value of Tenant Improvements. In either case, the Landlord shall retain as its own the Tenant Improvements which shall become the property of the Landlord, and the Landlord shall pay to the Tenant the value of such improvements to the extent allocated and attributed to Tenant.

15. Insurance.

a. Before taking possession of the Property, Tenant shall procure and thereafter during the term of this Lease shall continue to carry the liability insurance of a responsible company with liability limits of not less than $400,000 per occurrence combined single limit of liability for causes of action seeking tort damages pursuant to the provisions of the Maine Tort Claims Act and $1,000,000 per occurrence combined single limit of liability for all causes of action seeking tort damages pursuant to federal or state law for which immunity or limitation of damages is not provided by the provisions of the Maine Tort Claims Act, naming Landlord as an additional insured. Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the Property and the License Property, shall protect Tenant against the claims of Landlord on account of the obligations

assumed by Tenant under the indemnification provisions of this Lease, and shall protect Landlord and Tenant against claims of third persons. Tenant shall also insure the Property to its full insurable value against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage, naming Landlord as an additional insured. In addition, Tenant shall bear the expense of any insurance, purchased at Tenant's discretion, insuring the property of Tenant. Certificates reasonably satisfactory to Landlord evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the Property.

b. For as long as it continues to be available, Tenant may satisfy the requirements of the foregoing paragraph by making the necessary arrangement through the Landlord to be covered under the Landlord's existing insurance arrangements with the Maine Municipal Association Risk Pool, provided that Tenant shall reimburse Landlord upon demand for the incremental cost of providing the necessary coverage in that manner. Should coverage become unavailable or impractical through the Maine Municipal Association Risk Pool, for any reason including Landlord's decision to change insurance carriers, the provisions of Section 17(a) shall apply and Tenant shall be required to obtain the indicated coverage.

16. Destruction of Property. In the event the improvements constructed upon the Property are totally or partially destroyed from a risk covered by the insurance required by this Lease and there are more than two (2) years remaining during the original term or any then current renewal term of this Lease, then Tenant shall restore those improvements to substantially the same condition as existing immediately before the damage, but in no event shall Tenant be responsible to expend any amounts on such restoration that exceeds the insurance proceeds received by Tenant. Tenant shall promptly commence and diligently prosecute such restoration to completion. All insurance proceeds shall be the sole property of Tenant. Unless the insurance proceeds are insufficient to pay the costs of such restoration, such damage or destruction shall not terminate the Lease. · If existing laws will not permit restoration, or if the insurance proceeds are insufficient to pay the costs of such restoration, either party may terminate the Lease immediately by giving notice to the other party and each

party shall thereupon be released from any and all damages or liability with respect to this Lease. The provisions of Section 17(B) below shall apply with regard to the division of insurance proceeds.

17. Damages Late in Term. If the improvements constructed by Tenant are totally or partially destroyed from a risk covered by the insurance required by this Lease, but there are less than two(2)years remaining during the primary term or any then current renewal term of this Lease, then within sixty(60)days after the date of destruction, Tenant, at Tenant's sole option, may elect to either:

A. Initiate such restoration in good faith in order to restore the improvements to substantially the same condition as immediately before the damage, in which case this Lease shall continue in full force and effect and Tenant shall promptly commence and diligently prosecute such restoration to completion; or

B. Elect to terminate this Lease by giving written notice to Landlord, in which case the termination shall be effective as of the date of destruction and each party shall thereupon be released from any and all damages or liability with respect to this Lease. All insurance proceeds shall thereafter belong to Tenant.

18. Liens. Except with respect to activities for which Landlord is responsible for which Landlord shall pay as due so as to keep the Property free from all liens, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Property and shall keep the Property free from any liens. If Tenant fails within a reasonable period of time to pay any such claims or to discharge any lien, Landlord may, but not sooner than twenty-five (25) days after written notice to Tenant, do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of one and one half percent per month from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within 10 days after knowledge of the filing, secure the discharge of the lien by posting a bond, or other surety reasonably satisfactory to Landlord, in an amount sufficient to discharge the lien plus any reasonable costs, attorney fees and other charges and damages that could accrue as a result of a foreclosure or sale under the lien.

19. Indemnification. Tenant shall indemnify, defend and hold Landlord harmless from any claim, loss, or liability arising out of or related to any negligent activity of Tenant on the Property and the License Property or any condition of the Property in the possession or under the control of Tenant. Landlord shall indemnify, defend and hold Tenant harmless from any claim, loss, or liability arising out of or related to any negligent activity of Landlord on the Property or the License Property adjacent thereto or any condition of the adjacent License Property in the possession or under the control of Landlord. Landlord shall have no liability to Tenant for any loss or damage caused by third parties or by any condition of the Property, or the License Property unless caused by Landlord's intentional act, omission or negligence. Tenant shall have no liability to Landlord for any loss or damage caused by third parties or by any condition of the Property or the License Property, unless caused by Tenant's intentional act, omission or negligence.

20. Landlord- Warranty Right of Quiet Enjoyment. Landlord warrants that it is the owner of the Property and has the right to lease the Property. Landlord warrants that, provided Tenant is not in default of the Lease, Tenant shall have the right to quiet and exclusive enjoyment of the Property during the lease term.

21. Estoppel Certificates. Either party will within 20 days after notice from the other execute and deliver to the other party a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of annual base rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

22. Assignment. Except as otherwise specifically provided herein, no part of the Property may be assigned or subleased by Tenant, nor may a right of use of any portion of the property be conferred by Tenant on any third person by any other means, without the prior written consent of Landlord which shall not be unreasonably withheld. This provision shall apply to all transfers by operation of law.

23. Default. The following shall be events of default:

A. Failure of Tenant to pay any rent or other charge within 10 days after written notification by Landlord

of the passage of its due date.

B. Failure of Tenant to comply with any material term or material condition or fulfill any material obligation of the Lease within 45 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 45-day period, this provision shall be complied with if Tenant begins correction of the default within the 45-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

C. Insolvency of Tenant, an assignment for the benefit of creditors , the filing by Tenant of a voluntary petition in bankruptcy, an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant, the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing, attachment of or the levying of execution on the leasehold interest and failure of the Tenant to secure discharge of the attachment or release of the levy of execution within 120 days. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the right of Tenant under the Lease.

D. Failure of Tenant for ninety (90) days or more to occupy the Property for the purpose permitted under this Lease unless such failure is excused under other provisions of this Lease.

24. Remedies. Upon the occurrence of an event of default, Landlord may exercise any one or more of the following remedies:

A. In the event of a default, following the giving of notice if required in Section 23 above and the expiration of any applicable cure period, the Lease and Lease term (or any renewal term, if applicable) may be terminated at the option of Landlord upon giving notice of termination in writing to Tenant. If the Lease is not terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. If the Lease is terminated, Tenant's liability to Landlord for damages shall survive such termination, and Landlord may reenter, take possession of the Property and personal property thereon, and remove any persons or property by legal action or by self-help without liability for damages.

B. In the event of termination on default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Lease term, the following amounts as damages: The reasonable costs of re-entry and re-letting including without limitation the reasonable cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property upon termination and to leave them in the required condition, any reasonable remodeling costs, attorney fees, court costs, broker commissions, and advertising costs.

C. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease term, and no action for damages shall bar a later action for damages subsequently accruing.

D. Following reentry by Landlord or abandonment by Tenant, Landlord may relet the Property and in that connection may make any suitable alterations or refurbish the Property, or both, or change the character or use of the Property, but Landlord shall not be required to relet for any use or purpose that Landlord may reasonably consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease , upon any reasonable terms and conditions, including the granting, if required, of some rent free occupancy or other rent concession.

E. If Tenant fails to perform any obligation under this Lease (other than those obligations to repair a remedy for which is provided in Section 11 under this Lease), Landlord shall have the option, but not the obligation, to do so after 45 days written notice to Tenant describing the default. All of Landlord's reasonable expenditures to correct the default shall be reimbursed by Tenant to Landlord on demand.

F. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law. With regard to any breach of a negative or affirmative covenant by Tenant, Landlord shall have, in addition to all other remedies available at law or in equity, the right of specific performance.

25. Obligations on Termination. In addition to the provisions governing expiration or earlier termination in Section 15 hereof, upon expiration of the Lease term, abandonment by Tenant or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Property in good condition, except normal wear and tear and broom clean. Maintenance and repairs for which Tenant is responsible shall be completed at the latest practical date prior to such surrender. Tenant 1 s obligations under this Section shall be subordinate to the provisions of this Lease related to destruction. In addition:

A. Tenant shall remove any or all Trade Fixtures and shall repair any physical damage resulting from the removal. If Tenant fails to remove the Trade Fixtures, Landlord may do so and charge the cost to Tenant.

B. Prior to expiration or termination of the Lease term, Tenant shall remove all furnishings, furniture, and Trade Fixtures which remain its property. If Tenant fails to do so, this shall be an abandonment of such property and Landlord may retain such property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 20 days after removal was required, Landlord may elect to hold Tenant to his obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant 1 s account. Tenant shall be liable to Landlord for the reasonable cost of removal, transportation to storage and storage.

26. Holdover. If Tenant does not vacate the Property at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of this Lease except the provision for term and renewal. Failure of Tenant to remove fixtures, furniture, furnishings or Trade Fixtures which Tenant is required to remove under this Lease shall constitute a failure to vacate to which this Section shall apply if the property not removed will substantially interfere with occupancy of the Property by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant. If a month to month tenancy results from a holdover by Tenant under this Section, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given no less than ninety (90) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month to month tenancy.

27. Recordation. Either Tenant or Landlord may record this Lease.

28. Entire Agreement. This Lease contains the entire agreement between the parties hereto; and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties hereto.

29. Successors and Assigns. Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.

30. Severability. If any provision of this Lease shall at any time be deemed to be invalid or unenforceable by a court of competent jurisdiction (other than any provisions of the payment of rent), this Lease shall not be invalidated thereby, but in such event, this Lease shall be construed as if such invalid or unenforceable provision had been eliminated or reduced to the point of being valid or unenforceable, thereby preserving all of the other terms, conditions and provisions of this Lease.

31. Legal Proceedings. The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of the Landlord and Tenant, the Tenant 1 s use or occupancy of the Property, License Property or any improvements on the Property and/or any claim of injury or damage.

32. Notices. All notices - from Tenant to Landlord, required or permitted by any provision of this Lease, shall be sent by registered or certified mail, and addressed to Landlord (City Manager) at City of Auburn, 60 Court Street, Auburn, Maine 04210 ATTN: Finance Director and City Manager, with a copy to (CITY ATTORNEY) Martin Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O . Box 3070, Lewiston, Maine 04240. All notices from Landlord to Tenant, so required or permitted, shall be sent by registered or certified mail and addressed to Tenant at Lewiston Auburn Transit Committee, c/o Androscoggin Valley Council of Governments, 125 Manley Road, Auburn, Maine, 04210, with a copy to Marc N. Frenette, Esq., Trafton, Matzen, Belleau & Frenette, LLP, 10 Minot Avenue, Auburn Maine, 04210. Either party may, at any time, or from time to time, designate in

writing a substitute address for that above set forth, and thereafter all notices to such party shall be sent by registered or certified mail to such substitute address. Notices shall be effective upon receipt or refusal.

In witness whereof, the parties have executed this Lease on the date set forth above:

LEWISTON AUBURN TRANSIT COMMITTEE	CITY OF AUBURN
_____	_____
By:	By:
Its:	Its:

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the Lewiston Auburn Transit Committee and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

_____
Notary Public/Attorney

_____
(Print Name)

STATE OF MAINE
, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the City of Auburn and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

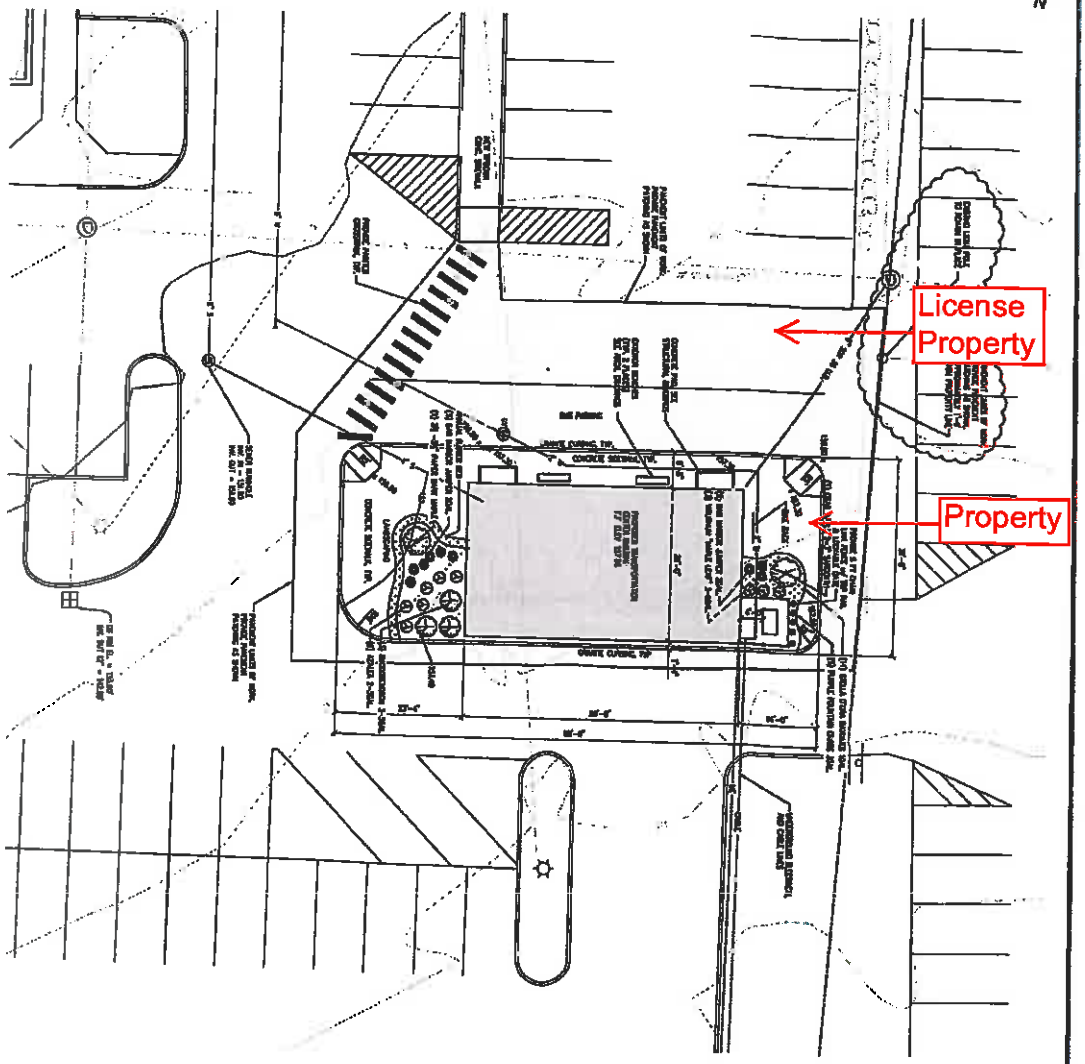
_____
Notary Public/Attorney

_____
(Print Name)

EXHIBIT A
PROPERTY DESCRIPTION

PRINTED: May 17, 2016

PROPOSED PARTIAL SITE PLAN



SCALE: 1"=20'-0"

C102

PROPOSED PARTIAL SITE PLAN

ISSUED

No.	DESCRIPTION	DR BY	CHKD BY	DATE
	ISSUED FOR BID	SG	SG	5-5-16
1	AMENDMENT #1 - REVISED FOR PROPERTY LINE	SG	SG	5-17-16

DOWNTOWN AUBURN TRANSPORTATION CENTER

GREAT FALLS PLAZA
VAN # 12328.00

AUBURN, MAINE
FED #ME03-0041

PROPOSED BUILDING

5-5-16

OWNER:
MTC
60 MINOT AVENUE
AUBURN, ME 04210

CASCO BAY ENGINEERING

City of Auburn, Maine
Office of Economic and Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

Legal Description for the Downtown Auburn Transportation Center

The Downtown Auburn Transportation Center is located on (PID # 241-007) owned by the City of Auburn. The area to be covered under the Land Lease Agreement between the City of Auburn and the Lewiston Auburn Transportation Committee is an area 36 feet wide by 88 feet wide (approximately 3,168 s.f.) with 5 foot radius curbing at each corner as shown on Exhibit Map "A". Exhibit Map "B" shows the Downtown Auburn Transportation Center in relation to the entire Great Falls Parking Area.

Landlord reserves to itself the air space above the height of the existing building, subject, however, to an easement in favor of the Tenant as is necessary for the maintenance, repair and replacement of said building.

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
Ernestine Gilbert, Ward Four

Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 74-10172016

ORDERED, that the City Council hereby authorizes the Acting City Manager to sign a Memorandum of Understanding between the Lewiston-Auburn Transit Committee (LATC) and the City of Auburn.

City of Auburn
City Council Information Sheet

Council Workshop or Meeting Date: 10-17-2016 **Order: 75-10172016**

Author: Eric Cousens, Deputy Director of Planning and Development

Subject: Dangerous Building at 741 Broad Street

Information:
The Council is being asked to determine if the building 741 Broad Street meets statutory requirements for being deemed a Dangerous Building. City Staff has the option of asking the Council to make this determination or filing a complaint with Superior Court to have the Court make the determination. Either body, Council or Court, may order the abatement of the issues that make the buildings dangerous including demolition and removal of the structures if appropriate. The process in front of the Council is much more public, open for input from those affected by the nuisance property and it gives the owner a chance to be heard by the Council. Staff prefers the public process for these reasons and because it sends a message that the Council will not allow dangerous buildings to persist. When dangerous buildings are allowed to exist, it causes negative impacts on the community and often puts neighbors or the public at risk. Generally, there is a long process of notices and missed compliance dates set by a Code Enforcement Officer before we would ask the Council to consider a building dangerous.

To help make the determination we have provided the following:

1. Documents establishing the identity of the current owner or owners;
2. The notice of hearing and proof of service on the owners and any party in interest;
3. Previous correspondence, notices or citations to the owner;
4. Fire Reports
5. Police Call List
6. Photographs depicting the dilapidation and hazards at the property;
7. Other evidence regarding the property; and
8. Proposed Findings and a draft Order to abate conditions at the property will be provided at the hearing.

If the Council finds that a building is dangerous then there is a deadline established for abatement of the dangerous conditions and an Order issued to the owner. Staff recommends 30 days but the Council could allow longer. If the owner fails to meet the requirements of the Order then the City may cause the abatement, including demolition of the structure. If the owner fails to reimburse the City for the costs associated with the abatement then a special tax is filed against the property and the City can eventually foreclose on the property if the tax is not paid in full.

Advantages: Allows the Council to order the removal of the dangerous structure and cause the removal if necessary. Cleans up the neighborhood affected by dangerous or abandoned buildings and reduces hazards and service calls for residents and other departments.

Disadvantages: None.

City Budgetary Impacts: If the owner fails to comply with the order then demolition would be funded by the City and a special tax in the amount of our expenses would be assessed against the property.

Staff Recommended Action: Review the evidence and findings provided and determine if the buildings are dangerous as defined by Statute. It is staffs opinion that the conditions at the property make the structure dangerous.

Previous Meetings and History: January 25, 2016 workshop regarding Dangerous Buildings in general

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Attachments:

1. Documents establishing the identity of the current owner or owners (to be provided prior to hearing);
2. The notice of hearing and proof of service on the owners and any party in interest;
3. Previous correspondence, notices and citations to the owner;
4. Dangerous Buildings Statute
5. Fire Reports
6. Police call list
7. Photographs depicting hazards and violations at the property;

Bk 9472 Ps128 #18709
10-12-2016 @ 03:35p

NOTICE OF HEARING
PURSUANT TO 17 M.R.S. §§ 2851-59
DANGEROUS BUILDINGS

JOHN A. MCLEAN
1045 BROADWAY
SOUTH PORTLAND, ME 04106

741 BROAD STREET, AUBURN, MAINE

You are hereby notified that the City Council of the City of Auburn, Maine, will hold a hearing on:

October 17, 2016
7:00 PM
Auburn Hall
60 Court Street
Auburn, Maine 04210

This hearing is to determine whether the structures located at 741 Broad Street, Auburn, Maine, identified as Parcel 001 on Tax Map 190, and further described in a Warranty Deed recorded in the Androscoggin County Registry of Deeds at Book 5886, Page 110, are dangerous buildings or nuisances within the meaning of 17 M.R.S. §§ 2851, *et seq.*, and if so, what is an appropriate remedy.

If the City Council finds that the structures are dangerous or a nuisance, it may order appropriate corrective action, including but not limited to, demolition and removal of the structure. If the corrective action is not taken by a deadline to be established by the City Council's order, and no appeal is taken, the City may take corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structures located at the above address are not dangerous or a nuisance, and to oppose any corrective action ordered by the City Council. Failure to attend may result in a waiver of certain rights with regard to this property.

Dated: October 12, 2016

Susan Clements-Dallaire
City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

October 12, 2016

Before me this day personally appeared Susan Clements-Dallaire, City Clerk of the City of Auburn, Maine, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Alison F. Pepin
Print Name: Alison F. Pepin
Notary Public/Attorney at Law
My Commission Expires: 9/4/2022

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

CITY OF AUBURN
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
17 M.R.S. §§2851-59
741 Broad Street, Auburn, Maine
Dangerous Buildings

On October 12, 2016, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on John McLean, by service in hand at 741 Broad Street, Auburn, Maine.

Officer Thomas Ellis
Patrol Division
Auburn Police Department

NOTICE OF HEARING
PURSUANT TO 17 M.R.S. §§ 2851-59
DANGEROUS BUILDINGS

Paul B. Streeter, Trustee
Paul B. Streeter Sr. Revocable Trust dated 10/28/92
c/o Auburn Loan Servicing
259 Minot Avenue
Auburn, Maine 04210

741 BROAD STREET, AUBURN, MAINE

You are hereby notified that the City Council of the City of Auburn, Maine, will hold a hearing on:

October 17, 2016
7:00 PM
Auburn Hall
60 Court Street
Auburn, Maine 04210

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This hearing is your opportunity to present evidence as to why the structures located at the above address are not dangerous or a nuisance, and to oppose any corrective action ordered by the City Council. Failure to attend may result in a waiver of certain rights with regard to this property.

Dated: October 12, 2016

Susan Clements-Dallaire
City Clerk

STATE OF MAINE

ANDROSCOGGIN, ss October 13 2016

Before me this day personally appeared Susan Clements-Dallaire, City Clerk of the City of Auburn, Maine, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Alison F. Pepin

Print Name: Alison F. Pepin
Notary Public/Attorney at Law
My Commission Expires: 03/04/2022

NOTICE OF HEARING
PURSUANT TO 17 M.R.S. §§ 2851-59
DANGEROUS BUILDINGS

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Paul B. Streeter Sr. Revocable Trust dated 10/28/92
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Dated: October 13, 2016

Susan Clements-Dallaire
City Clerk

STATE OF MAINE

ANDROSCOGGIN, ss

October 13, 2016

Before me this day personally appeared Susan Clements-Dallaire, City Clerk of the City of Auburn, Maine, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Cynthia S. Lauze

Print Name: Cynthia S. Lauze

Notary Public/~~Attorney at Law~~

My Commission Expires: 11-10-19

CYNTHIA S. LAUZE
Notary Public. Maine
My Commission Expires November 10, 2019

CITY OF AUBURN
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
17 M.R.S. §§2851-59
741 Broad Street, Auburn, Maine
Dangerous Buildings

On October 13, 2016, I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Paul B. Streeter, as Trustee of the Paul B. Streeter Revocable Trust dated 10/28/92, by

C/O Auburn Loan Servicing
Erin Reynolds, Loan Service
259 Minot Ave., Auburn, ME

at office of Auburn Loan Servicing, 259 Minot Avenue, Auburn, Maine.
Served on: October 13th, 2016 @ 9:15 AM

Mark Cayer
Maine PI Service

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

February 20, 2014

John McLean
1045 Broadway
Portland, ME 04106

RE: 741 Broad St., PID # 190-001

Dear Mr. John McLean,

It has come to the attention of the Planning and Permitting Office that the building at 741 Broad St. has become unsecured. The overhead garage door and a window into the office area are unlocked. We are requesting you secure the building against entry by Thursday, February 27 2014. Please contact our office as soon as possible if this will be difficult for you.

We've also received your letter of interest in the possibility of transferring control of the Broad St. property to the City of Auburn in lieu of outstanding fines. The City is interested in exploring this option further. We respectfully request that you contact the Planning Office to discuss how to go about this.

I can be reached directly at (207)333-6601 Ext.1150 and Eric Cousens can be reached at Ext. 1154. We look forward to hearing from you.

Sincerely,

Zachary Lenhert
Code Compliance Officer
Assessing & Planning Assistant
City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1150
zlenhert@auburnmaine.gov

Eric Cousens
Director of Planning and Permitting
City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1154
ecousens@auburnmaine.gov

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

May 14, 2014

John McLean
1045 Broadway
Portland, ME 04106

RE: 741 Broad St., PID # 190-001

Dear Mr. John McLean,

It has come to the attention of the Planning and Permitting Office that trash and debris has started accumulating on the property of 741 Broad St. Multiple mattresses, TV's, and other refuse have been disposed of on the property. It also appears as though one of the buildings has become unsecured.

We appreciate your efforts this winter in securing the buildings and respectfully request you contact the Planning and Permitting Office with a plan to remove the trash and debris so we may avoid further enforcement.

I can be reached directly at (207)333-6601 Ext.1150 or Eric Cousens can be reached at Ext. 1154. We look forward to hearing from you.

Sincerely,

Zachary Lenhert
Code Compliance Officer
Assessing & Planning Assistant
City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1150
zlenhert@auburnmaine.gov

CC: Eric Cousens, Director of Planning and Permitting

60 Court Street • Suite 104 • Auburn, ME 04210
(207) 333-6600 Voice • (207) 333-6601 Automated • (207) 333-6625 Fax
www.auburnmaine.org

March 15, 2016

John McLean
1045 Broadway
Portland, ME 04106

RE: 741 Broad St., PID # 190-001

Dear Mr. John McLean:

It has come to the attention of this office that violation(s) of the Code of Ordinances of the City of Auburn, hereafter referred to as the (Code), exist at:

741 BROAD ST.
AUBURN, ME 04210
PID#: 251021000

Violation: 17 M.R.S.A § 2851.

Description: DANGEROUS BUILDING

Revision: Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure.

Violation: Chapter 12, Section 12-226

Description: MAINTENANCE

Revision: All structures and structural elements shall be maintained structurally sound, in good repair, hazard free and suitable for intended use.

Corrective Action: The red building at 741 Broad St. has become structurally unsafe; unstable; unsanitary; habitually unsecured; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; and constitutes a hazard to health or safety because of inadequate maintenance and dilapidation. Abate the violation by either repairing the building envelope (roof, windows, open vents, eaves) and making the building suitable for its intended use, or removing the building and properly disposing of the debris. All other buildings on the property must also be secured from unauthorized entry.

Compliance Date: April 15, 2016

Violation: Chapter 44, Section 44-32

Description: ACCUMULATIONS OF REFUSE

Revision: No person shall allow any material to collect or lie on property which he owns, occupies or controls in such a manner that it attracts flies, annoys or interferes with the safety, health, comfort or repose of the public, emits odors, or is unsightly or is offensive.

Corrective Action: Remove and dispose of the debris that has been dumped on the property in a clean and sanitary manner and prevent further accumulation.

Compliance Date: March 31, 2016

Therefore, in accordance with the above referenced ordinance requirements, you are hereby ordered to complete the above corrective action by the compliance date given. Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. **Please contact this office immediately if circumstances do not permit the timely compliance with this order and abatement of the violations or if you have any questions regarding this matter.**

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 2, Article VIII of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred and five dollars ($105.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and ten dollars ($210.00), the third is four hundred and twenty dollars ($420.00), the fourth and subsequent citations are eight hundred and forty dollars ($840.00), and penalties are cumulative. In the future, if any of the above violations are repeated, you are not entitled to receive any further notification, and this office may serve you with a citation.

In lieu of or in addition to the issuance of citations, this office may initiate a land use complaint pursuant to 30-A M.R.S.A. § 4452 et seq. as amended, and M.R. Civ. P. 80K. A judgment from such a lawsuit in the City's favor will result in a court order that any violations be abated, the imposition of a mandatory fine of between one-hundred dollars ($100.00) and two-thousand five-hundred dollars ($2,500.00) per violation, per day, and the payment of court costs and the City's legal fees.

This notice is a warning only and therefore represents potential rather than actual enforcement of the ordinance provisions listed above. Administrative reviews of potential enforcement actions result in advisory opinions only, and therefore do not permit subsequent judicial review. This notice is therefore not open to administrative appeal. However, commencement of actual enforcement action of the sort listed above for failure to correct the violation(s) as requested, if any, shall give rise to a right to appeal that action directly. Such right shall not arise until and unless enforcement action actually commences. Any and all potential act(s) of enforcement as referenced above shall include written notice of your right to appeal. That notice shall specifically outline municipal procedure, and reference Maine civil procedure, for use in the event an administrative appeal is desired.

If you have any questions about what you need to do to comply with this Notice and Order please contact this office immediately. I can be reached directly at (207)333-6601 Ext.1150

Sincerely,

Zachary Lenhert
Code Compliance Officer
City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1150
zlenhert@auburnmaine.gov
Cc: Eric Cousens, Director of Planning and Permitting

TO THE ATTENTION OF:
ZACHARY LOVITCH
CODE COMPLIANCE OFFICER

I AM WRITING TO ACKNOWLEDGE RECEIPT OF YOUR NOTICE AND ORDER, DELIVERED TUESDAY, MARCH 17TH.

I AM IN THE PROCESS OF ADDRESSING THIS ISSUE AND WILL PROVIDE YOU WITH FUTURE UPDATES.

SINCERELY,
JOHN MCLEAN
245 BROADWAY
S. PORTLAND, ME.
04106

September 27, 2016

JOHN MCLEAN
741 BROAD ST.
AUBURN, ME 04210

RE: 741 BROAD ST., PID # 190-001

Dear Mr. John McLean:

In response to your request that the City of Auburn grants permission for power to be restored to the property, the following requirements must be met before the City can authorize the building for habitation:

1) The entire interior electrical distribution including the electrical service requires replacement.
2) Per 60-2 definition of Dwelling, one family detached, minimum 700 s.f. habitable area must be met.
3) The structure needs to be reviewed for structural integrity in regards to rotted framing members, structural member spans, etc.
4) The septic system must be documented and or a design provided for the expansion to meet the standards of the Subsurface Wastewater Rules. (10-144 CMR 241, section 9)- No existing septic plan is in the building file.
5) Internal plumbing must be brought up to code.
6) Dwelling requires a minimum of toilet, lavatory, shower or tub, and kitchen sink.
7) In accordance with IRC 2009 R303.8, the dwelling requires heating facilities capable of maintaining 68°, the installation of portable space heaters shall not be used to achieve compliance.
8) Light and ventilation standards must be met.
9) Egress – Emergency exit required in sleeping room, such as an egress window.
10) Smoke and CO detectors must be properly installed.
11) Enclose the basement stairs or install guard rails.
12) Meet minimum standards of IECC 2009; Dwelling must be properly insulated.
13) Interior finish – Class A, B, or C; Interior walls must be sheetrocked, or similar.
14) Remove all remaining refuse and debris from the property and dispose of properly.

The scope of work requires that building, electrical, and plumbing permits be submitted for review. If you have any questions about what you need to do to comply with these requirements please contact this office immediately. I can be reached directly at (207)333-6601 Ext.1150

Sincerely,

Zachary Lenhert
Code Compliance Officer, City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1150
zlenhert@auburnmaine.gov

Cc: Eric Cousens, Deputy Director of Economic & Community Development

City of Auburn, Maine
Office of Economic & Community Development
www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210 | 207.333.6601

NOTICE OF PLACARDING
VIA FIRST CLASS & CERTIFIED MAIL, RETURN RECEIPT REQUESTED
POSTED AT SITE

October 12, 2016

JOHN MCLEAN
1045 BROADWAY
SOUTH PORTLAND, ME 04106

PAUL B. STREETER, TRUSTEE
PAUL B. STREETER SR. REVOCABLE TRUST DATED 10/28/92
C/O AUBURN LOAN SERVICING
259 MINOT AVENUE
AUBURN, ME 04210

RE: 741 BROAD ST.

Dear Owners:

It has come to the attention of this office that buildings at 741 Broad Street (the "Property") have continued to suffer severe deterioration making them unfit for occupancy due to violations of the City of Auburn Ordinances, hereafter referred to as the "Code," notwithstanding the entry of Judgment by the Lewiston District Court on February 10, 2010, in connection with a prior Notice of Violation, a copy of which is attached. That Judgment ordered the Owner to undertake and complete repairs and improvements to the Property as required to reasonably satisfy the City's code enforcement officials, and to maintain the Property in compliance with all applicable land use, property maintenance, electrical, plumbing, building and life safety codes. You have failed to make these repairs and the Property constitutes an extreme danger and menace to any occupants of the Property, and to the public health and safety.

The buildings lack the necessary utilities such as heat, hot water, electricity, plumbing, and have otherwise not been maintained. The property lacks a clean and sanitary means for disposal of garbage and rubbish, which have accumulated at the property. The buildings have suffered severe deterioration and are an extreme danger to any occupants and to the public health. None of the buildings is suitable as a dwelling or for any other occupation.

I hereby condemn and placard the buildings at 741 Broad Street as being unfit for human habitation and dangerous premises pursuant to and in accordance with Chapter 12, Sections 147, 200 and 201 of the Code. All persons are hereby ordered to immediately vacate the premises. You are to make substantial repairs, with all appropriate permits issued by the City, or to demolish these buildings, leaving the property in a manner satisfactory to this office by no later than November 12, 2016.

The City of Auburn may order the demolition of the buildings located at 741 Broad Street pursuant to the provisions of the Maine Revised Statutes, Title 17, Section 2851, if the buildings are not maintained secured or constitute a threat to public safety and a nuisance.

The above-mentioned property will be placarded and may not be re-occupied until proper abatement of all violations and rehabilitation has been completed. An inspection shall be conducted to confirm compliance. At such time the condemnation order and placarding shall be discontinued. No person shall deface or remove the placard from any building at 741 Broad Street which has been declared unfit for human habitation and placarded as such.

You may appeal this order and request a hearing before the Auburn Board of Appeals by filing a written petition and a request for hearing, along with a brief statement of the grounds therefore, within ten days of receipt of this notice. I would be pleased to answer any questions you may have about how to initiate such an appeal. If you fail to appeal you will be barred from any opportunity to contest or challenge the terms of this Notice and Order in any future legal proceedings.

If you sell, transfer or lease the Property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section 12-199 of the Code, and you must notify the City's office of planning and development of any intent to sell, transfer, or otherwise dispose of or lease or sublet the Property, in writing and providing the name and address of the person to whom such transfer is proposed, within 3 days of the proposed transfer. If you fail to provide such notice, you may be fined.

In the event that you do not comply with this order, this office may issue further citations pursuant to Chapter 2, Article VIII of the aforementioned Code, in addition to the Judgment that has already been entered. Additional citations shall require you to pay a penalty of one hundred and five dollars ($105.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and ten dollars ($210.00), the third is four hundred and twenty dollars ($420.00), the fourth and subsequent citations are eight hundred and forty dollars ($840.00), and penalties are cumulative. In the future, if any of the above violations are repeated, you are not entitled to receive any further notification, and this office may serve you with a citation.

In lieu of or in addition to the issuance of citations, this office may initiate a land use complaint pursuant to 30-A M.R.S. § 4452 et seq. as amended, and M.R. Civ. P. 80K. A judgment from such a lawsuit in the City's favor will result in a court order that any violations be abated, the imposition of a mandatory fine of between one-hundred dollars ($100.00) and two-thousand five-hundred dollars ($2,500.00) per violation, per day, and the payment of court costs and the City's legal fees.
If you have any questions about what you need to do to comply with this Notice and Order please contact this office immediately. I can be reached directly at (207)333-6601 Ext.1150

Sincerely,

Zachary Lenhert
Code Compliance Officer
City of Auburn
60 Court Street
Auburn, ME 04210
(207) 333-6601 Ext. 1150
zlenhert@auburnmaine.gov

17 §2851. DANGEROUS BUILDINGS

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure. [1997, c. 6, §1 (AMD).]

1. **Notice.** The notice must be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.

[1997, c. 6, §1 (AMD) .]

2. **Notice; how published.** When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.

[1997, c. 6, §1 (AMD) .]

3. **Order.** The order made by the municipal officers or county commissioners must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2.

[1997, c. 6, §1 (AMD) .]

4. **Proceedings in Superior Court.** In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structure is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

[1997, c. 6, §1 (AMD) .]

SECTION HISTORY
1965, c. 284, (RPR). 1967, c. 401, §1 (AMD). 1973, c. 143, §1 (AMD). 1979, c. 27, §§1-3 (AMD). 1997, c. 6, §1 (AMD).

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PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

Auburn Fire Department
Incident Report

Incident #: 09AUB-1218-IN Exp. 0

Call #: 09-28714

Location: JUNKYARD NEXT TO, RANDYS AUTO PARTS
741 BROAD ST
Auburn,ME 04210

District: Afd - E2 Tanker
Station: AFD - SOUTH MAIN ST

Officer In Charge: Mathieu, Victor on 04/20/2009
Report By: Mathieu, Victor on 04/20/2009
Approved By: Allen, Timothy on 04/21/2009

Basic Incident Information

Incident Type: **Outside rubbish, trash or waste fire**
Property Use: Dump, sanitary landfill
Actions Taken: Extinguishment by fire service personnel
Provide water
Incident command
HazMat Release: None

Property Loss: $1000
Contents Loss: $1000

Pre-Incident Value: Undetermined
Pre-Incident Value: Undetermined

Resources Used Summary

Alarm: 04/20/2009 @ 1111
Cleared: 04/20/2009 @ 1415

Arrived: 04/20/2009 @ 1118

Shift: A

Alarms: 2

Aid: Mutual aid received

	Apparatus		Personnel
Suppression:	4	Suppression:	10
EMS:	0	EMS:	0
Other:	3	Other:	4

Casualties Summary

	Deaths		Injuries
Fire Service:	0	Fire Service:	0
Civilian:	0	Civilian:	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

Incident #: 09AUB-1218-IN Exp. 0

Fire

Buildings involved: 0
Residential living units: 1
Acres Burned:

Area of origin: Undetermined
Cause of ignition: Cause undetermined after investigation
Heat source: Undetermined
Item first ignited: Undetermined
Type of material: Undetermined
1st Contributing Ignition Factor:
2nd Contributing Ignition Factor:

Fire suppression factors: Significant/unusual fuel load from man-made condition.
Humidity, low
Wind, including hurricanes or tornadoes

Mobile Property Involved: None

Pre-fire plan available: No

#	Apparatus	Type	Dates/Times	Per	Use	Actions Taken
1	Aub Battalion Chiefs 315	Mobile command post	Disp 04/20/2009 @ 1115 Arr 04/20/2009 @ 1120 Clr 04/20/2009 @ 1401 InSv 04/20/2009 @ 1408	1	Other	- Incident command
2	Auburn Brush Truck 316	Support apparatus, o	Disp 04/20/2009 @ 1150 Arr 04/20/2009 @ 1154 Clr 04/20/2009 @ 1415 InSv 04/20/2009 @ 1415	1	Other	- Provide manpower
3	AUBURN ENGINE 2 AE2	Engine	Disp 04/20/2009 @ 1112 Arr 04/20/2009 @ 1123 Clr 04/20/2009 @ 1407 InSv 04/20/2009 @ 1407	3	Suppr	- Extinguishment by
4	Auburn Engine 3 AE3	Engine	Disp 04/20/2009 @ 1115 Arr 04/20/2009 @ 1123 Clr 04/20/2009 @ 1258 InSv 04/20/2009 @ 1404	2	Suppr	- Extinguishment by
5	Auburn Engine 5 AE5	Engine	Disp 04/20/2009 @ 1115 Arr 04/20/2009 @ 1122 Clr 04/20/2009 @ 1405 InSv 04/20/2009 @ 1405	3	Suppr	- Provide manpower - Provide water
6	Auburn Rescue 1 AR1	Medical & rescue uni	Disp 04/20/2009 @ 1115 Arr 04/20/2009 @ 1118 Clr 04/20/2009 @ 1405 InSv 04/20/2009 @ 1405	2	Other	- Provide manpower

Incident #: 09AUB-1218-IN Exp. 0

7	Auburn Tower 1 ATR1	Truck or aerial	Disp 04/20/2009 @ 1259 InSv 04/20/2009 @ 1408	2	Suppr	- Provide manpower

#	ID	Personnel	Start	End	Dty	Station App
1	AFD021	Mathieu, Victor	04/20/2009 @ 1115	04/20/2009 @ 1408	RD	315
2	AFD081	Saunders, Eric	04/20/2009 @ 1150	04/20/2009 @ 1415	RD	316
3	AFD017	Sperry, Mitch	04/20/2009 @ 1112	04/20/2009 @ 1407	RD	AE2
4	AFD031	Hart, James	04/20/2009 @ 1112	04/20/2009 @ 1407	RD	AE2
5	AFD053	L'Heureux, Paul	04/20/2009 @ 1112	04/20/2009 @ 1407	RD	AE2
6	AFD068	Low, Geoff	04/20/2009 @ 1115	04/20/2009 @ 1404	RD	AE3
7	AFD088	Gabri, Capen	04/20/2009 @ 1115	04/20/2009 @ 1404	RD	AE3
8	AFD082	Dumont, Robert	04/20/2009 @ 1115	04/20/2009 @ 1405	RD	AE5
9	AFD089	Wiers, Nicholas	04/20/2009 @ 1115	04/20/2009 @ 1405	RD	AE5
10	AFD102	Washburn, Christopher	04/20/2009 @ 1115	04/20/2009 @ 1405	RD	AE5
11	AFD076	Andreasen, Christian	04/20/2009 @ 1115	04/20/2009 @ 1405	RD	AR1
12	AFD104	Printup, Thomas	04/20/2009 @ 1115	04/20/2009 @ 1405	RD	AR1
13	AFD061	Burnham, Scott	04/20/2009 @ 1259	04/20/2009 @ 1408	OT	ATR1
14	AFD103	Aceto, Dan	04/20/2009 @ 1259	04/20/2009 @ 1408	RD	ATR1

Incident #: 09AUB-1218-IN Exp. 0

NARRATIVE FOR PLATOON CHIEF VICTOR MATHIEU

Ref: 09AUB-1218-IN

Entered: 04/20/2009 @ 1954 Entry ID: AFD021
Modified: 04/21/2009 @ 1140 Modified ID: AFD014

One truck call for a report of a grass fire. Before leaving the station, a fairly large plum of thick black smoke was noticed by on duty crews in the vicinity or the reported grass fire. 315 ordered a full box assignment on the presumption that whatever was burning was large and seemed petroleum based.

R-1 was first on scene, reported several vehicles, tires, asphalt shingles and piles of rubble on fire. 315 on scene, assumed command. E-2 directed to drop a rural hitch into the fire area and use their master stream to try and knock down the fire. E-5 and E-3 to empty their water to E-2. T-1 on scene, sent to assist E-2 and R-1.

315 ordered a second alarm, manpower only, also tankers from our mutual aid communities and fill in for Central Station. Driver of E-5 was sent to the closest hydrant and ordered to set up a fill site for tankers, remaining manpower to assist on the fire ground. Driver of E-3 directed to act as the dump site officer, remaining personnel to assist with fire ground operations. Tanker shuttle operations began and water supply was established with no issues.

The original fire was confined to approximately one acre of land. The main body of the fire contained numerous types of materials including but not limited to Tires, asphalt roofing shingles, building debris, etc... The perimeter of the fire was mostly forest that had begun to burn, dry conditions and a steady breeze accelerated the flame spread.

Crews began to work the perimeter of the fire with 1.75" hand lines in an effort to circle and contain the fire. E-2 with the use of their master stream concentrated on knocking down the piles of debris that was burning. Crews were rotated with fresh second alarm crews and sent to rehab. The fire was confined, extinguishment and overhaul began. Auburn Public Works was called for the use of an excavator to assist in turning over piles of debris in order to extinguish deep seated hot spots. After piles of material would be turned, class A foam solution was applied, class A foam was necessary in order to expedite extinguishment. Extinguishment and over haul was completed, equipment was and crews returned to service.

Initial reports from the land owner state that discarded smoking material led to the ignition of the fire. The Maine DEP was notified and on scene due to the proximity of the Little Androscoggin River and material involved in the fire. Maine Forest Service on scene and investigating because of the involvement of brush and woods in the area.

Auburn Fire Department
Incident Report

Incident #: 10AUB-515-IN Exp. 0

Call #: 10-17054

Location: 741 BROAD ST
Auburn,ME 04210

District: Afd - E2 Tanker
Station: AFD - SOUTH MAIN ST

Officer In Charge: Andreasen, Christian on 03/10/2010
Report By: Andreasen, Christian on 03/18/2010
Approved By: Allen, Timothy on 03/27/2010

Basic Incident Information

Incident Type: **Attempted burning, illegal action, other**
Property Use: Dump, sanitary landfill
Actions Taken: Information, investigation & enforcement, other
Detector: Unknown

Resources Used Summary

Alarm: 03/10/2010 @ 1030
Cleared: 03/10/2010 @ 1058
Arrived: 03/10/2010 @ 1047

Shift: A
Alarms: 1
Aid: None

	Apparatus	Personnel
Suppression:	1	3
EMS:	0	0
Other:	0	0

Casualties Summary

	Deaths	Injuries
Fire Service:	0	0
Civilian:	0	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	AUBURN ENGINE 2 AE2	Engine	Disp 03/10/2010 @ 1034 Arr 03/10/2010 @ 1047 Clr 03/10/2010 @ 1058 InSv 03/10/2010 @ 1058	3 Suppr	- Information, inve

#	ID	Personnel	Start	End	Dty	Station App
1	AFD031	Hart, James	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2
2	AFD076	Andreasen, Christian	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2
3	AFD111	Hillier, Dan	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2

Incident #: 10AUB-515-IN Exp. 0

NARRATIVE FOR LIEUTENANT CHRISTIAN ANDREASEN

Ref: 10AUB-515-IN

Entered: 03/18/2010 @ 2200 Entry ID: AFD076
Modified: 03/18/2010 @ 2200 Modified ID: AFD076

Called to check a person that may be burning illegal materials. Found a person burning old vehicle seats in a barrel. advised them to extinguish the fire and not burn such items again.

Incident #: 09AUB-2692-IN Exp. 0

Call #: 09-68845

Location: TYLER TRANSPORTATION
741 BROAD ST
AUBURN,ME 04210

District: Afd - E2 Tanker
Station: AFD - SOUTH MAIN ST

Officer In Charge: Allen, Timothy on 09/04/2009
Report By: Allen, Timothy on 09/04/2009
Approved By: Allen, Timothy on 09/04/2009

Basic Incident Information

Incident Type: **Outside rubbish, trash or waste fire**
Property Use: Dump, sanitary landfill
Actions Taken: Extinguishment by fire service personnel
Investigate

Owner: JOHN MCLEAN
741 BROAD ST
AUBURN, ME 04210

Property Loss: $0 Pre-Incident Value: Undetermined
Contents Loss: $0 Pre-Incident Value: Undetermined

Resources Used Summary

Alarm: 09/04/2009 @ 2028 Arrived: 09/04/2009 @ 2038
Cleared: 09/04/2009 @ 2103

Shift: B Alarms: 1 Aid: Mutual aid received

	Apparatus		Personnel
Suppression:	4	Suppression:	11
EMS:	0	EMS:	0
Other:	2	Other:	3

Casualties Summary

	Deaths		Injuries
Fire Service:	0	Fire Service:	0
Civilian:	0	Civilian:	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1	JOHN MCLEAN 741 BROAD ST AUBURN, ME 04210	Occupant	M			

Incident #: 09AUB-2692-IN Exp. 0

Fire

Buildings involved: 0
Residential living units: 0
Acres Burned:

Area of origin: Outside area, other
Cause of ignition: Intentional
Heat source: Lighter: cigarette, cigar
Item first ignited: Undetermined
Type of material: Multiple types of material
1st Contributing Ignition Factor:
2nd Contributing Ignition Factor:

Mobile Property Involved: None

Pre-fire plan available: No

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	Aub Battalion Chiefs 315	Mobile command post	Disp 09/04/2009 @ 2030 Arr 09/04/2009 @ 2038 Clr 09/04/2009 @ 2058 InSv 09/04/2009 @ 2058	1 Other	- Investigate - Incident command
2	AUBURN ENGINE 2 AE2	Engine	Disp 09/04/2009 @ 2030 Arr 09/04/2009 @ 2038 Clr 09/04/2009 @ 2103 InSv 09/04/2009 @ 2103	3 Suppr	- Extinguishment by
3	Auburn Engine 3 AE3	Engine	Disp 09/04/2009 @ 2030 InSv 09/04/2009 @ 2044	3 Suppr	- Cancelled en rout
4	Auburn Engine 5 AE5	Engine	Disp 09/04/2009 @ 2030 InSv 09/04/2009 @ 2044	3 Suppr	- Cancelled en rout
5	Auburn Rescue 1 AR1	Medical & rescue uni	Disp 09/04/2009 @ 2030 InSv 09/04/2009 @ 2042	2 Other	- Cancelled en rout
6	Auburn Tower 1 ATR1	Truck or aerial	Disp 09/04/2009 @ 2030 InSv 09/04/2009 @ 2044	2 Suppr	- Cancelled en rout

#	ID	Personnel	Start	End	Dty	Station App
1	AFD014	Allen, Timothy	09/04/2009 @ 2030	09/04/2009 @ 2058	RD	315
2	AFD083	Fifield, Matthew	09/04/2009 @ 2030	09/04/2009 @ 2103	RD	AE2
3	AFD097	Coombs, Stephen	09/04/2009 @ 2030	09/04/2009 @ 2103	OT	AE2
4	AFD105	Poremby, Christopher	09/04/2009 @ 2030	09/04/2009 @ 2103	RD	AE2
5	AFD065	Richard, David	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	AE3
6	AFD104	Printup, Thomas	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	AE3
7	AFD110	Hunter, Thomas	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	AE3
8	AFD061	Burnham, Scott	09/04/2009 @ 2030	09/04/2009 @ 2044	OT	AE5
9	AFD085	Bouchard, Craig	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	AE5
10	AFD111	Hillier, Dan	09/04/2009 @ 2030	09/04/2009 @ 2044	OT	AE5
11	AFD075	Scott, Michael	09/04/2009 @ 2030	09/04/2009 @ 2042	RD	AR1
12	AFD080	Dionne, Richard	09/04/2009 @ 2030	09/04/2009 @ 2042	RD	AR1
13	AFD066	Ball, Douglas	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	ATR1
14	AFD106	Flanders, William	09/04/2009 @ 2030	09/04/2009 @ 2044	RD	ATR1

Incident #: 09AUB-2692-IN Exp. 0

NARRATIVE FOR PLATOON CHIEF TIMOTHY ALLEN

Ref: 09AUB-2692-IN

Entered: 09/04/2009 @ 2119 Entry ID: AFD014
Modified: 08/01/2016 @ 1540 Modified ID: AFD014

Called for a reported structure fire called in by Auburn Public Works. They reported seeing fire on the entire rear side of the building. Due to location, mutual aid tankers were requested. E-2 on scene reporting that this is not a structure fire but a large bon fire at the rear of the building. E-2 advises that they can handle but wanted 315 on scene. All other units except 315 and E-2 were cancelled.

On arrival of 315, Pvt. Fifield reported that the owners had a large bon fire located less that five feet from the building. The initial fire included furniture and other products which were not supposed to be burnt. The fire had also started another large nearby pile of furniture and other debris on fire by radiant heat. Both fires were extinguished by means of pre connected line and tank water.

Owner was involved in another illegal fire earlier this year, and tonight he told Pvt. Fifield that the Forest Ranger had told him that the location where he had his fire was OK. This is against all outdoor burning rules and regulation and with Auburn Fire outdoor burning rules. Forestry department will be notified on our next shift. Owner ordered not to burn again without a permit and preburn inspection.

Incident #: 10AUB-515-IN Exp. 0

Call #: 10-17054

Location: 741 BROAD ST
Auburn,ME 04210

District: Afd - E2 Tanker
Station: AFD - SOUTH MAIN ST

Officer In Charge: Andreasen, Christian on 03/10/2010
Report By: Andreasen, Christian on 03/18/2010
Approved By: Allen, Timothy on 03/27/2010

Basic Incident Information

Incident Type: **Attempted burning, illegal action, other**
Property Use: Dump, sanitary landfill
Actions Taken: Information, investigation & enforcement, other
Detector: Unknown

Resources Used Summary

Alarm: 03/10/2010 @ 1030
Arrived: 03/10/2010 @ 1047
Cleared: 03/10/2010 @ 1058

Shift: A
Alarms: 1
Aid: None

	Apparatus	Personnel
Suppression:	1	3
EMS:	0	0
Other:	0	0

Casualties Summary

	Deaths	Injuries
Fire Service:	0	0
Civilian:	0	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	AUBURN ENGINE 2 AE2	Engine	Disp 03/10/2010 @ 1034 Arr 03/10/2010 @ 1047 Clr 03/10/2010 @ 1058 InSv 03/10/2010 @ 1058	3 Suppr	- Information, inve

#	ID	Personnel	Start	End	Dty	Station App
1	AFD031	Hart, James	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2
2	AFD076	Andreasen, Christian	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2
3	AFD111	Hillier, Dan	03/10/2010 @ 1034	03/10/2010 @ 1058	RD	AE2

Incident #: 10AUB-515-IN Exp. 0

NARRATIVE FOR LIEUTENANT CHRISTIAN ANDREASEN

Ref: 10AUB-515-IN

Entered: 03/18/2010 @ 2200 Entry ID: AFD076
Modified: 03/18/2010 @ 2200 Modified ID: AFD076

Called to check a person that may be burning illegal materials. Found a person burning old vehicle seats in a barrel. advised them to extinguish the fire and not burn such items again.

Auburn Fire Department
Incident Report

Incident #: 16AUB-2062-IN Exp. 0

Call #: 16-53624

Location: 675 BROAD ST
Auburn,ME 04210

District: AFD - ENGINE 2
Station: AFD - SOUTH MAIN ST

Officer In Charge: Milligan, Dean on 06/19/2016
Report By: Milligan, Dean on 06/19/2016
Approved By: Allen, Timothy on 06/20/2016

Basic Incident Information

Incident Type: **Unauthorized burning**
Property Use: Outside material storage area
Actions Taken: Extinguishment by fire service personnel
HazMat Release: None

Property Loss: $0
Contents Loss: $0

Pre-Incident Value: Undetermined
Pre-Incident Value: Undetermined

Resources Used Summary

Alarm: 06/18/2016 @ 2116
Cleared: 06/18/2016 @ 2158

Arrived: 06/18/2016 @ 2123

Shift: A

Alarms: 1

Aid: Mutual aid received

	Apparatus
Suppression:	3
EMS:	2
Other:	1

	Personnel
Suppression:	9
EMS:	4
Other:	1

Casualties Summary

	Deaths
Fire Service:	0
Civilian:	0

	Injuries
Fire Service:	0
Civilian:	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

#	Apparatus	Type	Dates/Times	Per	Use	Actions Taken
1	Aub Battalion Chiefs 315	Mobile command post	Disp 06/18/2016 @ 2120 Arr 06/18/2016 @ 2125 Clr 06/18/2016 @ 2151 InQt 06/18/2016 @ 2151 InSv 06/18/2016 @ 2151	1	Other	- Incident command - Enforce codes - Investigate

Incident #: 16AUB-2062-IN Exp. 0

2	AUBURN ENGINE 2 AE2	Engine	Disp 06/18/2016 @ 2119 Arr 06/18/2016 @ 2123 Clr 06/18/2016 @ 2158 InQt 06/18/2016 @ 2158 InSv 06/18/2016 @ 2158	3	Suppr	- Extinguishment by - Salvage & overhau
3	Auburn Engine 3 AE3	Engine	Disp 06/18/2016 @ 2120 Arr 06/18/2016 @ 2126 Clr 06/18/2016 @ 2151 InQt 06/18/2016 @ 2151 InSv 06/18/2016 @ 2151	3	Suppr	- Standby
4	Auburn Rescue 3 AR3	Medical & rescue uni	Disp 06/18/2016 @ 2119 Arr 06/18/2016 @ 2125 Clr 06/18/2016 @ 2135 InQt 06/18/2016 @ 2135 InSv 06/18/2016 @ 2135	2	EMS	- Standby
5	Auburn Rescue 5 AR5	Medical & rescue uni	Disp 06/18/2016 @ 2119 Clr 06/18/2016 @ 2126 InQt 06/18/2016 @ 2126 InSv 06/18/2016 @ 2126	2	EMS	- Cancelled en rout
6	AFD TRUCK 1 "Quint" ATRU1	Truck or aerial	Disp 06/18/2016 @ 2119 Arr 06/18/2016 @ 2125 Clr 06/18/2016 @ 2126 InQt 06/18/2016 @ 2126 InSv 06/18/2016 @ 2126	3	Suppr	- Cancelled en rout

#	ID	Personnel	Start	End	Dty	Station	App
1	AFD063	Milligan, Dean	06/18/2016 @ 2120	06/18/2016 @ 2151	RD	AO3	315
2	AFD072	Gravel, John	06/18/2016 @ 2119	06/18/2016 @ 2158	OT	AO2	AE2
3	AFD088	Gabri, Capen	06/18/2016 @ 2119	06/18/2016 @ 2158	RD	AO2	AE2
4	AFD106	Flanders, William	06/18/2016 @ 2119	06/18/2016 @ 2158	RD	AO2	AE2
5	AFD092	Bolduc, Jeff	06/18/2016 @ 2120	06/18/2016 @ 2151	RD	AO3	AE3
6	AFD093	Demers, Ryan	06/18/2016 @ 2120	06/18/2016 @ 2151	RD	AO3	AE3
7	AFD115	Carver, Justin	06/18/2016 @ 2120	06/18/2016 @ 2151	RD	AO3	AE3
8	AFD113	Gabri, Joseph	06/18/2016 @ 2119	06/18/2016 @ 2135	RD	AO3	AR3
9	AFD126	Michaud, Eric	06/18/2016 @ 2119	06/18/2016 @ 2135	OT	AO3	AR3
10	AFD086	Martin, Brian	06/18/2016 @ 2119	06/18/2016 @ 2126	RD	AO5	AR5
11	AFD114	LaBonte, Joshua	06/18/2016 @ 2119	06/18/2016 @ 2126	RD	AO5	AR5
12	AFD061	Burnham, Scott	06/18/2016 @ 2119	06/18/2016 @ 2126	RD	AO5	ATRU1
13	AFD077	Haskell, Frederick	06/18/2016 @ 2119	06/18/2016 @ 2126	RD	AO5	ATRU1
14	AFD109	Schadtle, Michael	06/18/2016 @ 2119	06/18/2016 @ 2126	RD	AO5	ATRU1

NARRATIVE FOR FIRE PREVENTION OFFICER DAVID O'CONNELL

Ref: 16AUB-2062-IN

Entered: 06/20/2016 @ 1036 Entry ID: AFD096
Modified: 06/20/2016 @ 1036 Modified ID: AFD096

The correct address for this incident is 741 Broad Sreet., owner is a Mr. John A McLean. After reviewing previous call history for this address, I found three prior verbal warning issued to Mr. McLean for burning unauthorized material and burning without a permit. I contacted the Maine State Foresty Service and asked for a Forest Ranger to contact me.

Forest Ranger Brad Bucknell contacted me VIA phone. I explained the issues the Auburn Fire Department (AFD) has had with this address and land owner and that I printed out all documentation for his review. Ranger Bucknell stated that he would stop by my office within an hour.

Forest Ranger's Bucknell and Amy Burgess arrived at my office and collected my documentation. Both Rangers stated that they will be following up with Mr. McLean in regards to his activity at 741 Broad St.

I contacted dispatch and had them flag Mr. McLean and 741 Broad St. for summons if found to be burning without a permit or unauthorized material.

NARRATIVE FOR BATTALION CHIEF DEAN MILLIGAN

Ref: 16AUB-2062-IN

Entered: 06/19/2016 @ 0756 Entry ID: AFD063
Modified: 06/19/2016 @ 0756 Modified ID: AFD063

Dispatched for a reported structure fire. During response dispatch advised they had received a few calls on this incident. 315 requested Lewiston Ladder be dispatched. 315 tried to get additional information and dispatch advised that they were unsure of exact situation that all they had was reports of seeing heavy black smoke in the area but no specific information confirming a working fire. 315 just requested the Ladder no additional units. E-2 arrived and advised of a storage building with flames being seen from the roadway. After working their way up a dirt driveway and around the back side of building E-2 advised of a large outside fire that was out of control and impinging upon the structure. 315 arrived on scene, assumed command, and performed a size up. 315 updated dispatch with information and placed Truck 1 and Rescue 5 in service. 315 continued E-3 for possible water supply and overhaul. E-2 knocked down the fire and began overhauling the area with assistance from E-3. R-3 was placed in service. 315 had APD take the subject that was responsible and interview him while crews worked to extinguish the fire. Once fire was knocked down 315 met with APD officer to see what he knew. The gentleman was the property owner. 315 spoke to the gentleman about his burning without a permit and burning unauthorized material. The gentleman was courteous, respectful, and apologetic for burning without a permit. Given the obvious shortcomings and living conditions that this gentleman was in 315 along with APD decided to

give the man a verbal warning at this time for his unauthorized burning. 315 let him know that if called back in the future he would have no choice but to summons the gentleman. The man was very thankful to us for not taking legal action. Crews finished overhaul and went in service.

Auburn Fire Department
Incident Report

Incident #: 16AUB-2189-IN Exp. 0

Call #: 16-57212

Location: 741 BROAD ST ***CAUTION***
741 BROAD ST
Auburn,ME 04210

District: AFD - ENGINE 2
Station: AFD - SOUTH MAIN ST

Officer In Charge: Gravel, John on 06/29/2016
Report By: Gravel, John on 06/29/2016
Approved By: Allen, Timothy on 06/30/2016

Basic Incident Information

Incident Type: **Fires in structure other than in a building**
Property Use: Warehouse
Actions Taken: Information, investigation & enforcement, other
Salvage & overhaul
HazMat Release: None

Owner: 741 BROAD ST ***CAUTION***
JOHN MCLEAN
741 BROAD ST
Auburn, ME 04210
Phone #: 207-000-0000

Property Loss: $0
Contents Loss: $0

Pre-Incident Value: $0
Pre-Incident Value: $0

Resources Used Summary

Alarm: 06/29/2016 @ 0805
Cleared: 06/29/2016 @ 0900

Arrived: 06/29/2016 @ 0812

Shift: D

Alarms: 1

Aid: None

	Apparatus	Personnel
Suppression:	1	3
EMS:	0	0
Other:	1	1

Casualties Summary

	Deaths	Injuries
Fire Service:	0	0
Civilian:	0	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

Incident #: 16AUB-2189-IN Exp. 0

Fire

Buildings involved: 0 On site mat 1: Trash, not recyclable -Bulk storage or warehousing
Residential living units: 0
Acres Burned:

Area of origin: Other area of fire origin
Cause of ignition: Unintentional
Heat source: Lighter: cigarette, cigar
Item first ignited: Floor covering or rug/carpet/mat, surface
Type of material: Fabric, fiber, cotton, blends, rayon, wool
1st Contributing Ignition Factor:
2nd Contributing Ignition Factor:

Human factors contributing to ignition: Asleep, Possibly mentally disabled

Mobile Property Involved: None

Pre-fire plan available: No

Structure

Structure type: Open structure
Building status: Undetermined
Main floor size: 24' x 30'
Stories above grade: 1
Stories below grade: 0

Story of fire origin: 1
Fire spread: Confined to room of origin
Stories with minor damage: 1
Stories with significant damage: 0
Stories with heavy damage: 0
Stories with extreme damage: 0

Detector presence: None present

Automatic extinguishment system: None Present

#	Apparatus	Type	Dates/Times	Per	Use	Actions Taken
1	Auburn FPO Vehicle 322	Privately owned vehi	Disp 06/29/2016 @ 0810 Arr 06/29/2016 @ 0818 Clr 06/29/2016 @ 0900 InQt 06/29/2016 @ 0900 InSv 06/29/2016 @ 0900	1	Other	- Investigate
2	AUBURN ENGINE 2 AE2	Engine	Disp 06/29/2016 @ 0806 Arr 06/29/2016 @ 0812 Clr 06/29/2016 @ 0830 InQt 06/29/2016 @ 0830 InSv 06/29/2016 @ 0830	3	Suppr	- Salvage & overhau - Investigate - Incident command

#	ID	Personnel	Start	End	Dty	Station	App
1	AFD096	O'Connell, David	06/29/2016 @ 0810	06/29/2016 @ 0900		AO3	322
2	AFD072	Gravel, John	06/29/2016 @ 0806	06/29/2016 @ 0830	RD	AO2	AE2
3	AFD081	Saunders, Eric	06/29/2016 @ 0806	06/29/2016 @ 0830	OT	AO2	AE2
4	AFD095	Braband, Zachary	06/29/2016 @ 0806	06/29/2016 @ 0830	RD	AO2	AE2

Incident #: 16AUB-2189-IN Exp. 0

NARRATIVE FOR FIRE PREVENTION OFFICER DAVID O'CONNELL

Ref: 16AUB-2189-IN

Entered: 06/30/2016 @ 0821 Entry ID: AFD096
Modified: 07/01/2016 @ 0851 Modified ID: AFD096

On 06/29/2016 at 0810 hrs, I, David O'Connell, was requested to respond to 741 Broad Street for a reported unauthorized fire. I arrived on scene to find that the property owner, John A McLean, was living in one of the structures on his property. Mr. McLean had knocked over a lit candle near his makesift bed causing the carpet on the floor and wall to ignite. Engine 2 crew had extinguished the fire and were overhauling the wall for hot spots upon my arrival. Mr. McLean did not appear to be upset about the accident even though he almost burned down his building.

The property has a total of three buildings on site, all are listed as industrial/warehouse occupancy. Not one of the buildings has utilities or water. Mr. McLean stated that he is waiting for his social security check to have utilities returned to his property, but from my observations the electrical service has been severed at the utility pole for a long time. Speaking with Mr. McLean, I found out that he was working on burying his trash and debris in an attempt to clean up his property. Mr. McLean stated that he plans on turning the property into a campground for people to come stay at since he has 10 acres of property abutting the river. I asked Mr. McLean if he had any transportation? Mr. McLean said he had a bicycle due to the fact that his truck broke down, but he is going to fix his truck with his social security check as well.

Mr. McLean appeared to be thin and having poor hygiene. I asked Mr. McLean if he had a working bathroom and he stated he had no water, but uses rain water to get by. I asked Mr. McLean if he had any smoke alarms in the front office building where he is planning on moving his mattress, and he stated "yes, two of them". I asked Mr. McLean if they were in working order and he stated that they have batteries and work. Mr. McLean then walked up to the old business office and entered the building. Shortly after, I approached the business office and found the door open with Mr. McLean sitting inside the building. I asked Mr. McLean if I may come inside and he gave me his consent to enter. Once inside I stated to Mr. McLean that I did not see any smoke alarms. Mr. McLean stated that he lied to me and that he did not have any smoke alarms. I advised Mr. McLean that I would get a smoke alarm for his safety and he stated "thank you, do you have any fire extinguishers"? I advised Mr. McLean that I did not have free fire extinguishers at this time. Mr. McLean stated "well it doesnt hurt to ask". I advised Mr. McLean that I was concerned about his safety and his living arrangements. Mr .McLean stated that he sometimes sleeps on his daughter's couch when he goes over to visit her. All my observations were recorded by digital photographs and saved on my office computer in a file.

All structures on the premise appear to be in a dilapidated state and are in need of major repair before they would be safe for occupancy. Prior to leaving the property I asked Mr. McLean if he would be willing to accept help from social services? Mr. McLean stated that he would accept services to be provided if available. I asked Mr. McLean if he had a cell phone, which he stated "yes". I gave Mr. McLean the phone number to Dot Meagher who is in charge of Health and Human Services through the city of Auburn and asked him to reach out to her.

Cleared

06/29/2016 at 1233 hrs, I called DHHS to start a case on Mr. McLean.

At 1410 hrs, I received a phone call from DHHS, Cristy Goodman (Supervisor) stated that she will assign a caseworker to Mr. McLean, but due to staffing issues, it will not be until next week.

At 1452 hrs, I called Lisa True (daughter of Mr. McLean) at 207-344-8563, to discuss the concerns I have with her father's safety and well being. Left a voice message.

As of 06/30/2016 at 0851 hrs, I have not heard back from Ms. True about her father.

On 06/30/2016 at 1045 hrs, Myself, Zack Lenhert, and Eric Cousins arrived at 741 Broad Street and met with Mr. McLean. Mr. McLean gave verbal consent for us to inspect the property and take pictures. While on scene I located three hypodermic needles disposed outside of the garage. I properly disposed of the hypodermic needles into a sharps shuttle that I carry in my department vehicle. I gave Mr. McLean a smoke alarm with a 9 volt battery, instructions, and hardware to mount the smoke alarm. The smoke alarm was tested on site to confirm it was operational, liability waver was signed by Mr. McLean. My photographs were uploaded to my office computer and save to a file.

NARRATIVE FOR LIEUTENANT JOHN GRAVEL

Ref: **16AUB-2189-IN**

Entered: 06/29/2016 @ 1833 Entry ID: AFD072
Modified: 06/30/2016 @ 0700 Modified ID: AFD014

At 0805 hours on 06/29/2016 we were dispatched to 741 BROAD ST 741 BROAD ST ***CAUTION***. Alarm number 16AUB-2189-IN has been assigned to this incident.

E2 called to a garbage fire along side a garage barn
E2 on scene to find the fire was extinguished but was still smoking

Incident #: 16AUB-2555-IN Exp. 0

Call #: 16-68559

Location: 741 BROAD ST
Auburn,ME 04210

District: AFD - ENGINE 2
Station: AFD - SOUTH MAIN ST

Officer In Charge: Therrien, Donald on 07/30/2016
Report By: Therrien, Donald on 07/30/2016
Approved By: Allen, Timothy on 08/01/2016

Basic Incident Information

Incident Type: **Unauthorized burning**
Property Use: Vacant lot
Actions Taken: Extinguishment by fire service personnel
HazMat Release: None

Owner: TYLER TRANSPORTATION
SUSAN LEBLOND
741 BROAD ST
Auburn, ME 04210
Phone #: 207-783-2854

Property Loss: $0 Pre-Incident Value: Undetermined
Contents Loss: $0 Pre-Incident Value: Undetermined

Resources Used Summary

Alarm: 07/30/2016 @ 1608 Arrived: 07/30/2016 @ 1614
Controlled: 07/30/2016 @ 1640 Cleared: 07/30/2016 @ 1644

Shift: C Alarms: 1 Aid: None

	Apparatus		Personnel
Suppression:	1	Suppression:	4
EMS:	0	EMS:	0
Other:	0	Other:	0

Casualties Summary

	Deaths		Injuries
Fire Service:	0	Fire Service:	0
Civilian:	0	Civilian:	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

Incident #: 16AUB-2555-IN Exp. 0

Wildland Fire

Area type: Urban-wildland interface area

Cause: Open/outdoor fire
Factor contributing to ignition 1: Outside/open fire for debris or waste disposal
Fire suppression factor 1: None
Fire suppression factor 2: None
Fire suppression factor 3: None
Heat source: Incendiary device
Mobile property type: None
Equipment involved in ignition: None

Human factors contributing to ignition: None

Total acres burned: 1.0

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	AUBURN ENGINE 2 AE2	Engine	Disp 07/30/2016 @ 1609 Arr 07/30/2016 @ 1614 Clr 07/30/2016 @ 1644 InQt 07/30/2016 @ 1644 InSv 07/30/2016 @ 1644	4 Suppr	- Extinguishment by

#	ID	Personnel	Start	End	Dty	Station	App
1	AFD045	Therrien, Donald	07/30/2016 @ 1609	07/30/2016 @ 1644	RD	AO2	AE2
2	AFD069	Rickett, Kevin	07/30/2016 @ 1609	07/30/2016 @ 1644	RD	AO2	AE2
3	AFD070	Flanagan, Donald	07/30/2016 @ 1609	07/30/2016 @ 1644		AO2	AE2
4	AFD097	Coombs, Stephen	07/30/2016 @ 1609	07/30/2016 @ 1644	RD	AO2	AE2

NARRATIVE FOR LIEUTENANT DONALD THERRIEN

Ref: 16AUB-2555-IN

Entered: 07/30/2016 @ 1702 Entry ID: AFD045
Modified: 08/01/2016 @ 0848 Modified ID: AFD014

On this date 7/30/2016 Auburn Engine 2 was dispatched for lots of black smoke in the area of Randy's Auto junkyard that runs off Broad St. Engine 2 arrived on scene at the address of 741 Broad Street with heavy black smoke showing from the back lot area of this property. This area where the burning was taking place was approximately 200 yards off the main road that opens up into a clearing.

As Pvt. Steven Coombs and myself were walking up to the fire, we witness a gentleman throwing illegal material onto the free burning fire. At this time, I ask Pvt. Coombs to photograph the fire area. Three photographs were taken. As my crew and I got closer to the fire area, this gentleman approached us. I stated to him he was burning illegal material. I asked for his name he give me John Mclean and than stated he was burning this material for the metal and copper. (Note) At no time was Mr Mclean disrespectful or threatening, he was very cooperative. After our short conversation he simply turned around and went back to cleaning his lot.

I called for the Auburn Police Department and the Forest Ranger due to the location and the material that was being burnt, along with illegal burning of materials, this area appeared to be a dumping area for piles of construction leftovers and household goods.

The fire department extinguished the fire that consumed a refrigerator, microwave and within this fridge was lots of plastic and metal. Next to the free burning fire was a pile of debris that was already burnt. On top of this pile was a tractor trailer tire that had not caught fire yet. The grassy area around the fire was burnt along with some damage to low-lying tree limbs. I Notified through dispatch, the Maine Forest Department. No representative responded, but they spoke with the APD unit on scene by phone.

On scene was:
BC Donald Flanagan AFD
Lt. Donald Therrien AFD
Pvt. Stephen Coombs AFD
Pvt. Kevin Rickett AFD
Officer Thomas TJ Ellis APD

Incident #: 16AUB-3128-IN Exp. 0

Call #: 16-84586

Location: 741 BROAD ST ***CAUTION***
741 BROAD ST
Auburn,ME 04210

District: AFD - ENGINE 2
Station: AFD - SOUTH MAIN ST

Officer In Charge: O'Connell, David on 09/14/2016
Report By: O'Connell, David on 09/14/2016
Approved By: Allen, Timothy on 09/14/2016

Basic Incident Information

Incident Type: **Trash or rubbish fire, contained**
Property Use: Open land or field
Actions Taken: Investigate
Detector: Unknown
HazMat Release: None

Owner: 741 BROAD ST ***CAUTION***
JOHN MCLEAN
741 BROAD ST
Auburn, ME 04210
Phone #: 207-000-0000

Property Loss: $0 Pre-Incident Value: Undetermined
Contents Loss: $0 Pre-Incident Value: Undetermined

Resources Used Summary

Alarm: 09/13/2016 @ 0937 Arrived: 09/13/2016 @ 0937
Cleared: 09/13/2016 @ 1054

Alarms: 1 Aid: None

	Apparatus		Personnel
Suppression:	0	Suppression:	0
EMS:	0	EMS:	0
Other:	1	Other:	1

Casualties Summary

	Deaths		Injuries
Fire Service:	0	Fire Service:	0
Civilian:	0	Civilian:	0

Incident #: 16AUB-3128-IN Exp. 0

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	Auburn FPO Vehicle 322	Privately owned vehi	Disp 09/13/2016 @ 0937 Arr 09/13/2016 @ 0937 Clr 09/13/2016 @ 1054 InQt 09/13/2016 @ 1054 InSv 09/13/2016 @ 1054	1 Other	- Investigate

#	ID	Personnel	Start	End	Dty	Station	App
1	AFD096	O'Connell, David	09/13/2016 @ 0937	09/13/2016 @ 1054	AO3	322	

Incident #: 16AUB-3128-IN Exp. 0

NARRATIVE FOR FIRE PREVENTION OFFICER DAVID O'CONNELL

Ref: 16AUB-3128-IN

Entered: 09/14/2016 @ 1328 Entry ID: AFD096
Modified: 09/14/2016 @ 1354 Modified ID: AFD014

Arrived at 741 Broad Street at 0900 hrs, to meet with a representative from the Department Of Environmental Protection (DEP) and Auburn Code Enforcement Officer Zachery Lenhert, to inspect an oil spill on the property. While on scene I observed smoke coming from a debris pile. Upon further investigation, I found materials to include, but not limited to; asphalt shingles, metal, and metal wiring in the smoldering pile of debris. All of my observations were recorded by video and digital pictures and then saved to a file on my office computer.

I contacted Forest Ranger Amy Burgess (207-307-4712), and advised her of the situation. Due to the previous two counts of illegal burning, Ranger Burgess advised me to have the Auburn Police Department (APD) to summons Mr. McLean for burning without a permit and burning solid waste.

APD officer Shawn Carll arrived on scene and issued a summons to Mr. McLean. APD Case# 16-84590

Due to the multitude of previous calls that the fire department has responded to at Mr. McLean's property, I reiterated to Mr. McLean that under no circumstances is he to burn on his property, unless I inspect his pile of debris, and a burning permit is issued through the fire department.

Mr. McLean had some helpers at his property extinguish the fire with water while I was still on scene.

Cleared in service.

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Incident #: 16AUB-3465-IN Exp. 0

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Call #: 16-93455

Location: 741 BROAD ST ***CAUTION***
741 BROAD ST
AUBURN,ME 04210

District: AFD - ENGINE 2
Station: AFD - SOUTH MAIN ST

Officer In Charge: Andreasen, Christian on 10/08/2016
Report By: Andreasen, Christian on 10/08/2016
Approved By: Allen, Timothy on 10/11/2016

Basic Incident Information

Incident Type: Citizen complaint
Property Use: Industrial plant yard - area
Actions Taken: Investigate

Resources Used Summary

Alarm: 10/08/2016 @ 0953
Arrived: 10/08/2016 @ 1003
Cleared: 10/08/2016 @ 1021

Shift: A
Alarms: 1
Aid: None

	Apparatus	Personnel
Suppression:	1	3
EMS:	0	0
Other:	1	1

Casualties Summary

	Deaths	Injuries
Fire Service:	0	0
Civilian:	0	0

#	People and Entities Involved	Type	Sex	Age	Home #	Work #
1						

#	Apparatus	Type	Dates/Times	Per Use	Actions Taken
1	Aub Battalion Chiefs 315	Mobile command post	Disp 10/08/2016 @ 1000 Arr 10/08/2016 @ 1009 Clr 10/08/2016 @ 1018 InQt 10/08/2016 @ 1018 InSv 10/08/2016 @ 1018	1 Other	- Cancelled en rout

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Incident #: 16AUB-3465-IN Exp. 0

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2	AUBURN ENGINE 2 AE2	Engine	Disp 10/08/2016 @ 0957 Arr 10/08/2016 @ 1003 Clr 10/08/2016 @ 1021 InQt 10/08/2016 @ 1021 InSv 10/08/2016 @ 1021	3	Suppr - Investigate

#	ID	Personnel	Start	End	Dty	Station	App
1	AFD070	Flanagan, Donald	10/08/2016 @ 1000	10/08/2016 @ 1018	OT	AO3	315
2	AFD076	Andreasen, Christian	10/08/2016 @ 0957	10/08/2016 @ 1021	RD	AO2	AE2
3	AFD088	Gabri, Capen	10/08/2016 @ 0957	10/08/2016 @ 1021	RD	AO2	AE2
4	AFD109	Schadtle, Michael	10/08/2016 @ 0957	10/08/2016 @ 1021	RD	AO2	AE2

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NARRATIVE FOR LIEUTENANT CHRISTIAN ANDREASEN

Ref: 16AUB-3465-IN

Entered: 10/08/2016 @ 1431 Entry ID: AFD076
Modified: 10/08/2016 @ 1431 Modified ID: AFD076

Called to investigate smoke seen outside of a building. Found a condemned structure, placarded as no trespassing. Three adult males were inside with a campfire burning in a safe. One of the males claimed to own the property. Advised him to put the fire out. Turned the scene over to police.

Public Safety Calls For Service at 741 Broad St 1/1/13 to 10/11/16

Year MM DD Time	Reason	Action	Call #	Site #
2016 10 10 1629	FIRE/Smoke In/On/Near Structur	Report Taken	16-94091	581
2016 10 08 1557	Sick Person - Omega Override	Report Taken	16-93547	581
2016 10 05 1005	FIRE INFORMATION	Cleared	16-92378	581
2016 09 29 2208	POL-Warrant	Arrest(s) Made	16-90542	581
2016 09 14 1623	POL-Assist Other Dept	Complaint Cancelled	16-85071	
2016 09 13 0955	POL-Assist Other Dept	Citation/Summons Issued	16-84590	581
2016 09 13 0937	Fire: Brush_Trash: Any Outside	Report Taken	16-84586	581
2016 09 02 1528	POL-City Ordinance Violation	Cleared	16-80768	
2016 09 01 0445	Abdominal Pain	Report Taken	16-80112	
2016 08 22 1335	Hazardous Cond, Still Alarm	Cleared	16-76573	581
2016 07 30 1608	Smoke Investigation - Outdoors	Citation/Summons Issued	16-68559	4638
2016 07 22 1124	POL-Field Interview	Field Interview	16-65661	
2016 07 17 1923	FIRE INFORMATION	PASS ON SHEET / ENTRY	16-64003	
2016 06 30 2137	POL-Hazardous Conditions	Cleared	16-57870	4016
2016 06 29 0805	Fire: Brush_Trash: Any Outside	Report Taken	16-57212	581
2016 06 21 1044	POL-PROPERTY SITE CHECK	BUILDING CHECKED/SECURED	16-54436	
2016 06 09 1424	POL-Wellbeing Check	Cleared	16-50493	581
2016 04 05 1116	POL-City Ordinance Violation	Cleared	16-29176	581
2016 03 09 1821	POL-PROPERTY SITE CHECK	Cleared	16-20993	581
2014 02 25 1137	POL-Burglary	Report Taken	14-15851	
2013 08 14 1113	POL-Vehicle Stop	Verbal Warning	13-67198	581
2013 01 04 1550	POL-Abandoned E911 Call	Cleared	13-1016	4638

BURNING HAZARDOUS MATERIAL

DEBRIS ON PROPERTY

GARAGE BUILDING; BUILDING #1

SLEEPING/LIVING AREA; GARAGE-BUILDING #1

STORAGE BUILDING - BUILDING #2

UNDERSIDE OF FLOOR; BUILDING #2
MISSING COLUMN

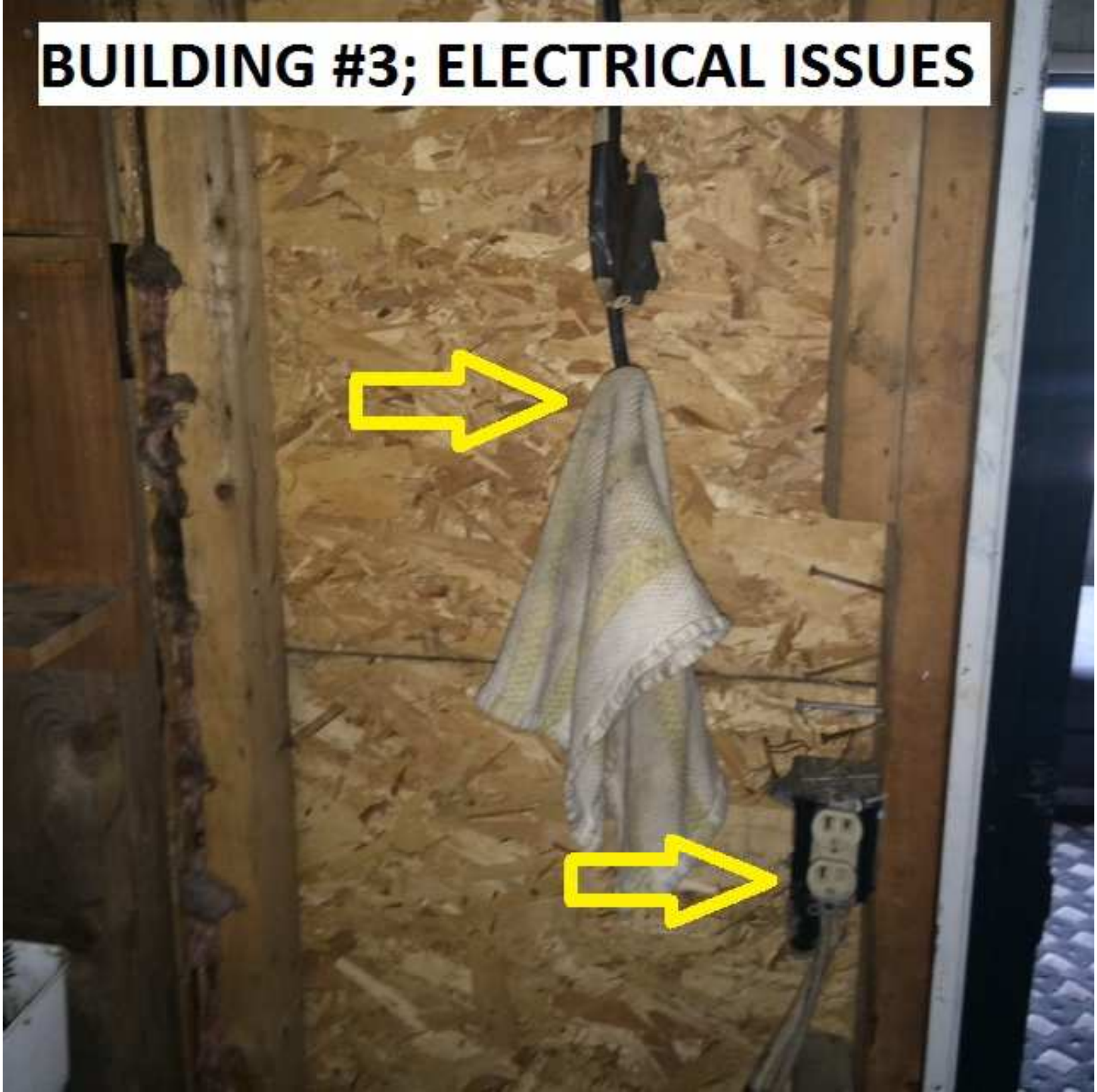
OPEN TO THE ELEMENTS
BUILDING #2

BUILDING #2; SLEEPING ARRANGEMENTS

OFFICE BUILDING; BUILDING #3

HOLE IN FLOOR, TOILET IN
LIVING SPACE; BUILDING #3

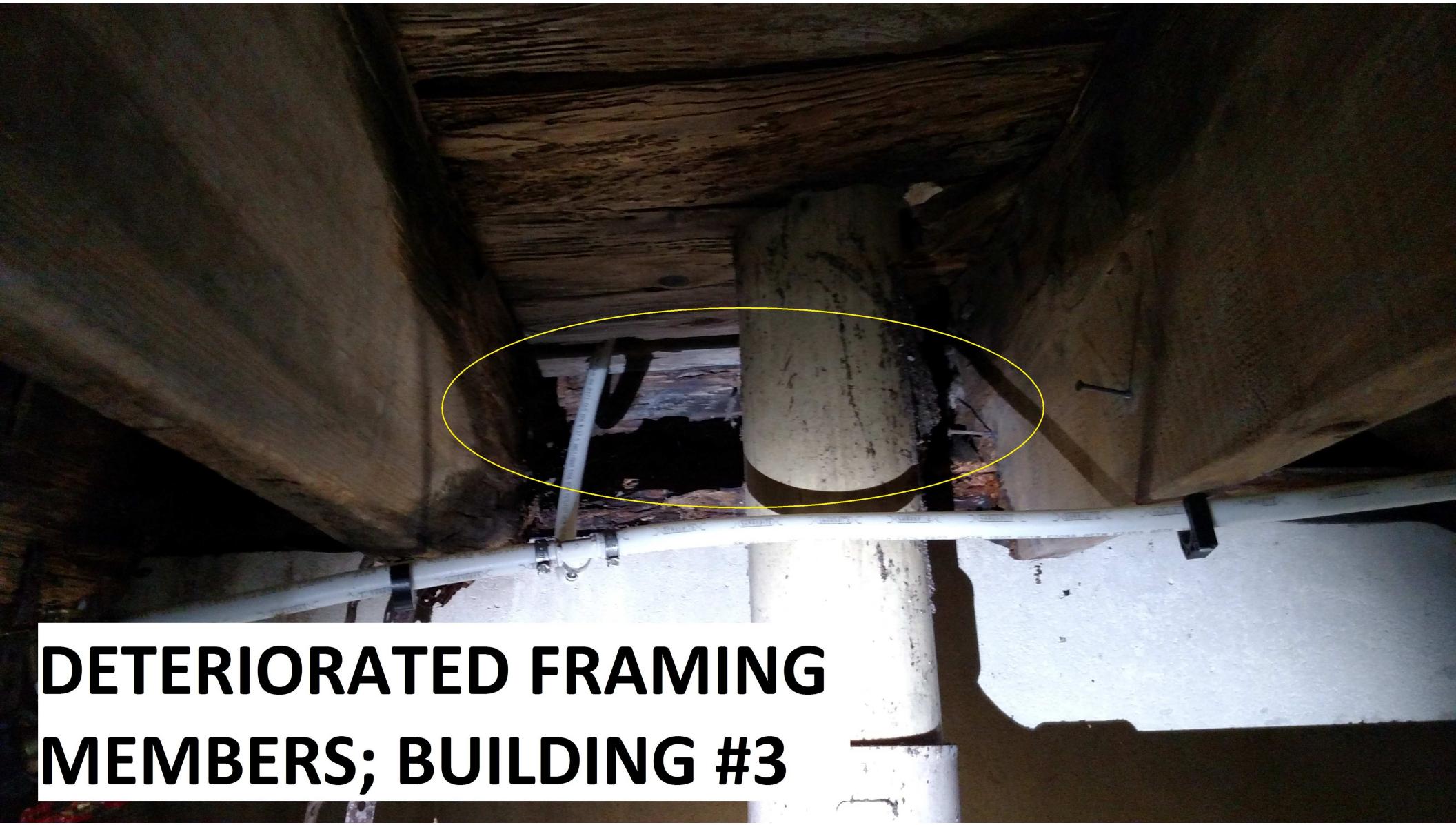
BUILDING #3; ELECTRICAL ISSUES


BUILDING #3; ELECTRICAL ISSUES

SAFE USED FOR FIRE; BUILDING #3

EGRESS/STAIR CODE ISSUE; BUILDING #3

HOLE IN FLOOR STRUCTURE; BUILDING #3



DETERIORATED FRAMING MEMBERS; BUILDING #3

Bk 6713 Pg178 #6557
03-31-2006 @ 12:27p

MORTGAGE DEED, SECURITY AGREEMENT & FINANCING STATEMENT

JOHN A MCLEAN

to

PAUL B. STREETER, TRUSTEE OF THE PAUL B. STREETER SR. REVOCABLE TRUST DATED 10/28/92

KNOW ALL MEN BY THESE PRESENTS, that **John A McLean,** whose mailing address is 14-16 Wood Street, Lewiston, Maine 04240, (the "Grantor" or "Borrower"),

In consideration of One Dollar ($1.00) and other valuable consideration paid by Paul B. Streeter, Trustee of the Paul B. Streeter Sr. Revocable Trust dated 10/28/92, with a mailing address of c/o Auburn Loan Servicing, 259 Minot Avenue, Auburn, Maine 04210, the "Grantee" or "Lender"), the receipt whereof is hereby acknowledged,

Does hereby give, grant, bargain, sell and convey unto the said **Paul B. Streeter, Trustee of the Paul B. Streeter Sr. Revocable Trust dated 10/28/92,** its successors, heirs and assigns forever, the parcel of real estate located at **Lot 21 Lakeshore Drive, Greene, Maine 04236; 741 Broad Street, Auburn, Maine 04210; and 14-16 Wood Street, Lewiston, Maine 04240**, as more particularly described in Exhibit A attached hereto.

TOGETHER WITH all buildings, fixtures and improvements now or hereafter situated thereon, including without limiting, all plumbing, electrical, heating, ventilating, air conditioning and all other building components, machinery and equipment.

ALSO HEREBY CONVEYING all of the Grantor's right, title and interest in and to the fee underlying all public or private rights-of-way, easements, streets and alleys contiguous benefiting or appurtenant to the premises conveyed hereby.

(All of the above are collectively referred to as the "Premises").

As additional security for payment and performance of the Obligations (as hereinafter defined), covenants and agreements secured hereby, Grantor hereby transfers, assigns and grants a security interest to Grantee in:

a) All rents, profits, revenues, receipts from room or site charges, royalties, rights and benefits under any and all leases or tenancies now existing or hereafter created of the Premises or any part thereof and all deposits granted to secure the tenants' performance thereunder, all sales contracts and the proceeds therefore, and all other income, receivables, general intangibles, products and proceeds derived from the ownership, management and operation of the

Premises, with the right to receive and apply the same to the Obligations secured hereby, and Grantee may demand, sue for and recover such payments, but shall not be required to do so; provided, however, that so long as Grantor is not in Default thereunder, as hereinafter defined, the right to receive and retain such rents, issues, profits and income is reserved to Grantor. To carry out the foregoing, Grantor agrees (1) to execute and deliver to Grantee such assignments of leases and rentals applicable to the Premises as the Grantee may from time to time request, while this Mortgage and the Obligations are outstanding, and further (2) not to cancel, accept a surrender of, reduce the rental under, anticipate any rentals under, or modify any such leases or tenancies, or consent to an assignment or subletting thereof, in whole or in part, without Grantee's written consent (which shall not be unreasonably withheld), other than in the ordinary course of Grantor's business. Nothing herein shall obligate Grantee to perform the duties of Grantor as landlord or lessor under any such leases or tenancies, which duties Grantor hereby covenants and agrees to well and punctually perform. Following default by Grantor in its Obligations (hereafter defined) to Grantee, Grantee may, in person or by agent, in accordance with applicable law, or by a receiver appointed by a court which Grantee shall be entitled to have appointed, take possession of the Premises and have, hold, manage, lease and operate the Premises on such terms and for such period of time as Grantee may deem proper, and to apply such rents, income and profits to the payment of:

i) All reasonable expenses of managing the Premises; and

ii) The Obligations, together with all costs and attorneys fees of Grantee.

The exercise by the Grantee of the rights provided above shall not be considered a waiver of any default by the Grantor under the obligations, or an election of remedies of Grantee, all of which shall be cumulative;

b) All judgments, awards of damages and settlements hereafter made as a result or in lieu of any taking of the Premises or any interest therein or part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Premises, or the improvements thereon or any part thereof, including any award for change of grade of streets. Grantee may apply all such sums or any part thereof so received to the Obligations secured hereby in such manner as it elects or, at its option, the entire amount, or any part thereof so received, may be released. Grantor hereby irrevocably authorizes and appoints Grantee as Grantor's attorney-in-fact to collect and receive any such judgments, awards and settlements from the authorities or entities making the same, to appear in any proceeding therefor, to give receipts and acquittances therefore, and to apply the same to payment on account of the Obligations secured hereby, whether then matured or not; and the Grantor will execute and deliver to the Grantee on demand such assignments and other instruments as the Grantee may require for said purposes and will reimburse the Grantee for its costs (including reasonable counsel fees) in the collection of such judgments and settlements.

c) All goods and items of personal or real property which are now, or are to become, or may hereafter become, fixtures upon or with respect to the Premises;

d) All construction and building materials, supplies, lumber, hardware or other items of personal property which are now, or are to become, or may hereafter become,

affixed to or a part of the Premises, whether as a part of the real property, or as a fixture, or located thereon as an item of personal property;

e) All other equipment, furniture, appliances, machinery and materials, now or hereafter affixed to or placed upon the Premises and used or useful in connection with the ownership, operation, maintenance or occupation of the Premises, including but not limited to the items of personal property set forth in Schedule B, attached hereto;

f) All construction, labor, materials, architectural, engineering, design and survey contracts, agreements and data; and also all architectural, survey, engineering and construction plans, drawings, specifications and data; and also all building, land use, and environmental permits, approvals and licenses; all of the above whether now owned or existing, or hereafter acquired or arising; and

g) All proceeds of the collateral identified above including all insurance proceeds, although no disposition of collateral is hereby authorized.

The above described collateral is sometimes referred to herein as "Personal Property Collateral."

The terms "Mortgage" as used herein shall mean this Mortgage Deed, Security Agreement and Financing Statement, as amended, supplemented or replaced from time to time.

This Mortgage shall also serve as a FINANCING STATEMENT with respect to any and all fixtures of the Grantor (Debtor) whether now owned or hereafter acquired, which are or may become affixed to the Premises. Information concerning this security interest in the fixtures may be obtained from the Grantee (Secured Party) at its offices listed at the commencement of this Mortgage; the mailing address of the Grantor (Debtor) is the address listed at the commencement of this Mortgage. Proceeds of all collateral (including insurance proceeds) are also covered, although no disposition of collateral by Grantor (Debtor) is thereby authorized. Grantor hereby authorizes Grantee to file all UCC-1 Financing Statements and UCC-3 Continuation and Terminations in order to perfect Grantor's security position and appoints Grantee as his attorney-in-fact with an interest to complete all such filings.

Receipt of any Personal Property Collateral and any disposition of the same by Grantee shall not constitute a waiver of the right of foreclosure by Grantee in the event of Default or failure of performance by Grantor of any covenant or agreement contained herein or in any other instrument or agreement evidencing, securing, guaranteeing or governing the Obligations (the "Loan Documents"). The foregoing assignments, transfers and security interests shall not be deemed to waive, subordinate, or otherwise affect the priority of the lien of this Mortgage or the terms set forth hereinafter.

Grantor agrees that all rights and remedies of Grantee as to such Personal Property Collateral and as to the Premises, and all rights and interests appurtenant thereto, shall be cumulative and may be exercised together or separately without waiver by Grantee of any other of its rights or remedies. Grantor further agrees that any sale or other disposition by Grantee of any Personal Property Collateral and any rights and interests therein or appurtenant thereto, or any part thereof, may be conducted either separately from or together with any foreclosure, sale or other

disposition of the Premises, or any rights or interest therein or appurtenant in part thereto, or any part thereof, all as the Grantee may in its sole discretion elect.

TO HAVE AND TO HOLD the above granted Premises and Personal Property Collateral, with all the privileges and appurtenances to the same belonging, to the said Paul B. Streeter, Trustee of the Paul B. Streeter Sr. Revocable Trust dated 10/28/92, its successors and assigns, to its and their use and behoof forever;

PROVIDED NEVERTHELESS, that if said Grantor, his successors or assigns, satisfy their obligations to Grantee, its successors or agents, related to a promissory note from John A. McLean in the principal sum of **Sixty Thousand dollars and Zero cents ($60,000.00)**, plus interest, costs of collection, and other charges, in accordance with the terms and conditions of:

(i) said certain promissory note of even date, in the original amount of **$60,000.00** given to Grantee;

(ii) any extensions, modifications, renewals or replacements of the foregoing;

(iii) those obligations established under a certain loan commitment letter of near or even date, accepted by Grantor; and

(iv) any and all other obligations and liabilities of the Grantor to Grantee, now existing or hereafter arising, however created or evidenced, including, without limitation, all renewals, extensions or modifications or substitutions of any of the foregoing obligations, and shall repay when due all other advances which shall be made by Grantee up to the AGGREGATE PRINCIPAL AMOUNT OF **Sixty Thousand dollars and Zero cents ($60,000.00)** plus interest and future advances necessary to protect the security and all expenses, if any, which are incurred in the collection of said notes and advances, the enforcement of said obligations and agreements, and the enforcement and foreclosure of this Mortgage, including reasonable attorneys' fees, which advances to protect the security shall be an addition to and not limited by said principal dollar amount, and until such payment performs all of Grantor's obligations, covenants and agreements contained herein and contained in said Note, commitment letter, or contained in any other instruments, documents, or agreements evidencing, securing or governing all such obligations secured hereby (collectively the "Obligations"), then this Mortgage shall be VOID, otherwise shall remain in full force.

GRANTOR COVENANTS AND AGREES WITH THE GRANTEE AS FOLLOWS:

1. Payment and Performance. Grantor shall promptly pay and perform the Obligations secured hereby. At its sole option the Grantee, its successors and assigns, may from time to time extend, renew, alter, and amend the Obligations secured hereby, provided, however, that the total principal secured hereby and remaining unpaid, including any such principal advances, shall not at any time exceed as to principal the original principal sum ceiling secured hereby. All provisions of this Mortgage shall apply to each further advance as well as to all other Obligations secured hereby regardless of whether the advance is designated as being secured hereby. Nothing herein contained, however, shall limit the amount secured by this Mortgage if

such amount is increased by accrued interest, advances made by Grantee, as herein elsewhere provided for to protect the security or is increased by costs of collecting and foreclosure.

2. Title. Grantor has good, marketable title to an indefeasible estate in fee simple in the Premises and good title to the Personal Property Collateral, free and clear of all liens and encumbrances, except as noted herein (Exhibit A) or previously acknowledged in writing by Lender, and has good right and power to convey the Premises to Grantee to hold as aforesaid, that this Mortgage is and will remain a valid and enforceable first lien on the Premises and Personal Property Collateral, and that Grantor shall and will warrant and defend the same to Grantee forever against the claims and demands of all persons except as aforesaid.

3. Taxes and Assessments. Grantor shall promptly pay and discharge, when due, all taxes and assessments of every type or nature levied or assessed against the Premises and Personal Property Collateral, all water and sewerage charges, and any other governmental claim, obligation or encumbrances against the Premises which may or become superior to this Mortgage except as being actively contested in good faith and by appropriate proceedings so as to prevent the ripening of any lien. Upon request, Grantor shall deliver to Grantee receipts evidencing payments of such taxes, assessments, charges and encumbrances.

4. Escrow. Upon thirty days written request therefor by Grantee to Grantor, based upon evidence that the Grantor has failed to promptly pay real estate and personal property taxes, assessments, water and sewerage charges and/or insurance premiums when due except as being contested in good faith and by appropriate proceedings and upon written request by Grantee to Grantor, which request may be withdrawn and remade from time to time at the discretion of Grantee, Grantor shall pay to Grantee on a monthly basis a sum equal to the annual real estate taxes and personal property taxes, assessments, and water and sewerage charges on the Premises and Personal Property Collateral and all premiums next due for fire and other insurance required of Grantor hereunder, less all sums already paid therefor, divided by the number of months to elapse not less than (1) month prior to the date when due, to be held in a non-interest bearing account. Grantor agrees that should there be insufficient funds so deposited with Grantee for said taxes, assessments, charges and premiums when due, it will upon demand by Grantee promptly pay to Grantee amounts necessary to make such payments in full; any surplus funds may be applied toward the payment of the Obligations or credited toward such taxes, assessments charges and premiums. Upon default, the Grantee may apply such funds toward the payment of the Obligations without causing thereby a waiver of any rights, statutory or otherwise, and specifically such application shall not constitute a waiver of the right of foreclosure hereunder. Grantor hereby assigns to Grantee all the foregoing sums so held hereunder for such purposes.

5. Insurance. Grantor shall keep the Premises (including all buildings, improvements and fixtures), and Personal Property Collateral insured against loss or damage by fire, the perils against which insurance is afforded by the Extended Coverage Endorsement with vandalism and malicious mischief endorsements, and such other risks and perils as Grantee may require from time to time, including, without limitation, insurance against flood damage if the Premises are in a flood hazard area and loss of rental income. The policy or policies of such insurance shall be in such form and shall be in such amounts as shall comply with all co-insurance requirements of such policies, and as Grantee may reasonably require, shall be issued by a company or companies licensed to do business in Maine by the Maine Superintendent of Insurance and approved by

Grantee, and shall provide for Grantee as mortgagee/loss payee, and shall provide at least ten (10) days' notice of cancellation or change of coverage to Grantee. Whenever requested by Grantee, a duplicate copy of such policies or other reasonable proof of insurance shall be delivered immediately to Grantee. Any and all amounts received by Grantee under any such policies may be applied by Grantee on the obligations secured hereby in such manner as Grantee may, in accordance with law, elect, or, at the option of Grantee, the entire amount so received or any part thereof may be released. Upon foreclosure to this Mortgage or other acquisition of the Premises and Personal Property Collateral or any part thereof by Grantee, such policies shall become the absolute property of Grantee, but receipt of any insurance proceeds and any disposition of the same by Grantee shall not constitute a waiver of any rights of Grantee, statutory or otherwise, and specifically shall not constitute a waiver of the right of foreclosure by Grantee in the event of Default or failure of performance by Grantor of any of the obligations.

6. Condition and Use of the Premises. Grantor:

A. shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises, except as set forth in any Plans and Specifications approved by Grantee (which shall not be unreasonably withheld);

B. shall construct and maintain the Premises in good condition and repair;

C. shall not commit or suffer waste thereof;

D. shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Premises its operations, or any activities conducted on or about the Premises, and will not suffer or permit any violation thereof, by any other person or entity including any tenant or other party in possession; and

E. shall faithfully and promptly comply with all requirements of the Grantee.

7. Permitted Use. If at any time the then existing structure located on the Premises or the use or occupancy of the Premises shall be permitted pursuant to any zoning or other law, ordinance or regulation only so long as such structure, use or occupancy shall continue, then Grantor shall not cause or permit such use, structure or occupancy to be discontinued without the prior written consent of the Grantee.

8. Modification of Security. Without affecting the liability of Grantor or any other person (except any person expressly released in writing) for payment or for performance of any of the Obligations contained herein, and without affecting the rights of Grantee with respect to any other security not expressly released in writing, and without impairing the validity or priority of this Mortgage, Grantee may at any time and from time to time, either before or after the maturity of the Obligations without notice or consent:

A. Release or modify the liability of any person or any other security for payment or performance of all or any part of the Obligations;

B. Extend the time or otherwise alter, increase or decrease the terms of payment or interest rate subject to the terms of said commitment letter of all or any part of the Obligation or modify or waive any Obligation, or subordinate, release, modify or otherwise deal with the lien or charge hereof;

C. Exercise or refrain from exercising or waive any right Grantee may have including without limitation the declaration of default under and foreclosure of this Mortgage Deed and Security Agreement without first exhausting other remedies or collateral or taking any other action against any other person;

D. Accept additional security of any kind; and/or

E. Release or otherwise deal with any other property, real or personal, securing the Obligation, including all or any part of the Premises or Personal Property Collateral.

9. Priority of Future Agreements. Any agreement hereafter made by Grantor and Grantee pursuant to or amending this Mortgage and the Obligations shall be superior to the rights of the holder of any intervening lien or encumbrance to the extend allowed by law.

10. Additional Documents. Grantor at Grantor's expense will do, execute, acknowledge and deliver to Grantee such further deeds, acts, conveyances, mortgages, assignments, transfers and assurances as Grantee in its discretion may require from time to time to better establish and perfect the property and rights created or intended by Grantee to be created hereunder or to facilitate the Grantee's performance hereunder.

11. Transfers of Title. The Grantor herein shall not sell, convey, mortgage, encumber or otherwise dispose of the Premises or Personal Property Collateral or any interest therein whether legal or equitable, either voluntarily or involuntarily, by any means whatsoever, including without limitation, any lease with an option to purchase, bond for deed, purchase and sale contract coupled with transfer of possession or lease with a term of more than One (1) year not approved by Grantor. These conditions shall continue until all Obligations secured hereby are satisfied, and permission given or election not to foreclose or accelerate said Obligations by Grantee, its successors or assigns, as to any one such transfer, shall not constitute a waiver of any rights as to any subsequent such transfer of title, as to which this condition shall fully remain in force and effect.

12. Leases and Tenancies. Upon request, Grantor shall submit to the grantee for Grantee's examination and approval in writing (which approval shall not be unreasonably withheld or delayed) prior to the execution, delivery and commencement thereof, all leases, tenancies and occupancies (with a term in excess of one (1) year) of the Premises mortgaged hereby and any part thereof; any such leases, tenancies, occupancies, not so approved shall not be valid; and Grantor at its cost and expense, upon request of Grantee, shall cause any parties in possession of the Premises under such leases, tenancies and occupancies, not so approved, to vacate the Premises immediately; and Grantor acknowledges that Grantee may from time to time at its option enter upon the Premises and take any other action in court or otherwise to cause such parties to vacate the Premises; the costs and expenses of Grantee in so doing shall be paid by Grantor to Grantee on demand thereof and shall be part of the indebtedness secured by this mortgage as costs and

expenses incurred to preserve and protect the security; such rights of Grantee shall be in addition to all its other rights as Grantee, including the right of foreclosure, for breach by Grantor in the requirements of this paragraph.

13. Financial Reporting Requirements. Grantor shall maintain full and correct books and records showing in detail the earnings and expenses of the mortgaged premises; will permit lender and its representatives to examine said books and records and all supporting data at reasonable times upon request by lender at the mortgaged premises or at such other place in which the books and records are customarily kept; and Grantor hereby agrees to furnish to lender on or before April 1 of each year during the term of the loan obligation secured hereby or within 90 days after the closing of each fiscal year (if Grantor's fiscal year is other than a calendar year) an annual financial statement and federal tax return of Borrower and each guarantor of the obligations secured hereby, such statement and tax returns to be prepared by a certified or other competent accountant satisfactory to lender. The financial statements must include a balance sheet and income statement for Borrower, and a personal balance for each guarantor.

14. Environmental Matters. Grantor represents in response to inquiries from the Grantee, covenants and agrees as follows:

A. Grantor, the Premises and Personal Property Collateral do now, to the best of Grantor's knowledge and belief, and shall at all times comply with the requirements of all present and future federal, state, and local statutes, regulations, ordinances, licenses, permits, agreements and orders ("Environmental Requirements") relating to environmental and land use matters, including, without limitation, the federal Comprehensive Environmental Response, Compensation and Liability Act, the Federal Superfund Amendments and Reauthorization Act of 1986, as any of them may be amended or supplemented from time to time, and Grantor has received no notice (directly or indirectly) from any governmental agency or from any other party of alleged noncompliance with Environmental Requirements;

B. In its sole discretion, Grantee may, but shall not be required to, discharge any environmental lien or encumbrance, or make advances for the purpose of complying with any Environmental Requirements, or directly undertake environmental studies, clean-up, removals, or remedial work with respect to the Premises or Personal Property Collateral; all such expenses and advances shall be deemed advances necessary to protect the security and shall be a part of the Obligations secured hereby; Grantor hereby covenants and agrees promptly upon demand to reimburse, indemnify and hold Grantee harmless on account of any such claims, expenses and advances (except for any claims, expenses or advances caused by Grantee's intentional or negligent acts related to the subject premises), including costs and reasonable attorneys fees incurred in the enforcement and collection of this right, which shall be added to the Obligations;

C. Grantee shall have no responsibility to monitor (or to continue to monitor once undertaken) the compliance of Grantor, or any party claiming through Grantor, with any Environmental Requirements; no relationship shall exist between Grantor and Grantee except mortgagor-borrower and mortgagee-lender; and

D. Grantor agrees to promptly notify Grantee in writing of any direct or indirect receipt by Grantor of any notice of any alleged or threatened violation of any

Environmental Requirement or any related legal proceedings involving the Grantor, Premises or Personal Property Collateral, or the occurrence of any accident, event or condition that constitutes a likely violation of any Environmental Requirements.

15. Grant of Easement. The Borrower hereby grants and conveys to the Lender an easement to enter on and upon the Real Property at any time and from time to time for the purpose of making such audit tests, inspections, and examinations, including subsurface exploration and testing and lead contamination testing, as the Lender, in its discretion, deems necessary, convenient, or proper to determine whether the ownership, use, and operation of the Real Property and the conduct of the activities engaged in thereon are in compliance with federal, state and local environmental laws, rules and regulations. The Lender, or its designated agents, shall have the right to inspect and copy all of the Borrower's records relating to environmental matters and to enter all buildings or facilities of the Borrower for such purpose. In confirmation of the Lender's right to inspect and copy all of the Borrower's records relating to environmental matters and to secure the Borrower's obligations to the Lender in connection with the Loan, and under this Environmental Inspection Easement, the Borrower hereby grants to the Lender a continuing security interest in and to all of the Borrower's existing and future records with respect to environmental matters (including lead contamination test results), whether or not located at the Real Property or elsewhere, whether or not in the possession of the Borrower or some third party (including any federal, state or local agency or instrumentality), and whether or not written, photographic, or computerized, and the proceeds and products thereof. The Lender, or its designated agent, may interview any and all of the Borrower's agents and employees regarding environmental matters, including any consultants or experts retained by the Borrower, all of which are directed to discuss environmental issues fully and openly with the Lender or its designated agents and to provide such information as may be requested. All of the costs and expenses incurred by the Lender with respect to the audits, tests, inspections, and examinations which the Lender may conduct, including the fees of the engineers, laboratories, and contractors, shall be paid by the Borrower. The Lender may, but shall not be required to, advance such costs and expenses on behalf of the Borrower. All sums so advanced shall bear interest at the highest rate provided with respect to the Loan.

16. Events of Default. This Mortgage and the Obligations shall at the option of the Grantee herein become immediately due and payable upon:

A. Default in the prompt payment or performance of said Obligations or any other obligation, liability or covenant of Grantor to Grantee, whether or not secured hereby or established hereunder, which is not cured within any applicable grace period provided for in any instrument evidencing the Obligation, or in the prompt payment and performance of any obligation of any guarantor or surety for any Obligations;

B. If Grantor or any Guarantor of the Obligations fails or neglects to perform, keep or observe any material term, provision, condition, covenant, warrant or representation contained in this Mortgage or in the commitment letter, or in any agreement evidenced, secured or governed hereby which is required to be performed, kept or observed by Grantor or any Guarantor of the Obligations, or if the Grantor of any Guarantor of the Obligations fails or neglects to perform, keep or observe any other such term, provision, condition, covenant, warranty or representation if not cured upon fifteen (15) days' written notice;

C. If any material representation, statement, report or certificate made or delivered by Grantor by any guarantor for the Obligations is not true and correct, or if Grantor or any guarantors fails to furnish financial information or permit inspections as provided in this Mortgage or in the commitment letter;

D. If any attachment, trustee process, lien, execution, levy, injunction, or receivership is issued or made against the Grantor or the Premises or the Personal Property Collateral and not promptly contested and lifted within Sixty (60) days or if any final judgment and execution issued against Grantor remains unsatisfied;

E. If Grantor fails to pay any tax, assessment, sewer or water charge on the Premises or any tax assessment on the Personal Property Collateral when due and not being promptly contested in good faith and by appropriate proceedings, or fails to maintain any insurance policy the Grantor is required to provide to the Grantee;

F. Failure to maintain the Premises or the Personal Property Collateral in good condition, or suffer any waste thereof;

G. The entry of a decree or order for relief with respect to the Grantor in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law or appointing a receiver, liquidator, trustee, custodian (or similar official) of the Grantor, or ordering the winding-up or liquidation of its affairs which is not promptly contested and released or discharged within Sixty (60) days;

H. The commencement by the Grantor of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by Grantor to the appointment of or taking possession by a receiver, liquidator, trustee, custodian (or similar official) of the Grantor or for any substantial part of this property, or the making by Grantor of any assignment for the benefit of creditors, or the insolvency or the failure of the Grantor generally to pay its debts as such debts become due, or the taking of action by the Grantor in furtherance of any of the foregoing;

I. The sale, conveyance, mortgage, encumbrance or other disposition of the Premises or Personal Property Collateral or any interest therein whether legal or equitable either voluntary or involuntarily, including without limitation any lease with an option to purchase, bond for deed, purchase and sale contract coupled with transfer of possession, or non-approved lease excepting, however, condemnation or eminent domain proceedings in violation of the terms of this mortgage; or

J. Loss or destruction of or substantial damage to any of the Premises or the Personal Property Collateral.

K. Default by Grantor under the terms and conditions of any encumbrances superior to this Mortgage whether or not said encumbrances are referenced in Exhibit A attached hereto and incorporated herein.

L. Default by any other Guarantors of the obligations including any default by said other Guarantors under any mortgages conveyed by them to Grantee.

(Any one or more of the foregoing events shall be called a "Default".)

17. Powers Upon Default: In the event of a Default under this Mortgage or any agreement evidenced, governed or secured hereby, or at any time thereafter, Grantee may, at its option do any one or more of the following, all of which are authorized by Grantor; and none of which shall act as a waiver of any foreclosure proceedings pending or subsequently commenced:

A. Declare the Obligations, whether evidenced by any instrument or agreement and whether or not secured hereby, and the underlying agreements of other parties securing the Obligations, immediately due and payable;

B. Cease advancing money or extending credit to or for the benefit of the Grantor under any agreement, whether or not secured hereby;

C. Foreclose this Mortgage under any method of foreclosure in existence at the time or now existing, or under any other applicable law. Based upon the fact that the Note secured hereby is for commercial purposes, the Grantee shall have the Statutory Power of Sale in addition to all other rights and remedies if Grantor is a corporation, partnership or a trust;

D. Exercise all of the remedies of a secured party under the Uniform Commercial Code as now in effect in the State of Maine, and such further remedies as may from time to time hereafter be provided in Maine for a secured party under this Mortgage. Grantor agrees that all rights of Grantee as to the Premises and the Personal Property Collateral, and rights and interest appurtenant thereto, may be exercised together or separately and in such order as the Grantee may elect. All such rights and remedies shall be cumulative and exercise of any shall not act as a waiver of any other right or remedy. Grantor further agrees that in exercising its power of sale as to the Premises or Personal Property Collateral, the Grantee may sell any portion of the Personal Property Collateral and Premises all as Grantee may elect all in accordance with applicable law. In particular, the Grantee may proceed to enforce rights against, seek the replevin of, and/or sell Personal Property Collateral prior to or during the pendency of any real estate foreclosure proceeding, redemption period, or foreclosure sale without waiving said foreclosure;

E. Set off against any and all deposits, accounts, certificate of deposit balances, claims or other sums at any time credited by or due from the Grantee to the Grantor and against all other Property of Grantor in the possession of Grantee or under its control;

F. Enter upon and/or take possession of the Premises and Personal Property Collateral or any part thereof and exclude the Grantor, its agents, managers and servants, and to perform any acts Grantee deems necessary or proper to conserve the security, and to collect and receive all rents, security deposits, profits, revenues, general intangibles, proceeds and profits

thereof, including those past due as well as those accruing thereafter, and use, manage, operate and control the Premises and Personal Property Collateral. Without limitation Grantee shall be entitled to have a receiver appointed to enter and take possession of the Premises and Personal Property Collateral and apply the same as the Court may direct. In either such case, Grantee or the receiver may also take possession of, and for those purposes use, any and all personal property contained in the Premises and used by Grantor in the construction, rental or leasing thereof or any part thereof. The expense (including receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby. Grantee shall (after payment of all costs and expenses incurred) apply such rents, issues and profits received by it on the Obligations in such order as Grantee determines; and Grantor agrees that the exercise of such rights and disposition of such funds shall not constitute a waiver of any foreclosure once commenced nor preclude the later commencement of foreclosure for breach hereof. The right to enter and take possession of said property, to manage and operate the same, and to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Grantee shall be liable to account only for such rents, security deposits, proceeds and profits actually received by Grantee;

G. Sell or otherwise dispose of the Premises (in its then condition or after further construction and preparation thereof, utilizing in connection therewith any of Grantor's assets then pledged to or in possession of Grantor, without charge or liability therefor), at foreclosure sale (which sale Grantee may postpone from time to time to the extent permitted by law), all as Grantee deems advisable, for cash or credit; provided, however, that Grantor shall be credited with the net proceeds of such sale only when such proceeds are finally collected by Grantee and the Grantor shall pay any deficiency on demand. Grantee may become the purchaser of any such sale; and/or

H. Use or transfer, without charge or liability to Grantee therefore, any of Grantor's general intangibles, records, surveys, engineering and architectural specifications, plans, trade names, trademarks, licenses, certificates of authority or advertising materials in advertising for sale and selling of the Premises or Personal Property Collateral.

Grantor recognizes that in the event Grantor defaults, no remedy of law will provide adequate relief to Grantee, therefore, Grantor agrees that Grantee shall be entitled to temporary and permanent injunctive relief to cure such default in any such case without the necessity of proving actual damages.

Grantor shall pay to Grantee, immediately and without demand, all sums of money advanced by Grantee pursuant to this section, together with interest on each such advancement at a rate of interest at the highest interest rate per annum required by said promissory note(s) and agreements of even date secured hereby, and all such sums and interest thereon shall be secured hereby. Grantee in its discretion, after the payment of expenses and the costs of protection, preservation sale of the Premises, may apply the net proceeds of the Premises to the Obligations.

All of Grantee's aforesaid rights and remedies are cumulative and non-exclusive.

18. The Grantor hereby agrees that after a default the acceptance, before the expiration of the right redemption and after the commencement of foreclosure proceedings related to the mortgaged premises, of anything of value to be applied on or to the mortgage indebtedness secured hereby by the Grantee or any person holding under the Grantee shall not constitute a waiver of the foreclosure.

19. Expenses. The Grantor shall pay to or reimburse the Grantee on demand and as a part of the Obligations secured hereby any and all reasonable expenses, including without limitations reasonable counsel fees and expenses, incurred or paid by the Grantee in connection with the preparation, execution administration, interpretation, review, preservation, collection or enforcement of this Mortgage Deed and Security Agreement, the Loan Documents, the Premises and Personal Property Collateral or the Obligations. Such expenses to be paid or reimbursed include without limitation those incurred in the preparation for (whether commenced or not), or the conduct of, any litigation, contest, dispute, suit or proceeding (whether initiated by Grantee, Grantor or any other party to protect, collect, enforce, sell, take possession of or liquidate any of the Premises and Personal Property Collateral, to enforce any rights of Grantee against Grantor or against any other person, and those expenses incurred by Grantee in defending, settling or satisfying any claim, action or demand asserted by any person or entity, including any receiver, trustee, creditor's committee or debtor-in-possession in any bankruptcy or reorganization, any assignee or assignee-for-the-benefit-of creditors, creditor, or by any other person, whether in connect with the Grantor, the Obligations or any documents, transaction or Collateral related thereto, and whether relating to any alleged theory of preference, fraudulent conveyance, subordination, usury, ultra vires, invalidity, interference, control, misrepresentation, conspiracy, or similar theory, or otherwise. Grantor shall also pay or reimburse Grantee for the cost of obtaining appraisals of the value of the Premises and any Environmental Audits requested by Grantee, such costs to be secured by this Mortgage, provided however, that so long as Grantor is not in default of the terms and conditions of this Mortgage, Grantee will not require appraisals more often than once every three years.

20. Advances to Protect Security. At its option, and without limiting any other right or remedy, Grantee may pay or discharge taxes, liens, security interest or other encumbrances at any time levied against or placed on the Premises or Personal Property Collateral, and may procure and pay any premiums on any insurance policy covering the Premises or Personal Property Collateral or any risks related thereto, or provide for the maintenance and preservation of any of the Premises of Personal Property Collateral, and add the expense thereof to the Obligations secured hereby. Any and all such amounts, costs or expenses paid or incurred by Grantee, shall be added to the Obligations secured hereby as advances to preserve Grantee's security and shall bear interest form the date of payment by Grantee therefore at the highest rate of interest payable pursuant to any instrument or other evidence of indebtedness secured hereby, as the same may vary, or if none, then at the rate of interest applicable to judgments or courts of the State of Maine pursuant to Title 14 Maine Revised Statutes Section 1602-A, as the same may be amended.

21. Waivers. The Grantee may exercise its rights against the Premises without resort or regard to any other collateral or sources of reimbursement for liability. The Grantee shall not be deemed to have waived any of its rights under or against this Mortgage or any of the documents, agreements or instruments evidencing, governing or securing the Obligations or otherwise unless such waiver be in writing and signed by the Grantee. Grantee's failure to require

strict performance of the term, covenants and agreements of this Mortgage or any other agreement evidencing, governing or securing the Obligations, or any delay or omission on the part of the Grantee in exercising any right or any acceptance of partial or inadequate payment or performance shall not waive, affect or diminish such right or Grantor's duty of compliance and performance therewith. A waiver on any one occasion shall not be construed as a bar to or waiver of the same or any other right on the same or any future occasion. All rights and remedies of the Grantee under this Mortgage or any of the documents, agreements or instruments evidencing, governing or securing the Obligations, shall be cumulative and may be exercised singularly or concurrently. Any note which this Mortgage may secure is a separate instrument and may be negotiated, extended or renewed by the Grantee without releasing the Grantor or any guarantor or co-maker.

22. Application of Payment. Payments shall be applied in accordance with the terms of the Promissory Note secured hereby, provided, however, that if Grantee is in default Grantor irrevocably waives the right to direct the application of any and all payments thereafter received by Grantee from Grantor, and Grantor does hereby irrevocably agree that Grantee shall have the continuing exclusive right to apply and reapply any and all payments received at any time or times thereafter against the Obligations hereunder in such manner as Grantee may deem advisable.

23. Section Titles. The section titles contained herein are for convenience only and shall not affect the construction or meaning of this Mortgage.

24. Miscellaneous.

A. Wherever in this Mortgage there is reference made to any of the parties hereto, such reference shall be deemed to include, wherever applicable, a reference to the successors, heirs and assigns of such party. The provisions of this Mortgage shall be binding upon and shall inure to the benefit of the successors, legal and personal representatives, heirs and assigns of Grantor and Grantee. Wherever used, the singular shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders, as the context or the identity to the Grantor may require. All Obligations of multiple Grantors shall be joint and several.

B. All representations and warranties of Grantor, and all conditions precedent to be performed by Grantor as set forth in the Loan Documents shall be true and satisfied at the time of the execution of this Mortgage, and shall survive the closing hereof and the execution and delivery of this Mortgage.

C. This Mortgage shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. Wherever possible each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provisions of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the reminder of such provision or the remaining provisions of this Mortgage.

D. This Mortgage may not be altered or amended except by an agreement in writing signed by both Grantor and Grantee.

E. This Mortgage shall take effect as a sealed instrument.

F. Within seven (7) days after a request is made in person, or within ten (10) days after a request made by mail, Grantor shall furnish a duly acknowledged written statement to Grantee, setting forth the amount of the debt secured by this Mortgage, and stating either that no offsets exist against the mortgage debt, or, if such offsets or defenses are alleged to exist, the nature thereof.

G. Grantor at Grantor's expense shall at all times perform all acts and things necessary or appropriate (or which Grantee may reasonably deem necessary or appropriate) to better establish and effectuate and complete more fully the purposes of this Mortgage and the agreement set forth herein or in any other documents associated with any indebtedness secured hereby, upon request therefore by Grantee. Grantor shall promptly execute and deliver to Grantee on demand further instruments or documentation which Grantee may reasonably deem necessary or appropriate in order to create, complete, maintain, perfect, ensure the first priority of, or to continue and preserve or otherwise effectuate any of Grantee's security interests, mortgage interests, liens, rights, or interests created or to be created in connection with the debt secured hereby, including without limitation such specific assignments, pledges, and other documents as Grantee shall request. Grantor shall perform any and all steps requested by Grantee in its discretion to perfect Grantee's security interest in the collateral, such as placing and maintaining signs, appointing custodians, executing and filing financing or continuation statements in form and substance satisfactory to Grantee, and delivering to Grantee any documents, chattel, papers, instruments, drafts noted, and other forms of obligations owing to Grantor and in which Grantee has a security interest, endorsed to the order of Grantee at Grantee's request, and without limiting any of the foregoing, Grantor at Grantor's expense will do, execute, acknowledge and deliver to Grantee such further deeds, acts, conveyances, mortgages, assignments, transfers, and assurances as Grantee in its discretion may require from time to time to better establish and perfect the property and rights created or intended by Grantee to be created hereunder or to facilitate the Grantee's performance hereunder.

25. Condominium or Development of Premises. The Premises, or any portion thereof, are declared to be a condominium under applicable Maine law, and at all times, Grantor covenants and agrees to promptly perform, or cause to be performed, the additional covenants set forth in the Condominium Rider attached to this Mortgage and Security Agreement, which additional covenants are hereby incorporated in this Mortgage and Security Agreement by reference.

26. Effect of Consents and Waivers. No express or implied consent to, or waiver of, any default of Grantors by Grantee shall be construed as a consent to, or waiver of, any other default. No consent to, or waiver of, any default, or any other indulgence, shall be effective unless

expressed in writing by Grantee. Grantor agrees for himself, his heirs and assigns, that the acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of this Mortgage, of insurance proceeds, eminent domain awards, rents or anything else of value to be applied on or to the mortgage indebtedness by Grantee or any person or party holding under it shall not constitute a waiver of foreclosure, and this agreement by Grantor shall be that agreement referred to in Section 6204 of Title 14 of the Maine Revised Statutes of 1964 as necessary to prevent such waiver of foreclosure. This agreement by Grantor is intended to apply to the acceptance and such application of any such proceeds, awards, rents, and other sums or anything else of value whether the same shall be accepted from, or for the account of, Grantor or from any other source whatsoever by Grantee or by any person or party holding under Grantee at any time or times in the future while the indebtedness secured hereby shall remain outstanding.

27. Indemnification. The Grantor shall indemnify, defend, and hold the Grantee harmless of and from any claim brought or threatened against the Grantee by the Grantor, by any guarantor or endorser of the indebtedness secured hereby, or by any other person (as well as from reasonable attorneys' fees and expenses in connection therewith) on account of the Security of said Note, including without limitation, on account of the Grantee's relationship with Grantor of any such guarantor or endorser (each of which claims may be defended, compromised, settled, or pursued by the Grantee with counsel of the Grantee's selection, but at the expense of the Grantor). The within indemnification shall survive payment and performance of this Mortgage and any termination, release, or discharge executed by the Grantee in favor of the Grantor.

28. Cross-Collateralization. The conveyance of the Mortgaged Premises herein shall also secure all other obligations and indebtedness of Grantor to Grantee from whatever sources arising from which Grantor is now or may become liable in any manner to Grantee, whether under this Mortgage or otherwise, and whether primary or secondary, direct or indirect, absolute or contingent.

29. Cross-Default. In addition to any default hereunder, this Mortgage shall also be in default in the event of any default by Grantor in the performance of any terms and conditions of any and all instruments evidencing any and all other obligations and indebtedness of Grantor to Grantee, whether now existing or hereafter arising, and provided such default shall continue after the expiration of all applicable grace or cure periods, or if any obligation or indebtedness or Grantor to Grantee shall become due before its stated maturity by acceleration or shall become due by its terms and shall not be promptly paid or extended.

30. Further Documentation. Grantors shall at all times of and perform all acts and things necessary or appropriate (or which Grantee may reasonably deem necessary or appropriate) to effectuate more fully the purposes of this Mortgage and the agreement set forth herein or in any other documents associated with nay indebtedness secured hereby, upon request therefore by Grantee. Grantors shall promptly execute and deliver to Grantee on demand further instruments or documentation which Grantee may reasonably deem necessary or appropriate in order to create, maintain, perfect, ensure the first priority of or otherwise effectuate any of Grantee's security interest, mortgage interests, liens, rights or interests created or to be created in connection with the debt secured hereby, including without limitation such specific assignments, pledges, and other documents as Grantee shall request. Grantors shall perform any and all steps requested by Grantee

to perfect Grantee's security interest in the Collateral, such as placing and maintaining signs, appointing custodians, executing and filing financing or continuation statements in form and substance satisfactory to Grantee, and delivering to Grantee any documents, chattel papers, instruments, drafts, noted and other forms of obligations owing to grantors and in which Grantee has a security interest, endorsed to the order of Grantee at Grantee's request.

31. Lending Relationship. Grantor and Grantee agree that their relationship is and shall be limited to the relationship of a borrower to a lender in commercial loan transaction, and Grantee is not, and shall not be deemed to be, a partner, joint venturer, alter ego, manager, controlling person or other business associate of Grantor or participant of any kind in Grantor's business, and neither Grantee nor Grantor intended Grantee to be or assume any such status as partner, joint venturer, alter ego, manager, controlling person or other business associate of Grantor or participant of any kind in Grantor's business; further, Grantee shall not in any circumstances be deemed responsible for, or a participant in, any acts, omissions, decisions or representations of Grantor.

32. N/A

33. Captions. The use of paragraph headings in this document is for purposes of convenience only, and no caption or paragraph heading shall affect in any way the interpretation, meaning or construction of this document.

34. Certain Terms of Foreclosure Sale. At any foreclosure sale, any combination, or all, of the security given to secure the indebtedness secured hereby, may be offered for sale for a single price, and the proceeds of such sale may be accounted for in one account with distinction between the items of security and without assigning to them any proportion of such proceeds, Grantor hereby waiving the application of any doctrine of marshalling; and, in case the Grantee, in the exercise of power of sale herein given, elects to sell in parts or parcels, such sales may be held from time to time, and the power shall not be fully executed until all of the Security not previously sold shall have been sold. Grantor by execution and delivery of this mortgage, hereby waives any and all rights to an appraisal, including but not limited to appraisal of fair market value for a report of sale, and acknowledges that there could be a differential between fair market value and the highest bid received at a foreclosure sale by auction and, Grantor agrees to and hereby waives any and all objection to the highest bid received at a foreclosure sale, irrespective of made by Grantee or any other person being the value determinative of and controlling as to fair market value. This highest bid being herein agreed to be conclusively relied upon by all parties as conclusively determinative of the fair market value in a foreclosure report of sale, and further agrees to and waives any and all objection to a court relying conclusively and solely upon this highest closed upon bid of Grantee, its successors and assigns, and any other person (s), without appraisal in determining the fair market value and any deficiency or surplus arising in a result therefrom.

Under the terms and provisions of the Note which this Mortgage and Security Agreement secured and under the terms and provisions of any future or further advances secured hereby, the interest rate payable thereunder may be variable. THE PURPOSE OF THIS PARAGRAPH IS TO PROVIDE RECORD NOTICE OF THE RIGHT OF GRANTEE, ITS SUCCESSORS AND ASSIGNS, TO INCREASE OR DECREASE THE INTEREST RATE IN ANY INDEBTEDNESS

SECURED HEREBY WHERE THE TERMS AND PROVISIONS OF THE NOTE PROVIDE FOR A VARIABLE INTEREST RATE.

The covenants and agreements herein contained shall bind, and the benefits and advantages thereof shall inure to, the respective heirs, executors, administrators, successors and assigns of the Grantor and Grantee. Wherever, used, the singular number shall include the plural, the plural the singular, the use of any gender shall be applicable to all genders. If more than one party executed this Mortgage as a Grantor, then the promises, obligations and liabilities of each party to Grantee hereunder shall be joint and several promises, obligations and liabilities to Grantee, its successors and assigns. This Mortgage shall be governed in all respects in accordance with the laws of the State of Maine.

THIS MORTGAGE is on the STATUTORY CONDITION and upon the further condition of full and seasonable compliance of the Grantor with all of the preceding terms, conditions, covenants and agreements, for any breach of which: (a) the Grantor shall be in default hereunder, (b) the Grantee shall have the right of foreclosure and any and all other rights and remedies given to a Mortgagee and Secured Party under the law of Maine, this Mortgage and Security Agreement and any document it secures; and (c) the Grantee and Grantee's successors and assigns shall also have THE STATUTORY POWER OF SALE pursuant to the applicable provisions of Title 14 and 33 of the Maine Revised Statutes of 1964, as said Statutes have been and shall be amended, in particular, in accordance with the provisions of 14 M.R.S.A. Sec. 6203-A, and in connection therewith, Grantor acknowledge that this Mortgage secured a loan or loans exclusively for business, commercial or agricultural purposes. No remedy herein conferred on the Grantee is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in additions or every other remedy given hereunder or now hereafter existing. The failure to exercise any right or remedy shall in no event be construed as a waiver or release thereof. Any failure by the Grantee to insist upon strict performance by Grantor of any of the terms and provisions of this Mortgage shall not be deemed to be a waiver of any terms or provisions of this Mortgage and the Grantee shall have the right thereafter to insist upon strict performance by Grantor of any and all of such terms and provisions.

IN WITNESS WHEREOF, John A. McLean, has caused this instrument to be signed and sealed this 29th day of March, 2006.

SIGNED, SEALED AND DELIVERED
In Presence of:

John A. McLean

State of Maine
County of Androscoggin

March 29, 2006

Personally appeared the above-named **John A. McLean** acknowledged the foregoing instrument to be his/her/their free act and deed.

Before me,

Notary Public/Attorney at Law

SUSAN GAGE KNEDLER
Notary Public, Maine
My Commission Expires November 22, 2011

File No. 60117

EXHIBIT A

(MORTGAGE)

PARCEL ONE:

A certain lot or parcel of land, situated in Greene, County of Androscoggin and State of Maine, bounded and described as follows:

Commencing at a point on the northerly line of land conveyed by Effie M.Clarry to Armand A. LaPlante and Marie Rose LaPlante by deed dated May 27, 1950 and recorded in the Androscoggin County Registry of Deeds in Book 646, Page 465, which point is also in the continuation of the easterly line of land conveyed by said Clarry to one Charest; thence across the end of a right-of-way heretofore existing, to said Charest's line and thence by said Charest's easterly line to the center of two large pine trees and further by said Charest's line to low-water mark of Sabattus Lake; thence easterly and southerly by the low water mark in a curving line to the northerly line of said LaPlantes; thence by the northerly line of said LaPlante to the point of beginning.

Together with the right to use, in connection with said lot, all the streets or right-of-way now laid on said property, or hereafter laid out thereon, in common with other lot owners and Effie M. Clarry or her heirs and assigns, and with the right to take and use gravel from pits on said property, to repair roads, sand for repair of the beach, and loam for filling from areas to be designated by said Effie M. Clarry, for filling of the lot hereby conveyed.

Subject to the restriction that any cottage built on said lot shall be finished in a proper and workmanlike manner on the outside; that there shall be no outside toilet on said lot but if a cottage is erected thereon a proper and sufficient septic tank shall be installed; that there shall be no shack or other unsightly structure on said lot; that there shall be no more than one cottage on said lot, but a garage or small storehouse may be erected thereon, properly finished on the outside; and no rubbish or other waste shall be allowed to accumulate.

Reference is hereby made to a deed dated 9/11/2002 and recorded in the Androscoggin County Registry of Deeds in Book 5110, Page 78.

PARCEL TWO:

So much of the following described parcel of land as is situated on the westerly side of Broad Street (A/K/A Broad Street Extension, F/K/A Mill Street) in Auburn, Androscoggin County, State of Maine:

A certain lot or parcel of land situated in said Auburn, on the southeasterly side of The Little Androscoggin River, above a contour line at an elevation of 195 feet, U.S.G.S. Datum, as established by a bench mark designated "Augusta 196", which bench mark is located on the south face of the southwest corner of the Lewiston Post Office, so

JM

called, as now constructed in the City of Lewiston, said County of Androscoggin and State of Maine, said lot or parcel of land being more particularly bounded and described as follows:

Beginning at a point in the southwesterly line of land formerly of Samuel Vickery, now owned by this Grantor, where said 195 contour line intersects said southwesterly line; thence extending south 34° East a distance of 1235 feet, more or less, to the northerly corner of land formerly of John D. Rowe; thence extending south 58° 30' west a distance of 1156 feet along land of said Rowe to a point; thence extending North 28° west a distance of 875 feet, more or less, to a point where the last described course intersects said 195 contour line at a point near the location of the Railroad Bridge as of March 20, 1854; thence extending in a general southeasterly, southerly and northerly direction along said 195 contour line to the point of beginning.

Excepting from the premises hereby conveyed so much of Broad Street Extension, so called, as is located within the limits of the premises hereby conveyed.

Excepting to Central Maine Power Company, its successors and assigns, all riparian and water rights of every kind and nature, including the right to use, lower and control the waters of the Little Androscoggin River or any of its tributaries, as Central Maine Power Company, its successors and assigns, may see fit in its or their uncontrolled discretion without liability on the part of Central Maine Power Company, its successors and assigns, to the grantees, their heirs or assigns, for the uneven handling or control of said waters.

Also excepting and reserving to Central Maine Power Company, its successors and assigns, the perpetual right and easement to overflow and flood the premises hereby conveyed, directly or indirectly, by backflow, seepage, erosion, inundation or otherwise as the same may be overflowed and flooded by means of any dam or dams now existing or which may be hereafter constructed across the Little Androscoggin River, or any renewals or replacements thereof, at a total effective height not exceeding the height of any dam or dams previously existing or now constructed across said river.

Also excepting and reserving to Central Maine Power Company, its successors and assigns, the perpetual right and easement to repair, replace, operate and maintain its electric distribution lines, together with appurtenant equipment and facilities connected therewith, as the same are now located or may be located along and across the premises hereby conveyed, adjacent to the northwesterly and/or southeasterly side line of Broad Street Extension as the same extends across said lot; also the right to cut, trim and remove such trees and branches as may in the opinion of Central Maine Power Company interfere with or endanger the operation of said electric lines; together with the right to enter upon the premises hereby conveyed at any and all reasonable times for any or all of the foregoing purposes.

Meaning and intending to convey the same premises conveyed by John Sullivan and Viola Sullivan to Twin Town Rendering Company, Inc. by deed dated June 27, 1961 and recorded in the Androscoggin County Registry of Deeds in Book 859, Page 247, but which deed contained an inadequate description whereby it described the parcel

thereby conveyed simply by tax map and lot reference. The intent of John Sullivan and Viola Sullivan was to convey the same premises as set forth herein.

Also a certain lot or parcel of land situated in Auburn, County of Androscoggin and State of Maine, bounded and described as follows:

A triangular parcel of land situated on Mill Street, approximately one acre in size, and described in a deed recorded in the Androscoggin County Registry of Deeds in Book 395, Page 14.

Reference is hereby made to a deed dated 4/28/2004 and recorded in the Androscoggin County Registry of Deeds in Book 5886, Page 110.

PARCEL THREE:

A certain lot or parcel of land, with any buildings thereon, situated in Lewiston, in the County of Androscoggin, and State of Maine, bounded and described as follows:

Commencing on the southerly side of Wood Street at the southwesterly corner of the Friend's Church Lot, so-called, being on the southerly line and one hundred (100) feet easterly from the easterly line of College Street; thence southerly on the easterly line of said Church Lot, so-called, fifty (50) feet; thence easterly at a right angle to the westerly line of Wood Street; thence southerly on said westerly line of Wood Street fifty (50) feet; thence westerly about one hundred (100) feet to the point of beginning.

The premises are conveyed subject to any easements and restrictions of record and this deed includes all rights, easements, privileges and appurtenances belonging to the premises hereinabove described.

Reference is hereby made to a deed dated 7/26/1988 and recorded in the Androscoggin County Registry of Deeds in Book 2291, Page 205. Further reference is hereby made to a deed from Steven A. Pepin to John A. McLean dated 03/17/03 and recorded in said Registry of Deeds in Book 5345, Page 70. Further reference is hereby made to a corrective deed from Steven A. Pepin a/k/a Steve Pepin to John A. McLean dated 12/01/05 and recorded in said Registry of Deeds in Book 6598, Page 132.

ANDROSCOGGIN COUNTY
Tina M. Chaunard
REGISTER OF DEEDS

Bk 5886 Pg110 #9843
04-30-2004 @ 08:45a

Maine Short Form Warranty Deed

KARL W. ENT. (f/k/a Twin Town Rendering Company, Inc.), a Maine corporation, with a principal place of business in Auburn, Androscoggin County, Maine, for consideration paid, grants to **JOHN A. MCLEAN**, whose mailing address is 14-16 Wood Street, Lewiston, Maine, 04240, with **WARRANTY COVENANTS**, a certain lot or parcel of land, with any buildings thereon, situated in Auburn, County of Androscoggin, and State of Maine, being further described in the attached Exhibit A.

The premises are conveyed subject to any easements and restrictions of record, and this deed includes all rights, easements, privileges and appurtenances belonging to the premises hereinabove described.

IN WITNESS whereof, Karl W. Ent. has caused this instrument to be executed in its corporate name and on its behalf by Kirby A. Gueschick in his/her capacity as Shareholder, thereunto duly authorized, this 28th day of April 2004.

MAINE REAL ESTATE TRANSFER TAX PAID

Diane M. Milligan
Witness

KARL W. ENT.

By: Kirby A Gueschick
Printed Name: Kirby A. Gueschick
Capacity: Shareholder

STATE OF MAINE
County of Androscoggin, SS.

Then personally appeared the above named Kirby A. Gueschick, in his/her capacity as Shareholder of Karl W. Ent., known to me, this 28th day of April, 2004 and acknowledged before me the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of Karl W. Ent.

Diane M. Milligan
Notary Public/Attorney at Law
Name:
My commission expires:

DIANE M. MILLIGAN
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 17, 2009

SEAL

N:\WPDOCS\DIANET\2004\04-0600\04-0601.WD

Order No: 902267 (04-0601)

EXHIBIT 'A'

PARCEL ONE:

SO MUCH OF THE FOLLOWING DESCRIBED PARCEL OF LAND AS IS SITUATED ON THE WESTERLY SIDE OF BROAD STREET (A/K/A BROAD STREET EXTENSION, F/K/A MILL STREET) IN AUBURN, ANDROSCOGGIN COUNTY, STATE OF MAINE:

A CERTAIN LOT OR PARCEL OF LAND SITUATED IN SAID AUBURN, ON THE SOUTHEASTERLY SIDE OF THE LITTLE ANDROSCOGGIN RIVER, ABOVE A CONTOUR LINE AT AN ELEVATION OF 195 FEET, U.S.G.S. DATUM, AS ESTABLISHED BY A BENCH MARK DESIGNATED "AUGUSTA 196", WHICH BENCH MARK IS LOCATED ON THE SOUTH FACE OF THE SOUTHWEST CORNER OF THE LEWISTON POST OFFICE, SO CALLED, AS NOW CONSTRUCTED IN THE CITY OF LEWISTON, SAID COUNTY OF ANDROSCOGGIN AND STATE OF MAINE, SAID LOT OR PARCEL OF LAND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHWESTERLY LINE OF LAND FORMERLY OF SAMUEL VICKERY, NOW OWNED BY THIS GRANTOR, WHERE SAID 195 CONTOUR LINE INTERSECTS SAID SOUTHWESTERLY LINE; THENCE EXTENDING SOUTH 34° EAST A DISTANCE OF 1235 FEET, MORE OR LESS, TO THE NORTHERLY CORNER OF LAND FORMERLY OF JOHN D. ROWE; THENCE EXTENDING SOUTH 58° 30' WEST A DISTANCE OF 1156 FEET ALONG LAND OF SAID ROWE TO A POINT; THENCE EXTENDING NORTH 28° WEST A DISTANCE OF 875 FEET, MORE OR LESS, TO A POINT WHERE THE LAST DESCRIBED COURSE INTERSECTS SAID 195 CONTOUR LINE AT A POINT NEAR THE LOCATION OF THE RAILROAD BRIDGE AS OF MARCH 20, 1854; THENCE EXTENDING IN A GENERAL SOUTHEASTERLY, SOUTHERLY AND NORTHERLY DIRECTION ALONG SAID 195 CONTOUR LINE TO THE POINT OF BEGINNING.

EXCEPTING FROM THE PREMISES HEREBY CONVEYED SO MUCH OF BROAD STREET EXTENSION, SO CALLED, AS IS LOCATED WITHIN THE LIMITS OF THE PREMISES HEREBY CONVEYED.

EXCEPTING TO CENTRAL MAINE POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, ALL RIPARIAN AND WATER RIGHTS OF EVERY KIND AND NATURE, INCLUDING THE RIGHT TO USE, LOWER AND CONTROL THE WATERS OF THE LITTLE ANDROSCOGGIN RIVER OR ANY OF ITS TRIBUTARIES, AS CENTRAL MAINE POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, MAY SEE FIT IN ITS OR THEIR UNCONTROLLED DISCRETION WITHOUT LIABILITY ON THE PART OF CENTRAL MAINE POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, TO THE GRANTEES, THEIR HEIRS OR ASSIGNS, FOR THE UNEVEN HANDLING OR CONTROL OF SAID WATERS.

ALSO EXCEPTING AND RESERVING TO CENTRAL MAINE POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE PERPETUAL RIGHT AND EASEMENT TO OVERFLOW AND FLOOD THE PREMISES HEREBY CONVEYED, DIRECTLY OR INDIRECTLY, BY BACKFLOW, SEEPAGE, EROSION, INUNDATION OR OTHERWISE AS THE SAME MAY BE OVERFLOWED AND FLOODED BY MEANS OF ANY DAM OR DAMS NOW EXISTING OR WHICH MAY BE HEREAFTER CONSTRUCTED ACROSS THE LITTLE ANDROSCOGGIN RIVER, OR ANY RENEWALS OR REPLACEMENTS THEREOF, AT A TOTAL EFFECTIVE HEIGHT NOT EXCEEDING THE HEIGHT OF ANY DAM OR DAMS PREVIOUSLY EXISTING OR NOW CONSTRUCTED ACROSS SAID RIVER.

ALSO EXCEPTING AND RESERVING TO CENTRAL MAINE POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE PERPETUAL RIGHT AND EASEMENT TO REPAIR, REPLACE, OPERATE AND MAINTAIN ITS ELECTRIC DISTRIBUTION LINES, TOGETHER WITH APPURTENANT EQUIPMENT AND FACILITIES CONNECTED THEREWITH, AS THE SAME ARE NOW LOCATED OR MAY BE LOCATED ALONG AND ACROSS THE PREMISES HEREBY CONVEYED, ADJACENT TO THE NORTHWESTERLY AND/OR SOUTHEASTERLY SIDE LINE OF BROAD STREET EXTENSION AS THE SAME EXTENDS ACROSS SAID LOT; ALSO THE RIGHT TO CUT, TRIM AND REMOVE SUCH TREES AND BRANCHES AS MAY IN THE OPINION OF CENTRAL MAINE POWER COMPANY INTERFERE WITH OR ENDANGER THE OPERATION OF SAID ELECTRIC LINES; TOGETHER WITH THE RIGHT TO ENTER UPON THE PREMISES HEREBY CONVEYED AT ANY AND ALL REASONABLE TIMES FOR ANY OR ALL OF THE FOREGOING PURPOSES.

MEANING AND INTENDING TO CONVEY THE SAME PREMISES CONVEYED BY JOHN SULLIVAN AND VIOLA SULLIVAN TO TWIN TOWN RENDERING COMPANY, INC., BY DEED DATED JUNE 27, 1961 AND RECORDED IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS IN BOOK 859, PAGE 247, BUT WHICH DEED CONTAINED AN INADEQUATE DESCRIPTION WHEREBY IT DESCRIBED THE PARCEL THEREBY CONVEYED SIMPLY BY TAX MAP AND LOT REFERENCE. THE INTENT OF JOHN SULLIVAN AND VIOLA SULLIVAN WAS TO CONVEY THE SAME PREMISES AS SET FORTH HEREIN.

PARCEL TWO:

A CERTAIN LOT OR PARCEL OF LAND SITUATED IN AUBURN, COUNTY OF ANDROSCOGGIN AND STATE OF MAINE, BOUNDED AND DESCRIBED AS FOLLOWS:

A TRIANGULAR PARCEL OF LAND SITUATED ON MILL STREET, APPROXIMATELY ONE ACRE IN SIZE, AND DESCRIBED IN A DEED RECORDED IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS IN BOOK 395, PAGE 14.

BEING THE SAME PREMISES CONVEYED TO TWIN TOWN RENDERING CO., INC., BY DEED FROM KARL GURSCHICK, KENNETH GURSCHICK, WALTER GURSCHICK DATED NOVEMBER 7, 1973 AND RECORDED IN THE ANDROSCOGGIN COUNTY REGISTRY OF DEEDS IN BOOK 1086, PAGE 117.

TWIN TOWN RENDERING COMPANY, INC., IS NOW KNOWN AS KARL W. ENTERPRISES.

ANDROSCOGGIN COUNTY
Tina M. Chaunard
REGISTER OF DEEDS

Bk 7887 Pg101 #2984
02-25-2010 @ 11:05a

STATE OF MAINE
DIV. OF SO. ANDROSCOGGIN

DISTRICT COURT
LOCATION: LEWISTON
DOCKET NO. CV-09-441

CITY OF AUBURN,

Plaintiff,

v.

JOHN MCLEAN,

Defendant.

JUDGMENT

This is a code enforcement action by the City of Auburn against the owner and operator of property and improvements thereon located at 741 Broad Street in Auburn, Maine (the "Premises"), brought pursuant to M.R. Civ. P. 80K. Having heard ~~the parties,~~ Plaintiff this Court hereby orders the entry of judgment as follows:[1]

WHEREAS Defendant John McLean ("Defendant") holds title to the Premises;

WHEREAS Plaintiff, the City of Auburn ("Auburn"), issued and served on the Defendant a Notice of Violation with respect to certain code violations at the Premises on or about July 20, 2007 providing notice to the Defendant of the violations identified therein;

WHEREAS the Defendant did not file an administrative appeal of Auburn's findings and orders to abate contained in the Notice of Violation;

WHEREAS on March 16, 2009, Auburn issued a Land Use Citation and Complaint regarding the same violations; and

WHEREAS this Court finds the allegations made in the Land Use Citation and Complaint to be true,

[1] Defendant failed to appear for the final hearing in this matter and the court the proceeded with a default hearin

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COURT THAT:

1. Judgment is granted to the Plaintiff, the City of Auburn;

2. The Defendant shall, no later than thirty (30) days after the date of this Judgment, undertake and complete certain repairs and improvements of the Premises so as to bring the Premises fully into compliance with Auburn's zoning ordinance and Maine's junkyard/automobile graveyard statute, 30-A M.R.S. § 3753, namely, by removing all items and debris from the exterior and interior of the Premises and properly disposing of same at a properly licensed disposal or recycling facility.

3. The Defendant shall complete all repairs and/or improvements required of him by this Judgment and/or order of a Auburn code enforcement official to the reasonable satisfaction of the responsible Auburn code enforcement official(s);

4. Pursuant to 30-A M.R.S. § 4452(3), the Defendant shall, within thirty (30) days of this Judgment, pay to Auburn a civil penalty of $90,500. The aforementioned civil penalty shall be paid to the City of Auburn via bank check, money order, or similarly liquid form of payment.

6. Pursuant to 30-A M.R.S. § 4452(3), the Defendant shall also, within thirty (30) days of this Judgment, reimburse Auburn for its attorneys' fees and costs, in the amount of $3,000, via bank check, money order, or similarly liquid form of payment, which fees and costs the Defendant stipulates are reasonable and appropriate in the circumstances of this case.

7. In the event any payment required by this Judgment is made more than thirty (30) days after its due date, interest shall accrue on said payment, at the rate of 6.41% ~~8.25%~~ per annum,[2] commencing on the due date and accruing on each and every overdue payment until such payment and accrued interest is paid;

8. In the event the Defendant shall fail to comply with any requirement imposed in the preceding numbered paragraphs of this Judgment within the stated deadline(s) for performance, statutory penalties shall accrue at a rate of $500 per day for each separately stated or enumerated violation in the notice of violation, pursuant to 30-A M.R.S. § 4452, following the date of such non-compliance, until such time as the Defendant shall bring the Premises into full compliance with applicable land use, property maintenance, or other similar requirements, to the satisfaction of the responsible City of Auburn code enforcement official, and/or complete his payment of the sums owed to the City of Auburn pursuant to this Judgment or by operation of law;

9. Following the completion of the repairs and improvements required herein, the

2 The statutory post-judgment interest on a judgment entered in 2010.

Defendant and/or his successors in interest shall maintain the subject Premises in compliance with all other applicable land use, property maintenance, electrical, plumbing, building, and life safety codes; and

10. The Clerk shall enter this Judgment on the Docket by reference, pursuant to M.R. Civ. P. 79(a).

SO ORDERED,

Dated: February 10, 2010

R. E. Laurence
Judge, Maine District Court

SEAL
2 18 10
A TRUE COPY
ATTEST:
(DEPUTY) CLERK OF COURTS

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

STATE OF MAINE
DIV. OF SO. ANDROSCOGGIN

DISTRICT COURT
LOCATION: LEWISTON
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Plaintiff,

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JOHN MCLEAN,

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WHEREAS this Court finds the allegations made in the Land Use Citation and Complaint to be true,

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Dated: February 10, 2010

R. E. Lawrence

Judge, Maine District Court