



City Council Workshop & Meeting January 9, 2017 Agenda

5:30 P.M. Workshop

- A. Tax Acquired Property Policy Update – Jill Eastman (20 minutes)
- B. Target Area City Owned Properties Development Proposal – Eric Cousens (30 minutes)
- C. Gowell’s Market Zoning Change – Doug Greene (15 minutes)

7:00 P.M. City Council Meeting

Roll call votes will begin with Councilor Pross

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 01-01092017***
Setting the date of the Special Election for Ward 4 Council seat as June 13, 2017.
 2. **Order 02-01092017***
Referring the Gowell’s Market Zoning Change Proposal to the Planning Board.
 3. **Order 03-01092017***
Appointing Jonathan LaBonte, Robert Stone, and Bettyann Sheats to serve on the NNEPRA (Northern New England Passenger Rail Authority) Project Advisory Team.
- II. **Minutes**
 - December 19, 2016 Regular Council Meeting
- III. **Communications, Presentations and Recognitions**
 - Audit – Runyon Kersteen and Ouellette
- 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 09-10172016

Amending the zoning map in the area of 1863 Pownal Road. Second reading.

VI. New Business - None

VII. Executive Session

- Discussion regarding a Labor Negotiations, pursuant to 1 M.R.S.A. §405(6)(D).
- Discussion regarding Economic Development, pursuant to 1 M.R.S.A. §405(6)(C).

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 or 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: January 9, 2017

Author: Sue Clements-Dallaire, City Clerk

Subject: Tax Acquired Property Policy

Information: Attached is the Tax Acquired Property Policy with some proposed changes for your review.

Advantages:

Disadvantages:

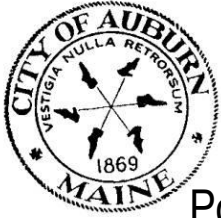
City Budgetary Impacts:

Staff Recommended Action: Discussion.

Previous Meetings and History: Meeting with the Finance and Administration Committee and City Council Workshop on December 19, 2016.

Attachments:

Tax acquired property policy



City of Auburn

Policy Regarding the Acquisition and Disposition of Tax Acquired Property

Article 1. Purpose

The purpose of this policy is to establish a procedure for the management, administration and disposition of real property acquired due to non-payment of taxes in accordance with Title 36 MRSA Sections 942 ~~and~~ 943 ~~as amended~~ which directly relates to the disposition of property acquired for non-payment of taxes. It is in the City's and the residents' best interest to have a clear policy with respect to the disposal of tax acquired property and to have that property disposed of efficiently as possible in order to:

- Return properties to the tax rolls;
- Reduce the opportunity for neighborhood blight by not having buildings or lots sit vacant and unattended, thus potentially becoming an eyesore and a target for vandalism;
- Preserve neighborhoods by having properties sold in a timely manner, thus reducing the likelihood of deterioration or becoming dilapidated.

It is the City of Auburn's goal to make a reasonable effort to return properties to their previous owner(s), while maintaining the integrity and fiscal well-being of the City.

Article 2. Administration - "Tax Acquired Property Management Committee"

Section 2.1 Committee Established. ~~The City Manager will appoint~~ With the passage of the policy a staff committee will be established which and will be called the "Tax Acquired Property Management Committee".

Section 2.2 Committee Composition. Permanent members of the committee will be the Finance Director, Tax Collector and the Facilities/Purchasing Manager. The remainder of the committee will have representation from ~~those the following~~ departments: as determined by the City Manager which have a direct relationship to property administration in the City of Auburn. ~~Permanent members of the committee will be the Finance Director, Tax Collector, Purchasing Agent and a representative of the City Manager's Office.~~ The City Manager will name the committee chairperson. Economic and Community Development, Assessing, Public Services, Recreation, Fire and Police.

Section 2.3 Meetings. The Committee will meet as often as necessary to carry out the duties and responsibilities set forth in this policy.

Article 3. Duties and Responsibilities of the City Tax Collector and the Committee

Section 3.1 Review of Properties. At least forty five (45) days prior to the foreclosure date, the City Tax Collector shall identify each property on the list and notify all members of the committee of the impending foreclosure. The identification shall include, but is not limited to, the following: property tax map and lot number, property owner name, property location by street address, current property use if improved with buildings, and any other information available that the Tax Collector feels will be helpful

to the committee.

Section 3.2 Notice to Departments. The Tax Collector shall notify the following departments of the impending foreclosure, and provide the list of properties and the same information as provided to the committee: the City Manager, ~~Community Development, Assessing Department, Economic Development, Planning and Code Enforcement, Parks and Recreation, Public Works Department, Engineering Division, Fire Department, Police Department, and City Clerk.~~ In addition to the above named City departments, the Tax Collector will notify the Auburn Water District, the Auburn Sewer District and any other persons requesting such notification. Health and Social Services and City Clerk.

Section 3.3 Request for Department Review. At the time of the notice, the Tax Collector will request the departments to review the property list for the purpose of advising the committee of any properties which the City should not acquire through the lien foreclosure process. When appropriate, the department should perform a field visit to the property. In reviewing the list, each department will consider the criteria and guidelines established in this policy and by the Committee.

In order for the Committee to perform its work, each department must conduct its review and return its written findings and recommendations to the Tax Collector within five (5) business days.

Section 3.4 Guidelines for reviewing

When reviewing properties that may be subject to foreclosure, the Committee and the affected departments will, at a minimum, consider the following guidelines and criteria in determining whether the City should: (1) retain the property for public use, (2) sell the property, or (3) waive foreclosure:

- the property is either unfit or unnecessary for City use;
- the City wishes to retain ownership for municipal purposes;
- the property is adjacent to publicly owned land;
- there are buildings on the property that should be demolished;
- there are environmental liabilities or hazards present on the site
- the property has investment or marketable value;
- there are uses that the property is suited for which meet the requirements of the City's zoning and land use ordinance;
- the property has value only to an abutter (provides additional set back, off street parking, etc.).

The Committee may consider additional criteria in formulating its recommendation to the Manager and City Council regarding disposition of the property.

Section 3.5 Committee Action/Recommendations. The committee will meet to review the comments received from each department. The Committee will then forward a recommendation to the City Manager for appropriate action. The Committee will meet in sufficient time before the foreclosure deadline in order for the City Manager and City Council to have sufficient time to take any action that may be necessary, including waiver of foreclosure.

Article 4. Sale and Marketing of Tax Acquired Properties

The City of Auburn will dispose of tax acquired properties by the following method.

Section 4.1 Guidelines Regarding the Sale or Disposition of Tax Acquired Property. All tax acquired properties will automatically be eligible for disposition immediately following foreclosure by the City with the following exceptions:

- In cases where the City has negotiated a payment plan with the owner for back taxes - prior to foreclosure, and payments are being made accordingly; and
- In cases where the City wishes to retain ownership for municipal purposes, such as open space, public improvements, sewers, storm drains, parks and recreation, public safety, transportation, education, right of ways, storage areas, etc., or the City wishes to convey the property for a use which serves the City's interests.

Section 4.2 Sale to the Prior Owner. The City will first offer tax acquired property to the prior owner, it shall be offered upon the following conditions: Upon acquiring a property, the Tax Collector shall notify the prior owner that they have thirty (30) days within which to inform the City if they intend to redeem the foreclosed property. This notification is a matter of courtesy only, the failure of the municipality or municipal officers to send this notice shall not create any legal rights to any person. To redeem the property, the prior owner must pay all taxes assessed and unpaid, all interest on those unpaid taxes, all costs associated with the lien and foreclosure process and the estimated next fiscal year's property taxes if the redemption occurs after April 1st. If the prior owner has not entered into a payment plan or has not redeemed the property within sixty (60) days of the date of notification by the City, the City will proceed with the disposition in accordance with this policy. Nothing in this policy shall be construed to create any entitlement of reconveyance. The failure of the municipal officers to send this notice, or the fact that the notice has not been received or understood by the person to whom it was sent, shall not invalidate the sale or disposal of the tax acquired property pursuant to this policy nor shall such failure provide a legal basis for any legal action against the Municipality, municipal officers or any employee thereof.

A "Contract for Repayment of Real Estate Taxes" may be entered into, if mutually agreed upon by the Municipality and the prior owner. This contract will state that the previous owner will have one (1) year from the foreclosure date to pay all taxes assessed and currently unpaid, all interest due on the unpaid taxes, all costs associated with the lien and foreclosure process and the estimated next fiscal year's taxes if the redemption occurs after April 1st. The contract will also state that the repayment will be done in four (4) or less installments. Prior to the execution of the contract, the purchaser shall provide the City of Auburn with written proof of homeowners' insurance on the foreclosed property and the insurance policy shall list the City of Auburn as "loss payee".

Section 4.3 Sale to Immediate Heirs. The City may offer tax acquired property to an immediate heir of the last assessed owner. To redeem the property, the immediate family member must pay all all taxes assessed and currently unpaid, all interest due on the unpaid taxes, all costs associated with the lien and foreclosure process and the estimated next fiscal year's taxes if the redemption occurs after April 1st and any legal fees that the City of Auburn incurs.

Section 4.3 Sale to Abutters. In the event the prior owner or immediate heirs has-have declined or is-are unable to buy the property within the timeframe specified in Section 4.1, the property will be

~~advertised for sale offered~~ to all immediate abutters ~~and the general public~~. Immediate abutters will receive notice by certified mail, ~~and notice to the public will be by generally accepted means~~. ~~All notices will require a minimum bid of 50% of the assessed value of the property~~. When selling any property the ~~Council Purchasing/Facilities Manager~~ will take into consideration:

- Whether the lot is nonconforming and/or unbuildable.
- The needs of abutting properties for additional land to meet current zoning requirements.
- The plans for neighborhood development or master planning and the potential effect on the neighborhood.
- The minimum bid price.

The ~~Council Purchasing/Facilities Manager~~ will determine the outcome of all tax-acquired bids and reserves the right to accept or reject any proposal it receives. The City will provide tax title only through a quit claim deed.

Section 4.4 Sales. Depending on the type of property and its value, the City may use a variety of marketing methods, as indicated below. Regardless of the method, the City reserves the right to accept or reject any proposal it receives. The Finance Department will maintain an updated list of all tax acquired properties which are available for sale and which will be provided to the public upon request.

i. Sealed Bids. The City may offer properties for sale by sealed bid in conformance with the City charter and applicable statutes. This sale will be conducted by the City's Purchasing ~~Facilities Manager~~ Agent. The City retains the sole discretion to accept or reject any bid depending on whether the City determines a bid proposal meets the City's objectives.

ii. Request for Proposals. The City may solicit proposals using an RFP process.

iii. Real Estate Broker Contract. Vacant land, commercial, industrial, residential and multi-family residential properties which are determined to have investment or high sale value will be identified with a disclosure statement describing all property attributes. This disclosure statement will be obtained from the Assessing Department based on the available record and a field inspection when entry to the property can be obtained. The City may place these properties with a professional real estate broker to be marketed. If the properties are placed with a professional broker, they will be given a deadline within which to sell the property. If the property is not sold within that timeframe, thereafter if any broker produces a purchaser, which results in a sale, the broker will receive a commission.

Section 4.4. Rejection of Bid or Purchase Offer. All properties will be sold at a price acceptable to meet the City's priorities for reuse, taking into consideration the assessed value, the property's current condition, and potential use. Nothing in this policy shall limit or modify the discretion of the City Manager or the City Council to reject any bid offer to purchase, should they deem it in the best interests of the City to do so. All properties must be sold for uses in keeping with the City's zoning ordinance. The City may place criteria on the disposition of any property that meet or further the City's objectives including: the density of development, design standards, the intended use (even when the particular use is allowed in that zone), and evidence of the buyer's financial ability to develop the property.

Article 5. Occupied Residential Properties. Prior to the conveyance by the City of a foreclosed residential property, the City will manage the property in accordance with the provisions of Title 14

MRSA Section 8104-A. The purpose for this provision is to avoid any liability, or management responsibility with regard to ownership of the property.

The City may notify the occupants that the property has been foreclosed and is in the possession of the City of Auburn. The City may choose to evict the occupants in accordance with the law. If the City allows the occupants to continue to reside in the building, the City will notify the occupants that it will perform no maintenance on the property or buildings, that the City will accept no financial obligations or responsibilities to operate the buildings and that the continued occupancy of the property is at the sole discretion and risk of the tenant or leasee.

The sale of tax-acquired property shall be subject to any additional terms and conditions of sale which the municipal officers may require and the City Attorney may reasonably advise.

The bid price for either process shall be determined by the Finance Director or his/her designee in no event being less than all outstanding property taxes, including the total amount of all delinquent taxes plus the total taxes for the current year (and the estimated taxes for the next year after commitment) plus accrued interest, lien costs and any other costs relating to the property and this process (including, but not limited to, insurance, attorney's fees, auction/bid or notice costs). If the tax-acquired property is sold for a sum which exceeds the determined bid price, the municipality is entitled to retain the entire proceeds. There is no requirement to refund the former owner(s) any of the "surplus" realized upon the sale.

The Finance Director/designee shall convey any property sold through either process by Quitclaim Deed.

The purchaser of any tax-acquired property sold through either process shall purchase the tax-acquired property and any improvements thereon on an 'as is/where is" basis and shall acknowledge such in writing with the signing of a City-provided form to that effect. The municipality and its officers, agents or employees make no representations or warranties of any kind, express or implied, including, but not limited to, the warranties of fitness, habitability, merchantability, satisfaction of building requirements or use for any particular purpose or otherwise, all of which shall be disclaimed.

The purchaser of any tax-acquired property sold through either process shall be responsible for the removal of any and all occupants and contents of said property, as may otherwise provided by law, and shall, in writing with the signing of a City-provided form that effect, forever defend and indemnify the municipality and its officers, agents or employees from any and all claims arising out of the said sale, whether by the occupants of the purchased property, their heirs or assigns or otherwise, or by the owners of any contents therein, whether by the occupants, their heirs or assigns or otherwise.

Purchase and Sale Agreement as well as a Notice and Acknowledgement prepared by the City Attorney shall be entered into between the municipality and the successful bidder no later than 30 days from the date of the award of bid and upon successful completion of all terms of sale. Such agreements shall require the buyer to close in full on the property within thirty (30) days thereafter.

~~Adopted by the Auburn City Council February 17, 1998~~
~~Amended by the Auburn City Council: January 29, 2009~~
Adopted by the Auburn City Council: July 6, 2009

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**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 1-9-2017

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

Subject: Target Area City Owned Properties Development Proposal

Information: To move this discussion forward we have drafted a policy/protocol for reviewing City owned properties for disposition and we have done an initial review of City owned parcels in the Downtown and provided a recommendation that 2 parcels are ready for legal review and consideration as laid out in the draft policy. Staff would like the Council's input on the draft policy and on the Downtown Parcel list at this time. A council decision is required for the acquisition or disposition of real estate. We intend to review the other two CDBG target area parcels over the next couple months if the policy/protocol is found to be acceptable by the Council and we hope some parcels will be made available for development RFPs or sale.

The following questions require input from the Council to continue forward:

1. Do you want this to be an official policy adopted by the Council vs. a Standard Operating Procedure?
2. Staff believes the Plan Review Committee is a good comprehensive group to take on this task without creating or managing a new committee and they can handle some additional work efficiently. Does the Council agree?
3. Section 4.4 of the draft policy: The model used for this draft was based on the tax acquired policy (TAP) with substantial modification. The TAP places the final decision to accept or reject a bid to purchase on the Finance Director after the Council has voted to dispose of the property. Staff recommends that the redevelopment parcel decisions that we are discussing are not determined with a traditional highest bid price wins criteria, but instead we look at other criteria. Criteria could include tax revenues over a period (20yrs?), consistency with City plans and the neighborhood, private investment in public infrastructure associated with a proposal, job creation, costs to provide services to a proposed development, etc. The decision would not be as cut and dry as a price based decision and could be challenged more easily.
 - a. Would the Council prefer to have a process that lays out criteria for the decision at the RFP stage and then staff determines the winning proposal based on set RFP scoring criteria or a process that requires staff to recommend the best proposal(s) to the Council for a final Council decision?
 - b. What other criteria are desired?

Advantages: Appropriately review parcels for municipal needs, move appropriate properties to a taxable status and encourage private investment.

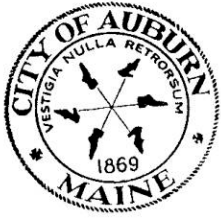
Disadvantages: None:

City Budgetary Impacts: Increased revenues over time.

Staff Recommended Action: Provide input on policy and properties.

Previous Meetings and History: 12-19-2016 Workshop

Attachments: Draft Policy/procedure, Downtown parcels list and map



City of
"Maine".

Office of Planning

City of Auburn

Review and Disposition of City Property for Redevelopment Purposes

Article 1. Purpose

The purpose of this guideline is to establish a procedure for the review and disposition of real property to promote economic and community development goals and increase the City's tax base. It is in the City's and the residents' best interest to have a clear policy with respect to the disposal of property and to have that property disposed of efficiently as possible in order to:

- Return City owned properties to the tax rolls and grow value;
- Create a competitive market for key properties and promote development in accordance with City goals;
- Reduce the opportunity for neighborhood blight by not having buildings or lots sit vacant and unattended, thus potentially becoming an eyesore and a target for vandalism;
- Preserve neighborhoods by having properties sold in a timely manner, thus reducing the likelihood of deterioration or becoming dilapidated.

Article 2. Administration – Project Review Committee

Section 2.1 Responsibility for Review. With the passage of this policy the existing Plan Review Committee (PRC) will add the discussion of City Owned Parcels to their agenda and provide recommendations regarding which parcels should be marketed for development or retained for City purposes.

Section 2.2 Committee Composition. The Plan Review Committee includes representatives from City Departments, Lewiston Auburn Airport, City Manager's Office, and the Auburn Water and Sewer District.

Section 2.3 Meetings. The Committee will meet monthly or as often as necessary to carry out the duties and responsibilities set forth in this policy.

Article 3. Duties and Responsibilities of the Review

Section 3.1 Review of Properties. The Economic and Community Development Department shall prepare a list of City owned property annually and from time to time as parcels become available, for review and notify the PRC as part of the routine monthly agenda notices. All City Properties will be included on the initial list and the review should consider developed and undeveloped lots or a portion of lots if partly developed for public use. Tax acquired properties may be referred to this process if the Council has determined a parcel to be ready for resale. Priority will be given initially to lots within the Downtown, New Auburn and Union Street CDBG Target Areas and then expanded to include other areas of the City.

Section 3.3 Department Reviews. Attendance at the PRC meeting is mandatory. Each Department must provide a representative for PRG meetings and make arrangements for an alternate if the primary representative is unavailable.

Section 3.4 Guidelines for reviewing

When reviewing properties the PRC shall make a recommendation and at a minimum determine whether the City should: (1) retain the property for public use, (2) sell the property, (3) retain the property temporarily for future resale or public use.

The following should be considered in forming a recommendation:

- the property is either unfit or unnecessary for City use;
- Comprehensive Plan or other City Plan recommendations for the area;
- the City wishes to retain ownership for municipal purposes;
- the property is adjacent to publicly owned land;
- there are buildings on the property that should be demolished;
- there are environmental liabilities or hazards present on the site
- the property has investment or marketable value;
- there are uses that the property is suited for which meet the requirements of the City's zoning and land use ordinance;
- the status of the existing infrastructure

The PRC may consider additional criteria in formulating its recommendation to the Manager and City Council regarding disposition of the property.

Section 3.5 Recommendations. The Economic and Community Development Department shall review the comments received from each department, compile a summary and forward a recommendation to the City Manager for appropriate action. It should be recognized that a title review and a review of any other restrictions on a particular parcel has a cost and may be delayed until after staff provides an initial

recommendation and after the Council has expressed an interest in moving forward with a particular parcel.

Article 4. Sale and Marketing of Properties

The City of Auburn intends to dispose of properties by the following methods.

Section 4.1 Guidelines Regarding the Sale or Disposition of Property for Redevelopment Purposes.

Section 4.4 Sales. Depending on the type of property and its value, the City may use a variety of marketing methods, as indicated below. City Plans, goals, desired project types and property information should be included in the marketing materials. Sale price may have less weight than meeting city plans, goals, development plans and new value created. The City may donate or sell at less than market value if the proposal promotes substantial private investment and the creation of new taxable value in excess of the current property value. Regardless of the method, the City reserves the right to accept or reject any proposal it receives.

i. Sealed Bids. The City may offer properties for sale by sealed bid in conformance with the City charter and applicable statutes. This sale will be conducted by the City's Purchasing/Facilities Manager. The City retains the sole discretion to accept or reject any bid depending on whether the City determines a bid proposal meets the City's objectives.

ii. Request for Proposals. The City may solicit proposals using an RFP process. City plans, goals, property information and desired project types or elements should be included as goals/criteria in the RFP and scoring, based on meeting some or all of those goals/criteria may be used to determine the winning proposal. Sale price may have less weight than meeting city plans, goals, development plans and new value created.

iii. Real Estate Broker Contract. Vacant land, commercial, industrial, residential and multi-family residential properties which are determined to have investment or high sale value will be identified with a disclosure statement describing all property attributes. This disclosure statement will be obtained from the Assessing Department based on the available record and a field inspection when entry to the property can be obtained. The City may place these properties with a professional real estate broker to be marketed. If the properties are placed with a professional broker, they will be given a deadline within which to sell the property. If the property is not sold within that timeframe, thereafter if any broker produces a purchaser, which results in a sale, the broker will receive a commission.

Section 4.4. Rejection of Bid or Purchase Offer. Nothing in this policy shall limit or modify the discretion of the City Manager or the City Council to reject any bid offer to purchase, should they deem it in the best interests of the City to do so. All properties must be sold for uses in keeping with the City's zoning ordinance or future City Plans. The City may place criteria or performance standards on the disposition of any property that meet or further the City's objectives.

The sale of property shall be subject to any additional terms and conditions of sale which the municipal officers may require and the City Attorney may reasonably advise.

PLACEHOLDER FOR DECISION MAKING GUIDELINES – See Information Sheet

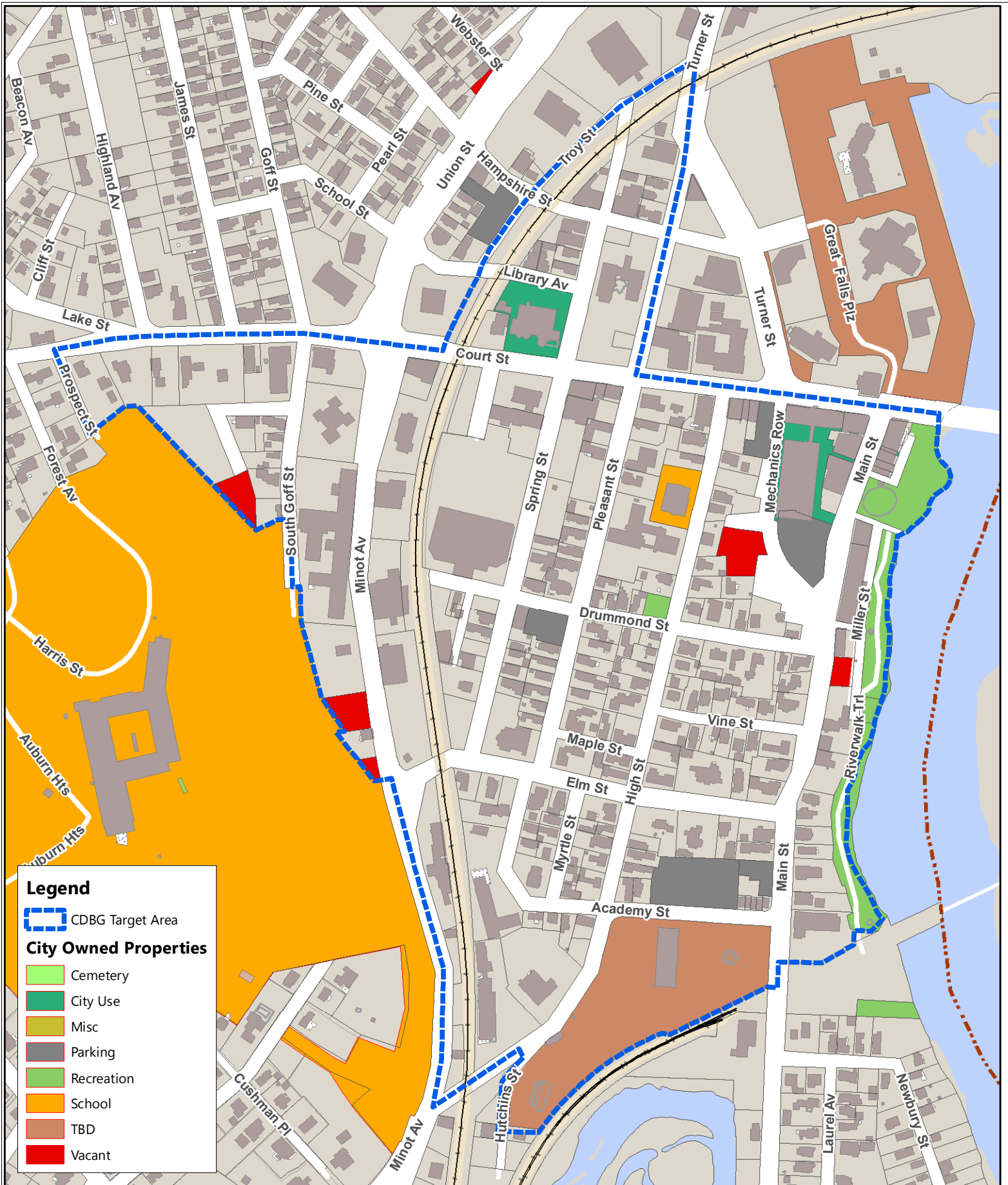
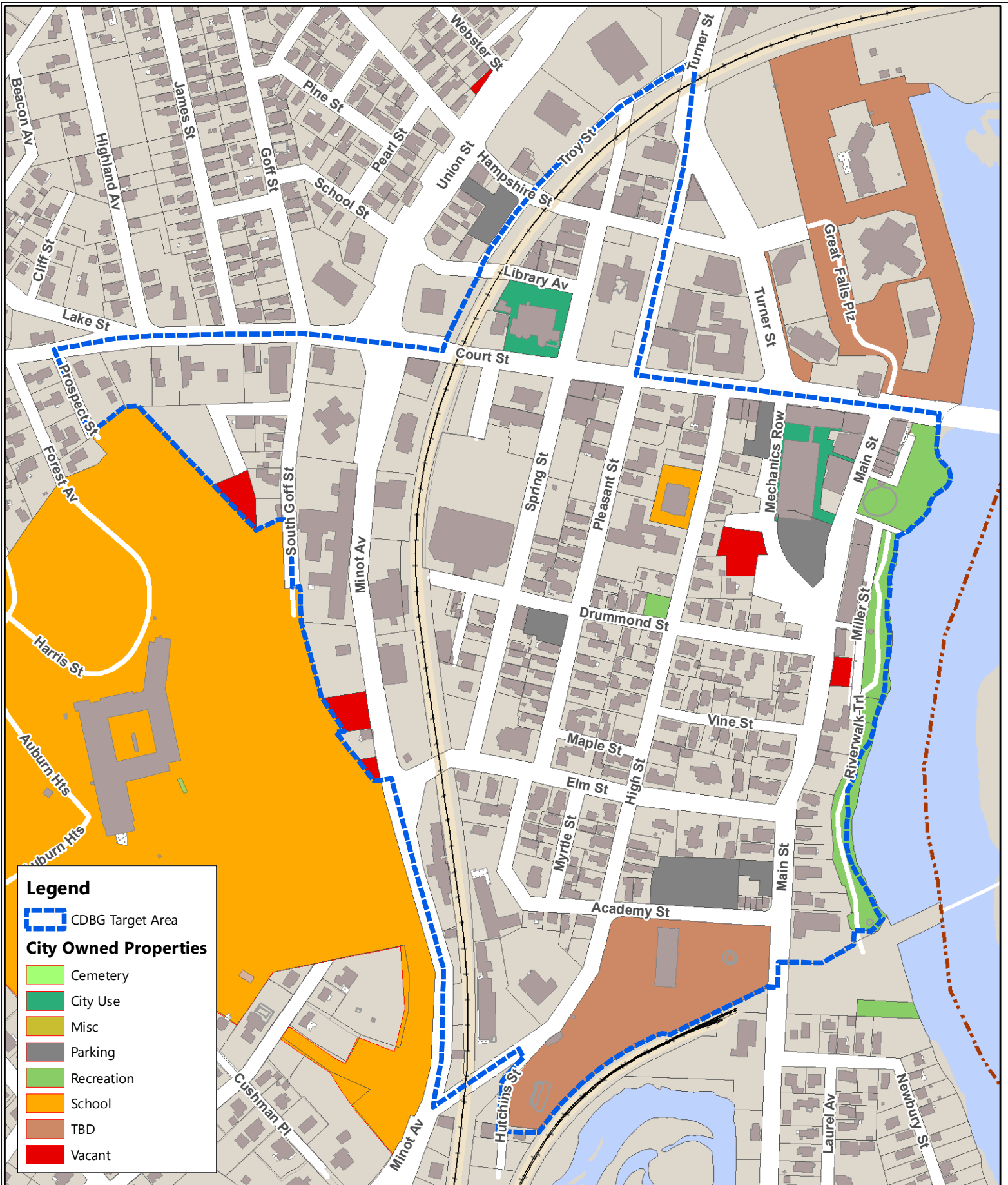
Purchase and Sale Agreement as well as a Notice and Acknowledgement prepared by the City Attorney shall be entered into between the municipality and the successful bidder no later than 30 days from the date of the award of bid and upon successful completion of all terms of sale. Such agreements shall require the buyer to close in full on the property within thirty (30) days thereafter.

Initial Review of Downtown City Owned Property – Intended to help determine if any properties should be reviewed in more detail for potential sale or RFP’s for development/redevelopment

ID	ParcelID	Location	Target Area	Acreage	Land Value	Total Value	Use	COMMENTS	RECOMMENDATION COLOR KEY
41	241-031	60 COURT ST	Downtown	1.5	753,700	12,001,100	City Bldg		HOLD - NOT AVAILABLE FOR DEVELOPMENT
39	240-199	49 SPRING ST	Downtown	1.2	639,200	5,696,200	Library		HOLD - NOT CURRENTLY AVAILABLE FOR DEVELOPMENT BUT MAY BE IN THE FUTURE
64	241-018-001	MAIN ST	Downtown	0.0	700	700	Walkway next to Gritty's		REVIEW IN MORE DETAIL TO PREPARE FOR SALE OR RFP
136	231-004	261 MAIN ST	Downtown	0.2	55,000	60,100	Parking lot	Has Development Potential if market supports it - Review with PRG Group and Attorney and put out for RFP if the review is positive	
45	230-089	133 PLEASANT ST	Downtown	0.3	67,400	67,400	Parking lot	Does the Council want to consider eliminating paved parking at this point? Mostly CDBG funded and there will likely be repayment strings attached.	
135	230-132	15 ACADEMY ST	Downtown	1.1	146,400	146,400	Parking lot		
126	241-005	76 COURT ST	Downtown	0.3	200,600	200,600	Parking lot		
43	241-025	131 MAIN ST	Downtown	0.7	443,000	491,400	Parking Lot		
42	241-021	112 MAIN ST	Downtown	1.3	677,500	712,500	Festival Plaza		
98	231-018	96 MILLER ST	Downtown	0.2	3,300	3,300	Parkland		
40	240-231	57 HIGH ST	Downtown	0.1	35,000	35,000	Parkland		
61	231-017	74 MILLER ST	Downtown	1.0	535,800	535,800	Parkland		
152	240-233	23 HIGH ST	Downtown	0.6	104,300	707,700	School		
107	230-163	277 MAIN ST	Downtown	6.6	305,700	1,806,000	Great Falls School		
91	240-280	SOUTH ST	Downtown	0.3	3,400	3,400	vacant land	No Frontage/Inaccessible and steep slopes. Adjacent to Miracle Enterprise project. HOLD	
92	230-063	MINOT AV	Downtown	0.1	23,900	23,900	Vacant land	At Minot and Elm. HOLD	

Initial Review of Downtown City Owned Property – Intended to help determine if any properties should be reviewed in more detail for potential sale or RFP’s for development/redevelopment

60	231-020	186 MAIN ST	Downtown	0.1	32,500	32,500	Vacant land	Frontage on Main and Riverwalk. Could be residential and commercial interest. Review with PRG Group and Attorney and put out for RFP if the review is positive.	
44	241-004	MECHANICS ROW	Downtown	0.4	86,500	86,500	Vacant land	Could possibly be marketed but has steep slopes and may be challenging to develop. Focus on other priorities. HOLD	
46	230-065	87 MINOT AV	Downtown	0.4	91,100	91,100	Vacant land	At Minot and Elm. HOLD	





**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: January 9, 2017

Order: 02-01092017*

Author: Douglas Greene, Urban Development Coordinator, Department of Economic and Community Development

Subject: Council Initiation of a Zone Change at 127 Hampshire Street

Information: Gowell's Market, a small neighborhood business located at 121 Hampshire Street, would like to expand its operation into an adjacent property that it owns, which is located at 127 Hampshire Street. In order to expand, the adjacent property at 127 Hampshire Street will need to have its zoning changed from Multi-Family Urban (MFU) to Neighborhood Business (NB). Council members Stone and Walker have submitted a Workshop Agenda Item Request Form (attached) requesting the City Council initiate a Zoning Map Amendment (ZOMA) to rezone 127 Hampshire Street to Neighborhood Business. If initiated, the ZOMA would move forward to the Planning Board at their February 14th meeting, for a public hearing and recommendation. The Staff recommends that the Council also include in its initiation motion that the Future Land Use Plan for 127 Hampshire Street be amended from High Density Neighborhood Conservation to Neighborhood Business. This step will then allow the zone change amendment to be in compliance with the Comprehensive Plan.

Advantages: Rezoning the property at 127 Hampshire Street would allow this long time neighborhood business, to expand and become more productive.

Disadvantages: The applicant will need to work with the surrounding property owners and Planning Board to ensure that the new business expansion, if allowed through a zone change, will not be detrimental to the neighborhood.

City Budgetary Impacts: None

Staff Recommended Action: Staff recommends the City Council initiate the zoning map amendment.

Previous Meetings and History: None

Attachments:

1. City Council Workshop Agenda Item Request Form
2. Existing Zoning Map
2. Future Land Use Map (2010 Comprehensive Plan)
3. Excerpt on Neighborhood Business from 2010 Comprehensive Plan
4. Order 02-01-02092017



City Council
Workshop Agenda Item Request Form

City of Auburn

Requesting Councilor's Name: *RD Stone*
Councilor Robert Stone

Second Councilor Name: *Larry Walker*

Policy: Neighborhood Business Zone at 121 Hampshire Street (Gowell's Market)

Summary of Issue: Gowell's Market is located in the Neighborhood Business Zoning district and is surrounded by Multi Family Urban zoning. The City of Auburn desires investment in the Hampshire Street corridor and William Nolin and family, owner of Gowell's Market wishes to expand and improve the existing retail store. The expansion cannot be allowed as proposed unless the boundary of the Neighborhood Business zone is expanded to include at least a portion of 127 Hampshire Street which is also owned by the Nolin family.

Recommended Action for Consideration: Initiate the process of considering a zoning map amendment to expand the Neighborhood Business Zoning district at 121 Hampshire Street to include the land at 127 Hampshire Street. Refer to Planning Board for public hearing and a recommendation.

Existing Policy References (Comp. Plan, etc):

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. However, if a property is converted to a residential use, it is the City's policy that the City should rezone the property to eliminate the Neighborhood Business District.

Committees of Jurisdiction (if applicable): Refer to Planning Board for recommendation to the Council as required by Ordinance.

In order for a workshop item to be considered for an upcoming Auburn City Council Workshop agenda, please complete the above and present it at any time to the Mayor and City Manager. Our goal is to have items requested on a workshop agenda within 90 days of the date received.

DO NOT WRITE BELOW THIS LINE

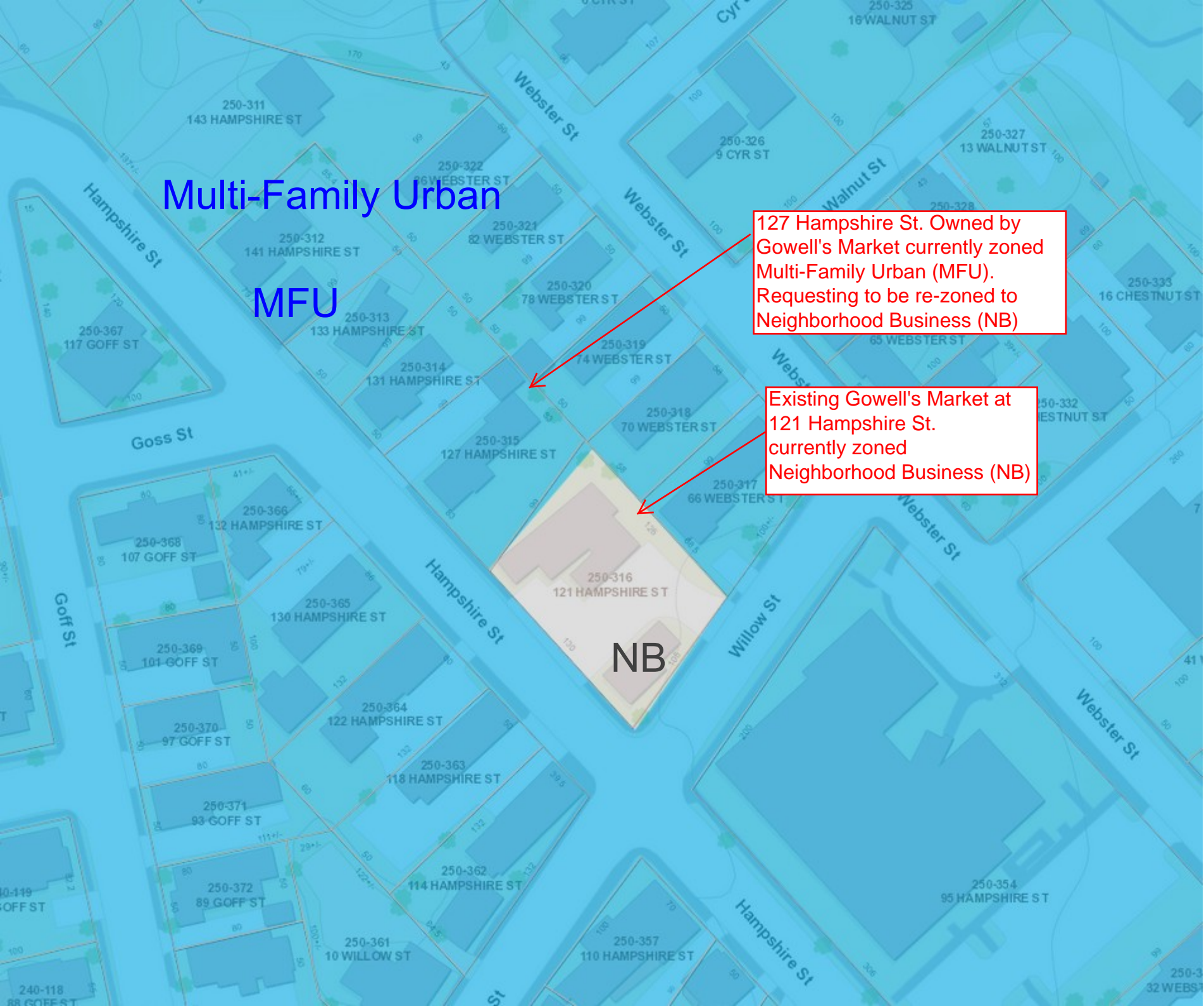
Multi-Family Urban

MFU

127 Hampshire St. Owned by Gowell's Market currently zoned Multi-Family Urban (MFU). Requesting to be re-zoned to Neighborhood Business (NB)

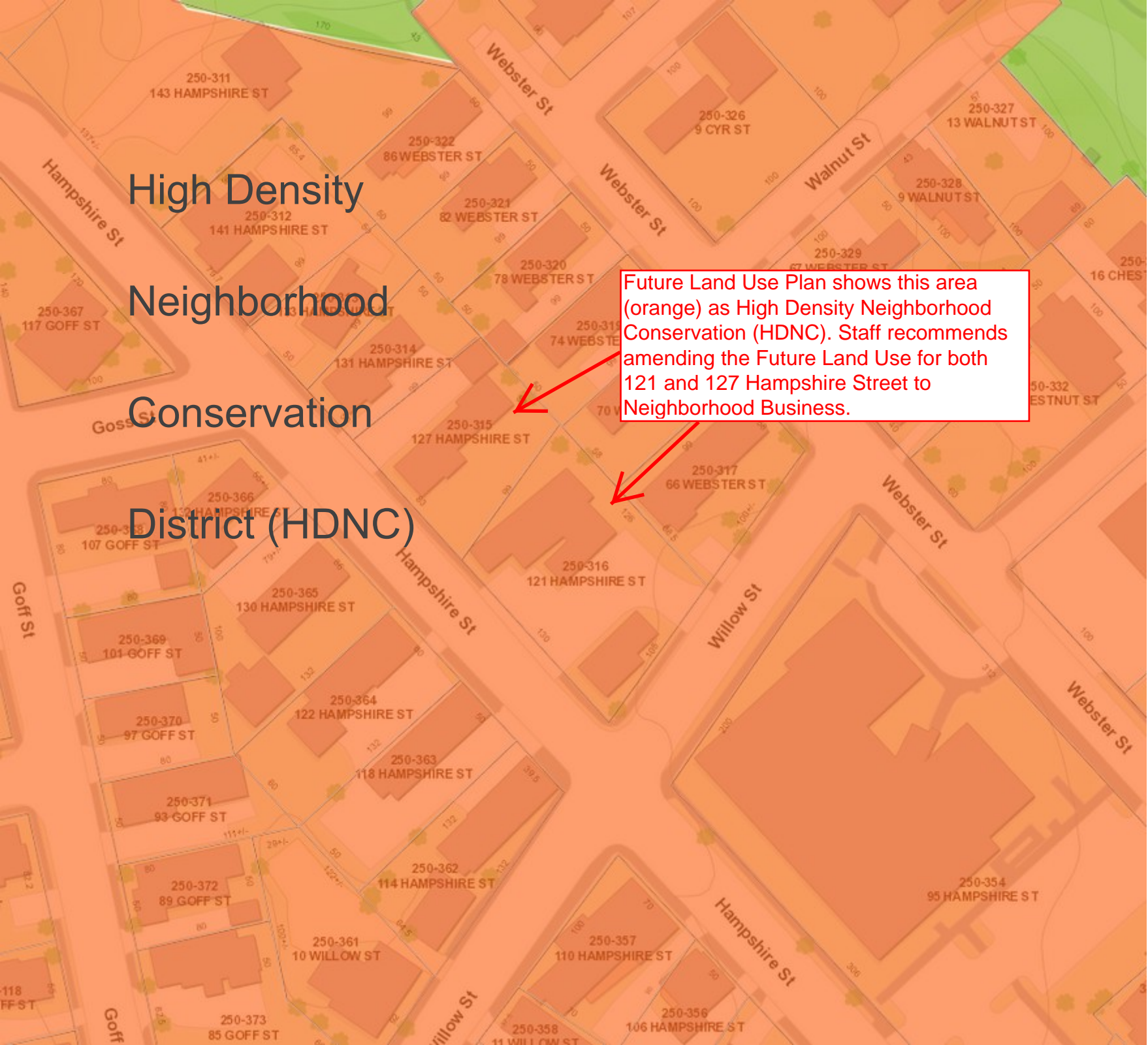
Existing Gowell's Market at 121 Hampshire St. currently zoned Neighborhood Business (NB)

NB



High Density
Neighborhood
Conservation
District (HDNC)

Future Land Use Plan shows this area (orange) as High Density Neighborhood Conservation (HDNC). Staff recommends amending the Future Land Use for both 121 and 127 Hampshire Street to Neighborhood Business.



2010 Comprehensive Plan- Description of Neighborhood Business District

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. However, if a property is converted to a residential use, it is the City's policy that the City should rezone the property to eliminate the Neighborhood Business District.

(pgs. 71, 72)

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 02-01092017

ORDERED, that the City Council hereby initiates an amendment to the 2010 Comprehensive Plan Future Land Use Map for the property located at 127 Hampshire Street (PID # 250-315) from High Density Neighborhood Conservation District (HDCD) to Neighborhood Business (NB) District and to initiate a Zoning Map Amendment for the property located at 127 Hampshire Street (PID # 250-315) from Multi-Family Urban (MFU) to Neighborhood Business (NB).



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: January 9, 2017

Order: 01-01092017*

Author: Sue Clements-Dallaire, City Clerk

Subject: Setting the date for the Special Election for the Ward 4 City Council seat

Information: At the 12/19/2016 City Council meeting, Ward 4 Councilor Ernestine Gilbert announced that she was resigning because she was moving out of her district. When a vacancy occurs more than six months prior to the next regular election, the unexpired term shall be filled by a special election.

The normal process (in accordance with our Charter) for filling this vacancy would be;

- ✓ The City Council sets the date for the election (allowing at least 120 days prior to that date to allow time for nomination papers to be taken out per our City Charter).
- ✓ Nomination papers are due back in the City Clerk's office 75 days before the election.
- ✓ At least 65 days prior to the election the City Clerk certifies and makes available to the public the names and residences of candidates who have filed nomination petitions.
- ✓ Absentee ballots are available 30 days prior to the election.
- ✓ This election would be for Ward 4 voters only (Auburn Hall)

The election could not be held until after May 10, 2017 in order to allow at least 120 days before the election for nomination papers to be taken out. Below is the timeline:

- ✓ Council sets the date for the Special Election at the January 9, 2017 Council meeting (staff is recommending June 13, 2017 as the date of the Election).
 - ✓ January 10, 2017 nomination papers are available in the City Clerk's office.
 - ✓ All nomination papers must be filed with the Clerk no later than March 30, 2017.
 - ✓ April 7, 2017 the City Clerk must certify and make available to the public the names and residences of candidates who have filed nomination petitions.
 - ✓ May 12, 2017 absentee ballots are available
 - ✓ June 13, 2017 the Special Election for the Ward 4 Council seat will be held in conjunction with the School Budget Validation Referendum (and possibly a State Referendum Election)
-

Advantages: Fills the vacant position as required by the Charter and combining there is a cost savings by combining the special election with the School Budget election

Disadvantages: N/A

City Budgetary Impacts: Minimal impact if held at the same time as the School Budget Validation Referendum Election

Staff Recommended Action: Recommend passage

Previous Meetings and History:

Attachments: Sec. 2.3 of the City Charter, Order 01-01092017

Sec. 2.3. - Vacancies; forfeiture of office.

In case of the death, resignation, or removal from office more than six months prior to the next regular election, an unexpired term of councilor shall be filled by a special election, either citywide or in the ward in which the vacancy occurs, as the case may be, the warrants for which shall be issued by the city council. Whenever the office of councilor becomes vacant within six months prior to the next municipal election, the city council shall appoint a qualified representative at-large or from the ward in which the vacancy occurs, as the case may be, to serve until the person elected to fill the vacancy takes office.

A mayor or councilor shall forfeit office if that person:

- a. Lacks at any time during the term of office any qualifications for the office prescribed by this Charter or by law, including residency of the ward from which elected;
- b. Violates any express prohibition of this Charter;
- c. Is convicted of a crime involving moral turpitude; or
- d. Fails to attend three consecutive regular meetings of the city council, or of any board or authority to which appointed by the mayor under article 3, section 3, without being excused by the city council.

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 01-01092017*

ORDERED, that the City Council hereby sets Tuesday, June 13, 2017 as the date for the Special Municipal Election to fill the Ward 4 vacant City Council seat.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: January 9, 2017

Order: 02-01092017*

Author: Douglas Greene, Urban Development Coordinator, Department of Economic and Community Development

Subject: Council Initiation of a Zone Change at 127 Hampshire Street

Information: Gowell's Market, a small neighborhood business located at 121 Hampshire Street, would like to expand its operation into an adjacent property that it owns, which is located at 127 Hampshire Street. In order to expand, the adjacent property at 127 Hampshire Street will need to have its zoning changed from Multi-Family Urban (MFU) to Neighborhood Business (NB). Council members Stone and Walker have submitted a Workshop Agenda Item Request Form (attached) requesting the City Council initiate a Zoning Map Amendment (ZOMA) to rezone 127 Hampshire Street to Neighborhood Business. If initiated, the ZOMA would move forward to the Planning Board at their February 14th meeting, for a public hearing and recommendation. The Staff recommends that the Council also include in its initiation motion that the Future Land Use Plan for 127 Hampshire Street be amended from High Density Neighborhood Conservation to Neighborhood Business. This step will then allow the zone change amendment to be in compliance with the Comprehensive Plan.

Advantages: Rezoning the property at 127 Hampshire Street would allow this long time neighborhood business, to expand and become more productive.

Disadvantages: The applicant will need to work with the surrounding property owners and Planning Board to ensure that the new business expansion, if allowed through a zone change, will not be detrimental to the neighborhood.

City Budgetary Impacts: None

Staff Recommended Action: Staff recommends the City Council initiate the zoning map amendment.

Previous Meetings and History: None

Attachments:

1. City Council Workshop Agenda Item Request Form
2. Existing Zoning Map
2. Future Land Use Map (2010 Comprehensive Plan)
3. Excerpt on Neighborhood Business from 2010 Comprehensive Plan
4. Order 02-01-02092017

James Pross, Ward One
Robert Stone, Ward Two
Andy Titus, Ward Three
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Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 02-01092017*

ORDERED, that the City Council hereby initiates an amendment to the 2010 Comprehensive Plan Future Land Use Map for the property located at 127 Hampshire Street (PID # 250-315) from High Density Neighborhood Conservation District (HDCD) to Neighborhood Business (NB) District and to initiate a Zoning Map Amendment for the property located at 127 Hampshire Street (PID # 250-315) from Multi-Family Urban (MFU) to Neighborhood Business (NB).



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: January 9, 2017

Order: 03-01092017*

Author: Sue Clements-Dallaire, City Clerk

Subject: Appointing Mayor Jonathan LaBonte, City Councilor Robert Stone, and State Representative Bettyann Sheats to serve on NNEPRA's (Northern New England Passenger Rail Authority) Project Advisory Team.

Information: The Northern New England Passenger Rail Authority is establishing a Project Advisory Team that will include NNEPRA, the Maine Department of Transportation, and 3 representatives from Auburn and 3 representatives from Lewiston to conduct a study and complete a plan for the implementation of passenger rail service between the cities of Lewiston and Auburn and the Amtrak Downeaster service. See the attached documents for further detail.

Advantages: Provides Auburn representation.

Disadvantages: N/A

City Budgetary Impacts: N/A

Staff Recommended Action: Recommend passage

Previous Meetings and History: N/A

Attachments:

Email
Participant Request Letter
Order 03-01092017



**NORTHERN NEW ENGLAND
PASSENGER RAIL AUTHORITY**

75 W. Commercial Street
Suite 104
Portland, Maine 04101
207-780-1000 x 105



December 19, 2016

Denis D'Auteuil
Acting City Manager
City of Auburn
60 Court Street
Auburn, Maine

Dear Mr. D'Auteuil:

In 2015, the 127th Maine State Legislature directed the Department of Transportation (MaineDOT), in consultation with the cities of Lewiston and Auburn and the Northern New England Passenger Rail Authority (NNEPRA), to conduct a study and complete a plan for the implementation of passenger rail service between the cities of Lewiston and Auburn and the Amtrak Downeaster service. The plan would include a process for public review and comment and must incorporate information from completed studies and new information.

It was originally anticipated that the Lewiston Auburn Economic Growth Council (LAEGC), would be the lead agency in this effort, however, based on staffing changes, NNEPRA will take the lead, in cooperation with the MaineDOT.

NNEPRA would like to establish a Project Advisory Team to include NNEPRA, MaineDOT and three (3) representatives each from the communities of Lewiston and Auburn. The purpose of this letter is to ask you to submit the names of the three individuals you would like to represent the City of Auburn in this effort. Please provide me with the names and contact information of the individuals by Friday, January 5, 2017. We will schedule a meeting in mid-January with the members of the Project Advisory Team to determine next steps.

Thank you for your assistance, and best wishes for a Happy New Year.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patricia Quinn".

Patricia Quinn
Executive Director,
NNEPRA

A handwritten signature in blue ink, appearing to read "Susan Moreau".

Susan Moreau
Division Manager,
MaineDOT Multi Modal Planning,

From: [Patricia Quinn](#)
To: [Denis D'Auteuil](#)
Cc: ["Moreau, Susan"](#); [Golden, Jared](#)
Subject: RE: L/A Rail Service Plan
Date: Thursday, December 22, 2016 2:04:34 PM
Attachments: [image007.png](#)
[image008.png](#)

No problem on the deadline. Just let us know when you've decided and we will move forward at that time.

Thanks, and have a great holiday!

Patricia Quinn

Executive Director
Northern New England Passenger Rail Authority
75 W Commercial Street, Suite 104
Portland, Maine 04104
207-780-1000 x105 ph
207-780-1001 fax



From: Denis D'Auteuil [mailto:ddauteuil@auburnmaine.gov]
Sent: Thursday, December 22, 2016 1:09 PM
To: Patricia Quinn <Patricia@nnepra.com>
Cc: 'Moreau, Susan' <Susan.Moreau@maine.gov>; Golden, Jared <Jared.Golden@legislature.maine.gov>
Subject: RE: L/A Rail Service Plan

Good afternoon Patricia,

We have had further review on this request and I want to inform you that we will need to follow our City Council adopted policy regarding committee appointments. I will be asking our City Clerk to pull the appointment committee together, and make these appointments ASAP. We may have difficulty meeting the January 5th deadline, but we will keep you updated as we move through the process. Thank you in advance for your patience and I wish you all a very Happy Holidays!

Thank you,

Denis D'Auteuil

Acting City Manager, City of Auburn
60 Court Street | Auburn, Maine 04210 | 207.333.6601 X1212



The City of Auburn is subject to statutes relating to public records. Email sent or received by City employees are subject to these laws. Senders and receivers of City email should presume that messages are subject to release.

From: Patricia Quinn [<mailto:Patricia@nnepra.com>]
Sent: Monday, December 19, 2016 5:18 PM
To: Denis D'Auteuil
Cc: 'Moreau, Susan'; Golden, Jared
Subject: L/A Rail Service Plan

Hello Acting Administrator D'Auteuil:

Attached please find a letter requesting that you appoint individuals to participate in the Lewiston/Auburn rail service plan. A hard copy has been mailed to you via USPS. Please let me know if you have any questions. Thank you in advance for your assistance.

Patricia

Patricia Quinn
Executive Director
Northern New England Passenger Rail Authority
75 W Commercial Street, Suite 104
Portland, Maine 04104
207-780-1000 x105 ph
207-780-1001 fax



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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 03-01092017*

ORDERED, that the City Council hereby appoints Mayor Jonathan LaBonté, City Councilor Robert Stone, and State Representative Bettyann Sheats to serve on the NNEPRA (Northern New England Passenger Rail Authority) Project Advisory Team.

IN COUNCIL REGULAR MEETING DECEMBER 19, 2016 VOL. 34 PAGE 302

Mayor LaBonté called the meeting to order at 7:00 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. Councilor Pross had an excused absence. All other Councilors were present.

I. Consent Items - None

Minutes

- December 5, 2016 Regular Council Meeting

Motion was made by Councilor Stone and seconded by Councilor Gilbert to approve the minutes of the December 5, 2016 meeting as presented. Passage 6-0.

III. Communications, Presentations and Recognitions

- Council welcomed State Representative Gina Melaragno. The Mayor said he would like to meet at least once a month with the Auburn delegation. He would also like to see the City Council receive monthly communications from the local delegation. Areas of interest expressed by a few members of the Council are County Jail funding (Councilor Titus) and School funding (Councilor Walker).

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*.

No one from the public spoke.

V. Unfinished Business

1. Ordinance 09-10172016

Amending the zoning map in the area of 1863 Pownal Road. First reading.

Motion was made by Councilor Titus and seconded by Councilor Walker for passage.

Public comment:

Peter Moore, Jordan School Road, asked why we were looking at rezoning 4 parcels when only one is in question, and he asked for clarification.

Dan Herrick, Hatch Road, recommends postponing this item indefinitely until the agricultural zone issue is settled.

Heaven Love, previous owner of this property asked that the property not be changed to residential. She asked that we keep it as is and allow work to be done to the home. She said she would like the council to approve conforming the 8.9 acre parcel.

Motion failed 1-5 (Councilors Young, Stone, Titus, Gilbert, and Burns opposed).

VI. New Business

2. Order 93-12192016

IN COUNCIL REGULAR MEETING DECEMBER 19, 2016 VOL. 34 PAGE 303

Approving the Liquor License and Special Amusement Permit for Lava/House of Bacon located at 34 Court Street. Public hearing.

Motion was made by Councilor Burns and seconded by Councilor Walker for passage.

Public hearing – no one from the public spoke.

Passage 6-0.

VII. Executive Session

- Discussion regarding a real estate matter, pursuant to 1 M.R.S.A. §405(6)(C).

Motion was made by Councilor Stone and seconded by Councilor Walker for passage. Passage 6-0. Time in 7:31.

Council was declared out of executive session at 8:13 PM.

- Discussion regarding a personnel matter (City Manager search) with possible action to follow, pursuant to 1 M.R.S.A. §405(6)(A).

Motion was made by Councilor Stone and seconded by Councilor Burns for passage. Passage 6-0. Time in 8:14 PM.

Council was declared out of executive session at 8:33 PM.

VIII. Reports

A. Mayor's Report – reported that he had the opportunity to attend the Hanukkah festivities at the Temple Shalom. He was there for the lighting of the Menorah adding that it was a great opportunity to experience that event.

B. City Councilors' Reports

Councilor Young – no report

Councilor Stone - no report

Councilor Titus – reported on the Water and Sewerage District meetings.

Councilor Gilbert - announced that she was at her last meeting. She has moved out of Ward 4 which means that there will be a special election to fill her seat. She said that she has enjoyed serving. She thanked city staff and her constituents.

Councilor Walker – reported that the Neighborhood Watch Group will be meeting on Thursday at 6:30 PM at the Sixth Street Congregational Church. He also noted that the United New Auburn Association will be meeting next Tuesday at 6:00 PM at Rolly's Diner. City staff will be there to talk about grant money that is available.

IN COUNCIL REGULAR MEETING DECEMBER 19, 2016 VOL. 34 PAGE 304

Councilor Burns - thanked Councilor Gilbert for serving on the Council adding that she will be missed. He reported that he had the opportunity last Wednesday to attend the Architect Selection sub-committee meeting last week. He thanked everyone who contributed to that meeting. He wanted residents to be aware that there are several openings on various Boards and Committees of the City. The Appointment Committee will be meeting in February to review applications.

C. City Manager Report – wanted to announce and recognize City Hall staff for receiving the SHAPE award (safety and health award for public employees) recognizing public sector employees for maintaining excellence in their safety and health management systems. The award was presented last week by the Maine Bureau of Labor Safety Works.

D. Finance Director, Jill Eastman – November 2016 Monthly Finance Report

Motion was made by Councilor Titus and seconded by Councilor Stone to accept and place on file the November 2016 Monthly Finance Report. Passage 6-0.

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*.

Adam Lee, Garden Circle, thanked Councilor Gilbert for her service.

X. Adjournment

Motion was made by Councilor Gilbert and seconded by Councilor Titus to adjourn. Passage 6-0, time 8:52 PM.

A True Copy.

ATTEST 
Susan Clements-Dallaire, City Clerk

December 22, 2016

To the Management of the
City of Auburn, Maine:

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Auburn, Maine as of and for the year ended June 30, 2016, in accordance with auditing standards generally accepted in the United States of America, we considered the City of Auburn, Maine's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City of Auburn, Maine's internal control. Accordingly, we do not express an opinion on the effectiveness of the City of Auburn, Maine's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

During our audit, we became aware of several matters that are opportunities for strengthening internal controls and operating efficiency. The attached schedule summarizes our comments and suggestions regarding these matters. This letter does not affect our report dated December 22, 2016, on the financial statements of the City of Auburn, Maine.

The City of Auburn, Maine's responses to the comments identified in the audit are described in the accompanying schedule of comments and responses. The City of Auburn, Maine's responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

We wish to express our appreciation for the cooperation and assistance we received from the officials and employees of the City of Auburn, Maine, including the Department of Education, during the course of our engagement. We will review the status of these comments during our next audit engagement. We have already discussed these comments with various City and School personnel, and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

This communication is intended solely for the information and use of management, the Audit Committee, and others within the organization, and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,

A handwritten signature in black ink that reads "Raymond Weston Ouellette". The signature is written in a cursive style with a large initial 'R'.

CITY OF AUBURN, MAINE
Schedule of Comments and Responses
June 30, 2016

OTHER COMMENTS

Community Development Program Loan Receivables

During our testing of the Community Development Program loan balances, it was noted that an \$845,000 neighborhood stabilization program forgivable loan distributed to Coastal Enterprises, Inc. in 2011 was never recorded in the GMS software (used to manage such loans) or on the City's trial balance until fiscal year 2016. From 2011 through the date of recording the loan in GMS in 2016, \$422,500 was discharged from the loan, leaving a balance of \$422,500. As this was a forgivable loan, the City's income statement would not have been effected by the recording the original loan or the activity from the partial discharge. However, by not recording the original loan and subsequent activity, assets and liabilities of the City were understated from 2011 to 2016. We recommend management review and consider updating its procedures related to the recording and disbursing of loan funding to ensure all new loans are properly recorded in both the GMS software and the City's trial balance.

Management's response/corrective action plan: In response to the auditor's request for a corrective action plan, the City has implemented a new protocol to ensure that all loans are recorded in GMS in a timely manner. Immediately following a loan closing for CDBG/HOME, or any other grant funded loan activity, the Community Development Manager will ensure that the loan information is recorded in GMS. The GMS file will include the name of the loan recipient, address, project address (if different from mailing address), full amount of the loan, loan terms and type of loan. The GMS Master File Report will be submitted to the Finance Department for recording of the receivable. Attached the Master File Report will be a department requisition listing a MUNIS account. The loan file checklists have been updated to include this item so that the process is carried through for all loans.

Uniform Guidance

Recently the Office of Management and Budget (OMB) revised regulations applicable to federally funded programs. The new regulations are contained in Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). The Uniform Guidance replaces OMB Circulars A-133, A-87, and A-110 and incorporates new requirements for grant recipients. The Uniform Guidance includes not only protocols for program management and administration, but also updates compliance regulations for federal awards. We recommend that the City become familiar with the requirements of the Uniform Guidance, and take the necessary steps to ensure full compliance with the guidance.

One of the more significant provisions of the Uniform Guidance that affects the City is the procurement standards under 2 CFR sections 200.318 through 200.326. Under the new procurement standards, the City is required to have a documented purchasing policy which, at a minimum, incorporates the provisions of the Uniform Guidance. Currently the City does not have a formal written procurement policy that incorporates these provisions. We recommend that management review the applicable provisions of the Uniform Guidance and update its procurement policy to include these provisions. The OMB has provided a grace period for non-federal entities to comply with the new procurement provisions, after which time non-compliance will be considered a federal finding. The grace period applicable to the City expires on June 30, 2017.

CITY OF AUBURN, MAINE
Schedule of Comments and Responses, Continued

OTHER COMMENTS, CONTINUED

Management's response/corrective action plan:

School Response: *The Auburn School Department's Procurement Policy and Procedures was vetted on November 5, 2015 by the School Department's attorneys, Drummond and Woodsum, with explicit intention that whenever state or federal funds are utilized for projects, equipment, material or services, the most stringent procurement standard is adhered. In concert with our Policy Review protocol and with the onset of the new Uniform Guidance requirements, we will undertake a policy review study during FY 2017 and revise, as necessary, our Procurement Policy and Procedures to insure that we are in compliance with the Uniform Guidance and it's General Procurement Standards as outlined in section 200.317-200.326.*

City Response: *Staff is currently reviewing the information on Uniform Guidance and will be amending the current purchasing and procurement policy to comply with the new requirements. Once the amendments have been completed, the policy will be reviewed by the City's Audit Committee for approval. After the Audit Committee approves the changes the policy will be placed on the City Council agenda for approval. This will be done before the end of fiscal year 2017.*

Person responsible for corrective action of School comments:

*Denise Johnson, Business Office Supervisor, Auburn School Department
Phone: (207) 784-6431, ext. 1425*

Anticipated completion date:

Corrective action will be complete within 12 months.

Person responsible for corrective action of City comments:

Jill Eastman, Finance Director, (207) 333-6600

Anticipated completion date:

Corrective action will be complete within 12 months.

CITY OF AUBURN, MAINE

**Reports Required by *Government Auditing
Standards* and the Uniform Guidance**

**For the Year Ended
June 30, 2016**

CITY OF AUBURN, MAINE
Reports Required by *Government Auditing Standards*
and the Uniform Guidance
For the Year Ended June 30, 2016

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**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the City Council and School Committee
City of Auburn, Maine

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Auburn, Maine, as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the City of Auburn, Maine's basic financial statements, and have issued our report thereon dated December 22, 2016.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City of Auburn, Maine's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City of Auburn, Maine's internal control. Accordingly, we do not express an opinion on the effectiveness of the City of Auburn, Maine's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*, CONTINUED**

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City of Auburn, Maine's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the City of Auburn, Maine in a separate letter dated December 22, 2016.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



December 22, 2016
South Portland, Maine

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM; REPORT ON INTERNAL CONTROL OVER COMPLIANCE; AND REPORT ON SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE

To the City Council and School Committee
City of Auburn, Maine

Report on Compliance for Each Major Federal Program

We have audited the City of Auburn, Maine's compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the City of Auburn, Maine's major federal programs for the year ended June 30, 2016. The City of Auburn, Maine's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the requirements of federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the City of Auburn, Maine's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniforms Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City of Auburn, Maine's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the City of Auburn, Maine's compliance.

Basis for Qualified Opinion on the Child Nutrition Cluster

As described in the accompanying schedule of findings and questioned costs, the City of Auburn, Maine did not comply with requirements regarding paid lunch equity for its Child Nutrition Cluster (CFDA #10.553, 10.555, 10.559) as described in finding number 2016-001. Compliance with such requirements is necessary, in our opinion, for the City of Auburn, Maine to comply with the requirements applicable to that program.

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM; REPORT
ON INTERNAL CONTROL OVER COMPLIANCE; AND REPORT ON SCHEDULE OF EXPENDITURES OF
FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE, CONTINUED**

Qualified Opinion on the Child Nutrition Cluster

In our opinion, except for the noncompliance described in the Basis for Qualified Opinion paragraph, the City of Auburn, Maine complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on the Child Nutrition Cluster for the year ended June 30, 2016.

Unmodified Opinion on Each of the Other Major Federal Programs

In our opinion, the City of Auburn, Maine complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its other major federal programs identified in the summary of auditor's results section of the accompany schedule of findings and questioned costs for the year ended June 30, 2016.

Other Matters

The City of Auburn, Maine's response to the noncompliance finding identified in our audit is described in the accompanying schedule of findings and questioned costs. The City of Auburn, Maine's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control over Compliance

Management of the City of Auburn, Maine, is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the City of Auburn, Maine's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City of Auburn, Maine's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM; REPORT ON INTERNAL CONTROL OVER COMPLIANCE; AND REPORT ON SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE, CONTINUED

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Auburn, Maine, as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the City of Auburn, Maine's basic financial statements. We issued our report thereon dated December 22, 2016, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.



December 22, 2016
South Portland, Maine

CITY OF AUBURN, MAINE
Schedule of Expenditures of Federal Awards
For the year ended June 30, 2016

Federal Grantor/Pass-through Grantor/Program Title	Federal CFDA number	Pass-through number	Federal Expenditures	CFDA/Cluster Totals	Passed through to Subrecipients
U.S. Department of Education, passed through the Maine Department of Education:					
0295 Adult Basic Education	84.002	6296	\$ 27,593		-
0230 Title IA	84.010	3107	1,075,543		-
0231 Title IA - Program Improvement	84.010	3106	3,558	1,079,101	-
Special Education Cluster:					
0247 Special Education - Grants to States (IDEA, Part B)	84.027	3046	1,148,523		-
0251 Special Education - Preschool Grants (IDEA Preschool)	84.173	6247	14,072		-
Total Special Education Cluster				1,162,595	
0263 21st Century - Community Learning Center	84.287	3356	390,000		-
0268 Title III - Language Acquisition	84.365	3115	23,616		-
0270 Title IIA - Improving Teacher Quality	84.367	3042	193,014		-
0242 School Improvement Grant	84.377	3105	257,297		-
Passed through the Maine Department of Substance Abuse:					
2017 Drug Free Communities	84.186	N/A	3,182		-
Total U.S. Department of Education			3,136,398		-
U.S. Department of Agriculture, passed through the Maine Department of Education:					
Child Nutrition Cluster:					
0600 National School Lunch Program	10.555	3020/3022/3024/3125	829,040		-
Food Donation Program	10.555	3024	76,965		-
School Breakfast Program	10.553	3014	251,618		-
Summer Food Service Program	10.559	3016/3018	79,286		-
Total Child Nutrition Cluster				1,236,909	
0600 Fresh Fruit and Vegetable Program	10.582	3028	63,997		-
Direct Program:					
0600 Farm to School	10.575	N/A	6,071		-
Total U.S. Department of Agriculture			1,306,977		-
U.S. Department of Justice:					
Direct Programs:					
2037 Bullet Proof Vest	16.607	N/A	9,575		-
2033 COPS Hiring Recovery Program	16.710	N/A	121,129		-
2003 Edward Byrne Justice Assistance Grant	16.804	N/A	16,684		-
2044 Equitable Sharing Program	16.922	N/A	39,389		-
Total U.S. Department of Justice			186,777		-

CITY OF AUBURN, MAINE
Schedule of Expenditures of Federal Awards, Continued
For the year ended June 30, 2016

Federal Grantor/Pass-through Grantor/Program Title	Federal CFDA number	Pass-through number	Federal Expenditures	CFDA/Cluster Totals	Passed through to Subrecipients
U.S. Department of Transportation, passed through the Maine Department of Transportation:					
2005 Highway Planning and Construction	20.205	N/A	\$ 2,485,864		-
Passed through the Maine Bureau of Highway Safety:					
2007 CIOT Buckle-up No Excuses	20.600	N/A	8,736		-
2013 Evidence Based Impaired Driving (OUI Grant)	20.600	N/A	19,765		-
2014 Speed Enforcement Program	20.600	N/A	12,906	41,407	-
Total U.S. Department of Transportation			2,527,271		-
U.S. Department of Housing and Urban Development:					
Direct Programs:					
2020 Community Development Block Grant - Entitlement	14.218	N/A	663,240		-
2020 Home Investment Partnership Program	14.239	N/A	466,575		-
Total U.S. Department of Housing and Urban Development			1,129,815		-
U.S. Department of Health and Human Services, passed through the Maine Department of Education:					
0220 Student Integration and Reintervention Program	93.959	6401	1,431		-
Total U.S. Department of Health and Human Services			1,431		-
U.S. Department of Homeland Security, passed through the Maine Emergency Management Agency:					
2008 Homeland Security	97.067	N/A	91,383		-
Total U.S. Department of Homeland Security			91,383		-
Totals			\$ 8,380,052		-

See accompanying notes to schedule of expenditures of federal awards.

CITY OF AUBURN, MAINE
Notes to Schedule of Expenditures of Federal Awards
June 30, 2016

PURPOSE OF THE SCHEDULE

Office of Management and Budget (OMB)'s Uniform Guidance requires a schedule of expenditures of federal awards showing total expenditures for each federal award program as identified in the Catalog of Federal Domestic Assistance (CFDA).

SIGNIFICANT ACCOUNTING POLICIES

- A. Reporting Entity - The accompanying schedule includes all federal award programs of the City of Auburn, Maine for the fiscal year ended June 30, 2016. The reporting entity is defined in Notes to Basic Financial Statements of the City of Auburn, Maine.

- B. Basis of Presentation - The information in the accompanying schedule of expenditures of federal awards is presented in accordance with the Uniform Guidance.
 - 1. Pursuant to the Uniform Guidance, federal awards are defined as assistance provided by a federal agency, either directly or indirectly, in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations.

 - 2. Major Programs – the Uniform Guidance establishes the levels of expenditures or expenses to be used in defining major federal financial award programs. Major programs for the City of Auburn, Maine have been identified in the summary of auditor's results section in the schedule of findings and questioned costs.

- C. Basis of Accounting - The information presented in the Schedule of Expenditures of Federal Awards is presented on the modified accrual basis of accounting, which is consistent with the reporting in the City of Auburn, Maine's fund financial statements.

- D. The City of Auburn, Maine has elected not to use the 10 percent de minimis indirect cost rate allowed under the Uniform Guidance.

CITY OF AUBURN, MAINE
Schedule of Findings and Questioned Costs
June 30, 2016

Section I - Summary of Auditor's Results

Financial Statements

Type of auditor's report issued:	Unmodified
Internal control over financial reporting:	
Material weaknesses identified?	No
Significant deficiencies identified?	None reported
Noncompliance material to financial statements noted?	No

Federal Awards

Internal Control over major programs:	
Material weaknesses identified?	No
Significant deficiencies identified?	None reported
Type of auditor's report issued on compliance for major programs:	Qualified
Any audit findings disclosed that are required to be reported in accordance with the Uniform Guidance?	Yes

Identification of major programs:

<u>CFDA Numbers</u>	<u>Name of Federal Program or Cluster</u>
10.553, 10.555, 10.559	Child Nutrition Cluster
<u>84.027, 84.173</u>	<u>Special Education Cluster</u>

Dollar threshold used to distinguish between Type A and Type B programs:	\$750,000
Auditee qualified as low-risk auditee?	Yes

CITY OF AUBURN, MAINE
Schedule of Findings and Questioned Costs, Continued

Section II - Findings Required to be Reported Under *Government Auditing Standards*

None

CITY OF AUBURN, MAINE
Schedule of Findings and Questioned Costs, Continued

Section III - Findings and Questioned Costs for Federal Awards

2016-001 – U.S. Department of Agriculture, for the Period July 1, 2015 through June 30, 2016, CFDA #10.553, 10.555, 10.559 Child Nutrition Cluster – Paid Lunch Equity

Statement of Condition: The School Department did not raise the price of paid lunches or contribute non-Federal funding, which is required if the School Department's calculated weighted average price for paid lunches is below the difference between the Federal reimbursement rate of a paid lunch and that of a free lunch.

Criteria: The OMB Compliance Supplement states that, "A School Food Authority (SFA) participating in the National School Lunch Program is required to ensure that sufficient funds are provided to its nonprofit school food service accounts from lunches served to students not eligible for free or reduced price meals. A SFA currently charging less for a paid lunch than the difference between the Federal reimbursement rate for such a lunch and that for a free lunch is required to comply. This difference is known as equity. There are two ways to meet this requirement: (a) by raising prices charged for paid lunches; or (b) through contributions from other non-Federal sources".

Effect: If the School Department's weighted average price for paid lunches is below the required equity, and the School Department neither raised the price of paid lunches or contributed non-Federal support to supplement the program, the School Department is not fulfilling the requirements set forth in Title 2 of the *Code of Federal Regulations* (2 CFR), *Grants and Agreements*, for the Child Nutrition Cluster with respect to paid lunch equity.

Cause: The School Department incorrectly calculated the weighted average price for paid lunches, which led them to believe they were in compliance with the provisions of paid lunch equity. As such, the School Department did not increase prices in the following school year or supplement the program with non-Federal sources.

Recommendation: We recommend the School Department have the calculation of its weighted average price for paid lunches reviewed annually by the Maine Department of Education. Further, if the School Department's weighted average price for paid lunches is below the required equity, we recommend they either increase the price of paid lunches by the required amount or contribute non-Federal funding to maintain compliance with paid lunch equity.

Questioned Costs: None

Management's response/corrective action plan: *In early fiscal year 2016, our paid lunch was increased by \$.05 per meal, which was in conjunction with the State Department of Education, Child Nutrition Services. The DOE, Child Nutrition Services did perform a School Lunch Program audit review in January 2016. During the post-exit conference meeting, there was no sited violation relating to our paid lunch charged fees. In calculating the weighted average price for paid lunches in May 2016, and with review by the State DOE oversight, it was determined that for fiscal year 2017, an increase of \$.10 per paid lunch would be required. The \$.10 per paid lunch was approved by the Auburn School Committee and is effective at the start of the new school year for fiscal year 2017. We will continue annually to monitor our paid lunch equity and will coordinate our efforts with cooperation of the State DOE Child Nutrition Services, as our filter for compliance.*

CITY OF AUBURN, MAINE
Schedule of Findings and Questioned Costs, Continued

Section IV - Summary Schedule of Prior Year Audit Findings for Federal Awards

None



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: January 9, 2017

Ordinance: 09-10172016

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

Subject: Zoning Map Amendment Request for Pownal Road Area – Second Reading

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. 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>. At the October 17, 2016 Council meeting the item was tabled to November 7th to allow the owner of 1863 Pownal Road to discuss obtaining land with the abutter. As of November 2nd they are still talking but have not reached an agreement. The owner of 1863 Pownal Road is asking for more time to continue the discussion.

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. At this time we ask that the Council postpone this item to a future meeting to allow additional time for the property owners to meet.

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, 10/3/2016 Council Workshop, public hearing on 10/17/16 and the item was postponed until 11/7/2016. On 11/7/2016 it was postponed to 12/5/2016. On 12/5/2016 it was postponed until 12/19/2016. This item failed the first reading (1-5) on 12/19/2016.

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
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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.



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.

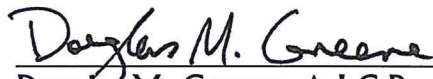


City of Auburn, Maine

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

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, 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: *Cristine 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 1863 Pownal 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:

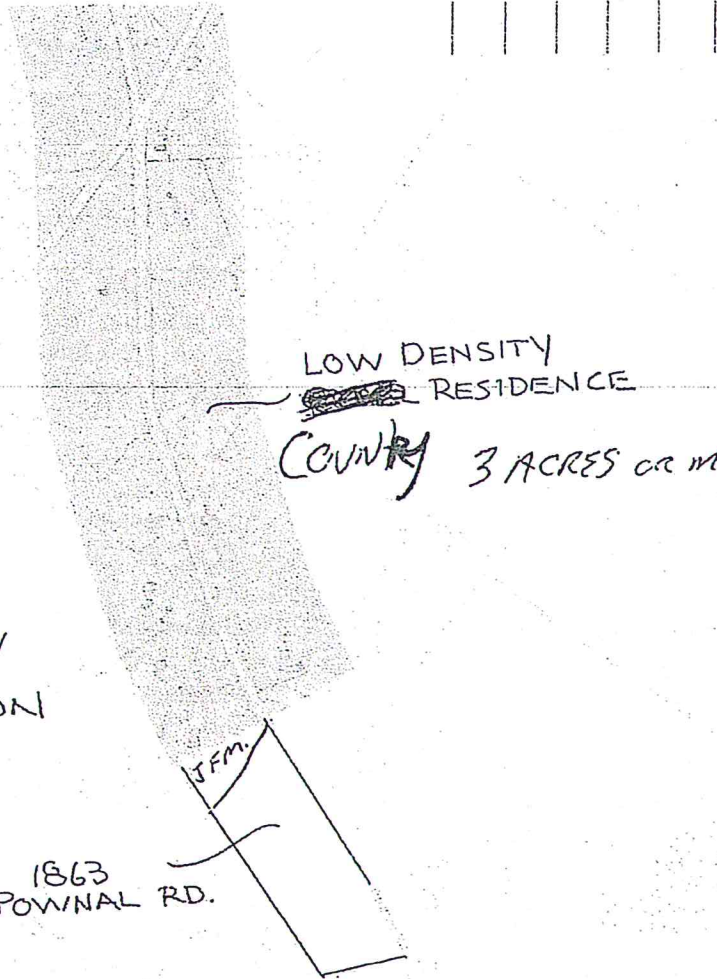
1. Have the City issue a "No Action Letter" as a condition of sale.
2. The City, as the current property owner, request that Jenis Holding Company convey back a 1.1 acre lot to make both properties conforming. Sec.60-40 also penalizes any development of the Jenis lot unless the 1863 Pownal Road lot is made conforming. Conveying a strip of land 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 Q



LOW DENSITY RESIDENCE

COUNTRY 3 ACRES or more

AGRICULTURE / RESOURCE PROTECTION

1863 POWINAL RD.

COUNTRY RESIDENCE

Total - \$ 413,000

Total - \$ 215,000 Building V.

600ft

44.005 - 70.232 Degrees

ZONING AMENDMENTS

Sec. 60-1445. - Purpose.

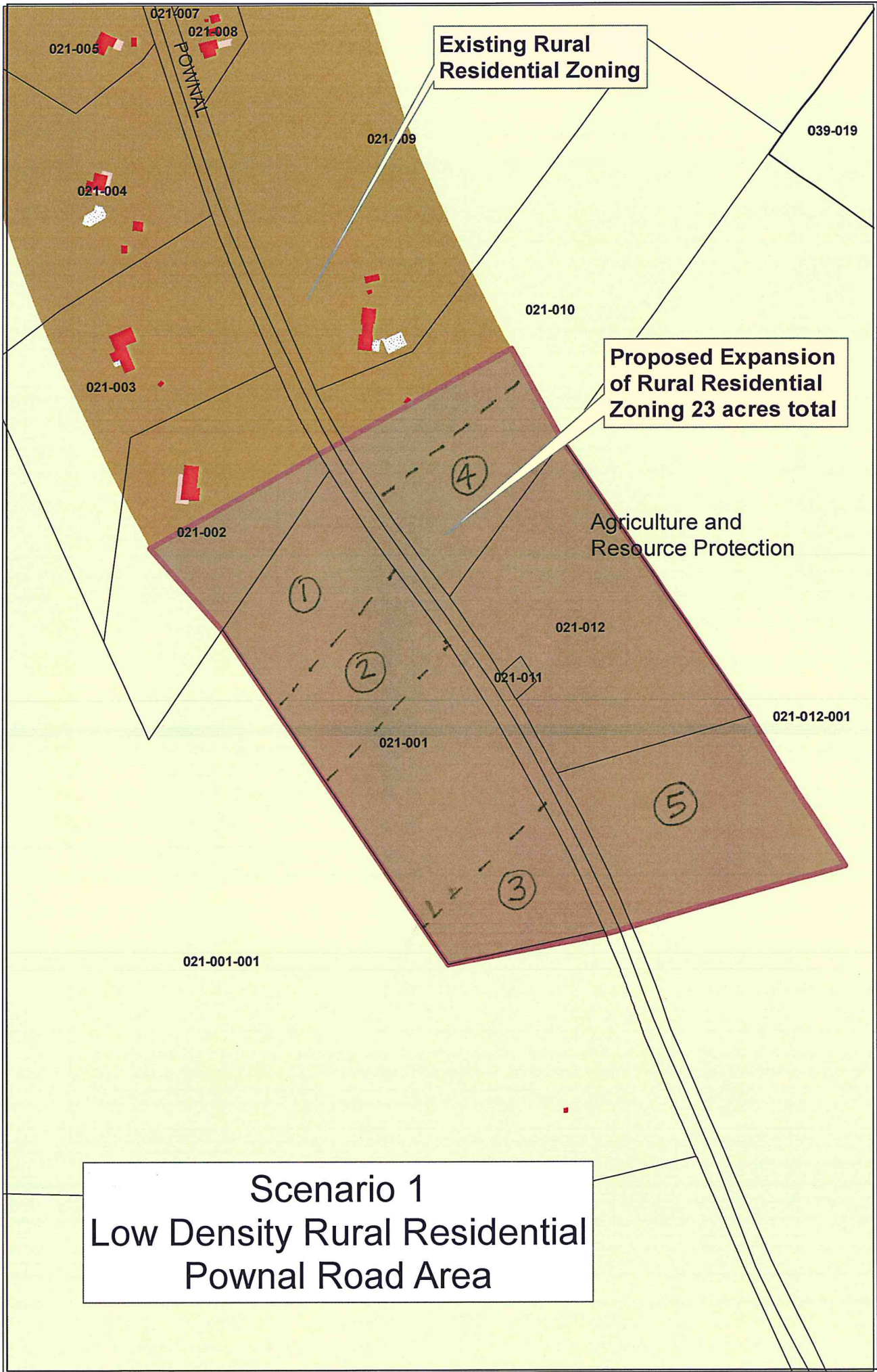
Amendments to the zoning ordinance, including the zoning map, may be initiated by the planning board on its own initiative or upon request by the city council or by a petition signed by not less than 25 registered voters of the city.

(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)



Existing Rural Residential Zoning

Proposed Expansion of Rural Residential Zoning 23 acres total

Scenario 1
Low Density Rural Residential
Pownal Road Area

Agriculture and Resource Protection

021-005

021-007

021-008

021-004

021-09

039-019

021-003

021-010

021-002

Agriculture and Resource Protection

①

④

021-012

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021-011

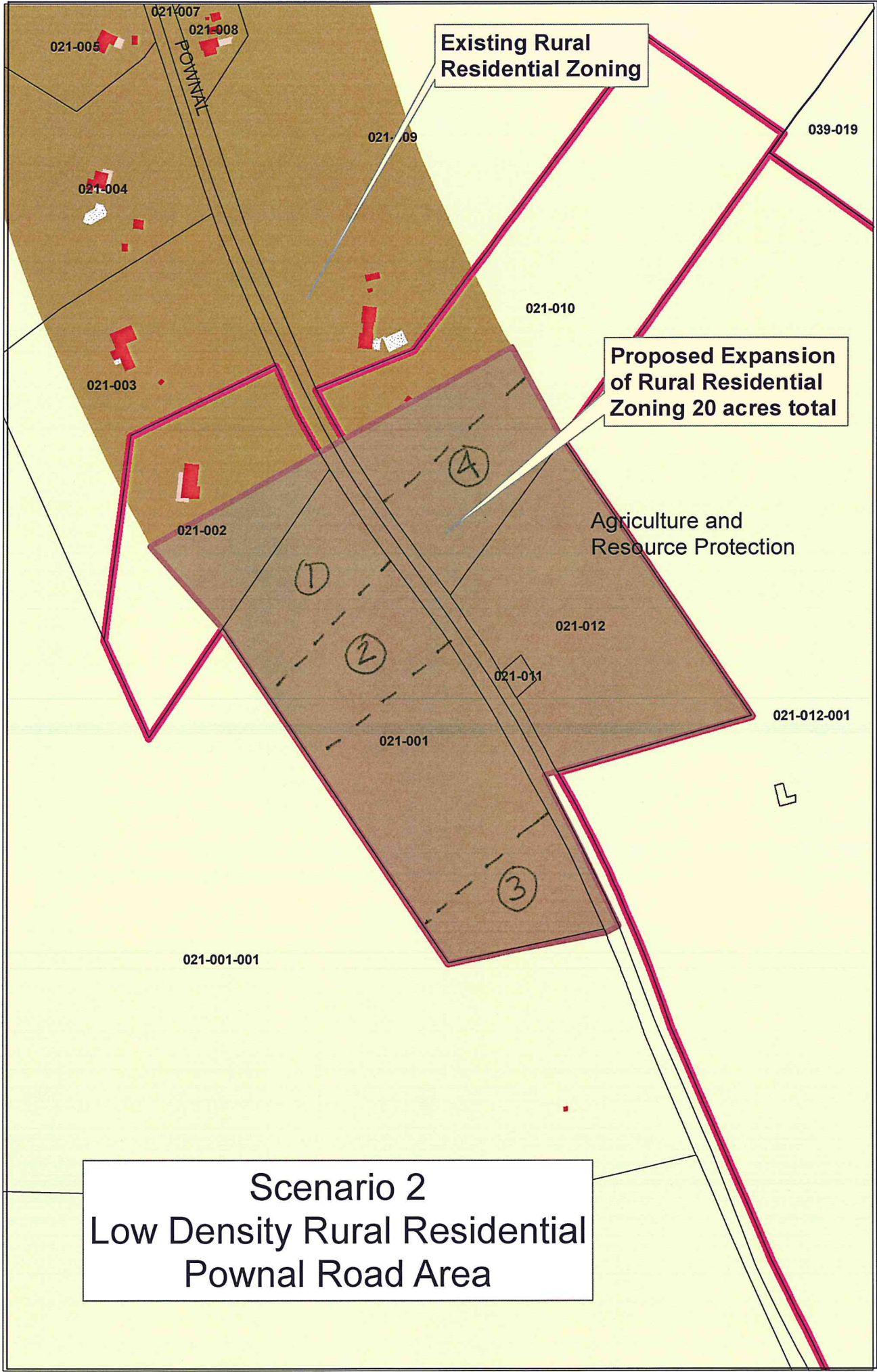
021-012-001

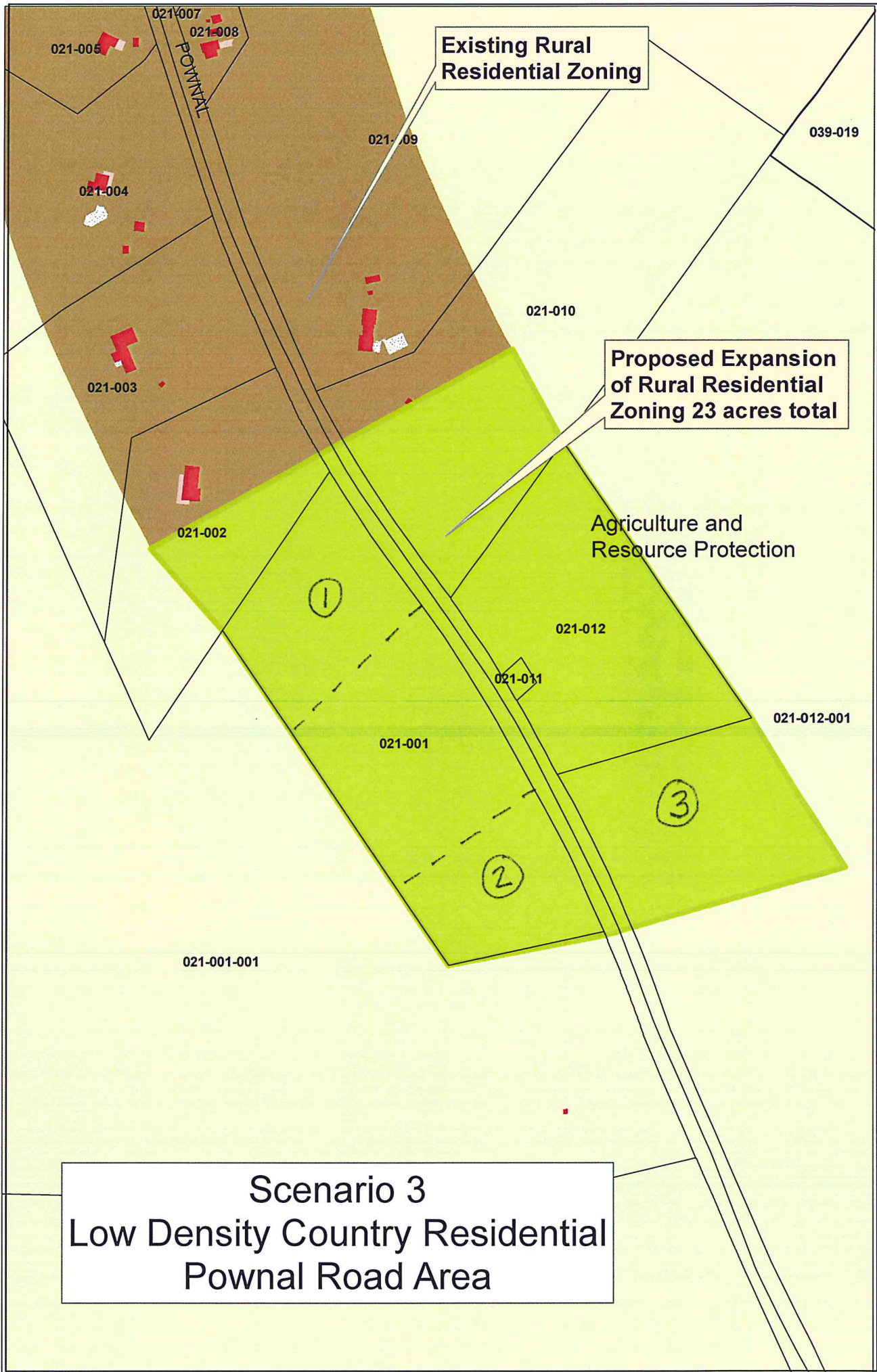
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021-001-001



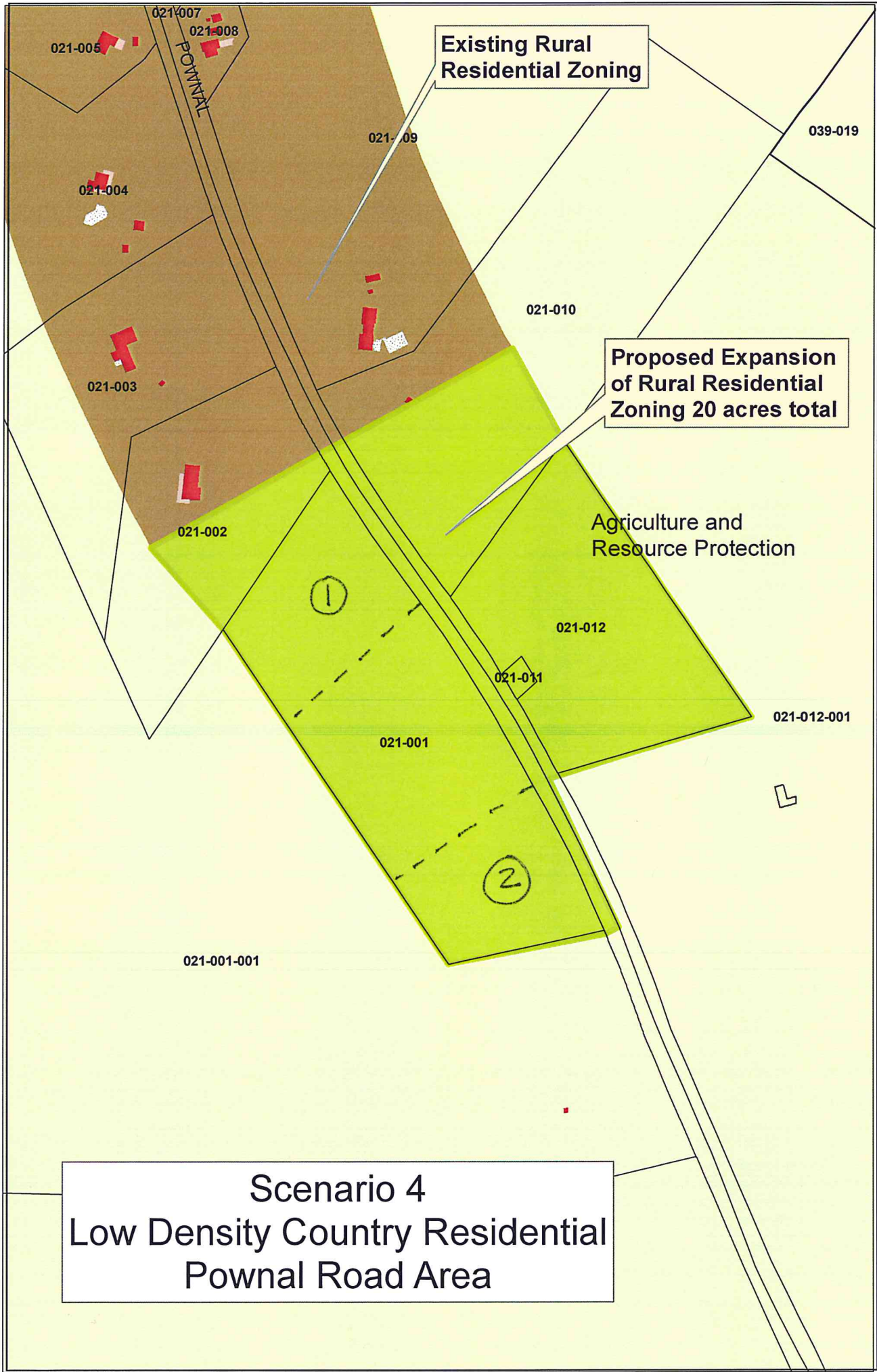


Existing Rural Residential Zoning

Proposed Expansion of Rural Residential Zoning 23 acres total

Agriculture and Resource Protection

Scenario 3
Low Density Country Residential
Pownal Road Area



Existing Rural Residential Zoning

Proposed Expansion of Rural Residential Zoning 20 acres total

Agriculture and Resource Protection

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 Rutenberg 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.

(02:35:00 on 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.



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 to 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 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-

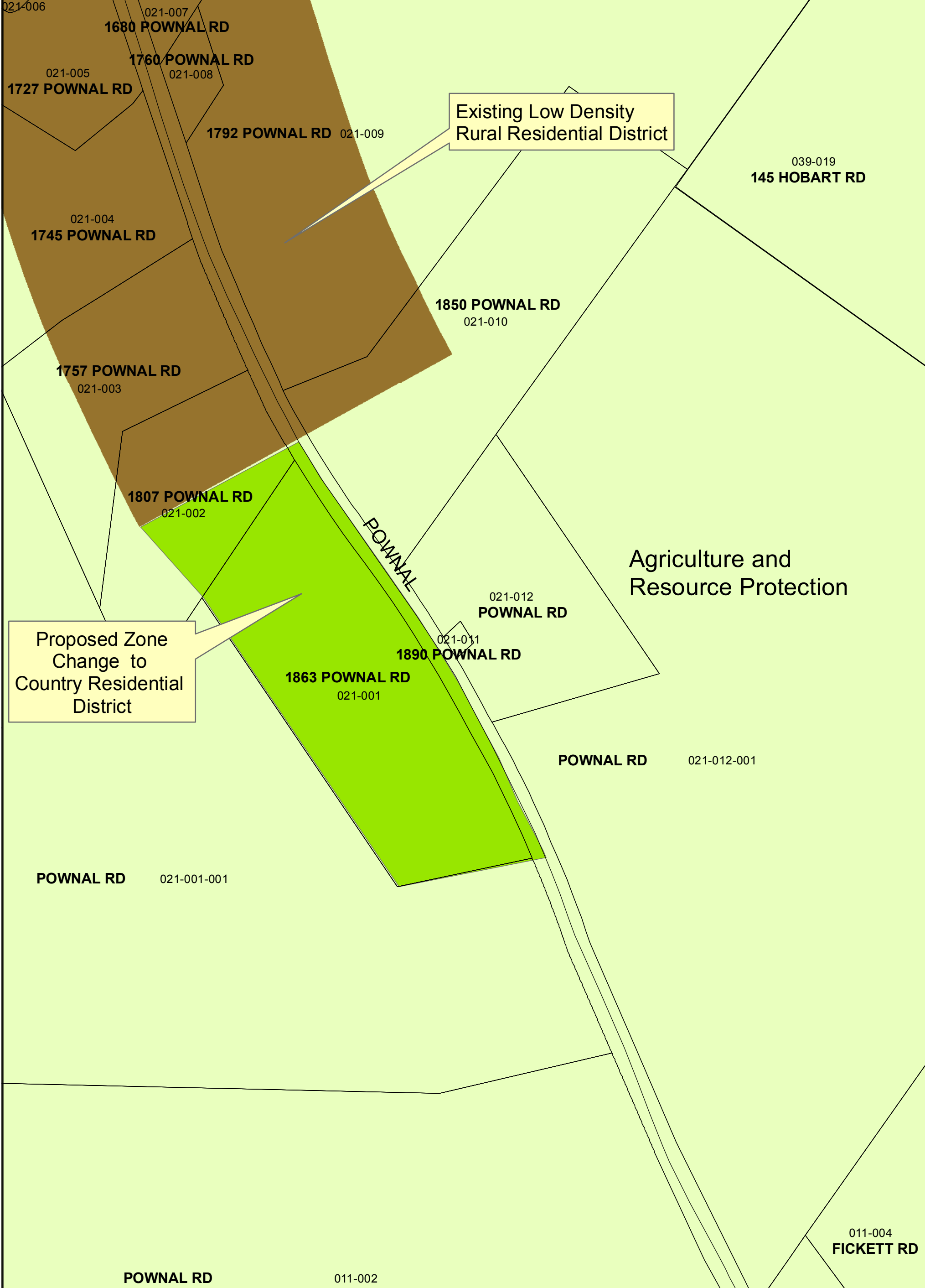
STAFF COMMENTS- The Staff is still concerned that correcting non-conformities through a zone change is not a normal justification for rezoning a property. The Staff is also concerned that approving this Zoning Map Amendment could be considered a precedent for rezoning other areas in Auburn's Agricultural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



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.

May 2, 2016
Page 2

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

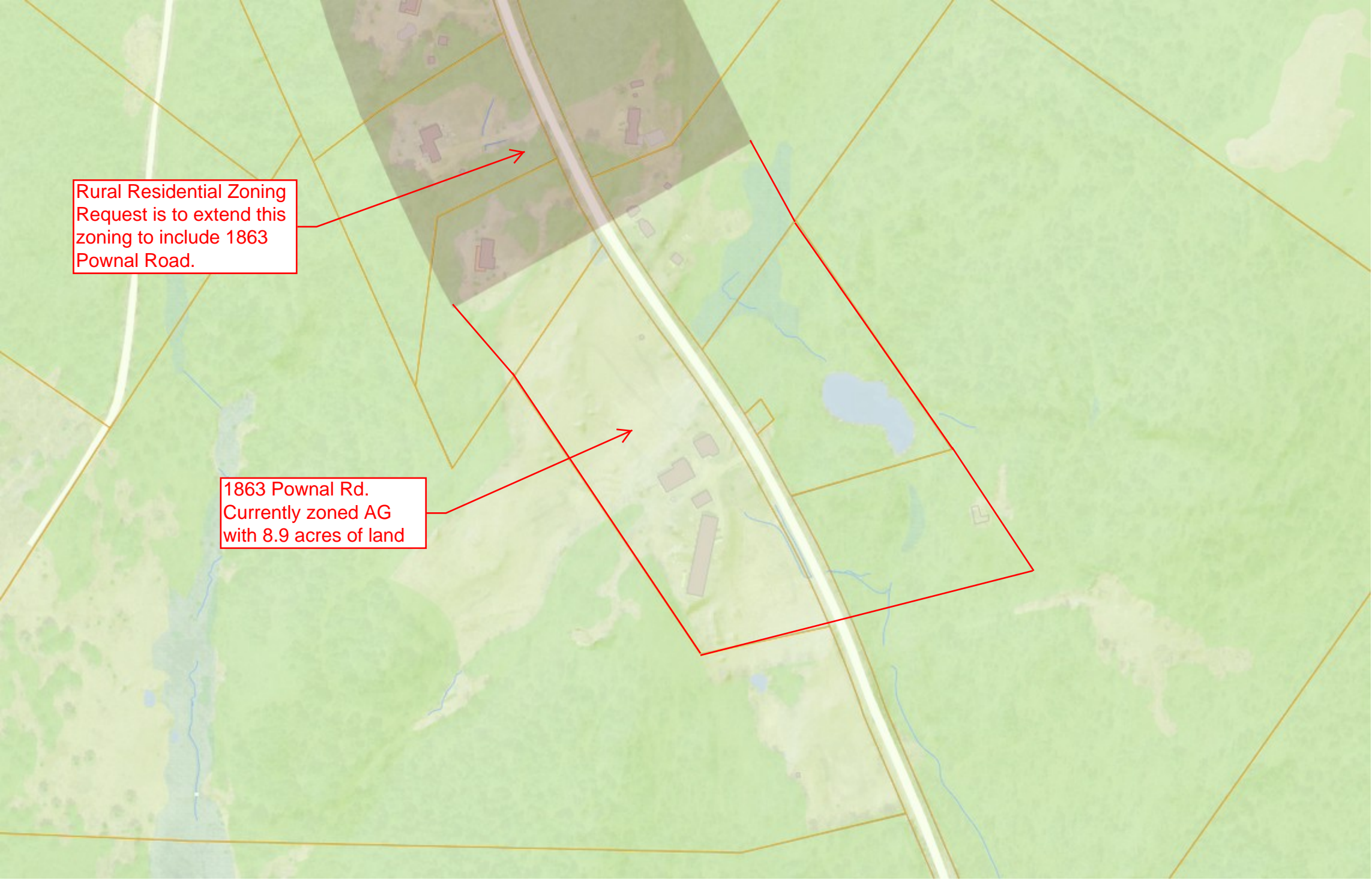
Consideration #6 – Water Quality Protection

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.



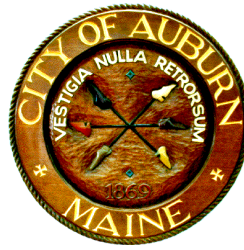
Rural Residential Zoning Request is to extend this zoning to include 1863 Pownal Road.

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



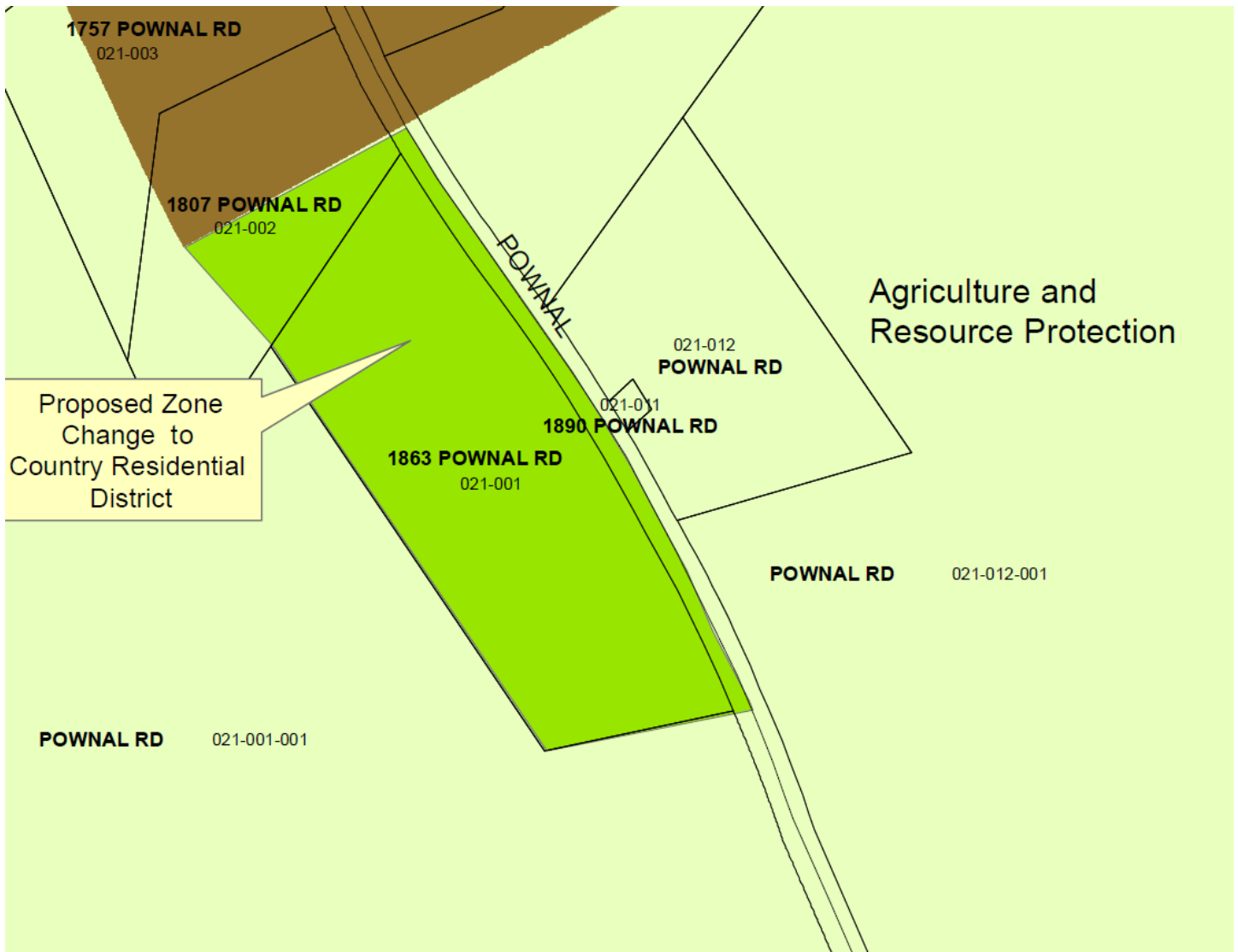
Leroy Walker, Ward Five
Grady R. Burns, At Large
David C. Young, At Large

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 Workshop or Meeting Date: January 9, 2017

Subject: Executive Session

Information: Discussion regarding labor negotiations, pursuant to 1 M.R.S.A. Section 405(6) (D).

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 or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
 - (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
 - (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
 - (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.
- This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

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 disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions 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. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C 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: January 9, 2017

Subject: Executive Session

Information: Discussion regarding economic development, pursuant to 1 M.R.S.A. Section 405(6) (C).

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 or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
 - (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
 - (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
 - (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.
- This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

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 disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions 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. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.