

SECTION I.

To: Comprehensive Plan Committee
From: Mark Eyerman - MEMO #1
Subject: Thoughts on the AG/RP Issue
Date: April 3, 2009

Here are a number of thoughts on the AG/RP issue. They are somewhat free-standing pieces that all tie back into the core issue:

1. What are the City's long term objectives with respect to the AG/RP areas?

I have heard two different visions for the AG/RP areas over the long term which I have tried to lay out below. Depending on the City's objective, the appropriate course of action may be very different.

- At our last meeting Roland very articulately described the AG/RP District as sort of a land bank where a supply of land is held until it is needed for another use. When it is needed, it is then rezoned. Under this vision, open agricultural land is really something of an interim use. It is a way to keep a supply of vacant land available for future use. At the same time, this approach allows people who want to use the land for agricultural use to minimize their carrying costs as a result of low property taxation. An important corollary is that the AG/RP Zone keeps the land from being developed in a way that may compromise or limit its future use when it is needed for something else. For example, the Witham Road area of New Auburn was designated for future industrial use in the current Comprehensive Plan but has remained zoned as Rural Residential and Low Density Country Residential. As a result, a few new homes have been developed along Witham Road which may make it difficult to include that area as part of a new industrial/business park. However, if this area had been zoned AG/RP, it would remain available for future industrial development

- A second, different vision has emerged during the discussion of the North River Road AG/RP area. That vision is that some or all of the AG/RP area would be permanently preserved as open space and conservation land. Under this vision, some limited residential development may be OK if it doesn't compromise the overall character of the area and allows most of the land to be preserved as open space. This is a final use decision and isn't subject to the land being converted to something else when it is needed in the "future". If the objective is to create a "land bank", it may actually be counter productive to have pieces of land permanently preserved as open land unless that fits in with the long term use.

The following 4 memos chronicle the 2010 Comp. Plan Committee's discussion on the treatment and policies of the AG/RP zoning district.

How do these two visions fit with the current AG/RP area? Maybe both visions are appropriate in different parts of the district?

2. Is strip residential development along rural roads good or bad?

The "historic" pattern at least in some of the outlying areas has been to zone the land along the road for residential development (RR or LDCR) with the backland included in the AG/RP District. Since many lots are split between the two districts, this gives a property owner in this situation some limited development potential by creating lots along the existing road frontage. Is that good or bad long-range policy? Here are some thoughts on that.

On the positive side, allowing for some development along the road maintains the interior of the property in a block. Many of these areas are identified as large unfragmented habits that are capable of supporting a diversity of wildlife. By keeping development along existing roads, it minimizes the encroachment on the habit block. From the property owner's perspective, these are easy lots to create. They don't require the construction of roads or utilities so the land owner can create a lot incrementally often without subdivision review and with limited out-of-pocket costs. This allows the property owner to raise cash when they need it while retaining the balance of the property.

On the negative side, stripping off lots along these rural roads can change the character from rural to suburban, especially if the houses are close to the road or can be easily seen from the road. Seeing lot after lot being created along a road is often cited as being a constant reminder of the suburbanization of rural areas – it changes how people feel about the area. In addition, as we discussed when we talked about rural roads, creating driveways every 200 feet along these roads limits their future potential as collectors to move traffic. It sets up the potential for residential neighborhood versus through traffic conflict. Finally, if the AG/RP District really is intended to be a land reserve that may be converted to other uses in the future, allowing residential development along the road frontage makes that transition more difficult if not impossible.

3. Does rezoning AG/RP land create an unfair "windfall" for property owners?

It appears that the lack of development potential in the AG/RP District has been "internalized" into the market value of land. Land in the AG/RP sells for less than comparable land in other zones. If the AG/RP zone is changed or the land is rezoned to create residential development potential, the land may become substantially more valuable. In very simple terms, if someone owns 50 acres in the AG/RP district with say

1000 feet of road frontage, its market value may be \$50,000 or \$60,000. But if it is rezoned to RR and the property owner can easily cut-off 4 or 5 lots along the road that are each worth say \$50,000, the value of that land may now be \$200,000-250,000. That increased value is a "windfall" to the property owner that has resulted from the change in the zoning. Some land economists suggest that the community should get something in return for creating that increased value. This is a somewhat controversial position but one that is worth considering in this situation

4. What do we mean by rural?

Different people mean different things by the term "rural" or even "agriculture". Some people think of mowed fields, white fences, and scenic views when they say rural. Rural is almost a synonym for open space. But "working rural" is very different from that or at least has been. That rural involves farm dumps, equipment repair, noises and smells, and related uses. There has been some discussion in the committee about how broadly or narrowly the types of non-residential uses allowed in the AG/RP should be drawn.

5. What is a farm in today's terms?

This is a key issue. The current ordinance defines farm as having a minimum lot of 10 acres, devoting at least 10 acres to the production of field crops or the grazing of at least 20 head of livestock, and from which the occupant and his or her spouse derives at least 50% of their income. This definition is somewhat dated. In the today's world, this definition excludes many of the things that might be considered to be commercial agriculture such as:

- a horse stable/farm
- commercial greenhouses
- an organic vegetable or flower operation on less than 10 acres
- a Christmas tree farm
- a cranberry bog

It also excludes many agricultural businesses based upon the 50% of income test. My sense is that many "commercial" farms rely on an outside source of income to allow the agricultural business to continue. It also excludes the "hobby farm" in which the agricultural activity is only an incidental portion of the household's income. In some communities, horses have become a major agricultural use that allows people who own horses for their own use to stable, breed, and train other people's horses but this is probably not the majority of the household's income.

If the objective of the AG/RP is to encourage agricultural use of land as an interim use, any and all of these types of uses may be valuable in doing that. But the next question becomes - and when is that enough use to justify allowing them to construct a home in conjunction with that use? The objective probably needs to be to avoid creating a loophole that allows residential development that really isn't related to the use of the land for agricultural or other natural resource purposes.

To: Comprehensive Plan Committee
From: Mark Eyerman – MEMO #2
Subject: Possible Approaches for Revising the AG/RP District
Date: April 6, 2009

I have outlined three alternative approaches for revising the requirements of AG/RP District to provide the committee with a starting point for our discussion at Tuesday's meeting. As you think about these alternatives, it is important to keep in mind two things:

1. What is the City's objective for the AG/RP District (see my other email)?
2. In some areas the AG/RP District is coupled with an RR or LDCR District along the road frontage to create some development potential for the owners of large parcels that have road frontage. As we think about these alternatives, we need to keep this concept in mind since a fourth alternative in some areas could be to establish or re-establish a strip of RR or LDCR where it does not currently exist in conjunction with an updated AG/RP District.

Alternative #1 Update the AG/RP Provisions Without Changing the Basic Intent

There has been discussion that the current provisions of the AG/RP District are outdated and difficult to use. There seems to be four issues with the current provisions:

1. The name of the district
2. The limited range of agricultural activities that meet the definition of farm
3. The 50% of income provision
4. The treatment of related rural uses

Here are some ideas for how these four issues could be addressed. This assumes that the basic purpose of the zone remains unchanged and that a residential use is permitted only in conjunction with "commercial agricultural" operation on a parcel that has at least 10 acres.

1. **Name** – I'm not sure I understand the issue with the current name but maybe the committee could propose changing it to something like Rural Resource Protection District.

2. **Definition of Farm** – While the AG/RP District allows a wide range of agricultural uses, the current definition of farm that is used to determine if a house is allowed is much more restrictive. The farm for purposes of the AG/RP District must use at least 10 acres for the production of field crops or the grazing of livestock. If strictly applied, this precludes a house in connection with many commercial agricultural operations. One possibility is to change the requirement so that a house has to be accessory to a “commercial agricultural use” rather than a farm and to eliminate the 10 acre of use requirement. A commercial agricultural use could be defined broadly to include the full range of agricultural activities that are carried out on a commercial basis.

3. **Income Test** – This is a tough issue since the objective is to limit the ability to build a house to those situations where there truly is or will be a commercial agricultural use. The current definition is worded “will be derived” recognizing the prospective nature of this. It also talks in terms of annual income to the farm occupant which to me implies the “net profit” from the farm. Realistically, a start-up operation or even a buy-out of an existing operation may not be profitable for a significant period. Here are a couple of possible ways to revise the current provision:

- change the test from annual income of the farmer to a revenue based requirement – how much revenue does the operation create
- reduce the percentage of household income that must be derived from commercial agricultural to better reflect the possibility for outside employment by members of the household
- tie the requirement to the filing of a Schedule F (or farm partnership or corporation schedules) for federal income tax purposes or some other evidence of a commercial agricultural activity such as a loan commitment. Schedule F is the farm income schedule that is typically filed by small farmers.

4. **Related Uses** – The permitted uses and special exception uses in the AG/RP District allow a wide range of agricultural and related activities. A number of the uses do include some type of limitation related to activities that occur on the property. The agricultural produce item j. limits this to “produce grown on the premises”. The definition of “wayside stand” limits products to those “primarily grown or produced on the premises . . .” Sawmills are allowed “incidental to the harvesting of forest products” which implies that you can have a sawmill only in conjunction with a harvest. We could consider modifying the permitted uses to allow more rural related uses on free-standing basis or with fewer “locally produced” limitations. For example, many communities have

struggled with the issue of “traditional farm stands” versus retail outlets that include items produced off the premises in addition to home-grown/produced items.

Alternative #2 Create a New Zone with Very Limited Residential Development Potential

In a sense, the current coupling of the AG/RP District with a strip of RR or LDCR along the road frontage does this. It allows the road frontage to be developed as house lots while the backland is “protected” from development. The overall residential density that is allowed under this arrangement is a function of the percentage of the parcel in AG/RP and the zoning of the road frontage. The percentage of a lot that is in RP is a function of its size, depth, and amount of road frontage. In reality, the development potential of a parcel is controlled by its road frontage not its size. Here are a couple of simple examples based on a 50 acre parcel under a few different scenarios. These do not include any consideration of farm housing – if one or more homes were allowed under that provision, the overall density would increase accordingly.

- 50 acre parcel with 1000’ of road frontage that is zoned **RR**

RR allows 1 acre lots with a minimum of 250’ of road frontage or lot width therefore 4 lots could potentially be developed along the frontage resulting in a gross density of 4 units on 50 acres or *1 unit per 12.5 acres*

- 50 acre parcel with 2000’ of road frontage that is zoned **RR**

If the lot configuration changes to a wider, shallower parcel and the parcel has 2000’ of frontage in the RR District, 8 lots could potentially be developed along the road frontage resulting in a gross density of 8 units on 50 acres or *1 unit per 6.5 acres*

- 50 acre parcel with 500’ of road frontage that is zoned **RR**

Or if the lot has limited road frontage, only 2 lots could be created resulting in a density of 2 lots on 50 acres or *1 unit per 25 acres*

- 50 acre parcel with 1000’ of road frontage that is zoned **LDCR**

LDCR allows 3 acre lots with a minimum of 325’ of road frontage or lot width therefore 3 lots could potentially be developed resulting in a gross density of 3 units on 50 acres or *1 unit per 16.7 acres*. As the frontage

increases or decreases, the density would change the same way as if the frontage is zoned RR.

Rather than creating one zone along the road frontage and the AG/RP District behind it, the Committee could consider creating a revised zone that allows very low density residential development (say 1 unit per 10 acres) and creates flexibility for how residential development could occur. Here are some ideas for how that might work:

- the gross density would be 1 unit per 10 acres (or whatever is decided) but individual lots could be as small as 40,000 SF
- there would be no street frontage/lot width requirement so that lots could be created wherever it makes sense and access could utilize private drives or private ways
- lots would need to be located where it makes sense in terms of the natural characteristics of the land – away from land with agricultural potential or with natural resource constraints
- if development along existing rural roads is a concern, it could include a requirement for limiting direct vehicle access to certain roads and/or a provision for retaining/creating a natural buffer along these roads

In addition to these basic provisions, there could be a requirement that an amount of land equal to the difference between the 10 acre/unit density requirement and the actual lot size be set aside as permanent open space through a conservation easement or similar mechanism if this in an area where the City's objective is to create permanent conservation rather than a land bank.

This approach would accomplish a couple of things:

1. It would equalize the development potential for property owners that now is a function of frontage on existing roads – every property owner with 50 acres would potentially have the same development potential.
2. It would provide more flexibility in how the residential development that does occur can be located and laid out as opposed to the existing system that essentially requires that it be strung out along the road to meet the large lot width requirements.
3. If it was coupled with a land conservation requirement, it could allow significant areas to be permanently conserved over the long term while providing the property owners with some development potential.

Alternative #3 Revise the AG/RP District to Create Limited Residential Development Potential

The concept of Alternative #2 could be extended to areas where there is only AG/RP zoning without a strip of RR or LDCR along the road by allowing a property owner limited development potential that is not associated with “commercial agriculture” in return for doing something that benefits the City. The concept here is that allowing very limited development potential creates value for the property owner and that increased value could be shared between the property owner and the larger community. Here are some ideas along that line:

1. The City could allow property owners to buy the right to develop in the AG/RP District at the 1 unit per 10 acre or whatever density by paying the City a development offset fee. This fee would go into a dedicated account to purchase land in areas where the City wants to permanently conserve open space such as along the rivers or in the Lake Auburn or Taylor Pond watersheds.
2. Similarly, the City could allow property owners the right to develop in return for conserving 10 acres of land per unit either on the parcel or in other areas where the City wants land conservation. This might be granting a conservation easement to a land trust or watershed protection group. For example, a property owner who owns land on both sides of North River Road could create a small number of lots on the land away from the river in return for permanently conserving land on the riverside of the road by granting a conservation easement to a land trust or state agency.

This approach would give property owners of AG/RP only land some very limited development potential but only as a trade-off for doing something the City wants. The downside is that it would potentially result in some residential development in these areas that would reduce the value of the AG/RP District as a “land bank” since it could make the future conversions of the land to other uses more problematic. On the other hand, it would allow property owners some residential use and potentially create a mechanism for conserving the open space that the City is interested in.

To: Auburn Comprehensive Plan Committee
From: Mark Eyerman - **MEMO # 3**
Subject: Rural Land Use Policy
Date: April 15, 2009

I have prepared two pieces for the Committee for Thursday's meeting. The first is Eyerman's "TRIAL BALLOON". In this trial balloon, I tried to synthesize the discussions of the last two meetings into a somewhat comprehensive set of policy directions for managing land use in the rural parts of the City. Most of this comes from what I think I heard from the committee members during our discussions but in a few places I filled in the blanks. I think it is important that we see the big picture before we "vote" on the pieces.

In the second piece, I have broken out the policy concepts that are embedded in the "trial balloon" and have put together a set of questions dealing with the components that we can vote on.

Eyerman's Trial Balloon

Here is my take on a comprehensive land use policy for the rural areas. I have laid this out as a list of components to help us work through them but there is no particular significance to the order. As you look at this remember that we are working on the Comprehensive Plan not actual zoning provisions. The plan needs to establish the general policy directions for what the City wants to have happen with the understanding that the details will need to be worked out by the Planning Board or other implementation group.

1. *Create a separate Shoreland Resource Protection District*—The State Shoreland Zoning Law requires the City to zone areas in proximity to certain waterbodies and wetlands in accordance with state requirements. Shoreland Zoning mandates that undeveloped 100 Year floodplains adjacent to the rivers and great ponds/lakes be zoned resource protection that essentially is a non-development zone. The state also requires that an area 250' in width around freshwater wetlands with high/moderate waterfowl habitat value be designated resource protection. The City has used the AG/RP District to address this requirement in the past. The City is updating its Shoreland Zoning to meet new state requirements and is working on creating a separate Shoreland RP District that would apply only to these very limited areas identified by the state. These areas would essentially be "pulled out" from

the AG/RP District. This is a sound concept and should be supported in the Comp Plan. This district could also be used to protect other specific “high value” natural resource areas if the City ever wanted to do that.

2. *Maintain the basic concept of having two approaches for managing land use in the Rural Area – one that allows for limited residential development potential independent of agriculture and one that allows for residential development potential only in conjunction with a bona fide commercial rural use* – The City currently has two situations, one where there is a strip of RR or LDCR along the road with the backland zoned AG/RP and the other where there is no strip of residential zoning. This item proposes that as an organizational approach, this basic concept remain in place.
3. *Rename/Re-characterize the AG/RP District as a “Rural Conservation” District* – With the creation of a separate Shoreland RP District, the AG/RP District could be renamed to better reflect what its purpose is. I picked “Rural Conservation District” but there is no magic in that name. The purpose statement for the district could reinforce that the objective of the City is that this area remain essentially as a rural area that accommodates rural and agricultural uses but does not allow for residential development. It could also include the idea that rural land owners are provided with opportunities to make economic use of their property that does not include residential development.
4. *Update the requirements for the Rural Conservation District* – Within this area, a wide range of agricultural and “rural” uses would be allowed. This would include a variety of commercial “natural resource based” or agricultural activities such as farm markets that sell both home grown/made and non-local items, processing and manufacturing of natural resource based products, agricultural related businesses (equipment supply, feed, tack shops, etc.), and land intensive commercial recreational uses. In addition, existing agricultural buildings and structures that are no longer used would be allowed to be reused for low-intensity non-residential uses (storage, tradesman/contractor/landscaping businesses, etc.).

Residential uses would be permitted only in the following situations:

- in conjunction with a bona fide commercial agricultural use
- in conjunction with a bona fide commercial natural resource use

- in conjunction with a pre-existing commercial recreational uses (golf course, ski area, etc.) where the residential use is an integral part of a planned development

To accommodate accessory residential uses, the income/revenue requirements for commercial agricultural uses or natural resource uses would be updated to recognize the potential for outside sources of income.

5. *Continue to have shallow strips of low density residential use along certain rural roads but allow some flexibility where the units are built* – Where there is a desire to recognize existing development patterns or to provide rural property owners with limited independent residential development potential, a strip of low-density residential zoning would be maintained/established along the road similar to the current pattern. This residential strip would be used to determine the number of residential units that could be built based upon the density, lot size, and frontage requirements of that zone. Property owners would be given a range of options for how and where those units are developed including:

- creating lots along the road frontage in conformance with the residential zoning requirements
- creating lots on other areas of the parcel that are zoned Rural Conservation with reduced lot size and access/frontage requirements to allow “rural” development without creating paved streets
- creating lots on other parcels in the Rural Conservation District that are owned by the same owner (mini development transfer)
- selling the development right to another property owner to allow higher density development in residential districts (transfer of development rights)

If residential development is moved from the residential strip to a Rural Conservation area, the owner would need to demonstrate that the location is appropriate and consistent with the rural objective – doesn’t negatively impact natural resources or agricultural potential. In addition, if units are moved from the residential strip, an area of land within the strip would need to be permanently protected by a conservation easement or similar method to prevent it from being developed in the future.

6. *Establish objective criteria for determining which roads should have a residential strip* – Under the two area model (with and without a residential

strip), the key policy issue becomes where residential strips should be provided. Here are some ideas for possible criteria but this is just a starting point:

Where residential strips could be provided

- where there is existing residential development along the road
- where the area is adjacent to a developed area or residentially zoned areas and could potentially develop for residential use in the future (an area that might be withdrawn from the land bank in the future for residential uses)
- where fire protection can be provided within the existing service area – reasonable response time, available water supply
- where police protection can be reasonably provided with the current patrol system
- where there is active agricultural use of the property (as a way of subsidizing agricultural income)

Where residential strips should not be provided

- if the road will evolve as a rural collector where roadside development and additional driveways are not desired
- where the area may potentially develop as a non-residential area in the future (the holding zone concept)
- where the land along the road is not suitable for low density residential development
- where the land along the road has significant natural resource value or is adjacent to land with significant value
- where the current road system/condition cannot accommodate increased traffic
- where the area is beyond reasonable public safety response

7. *Review where residential strips should be provided based on the criteria as part of the land use area discussions* – Assuming that we can agree on some broad criteria for where residential strip should and should not be allowed, we can then look at the existing AG/RP zones as we finish going through the various geographic areas as to see if any changes should be proposed as to where residential strips should be located.

Questions/Voting

I have put together a set of questions that address many of the policy issues embedded in my “trial balloon”. I have tried to structure these as yes-no or either-or questions so we can go through them simply and quickly. As you look at the questions, refer back to the discussion in the trial balloon for the context and details.

1. Does the Committee support creating a separate Shoreland Resource Protection District that would apply only to areas mandated by the state law?

- a. YES
- b. NO

2. Does the Committee support retaining the basic approach for managing land use in rural areas – having two situations, one with just the rural zone and one with a strip of residential land along the road?

- a. YES
- b. NO

3. Does the Committee support renaming the AG/RP Zone?

- a. YES
- b. NO

3.1 Is Rural Conservation an appropriate name to use in the Comp Plan?

- a. YES
- b. NO

3.2 Do you have a suggestion for a more appropriate way to refer to this area in the Comp Plan?

4. Should the updated Rural Conservation designation allow property owners to have a broader range of non-residential agriculture and natural resource related uses?

- a. YES
- b. NO

4.1 Should quasi-industrial type uses be allowed if they relate to agriculture or natural resource activities (see discussion in Trial Balloon)?

- a. YES
- b. NO

4.2 Should existing agricultural buildings be allowed to be reused for low-intensity nonresidential uses?

- a. YES
- b. NO

5. Which of the following statements should be the City's policy on residential uses in the Rural Conservation area?

a. Residential uses should only be permitted in conjunction with a commercial agricultural or natural resource use (specifics to be determined)

OR

b. Property owners should be allowed very limited residential development potential in addition to homes permitted in conjunction with a commercial agriculture or natural resource use

6. Should residential uses be allowed in conjunction with the following types of activities in the Rural Conservation area?

6.1. an agriculturally related business (a tack shop or a feed supply operation)?

- a. YES
- b. NO

6.2. an agricultural or natural resource based processing or manufacturing use (a sawmill for example)?

- a. YES
- b. NO

6.3. an existing commercial recreational use as part of an overall plan?

- a. YES
- b. NO

7. Should the Comp Plan recommend that the way of determining if a rural use should be allowed to have an accessory residential unit be updated to revise the income requirement to take into account part time operations and the potential for outside income?

- a. YES
- b. NO

7.1. If yes, does the Committee agree that working out the details should be the responsibility of another group?

- a. YES

b. NO – the Committee should work out the details

8. Where there is a strip of residentially zoned land along the road, should the property owner be given flexibility to locate the units outside of the residential strip?

- a. YES
- b. NO

8.1 If yes, should the unit be allowed to be built?

8.1.1 Somewhere else on the same parcel in the Rural Conservation area?

- a. YES
- b. NO

8.1.2 On another lot owned by the same person in the Rural Conservation area?

- a. YES
- b. NO

8.1.3 Sold to be used to increase the density in residentially zoned areas?

- a. YES
- b. NO

8.2 If lots can be created elsewhere on the same parcel or on another parcel in the Rural Conservation area, should they be allowed to be laid out so they don't have frontage on a street?

- a. YES
- b. NO

9. Should the Committee establish criteria for evaluating where residential strips are located and where they are not?

- a. YES
- b. NO

9.1 If the answer is yes, which of the following describes how the criteria should be treated:

a. They should be informal criteria that are just used by the Committee

OR

b. They should be formal criteria that get included in the Comp Plan to guide future rezoning discussions

10. If the Committee decides that criteria should be created, should the Committee defer consideration of specific situations/roads and do that as part of the area by area land use discussion?

- a. YES
- b. NO

11. The trial balloon lays out some possible criteria (see above). Thinking about where residential strips should be located, should we consider the following?

11.1 Where there is existing residential development along the road?

- a. YES
- b. NO

11.2 Where the area is adjacent to a developed area or residentially zoned areas and could potentially develop for residential use in the future (an area that might be withdrawn from the land bank in the future for residential uses)?

- a. YES
- b. NO

11.3 Where fire protection can be provided within the existing service area – reasonable response time, available water supply?

- a. YES
- b. NO

11.4 Where police protection can be reasonably provided with the current patrol system?

- a. YES
- b. NO

11.5 Where there is active agricultural use of the property (as a way of subsidizing agricultural income)?

- a. YES
- b. NO

11.6 Are there other criteria that should be considered?

12. And then thinking about where residential strips should not be located, should we consider the following:

12.1 If the road will evolve as a rural collector where roadside development and additional driveways are not desired?

a. YES

b. NO

12.2 Where the area may potentially develop as a non-residential area in the future (the holding zone concept)?

a. YES

b. NO

12.3 Where the land along the road is not suitable for low density residential development?

a. YES

b. NO

12.4 Where the land along the road has significant natural resource value or is adjacent to land with significant value?

a. YES

b. NO

12.5 Where the current road system/condition cannot accommodate increased traffic?

a. YES

b. NO

12.6 Where the area is beyond reasonable public safety response?

a. YES

b. NO

12.7 Are there other criteria that should be considered?

April 29, 2009

To: Auburn Comprehensive Plan Committee

From: Antje Kablitz → MEMO #4

Subject: Rural Land Use Vote Outcome

On April 16, the Auburn Comprehensive Plan Committee voted on a set of questions that addressed many of the rural policy issues outlined in the "Trial Balloon" included Rural Land Use Memo prepared by Mark (see Appendix page 9).

The following is a tabulation of the vote from this meeting as well as a summation of the key policy directions.

The policy directions will guide the continued discussion of future land use in the Agriculture/Rural District.

DETAILED VOTING TABULATION

The eligible voters included the twenty active committee members in attendance. An eligible voter was defined as a committee members whose name appeared on the official comprehensive plan member list provided by the City as well as additional individuals who were added to the committee in the fall of last year. The committee chair as well as City and municipal staff did not vote.

When answering questions, the committee referred back to the discussion in the "trial balloon" for the context and details.

All votes were counted by a show of hands. In some instances, eligible voters chose to abstain from voting on specific questions.

1. Does the Committee support creating a separate Shoreland Resource Protection District that would apply only to areas mandated by the state law?

YES 15

No 1

Abstain 4

2. Does the Committee support retaining the basic approach for managing land use in rural areas – having two situations, one with just the rural zone and one with a strip of residential land along the road?

YES 8

No 6

Abstain 6

3. Does the Committee support renaming the AG/RP Zone?

YES 12

No 0

Abstain 8

3.1 Is Rural Conservation an appropriate name to use in the Comp Plan?

YES 7

No 5

Abstain 8

3.2 Do you have a suggestion for a more appropriate way to refer to this area in the Comp Plan?

The committee was in favor of keeping the word "Agriculture" in the name

Others were interested in "Land Reserve" to indicate that the land is held for future use.

4. Should the updated Rural Conservation designation allow property owners to have a broader range of non-residential agriculture and natural resource related uses?

YES 15

No 2

Abstain 3

4.1 Should quasi-industrial type uses be allowed if they relate to agriculture or natural resource activities (see discussion in Trial Balloon)?

The committee chose not to vote on this, deciding to revisit the topic after a more detailed description of "quasi-industrial" agriculture or natural resource activities is available.

4.2 Should existing agricultural buildings be allowed to be reused for low-intensity nonresidential uses?

YES 17

No 0

Abstain 3

5. Which of the following statements should be the City's policy on residential uses in the Rural Conservation area? The committee voted 12 to 8 in favor of A.

A. Residential uses should only be permitted in conjunction with a commercial agricultural or natural resource use (specifics to be determined).

B. Property owners should be allowed very limited residential development potential in addition to homes permitted in conjunction with a commercial agriculture or natural resource use

6. Should residential uses be allowed in conjunction with the following types of activities in the Rural Conservation area?

(6.1.) Allow residential uses in conjunction with *agriculturally related business (a tack shop or a feed supply operation)*.

YES 12 No 0 Abstain 8

(6.2.) Allow residential uses in conjunction with *an agricultural or natural resource based processing or manufacturing use (a sawmill for example)*

Yes 8 **NO 10** Abstain 2

(6.3.) Allow residential uses in conjunction with *an existing commercial recreational use as part of an overall plan*

YES 9 **NO 9** Abstain 4

The committee chose to reframe this question to include both new and existing commercial recreational uses and to require that the potential for residential development in a commercial recreational area to be dependent on:

- a) Scale of residential uses
- b) Size of the development
- c) Location of development
- d) The development of a planned development
- e) Recreation/open space easement protecting recreational land from future development

6.4 below reflects this change.

(6.4.) Allow residential uses in conjunction with *a any commercial recreational use as part of an overall plan*

YES 12 No 4 Abstain 4

7. Should the Comp Plan recommend that the way of determining if a rural use should be allowed to have an accessory residential unit be updated to revise the income requirement to take into account part time operations and the potential for outside income?

YES 17 No 0 Abstain 3

7.1. If yes, does the Committee agree that working out the details should be the responsibility of another group?

YES 17 No 0 Abstain 3

8. Where there is a strip of residentially zoned land along the road, should the property owner be given flexibility to locate the units outside of the residential strip?

YES 12

No 6

Abstain 2

8.1 Since the answer to 8 was yes, the committee was asked to define where the units could be allowed to be built...

8.1.1 Allow units somewhere else on the same parcel in the *Rural Conservation* area.

YES 12

No 6

Abstain 2

8.1.2 Allow units on another lot owned by the same person in the Rural Conservation area

YES 7

NO 10

Abstain 3

8.1.3 Allow property owners to sell development rights to be used to increase the density in residentially zoned areas.

YES 12

No 2

Abstain 6

8.2 If lots can be created elsewhere on the same parcel or on another parcel in the Rural Conservation area, could they be allowed to be laid out so they don't have frontage on a street?

YES 11

No 7

Abstain 2

9. Should the Committee establish criteria for evaluating where residential strips are located and where they are not?

YES 14

No 1

Abstain 5

(9.1) Include formal criteria in the Comp Plan to guide future rezoning discussions regarding residential strip development.

YES 14

No 1

Abstain 5

10. If the Committee decides that criteria could be created, should the Committee defer consideration of specific situations/roads and do that as part of the area by area land use discussion?

YES 16

No 0

Abstain 4

11. The trial balloon lays out some possible criteria (see above). Thinking about where residential strips could be located, should we consider the following?

11.1 Allow residential strips where there are existing residential development along the road.

YES 12 No 4 Abstain 4

11.2 Allow residential strips where the area is adjacent to a developed area or residentially zoned areas and could potentially develop for residential use in the future (an area that might be withdrawn from the land bank in the future for residential uses)

Yes 4 **NO 12** Abstain 4

11.3 Allow residential strips where fire protection can be provided within the existing service area with reasonable response time and available water supply.

YES 10 No 6 Abstain 4

11.4 Allow residential strips where police protection can be reasonably provided with the current patrol system.

YES 10 No 6 Abstain 4

11.5 Allow residential strips where there is active agricultural use of the property as a way of subsidizing agricultural income.

YES 13 No 4 Abstain 3

11.6 Other criteria that could be considered include:

School impacts and capacity

Recreation impacts

Trash collection/public works impacts

12. When thinking about where residential strips should **NOT** be located, should we consider the following:

12.1 Residential strips should **NOT** be allowed if the road will evolve as a rural collector . **YES 13** No 0 Abstain 7

KEY POLICY DIRECTION

1. **Create a separate Shoreland Resource Protection Zone** that includes the areas of the existing AG/RP District that are mandated by State Shoreland Zoning to be zoned Resource Protection.
2. **Maintain an AG/Rural District** in which there is no independent residential development potential. Require all residential uses to be accessory to another allowed rural use.
3. **Allow accessory residential uses** in the AG/Rural District in conjunction with:
 - a commercial agriculture or natural resource use
 - agriculturally related businesses (tack shops, feed supply operations)
 - a commercial recreational use as part of a planned development that protects the recreation/open space portion of the project from future development.
- 3.a Update the criteria for what constitutes a rural use that can have an accessory residential use.
4. **Allow a broader range of nonresidential agriculture and natural resource related uses** in the AG/Rural District (details to be determined)
5. **Continue the concept of zoning “residential strips”** along selected rural roads and base the determination of which roads should have a residential strip on criteria to be included in the Comprehensive Plan.
 - 5.a Allow residential development that can occur in these “residential strips” to be:
 - Developed within the residential zone
 - Transferred and developed on a portion of the same parcel that is in the AG/Rural District
 - Transferred to another residential district to allow higher density development than is otherwise allowed
 - 5.b If a residential unit is transferred from the residentially zoned portion of the a parcel to the AG/Rural portion, the development standards should allow reduced lot sizes and reduced frontage/access requirements as long as the lot location does not negatively impact natural resources or agricultural

potential and the land in the residential strip from which the units is transferred is permanently protected from development.

- 5.c Similarly is a residential unit is transferred to another residential district, the land in the residential strip from which the unit is transferred is permanently protected from development
- 5.d The specific criteria for determining where residential strips should be allowed needs to be developed.

APPENDIX: Trial Balloon used as Basis for Voting

1. *Create a separate Shoreland Resource Protection District*—The State Shoreland Zoning Law requires the City to zone areas in proximity to certain waterbodies and wetlands in accordance with state requirements. Shoreland Zoning mandates that undeveloped 100 Year floodplains adjacent to the rivers and great ponds/lakes be zoned resource protection that essentially is a non-development zone. The state also requires that an area 250' in width around freshwater wetlands with high/moderate waterfowl habitat value be designated resource protection. The City has used the AG/RP District to address this requirement in the past. The City is updating its Shoreland Zoning to meet new state requirements and is working on creating a separate Shoreland RP District that would apply only to these very limited areas identified by the state. These areas would essentially be “pulled out” from the AG/RP District. This is a sound concept and could be supported in the Comp Plan. This district could also be used to protect other specific “high value” natural resource areas if the City ever wanted to do that.
2. *Maintain the basic concept of having two approaches for managing land use in the Rural Area – one that allows for limited residential development potential independent of agriculture and one that allows for residential development potential only in conjunction with a bona fide commercial rural use* – The City currently has two situations, one where there is a strip of RR or LDCR along the road with the backland zoned AG/RP and the other where there is no strip of residential zoning. This item proposes that as an organizational approach, this basic concept remain in place.
3. *Rename/Re-characterize the AG/RP District as a “Rural Conservation” District* – With the creation of a separate Shoreland RP District, the AG/RP District could be renamed to better reflect what its purpose is. I picked “Rural Conservation District” but there is no magic in that name. The purpose statement for the district could reinforce that the objective of the City is that this area remain essentially as a rural area that accommodates rural and agricultural uses but does not allow for residential development. It could also include the idea that rural land owners are provided with opportunities to make economic use of their property that does not include residential development.
4. *Update the requirements for the Rural Conservation District* – Within this area, a wide range of agricultural and “rural” uses would be allowed. This would include a variety of commercial “natural resource based” or agricultural activities such as

farm markets that sell both home grown/made and non-local items, processing and manufacturing of natural resource based products, agricultural related businesses (equipment supply, feed, tack shops, etc.), and land intensive commercial recreational uses. In addition, existing agricultural buildings and structures that are no longer used would be allowed to be reused for low-intensity non-residential uses (storage, tradesman/contractor/landscaping businesses, etc.).

Residential uses would be permitted only in the following situations:

- in conjunction with a bona fide commercial agricultural use
- in conjunction with a bona fide commercial natural resource use
- in conjunction with a pre-existing commercial recreational uses (golf course, ski area, etc.) where the residential use is an integral part of a planned development

To accommodate accessory residential uses, the income/revenue requirements for commercial agricultural uses or natural resource uses would be updated to recognize the potential for outside sources of income.

5. *Continue to have shallow strips of low density residential use along certain rural roads but allow some flexibility where the units are built* – Where there is a desire to recognize existing development patterns or to provide rural property owners with limited independent residential development potential, a strip of low-density residential zoning would be maintained/established along the road similar to the current pattern. This residential strip would be used to determine the number of residential units that could be built based upon the density, lot size, and frontage requirements of that zone. Property owners would be given a range of options for how and where those units are developed including:

- creating lots along the road frontage in conformance with the residential zoning requirements
- creating lots on other areas of the parcel that are zoned Rural Conservation with reduced lot size and access/frontage requirements to allow “rural” development without creating paved streets
- creating lots on other parcels in the Rural Conservation District that are owned by the same owner (mini development transfer)
- selling the development right to another property owner to allow higher density development in residential districts (transfer of development rights)

If residential development is moved from the residential strip to a Rural Conservation area, the owner would need to demonstrate that the location is appropriate and consistent with the rural objective – doesn't negatively impact natural resources or agricultural potential. In addition, if units are moved from the residential strip, an area of land within the strip would need to be permanently protected by a conservation easement or similar method to prevent it from being developed in the future.

6. *Establish objective criteria for determining which roads should have a residential strip* – Under the two area model (with and without a residential strip), the key policy issue becomes where residential strips should be provided. Here are some ideas for possible criteria but this is just a starting point:

Where residential strips could be provided

- where there is existing residential development along the road
- where the area is adjacent to a developed area or residentially zoned areas and could potentially develop for residential use in the future (an area that might be withdrawn from the land bank in the future for residential uses)
- where fire protection can be provided within the existing service area – reasonable response time, available water supply
- where police protection can be reasonably provided with the current patrol system
- where there is active agricultural use of the property (as a way of subsidizing agricultural income)

Where residential strips should not be provided

- if the road will evolve as a rural collector where roadside development and additional driveways are not desired
- where the area may potentially develop as a non-residential area in the future (the holding zone concept)
- where the land along the road is not suitable for low density residential development
- where the land along the road has significant natural resource value or is adjacent to land with significant value
- where the current road system/condition cannot accommodate increased traffic
- where the area is beyond reasonable public safety response

7. *Review where residential strips should be provided based on the criteria as part of the land use area discussions* – Assuming that we can agree on some broad criteria

for where residential strip should and should not be allowed, we can then look at the existing AG/RP zones as we finish going through the various geographic areas as to see if any changes should be proposed as to where residential strips should be located.