

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Development

PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

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

Re: 204 Minot Avenue, Special Exception and Site Plan Review, Use Car Lot and Service Station

Date: May 12, 2015

- I. PROPOSAL- Jason Courbron, Land Use Consultant, an agent for John Vallieres, is seeking approval to convert an old gas station into a used car auto sales/service station for property located at 204 Minot Avenue, pursuant to Chapter 60, Article 1 (Zoning in General) Section 60-3 (a, b) Purpose; Article XVI Administration and Enforcement, Division 2, Site Plan Review (Section 60-1277) and Division 3, Special Exception (Section 60-1336).

THE SITE- The property at 204 Minot Avenue is a narrow lot, bounded by Minot Ave. to the west, High Street to the south and Central Maine Railroad Right of Way to the north and east. It is currently an abandoned gas station/ service station. The Minot Avenue frontage is 230 feet in length and has 3 access drives with the High Street frontage being 78 feet in width with 1 access drive. The 10,018 sf. lot is predominately pavement or building with 9,536 sf. of impervious surface.

ZONING - The property is zoned General Business (GB) to which auto sales and auto repair is a special exception/site plan review and requires approval from the Planning Board.

- II. DEPARTMENT REVIEW- This plan was reviewed by the Plan Review Committee on April 23, 2015
- a. Police- The Police Department expressed traffic safety concerns for the High Street entrance, especially given the close proximity to the railroad tracks.
 - b. Auburn Water and Sewer- At the Plan Review meeting of 4/23/15 it was mentioned that there are sewer limitations.
 - c. Fire Department- David O'Connell- Fire Prevention Officer, said, The size of the parking lot is too small for fire apparatus to enter and would have to block off Minot Avenue, if they had to respond.

- d. Engineering-The application material indicates the applicant intends to reduce the number and size of curb cuts into the property. This needs to be done with granite curbing and the adjacent sidewalk built up to match curb grade. Estimate approximately 80 LF of curbing needed. All work within the right of way will require bonding and an inspection fee to ensure the work is done properly.
- e. Planning and Development-. The Planning Staff has reviewed this request for the following items and include staff comments in the next section, III. Planning Board Action.
 - Compliance with the 2010 Comprehensive Plan.
 - Special Exception
 - Site Plan Review

III. PLANNING BOARD ACTION-

A. THE 2010 COMPREHENSIVE PLAN - FUTURE LAND USE PLAN- 204 Minot Ave.

General Background- On page 73, Future Land Use is described in general terms, “The Future Land Use Plan shows graphically how the City’s land use policies apply to the land area of the community, and where and how growth and development should and should not be accommodated over the next decade. The Future Land Use Plan is not a zoning map. It is intended to show, in a general sense, the desired pattern of future land use and development. The intention is that this Future Land Use Plan will guide near-term revisions to the City’s zoning ordinance and maps to assure that the City’s land use regulations are consistent with the policies set forth in this *Comprehensive Plan*. In addition, by designating transitional districts, the Future Land Use Plan is designed to guide future zoning changes when the circumstances become appropriate.

Organization of the Future Land Use Plan- (See map 1)

- a. **Basic Growth Categories-** “For the purpose of the Future Land Use Plan, three basic growth categories are used based upon the standards set out by the state and the desired level of future development in the City. (page 74)
 1. GROWTH AREAS – Areas where the City wants growth and development to occur. The anticipation is that most residential and non-redevelopment over the next ten years will occur in these growth areas.
 2. LIMITED GROWTH AREAS – Areas that are either essentially fully developed and therefore have limited development potential or that have vacant or under-utilized land where the City’s desires a limited amount of growth and development over the next ten years.
 3. RESTRICTED OR NON-GROWTH AREAS – Areas that are either unsuitable for development or in which the City desires to see little or no growth and development over the next ten years. This particular property was discussed during the Comprehensive Plan process as being unsuitable for redevelopment due its small size and narrow shape.
- b. **Future Land Use Types- (See map 2)**
The three categories of growth, limited growth, and restricted or non-growth specify where the City wants to accommodate growth and development and where it wants to discourage or

prohibit it. They do not specify how that development should or should not occur. To do that, the Future Land Use Plan distinguishes among four types of areas based on the character of the area and the way in which development should (or should not) occur. (Page 76)

- **Type A- Development Areas**
- **Type B- Transition Area/Reuse/Development Areas-** Developed areas where the City’s policy is to encourage the type of use and/or pattern of development to change overtime. New development, redevelopment, or the reuse of existing land and buildings that moves the area toward the desired future use is encouraged. Some transition areas designated in the Future Land Use Plan identify the desired future use of the area, but the City’s zoning may not be changed until a future point in time when development is appropriate – in a sense these are “planned future transition areas”. The City’s use of the term transition area differs from the way this term is use by the state in the Growth Management Law.
- **Type C- Conservation/Stabilization Areas**
- **Type D- Protection/Reserve Areas**

c. Future Land Use Plan Designation for 204 Minot Ave. (See map 3)

The property at 204 Minot Ave. is located in the Gateway Transition District (GT). The Gateway Transition District is described on page 107 as follows:

RESTRICTED/NON-GROWTH AREAS (Basic Growth Category)

TYPE B: TRANSITION/REUSE/REDEVELOPMENT AREAS

DESIGNATION: OPEN SPACE/CONSERVATION

Gateway Transition District (GT)

Objective – Establish attractive, green gateways to the downtown area through a combination of regulation and acquisition (see Figures 2.3 and 2.4). Within these areas, the City should limit new development and redevelopment, while acquiring property from willing sellers for fair market value. Once blocks of land are acquired, they should be redeveloped as public open space to create attractive, welcoming entrances to the in town area of the City.

Allowed Uses – Existing developed properties within the Gateway Transition District should be allowed to continue to be used for their current use and be maintained. Existing nonresidential properties should be permitted to be expanded within strict limits. New development or redevelopment for residential or commercial purposes should not be permitted. After the existing buildings are removed, the allowed uses in the Gateway Transition District for new activity should be limited to recreational and open space uses, and facilities for providing public access to the river.

Development Standards – The standards for the Gateway Transition District should allow for the expansion of the gross floor area of existing nonresidential uses by up to ten (10) percent to allow for maintenance of the current use, but expansion of residential uses should not be permitted.

STAFF COMMENTS: While the 2010 Comprehensive Plan is not regulatory document, it is a guide to land use and future zoning directions. In the case 204 Minot Ave., it’s designation as Gateway Transition District in the Future Land Use Plan includes numerous community backed policy directives to become a green, welcoming gateway into the downtown and to not allow commercial redevelopment. A substantial amount of private and public investment in the Minot Avenue corridor has taken place. For example; Agreens exterior renovation, Mechanics Savings Bank redevelopment, including TIF funded streetscape and sidewalk improvements and TIF

funding for the South Goff Street connection to Minot Avenue. The property at 204 Minot Avenue has been considered to be abandoned for over 5 years and redevelopment should not be permitted.

B. SPECIAL EXCEPTION-

Sec. 60-1335. Approval required.

The planning board may approve for development those land uses listed as special exceptions under the terms of the zoning ordinance. **The determinations of the board shall be in harmony with the expressed intent of the zoning ordinance and with the expressed major purpose of the city master development plan.** Special exceptions shall be allowed only when they will substantially serve public convenience and welfare and will not involve dangers to health or safety.

STAFF COMMENTS: It is the Staff's opinion that this special exception application does not meet the expressed major purpose of the City Master Development Plan (Comprehensive Plan). The 2010 Comprehensive Plan executive summary on page xi, states, "Enhance the gateways into the City (Washington Street, Riverside Drive, Minot Ave.) including improved standards for development along these roads."

Sec. 60-1336. Conditions.

- (a) As conditions prerequisite to the granting of any special exceptions, the board shall require evidence of the following:
 - (1) That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
 - (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
 - (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.
 - (4) That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
 - (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
 - (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
 - (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.

STAFF COMMENTS: It is the Staff's opinion that granting the Special Exception will create a traffic hazard, will block or hamper the Master Plan Development Plan's recommended acquisition of 204 Minot Avenue as per condition 3 and will not allow for required landscaping due to the inadequate land space (small non-conforming lot size).

C. SITE PLAN REVIEW-

Sec. 60-1276. - Purpose.

The purpose of site plan review is to ensure that the design and layout of certain developments permitted by special exceptions, or other developments noted herein, will constitute suitable development and will not result in a detriment to city, neighborhood or the environment.

Sec. 60-1277. - Objective.

In considering a site plan, the planning board shall make findings that the development has made provisions for:

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (3) Adequacy of the methods of disposal for wastes; and
- (4) Protection of environment features on the site and in adjacent areas.

Sec. 60-1304. - Same—Public hearing; findings.

The planning board shall, within 30 days of receipt of a completed application, hold a public hearing. Notice of a hearing shall be given in the manner provided for in division 3 of article XVII of this chapter. The planning board will take final action on the site plan within 60 days of receiving a completed application, or within such other time limit as may be mutually agreed to. Such final action shall consist of either:

- (1) A finding and determination that the proposed project will constitute a suitable development and will not result in a detriment to the neighborhood or the environment; or
- (2) A written denial of the application stating the reasons for such denial, upon a finding that:
 - a. The provisions for vehicular loading, unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety.
 - b. The bulk, location or operation of proposed buildings and structures will be detrimental to and adversely affect the use and values of existing development in the neighborhood or the health or safety of persons residing or working therein.
 - c. The provisions for on-site landscaping are inadequate to screen neighboring properties from unsightly features of the development.
 - d. The site plan does not adequately provide for the soil and drainage problems which the development may give rise to in accordance with section 60-1301(14).
 - e. The provisions for exterior lighting create safety hazards for motorists traveling on adjacent streets, or are inadequate for the safety or occupants or users of the site, or will create a nuisance affecting adjacent properties.
 - f. The proposed development will unduly burden off-site sewer drainage or water systems.
 - g. The proposed development will create a fire hazard by failing to provide adequate access to the site, or to buildings on the site, for emergency vehicles.
 - h. The proposed development violates provisions of the zoning regulations applicable to the site or other applicable laws, regulations or ordinances.
 - i. The proposed development will unduly impact the ability to provide municipal services.

Sec. 60-1305. - Same—Subject to conditions, modification, restrictions, etc.

Approval may be made subject to conditions, modifications and restrictions as the planning board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried on only

in conformity to such conditions, modifications or restrictions and in conformity with the application and site plan.

STAFF COMMENTS: The Staff reports the following concerns regarding the Site Plan.

1. Angled parking is in the wrong direction of traffic flow on south side lot.
2. Curbing at entrances needs to be replaced.
3. Need specific landscape plan information.
4. As per Chapter 60-607- (13, d) Off Street Parking- requires a 10 foot landscape buffer in any front yard adjacent to a street right of way.
5. Fire Department has concerns about the inability of fire apparatus to get into the site and consequently block traffic on Minot Ave.
6. The driveway spacing on High Street (40 feet) and the Minot Ave. driveway closest to the High and Minot intersection (90 feet) does not meet the driveway spacing requirement of Chapter 60-800 of 105 feet for a 25 mph highway speed.

IV. STAFF RECOMMENDATION- The Staff recommends **DISAPPROVAL** and makes the following findings for the Special Exception application for an Auto Sales and Auto Repair Use the following reasons:

1. Granting the Special Exception will block or hamper the Master Plan Development Plan's (2010 Comprehensive Plan) recommended acquisition of 204 Minot Avenue as a gateway to downtown Auburn.
2. The inadequate land space (small non-conforming lot size) does not allow for required 10 foot landscaping buffer along the Minot Avenue road frontage.
3. The 2010 Comprehensive Plan included a Future Land Use Category of Gateway Transition whose objective is, "Establish, attractive green gateways to the downtown area through a combination of new development and acquisition. Within these areas, the City should limit new development and redevelopment, while acquiring property from willing sellers for fair market value."
4. The property at 204 Minot Ave. is located in the Gateway Transition District in the 2010 Comprehensive Plan Future Land Use Designations, which is listed as a Restricted or Non-Growth area in the organization of the Future Land Use Plan.
5. The 2010 Comprehensive Plan also describes the Gateway Transition District as a Transition Area/Reuse/Development area, which states "New development, redevelopment, or the reuse of existing land and buildings that moves the area toward the desired future use is encouraged."
6. The 2010 Comprehensive Plan also designates the Gateway Transition Area as an Open Space/Conservation Area.
7. The property at 204 Minot Ave. is a documented as vacant and its former use as a gas station and auto service station has been abandoned. (See attached letter dated 4/2/10)
8. The property owner was notified by staff of the Gateway Transition Land Use Designation prior to purchasing.
9. The 2010 Comprehensive Plan further states in "allowable uses" in The Gateway Transition Area that "New development or redevelopment for residential or commercial purposes **should not be permitted.**"

A. With regards to the applicant's compliance to the Site Plan Ordinance, Chapter 60-60-1277, Should the Planning Board approve the Special Exception application, the Staff recommends **Postponement** until the applicant addresses the following conditions:

1. Angled parking is in the wrong direction of traffic flow on south side lot.
2. Curbing at entrances needs to be replaced.
3. Need specific landscape plan information.
4. As per Chapter 60-607- (13,d) Off Street Parking- requires a 10 foot landscape buffer in any front yard adjacent to a street right of way.
5. Fire Department has concerns about the inability of fire apparatus to get into the site and consequently block traffic on Minot Ave.
6. The driveway spacing on High Street (40 feet) and the Minot Ave. driveway closest to the High and Minot intersection (90 feet) does not meet the driveway spacing requirement of Chapter 60-800 of 105 feet for a 25 mph highway speed.
7. Restricted and or Non-Growth Area.

Application is not in harmony with the Master Development Plan (Comprehensive Plan)



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

DRAFT MOTIONS:

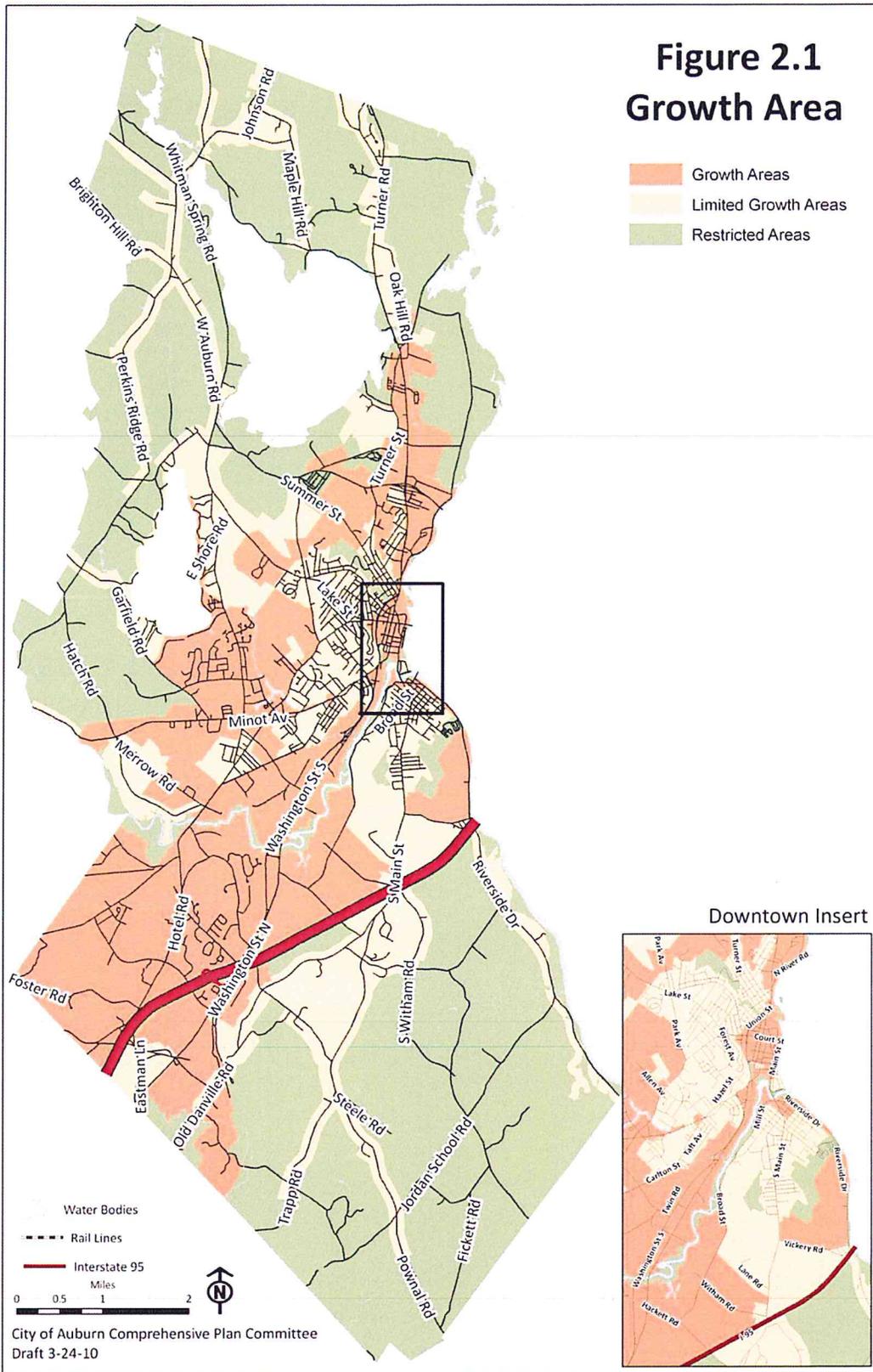
The Planning Board makes a motion of **DISAPPROVAL** with the following findings for the Special Exception application for an Auto Sales and Auto Repair Use the following reasons:

1. Granting the Special Exception will block or hamper the Master Plan Development Plan's (2010 Comprehensive Plan) recommended acquisition of 204 Minot Avenue as a gateway to downtown Auburn.
2. The inadequate land space (small non-conforming lot size) does not allow for required 10 foot landscaping buffer along the Minot Avenue road frontage.
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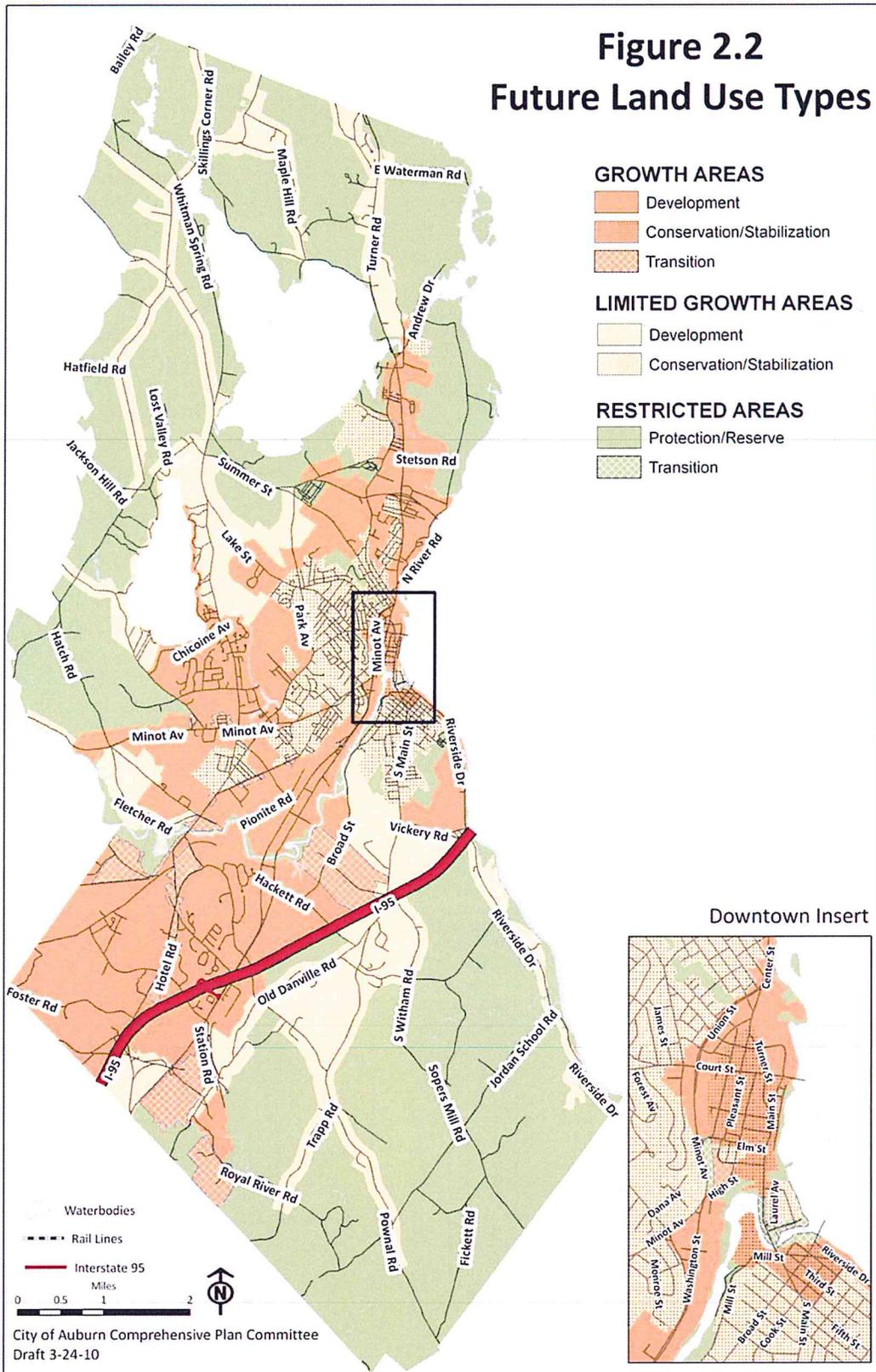
With regards to the applicant's compliance to the Site Plan Ordinance, Chapter 60-60-1277, should the Planning Board approve the Special Exception application, the Staff recommends a the following conditions be addressed:

1. Angled parking is in the wrong direction of traffic flow on south side lot.
2. Curbing at entrances need to be replaced.
3. Add specific landscape plan information.
4. As per Chapter 60-607- (13,d) Off Street Parking- requires a 10 foot landscape buffer in any front yard adjacent to a street right of way.
5. Fire Department has concerns about the inability of fire apparatus to get into the site and consequently block traffic on Minot Ave.
6. The driveway spacing on High Street (40 feet) and the Minot Ave. driveway closest to the High and Minot intersection (90 feet) does not meet the driveway spacing requirement of Chapter 60-800 of 105 feet for a 25 mph highway speed.

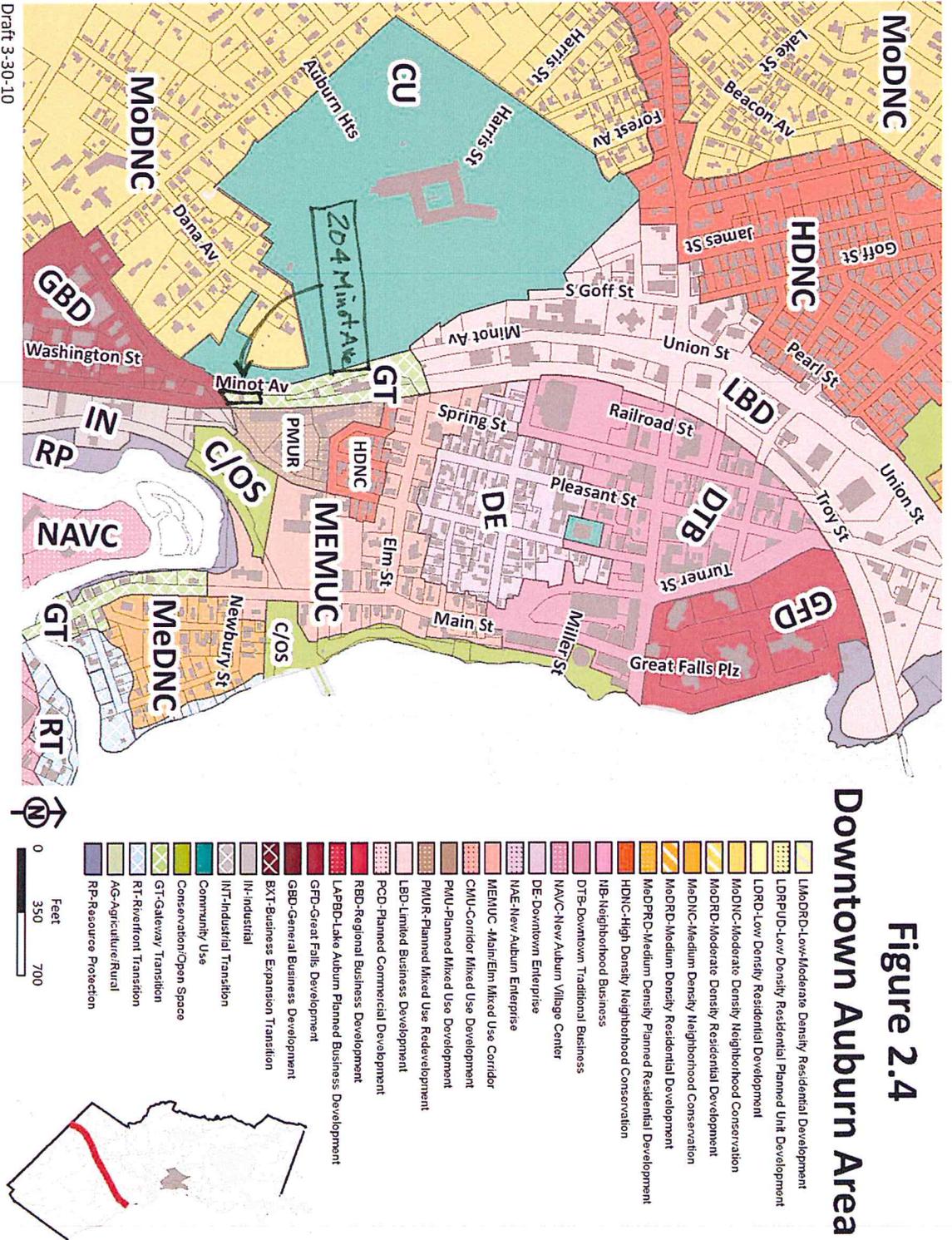
MAP 1



MAP 2



MAP 3



Draft 3-30-10

DRAFT 4-5-10

Attached letter from 4/2/10

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

NOTICE OF VIOLATION / ORDER TO CORRECT

April 2, 2010

VIA FIRST CLASS AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Leemilts Petroleum, Inc.
C/O Getty Petroleum Mkt., Inc.
ATTN: Ms. Pat Butler
1500 Hempstead Turnpike
East Meadow, NY 11554

RE: Getty Gas Station / 204 Minot Avenue – Auburn Maine / Property ID # 230-159.

Dear Ms. Butler:

I am writing in regard to the above referenced property herein after referred to as "the Property." As you know, the Getty Gas Station / store at the above referenced property has been closed and vacant since approximately 2003. The ground sign for the former business still remain on the property in a damaged and deteriorating condition. When the store closed the advertizing panels were removed and the signage area was covered by a tarp. The tarp has experienced significant deterioration, has exposed the sign to the elements and is exceptionally unsightly. The signs are also in violation of Chapter 29, Section 4.2.A.8 and 4.2.A.10 which reads as follows:

8. No sign which advertises or calls attention to any products, businesses or activities which are no longer sold or carried on shall remain on the premises for more than six months after the product, business or activity has ceased being sold or carried on.
10. Signs legally erected before the adoption of this Ordinance which do not conform to the provision of this Ordinance may continue to be maintained, provided, however, that no such sign shall be permitted if it is, after the adoption of this Ordinance, enlarged, reworded (other than in the case of theater or cinema signs or signs with automatic or manually changing messages), redesigned or altered in any way excluding repainting in a different color, except to conform to the requirements of this Ordinance; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent of the replacement cost of the sign at the time of restoration shall not be repaired, rebuilt or altered except to conform to the requirements of this Ordinance. Any exemption provided in this Section shall terminate with respect to any sign which:

- a. Shall have been abandoned for at least 12 consecutive months;
- b. Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or
- c. Shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the municipal officer charged with enforcement.

Therefore, in accordance with Chapter 29, Section 4.2.A.8 and 4.2.A.10 you are hereby ordered to remove the sign related to the former business from the property by not later than **May 2, 2010**. Failure to comply with the above will leave the City no alternative but to take legal action.

Please do not hesitate to contact me at 333-6600 Extension # 1156 if you have any questions regarding this matter.

Sincerely,



David C.M. Galbraith

Director of Planning, Permitting and Code Enforcement

CC: Property File