



City Council Workshop & Meeting October 3, 2016 Agenda

5:30 P.M. Workshop

- A. Funding Request for an Agricultural District Study – Doug Greene (45 minutes)
- B. 1863 Pownal Road Zone change from Agricultural to Low Density Rural Residential – Eric Cousens (20 minutes)
- C. Downtown Auburn Transportation Center Ground Lease – Denis D’Auteuil (10 minutes)
- D. State Stormwater Standards – Eric Cousens (10 minutes)
- E. General Business Zoning District – Eric Cousens (5 minutes)

7:00 P.M. City Council Meeting

Roll call votes will begin with Councilor Titus

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 63-10032016***
Adopting the By-laws of the Auburn-Lewiston Advisory Cable TV Committee.
 - 2. **Order 64-10032016***
Approving the temporary sign request for St. Dominic Academy’s Annual Holiday Festival.
 - 3. **Resolve 09-10032016***
Supporting the LA (Lewiston Auburn) Good Food Charter.
 - 4. **Order 65-10032016***
Approving the renewal of the Auto Graveyard/Junkyard permit for M & P Auto located at 227 Merrow Road.
 - 5. **Order 66-10032016***
Approving the renewal of the Auto Graveyard/Junkyard permit for Randy’s Auto Parts located at 899 Broad Street.
 - 6. **Order 67-10032016***

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

7. Order 68-10032016*

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

8. Order 69-10032016*

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

II. Minutes

- September 19, 2016 Regular Council Meeting

III. Communications, Presentations and Recognitions

- Spirit of America Award – Recipient, Tizz E.H. Crowley

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 - None

VI. New Business

9. Ordinance 08-10032016

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

10. Resolve 10-10032016

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

VII. Executive Session

VIII. Reports

- a. Mayor's Report
- b. City Councilors' Reports
- c. City Manager Report

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

X. Adjournment

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

into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

- A. Discussion of personnel issues
- B. Discussion or consideration by a school board of suspension 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: October 3, 2016

Author: Doug Greene, City Planner

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

Information: At the August 22, 2016 Council workshop, staff presented a funding request to develop a plan Auburn's Agricultural and Resource Protection (AGRP) District. The request was for \$40,000 with an additional \$10,000 committed by the Environmental Funders Network (EFN). The presentation included information on the history of the AGRP District, some background on the City Council's growing interest in 2014 and 2015 in the staff proceeding with the AGRP study. At their 8/22 workshop, the Council asked a number of questions such as: why the study is needed, what the goals of the study would be and what conditions the EFN wanted for their contribution to the study. Additional questions and comments were: ensuring that there was a clear scope of work, present a clear set of deliverables of what will come out of the study, ensure that there would be a vigorous outreach of surveys and interviews of farmers, rural land owner and businesses that support agriculture and is there really a need for hiring consultants? The Council asked staff to come back and present additional information to answer these questions to help them make an informed decision. The staff is presenting a revised Agriculture and Resource Protection Plan that addresses those questions.

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

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

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

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

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

Attachments:

1. Revised AGRP Plan proposal.
2. Auburn zoning map



September 28, 2016

A Proposed Plan for Agriculture and Resource Protection in Auburn

1. **Current Situation-** Rural Auburn has a unique Agricultural and Resource Protection (AGRP) zoning district, which has been in place since the early 1960's that contains over 40% of the city's land area, or over 20,000 acres. The purpose of the AGRP regulations has been to limit development and to promote food, agricultural, timber and natural resource production and uses. The AGRP zoning regulations have significantly restricted development for the last 50+ years. Today however, the nature and trends of farming and food production have drastically changed. This means the AGRP regulations have created unintended consequences that should be evaluated as part of the study.
2. **AGRP Value Statement-** The City of Auburn values its agricultural heritage, protects the natural beauty and promotes locally grown food, raising livestock, managing forests and the extraction of mineral resources.
3. **Goals and Deliverables of the Study-**
 - A. **GOAL-** Gain an understanding of how AGRP property owners and producers are utilizing their land, what their future plans are and find out if there are barriers to successful operations through property owner interviews and surveys. **DELIVERABLES-** Database of property owners and a summary report of AGRP interviews.
 - B. **GOAL-** Build a broad community and stakeholder consensus on the future of the AGRP district through an open public forum and readily available study information. **DELIVERABLES-** Public meetings are held, input gathered and utilized in final report.
 - C. **GOAL-** Determine the economic and community development potential for Auburn's AGRP district and rural areas both at the local and regional level and create policies and regulations that meet that potential. **DELIVERABLES-** Final report with recommendations and implementation strategy to maximize rural Auburn's community and economic development potential.
4. **Scope of Work-** The staff recommends hiring a consultant or consultant group that specializes in agricultural policies and rural economic and community development for critical work elements. This outside expertise is needed to provide technical assistance and remove a perception that staff might be biased towards any pre-determined results. In addition, hiring outside help is necessary as the staff does not have the capacity to complete the AGRP study by themselves.
 - A. **Staff Role-** The staff will:
 - Develop RFP(s) for the selection of a qualified consultant(s)
 - Oversee a selection process for the selection of consultants
 - Assist consultants in obtaining data from, city, county and state sources
 - Facilitate arrangements for and participate in public meetings
 - Oversee a city website dedicated to the AGRP study
 - Provide project oversight

B. Consultant Role- A selected consultant or consultant group will:

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

5. Ag Study Timeline- Total time 13 months

A. Consultant Selection

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

B. Property Owner and Stakeholder Outreach

- Begin in month 3 and continue to month 10

C. Public Meetings

- Begin in month 4, the number of public meetings to be determined

D. Data and Information Analysis and Draft Report

- Gather data and public input (months 3-8)
- Develop and revise alternatives based on public response (month 10)
- Submit final draft report and recommendations (month 11)

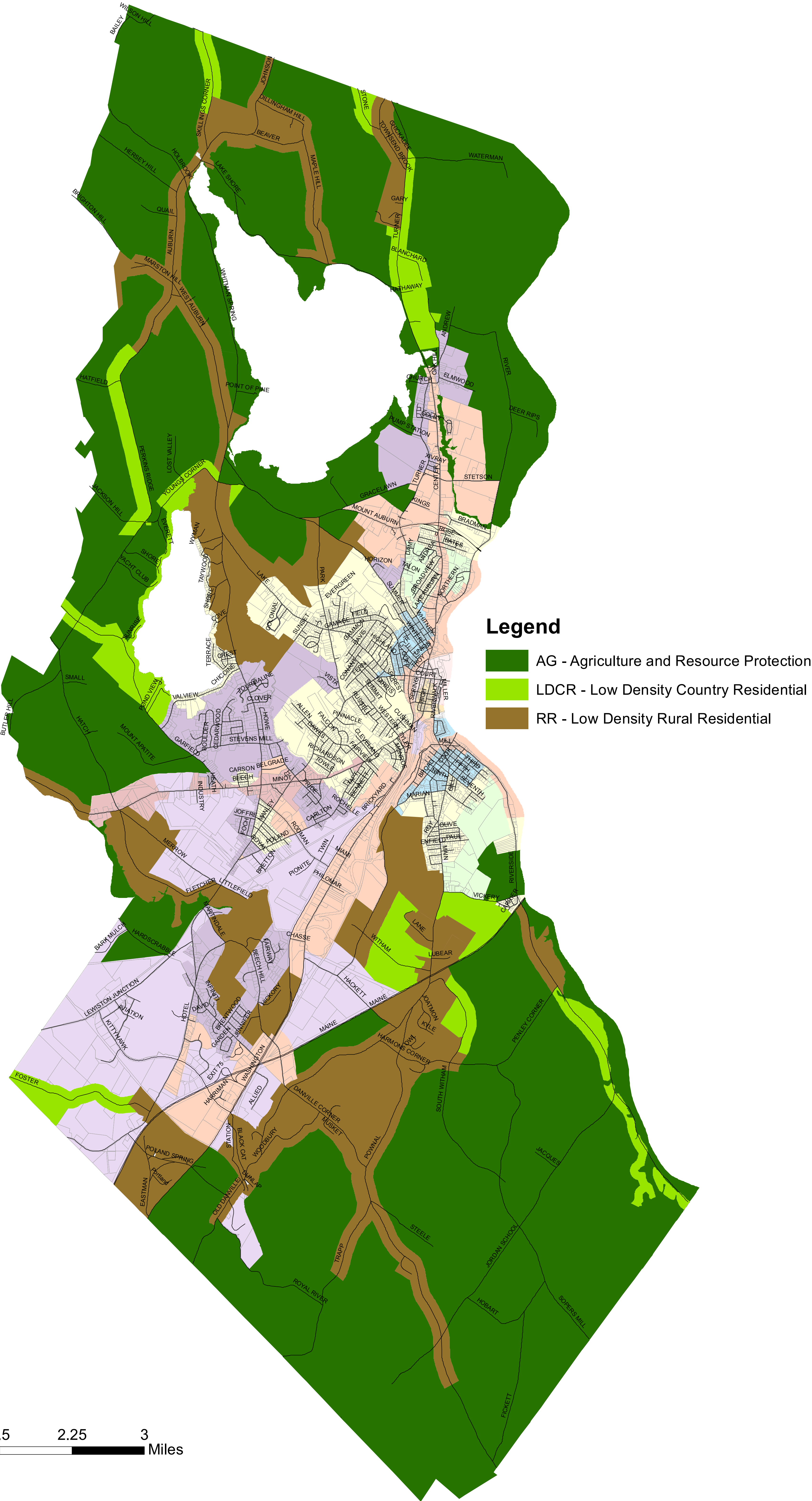
E. Adoption Process

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

6. Budget

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

City of Auburn Ag Zoning- 2015



0 0.375 0.75 1.5 2.25 3 Miles

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER XX-XXXXXXXX

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



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: October 3, 2016

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

Subject: Zoning Map Amendment Request for Pownal Road Area

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

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

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

Advantages: See staff report.

Disadvantages: See staff report.

City Budgetary Impacts: See staff report.

Planning Board Recommended Action: The Planning Board recommended that that no change in the Zoning District near 1863 Pownal Road be approved at this time.

Staff Recommended Action: See staff report. New option of reducing the impacted area was supported by staff for Planning Board review.

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

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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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 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 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

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

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

A handwritten signature in black ink that reads "Douglas M. Greene".

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



City Council Workshop Agenda Item Request Form

City of Auburn

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

Second Councilor Name: *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



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AGRICULTURE/
RESOURCE PROTECTION

LOW DENSITY
~~RESIDENCE~~ RESIDENCE

COUNTRY 3 ACRES or more

1863
POWINAL RD.

IFM

COUNTRY RESIDENCE

Total - \$ 413,000

Total - \$ 215,00 Building V.

600ft

44.005 - 70.232 Degrees

ZONING AMENDMENTS

Sec. 60-1445. - Purpose.

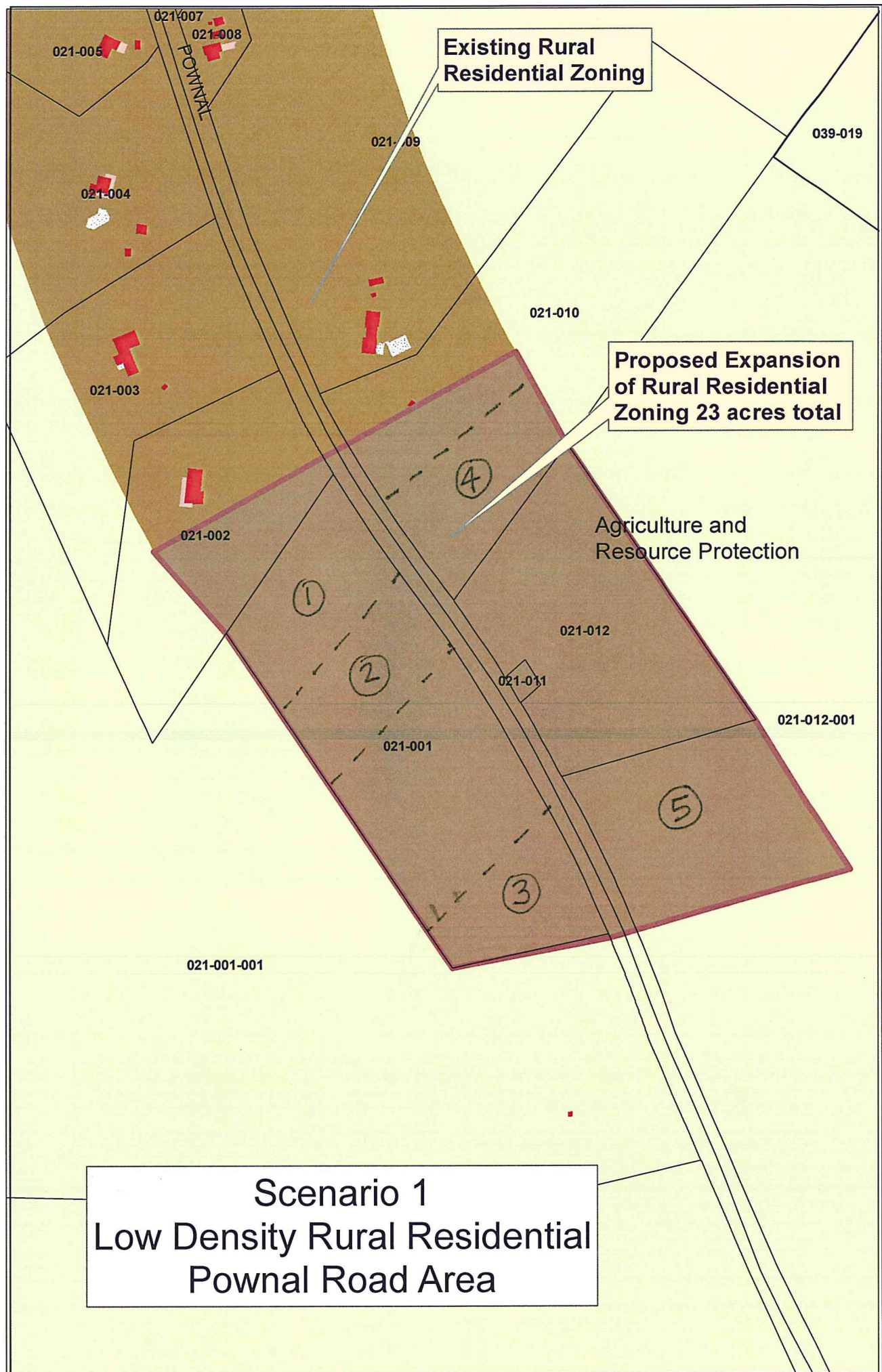
Amendments to the zoning ordinance, including the zoning map, may be initiated by the planning board on its own initiative or upon request by the city council or by a petition signed by not less than 25 registered voters of the city.

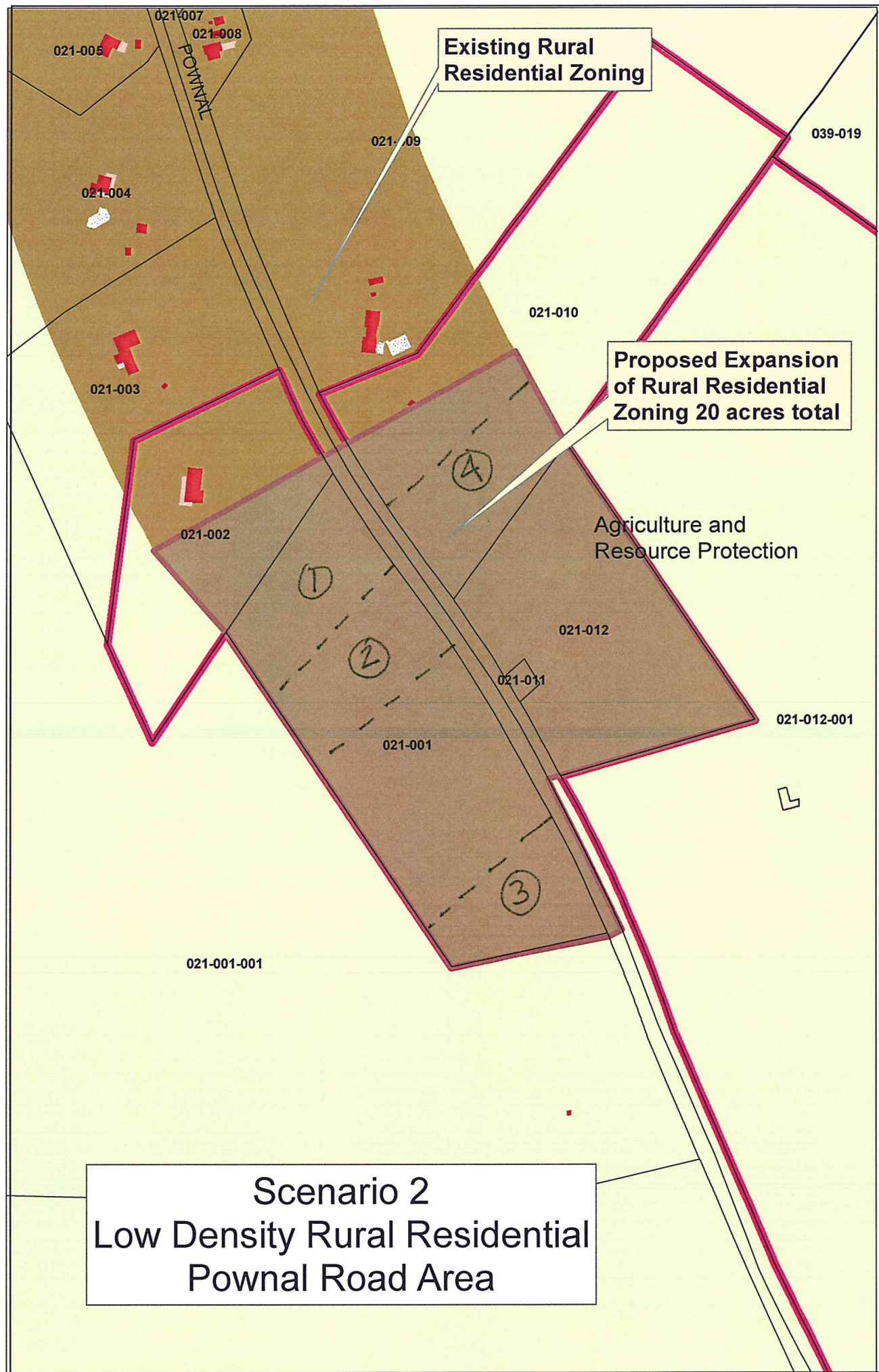
(Ord. of 9-21-2009, § 8.1A)

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

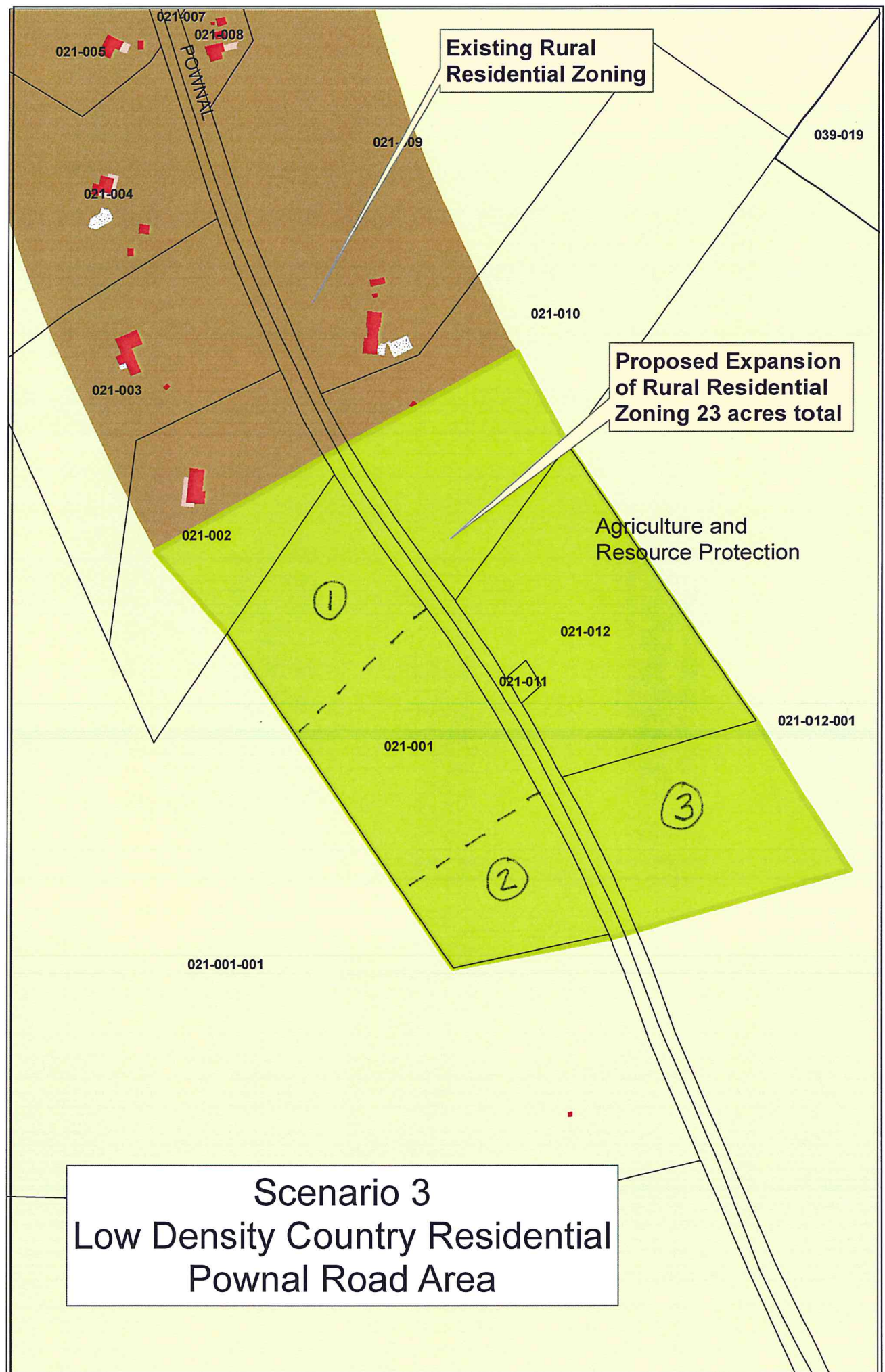
No lot (except as allowed by the planning board at the time of final approval of a subdivision or development plan) shall be reduced, subdivided, conveyed, divided or otherwise transferred that violates, or creates a lot that violates, any minimum dimensional regulation of this chapter. No building permit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

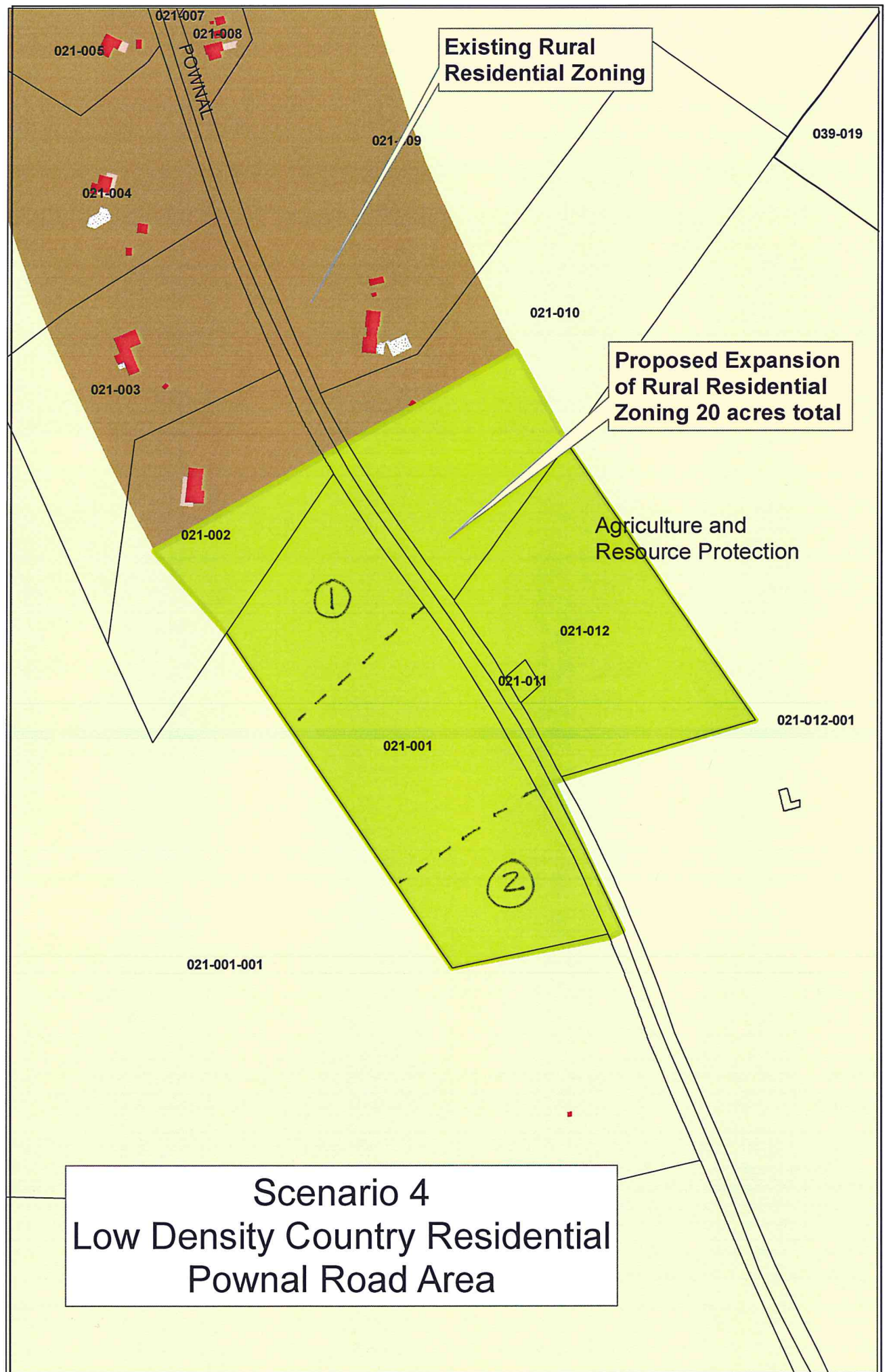
(Ord. of 9-21-2009, § 3.1H)





Scenario 2
Low Density Rural 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-

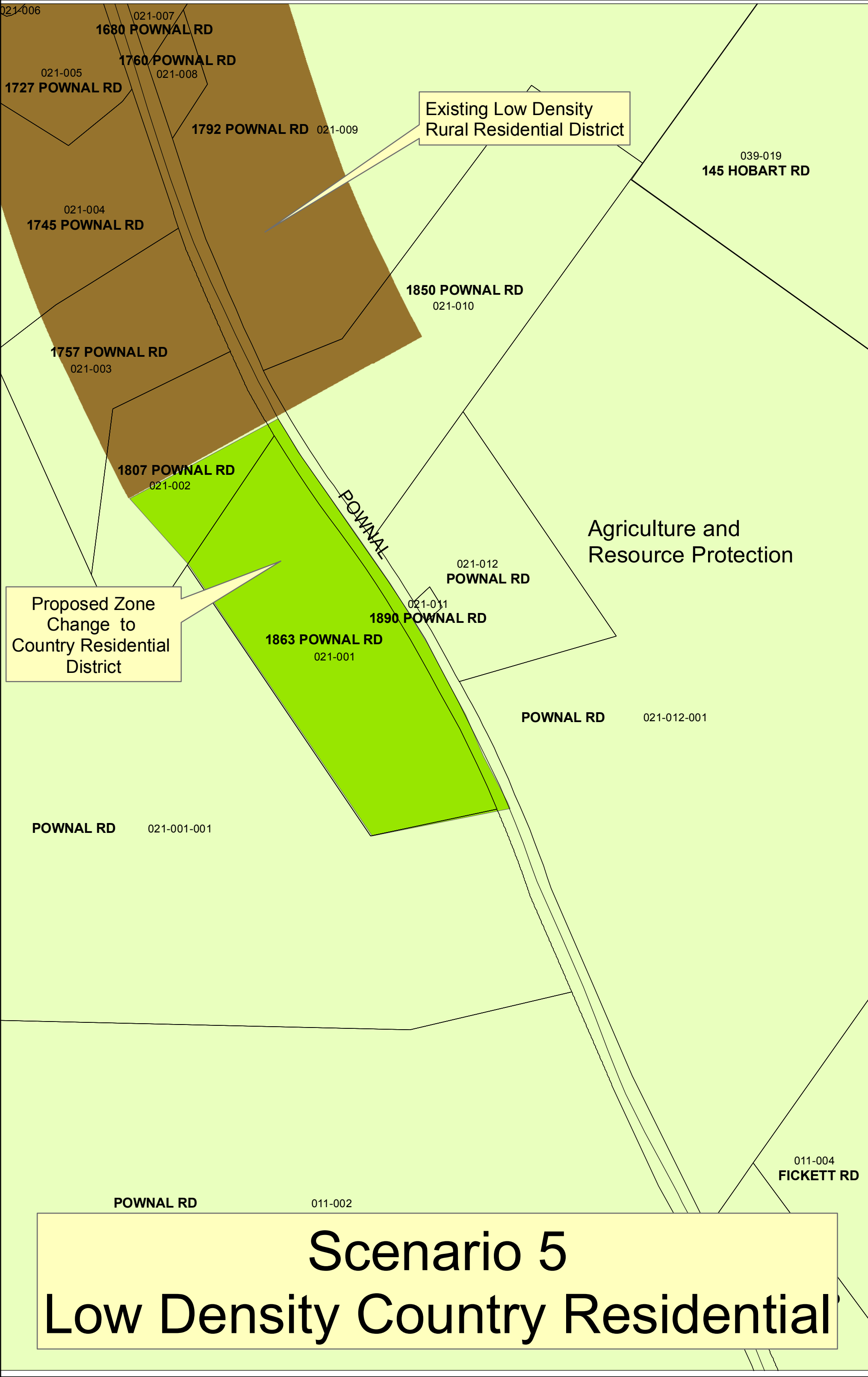
STAFF COMMENTS- The Staff is still concerned that correcting non-conformities through a zone change is not a normal justification for rezoning a property. The Staff is also concerned that approving this Zoning Map Amendment could be considered a precedent for rezoning other areas in Auburn's Agricultural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



**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
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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

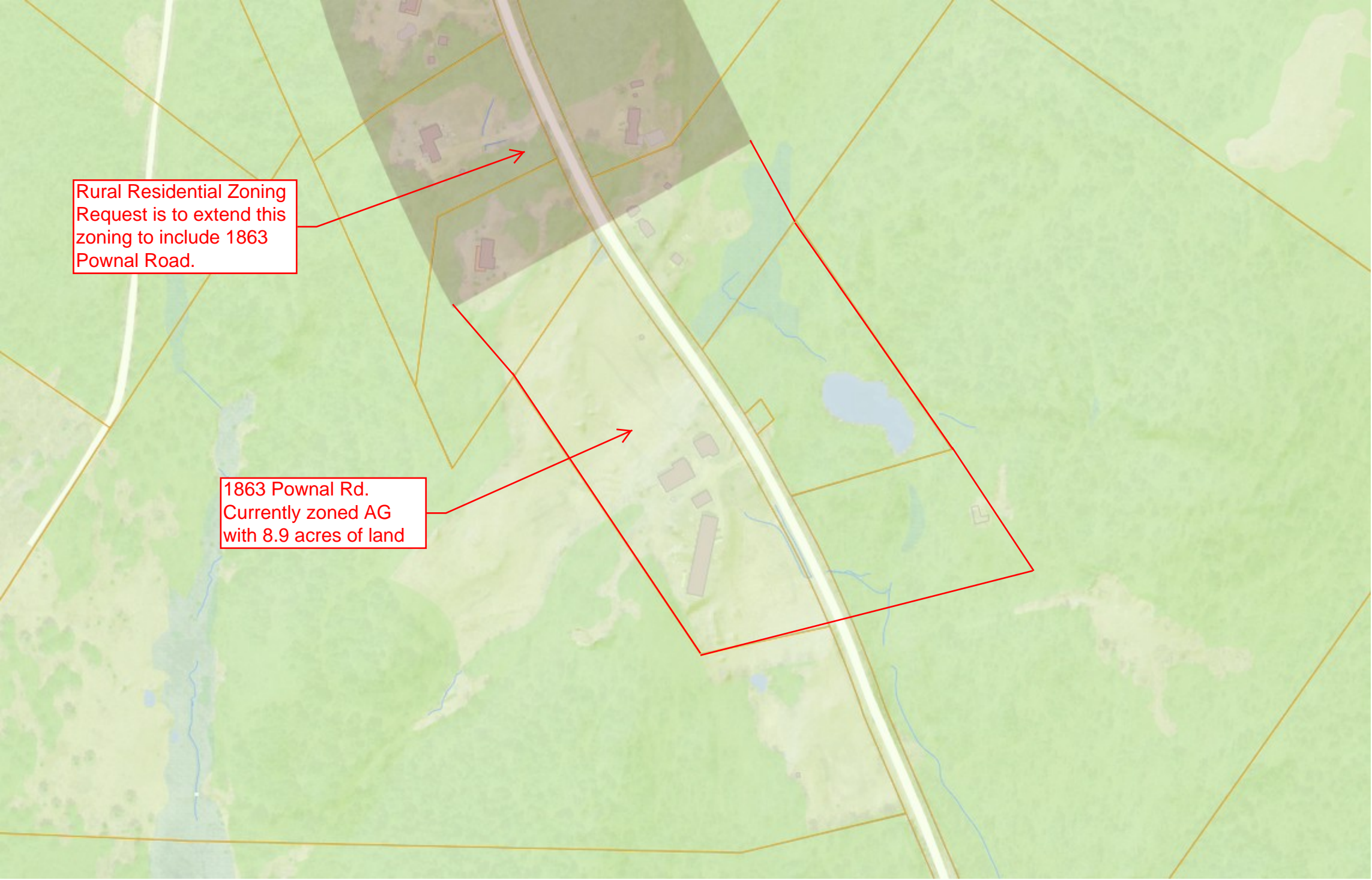
Consideration #6 – Water Quality Protection

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







**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 10/03/2016

Author: Denis D'Auteuil, Acting City Manager

Subject: Downtown Auburn Transportation Center Ground Lease

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

Advantages:

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

Disadvantages:

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

City Budgetary Impacts: None

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

Previous Meetings and History:

Attachments:

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

GROUND LEASE

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

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

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

NOW THEREFORE IT IS AGREED AS FOLLOWS:

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

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

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

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

C. Except for the length of the renewal term,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of the passage of its due date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28. Entire Agreement. This Lease contains the entire agreement between the parties hereto; and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties hereto.

29. Successors and Assigns. Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.

30. Severability. If any provision of this Lease shall at any time be deemed to be invalid or unenforceable by a court of competent jurisdiction (other than any provisions of the payment of rent), this Lease shall not be invalidated thereby, but in such event, this Lease shall be construed as if such invalid or unenforceable provision had been eliminated or reduced to the point of being valid or unenforceable, thereby preserving all of the other terms, conditions and provisions of this Lease.

31. Legal Proceedings. The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of the Landlord and Tenant, the Tenant's use or occupancy of the Property, License Property or any improvements on the Property and/or any claim of injury or damage.

32. Notices. All notices - from Tenant to Landlord, required or permitted by any provision of this Lease, shall be sent by registered or certified mail, and addressed to Landlord (City Manager) at City of Auburn, 60 Court Street, Auburn, Maine 04210 ATTN: Finance Director and City Manager, with a copy to (CITY ATTORNEY) Martin Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O. Box 3070, Lewiston, Maine 04240. All notices from Landlord to Tenant, so required or permitted, shall be sent by registered or certified mail and addressed to Tenant at Lewiston Auburn Transit Committee, c/o Androscoggin Valley Council of Governments, 125 Manley Road, Auburn, Maine, 04210, with a copy to Marc N. Frenette, Esq., Trafton, Matzen, Belleau & Frenette, LLP, 10 Minot Avenue, Auburn Maine, 04210. Either party may, at any time, or from time to time, designate in

writing a substitute address for that above set forth, and thereafter all notices to such party shall be sent by registered or certified mail to such substitute address. Notices shall be effective upon receipt or refusal.

In witness whereof, the parties have executed this Lease on the date set forth above:

LEWISTON AUBURN
TRANSIT COMMITTEE

CITY OF AUBURN

By:
Its:

By:
Its:

STATE OF MAINE

, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the Lewiston Auburn Transit Committee and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

Notary Public/Attorney

(Print Name)

STATE OF MAINE

, SS

_____, 2016

Personally appeared the above named _____ in his/her capacity as _____ of the City of Auburn and acknowledged the above instrument to be his/her free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

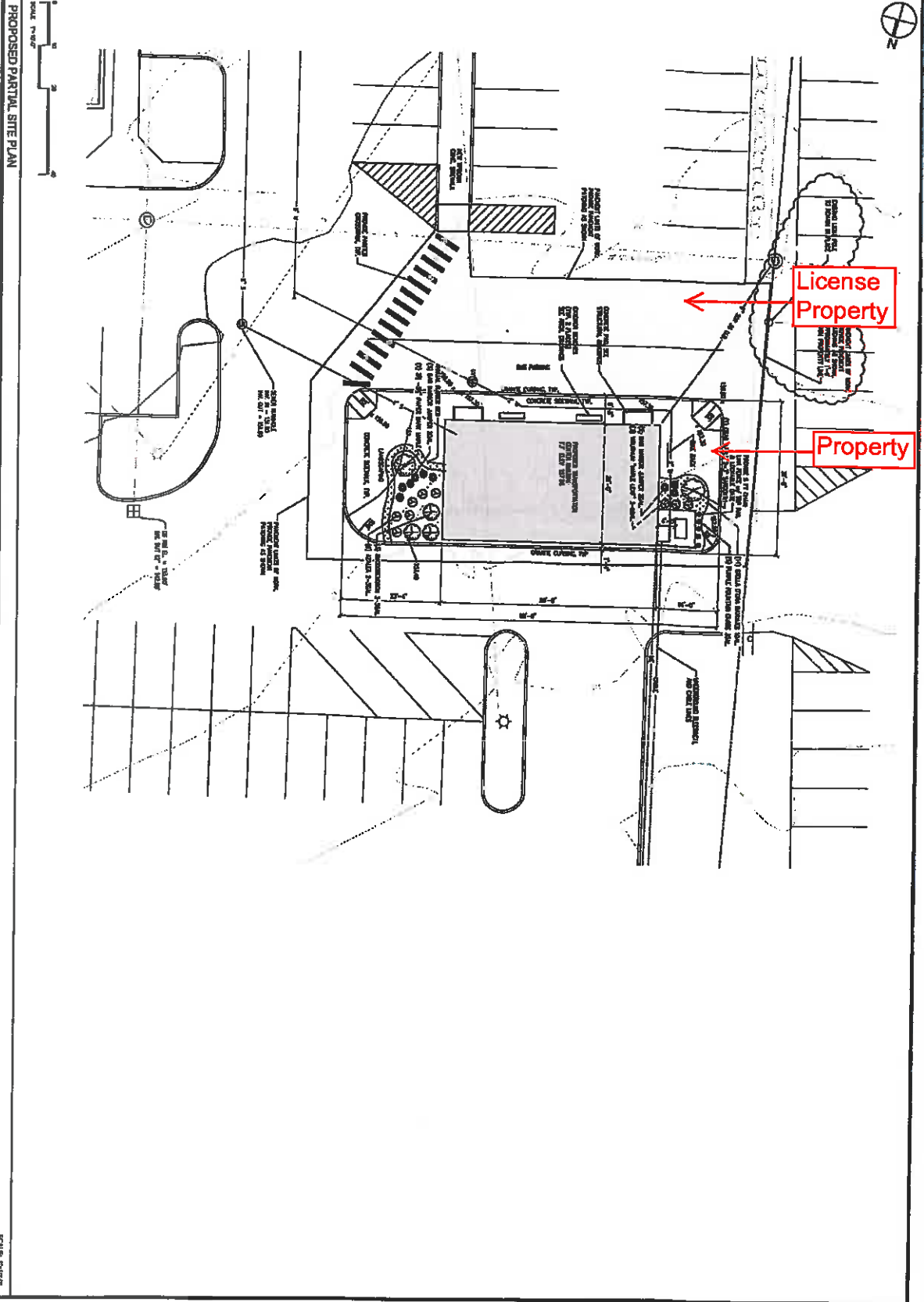
Notary Public/Attorney

(Print Name)

H:\MNF\LATC #5047\City of Auburn Lease\Auburn LATC Ground Lease final September 16, 2016.doc

EXHIBIT A PROPERTY DESCRIPTION

PRINTED: May 17, 2016



C102

PROPOSED
PARTIAL
SITE PLAN

ISSUED			
#	DESCRIPTION	DATE	BY
1	DESIGN FOR BID	10-13-15	JD
2	AMENDMENT #1, REVISOR FOR PROPERTY LINE	5-10-16	JD

**DOWNTOWN AUBURN
TRANSPORTATION CENTER**
GREAT FALLS PLAZA
WIN #12345678
PROPOSED BUILDING

AUBURN, MAINE
FED #ME03-0041



LATC
LOWELL AUBURN TRANSPORTATION CENTER
1000 LOWELL STREET
AUBURN, ME 04210
www.auburntransportationcenter.com



GROUND LEASE

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

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

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

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NOW THEREFORE IT IS AGREED AS FOLLOWS:

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

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

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

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

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C. Except for the length of the renewal term,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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D. ~~Maintain the Property in a clean and sanitary condition in accordance with the Janitorial Services Program Schedule annexed hereto as Exhibit B.~~

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

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

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

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12. Trade Fixtures. Tenant may install or cause to be installed such equipment and trade and other fixtures as are reasonably necessary for the operation of its business ("Trade Fixtures"). Such Trade Fixtures shall remain personal property, and title thereto shall continue in Tenant, regardless of the manner in which the Trade Fixture may be attached or affixed to the Property.

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

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

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15. Insurance.

a. Before taking possession of the Property, Tenant shall procure and thereafter during the term of this Lease shall continue to carry the liability insurance of a responsible company with liability limits of not less than \$400,000 per occurrence combined single limit of liability for causes of action seeking tort damages pursuant to the provisions of the Maine Tort Claims Act and \$1,000,000 per occurrence combined single limit of liability for all causes of action seeking tort damages pursuant to federal or state law for which immunity or limitation of damages is not provided by the provisions of the Maine Tort Claims Act, naming Landlord as an additional insured. Such

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

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

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16. Destruction of Property. In the event the improvements constructed upon the Property are totally or partially destroyed from a risk covered by the insurance required by this Lease and there are more than two (2) years remaining during the original term or any then current renewal term of this Lease, then Tenant shall restore those improvements to substantially the same condition as existing immediately before the damage, but in no event shall Tenant be responsible to expend any amounts on such restoration that exceeds the insurance proceeds received by Tenant. Tenant shall promptly commence and diligently prosecute such restoration to completion. All insurance proceeds shall be the sole property of Tenant. Unless the insurance proceeds are insufficient to pay the costs of such restoration, such

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damage or destruction shall not terminate the Lease. If existing laws will not permit restoration, or if the insurance proceeds are insufficient to pay the costs of such restoration, either party may terminate the Lease immediately by giving notice to the other party and each party shall thereupon be released from any and all damages or liability with respect to this Lease. The provisions of Section 17(B) below shall apply with regard to the division of insurance proceeds.

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

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

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

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

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Landlord, in an amount sufficient to discharge the lien plus any reasonable costs, attorney fees and other charges and damages that could accrue as a result of a foreclosure or sale under the lien.

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

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

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

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

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

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

B. Failure of Tenant to comply with any material term or material condition or fulfill any material obligation of the Lease within 4530 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 4530-day period, this provision shall be complied with if Tenant begins correction of the default within the 4530-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

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

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

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

A. In the event of a default, following the giving of notice if required in Section 23 above and the expiration of any applicable cure period, the Lease and Lease term (or any renewal term, if applicable) may be terminated at the option of Landlord upon giving notice of termination in writing to Tenant. If the Lease is not terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. If the Lease is

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

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

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

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

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

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

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

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

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~~(90thirty (30) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month to month tenancy.~~

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

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28. Entire Agreement. ~~This Lease contains the entire agreement between the parties hereto; and any agreement hereafter or heretofore made shall not operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties hereto.~~

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29. Successors and Assigns. ~~Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.~~

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30. Severability. ~~If any provision of this Lease shall at any time be deemed to be invalid or unenforceable by a court of competent jurisdiction (other than any provisions of the payment of rent), this Lease shall not be invalidated thereby, but in such event, this Lease shall be construed as if such invalid or unenforceable provision had been eliminated or reduced to the point of being valid or unenforceable, thereby preserving all of the other terms, conditions and provisions of this Lease.~~

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31. Legal Proceedings. ~~The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of the Landlord and Tenant, the Tenant's use or occupancy of the Property, License Property or any improvements on the Property and/or any claim of injury or damage.~~

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32. Notices. ~~All notices - from Tenant to Landlord, required or permitted by any provision of this Lease, shall be sent by registered or certified mail, and addressed to Landlord (City Manager) at City of Auburn, 60 Court Street, Auburn, Maine 04210 ATTN: Finance Director and City ManagerAdministrator, with a copy to (CITY ATTORNEY) Martin Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O. Box 3070, Lewiston, Maine 04240. All notices from Landlord to Tenant, so required or permitted, shall be sent by registered or certified mail and addressed to Tenant at~~

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...

Lewiston Auburn Transit Committee, c/o Androscoggin Valley Council of Governments, 125 Manley Road, Auburn, Maine, 04210, with a copy to Marc N. Frenette, Esq., Trafton, Matzen, Belleau & Frenette, LLP, 10 Minot Avenue, Auburn, Maine, 04210.042. Either party may, at any time, or from time to time, designate in writing a substitute address for that above set forth, and thereafter all notices to such party shall be sent by registered or certified mail to such substitute address. Notices shall be effective upon receipt or refusal.

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In witness whereof, the parties have executed this
Lease on the date set forth above:

LEWISTON AUBURN
TRANSIT COMMITTEE

CITY OF AUBURN

By:
Its:

By:
Its:

STATE OF MAINE

, SS

, 2016

Personally appeared the above named _____ in
his/her capacity as _____ of the Lewiston Auburn
Transit Committee and acknowledged the above instrument to be his/her
free act and the free act of the Lewiston Auburn Transit Committee.

Before me,

Notary Public/Attorney

(Print Name)

STATE OF MAINE

, SS

, 2016

Personally appeared the above named _____ in
his/her capacity as _____ of the City of Auburn and
acknowledged the above instrument to be his/her free act and the free
act of the Lewiston Auburn Transit Committee.

Before me,

Notary Public/Attorney

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(Print Name)

H:\MNF\LATC #5047\F-Booth\CLIENTS\Auburn, City of Auburn\LATC Ground Lease-File 6322\Auburn LATC Ground Lease final
September 16, 2016.doc.docx

EXHIBIT A
(PROPERTY DESCRIPTION)

EXHIBIT B

JANITORIAL SERVICES PROGRAM SCHEDULE

	Nightly	Weekly	Monthly	Qtrly	2x/YR	1x/YR
VACCUUM CARPET AREAS		X				
SPOT CLEAN STAINS ON CARPET		X				
SWEEP/MOP VINYL TILE AREA		X				
SWEEP/MOP CERAMIC TILE AREA		X				
EMPTY TRASH CANS		X				
TRASH DISPOSAL		X				
RESTROOMS: CLEAN AND DISINFECT		X				
REFILL SUPPLIES AS NEEDED		X				
DUST & WIPE FIXTURES		X				
WIPE AND CLEAN WORK SURFACES		X				
CLEAN INTERIOR OFFICE GLASS		X				
CLEAN KITCHEN TABLE & COUNTERS		X				
DUST BASEBOARD HEAT UNITS		X				
SWEEP/MOP STAIRWAYS		X				
SANITIZE PHONES		X				
VACUUM FURNITURE			X			
BUFF TILE FLOORS				X		
CLEAN COVEBASE & VACUUM EDGES				X		
CLEAN CEILING GRILLS				X		
VACUUM WINDOW TREATMENTS					X	
DUST LIGHT FIXTURES					X	
DUST HIGH AREAS						X
WASH EXTERIOR/INTERIOR OFFICE WINDOWS						X
STRIP/WAX TILE FLOORS WHERE NEEDED						X
CLEAN CARPETS						X

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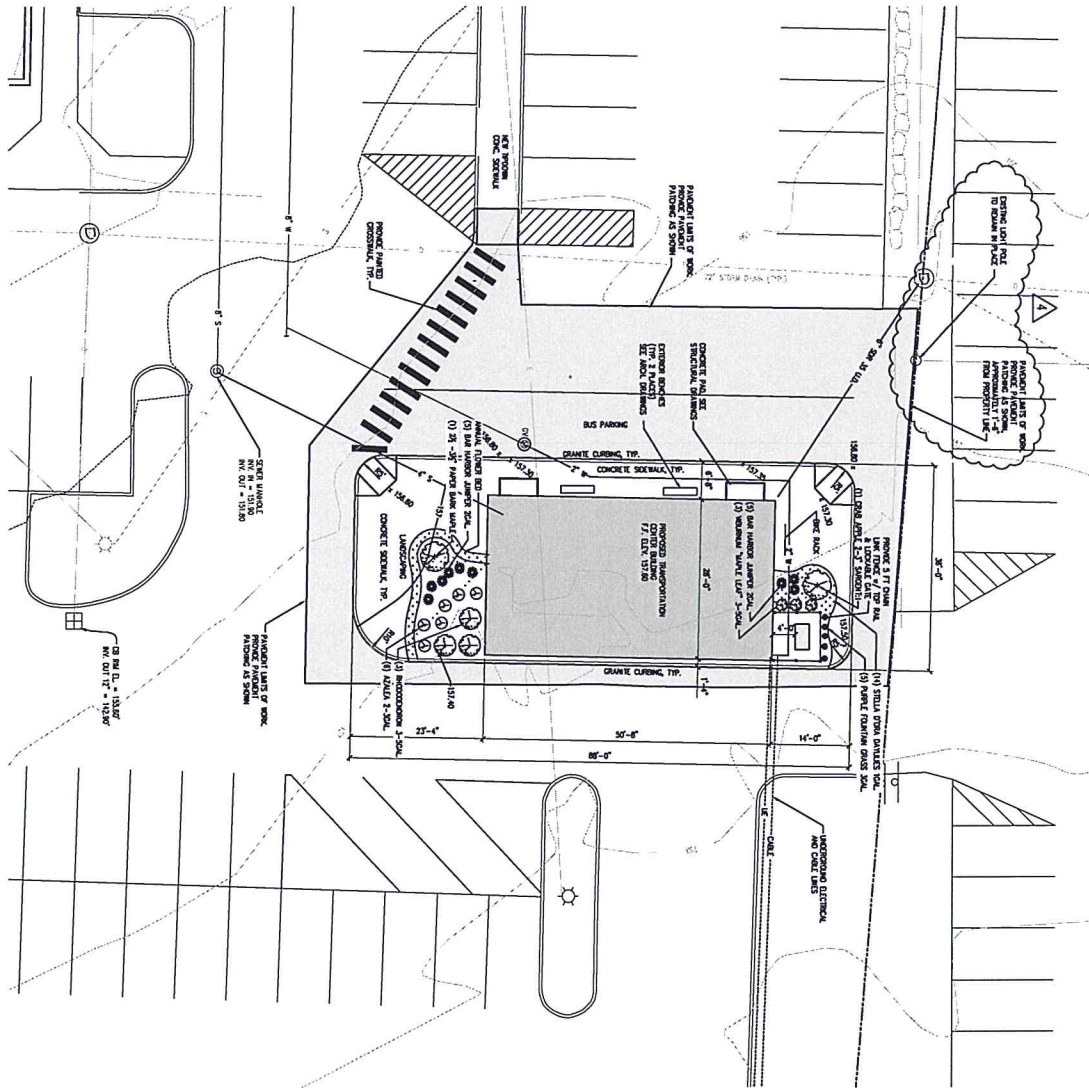
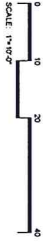
City of Auburn, Maine

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

Legal Description for the Downtown Auburn Transportation Center

The Downtown Auburn Transportation Center is located on (PID # 241-007) owned by the City of Auburn. The area to be covered under the Land Lease Agreement between the City of Auburn and the Lewiston Auburn Transportation Committee is an area 36 feet wide by 88 feet wide (approximately 3,168 s.f.) with 5 foot radius curbing at each corner as shown on Exhibit Map "A". Exhibit Map "B" shows the Downtown Auburn Transportation Center in relation to the entire Great Falls Parking Area.

PROPOSED PARTIAL SITE PLAN



ATTACHMENT "A"

SCALE: 1/4"=1'-0"

C102

REVISION	DATE	BY	DESCRIPTION
1	10-20-14	DR	ISSUED FOR BID
2	11-14-14	ED	AMENDMENT #4 - REVISED FOR PROPERTY LINE

PROPOSED
PARTIAL
SITE PLAN

SHEET TITLE

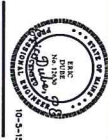
No.	DESCRIPTION	DR	CD	DATE
1	ISSUED FOR BID	ED	ED	10-20-14
2	AMENDMENT #4 - REVISED FOR PROPERTY LINE	ED	ED	11-14-14

DOWNTOWN AUBURN TRANSPORTATION CENTER

GREAT FALLS PLAZA
WIN #12326.00

AUBURN, MAINE
FED #ME03-0041

PROPOSED BUILDING

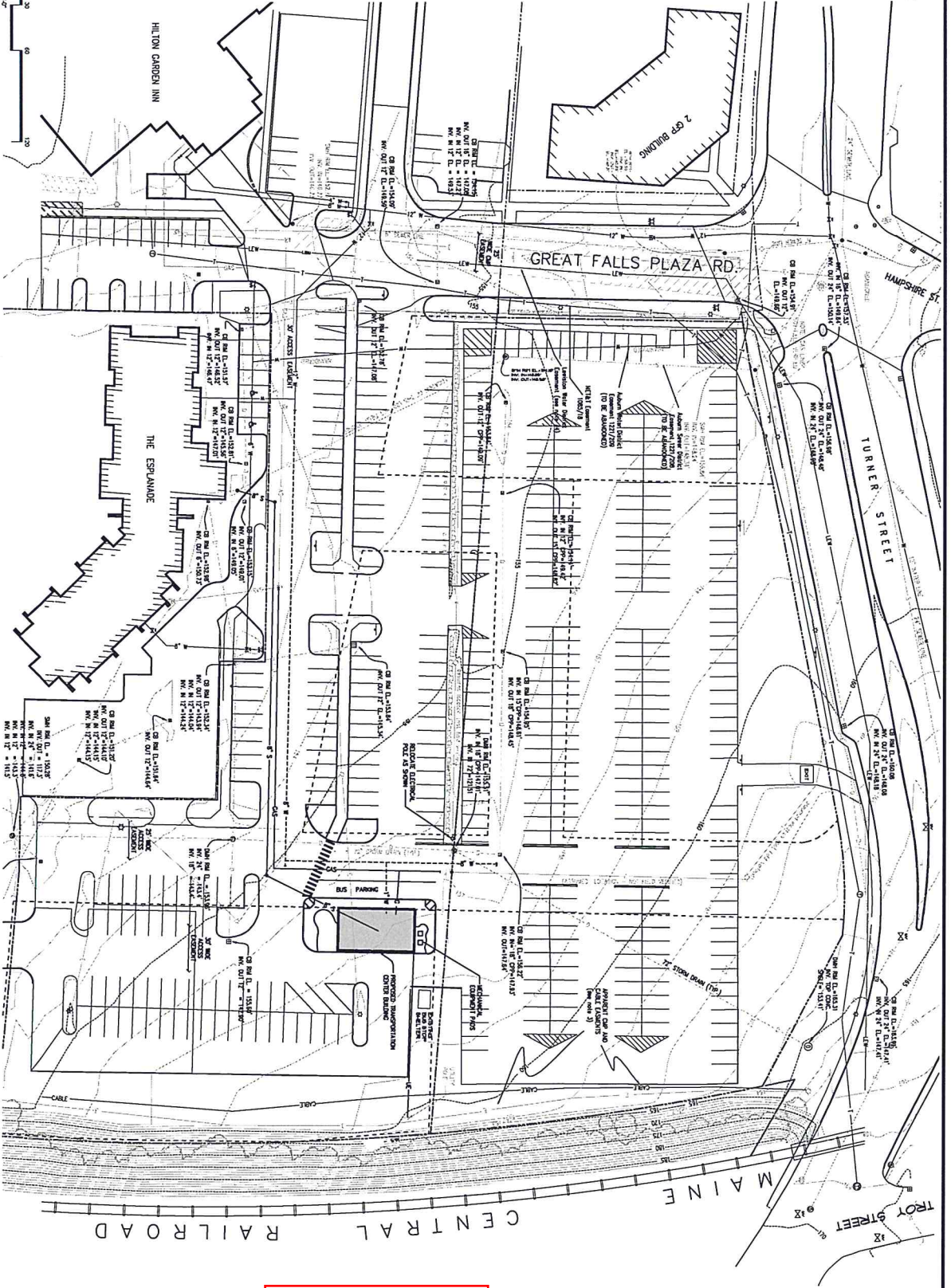


CASCO BAY
ENGINEERING
454 1st Street
Auburn, ME 04202
Phone: 207.843.3888
Fax: 207.843.3888
www.cascobayengineering.com

CLIENT
LATC
65 WACCO
ROAD
AUBURN, ME 04202

PROPOSED SITE PLAN

SCALE: 1"=30'



ATTACHMENT "B"

SCALE: 1"=30'

C101

REVISION	DATE	BY	DESCRIPTION
1	10-20-14	ED	ISSUED FOR REVIEW
2	11-12-14	ED	60% SUBMISSION

PROPOSED
SITE PLAN

SHEET TITLE

NO.	DATE	BY	DESCRIPTION
1	10-20-14	ED	ISSUED FOR REVIEW
2	11-12-14	ED	60% SUBMISSION

DOWNTOWN AUBURN
TRANSPORTATION CENTER
GREAT FALLS PLAZA
AUBURN, MAINE

PROPOSED BUILDING

PRELIMINARY
NOT FOR CONSTRUCTION

CASCO BAY
ENGINEERING
404 RIVER STREET
PO BOX 248
AUBURN, ME 04210
www.cascoengineering.com
Tel: 207.842.3535
Fax: 207.842.3535



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: October 3, 2016

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

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

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

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

Disadvantages: None. Standards apply State wide anyways.

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

Staff Recommended Action: Schedule for public hearing, public reading and approval at the next 2 Council meetings.

Previous Meetings and History: Planning Board September 13, 2016.

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



City of Auburn, Maine

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

PLANNING BOARD RECOMMENDATION

To: Auburn City Council

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

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

Date: September 26, 2016

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

II. **PLANNING BOARD ACTION-** The Planning Board held a public hearing regarding the amendment on September 13, 2016 and no one from the public spoke in favor or against the amendment.

III. **PLANNING BOARD RECOMMENDATION-** The Planning Board voted unanimously (7/0) to send the City Council a recommendation of APPROVAL of this text amendment with the following findings:

1. Updating the Site Plan Law to reflect the newer State regulations will allow the city to maintain its Delegated Review Authority.

IV. MINUTES Excerpt:

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.

What are the 2015 Changes to Maine's Stormwater Management Laws?

In a Nutshell: What is New in Chapter 500?

For each bullet point, the related Chapter 500 rule section is cited in parentheses:

General Standards:

- The Department provides for reduced stormwater treatment levels if the remaining land is set aside from development. (4(C)(2)(a)(iii))
- The redevelopment standards were revised to provide greater clarification and as a way to incentivize redeveloping existing properties. (4(C)(2)(d))
- The storage volume requirement for wetponds was increased by 33%. (4(C)(3)(a))
- Innovative stormwater treatment measures are allowed provided that they perform at least as well as conventional measures. (4(C)(3)(e))
- A new low impact development (LID) credit is introduced. Eligible projects can use the credit to reduce the developed area requiring treatment by up to 20%. (4(C)(4))
- The portion of a road crossing a wetland is not required to meet the general standards provided its design allows wetland flow under the road. (4(C)(5)(e))
- Runoff from sloped, non-asphalt roofs of non-industrial facilities needs to be treated for thermal impact and for channel protection only. (4(C)(5)(f))

Phosphorus Standard:

- If an applicant can demonstrate that a project meets the site allocation contrary to the standard phosphorus export calculation results, the Department may decide that the phosphorus standard is met. (4(D)(3))



The Maine Department of Environmental Protection's Chapter 500 Stormwater Management rules underwent a revision in 2015, its first revision in four years. The changes are intended to provide greater flexibility while encouraging the use of innovation stormwater design and low impact development techniques to help address climate change. One notable change was that the "Compensation and Mitigation Credit" section was removed from Chapter 500, and released as a new stand-alone chapter, Chapter 501.

Sensitive Watersheds:

- Permittees may be required to hire a Department-approved inspector to oversee construction projects in the watersheds of lakes most at risk or urban impaired streams. (10(A))

Inspection, Maintenance and Housekeeping:

- Permittees are asked to retain their stormwater inspection and maintenance logs for a minimum of five years after the completion of permanent stabilization. (Appendix B(2)(d))
- Authorized and unauthorized non-stormwater discharges were identified to more closely align with federal stormwater regulations. (Appendix C(6 & 7))

Infiltration Systems:

- The infiltration basins must be designed to drain completely within a 24 to 48-hour period. (Appendix D(4)(a))
- In certain cases, the Department may require:
 - * Groundwater quality monitoring to determine the effectiveness of any infiltration system. (Appendix D(4)(a))
 - * A "mounding analysis" demonstrating that the water table will be below the bottom of an infiltration system within 48 hours after the end of a storm event. (Appendix D(4)(d))

Vegetated Soil Filters:

- Liners are required on all vegetated soil filters unless certain site conditions are met. (Appendix E(4)(a)(iii))

Buffers:

- An alternative buffer design is provided for residential subdivision lots to meet either the general standards or the phosphorus standard using compensation. (Appendix F(7))

The full text of the current Chapter 500 Rules can be accessed at: <http://www.maine.gov/dep/land/stormwater/storm.html>

In a Nutshell: What is New in Chapter 501?

For each bullet point, the related Chapter 501 rule section is cited in parentheses:

Urban Impaired Streams:

- The compensation fees were increased to more closely reflect the actual cost of mitigation projects. (3(A)(1))
 - * Non-roof impervious area: \$12,500 per acre
 - * Roof: \$5,000 per acre
 - * Landscaped area: \$2,500 per acre
- Mitigation credits are defined for an expanded group of developments, including different parking lot types. (3(A)(3))

Phosphorus Standards:

- A project can earn credits by treating the following off-site phosphorus sources if they are determined to be significant by the Department: (3(C)(2))
 - * Roads: Credits can be earned by paving them
 - * Chronic erosion sites: Credits can be earned by repairing them

Credits that can be earned by treating other phosphorus sources are decided on a case-by-case basis.

- An applicant can pay a compensation fee in lieu of reducing phosphorous export beyond a project's allotment provided that the phosphorous export from the proposed development site has already been reduced by at least 60%. The maximum compensation fee is \$25,000 per pound of

phosphorus export. Compensation fees are prorated such that less compensation fee is paid for projects achieving a higher reduction in phosphorus export. The compensation fee option is unavailable: (3(C)(3))

- * For projects or portions of projects that are residential subdivisions or roads within residential subdivisions, unless the project is using only wooded or meadow buffers and associated level spreaders and ditch turnouts to address the remaining phosphorus export reduction required to meet the projects phosphorus allocation.
- * Unless a mitigation project is identified and approved by the Department in the same watershed.

The full text of the current Chapter 501 Rules can be accessed at: <http://www.maine.gov/dep/land/stormwater/storm.html>

For more information on Maine's stormwater management rules, please contact staff in one of our four regional offices:

Augusta, Main Office and Central Maine Regional Office
(Mail) 17 State House Station, Augusta, Maine 04333-0017
(Physical) 28 Tyson Drive, Augusta, Maine 04333-0017
(207)287-7688 • (800)452-1942 • FAX (207)287-7826

Bangor, Eastern Maine Regional Office
106 Hogan Road, Bangor, Maine 04401
(207)941-4570 • (888)769-1137 • FAX (207)941-4584

Portland, Southern Maine Regional Office
312 Canco Road, Portland, Maine 04103
(207)822-6300 • (888)769-1036 • FAX (207)822-6303

Presque Isle, Northern Maine Regional Office
1235 Central Drive, Presque Isle, Maine 04769
(207)764-0477 • (888)769-1053 • FAX (207)760-3143

PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

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

Re: Text Amendment to State Stormwater Standards as Referenced in the
Auburn Zoning Ordinance.

Date: September 13, 2016

I. **THE PROPOSAL-** The Maine Department of Environmental Protection (DEP) has asked the City of Auburn to amend references to State Stormwater Standards as found in Article XVI- Administration and Enforcement- Division 2- Site Plan Law, to allow the City to maintain Delegated Review Authority.

II. **DEPARTMENT REVIEW-** This proposed text amendment did not require review by the Plan Review Committee.

- a. Police- No comments.
- b. Auburn Water and Sewer- No comments.
- c. Fire Department- No comments.
- d. Engineering- No comments.
- e. Public Services- No comments.
- f. Economic and Community Development (ECD)- No comments.

III. **PLANNING BOARD ACTION-** The Planning Board is being asked to hold a public hearing and consider making a recommendation to the City Council on this text amendment.

IV. **STAFF RECOMMENDATION-** Staff asks the Planning Board to send the City Council a recommendation of APPROVAL of this text amendment with the following findings:

1. Updating the Site Plan Law to reflect the newer State regulations will allow the city to maintain its Delegated Review Authority.

A handwritten signature in brown ink that reads "Douglas M. Greene".

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

ARTICLE XVI. - ADMINISTRATION AND ENFORCEMENT

DIVISION 2. - SITE PLAN REVIEW

Subdivision I. - In General

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.

(Ord. of 9-21-2009, § 7.1A)

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.

(Ord. of 9-21-2009, § 7.1B)

Sec. 60-1278. - Applicability.

A site plan review shall be required for the following projects:

- (1) All uses permitted by special exception.
- (2) Any other uses for which site plan review is required by any other provision contained in this or other ordinances.

(Ord. of 9-21-2009, § 7.1C)

Secs. 60-1279—60-1299. - Reserved.

Subdivision II. - Procedure

Sec. 60-1300. - File for site plan review.

An applicant for site plan review shall file with the department of community development and planning a completed site plan application along with an original and 20 copies of the site plan and the required processing fee. Such plans shall be filed not less than 30 days prior to a regularly scheduled meeting. Plans shall be folded at a size not to exceed 8½ inches by 11 inches.

(Ord. of 9-21-2009, § 7.1D(1))

Sec. 60-1301. - Scale; required information.

The original plan shall be drawn on reproducible Mylar at a scale of no more than 100 feet to the inch. Each site plan shall contain the following information:

- (1) Name and address of owner and developer and interest of the applicant if other than the owner or developer.
- (2) Name of development, scale and meridian arrow, with specific definition of representation, date of plan and legend.
- (3) Names and addresses of all owners of record of all adjacent property as appear on assessor's records.
- (4) Current zoning boundaries and 100-year floodplain boundaries including surrounding areas to a distance of 300 feet from the perimeter of the site.
- (5) Easements; rights-of-way, existing, planned or proposed; or other reservations adjacent to or intersecting the property.
- (6) Topographic map of the site, containing the following:
 - a. Existing contours, where the slope of existing ground surface is generally two percent or more, the topographic map shall show contours at intervals of five feet of elevation (or lesser intervals as the planning board or engineering department may prescribe). Where the slope of the existing ground surface is generally less than two percent, contour intervals of one foot shall be shown. These contours shall not be copied from the city topographic maps and shall be determined from an on-site survey certified by a registered land surveyor.
 - b. Proposed contours shall be shown at intervals to be determined by the city engineer.
- (7) Location of watercourses, wetlands, marshes, surface water, rock outcroppings, wooded areas, single trees with a diameter of ten inches measured three feet from the base of the trunk.
- (8) Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of 100 feet from the property line, indicating whether existing buildings on the tract are to be retained, modified or removed.
- (9) Locations of water mains, sewer mains, wells, fire hydrants, culverts, drains, pipe sizes, grades and direction of flow, existing within 200 feet of the subject property.
- (10) Existing soil conditions and soil suitability test results.
- (11) Locations of proposed buildings and uses thereof.
- (12) Proposed traffic circulation system including streets, parking lots, driveways and other access and egress facilities, curblines, sidewalk lines and existing streets, including the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
- (13) Location of existing and proposed public utility lines, indicating whether proposed lines will be placed underground.

- (14) Site developments requiring stormwater permits pursuant to 38 M.R.S.A. § 420-D shall include the required plan and to the extent permitted under 38 M.R.S.A. § 489-A, be reviewed under the procedures of article XVI of this chapter; and they shall meet and comply with 38 M.R.S.A. § 484(4-A) and those Rules promulgated by the Maine Department of Environmental Protection pursuant to the Site Law and section 420-D, specifically Rules 500, 501 and 502, as last amended ~~December 21, 2006~~ August 12, 2015. ~~Adopted September 22, 2005, said Rules taking effect November 16, 2005, as enacted by Legislative Resolve, chapter 87, Public Laws of 2005 (LD 625/HP 458), amended March 20, 2006.~~ If a project proposes infiltration and the standards in Rule 500, appendix D are not met, then a waste discharge license may be required from the Maine Department of Environmental Protection. An infiltration system serving a development regulated under the Site Location of Development Act may be required to meet standards in addition to those in appendix D.
- (15) Location and design of proposed off-street parking and loading areas indicating number and size of stalls.
- (16) Proposed location and direction of and time of use of outdoor lighting.
- (17) Existing and proposed planting, fences and walls, including all landscaping and screening and indicating existing trees to be retained and areas to be left undisturbed, including design features intended to integrate the proposed new development into the existing landscape to enhance aesthetic assets and to screen objectionable features from neighbors.
- (18) Location, size, design and manner of illumination of signs.
- (19) Disposal of sewage, trash, solid waste, oil waste, hazardous waste or radioactive waste showing disposal facilities, receptacles or areas.
- (20) Perimeter boundaries of the site giving complete descriptive lot data by bearings, distances and radii of curves including the name and seal of the registered land surveyor who prepared the plan.
- (21) Description and plan of capacity and location of means of sewage disposal together with approval of sewer district engineer or evidence of soil suitability for such disposal (test pit locations shall be shown on the plans) similarly approved by the city engineer department.
- (22) A statement of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, the total number of parking spaces required by the zoning chapter for the uses proposed, the number of employees expected per shift and the total floor area of proposed commercial or industrial uses.
- (23) Description and plan of a phase development concept detailing the areas and sequence of phasing.
- (24) A statement by the developer assuring that he has the financial capabilities to fully carry out the project and to comply with the conditions imposed by the planning board.

(Ord. of 9-21-2009, § 7.1D(2))

Sec. 60-1302. - Exemption for information.

Upon request, the planning board, or the planning director, acting for the board, may waive the necessity of providing any of the foregoing planning information which is not relevant to the proposed development.

(Ord. of 9-21-2009, § 7.1D(3))

Sec. 60-1303. - Approval—Time line for review.

The planning director shall, within five days of receipt, transmit copies of the application and site plan to the department that in his view requires such information. The agencies receiving these copies shall have up to 15 days to make recommendations to the planning board.

(Ord. of 9-21-2009, § 7.1D(4))

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.

(Ord. of 9-21-2009, § 7.1D(5))

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.

(Ord. of 9-21-2009, § 7.1D(6))

Sec. 60-1306. - Signed copies.

If no action is taken within 60 days after submittal of a completed application, the site plan shall be deemed to have been approved. An original of the approved plan signed by the planning board and one signed copy shall be delivered to the applicant, the assessor's department, the engineering department and to the building inspector on which basis building permits may be issued when all other required plans have been approved.

(Ord. of 9-21-2009, § 7.1D(7))

Sec. 60-1307. - Findings in writing.

The findings of the planning board shall be in writing with a copy being forwarded to the applicant. The planning board's written report shall also include a statement as to how any deficiencies in the site plan might be resolved and what conditions, modifications and restrictions are to be complied with in executing the plan.

(Ord. of 9-21-2009, § 7.1D(8))

Sec. 60-1308. - Expiration of approval.

Approval of a site plan shall expire one year after the date of approval unless all building permits have been obtained to begin construction in accordance with the approved site plan. If a development is contested with litigation, the approval period of this section shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after January 1, 2007. Any site plan that contains a phase concept approved by the planning board shall not be required to obtain all building permits within the time sequence established for completion of each phase. No building permits or other permits shall be issued until all improvements are substantially completed for the preceding phase. A single one-year extension may be given upon a showing of good cause in writing by the applicant to the planning board not less than 30 days before the expiration of approval of his existing plan. The planning board shall approve or disapprove the requested extension at its next regular meeting.

(Ord. of 9-21-2009, § 7.1D(9); Ord. No. 02-04012013, att. D, 4-16-2013)

Sec. 60-1309. - No building permitted without approval.

No permit shall be issued for the construction of any building in an area included in the site plan or in any development for which a site plan is required until such site plan has been approved by the planning board and unless the construction plans and specifications presented to the building inspector with the application for the permit are consistent with the approved site plan.

(Ord. of 9-21-2009, § 7.1D(10))

Sec. 60-1310. - Certificate of occupancy.

No certificate of occupancy shall be issued with respect to any building until all construction called for by the site plan is completed, except by special permission of the planning board granted upon a showing

of special circumstances warranted the issuance of the certificate and that the remaining construction will be completed within a reasonable time.

(Ord. of 9-21-2009, § 7.1D(11))

Sec. 60-1311. - Deposit of surety.

The planning board may require the applicant with the submission of the site plan to tender a certified check payable to the city and issued by a surety company or secured by deposits issued by institutions authorized to issue the same by the laws of the state or the United States or irrevocable letters of credit issued by said banking institutions in an amount of money determined by the city planner, with the advice of the various city departments and agencies concerned, to be sufficient to ensure compliance with the approved site plan.

(Ord. of 9-21-2009, § 7.1D(12))

Sec. 60-1312. - Review of planning board needed for variance.

For those developments subject to site plan review (division 2 of article XVI of this chapter) the relaxation of the dimensional requirements of any use district shall be reviewed by the planning board. The modifications of the dimensional requirements shall be allowed as the planning board may deem necessary to carry out the objectives and intent of site plan review as specified in division 2 of article XVI of this chapter.

(Ord. of 9-21-2009, § 7.1D(13))

Sec. 60-1313. - Correction of off-site deficiencies.

The planning board shall have the right to require the developer, at his expense, to correct any off-site deficiencies either created or aggravated by the developer's proposed project.

(Ord. of 9-21-2009, § 7.1D)

Secs. 60-1314—60-1334. - Reserved.

DIVISION 6. - ENFORCEMENT

Sec. 60-1401. - Permit required.

No building shall be erected, altered or moved in the city without first filing an application in writing with the building inspector. Such permits shall be applied for to the building inspector and he shall not approve an application for a building permit unless the plans for such a building and the intended uses thereof in all respects fulfill the provisions of this chapter and all other applicable city ordinance provisions.

(Ord. of 9-21-2009, § 7.5A)

Sec. 60-1402. - Plan required.

Each application for a permit to build, enlarge, alter or move a building shall be accompanied by a plot plan in duplicate drawn to scale showing and stating the dimensions in feet of the lot on which such building is proposed to be erected, enlarged, altered or moved, also the location and ground coverage dimensions of any building already existing upon such lot, and the location thereon and ground coverage dimensions on such lot of any building or structure proposed to be erected, or moved onto it. Such plot plan shall also show each street, alley or right-of-way on or adjacent to the lot in question. Upon request, the building inspector may waive the necessity of providing any of the foregoing information which is not relevant to the proposed project. One copy of each such application and plot plan shall be kept on file in the office to the building inspector. Submission of a plot plan in connection with permits for agricultural buildings need not be submitted unless deemed necessary by the building inspector.

(Ord. of 9-21-2009, § 7.5B)

Sec. 60-1403. - Enforcement.

- (a) This chapter shall be enforced by the director of land use planning and enforcement and his duly authorized agents.
- (b) The director, building inspector, code enforcement officer or police chief, on their individual initiative, or on the request of any other municipal official or upon any well founded information in writing indicating possible violation of this chapter, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation is said to exist.
- (c) Whenever the municipal official charged with enforcement determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he shall initiate enforcement proceedings in accordance with the citation system established in article VIII of chapter 2. Alternatively, he may initiate a land use complaint pursuant to state law in which case the penalties there provided shall apply.

(Ord. of 9-21-2009, § 7.5C)

Secs. 60-1404—60-1424. - Reserved.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: October 3, 2016

Resolve: 10-10032016

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

Subject: Request to initiate consideration of a Zoning Ordinance Amendment for Light Industrial uses.

Information: There have been a couple requests over the past few years to open small machine shops in Auburn. In 2013 and again recently there has been an inquiry regarding the possibility of a machine shop in the General Business (GB) zoning district. Attached is a recommendation that we consider amending the ordinance to allow additional flexibility for this use. The request before the Council is to initiate the process to consider an ordinance amendment. If the Council initiates the process then staff and the Planning Board will vet the draft through a public process, possibly make changes and then make recommendations to the Council with the benefit of input received during the process. The Council would then hold a public hearing and two public readings and decide if a change is warranted.

Advantages: Flexibility to attract new businesses to Auburn with a review process that ensures compatibility with surrounding properties and uses.

Disadvantages: None known if ordinance ensures compatibility with surrounding areas.

City Budgetary Impacts: May bring additional taxpayers to the city or help occupy existing commercial buildings.

Staff Recommended Action: Vote to initiate the process of considering this change for the current opportunity and to be prepared for any future requests. Staff also recommends that if we consider the change in the GB district that we may also consider a change in the GB II (Minot Avenue) district. The two districts generally include our main arterial corridors, the Manley and Rodman Road area and the mall area.

Previous Meetings and History: None

Attachments: Staff Memo dated September 15, 2016, draft ordinance sections showing an option for amending the ordinance to allow the referenced use.



City of Auburn, Maine

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

To: Michael Chammings, Director of Economic and Community Development

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

Re: Suggested Ordinance Amendment Request for Light Industrial/Machine Shop uses in General Business Zoning Districts

Date: September 15, 2016

There have been a couple requests over the past few years to open small machine shops in Auburn. In 2013 and again recently there has been an inquiry regarding the possibility of a machine shop in the General Business (GB) zoning district. Currently light industrial uses in the GB district are limited to businesses that meet the following use category: Light industrial plants whose main processes involve assembly of prefabricated parts and which will not create a nuisance by noise, vibration, smoke, odor or appearance. It is staff's opinion that the main processes involving the assembly of prefabricated parts is not an important distinction over the main processes involving the fabrication of parts, as you would have in a machine shop, as long as the proposed business can operate in a way that does not create a nuisance by noise, vibration, smoke, odor or appearance.

Staff drafted a proposed amendment in 2013 and offered to help the business with a petition to amend the ordinance if they were serious about the location. We generally recommend a petition for a proposal that benefits an individual or company so that they cover some of the expenses of the process and that expense does not fall on the general tax payers. At that time the business decided to stay where they were currently located and did not make a move. There has been a recent inquiry about a similar business that would consider occupying a building in the GB zoning district if the ordinance allowed it. When a business is looking at a property to relocate, the thought of an unfamiliar zoning amendment process prior to a site plan review can be seen as a hurdle that they would rather avoid. This has come up enough times that Staff recommends that the Council consider initiating a change to the ordinance if they are interested in expanding this use into the GB zone to allow for the retention and expansion of our tax base. Machine shops within enclosed buildings can be operated in a way that prevents impacts to abutters. Special exception uses require individual proposals to be reviewed through a public process with the Planning Board to ensure that impacts are avoided. If the Council wishes to have this considered we need a vote to initiate a change that will then go through a public hearing with the Planning Board for



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a recommendation and then back to Council for a review and public hearing. If the change passes a proposal for an individual site could be reviewed by the Planning Board.

Staff recommends that we consider this change for the current opportunity and any future requests. Staff also recommends that if we consider the change in the GB district that we also consider a change in the GB II (Minot Avenue) district. The two districts generally include our main arterial corridors, the Manley and Rodman Road area and the mall area. If that is not desirable to the Council we could also consider changing the zoning in the area of the current inquiry as it is near an existing industrial zoned area.

Sec. 60-2. - Definitions.

For the purposes of this chapter, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

Industrial use, heavy, means the use of real estate, building or structure, or any portion thereof, for assembling, fabricating, manufacturing, packaging or processing operations.

Industrial use, light, means the use of real estate, building or structure, or any portion thereof, ~~the main processes of which involve the assembly of prefabricated parts and~~ which will not create a nuisance by noise, smoke, vibration, odor or appearance.

(Ord. of 9-21-2009, § 2.2; Ord. No. 13-09062011-05, 9-6-2011; Ord. No. 12-09062011-04, 9-19-2011; Ord. No. 04-03072016, 5-16-2016)

DIVISION 12. - GENERAL BUSINESS DISTRICT

Sec. 60-498. - Purpose.

This district is intended to include commercial uses serving both the city and the region, together with normal accessory uses compatible with a cohesive and attractive shopping and office area.

(Ord. of 9-21-2009, § 3.62A)

Sec. 60-499. - Use regulation.

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

- (1) Residential dwelling uses permitted in the Multifamily Suburban District (MFS) (division 9 of article IV of this chapter).
- (2) Grocery stores and supermarkets.
- (3) Clothing stores.
- (4) Furniture stores.
- (5) Department stores.
- (6) Specialty shops.
- (7) Hotels and motels.
- (8) Funeral homes and mortuaries.
- (9) Child day care centers.
- (10) Medical and dental clinics.
- (11) Wholesale bakeries.
- (12) Retail laundries and dry cleaners, but not plants.
- (13) Banks, business and professional offices.
- (14) Public transportation passenger offices.
- (15) Governmental offices.
- (16) Municipal, civic or public service buildings and other utility facilities.
- (17) Warehouses, wholesale offices, salesrooms and showrooms.
- (18) Restaurants, bars, dining rooms or lunchrooms, but not to include drive-in and carry-out restaurants.
- (19) Halls, private clubs and lodges, bowling alleys, ice and roller skating rinks, indoor theaters and similar places of indoor amusement or recreation.
- (20) Animal hospitals and pet shops, but no kennels.
- (21) Business equipment repair and business services.
- (22) Radio and television studios.
- (23) Printing shops, but not publishing plants.
- (24) Retail, service, office and commercial uses similar to the foregoing.

- (25) Carwashes.
- (26) Accessory uses, building and structures.
- (27) Shelters for abused persons.
- (28) Greenhouses and lawn maintenance services.
- (29) Temporary outdoor places of amusement.
- (30) Churches and temples.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
 - (1) Automobile filling stations.
 - (2) Automobile repair and service stations.
 - (3) Automobile and marine sales lots and sales and service agencies.
 - (4) Automobile and marine paint and body repair shops.
 - (5) Hospitals, care homes, boardinghouses and lodginghouses.
 - (6) Research or philanthropic institutions.
 - (7) Outdoor theaters.
 - (8) Drive-in or carry-out restaurants.
 - (9) Commercial parks.
 - (10) Sales, rental and service agencies for mobile homes, farm equipment, trucks and trailers, and machine equipment.
 - (11) Light industrial plants ~~whose main processes involve assembly of prefabricated parts and~~ which will not create a nuisance by noise, vibration, smoke, odor or appearance.
 - (12) Off-street parking as a commercial or municipal use provided that such parking is limited to occupants of buildings located within 500 feet of such parking area whether or not within the same district. The planning board may impose conditions regarding fencing and screening, drainage, ingress and egress, signs and lighting, and total capacity of the parking area as it deems necessary to protect the character of the neighborhood.
 - (13) Trucking terminals and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials.
 - (14) Convenience stores.
 - (15) Research, experimental and testing laboratories.
 - (16) Landscape services.
 - (17) Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 5,000 square feet or more.
 - (18) Automotive towing and storage.
 - (19) Major retail development provided that it meets the conditions noted in section 60-45(g).
 - (20) Outpatient addiction treatment clinics.

(Ord. of 9-21-2009, § 3.62B)

Sec. 60-500. - Dimensional regulations.

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

- (1) *Minimum lot width and depth.* No building used for commercial or office uses shall be constructed on a lot having less than 10,000 square feet minimum lot area and measuring 100 feet in width. No lot shall be less than 100 feet in depth. Buildings used for residential uses shall have the same minimum lot area, width and depth as provided for buildings in the Multifamily Suburban District (MFS), section 60-307(1).
- (2) *Density.* Not more than 30 percent of the total lot area shall be covered by buildings used for commercial or office uses. The density of residential uses shall be the same as that required for buildings in the Multifamily Suburban District (MFS), section 60-30(2).
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.
 - b. *Side.* There shall be a distance of five feet between any side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less. No front yard need to be any deeper than the average depth off front yards on the lots next thereto on either side. A vacant lot or a lot occupied by a building with a front yard more than 25 feet shall be considered as having a front yard of 25 feet.
 - d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
 - e. *Railroad tracks.* Where the principal use requires access to a railroad, the yard requirements are disregarded for the side of the building adjacent to the railroad trackage. The engineering requisites for a safe and properly designed siding and building setback acceptable to the railroad shall take precedence.
 - f. *Open and unbuilt spaces.* Any yard, space or area required to be kept open and unbuilt on may be used, if otherwise lawful for outdoor storage and display of articles, supplies and materials. Such outdoor storage and display shall occupy no more than 20 percent of the lot with display areas not to exceed one-quarter of the total allowable area. Storage and display areas shall be clearly identified on the land in a fixed location. Storage areas shall be screened from the view of an abutting residential district or use and from the street by an evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart or by a solid fence not less than six feet in height.
- (4) *Height.* No permitted structure shall exceed four stories or 45 feet in height. Religious buildings, municipal buildings or buildings listed by the state historic preservations commis- sion may have a steeple, cupola or tower to a maximum height of 90 feet, if said structure is limited to 15 percent of the footprint of the principal building. In the airport approach zone, Federal Aviation Administration regulations shall apply. Accessory structures, including windmills, that are necessary for the operation of an allowed principal use may exceed the above maximum height requirements, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of the yard required pursuant to this section. In the airport approach zone, Federal Aviation Administration regulations shall apply.
- (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in articles V through XI of this chapter.

(Ord. of 9-21-2009, § 3.62C; Ord. of 3-22-2010)

Secs. 60-501—60-523. - Reserved.

DIVISION 13. - MINOT AVENUE (GBII)

Sec. 60-524. - Purpose.

This district is intended to allow commercial development to locate along the Minot Avenue corridor which is most compatible with local scale business. The corridor is also an arterial which requires that good sound access management design is incorporated into the uses consistent with the access management ordinance.

(Ord. of 9-21-2009, § 3.63A)

Sec. 60-525. - Use regulation.

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

- (1) Residential dwelling uses permitted in the Multifamily Suburban District (MFS) (division 9 of article IV of this chapter).
- (2) Grocery stores and supermarkets.
- (3) Clothing stores.
- (4) Furniture stores.
- (5) Department stores.
- (6) Specialty shops.
- (7) Hotels and motels.
- (8) Funeral homes and mortuaries.
- (9) Child day care centers.
- (10) Medical and dental clinics.
- (11) Retail bakeries.
- (12) Retail laundries and dry cleaners.
- (13) Banks, business and professional offices.
- (14) Public transportation passenger offices.
- (15) Governmental offices.
- (16) Municipal, civic or public service buildings and other utility facilities.
- (17) Restaurants, dining rooms or lunchrooms.
- (18) Bowling alleys, ice and roller skating rinks, indoor theaters and similar places of indoor amusement or recreation.
- (19) Animal hospitals and pet shops, but not kennels.
- (20) Business equipment repair and business services.
- (21) Radio and television studios.
- (22) Printing shops, but not publishing plants.
- (23) Carwashes.

- (24) Accessory uses, buildings and structures.
- (25) Greenhouses.
- (26) Seasonal outdoor places of amusement.
- (27) Churches and temples.
- (28) Shelters for abused persons.
- (b) *Special exception uses.* The following uses are permitted as special exceptions after approval by the planning board in accordance with division 3 of article XVI of this chapter:
 - (1) Commercial parks.
 - (2) Automobile repair and service stations.
 - (3) Hospitals, care homes, boardinghouses and lodginghouses.
 - (4) Research or philanthropic institutions.
 - (5) Outdoor theaters.
 - (6) Drive-in or carry-out restaurants.
 - (7) Sales, rental and service agencies for farm equipment, trucks and trailers, and construction equipment.
 - (8) Light industrial plants ~~whose main processes involve assembly of prefabricated parts and which support a retail store selling goods made on the premises and~~ will not create a nuisance by noise, vibration, smoke, odor or appearance.
 - (9) Convenience stores.
 - (10) Research, experimental and testing laboratories.
 - (11) Landscape services and lawn maintenance services.
 - (12) Halls, private clubs and lodges.
 - (13) Outpatient addiction treatment clinics.
 - (14) Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under section 60-499(a) which will occupy an area of 5,000 square feet or more.

(Ord. of 9-21-2009, § 3.63B)

Sec. 60-526. - Dimensional regulations.

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

- (1) *Minimum lot width and depth.* No building used for commercial office uses shall be constructed on a lot having less than 10,000 square feet minimum lot area and measuring 100 feet in width. No lot shall be less than 100 feet in depth. Buildings used for residential uses shall have the same minimum lot area, width and depth as provided for buildings in the Multifamily Suburban (MFS) District, section 60-307(1).
- (2) *Density.* Not more than 30 percent of the total lot area shall be covered by buildings used for commercial or office uses. The density of residential uses shall be the same as that required for buildings in the Multifamily Suburban (MFS) District, section 60-307(2).
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 35 feet or 35 percent of the average depth of the lot, whichever is less.

- b. *Side.* There shall be a distance of five feet between any building and the side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less.
 - d. *Principal buildings.* More than one principal building may be erected on a lot, provided that the building meet all yard setback requirements and are separated by a distance equivalent to the height of the higher building or 30 feet, whichever is greater.
 - e. *Outdoor storage.* Any yard, space or area required to be kept open and unbuilt on may be used, if otherwise lawful for outdoor storage and display of articles, supplies and materials, Such outdoor storage and display shall occupy no more than 20 percent of the lot with display areas not to exceed one-quarter of the total allowable area. Storage and display areas shall be clearly identified on the land in a fixed location. Storage areas shall be screened from the view of an abutting residential district or use and from the street by an evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart or by a solid fence not less than six feet in height.
- (4) *Height.* No permitted structure shall exceed four stories or 45 feet in height, except in the airport approach zone where Federal Aviation Administration regulations shall apply.
 - (5) *Off-street parking.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in articles V through XI of this chapter.

(Ord. of 9-21-2009, § 3.63C)

Secs. 60-527—60-545. - Reserved.

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

RESOLVE 10-10032016

RESOLVED, that the City Council hereby supports initiating the public process to consider an amendment to Chapter 60, Zoning Definitions, General Business and General Business II Zoning Districts to modify the light industrial use group and the locations that allow the use.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 10/03/2016

Order 63-10032016*

Author: Sue Clements-Dallaire

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

Information:

The AL-ACTC voted to unanimously approve the attached proposed Committee By-Laws.

A few notes are in order to highlight what was incorporated into the By-Laws:

- There are no substantive changes to those By-Law requirements expressed in Section A. of the Interlocal Agreement
- Much of the wordsmithing in Article III, Section A of the By-Laws preserves the original intent of Section A. of the Interlocal Agreement: Eight total members on the committee--four from each city; Auburn committee appointment policies and ordinances take precedence for all Auburn appointments; Lewiston City Administrator will appoint a staff person, Mayor and Council will appoint an elected official, and Mayor will nominate and Council will appoint two remaining members; with the exception of the five members subject to the "blind draw" that staggers the inaugural member term, all future terms will be for two years with no member serving more than three consecutive terms
- Tele-video conferencing for quorum purposes will be limited to one member voting by tele-video conference and a minimum number of three present to conduct an official meeting (no voting can occur); and all voting must require a quorum of five with a minimum of four present with one member permitted to vote by tele-video conferencing
- All affirmative votes will require five votes
- A minimum of three affirmative votes from one city must be cast by for any action impacting only that city
- Language to fill vacancies and for removal of members (Section III.D.)
- All By-Law conditions expressed in Section A. of the Interlocal Agreement have been satisfied

Advantages:

Disadvantages:

City Budgetary Impacts: None

Staff Recommended Action: Discussion with action to follow at the next Council Meeting

Previous Meetings and History: Presented and approved by the Lewiston City Council on Sept. 6, 2016, presented to Auburn City Council during the 9/19/2016 workshop.

Attachments:

Proposed by-laws
Order 63-10032016

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 63-10032016

ORDERED, that the City Council hereby adopts the attached By-laws of the Auburn-Lewiston Advisory Cable TV Committee.

Passage on 7/11/2016 7-0.

**BY-LAWS
OF THE
AUBURN-LEWISTON ADVISORY CABLE TV COMMITTEE**

I. MISSION, PURPOSE AND SCOPE

A. Mission

The cities of Auburn and Lewiston, acknowledging a need and desire for the establishment of local public access, educational and government (PEG) channels, have established the Auburn-Lewiston Advisory Cable TV Committee (sometimes referred to as “Committee”) whose primary mission is to provide policy oversight for the broadcasting of a variety of PEG programming utilizing both on site and community assets to operate Great Falls TV (sometimes referred to as “GFTV”) as an open and accessible resource to all concerned.

B. Purpose and Scope

- 1) To oversee the operation and investment of available revenues in facilities, operations and equipment that provide GFTV viewers quality and dependable local cable television and internet streaming/archiving services;
- 2) To oversee the production and programming that is generated by both GFTV and other sources from within and outside of our community;
- 3) Advising the City Councils and the public on matters relating to the administration of GFTV policies and programming;
- 4) Encouraging other PEG access stations utilizing GFTV services to reflect its policies and values relative to content broadcasted on GFTV;
- 5) Relaying pertinent operations, programming and policy information to the City Councils and the public on a timely basis;
- 6) Acting on such matters as the City Councils or the Auburn City Manager/Lewiston City Administrator deem appropriate provided that such matters relate to GFTV services/operations;
- 7) Advocate for quality local programming within the context of available resources and revenues;
- 8) Advocate for the needs of GFTV viewers;
- 9) Raise the public awareness of the Committee, inform the community of the Committee’s role, and solicit public opinion and needs.

II. MEETINGS OF MEMBERS

A. Monthly Meeting of Members

Unless otherwise posted, the regular Monthly Meeting of the Committee shall be held at Auburn Hall on the first Thursday of each month, at 6:00 P.M. for transacting business as may properly come before the Committee. The time and place of the Monthly Meeting and items to be acted upon/discussed shall be posted in the agenda and submitted to the City Clerks in both cities for public posting no later than three (3) business days prior.

B. Special Meetings of Members

Special Meetings of the Committee shall be called by the Chair or upon the request of a majority of the Committee Members (sometimes referred to as “Members”). Notice for any Special Meeting must include the nature of the business to be acted upon/discussed by the Committee and must be submitted for public posting to the City Clerks in both cities no later than twenty-four hours prior to the meeting.

C. Members Eligible to Vote

Those persons who have been formally appointed as Members shall be eligible to vote at all meetings in one of the following manners:

- 1) In person.
- 2) By telephone or videoconference

D. Quorum of Members

An official meeting shall require a quorum consisting of no less than four (4) Members present at the meeting or three (3) Members present and no more than one (1) by telephone or videoconference. If no quorum is present, a majority of those present may adjourn and reschedule the meeting in accordance with the meeting notice provisions within these by-laws.

For purposes of voting, no less than four (4) members shall be present but a quorum of five (5) members (with no more than one Member by telephone or videoconference) shall be required (see Article III.C).

E. Meetings of Members Open to Public

- 1) All meetings of the Committee shall be open to the public and shall be conducted in accordance with those public and confidential provisions outlined in Maine law.
- 2) Members of the public shall be welcomed as guests at any Regular or Special meeting of the Committee.
- 3) Members of the public may present written requests for information to any Committee Member at any time; a period of time during each Regular Meeting shall be made available for questions or comments from guests.

- 4) Guests shall have no vote on Committee matters but may be invited to participate in discussion of such matters.
- 5) Guest policies at Special Meetings shall be at the discretion of the Chair.

III. MEMBERS

A. Tenure and Qualifications of Members

Four (4) Members from Auburn and four (4) Members from Lewiston shall be appointed in accordance with these By-Laws and the terms outlined in Auburn-Lewiston Local Cable TV Operations Interlocal Agreement (sometimes referred to as “Agreement”) but all committee selection/appointment ordinances and policies for the City of Auburn shall take precedence:

- 1) One (1) City Councilor or Mayor from each city may be appointed to serve two (2) year terms (to correspond with Mayor/City Council elections), and may be reappointed to an unlimited number of consecutive terms; and
- 2) with the exception of the staff position who shall serve at the pleasure of the Lewiston City Administrator, the inaugural terms of the remaining five Committee Members shall be staggered as a one (1), two (2) and three (3) year term of service based on a blind draw conducted by the Chair of the Committee at the first inaugural meeting of the Committee. Terms for all five Members thereafter shall be two year terms; and
- 3) in Auburn, three (3) Committee Members shall be appointed by and serve no more than three (3) two (2) year terms; and
- 4) in Lewiston with the noted exception of the City Administrator staff position, the Mayor shall nominate two Members who shall be appointed by the City Council and serve no more than three (3) two (2) year terms.

In the event that a Member resigns, is removed for cause, dies or fails to be re-appointed, a new Member may be nominated by the Committee and submitted for approval by the applicable City Council to fill the vacancy. All appointments shall fill the remaining term of the vacated position or shall fill the vacancy in accordance with those provisions, ordinances or policies governing committee appointments for the applicable municipality.

All Members must be at least 18 years of age at the time of their appointment to serve as a Member.

B. Election and Appointment of Officers

At the inaugural meeting of the Committee, the Chair, Vice-Chair, and Secretary shall be chosen by a majority vote of the Committee with all future elections being conducted at the Regular Meeting scheduled the month prior to the expiration of terms for all Officers.

C. Voting Requirements and Email Communications

All legislative actions of the Auburn-Lewiston Cable TV Committee will require no less than five (5) affirmative votes. All voting actions must take place in accordance with the attendance and quorum requirements stated in Article II.D. of these by-laws.

No email voting is authorized but email may be used to communicate meeting notices, assess quorum availabilities, and other pertinent business information to Committee Members.

When a matter before the Committee only affects cable customers in one city, no less than three (3) Members representing the city involved must vote in the affirmative for passage.

D. Member Eligibility - Removal of Members - Vacancies

Residency shall be a requirement for all Members in both municipalities. Any action or cause resulting in a change of Member residency shall result in immediate ineligibility for Committee participation and immediate termination of Member's appointment to the Committee.

In the absence of submitting an excused absence request to the Chair, any Member who does not attend three (3) consecutive Committee meetings shall be deemed to have resigned voluntarily from the Committee, effective at the close of the third unattended meeting, unless the Committee, at the request of the Member and for good cause, shall have taken action to retain the Member.

Any Member may be removed with or without cause at any time by the affirmative vote of two-thirds of the City Council which appointed the Member or by a two-thirds vote of the Committee which must also be affirmed by a two-thirds vote of the applicable City Council. A new Member may be nominated by the Committee and submitted for approval to the applicable municipality to fill the vacancy. All such appointments shall fill the remaining term of the vacated position or shall fill the vacancy in accordance with those provisions, ordinances or policies governing committee appointments for the applicable municipality.

In the event that a Member resigns, is removed for cause, or dies, a new Member may be nominated by the Committee and submitted for approval by the applicable municipality to fill the vacancy. All such appointments shall fill the remaining term of the vacated position or shall fill the vacancy in accordance with those provisions, ordinances or policies governing committee appointments for the applicable municipality.

In the event of the removal or resignation of the Chair, the Vice-Chair shall become the interim Chair until the next Monthly Meeting at which time a person shall be elected to serve for the balance of the term of the removed Chair.

E. Roberts Rules

Roberts Rules of Order, Revised, shall govern the proceedings of all Committee meetings and its constituent parts except as provided in these By-Laws.

IV. OFFICERS

A. Officers

The Officers of the Committee (sometimes herein “Officers”) shall consist of a Chair, Vice-Chair, and Secretary. No person may concurrently hold more than one office.

B. Term, Removal, Vacancy of Officers

The Officers shall be elected at the Inaugural Meeting of the Committee and shall hold office for one (1) year or until a successor is elected. No Officer may serve more than three consecutive terms in the same office. Any Officer may be removed by vote of the Committee with or without cause if it determines in its discretion that the best interests of the Committee would be served thereby.

A vacancy shall be filled by a vote of the Committee for the unexpired portion of the term.

C. Duties and Authority of the Chair

The Chair shall preside at all meetings of the Committee. Subject to the control of the Committee, the Chair shall be responsible for supervising and directing the affairs of the Committee and shall see that all orders and resolutions of the Committee are carried into effect. The Chair or a majority vote of the Committee may appoint Members and other public individuals to ad hoc committees to work on a variety of initiatives for the full Committee to consider. All ad hoc committee meetings shall be posted in accordance with the meeting notice and participation requirements listed in Section II of these By-Laws. The Chair or Committee authorizing the ad hoc committee may terminate the ad hoc committee at any time but must post the proposed action on the agenda of any Regular Meeting.

D. Duties and Authority of the Vice-Chair

The Vice-Chair shall perform such duties as shall from time to time be prescribed by the Committee or delegated by the Chair. In the absence of the Chair, the Vice-Chair shall act in his/her stead unless otherwise prescribed by the Committee.

E. Duties and Authority of Secretary

The Secretary shall be responsible for: keeping the minutes of the proceedings of Members in one or more books provided for that purpose; seeing that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; custody of the Committee records; keeping a register of the address of each Member and updating the same regularly; and in general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the Chair or by the Committee.

V. REPORTS AND BUDGETS

A. Annual Report

The Committee shall issue an Annual Report which shall be distributed to Members and the public no later than 5 months following the end of the fiscal year. The Annual Report shall include, among other things, information as to:

- 1) Revenues and expenditures and a comparison of those amounts to the amounts budgeted;
- 2) The number of people trained in the use of the Committee's equipment;
- 3) The nature and amount of programming produced by the Committee;
- 4) The nature and amount of programming produced in cooperation or conjunction with the Committee;
- 5) The number of persons and/or organizations utilizing the community access programming facilities;
- 6) Actions taken to encourage broad-based utilization of the community access programming facilities;
- 7) Actions taken to coordinate the Committee's programs and activities with those of other public and private organizations involved in the production of community-based cable TV programming in Maine;
- 8) Complaints received about access operations, and actions taken by the Committee to resolve such complaints;
- 9) Grants/donations awarded to the Committee for programming;
- 10) The work of each or any sub-committee appointed by the Chair.

B. Annual Budget

Working through the department head, the station manager and the Committee shall prepare a proposed budget for each new fiscal year which shall be made available to the Lewiston City Administrator and the Auburn City Manager no later than January 31st of each year.

VI. AMENDMENT OF BY-LAWS

These By-laws may be amended only in the following manner: an amendment may be introduced on the agenda of any Regular Monthly Meeting of the Committee. All by-law amendments receiving an affirmative vote from the Committee will be submitted to the City Clerks of both cities for action by the City Councils.

Once notice has been received by the City Clerks, the Committee approved By-Law amendment must be posted in the agenda no later than sixty (60) days within receipt of the written Committee notice. The City Councils shall be required to vote on any By-Law amendment within sixty (60) days of posting on the agenda.

VII. FRANCHISE AGREEMENT OVERSIGHT PROCEDURES

The powers and duties of the Committee shall be:

A. By appropriate orders and directions of the Auburn or Lewiston City Councils, to take action to ensure cable television service franchisee(s) compliance with the terms and conditions of their respective present and future franchise agreements with the cities of Auburn and Lewiston.

B. To investigate complaints made to the Committee by subscribers and others within the community with respect to the access to the facilities of franchisees, the charges made for installation, service and use of such facilities, equipment rental and other charges, the quality of service provided by franchisees, billing and other matters pertaining to such service and, where feasible, to assist in resolving such complaints by appropriate order or otherwise.

C. To advise the City Councils on all matters affecting the provision of cable television service to present and future inhabitants of the community and to recommend appropriate changes in this chapter and regulations relating to cable television service.

D. To review, evaluate and make recommendations to the Auburn and Lewiston City Councils with respect to renewal of existing franchises and to proposals for award of future franchises for cable television service to inhabitants and others within the village.

E. To inspect the books, records and other information sources of any franchisee as permitted or required by the terms of any franchise agreement now or hereafter entered into by the cities of Auburn and Lewiston.

F. To meet periodically with franchisees as provided by franchise agreements to discuss the manner in which such agreements are being implemented and such other topics as are of interest to the village and franchisees. The Committee may delegate this duty by its rule or regulation to a sub-committee or to one or more Members of the Committee.

G. In cooperation with the Auburn and Lewiston Planning Boards, to conduct studies, surveys and investigations as necessary with respect to present or future provision of cable television service within the community as may be necessary to carry out the general purposes of this chapter.

H. To maintain liaison and communication with franchisees, federal and state regulatory bodies and public and private agencies, institutions and individuals of local, state or national scope whose activities have an impact on the quality or availability of cable television service and who can be of assistance to the Committee.

I. To coordinate, assist and unify efforts of private groups, institutions and individuals within the community to assist the Committee in the exercise of its powers and the discharge of its duties as expressed in these by-laws.

J. To plan, coordinate and make arrangements for broadcast of a civic and informational nature and public emergency broadcasting and two-way voice and data transmission by the one or both cities as available, utilizing the facilities of present and future franchises in accordance with applicable state and federal regulations and the terms and conditions of the respective present and future franchise agreements.

K. To make recommendations with respect to the installation and use of service connections and radio-frequency distribution systems in buildings owned by both cities for the provision of cable television service to such buildings.

L. To carry out such other duties as may be assigned from time to time as mutually agreed to by the Auburn and Lewiston City Councils.

VIII. MISCELLANEOUS

A. Fiscal Year

The Corporation shall utilize a fiscal year ending June 30.

B. Web Page Posting.

All policies, agendas and meeting notices, along with other Committee business, franchise agreement, programming and other related Committee business shall be posted on the Committee's web page.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 10/3/2016

Order: 64-10032016

Author: Sue Clements-Dallaire

Subject: Temporary Sign Request – St. Dominic Academy

Information: This is a request to allow St. Dominic Academy to place a temporary sign for their Holiday Festival. They would like to place the sign on Mt. Auburn Avenue beside Starbucks from October 21st to November 7th. The event will take place on November 5, 2016.

Advantages: Promotes this local event.

Disadvantages: Some may not like the appearance of the sign.

City Budgetary Impacts: None

Staff Recommended Action: Passage of the Order.

Previous Meetings and History: This is a yearly request.

Attachments:

Letter of request

Photo of the sign

Map showing placement

Order 64-10032016



SAINT DOMINIC ACADEMY

Donald Fournier, President

Marianne Pelletier, Principal
Grades Pre K-6
17 Baird Avenue
Lewiston, Maine 04240
207-783-9323 fax: 207-783-9491

Shelly Wheeler, Principal
Grades 7-12
121 Gracelawn Road
Auburn, Maine 04210
207-782-6911 fax: 207-795-6439

To Susan Clements-Dallaire (Auburn City Council):

St. Dominic Academy is holding its 11th Annual Holiday Festival at our High School campus in Auburn on Saturday November 5th, 2016. St. Dominic's mission is to educate students according to the highest moral and educational standards. We anticipate several hundred attendees at this year's Holiday Festival that will include crafts, baked goods, games and activities for all ages. It is one of our largest events of the year and helps us raise needed funds to support our educational mission.

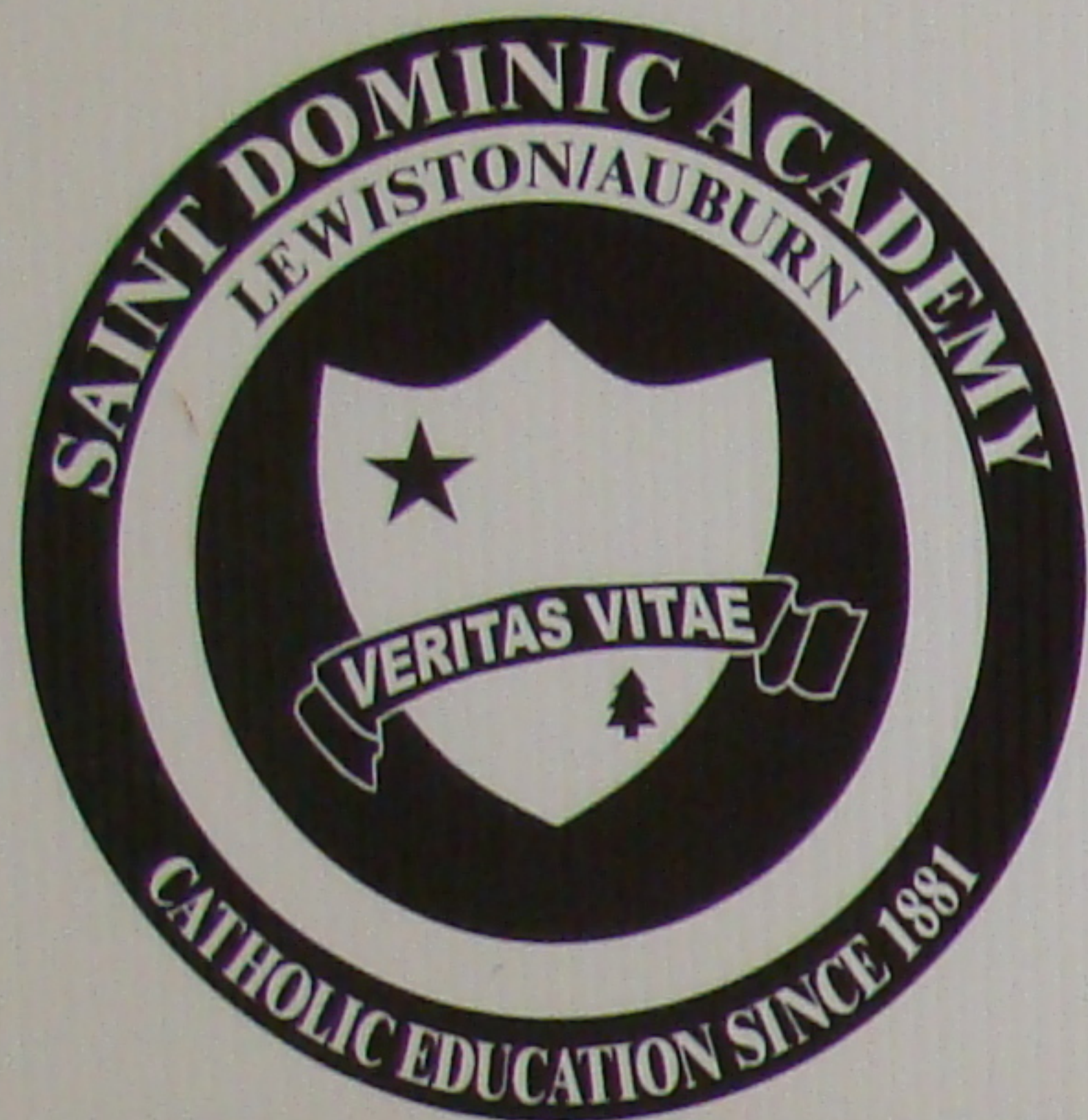
We would like to get permission from the Auburn City Council to place a sign for the Holiday Festival on Mt. Auburn Avenue in Auburn beside Starbucks from October 21st through November 7th, 2016. Enclosed is a photo of the sign.

Please let me now if you need anything (Donna Cote at 207-345-3124 - dcote@unum.com).

Thank you for your time and your support. May God bless you!

Sincerely,

Donna Cote
Committee Chair - Saint Dominic Academy Holiday Festival



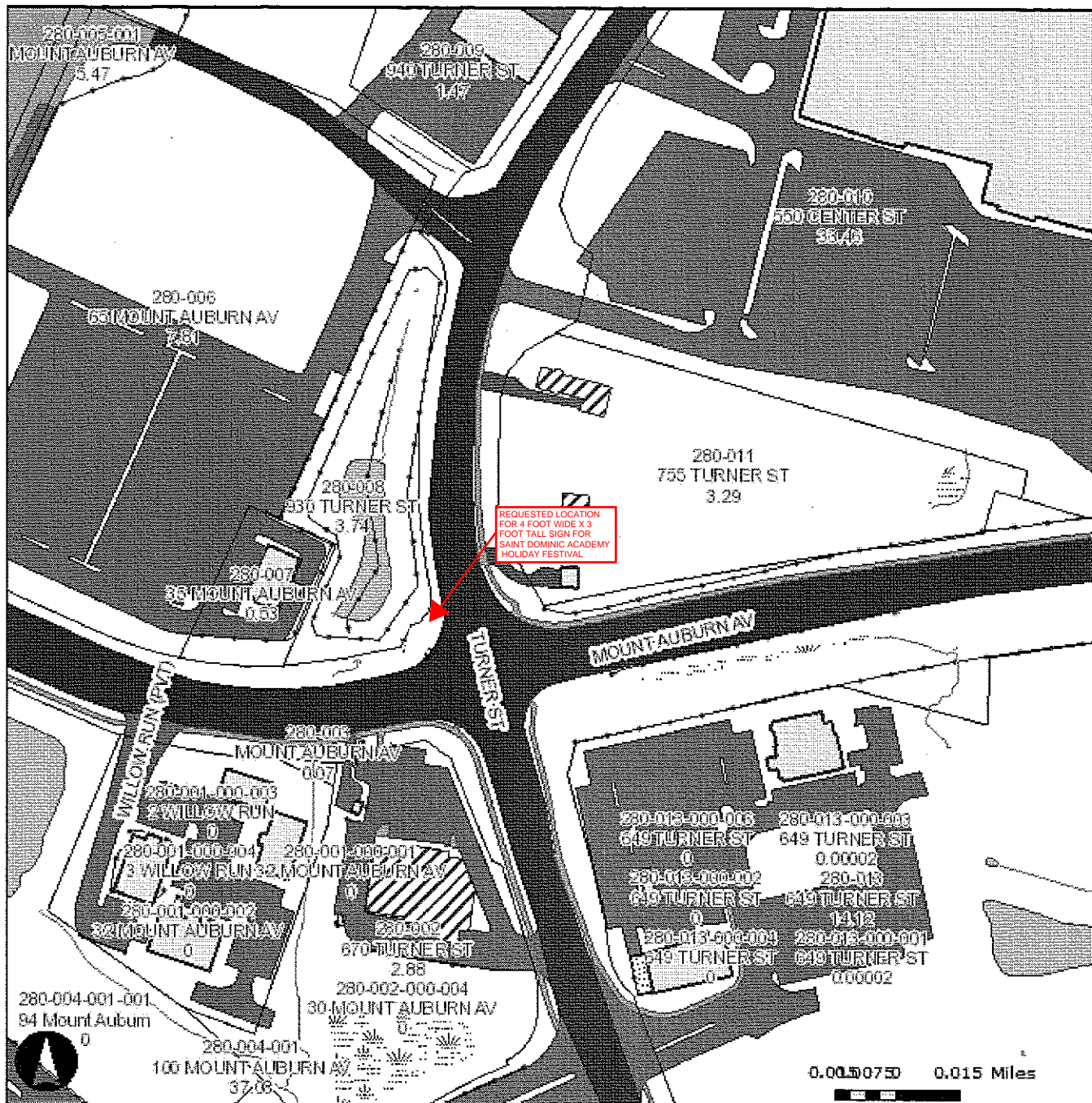
St. Dom's

GRACELAWN ROAD, AUBURN

Holiday Festival

Saturday, Nov 12th
9 AM - 3 PM

Map





**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 10/03/2016

Resolve: 09-10032016

Author: Sue Clements-Dallaire

Subject: Resolution to Support the Lewiston-Auburn Community Food Charter

Information: Please see the attached information sheet that was provided to the Economic and Community Development Council Committee on August 18, 2016 for details.

Advantages:

Disadvantages:

City Budgetary Impacts:

Staff Recommended Action: Passage of the resolve

Previous Meetings and History: Presented to the Economic and Community Development Council Committee on August 18, 2016.

Attachments:

8/18/2016 Economic and Community Development Council Committee Agenda info sheet

L-A Community Food Charter Flyer

List of Good Food Charter Champions

Article on Good Food Council



City of Auburn
City Council Economic and Community Development Committee Information Sheet

Committee Meeting Date: August 18, 2016

Author: Douglas Greene, City Planner

Subject: Resolution to Support the Lewiston-Auburn Community Food Charter

Information: The Lewiston Auburn Good Food Council has developed a Community Food Charter that puts forth a policy statement in the form of a Charter that contains 5 elements that promote healthy food. The Good Food Council unveiled the Food Charter back in June and since then, numerous individuals and businesses has signed on as supporters. Now, the Good Food Council of LA is asking the cities of Lewiston and Auburn to adopt and support the Good Food Charter as a policy statement for: food security, sustainable agriculture, leadership, elevating good food policy and supporting working landscapes and the development of community infrastructure. Supporting the Good Food Charter is also a good fit for Auburn as it prepares to engage in a study of its 20,000 acre agricultural zone.

Advantages: The City of Auburn can send a message that it supports the policies and ideals of the Good Food Charter. The production and distribution of good food benefits our community in many ways.

Disadvantages: Supporting the Good Food Charter may seem out bounds for “normal” policy stances.

City Budgetary Impacts: None.

Staff Recommended Action: The Staff has representation on the Good Food Council and believes that the 5 policies of the Good Food Charter are supportive of agriculture and providing healthy good food to all citizens.

Previous Meetings and History: None before the City Council.

Attachments:

1. L-A Community Food Charter flyer
2. List of Good Food Charter Champions
3. Article on Good Food Council



GFCLA Vision:

Lewiston-Auburn bustles with people sharing *good food* that is healthy, affordable, and accessible, and that honors the enduring values, rich cultural heritage, and diverse needs of our population.

L-A COMMUNITY FOOD CHARTER

Because we believe *good food*:

- Is safe and nutritious, enabling people to live healthy, active lifestyles, and helping children learn and play;
- Supports a strong local economy and a thriving food system;
- Is produced with respect for and provides livable wages to workers;
- Stewards and conserves natural resources for future food production; and
- Fits cultural and/or religious beliefs.

Statement of Commitment:

I/We support a Lewiston-Auburn community that values *good food* and honors our enduring values, rich cultural heritage, and the diverse needs of our population. I/We will:



Strive for every member of our community to have a **food secure** future. No one in Lewiston-Auburn should go hungry.



Consider local and **sustainable agriculture** when making food decisions for ourselves and our families. Production systems should enhance healthy soil and clean water; similarly, economic systems should return a fair wage to labor and a fair income to farmers.



Enable **leadership** by all members of our community by sharing knowledge of *good food* and related resources and empowering individuals to take action.



Elevate *good food* **policy** by engaging and informing our local officials and leaders, lifting up examples of what works in other places, and using the definition of *good food* to evaluate relevant legislation and policy decisions.



Support the preservation of **working landscapes** and development of **community infrastructure** that enhances production of and access to *good food*.



Become a Food Charter Champion!

Sign the Food Charter at www.goodfood4la.org

Lewiston-Auburn Food Charter Champions

Abby Wilkins Bishop	Aimee Grimmell	<u>Dempsey Center</u>
Ordway Grove Farm	Alyson Cummings	Andrea Breau
Norway ME	Ben Tettlebaum	Bettyann Sheats
<u>Farmers' Gate Market</u>	Bonnie Lounsbury	Bonnie Pooley
Bonnie Shulman	Brea Pelletier	Camille Parrish
bonnie porta	Cecile Thornton	<u>Bates College Dining</u>
Catherine Lee	<u>Central Maine Medical Center/Central Maine Heart & Vascular Institute</u>	<u>Raise-Op Housing Cooperative</u>
<u>Double Z Land & Livestock</u>	Cynthia Baker	<u>Bear Mountain Botanicals</u>
Craig Saddlemire	Dani Scherer	<u>Coastal Enterprises, Inc. (CEI)</u>
Dana Staples	Dave Seddon MBA RD LD	David Moyer
Daniel Wallace	Deb Reed	Deborah Burd
<u>Androscoggin Land Trust</u>	Ellen Shrader	Emily Horton
Diane Erb	Erica Hebold	Erika Gardner
Erica Dostie	Erin Cinelli	<u>Healthy Androscoggin</u>
<u>Trinity Jubilee Center</u>	Hannah Horrigan	Hannah Read
<u>Frantasia Productions</u>	Jeff Harper	Jeffrey Dorian
<u>Maine Organic Farmers and Gardeners Association</u>	Jen August	Jennifer GendronCarleton
<u>Back Cove Personal Fitness</u>	Jessica Elias	Jim Pross
<u>Jenn Howe, Ind. Director w/Pampered Chef</u>	Jim Lysen	JOANNE CARON
<u>Cumberland County Food Security Council</u>	Jonah Fertig	Jonathan Myles
John R. Bolduc	Julia Harper	Justin Liudvinaitis
Joy Harrington	Karen Harris	Karen Lane
<u>Food Joy</u>	<u>YWCA Central Maine</u>	Kathy Durgin-Leighton
Katherine Lary	Keena Tracy	<u>Maine Network of Community Food Councils</u>
<u>4 Season Farm Market</u>	Kim Finnerty	Kira Spellman
Kim Finnerty	<u>St. Mary's Nutrition Center</u>	Kirstin Moynihan
Kirsten Walter	Lauren Breau	Leelaine Picker
Kyle Dussault	Lindiwe Majele Sibanda	Lis Janes
Leonard Tower Jr		

Lisa Mayer

Marcela Peres

Melissa Emerson

Missy North-Drain

**[Lewiston Green
Independent Party](#)**

[Austin Associates, PA](#)

Rene Dumont

RitaMae Morin

Samuel Chamberlain

Sarah Ullman

Seth Mirsky

Shana Wallace

Sherie Blumenthal

Tessa Lajoie

Maine MEP

Madelyn Reed

Maria Harrison

[Pinetree Garden Seeds](#)

Nicola Chin

Noah Sherwood

Phil Doucette

[St. Mary's Health System](#)

Roberta O'Brion

[The Maine Food Strategy](#)

Scott Vlaun

Shaad Masood

[Grow L+A](#)

Susan Brown

**Auburn PAL Cooking Thru
Science**

Will Fessenden

Marcel Gagne

**Maurice and Gisele
Guerrette**

Mia Poliquin Pross

Niomi Larrivee

**[Cooperative Development
Institute](#)**

Rebecca Dugan

Capital Area Food Council

Ryan Parker

**[Sara Goodrich, LMT -
Renew You! Massage and
Yoga](#)**

**[Center for Ecology Based
Economy](#)**

Shae Morin

Shelley Kruszewski

Taylor Brosious

Tracey Miller

Zizi Vlaun

Food Council Accelerates Community Transformation



Daniel Wallace, Julia Harper, and Deborah M. Burd
GOOD FOOD COUNCIL OF LEWISTON-AUBURN

Now entering its third year, a local food council is connecting across multiple sectors to support the rebuilding of a healthy, community-based food system.

Much is made these days of food as a pivot point for community development, a sort of lever for community engagement and action. Why? On the face of it, the answer is simple: food can bring people together, and people acting in concert drive change.

One growing though not new model is the community food council. A food council knits together a wide variety of people for a specific set of food-related goals. It can be formed at a local, state, or regional level. The structure depends on how the group organizes itself and the purpose for which it is formed. The motivation to form a council can range from fighting food insecurity to creating food policy, but a common theme is an integrated approach to improving the food system.¹ The approach takes a comprehensive view of all of the players, processes, and infrastructure involved in getting food from land and sea to table. It also incorporates the physical, psychological, and cultural ways in which food touches people's lives. Such a systems approach recognizes interconnectedness, limits unintended consequences, and gives lift to the whole.

The Good Food Council

The Good Food Council of Lewiston-Auburn (GFCLA) formed in late 2012 as the next step in an effort dating back to 1999, when organizing began around an urban garden project in Lewiston, Maine.²

The Meaning of Good

Lewiston is Maine's second-largest metro area. Its demographic profile speaks to the severity of the challenges it faces. It is home to the state's highest childhood poverty level. Ninety-eight percent of students in a downtown elementary school are eligible for free or reduced-price school meals. And over the last 10 years, the resettlement of large numbers of refugees, mostly from Africa, has presented a different kind of challenge, requiring adjustments for both the existing population and the immigrants.³

The GFCLA envisions a community bustling with people sharing *food* that is healthful, affordable, and accessible, one that honors enduring values, cultural heritage, and diverse needs. Food that is good in every way is the GFCLA's central organizing tenet. It is food that provides nutrients for healthy, active lives and enables children to learn better and to play. It fits cultural and religious beliefs, is grown in a way that treats producers with respect and provides them with a livable wage, and supports local businesses. It nourishes not only human bodies but the planet—so that soil and water can provide the nutrients needed to grow food in the future.

Community Food Assessment

In 2008, a Community Food Assessment (CFA) began in Lewiston.⁴ A CFA is a collaborative process that examines food and agriculture issues and assets within a community or region. Key to the effort was grounding the work through citywide charrettes, community-action research, and small planning sessions called "good food gatherings." The idea was to uncover mutual-gain scenarios—ways in which the entire community could benefit from food-related interventions—using existing resources. As the initiative transitioned

from research to planning to implementation, the assessment work expanded to include Auburn, and the council model was adopted.

The GFCLA released the completed CFA in December 2013 at a well-attended community forum.⁵ It focused on access to healthful food, particularly among populations with limited income.⁶ The CFA and concurrent research highlighted the following:

- healthful food costs on average 40 percent more in downtown neighborhoods than in Lewiston's outskirts, and up to half of households lack access to a vehicle;
- 79 percent and 98 percent of students in Lewiston's downtown elementary schools are eligible for free or subsidized lunch, respectively;
- the percentage of the Lewiston population using the Supplemental Nutrition Assistance Program (SNAP) was 36 percent in 2012—nearly twice Maine's average of 18.5 percent;
- of 64 stores selling food in Lewiston, only seven had at least six types of food identified as healthy;⁷ and
- 72 percent of Lewiston's African immigrants face barriers accessing culturally appropriate, nutritious food.⁸
- Armed with this information and the outcomes of community meetings, the GFCLA began its work.

Community Impact

Much of GFCLA's first two years was spent on internal process, priority setting, and councilor education. But now that many members of the Lewiston-Auburn community recognize the value that agriculture and food play in creating a vibrant, economically viable community, the insights are beginning to have ripple effects:



Gardening together in Maine.

- **Economic Development** – Grow L+A, a nonprofit, seeks to rehabilitate the 345,000-square-foot Bates Mill 5. The 1914 Albert Kahn–designed former textile mill sits along the Androscoggin River in the middle of Lewiston-Auburn's downtown. Its rehabilitation could support a revitalized regional food system, improve downtown viability, create jobs, and strengthen local businesses.



One way St. Mary's Nutrition Center promotes community health is through a year-round farmers market.

The aim is to include a vertically integrated food chain within the facility and to investigate the potential of a local food aggregator. Grow L+A used the CFA to attract grants to fund the research and to conduct a feasibility study.⁹

- **Transportation Planning** – The Androscoggin Valley Council of Governments (AVCOG) is tasked with routinely evaluating the twin city bus routes. The CFA painted a fuller picture of the experience of someone living without a vehicle, including a description of one resident's two-hour round trip to the grocery store. Given that existing bus routes had limited evening and no weekend service hours, expanding the bus routes was identified as critical. Funds were allocated to expand routes and create limited Saturday services. Today the routes are among those with the highest ridership. AVCOG has requested additional input and recommendations from the council to inform its next transit review.
- **Public Health** – Healthy Androscoggin (HA), part of the statewide Healthy Maine Partnership network, is an important public-health advocate.¹⁰ The GFCLA and the CFA provided a framework and direction for HA's food-related policy, systems, and environmental-change work. HA has used the CFA data in grant proposals, including a Community Transformation Grant and a recent Farm-to-School Grant. The council has helped HA identify community partners, clearly define organizational roles, and reduce service duplication.
- **Research** –The work of the council has enabled student and professional research at Bates College, the University of Southern Maine, and the Muskie School of Public Service. Currently a project led by Bates students is assessing the local farm-to-institution landscape and developing a deeper understanding of existing opportunities and challenges to increasing institutional purchase of local foods. This research could be coupled with similar research in other parts of Maine and begin to form a body of knowledge that would support state-level policy initiatives.¹¹

- **Priority Setting** – Organizations have used the council to help connect the dots between concurrent yet disparate efforts, thus enabling partners and community leaders to tackle the issues that they are best equipped to address. For instance, early findings of the CFA highlighted the limited access to and high cost of fresh produce in downtown neighborhoods. As a result, St. Mary's Nutrition Center worked to strengthen the local farmers' market and developed complementary programs to support low-income customers. Through this effort, the number of market vendors grew fourfold and both a winter market and a farmers' market incentive program for SNAP- and WIC-eligible consumers were established.



photo Cultivating Community, Portland, Maine

- **Broader Impact** – The GFCLA is a leader in a new movement in Maine. Individuals on the council have been instrumental in building the Maine Network of Community Food Councils. In addition, the council has two representatives on the steering committee of the statewide Maine Food Strategy, an initiative that looks to local councils for data and information to develop clear goals and to become implementation partners down the road.¹²

But the impact of the GFCLA is perhaps more powerfully about individuals and relationships. One council member notes that, as a father, he has gained the knowledge and vocabulary to be able to explain to his children where food comes from and what makes a healthy food system. As a local certified public accountant who has farmers and producers as clients, he is able to bring awareness to his clients about the issue of food insecurity and the potential for expanding into new markets.

The GFCLA is just beginning to hit its stride. The needs are monumental and require systemic change. The CFA created a data baseline, but the council still needs to develop quantitative measures of progress. To date, the council's greatest success is seen in a deeper understanding of the regional food system, the intangible forma-

tion of relationships, and the network of partners needed to make change within the community. The GFCLA is committed to supporting the greater Lewiston-Auburn community's development of a thriving food system that supports healthy people, vibrant neighborhoods, and a strong local economy.

Daniel Wallace is a program developer at Coastal Enterprises Inc. and a counselor on the Good Food Council of Lewiston-Auburn. **Julia Harper** is Good Food Council coordinator. **Deborah M. Burd** is grants manager at St. Mary's Health System in Lewiston, Maine. Contact them at goodfood4la@gmail.com.

Endnotes

- ¹ The USDA Economic Research Service describes *food security* as access by all people at all times to enough food for an active, healthy life. With *food insecurity*, consistent access to food is limited by lack of money or other resources. A *food system* is defined as all the processes and infrastructure needed to get food from the field or ocean to consumers. It includes production, processing, wholesale and retail distribution, waste management, and support systems such as transportation, education, city and town governments, and emergency food providers.
- ² See Kirsten Walter, "Somalis in Maine: Collaborating on Gardens and Nutrition," *Communities & Banking* 22, no. 1 (winter 2011), https://www.bostonfed.org/commdev/c&b/2011/winter/Walter_Somali_garden_Lewiston.pdf.
- ³ For interactive demographics on Lewiston, see the Boston Fed's New England City Data tool, <http://www.bostonfed.org/commdev/data-resources/city-data/index.htm>.
- ⁴ Kirsten Walter, "Local Food for Lewiston: Exploring the Role of Food Assessment as Part of Broader Work in Community-Engaged Food Systems," *Maine Policy Review* 20, no 1 (winter-spring 2011), <http://digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1041&context=mpr>.
- ⁵ See <http://goodfood4la.org/resources/community-food-assessment/>.
- ⁶ Access is defined here as the availability, affordability, and appropriateness of healthful food options.
- ⁷ The data—high poverty, low vehicle access, very few stores with healthy options—suggest that the population is likely to have poor health outcomes. In fact, 31 percent of adults in the area are obese. As other studies have shown, the connection between poverty and obesity often reveals itself in the food environment. Low-income individuals rely on cheaper, calorie-dense foods, often highly processed and less nutritious, rather than more expensive and less accessible healthier foods.
- ⁸ Research conducted with the Muskie School of Public Service.
- ⁹ A grant came through the Local Food Promotion Program, which offers funds with a 25 percent match to develop and expand local and regional food enterprises to increase consumption of, and access to, locally and regionally produced agricultural products and to develop new local market opportunities for farms and ranches.
- ¹⁰ A collaborative effort of the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Maine Office of Substance Abuse, and the Maine Department of Education.
- ¹¹ See "Bates Contemplates Food," <http://www.bates.edu/food>.
- ¹² See <http://mainefoodstrategy.org/>.

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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

RESOLVE 09-10032016

WHEREAS, the Auburn City Council recognizes the many roles good food plays in the lives of our family and community, the importance of agriculture in providing good local food, and in recognition that World Food Day will be on Sunday, October 16th.

RESOLVED, that The Auburn City Council hereby supports the Lewiston-Auburn Community Food Charter.



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: October 03, 2016

Author: Alison F. Pepin, License Specialist

Subject: Automobile Graveyard/Junkyard Permit renewals

Information: This is an annual renewal of currently existing Automobile Graveyard/Junkyards in Auburn. Reminder letters and applications were sent out 07/21/2016. Inspections have been made. Council approval is required for renewal of these licenses. Because the 5 listed below are renewals, they *do not* require a public hearing. All have passed inspections conducted by the Code and Fire Departments, therefore have been placed on the Consent Agenda for approval as they are considered routine. ***We do have one existing Auto Graveyard/Junkyard that has changed ownership (Ty Auto, 249 Merrow Road, previously Buck's Auto, same address). Although the type of business is the same, because it is under new ownership, a public hearing will be held on October 17, 2016 with Council Action to follow.***

Title 30-A, Sec. 3754 states "*Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities*".

Randy's Auto Parts, Inc., 899 Broad Street

M & P Auto, Inc., 227 Merrow Road

Don's No Preference Towing of L/A, Inc., dba Morris Auto Parts, 940 Washington St. North

Prolerized New England Company, LLC., 522 Washington St. North

Isadore T. Miller, 79 & 80 Hotel Road

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

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

City Budgetary Impacts: N/A

Staff Recommended Action: Staff recommends the City Council approve renewal applications.

Previous Meetings and History: Annual Renewal

Attachments:

1. Automobile Graveyard/Junkyard applications
2. Inspection Memo – Eric Cousens (Economic and Community Development)
3. Inspection Memo – David O'Connell (Fire Department)
4. 30-A §3753, 30-A §3754, 30-A §3756
5. Orders 65-10032016, 66-10032016, 67-10032016, 68-10032016, and 69-10032016



City of Auburn, Maine

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

To: Mayor and City Council

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

Re: Development 2016 Junkyard License Inspections

Date: September 23, 2016

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

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

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

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

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

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

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

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

AUBURN FIRE DEPARTMENT

Office of Fire Prevention



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

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

To: Mayor and City Council

From: David O'Connell, Fire Prevention Officer

Re: 2016 Junkyard License Inspections

Date: September 22, 2016

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

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

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

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

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

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

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

Sincerely,

David O'Connell
Fire Prevention Officer

Date received: 07/28/16
Public Hearing: _____
Date approved: _____



Police-DK 7/29 Exp-9/30/2016
Fire-
Tax-DK 7/28/16
Code-DK 9/23/16

CITY OF AUBURN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

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

I/We RANDY'S AUTO PARTS INC. hereby
Make application for a permit to establish, operate or maintain an Automobile Graveyard and/or
Junkyard at the following described location and in accordance with the provisions of Title 30-A
MRSA Sections 3751-3760.

Answer all questions in full.

- Where is the location of the Automobile Graveyard and/or Junkyard?
899 BROAD STREET AUBURN, ME 04210
P. ID. 182-001
- Is this application made by or for a company (partnership), corporation or individual:
ERNEST & RONALD LEVASSEUR
- Is this property leased? No Property owned by: ERNEST & RONALD LEVASSEUR
Address: 899 BROAD STREET AUBURN, ME
- How is "yard" screened?
☐ Fence (type) Wood Height: 6' 8"
☐ Trees (type) FIR
☐ Embankment: _____
☐ Gully: _____
☐ Hill: _____
☐ Other: _____
- How far is edge of "yard" from center of highway?
300 FT
- Can junk be seen from any part of highway? Yes _____ No ☒
- Were Junkyard Law, Requirements and Fees explained to you? Yes ☒ No _____
- Is any portion of this "yard" on public property? Yes _____ No ☒
- Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach, School, Church or Cemetery? Yes _____ No ☒

10. When was "yard" established? 1980 By whom? TWINTOWN RENDERING
11. When was last permit issued? 2015 By whom? RANDY'S AUTO PARTS INC.

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

Signed by Ronald L. Rousseau for: RANDY'S AUTO PARTS INC.
Name of Company, Corporation, Partnership or Individual

Address: P.O. Box 1243 AUBURN ME 04211
899 BROAD ST. (782-9589)

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

Tax Map No. 182
Lot No. 001
Zone _____

Check correct direction:

- ☐ North
☐ East
☐ West
☐ South

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

BROAD STREET

Road Name

or

Route No.

To

To

TREES
XXXXXX
200 FT. FENCE

TREES
XXXXXX
8' FENCE

50 X 80
Buildin

300'
ENTRANCE
INTO THE
YARD

8' FENCE
XXXXXX
TREES

12 X 12
Buildin

FENCE

Date received: 8/3/2016
Public Hearing: _____
Date approved: _____



Police - OK 8/13
Fire - OK 9/22
Code - OK 9/23
Tax - OK 8/14

CITY OF AUBURN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

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

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

Answer all questions in full.

- Where is the location of the Automobile Graveyard and/or Junkyard?
227 Merrow Rd, Auburn, ME 04210
- Is this application made by or for a company, partnership, corporation or individual:

- Is this property leased? No Property owned by: Albert Bazinet Jr.
Address: 81 Dawes Ave, Auburn
- How is "yard" screened?
☐ Fence (type) ✓ Height: 8'
☐ Trees (type) _____
☐ Embankment: _____
☐ Gully: _____
☐ Hill: _____
☐ Other: _____
- How far is edge of "yard" from center of highway?
400 ft.
- Can junk be seen from any part of highway? Yes _____ No ✓
- Were Junkyard Law, Requirements and Fees explained to you? Yes ✓ No _____
- Is any portion of this "yard" on public property? Yes _____ No ✓
- Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach,
School, Church or Cemetery? Yes _____ No ✓

10. When was "yard" established? 1978 By whom? Albert Baznet Jr
11. When was last permit issued? 2015 By whom? MTP Auto Inc

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

Signed by: Claudette Baznet for: MTP Auto Inc
Address: 227 Merrow Rd Auburn, ME 04210
Name of Company, Corporation, Partnership or Individual

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

Tax Map No. 186
Lot No. 013
Zone _____

Check correct direction:

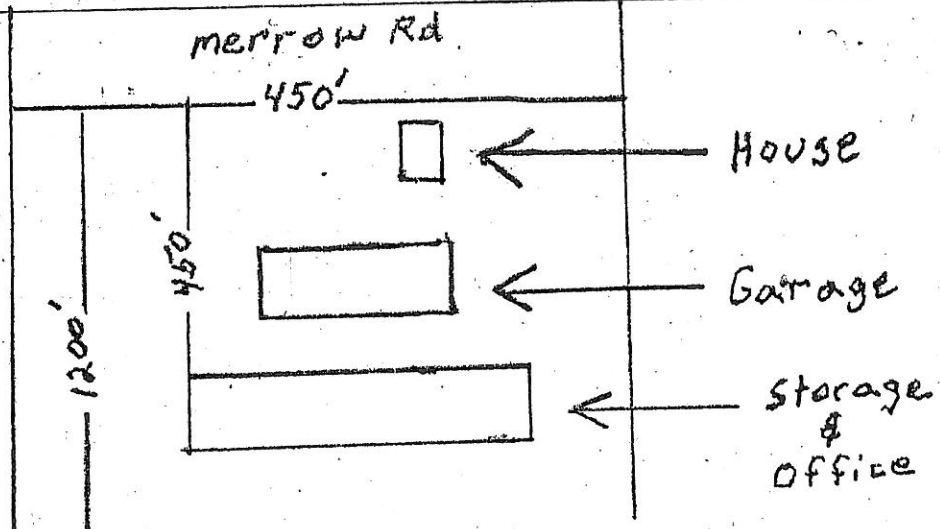
- ☐ North
- ☐ East
- ☐ West
- ☐ South

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

Road Name
or
Route No. To Miner Ave

Hotel Rd. To . . .

m+p
Sign



Date received: 7/26/2016

Public Hearing: _____

Date approved: _____



Police - OK 07/29
Fire - OK 09/22
Tax - ~~OK 09/22~~ PAID
Code - OK 9/23

CITY OF AUBURN
AUTOMOBILE ~~GRAVEYARD/JUNKYARD~~ PERMIT
APPLICATION

Auto Salvage Yard

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

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

Answer all questions in full.

1. Where is the location of the Automobile Graveyard and/or Junkyard?

1938 Auto Salvage Yard
940 Washington St. No
Auburn ME

2. Is this application made by or for a company, partnership, corporation or individual:

Dana DRS Bermain Individual

3. Is this property leased?

Property owned by: Dana DRS Bermain
Address: 940 Washington St No Auburn ME

4. How is "yard" screened?

☒ Fence (type) Wood Height: 8' Tall
☐ Trees (type) _____
☐ Embankment: _____
☐ Gully: _____
☐ Hill: _____
☐ Other: _____

5. How far is edge of "yard" from center of highway?

30 Feet

6. Can junk be seen from any part of highway? Yes _____ No X

7. Were Junkyard Law, Requirements and Fees explained to you? Yes X No _____

8. Is any portion of this "yard" on public property? Yes _____ No X

9. Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach,
School, Church or Cemetery? Yes _____ No X

10. When was "yard" established? 1938 By whom? MORRIS BAKER
11. When was last permit issued? 1996 By whom? Don Stelman

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

Signed by: [Signature] for: Longwood Refining Co./LLC/DBA MORRIS
Name of Company, Corporation, Partnership or Individual WYO
Address: _____

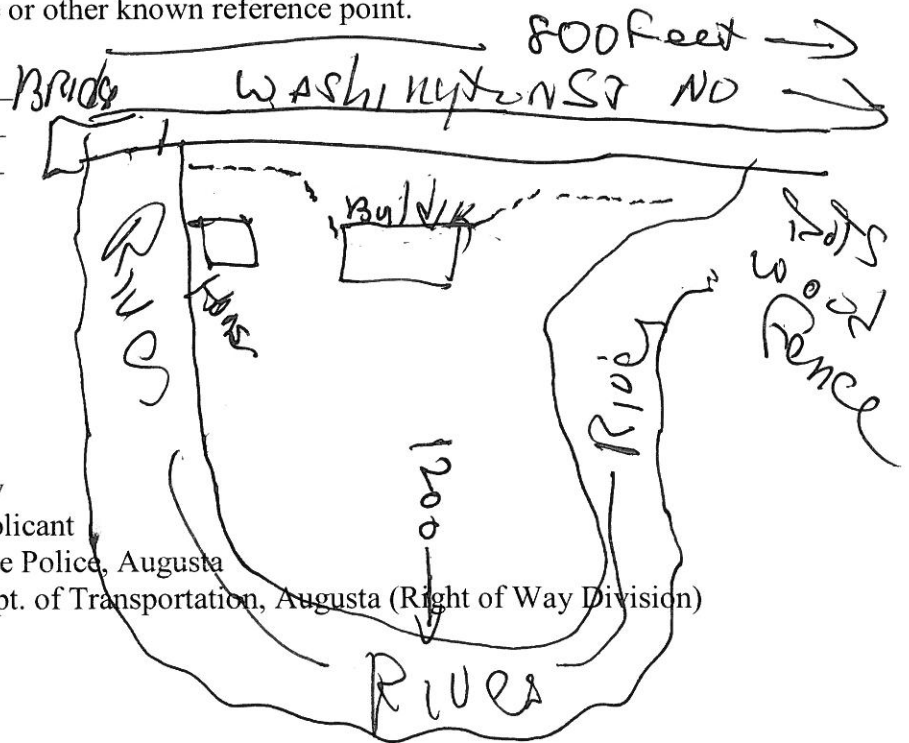
Make complete sketch of "yard". Show footage of all sides and location in relationship to adjacent properties. Show distance (in feet) from edge of "yard" to center of highway. Fill in Route Number or Local Road Name. Name of nearest City/Town in each direction. Distance from nearest intersection, bridge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

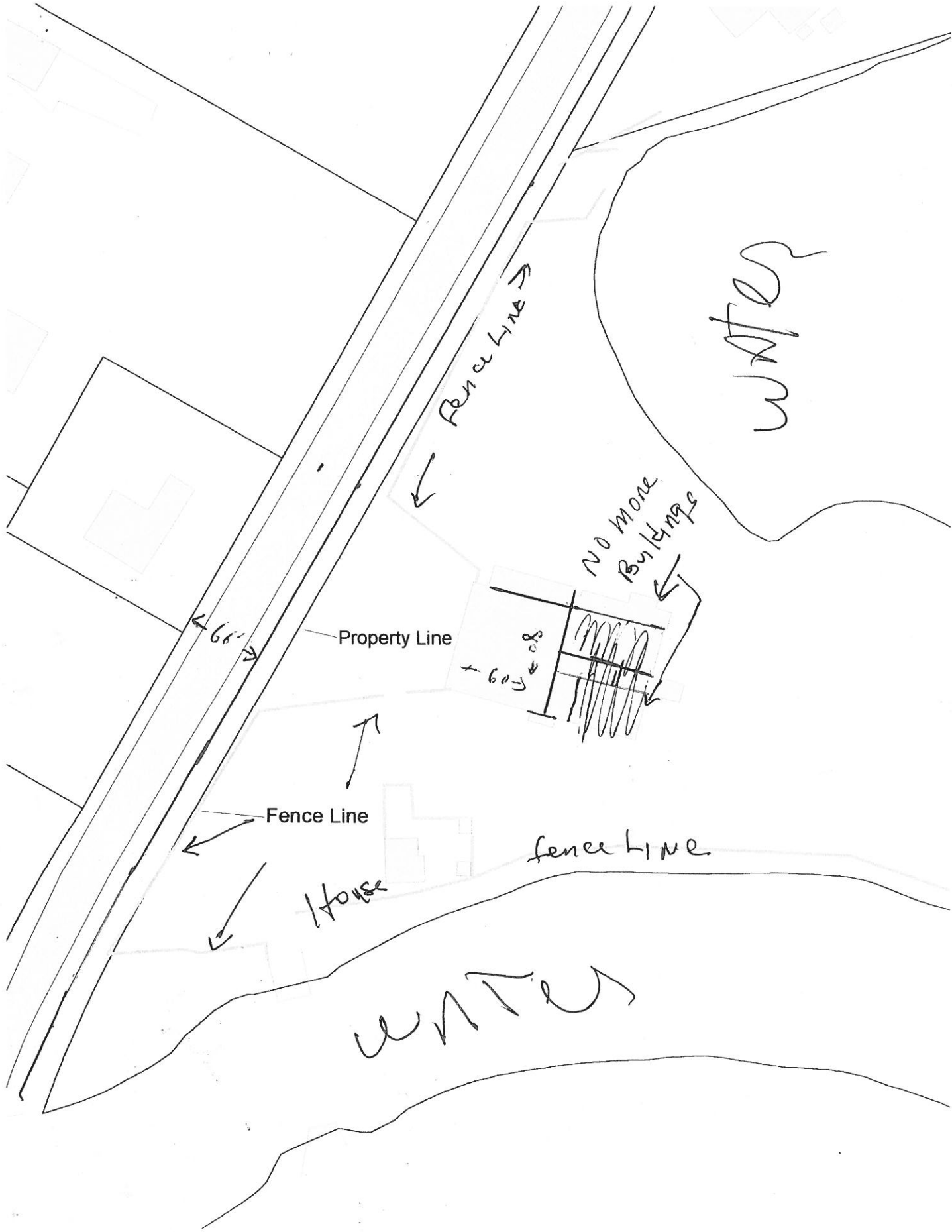
Tax Map No. 170
Lot No. 020
Zone _____

Check correct direction:

- ☒ North
☐ East
☐ West
☐ South

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





House

Fence Line

Property Line

fence line

No more
Building

water

water

Received: 8/31/16
Public Hearing: _____
Date approved: _____



Poli u-OK 8/31
Fire-OK 09/22
Tax-OK 8/31
Code-9/23

CITY OF AUBURN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

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

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

Answer all questions in full.

- Where is the location of the Automobile Graveyard and/or Junkyard?
522 WASHINGTON ST. NORTH
- Is this application made by or for a company, partnership, corporation or individual:

- Is this property leased? NO Property owned by: PROLIERIZED NEW ENGLAND CO LLC
Address: 69 ROVER ST., EVERETT, MA 02149
- How is "yard" screened?
☒ Fence (type) METAL Height: 8'
☒ Trees (type) MIX
☐ Embankment: _____
☐ Gully: _____
☐ Hill: _____
☐ Other: _____
- How far is edge of "yard" from center of highway?
150'
- Can junk be seen from any part of highway? Yes _____ No ☒
- Were Junkyard Law, Requirements and Fees explained to you? Yes ☒ No _____
- Is any portion of this "yard" on public property? Yes _____ No ☒
- Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach,
School, Church or Cemetery? Yes _____ No ☒

10. When was "yard" established? 1986 By whom? MAINE METALS RECYCLING INC.
11. When was last permit issued? 2013 By whom? PROLIERIZED NEW ENGLAND CO. LLC

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

Signed by: [Signature] for: PROLIERIZED NEW ENGLAND CO. LLC
Address: 69 ROVER ST, EVERETT, MT 02149
Name of Company, Corporation, Partnership or Individual

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

Tax Map No. 189
Lot No. 024
Zone GB9

Check correct direction:

- ☐ North
☐ East
☐ West
☐ South

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

Date received: 8/31/16
 Public Hearing: _____
 Date approved: _____



Poise - OK 8/31
 Fire - OK 9/22
 Tax - OK 8/31
 Code - OK 9/23

CITY OF AUBURN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

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

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

Answer all questions in full.

1. Where is the location of the Automobile Graveyard and/or Junkyard?

79 & 80 HOTEL RD.
AUBURN, ME

2. Is this application made by or for a company, partnership, corporation or individual:

3. Is this property leased? NO Property owned by: ISADORE T. MILLER

Address: PROVERIZED NEW ENGLAND CO, 69 ROVER ST.

EVERETT, MA 02149

4. How is "yard" screened?

- ☒ Fence (type) WOOD Height: 6
☒ Trees (type) RED PINES
☐ Embankment: _____
☐ Gully: _____
☐ Hill: _____
☐ Other: _____

5. How far is edge of "yard" from center of highway?

200'

6. Can junk be seen from any part of highway? Yes _____ No ☒

7. Were Junkyard Law, Requirements and Fees explained to you? Yes ☒ No _____

8. Is any portion of this "yard" on public property? Yes _____ No ☒

9. Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach,
 School, Church or Cemetery? Yes ☒ No _____

10. When was "yard" established? 1930 By whom? BAKER FAMILY

11. When was last permit issued? 2013 By whom? ISADORE T MILLER

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

Signed by: [Signature] for: ISADORE T. MILLER
Name of Company, Corporation, Partnership or Individual

Address: PROLIXIED NEW ENGLAND 69 RIVER ST, EVERETT, MA 02149

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

Tax Map No. 079
Lot No. 017 & 018
Zone I 3

Check correct direction:

- ☐ North
- ☐ East
- ☐ West
- ☐ South

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

Date received: _____
Public Hearing: AUG 24 2016
Date approved: _____



CITY OF AUBURN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT APPLICATION

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

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

Answer all questions in full.

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

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

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

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

Signed by: Vicke Poland for: Ty Auto, VICKI POLAND
Address: 249 MERRON Rd, AUBURN
Name of Company, Corporation, Partnership or Individual

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

Tax Map No. 186

Lot No. 012

Zone Industrial

Check correct direction:

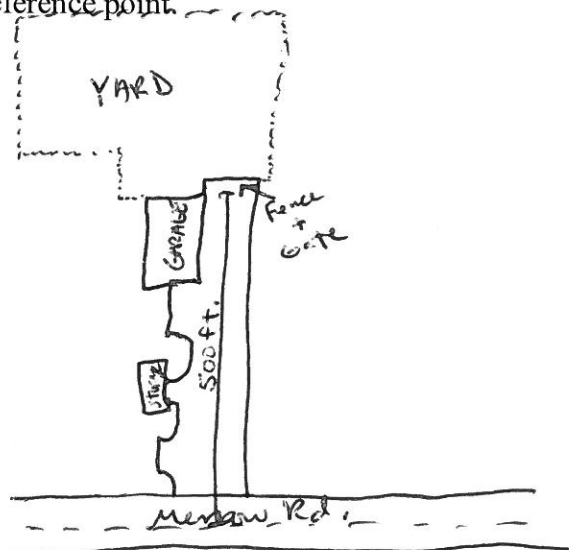
- ☐ North
- ☐ East
- ☐ West
- ☐ South

1 copy of application to City

1 copy of application to Applicant

1 copy of application to State Police, Augusta

1 Copy of application to Dept. of Transportation, Augusta (Right of Way Division)



Maine Revised Statutes
Title 30-A: MUNICIPALITIES AND COUNTIES
HEADING: PL 1987, c. 737, Pt. A, §2 (new)
Chapter 183: ECONOMIC REGULATION
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§3752. DEFINITIONS

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

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

A. "Automobile graveyard" does not include:

- (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;
- (3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- (4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;
- (5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;
- (6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;
- (7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

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

[2005, c. 424, §1 (AMD) .]

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

A. "Automobile recycling business" does not include:

- (1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
- (2) Insurance companies licensed to do business in the State;
- (3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or
- (4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business. [2003, c. 312, §4 (NEW) .]

[2003, c. 312, §4 (AMD) .]

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

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

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

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

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

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

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

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

D. [2003, c. 312, §5 (RP).]

[2003, c. 312, §5 (AMD) .]

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

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

6. Recycling or recycling operations.

[2003, c. 312, §6 (RP) .]

SECTION HISTORY

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

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Maine Revised Statutes
Title 30-A: MUNICIPALITIES AND COUNTIES
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 183: ECONOMIC REGULATION
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§3753. PERMIT REQUIRED

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

SECTION HISTORY

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

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Maine Revised Statutes

Title 30-A: MUNICIPALITIES AND COUNTIES

HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 183: ECONOMIC REGULATION

HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§3754. HEARINGS

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

SECTION HISTORY

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

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Maine Revised Statutes
Title 30-A: MUNICIPALITIES AND COUNTIES
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 183: ECONOMIC REGULATION
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

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

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

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

- (1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
- (2) Well constructed and properly maintained at a minimum height of 6 feet;
- (3) Placed outside of the highway right-of-way; and
- (4) Acceptable to the municipal officers or county commissioners; and [2003 , c. 312 , §9 (NEW) .]

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

[2003 , c. 312 , §9 (NEW) .]

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

[2003 , c. 312 , §9 (NEW) .]

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

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

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

[2003 , c. 312 , §9 (NEW) .]

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

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

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

[2005, c. 424, §3 (AMD) .]

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

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

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

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

(2) Within the 100-year floodplain; or

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

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

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

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

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

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

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

[2005, c. 683, Pt. A, §51 (AMD) .]

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

[2003, c. 312, §9 (NEW) .]

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

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

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

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

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

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

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

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

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

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

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

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

[2003, c. 312, §9 (NEW) .]

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

[2003, c. 312, §9 (NEW) .]

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

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

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

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

[2003, c. 312, §9 (NEW) .]

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

[2005, c. 424, §5 (NEW) .]

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

SECTION HISTORY

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

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 65 - 10032016

ORDERED, that the City Council hereby approves the annual renewal request for an Auto Graveyard/Junkyard permit for M & P Auto, Inc., 227 Merrow Road.

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 66 - 10032016

ORDERED, that the City Council hereby approves the annual renewal request for an Auto Graveyard/Junkyard permit for Randy's Auto Parts, Inc., 899 Broad Street.

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 67 - 10032016

ORDERED, that the City Council hereby approves the annual renewal request for an Auto Graveyard/Junkyard permit for Prolerized New England Company, LLC., 522 Washington St. North.

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 68 - 10032016

ORDERED, that the City Council hereby approves the annual renewal request for an Auto Graveyard/Junkyard permit for Isadore T. Miller, 79 & 80 Hotel Road.

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDER 69 - 10032016

ORDERED, that the City Council hereby approves the annual renewal request for an Auto Graveyard/Junkyard permit for Don's No Preference Towing of L/A, Inc., dba Morris Auto Parts, 940 Washington St. North.

IN COUNCIL REGULAR MEETING SEPTEMBER 19, 2016 VOL. 34 PAGE 279

Mayor LaBonté called the meeting to order at 7:10 P.M. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag. All Councilors were present.

I. Consent Items - None

II. Minutes

- September 12, 2016 Regular Council Meeting

Motion was made by Councilor Stone and seconded by Councilor Walker to accept the minutes of the September 12, 2016 Regular Council Meeting as presented.

Passage 7-0.

III. Communications, Presentations and Recognitions

- Auburn Book Project Winner
Cooper Dunn, winner of the Auburn Book Project for a book he wrote and illustrated called "Danger Off the Coast" was presented with a Key to the City by Mayor LaBonté. There will be a sale and book signing at the Auburn Public Library at 11:00 A.M. on Saturday, October 29, 2016.
- Assessing and Abatement Presentation – Karen Scammon, City Assessor

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*.

Larry Pelletier, 129 Second Street voiced his concerns about the Parks Department no longer existing. He said in his opinion, he feels that we need that department back in full swing in order to better maintain our park areas.

Dan Herrick, 470 Hatch Road commented that recently he worked on a large project on Riverside Drive. When he started the project, he had to pull permits. He said that he called Karen Scammon who worked with him adding that she did an exceptional, professional job.

V. Unfinished Business

1. Ordinance 07-09122016

Amending the Colonial Ridge Planned Unit Development (PUD) zoning map from Industrial District to Suburban Residential. Second reading.

Motion was made by Councilor Titus and seconded by Councilor Walker for passage of Ordinance 07-09122016.

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

VI. New Business

2. Order 62-09192016

Appointing Board and Committee members as nominated by the Appointment Committee.

Council may enter into executive session pursuant to 1 M.R.S.A. §405(6)(A).

Motion was made by Councilor Burns and seconded by Councilor Walker for passage of Order 62-09192016.

Motion was made by Councilor Pross and seconded by Councilor Stone to postpone the Parks and Recreation Advisory Board appointments until the 10/3/2016 Council meeting.

Motion failed – 3-4 (Councilors Young, Titus, Walker, and Burns opposed).

Motion was made by Councilor Titus and seconded by Councilor Stone to enter into executive session pursuant to 1 M.R.S.A. §405(6)(A).

Motion failed for lack of a 3/5 vote, 4-3 (Councilors Pross, Young, and Gilbert were opposed).

Passage of main motion 5-2 (Councilors Stone and Titus opposed).

Public comment – Dana Staples asked why only 6 appointments to the Parks & Recreation Advisory Board were made if there are 7 vacancies and there were more applications that were submitted. Councilor Burns, Chair of the Appointment Committee stated that the Ordinance only allows 2 representatives from each Ward and many of the applicants were from the same Ward.

VII. Executive Session

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

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

Passage 7-0. Time in 7:55 PM.

The Mayor declared Council out of executive session at 8:20 PM.

VIII. Reports

- A. Mayor's Report** – the Mayor reported on the City Manager search. On 9/26/16 at 5:30 PM there will be a Council Workshop where they will go into executive session to review the applications. There were 40 applicants. The Office of Tourism hired a new marketing firm out of New York to do State promotions. They will be in town mid week next week to take photos featuring the River and river based recreation. The photos will be used as part of the ad that is being used to promote the State. He also wanted to thank staff, the United New Auburn

Association, Androscoggin Land Trust, Rolly's Diner, Shaker Hill Outdoors, Councilor Walker who was involved in putting together and attended Auburn River Day event.

B. City Councilors' Reports

Councilor Stone – reported on the Audit Committee meeting. The Committee met with auditors Runyon, Kirsteen, and Ouellette. There were no significant audit findings and everything is in order. The audit is ongoing. The auditors will be back in November. He also reported on the progress of the Park Avenue project.

Councilor Gilbert – reported on the public meeting on the proposed Senior Center.

Councilors Titus, Young, Walker, Burns, and Pross had nothing to report at this time.

C. City Manager Report – reported that the Good Food Council is looking for support from the cities of Lewiston and Auburn to adopt and support the Good Food Charter, a policy statement that promotes healthy food.

D. Finance Director, Jill Eastman – July 2016 and August 2016 Monthly Finance Report

Motion was made by Councilor Titus and seconded by Councilor Burns to accept and place on file the July 2016 and August 2016 Monthly Finance Reports.

Passage 7-0.

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*.

Michael Chammings, Director of Economic and Community Development wanted to thank the Assessing and Clerks staff for helping to prepare documents needed .

X. Adjournment - Motion was made by Councilor Walker and seconded by Councilor Burns to adjourn. All were in favor, the meeting adjourned at 8:39 PM.

A True Copy.

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



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: 10/03/2016

Ordinance 08-10032016

Author: Dorothy Meagher

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

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

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

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

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

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

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

Previous Meetings and History: This is a yearly approval needed by council when any changes are done to the appendices. This item was presented to the Council at the 9/19/2016 workshop.

Attachments:

Appendix A, Overall Maximums

Appendix C, Rental Maximums

Adoption form for 16-17

Ordinance 08-10032016

GA Overall Maximums Appendix A

Metropolitan Areas

Persons in Household

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

Non-Metropolitan FMR Areas**Rental****Appendix C**

<u>Waldo County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	116	497	138	592
1	127	547	156	671
2	149	639	184	793
3	211	908	255	1,096
4	215	926	269	1,155
<u>Washington County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	98	420	121	521
1	102	439	131	563
2	120	515	156	669
3	157	674	200	862
4	191	819	244	1,048

Metropolitan FMR Areas

<u>Bangor HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	125	539	149	640
1	135	583	164	707
2	173	744	209	898
3	219	944	263	1,132
4	255	1,097	308	1,326
<u>Penobscot Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	101	432	124	533
1	111	479	140	603
2	139	599	175	753
3	186	799	230	987
4	213	914	266	1,143
<u>Lewiston/Auburn MSA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	96	411	119	512
1	112	484	141	608
2	144	618	180	772
3	187	803	230	991
4	210	901	263	1,130

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



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

Jonathan P. LaBonte, Mayor

IN CITY COUNCIL

ORDINANCE 08-10032016

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

Appendix A – GA Overall Maximums

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

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

Appendix C

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

Rental

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



**City of Auburn
City Council Information Sheet**

Council Workshop or Meeting Date: October 3, 2016

Resolve: 10-10032016

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

Subject: Request to initiate consideration of a Zoning Ordinance Amendment for Light Industrial uses.

Information: There have been a couple requests over the past few years to open small machine shops in Auburn. In 2013 and again recently there has been an inquiry regarding the possibility of a machine shop in the General Business (GB) zoning district. Attached is a recommendation that we consider amending the ordinance to allow additional flexibility for this use. The request before the Council is to initiate the process to consider an ordinance amendment. If the Council initiates the process then staff and the Planning Board will vet the draft through a public process, possibly make changes and then make recommendations to the Council with the benefit of input received during the process. The Council would then hold a public hearing and two public readings and decide if a change is warranted.

Advantages: Flexibility to attract new businesses to Auburn with a review process that ensures compatibility with surrounding properties and uses.

Disadvantages: None known if ordinance ensures compatibility with surrounding areas.

City Budgetary Impacts: May bring additional taxpayers to the city or help occupy existing commercial buildings.

Staff Recommended Action: Vote to initiate the process of considering this change for the current opportunity and to be prepared for any future requests. Staff also recommends that if we consider the change in the GB district that we may also consider a change in the GB II (Minot Avenue) district. The two districts generally include our main arterial corridors, the Manley and Rodman Road area and the mall area.

Previous Meetings and History: None

Attachments: Staff Memo dated September 15, 2016, draft ordinance sections showing an option for amending the ordinance to allow the referenced use.

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

RESOLVE 10-10032016

RESOLVED, that the City Council hereby supports initiating the public process to consider an amendment to Chapter 60, Zoning Definitions, General Business and General Business II Zoning Districts to modify the light industrial use group and the locations that allow the use.