



## City of Auburn, Maine

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To: Auburn Planning Board  
From: Eric J. Cousens, Planning and Permitting Director  
Re: Public Hearing Map and Text Amendment on Resolve 06-09062022/ Order 151-11072022  
Date: May 9, 2023

### **I. Proposal:**

City Council directs the Planning Board, after consultation with the Sustainability and Natural Resources Management Board to conduct a public hearing pursuant to Chapter Article XVII, Division 3 of the Zoning Ordinance and report in writing the results of the hearing and recommendations of the Planning Board pursuant to Chapter 60 Article XVII Division 4 of the zoning ordinance to the City Council no later than March 20, 2023 (procedural amendment by City Council on March 6<sup>th</sup>, 2023, extended to 4.18.2023), on whether to eliminate the income standard in the Agriculture and Resource Protection zoning district (AGRP) and the current strip zoning limitations in all areas outside the Lake Auburn watershed overlay as an ordinance amendment. This item is pursuant to Article XVII Division 2 & 3.

### **II. Planning Board Action**

The purpose of this public hearing is to hear from the community, to review the latest draft ordinance text, and to make a recommendation to the City Council on eliminating the income standard (outside Lake Auburn watershed). At the March 28, 2023, Planning Board meeting, the board recommended the following:

MOTION: Riley Bergeron makes a motion; Toni Ferraro seconds. "I'd like to make a make a motion to not recommend the elimination of the income standard without a replacement standard that maintains a connection of housing and agricultural uses of which the draft version we've seen, and we'd require one more public hearing to develop the new standard."

Evan Cyr clarifies Riley Bergeron's motion as: "Planning Board is recommending that they not remove the income standard until such time as there is a reasonable alternative and that we are telling them (City Council) we have a draft of an alternative and need an additional hearing in order to vet it publicly. Riley Bergeron accepts this clarification." VOTE: 7-0-0 Motion passes.

Since then, the City Council and Planning Board held a joint workshop on April 18, 2023, to review the draft ordinance text from the Planning Board with feedback from staff and legal counsel. The City Council and Planning Board recommended changes to the draft in preparation for this public hearing. The staff's role in this process is limited to providing a recommendation to the Planning Board and carrying forward the board's recommendation and implementing the council's decision. The draft for public hearing is attached and titled: "AGRP DISTRICT ZONING ORDINANCE TEXT AMENDMENTS Planning Board Public Hearing 5/9/2023" in the heading of the document.

Staff's recommendation to the Board remains as presented at the March 28, 2023, meeting: that the proposed changes are not approved, but that a text and/or map amendment changing the zoning to Residential in defined areas in AGRP zone outside the Lake Auburn watershed would be a good alternative to meet residential demand with fewer unintended consequences. This could be accomplished by amending the specific portions of the zoning map from AGRP to a residential zoning designation (Low-Density Rural Residential, Low-Density Country Residential, Suburban Residential, T-4.2B, etc.).

The council and the board could decide based on city-wide planning conservation and economic services valuation maps, considering, as well, the proximity to existing developed areas. The city is collecting data on existing City service costs which would be useful to consider. This option would uphold the income requirement in the remaining AGRP zone and would necessitate a Comprehensive Plan and Future Land Use Plan (FLUP) change that can be facilitated within 8-12 months. This combines a modified version of the residential strip map while maintaining the concept of growing outward from the core. It also creates significant new opportunities for housing and leaves much of the AGRP zone functions in place. Staff recommends this choice over the alternatives noted in the March 28, 2023, Staff report(attached). This recommendation could be modified based on Council housing goals, environmental constraints, economics, and public input during the next 8-12 months. An alternative connection between housing and agriculture as well as other permitted uses, not just traditional farms, could also be considered as recommended by the Comprehensive Plan.

The reasons for this recommendation are as follows:

1. Auburn has a shortage of housing that is driving prices to be unattainable for many. This market scenario has developed rapidly during the time the Comprehensive Plan update was in progress and after the updates were approved. This reality warrants some reconsideration of the City's planned growth boundaries.
2. The Comprehensive Plan divides the City into *Growth Areas, Limited Growth Areas, and Non-Growth Areas*. Most of the AGRP zone is listed as a Non-Growth Area.
3. The Comprehensive Plan recommends the following as a general growth principle for Auburn:

*This Future Land Use Plan reaffirms the basic objective of land use planning, that development in Auburn should grow out from the historic cores (downtown, Danville, New Auburn, West Auburn, and East Auburn) and from older established neighborhoods. This policy was originally set forth in the City's first comprehensive plan over a half century ago and has continued to guide the City's land use planning ever since. We continue to believe that growth out from the downtown core and older established neighborhoods provides the most efficient utilization of city services. This plan does not favor "leapfrog" development in the outlying sections of the city. This pattern is often referred to as "suburban sprawl," and is not considered desirable for Auburn. The effect of continuing this long-standing principle is to guide most new development into the area south of Lake Auburn and Taylor Pond and around potential passenger rail and turnpike exits (See Section G: Transportation Policies). Figure 2.1 identifies these areas as the City's Growth Area and Limited Growth Area; they are depicted in brown and tan colors.*

4. The Comprehensive Plan recommends the following for the AGRP zoned areas:

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

*Allowed Uses – The Agriculture District should continue to include the uses allowed in the existing AG/RP zoning district. In addition, a broader range of rural uses should be allowed. Agriculturally*

*related businesses including retail and service activities and natural resource industries should be permitted. The reuse of existing agricultural buildings should be allowed for low intensity non-agriculture related uses. Residential uses should continue to be limited to accessory residential development as part of commercial agriculture or natural resource use, not just traditional farms. The criteria for determining when an accessory residential use is permitted should be based on updated standards that consider the economic realities of today's commercial agricultural activities, including outside sources of income and part-time and small-scale commercial operations. Residential development may also be part of commercial recreational use as part of a planned development in which the recreational open space is permanently preserved.*

*Development Standards – All new development, redevelopment, and expanded uses in the Agriculture District should be required to meet “best management practices” for stormwater management and environmental protection to ensure adequate protection of natural resources. All development activities in the Agricultural District should be subject to low-impact development (LID) standards such as limiting impervious surfaces, minimizing lot disturbances, creating natural buffers, and capturing and treating runoff through filtration measures. The city should continue to encourage a very low-density development pattern as a means of protecting natural resources and preserving the rural character. The basic residential density standard for the current AG/RP zoning district should be maintained. The standards for the development of accessory residential units should provide greater flexibility in the siting of those units. In an effort to place accessory residential development in areas where it will have the least impact on natural resource and/or the agricultural value of the land, the standards should allow for a waiver or elimination of road frontage requirements and access from a private driveway. Residential development that is proposed as part of a master planned commercial recreational development should be limited to the same density standard (one unit per ten acres) as other accessory residential uses, unless necessary for economic reasons to increase the density as a project incentive. A recreational master plan should be required outlining the scope, scale, and location of residential units and ensuring a cluster development pattern in which the majority of the land is retained as recreation/open space. A conservation easement, or other legally binding preservation measure, should be required to permanently conserve the recreation/open space areas. As part of the 2021 Comprehensive Plan update, it is understood that agriculture and forestry may not be profitable in some areas of the city and the existing Agriculture and Resource Protection Zoning, in some cases, eliminates the economic use of private land. The city should create a mechanism in which private landowners can petition the city for a change of use based on the individual circumstances of their lot(s). The city also recognizes differences between Agriculture and Resource Protection, and as such it is recommended that the districts be treated separately within the zoning ordinance (Agricultural District and Conservation/Open Space District). This committee acknowledges that in practice there is overlap between Agriculture and Resource Protection, and that the conversation about how to distinguish the two should include a broad group of voices including residents, relevant City Committees (Conservation Commission, Agriculture Committee, etc.) and experts who can support the City in meeting its goal to untangle these activities.*

5. The current draft ordinance does not maintain a connection that requires housing to be an accessory to commercial agriculture or natural resource use. The current income standard is, in entirety, the connection to commercial agriculture or natural resource use. The current draft ordinance text change does not maintain this connection. There may be alternatives to consider that could change that connection as part of the elimination of the income standard being considered. The change in December 2019 from 50% household to 30% median or household income was significant and leveled the field for potential farmers of all incomes to build a home in the AGRP while keeping many of the benefits of the zoning district including lower farm business entry costs for land ownership or other access to land.

6. The decision to allow residential development throughout the current AGRP zone with ordinance and comprehensive plan amendments, should be designed to not require ten acres per lot, but still maintain an overall density of one unit per ten acres with cluster subdivision provisions. The current draft will encourage subdivisions that maximize the number of lots with 250' of street frontage. To achieve a 10-acre lot that is 250' wide, the lots may be long narrow lots often referred to as spaghetti lots. A lot that is 250' wide x 1,743' deep would be approximately ten acres. This would be unintended and undesirable. The city could consider a maximum depth to width ratio for new lots, restrictions on new public roads and limit solid waste services on those private roads to reduce new service costs associated with new housing.
7. The city has been able to make decisions about how and where to grow. Intentional decision making is desirable, impossible for most communities that were not as forward thinking as Auburn. From a textbook planning perspective, Auburn achieved an ideal situation by effectively creating an urban growth boundary like western U.S. Cities and Counties. Much of the Eastern U.S. did not do this while it was still possible. Auburn is uniquely positioned to respond to opportunities, changes, and latest information over time because of the AGRP zoning District limitations on housing. In the meantime, rural land uses such as agriculture, forestry, mining recreation and hunting are significant contributors to the economy, high quality of life and resiliency of Auburn.
8. The city is dedicating significant resources to this discussion that are unavailable for other initiatives that would create more housing opportunities with infill and expanded residential zones. The Form Based Code Districts, such as T-4.2, T-4.2B and T-5.1 districts, are providing infill housing in proximity to existing development, while following smart growth principles consistent with the City of Auburn Comprehensive Plan. Since 2020, the city has permitted approximately 70 single or two-family units, 320 multifamily units and there are 160+ approved by Planning Board, but not yet permitted for construction. Discussions are underway for over 2,000 units of varying types over the next few years. It is likely that not all of those will make it to construction but interest in creating new units in Auburn is at a long term or all time high and the infill zoning changes are effectively fueling that opportunity in a way that both provides more housing and uses less land 10-acre-minimum house lots.

If the City chooses to amend the Comprehensive Plan and zoning to allow for housing in the AGRP zoned areas as a principal use, without a connection or accessory status to farms or other permitted uses, staff strongly recommends that some additional consideration be given to the following:

1. Reducing individual required lot sizes while maintaining a low overall density through clustering requirements,
2. Limiting or prohibiting new public roads outside of growth areas,
3. Limiting other service demands on new roads outside of growth areas, such as solid waste pick up, and
4. Limiting residential subdivisions outside of growth areas.