



City of Auburn, Maine

Office of Planning & Permitting

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To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

Re: Workshop on Resolve 06-09062022/ Order 151-11072022; Sustainability and Natural Resource Management Board recommendation

Date: December 13, 2022

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, on whether to eliminate the income standard and the current strip zoning limitations in all areas outside the Lake Auburn watershed overlay as an ordinance text amendment as shown on the attached proposed text changes. The Sustainability and Natural Resource Management Board will present their recommendation. This item is pursuant to Chapter 2, Sec. 2-471 Workshop or informational meeting.

II. Planning Board Action

Hold a workshop in which the Board may or may not decide to accept public comment and hear recommendation as a presentation from the Sustainability and Natural Resource Management Board. No specific action is required for this meeting.

III. Background

The Planning Board, during the 11/15/2022 meeting, forwarded staff a list of questions to have answered to aid in holding a productive workshop. The question will discuss as part of this workshop is “Is recommending the ordinance change a reasonable thing to do given what we believe the Comprehensive Plan and the Ordinance defines as goals for the AGRP zone?”

Schedule of meetings up to this point; and tentative schedule of future meetings:

September 9, 2022—City Council passes Resolve 06-09062022.

October 11, 2022—Planning Board is introduced to Resolve 06-09062022.

November 7, 2022—City Council passes Order 151-11072022.

November 15, 2022—Planning Board holds first workshop to consider Resolve 06-09062022, and Order 151-11072022.

December 5, 2022—City Council responds to questions submitted by SNRB.

December 13, 2022—Planning Board second workshop to consider Resolve 06-09062022, and Order 151-11072022.

January 10, 2023—Tentative Planning Board workshop on Resolve 06-09062022, and Order 151-11072022.

February 14, 2022— Tentative Planning Board workshop and/ or public hearing on Resolve 06-09062022, and Order 151-11072022.

March 14, 2022—Tentative Planning Board third workshop and/ or public hearing on Resolve 06-09062022, and Order 151-11072022.

March 20, 2022—City Council meeting on set due date.

Materials in 12/13/2022 packet:

1. 12/13/2022 Staff Report
2. Sustainability and Natural Resources Board (SNRB) advisory opinion
3. City Council Order 51-11072022 (also in 11/15/2022 packet)
4. City Council Resolve 06-09062022 (also in 11/15/2022 packet)
5. City Council Proposed Text Amendment Re: New Homes in Lake Auburn Watershed (also in 11/15/2022 packet)
6. City Council Proposed Text Amendment Re: Income Requirement (also in 11/15/2022 packet)

Additional materials from 11/15/2022 packet, not included in 12/13/2022 packet:

1. 11/15/2022 Staff Report [1_AG_StaffReport.pdf \(auburnmaine.gov\)](#)
2. Future Land Use Plan, Food Access and Agriculture Economy Chapter (2021 Comprehensive Plan), Crossroads Recommendation; Ad Hoc Committee Report, 11/09/2021 Staff Report (Residential Strips), 11/15/2021 Information Sheet (Residential Strips), 11/15/2021 City Council Meeting Minutes, 1995 Comprehensive Plan Excerpt, Ordinance 16-11182019, 12/03/2021 City Council Information Sheet (Text Amendment/ Income Standard), 12/09/2022 City Council Special Meeting Minutes (Text Amendment/ Income Standard).
[\(MergedDocsForWeb.pdf \(auburnmaine.gov\)\)](#)

Available map layers:

1. Link to AGRP Map <https://arcg.is/1imbnm0>
 - a. Slopes > 25%
 - b. Prime soils and soils of statewide significance
 - c. Land cover
 - d. Beginning with Habitat conserved lands
 - e. Beginning with Habitat areas of high value
 - f. Beginning with Habitat aquifers
 - g. Lake Auburn watershed boundary
2. AGRP Development Potential Dashboard (last updated 5/24/2021) [AG Zone Development Potential Dashboard | AG Zone - Maps and Documents \(arcgis.com\)](#)

3. Map of current land use taxation program utilization <https://arcg.is/1nuLDG>

What mechanisms exist to conserve land? How permanent are each of these options?

1. **Tree Growth Special Land Use Classification**—Tree Growth tax law was enacted in 1971 by the 105th legislature and took effect beginning April 1, 1973. The purpose of the tax law was to “tax all forest land according to their productivity and to promote better forest management”. 36 M.R.S. § 576 requires that the State Tax Assessor establish the 100% valuation per acre for each forest type, hardwood, softwood and mixed wood, by economic region, for parcels classified under the Tree Growth Tax Law. The price per acre is dependent on market prices for each type of wood and commonly fluctuates year to year. (City of Auburn Assessing)
2. **Farmland Special Land Use Classification**—The Farmland Tax Law was enacted in 1971 by the 105th legislature. The purpose of this program is to protect and encourage the preservation of farmland by providing municipalities a suggested range for price per acre for different categories of farmland. The result is a lower valuation and lower taxes. Lower taxes were designed to act as an incentive to preserve the farming community. (City of Auburn Assessing)
3. **Open Space Land Use Classification**—Land must be preserved or restricted for uses providing public benefit. Ex: Unique in size in an area of extensive development, scenic vistas, use for recreation or education, land designated in a comprehensive plan or zoning ordinance, protecting wildlife habitat, permanent protection of the land, land under a conservation easement, etc. There is no minimum acreage requirement, however, any building area is excluded and must be at least the minimum lot size as determined by ordinance.
4. **Voluntary Municipal Farm Support Program**—In order to protect and support local farms, preserve farmland, and reduce tax burdens from new development, a municipality may enter a farm support arrangement with the owners of qualified farmland. [Title 7, §60-A: Program established \(maine.gov\)](#)
5. **Zoning restrictions**—Zoning is not permanent and is subject to change. The AGRP zone which has been in place for nearly 60 years has served a conservation function by limiting new residences to be accessory to farming only.
6. **Conservation Easements**—Conservation Easements are the most permanent mechanism to restrict development in a deed intended to benefit the public by assuring its availability for agriculture, forest, recreational, or open space use; protecting natural resources; or maintaining or enhancing air or water quality.
7. **Existing geological features**—These may present a barrier to development. These barriers include slopes greater than 20% grade, wetlands of special significance, proximity to public water source, etc.

IV. Planning Board Questions from November 15, 2022

1. **How many lots would become developable if the income standard were eliminated?**

Assuming no new roads are created, approximately 193 lots would become developable. These lots are either currently vacant and at least 10 acres, occupied, and over 20 acres, or vacant and 3-10 acres. These lots hold the potential for 575 new dwellings [AG Zone Development Potential Dashboard | AG Zone - Maps and Documents \(arcgis.com\)](#). These numbers do not account for subtracting the total possible lots and new dwellings that the area inside the Lake Auburn watershed.

*Amended to correct numerical error (12/19/2022).

2. In what locations do nonconforming lots exist at the highest densities?

Please see the story map [AGRP Zoning Considerations \(arcgis.com\)](#) a map depicting the locations of these parcels.

3. How does the state, and other similarly sized municipalities define agriculture? Conservation? Forestry?

Cropland— “Cropland” means acreage within a farm unit of land in tillage rotation, open land formerly cropped and land in bush fruits (Title 36, section 1102, subsection 3).

Farmland— “Farmland” means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3, of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved either by the owner or lessee of the land (Title 36, section 1102, subsection 4).

Agricultural Products— “Agricultural Products” means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees’ products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses, and other similar products, or any other plant, animal, or plant or animal product that supplies humans with food, feed, fiber, or fur. “Agricultural products” does not include trees grown and harvested for forest products (Title 7, section 152, subsection 2).

Farm— “Farm” means the land, plants, animals, buildings, structures, ponds, and machinery used in the commercial production of agricultural products (Title 7, section 152, subsection 5).

Community conservation project (Land for Maine’s Future)— “Community conservation project” means a conservation project of local or regional significance that promotes one or more of the following: public outdoor recreational access to land and waters, including for underserved populations; public health; connection between conserved lands and

population centers; local or regional agriculture; conservation of cultural and historical resources on undeveloped lands; protection of lakes, rivers or streams; conservation of fish or wildlife habitat; protection of public drinking water supplies; conservation of community forest; local economic development; opportunities or environmental learning; nonmotorized transportation options; or other priorities as determined by the board (Title 5, section 6201, subsection 1-B).

Timber harvesting— “Timber harvesting” means the cutting or removal of trees or forest products that when cut or removed are transported to a roundwood processing operation, as defined in section 8881, subsection 10. “Timber harvesting” does not include reclaiming trees, logs, or bark from timber harvesting or other operations, including but not limited to retrieving submerged timbers from log drives or bark from bark piles (Title 12, section 8868, subsection 4).

4. How many farms in Auburn earn at least \$15,000/ year through agricultural activities/ How many farms in Auburn receive state and federal funds for this purpose?

There is not a clear list of farms who meet the mark of over \$15,000/ year. The best quantifiable benchmark we have is the list of parcels who are in a land conservation tax program (map above), or farms who are receiving state funding.

5. Is \$15,000/ year a reasonable threshold for farmers to earn?

\$15,000 earned per year is about what the income standard would amount to as a number. This number comes from the standard that to have a residence in the AGRP zone, the household must gross 30% of Auburn’s median income based on the latest census numbers. A few considerations to answer this question have been made overtime to answer this question by this board and past boards. Some believe in the absence of a systematic method to classify farmland; the income standard is an appropriate regulation. Others believe that this number may be too high and/ or muddles the purpose of the AGRP zone and hope to find a replacement. The Income standard has held over the past approximately 60 years because a suitable alternative has not yet been identified.

V. Staff Suggestion:

Following the recommendations of the SNRB, the board may create a mechanism to chronicle the attributes of the land with reference to its potential agricultural or conservation value. Below, we include an example of what this valuation system, and a map depicting these values (conservation and development priorities), might look like. Some of these valued attributes might include Beginning with Habitat areas of significance, unfragmented pieces of land, prime soils and soils of statewide significance, land cover, existing density, proximity to city services, land to reserve for future planned use, etc. The purpose of valuing these qualities and exhibiting them on a map would be to

determine, under the stated purposes of the AGRP zone, whether portions of the AGRP zone should remain as such or become residential. Two guiding questions the planning board could consider in this order are 1. Whether they should eliminate the income standard as proposed; and, contingent on the first decision, 2. What should be the alternative to the income standard if there is one.

Suggested Valuation Matrix for AG/RP					
Conservation	Points	Environmental	Points	Economic/Services	Points
Existing Farming		Slope		Transportation	
Open Space		Wetlands		Emergency Response Times	
Recreation		AG Soils		City Services	
Forestry		Aquifers		Utilities	
Cemetery		Significant Habitat		Plow route priority	
Conservation Easements		Floodplain		Existing Residences	
Tax Use Programs		Shoreland Zoning		Existing Business	
Land fills		Streams		Reclamation	
Gravel Mining		Vernal Pools		Proximity to Village Core	
Sum		Sum		Sum	
High	5	High	5	High	5
Medium	3	Medium	3	Medium	3
Low	1	Low	1	Low	1

Figure 1, above, is an example land valuation matrix which considers environmental and conservation qualities of value in AGRP land, as well as economic and public services factors which could provide reason for extending residential uses in portions of the zone; Figure 2, below, shows how these values may present on a map.

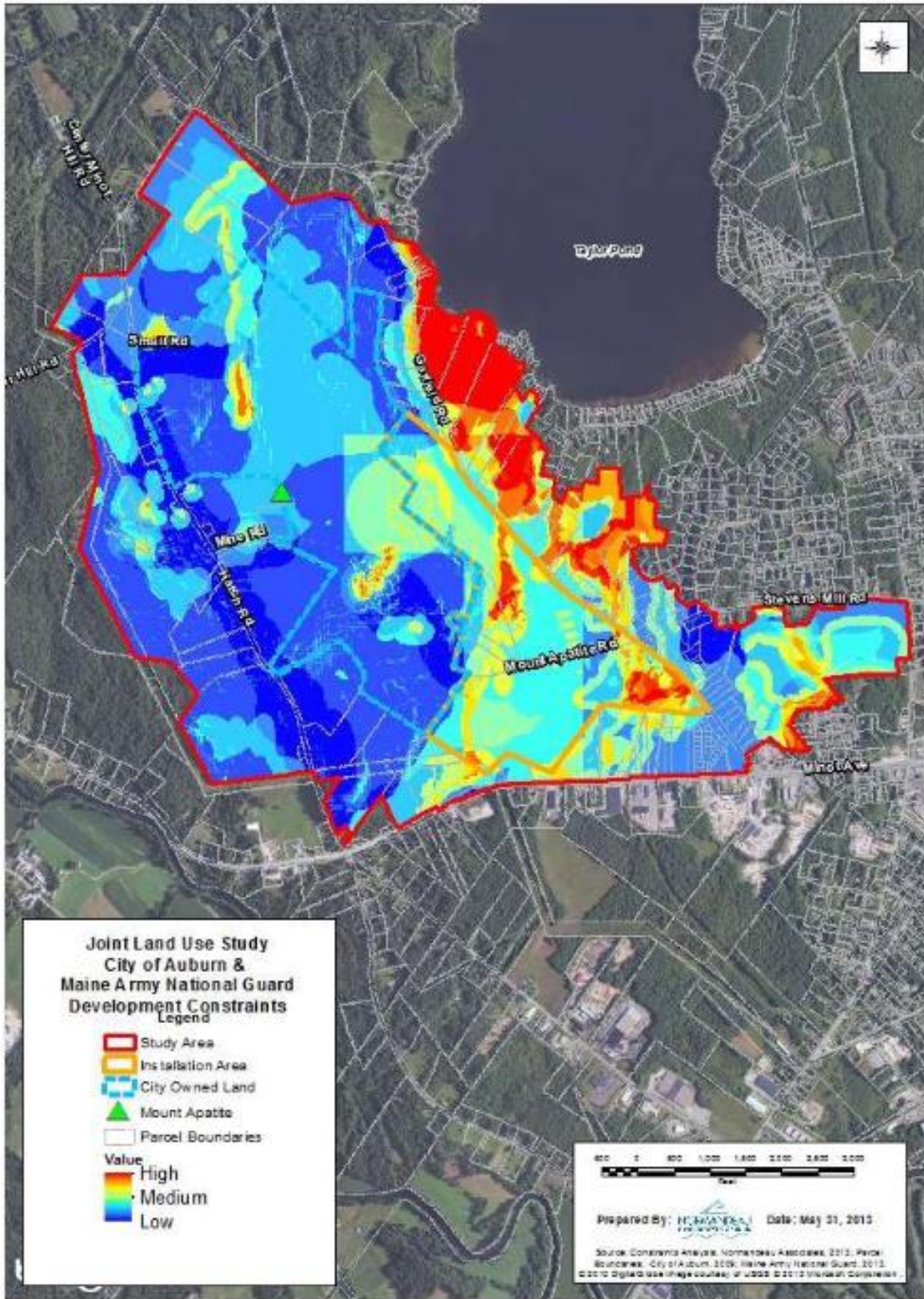


Figure 3.10 Development Constraints