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REGISTERED PATENT ATTORNEY  
NOT ADMITTED IN MAINE

HARRIS M. ISAACSON  
(1897-1983)

August 8, 1984

Roland Miller  
Planning Director  
City of Auburn  
City Hall  
Spring Street  
Auburn, Maine  
04210

Handwritten signature and initials, possibly 'M. Auslander', with the number '48' written above it.

Re: Ag Zone

Dear Roland:

I am enclosing a copy of a proposed zoning amendment which would permit single family residences as uses in the Ag Zone but which would prohibit the creation of a subdivision in the Ag Zone, using the definition of "subdivision" in the State Subdivision Law.

My purpose in developing this as an alternative is 1) it seems to me that all parties to the debate on the subject agree that the most draconian effects of the existing Ag Zone should be cured; 2) the cure should not encourage the scope of development which has been occurring closer to the City; and 3) the cure apparently shouldn't be so designed as to radically alter the tax burden upon anyone.

I think this goes a long way toward accomplishing these goals.

This would allow any existing owner to sell at least one house lot off without creating a subdivision. It would not take unnecessary land out of use by requiring a large lot size. After five years, the owner could sell one more lot. Development would thus be slowed in the zone.

On the tax valuation issue, as I mentioned to you when I saw you the Law Court ruled in the case of Curtis v. Maine State Highway Commission, 160 Me. 262 (1964), a land damage case involving fair market value, that the potential to subdivide was insufficient to be a consideration in fair market value except under specific circumstances: "(1) that the possibility for building purposes must not be remote and speculative; (2) that it is to be put to such use within the foreseeable future and (3) that its market

value has been enhanced by its adaptable use as a subdivision.", p. 268.

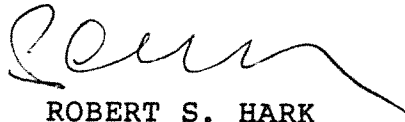
To be sure, the ability to sell one house lot might have an effect on the fair market value of a piece of land in the Ag Zone, but a much diminished effect compared to the suggestion that has been going around that the mere potential of "subdividability" would heap a crushing burden upon owners in the Ag Zone.

There are a number of ways this proposal could be tightened up or loosened; chiefly this could be accomplished by fiddling with the definition of subdivision utilized. If, for instance, the creation of three lots in five years were changed to the creation of three lots in seven years, the effect would be to further slow development. The reverse could also be accomplished.

Above all, my proposal has the virtue of simplicity in administration and understandability.

I am sending copies of this to the Mayor and Council members since I understand that the issue is currently, or will soon be under consideration.

Very truly yours,



ROBERT S. HARK  
ISAACSON, HARK & EPSTEIN

RSH:yd

cc: Mayor & Council  
City Manager

AMENDMENT TO ZONING ORDINANCE

Be it ordained by the City of Auburn, as follows:

Section 3.31 (B) (1) is hereby amended by deleting therefrom paragraph (a) in its entirety and substituting therefor the following new paragraph:

"a. One-family detached dwellings, subject to the following restrictions:

(1) No person shall create by conveyance made after the effective date of this amendment any subdivision as the term "subdivision" is defined in Title 30, Section 4956 of the Revised Statutes of Maine; and

(2) The planning Board shall not grant subdivision approval to any subdivision as defined under the aforesaid statute;

(3) Nothing herein shall prohibit the approval of a subdivision in the Agricultural and Resource Protection District for one or more permitted uses other than residential use."

Section 3.31 (C) is hereby amended by inserting the word "non-residential" between the word "All" and the word "structures" in the first line of said section.

Section 3.31 is hereby amended by adding an additional subsection "D" to read as follows:

"D. All residential structures in this district shall be subject to the same dimensional regulations as are set out in Section 3.41 (C) relating to the Rural Residence (RR) District."