
MEMORANDUM

TO: MAYOR JASON LEVESQUE, CITY OF AUBURN

FROM: DR. SALIM FURTH, MERCATUS CENTER

SUBJECT: AUBURN LAND USE AND GROWTH

DATE: 10 DECEMBER 2020

CC: MICHAEL HOGG, MERCATUS CENTER

Following up from our phone call of 23 November, I want to present the results of my initial research regarding Auburn's land use and ongoing development, including many recommendations for policy change. Please correct any inaccurate information or impressions. I've used a numbered format for ease of reference.

- 1) Auburn has been successful in attracting growth of all kinds. Greenfield commercial development is common, but Auburn also has new industrial facilities and infill apartment buildings. I'd characterize this as "promising" rather than "transformative," so far, because the statewide headwinds – population aging & economic stagnation – are quite strong.
- 2) There are still serious downside risks for Auburn. I recommend Alan Mallach's *The Divided City* as a sobering reminder that bad things happen to good cities. In particular, large residential areas can go into a vicious cycle of decline even as showpiece districts dazzle.
- 3) My mental model of Maine residential demand is a segmented market: some people want privacy, some want walkability.
 - a. The "**privacy market**" is attracted by large lots and homes, quietness, nature, and abundant parking. Property value is mostly internal.
 - b. The "**walkability market**" wants charming aesthetics, small frontages, cafes, sidewalks, and local schools. Property value is mostly external (i.e. location).
 - c. Most of the state (including all of Auburn's neighbors but Lewiston) is in the privacy market.
 - d. Portland is expensive because it's one of the few places in Maine with a large-volume walkability market.
 - e. There are plenty of physically dense places that are unappealing to the walkability market because houses are depreciating and 'charm' is missing.
 - f. Both of these markets exist for vacationers as well as year-round residents.
 - g. I'm not sure how substitutable the two markets are.
 - h. Auburn, given its geographic size, is a microcosm of the state and has both markets.
- 4) I'm not sure about this, but I think "normal" suburban density (e.g. 3-bedroom houses on quarter-acre lots) may be suboptimal in Maine. Four units per acre is not dense enough to offer real walkability, and the wide availability of lower-density forest lots makes it an inferior choice for the privacy market. (In denser states, the privacy market mostly flows to "normal" suburbs, because only the rich or super-commuters can afford an acreage).

- Maine towns should serve each market on its own terms rather than creating an “average” product that tries to be all things to all residents.
- 5) You communicated your priorities as *growth*, *equity*, and what I’ll call *vitality* – having a city where you want to spend the morning, noon, and night.
 - a. *Growth* is possible in both the walkability and privacy markets. It’s possible to grow in only one of the two, but that won’t serve everyone and many of those unserved potential residents will instead move to other towns.
 - b. *Equity* concerns are most acute where scarcity prevails or when decline sets in. Where insufficient new homes are built, low-income residents can end up in overcrowded housing. When a city declines, low-income residents often get the worst of a decaying housing stock and shrinking city services.
 - c. *Vitality* is directly tied to commerce and amenities serving the walkable housing market. Malls and strip retail can survive on car traffic only; downtowns cannot.

Serving the walkability market

- 6) It is relatively easy to serve the walkability market, mainly by removing city-created regulatory barriers to building walkable housing and businesses.
- 7) Auburn already does a lot of things right, including:
 - a. Most schools are kid-walkable to some neighborhoods (this is so important, and badly underrated by most walkability gurus)
 - b. Allowing residences in all commercial zones
 - c. Allowing subdivision streets below 30 feet in width
 - d. Zoning downtown to be *downtown*
 - e. Investing in walking resources, like the river trails
 - f. Attracting infill (48 Hampshire, 62 Spring) & adaptive reuse investment (I love the Synagogue Apartments and Barker Mill Arms, at least from the outside)
- 8) To expand walkable investment, the first and most important step is to repeal the wrongheaded, anti-urban 20th century policies on the books. The most obvious of these are density restrictions, but others are more important in Auburn’s context. I’ll list these with my estimate of importance, and come back to them one by one:
 - a. Frontage width requirements
 - b. Parking minimums
 - c. Minimum lot sizes
 - d. Setback requirements
- 9) Frontage width: There’s no real reason to regulate frontage in an urban environment. Well-loved city centers, from Zanzibar to Paris to Eastport, have narrow frontages for both businesses and residences. Small frontages => low rents => mom-and-pop businesses. For customers, narrowness allows rapid browsing. Shopping malls know this; mall retail spaces are narrow and deep.
 - a. Status quo: Even in Downtown Enterprise Zone (DEZ), Auburn requires 50 feet for a residence and 100 feet for a business. The Form-Based overlay goes down to 24 feet.
 - b. Recommendation: Cut minimum width to 24 feet or less anywhere intended to be walkable. I’d include most of the current “Urban Residential” zone in that.
- 10) Parking minimums. The free market provides parking just fine. Lots of cities, in red and blue states alike, are getting rid of their mandatory minimums. How else can you deregulate, help the climate, reduce stormwater runoff, reduce housing costs, and advance equity goals in a single action? Bath and Belfast are among the many cities that have already [zeroed parking minimums downtown](#). There’s just no reason to believe there’s a market failure in parking provision.

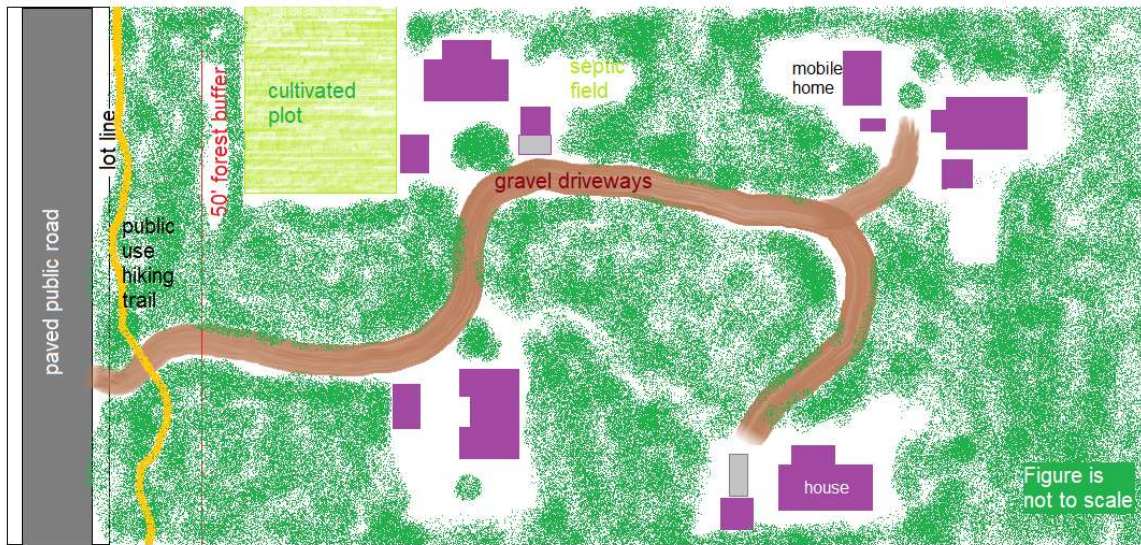
- a. Status quo: I'm struck by [East Auburn Baptist Church](#). Its modern facility is mostly parking. Would it have relocated there if it were allowed to use existing parking lots – near offices or a mall – that are empty on Sunday mornings? But Auburn's §60-608 requires one parking space per each 5 seats in a church building, even downtown.
 - b. Recommendation: delete parking minimums - at least in walkable areas and for houses of worship. Better yet, delete them everywhere.
- 11) Minimum lot sizes. There's nothing wrong with a 10,000 square foot house lot; it may be comfortably walkable depending on what's nearby. But 10,000 square feet is not appropriate as a *minimum* lot size throughout most of the walkable core. Indeed, in much of Auburn, there are non-compliant lots far below the 10,000 sq ft "Urban Residential" minimum. For example, along Summer & Winter Streets near Rowe St., the norm is around 6,000 sq ft. To make townhouses viable, lots need to be between 1,000 and 3,000 square feet. In the less-central Urban Residential zones, smaller lots will make walkable subdivisions much more viable.
 - a. Status quo: A large share of downtown and adjoining neighborhoods (DE and MFU zones) have 5,000 sq ft minimum house lots, which is fine. But the rest of Urban Residential is overzoned at 10,000.
 - b. Recommendation: Cut minimum lot sizes for all single-family homes in sewerage-served areas to 4,000 square feet. Cut to 1,000 square feet if you want townhouses.
- 12) Setback requirements, as written, are inappropriate to a walkable area. As with frontages, the form-based code gets this right. But you don't need an entire form-based code to simply fix the setbacks.
 - a. Status quo: In most urban zones (even DEZ), front setbacks are 25 feet or 25% of lot depth, from the lot line to the building line. Actual setbacks are often smaller. Take a stroll (real or virtual) down [Davis Ave](#). Few of the setbacks are 20 feet or more; many are less than 10 feet. But the effect is welcoming, not looming. It looks like a good place to trick-or-treat. A conversation between a neighbor on her porch and a neighbor walking his dog could be conducted without shouting.
 - i. Note: Front setbacks are measured from the lot line, which is often several feet into the apparent "front yard".
 - b. Recommendation: Either cut minimum front setbacks to 5 feet in all walkable zones, or use dynamic setbacks, basing the regulation on the prevailing pattern on the street.

Serving the privacy market

- 13) As is clear from the public record, there's a lot of controversy about Auburn's Ag/Resource zone. I'll float a few solutions, with the understanding that the politics around this are probably going to dictate a narrower set of feasible actions.
- 14) The new Comp Plan should acknowledge that, as written, the Ag/Resource zoning district removes the entire economic value of many parcels, and that this may be a violation of the takings clause of the U.S. Constitution.
- 15) **Solution 1:** Tweak the farming regulations
 - a. As suggested in your 2019 op-ed, the farming zone would be less restrictive if it allowed homesteads on smaller farms; allowed households where only one member is a full-time farmer; and vested the right to permanent occupancy after a good-faith period of farming (10 or 20 years?)
 - i. Reality check: these reforms might slow the abandonment of existing farms, but won't change the basic fact that clearing forest for farming is uneconomical in Maine.

- b. Landowners should be given the right to petition for relief if they can demonstrate that land has no viability as agriculture (due to steepness, soil, etc.) but can be profitably used for a disallowed use (housing, etc.)
- 16) **Solution 2:** Allow low-impact development in the Ag/Resource zone under a Forest Form Based Code (FFBC – my idea). Residents may be OK with unobtrusive homes surrounded by forest but afraid of McMansions on clear-cut acreages. Traditional zoning can't allow one of those without allowing the other. If my theory of residential demand is correct, these restrictions won't be obnoxious because they promote things that the privacy market already wants. The effect might be something like Anita Ave. It wouldn't feel like Pleasant Drive, which is drastically overbuilt for its 8 homes and feels like a conquest of nature rather a oneness with nature. A Forest Form Based Code overlay would:
- a. Allow development on land that has not been profitably farmed for some fixed set of dates (say, 2010-2020).
 - i. This is a bit unfair to existing farmers, but without the provision, it could lead to rapid development of farmland and would be a disincentive to new or continued farming. The fixed dates remove any incentive to game the system.
 - b. Require narrow, shared, unpaved driveways to minimize the number of curb cuts (e.g. 4+ houses to a driveway, driveway clearing no more than 20 feet across).
 - i. Fewer curb cuts keeps roads safer and preserves the rural feeling. It also reduces the amount of forest cleared for deep access roads.
 - c. Require a screen of forest at least 50' deep between the road and any house or cleared land; require driveways to turn so that houses remain invisible.
 - d. Require a public right of access to a hiking path parallel to the road, either directly adjacent to the road or tucked into the forest buffer.
 - e. Include a 22-foot (1.5 story) height limit.
 - f. Instead of lot size limits, require safe wastewater disposal. That will usually be through septic fields (with a land minimum), but others may choose to use composting toilets, septic tanks, or community septic system.
 - g. Limit the amount of cleared land, exclusive of cultivated and grazed land, on both a per-unit and per-acre basis. Limit the amount of blacktop – driveways should be gravel, dirt, or pervious pavers.
 - h. Prohibit public acceptance of new roads unless the subdivision naturally extends the city's street grid (e.g. by linking two existing side streets)
 - i. Impose an *ad valorem* impact fee on any development that uses this overlay. That can be used for environmental priorities citywide.
- 17) A key aspect of the FFBC is that it isn't snob zoning. This is a way to build modest houses deeply embedded in nature, not estates. Mobile homes would be viable.
- 18) Figure 1 illustrates the features of the FFBC in an example subdivision.

Figure 1: Illustration of a Forest Form Based Code subdivision



19) Neither of these suggestions is “perfect” for any set of goals. But maybe they can balance the competing priorities.

What’s going on with all that low-density multifamily?

- 20) I’m pleased to observe that Auburn has permitted a large number of low-rise multifamily developments (e.g. Colonial Way, Tourmaline Ln, Auburn Mall Apartments, Northern Avenue Heights) as well as a few mobile home parks.
- 21) However, it’s hard to see the logic behind their sprawly layout. Do residents really like the isolated, spacious layout? If so, great. But I suspect that at least some tenants might prefer to be located next to schools or near shopping and jobs. Consider updating regulations to allow walkable apartments.
- 22) The city should fund sidewalks and safe crossings to connect the Plummer St/Danny Dr/ Aron Dr/Andrea Ln apartments to the employment centers around the Mall.
 - a. In addition, I recommend adding a playground in this area, ideally on already-cleared land purchased from one of the existing apartment complexes.

Area of opportunity: Center St Corridor

- 23) Unlike the Auburn Mall area and downtown, Center St (from Union St to Memorial Bridge) lacks branding and public support. However, it is clearly an important commercial stretches and deserve city attention.
- 24) Center St is a classic “[stroad](#)” – doing double duty as a destination (“street”) and a through route (“road”). Nobody loves stroads – they’re usually ugly and they’re statistically unsafe. The two ends of this stretch of Center St were the top two intersections in Auburn in automobile injuries from 2018-2020.¹

¹ That is, the Turner/Union/Center intersection and the Center/Memorial Bridge/Mt. Auburn intersection. See [Maine DOT Public Crash Query Tool](#).

- 25) However, there's clearly something attractive (economically, if not aesthetically) about stroads. They feature bare-bones infrastructure and cheap construction. By my estimation, Center St and Minot Ave each have more locally-owned businesses than the Auburn Mall area.
- 26) Unlike most stroads I've seen, Center St has a decent frequency of low-speed connections to the local street grid.
- 27) If Auburn's growth exceeds current expectations, Center St would be the natural site to accommodate growing demand for residential, office, and retail space. It's acceptable both for "Mall-oriented" and downtown-oriented demand. It complements, more than threatening, the existing commercial centers.
- 28) The city can prepare for & assist intensification of Center St with regulatory changes and low-cost investments now. If momentum builds, the city would need to make larger investments to transform Center St itself into a modern commercial main street.
- 29) To gradually integrate Center St into the fabric of the city, I suggest leveraging the existing side streets and access roads (e.g. the rear parking lot of Margaritas Mexican).
 - a. The "General Business" zone currently allows residential construction at "Suburban Multifamily" densities; switch to "Urban Multifamily" to allow viable residential construction in the business zone.
 - b. Create a form-based code overlay intended to accommodate buildings that will be walkable from side or rear streets while being "drivable" from Center St itself. This wouldn't be mandatory, but would allow greater height, smaller setbacks, and (if parking minimums aren't lifted citywide) less parking than the base code allows. I won't give full details here, but basically we're applying a "neighborhood" type code to the side streets and a highway type code to Center St.
 - c. Invest in sidewalks on those side streets.
 - d. Close off the "exit ramp" from Center St to Lake Auburn Ave, which encourages high speeds.
 - e. Add a traffic light at Broadview Ave.
- 30) A string of Auburn's precious waterfront parcels on Center and River Rd is occupied by small commercial structures with large parking lots ([KFC](#), [Goin' Postal](#), etc.). My understanding is that state regulation limits redevelopment in proximity to the water. It might be worth working with the legislature to craft an exception that would allow higher-value land uses there in exchange for shrinking the impervious surface and dedicating a riverside walking or hiking trail.

Implement the Akron Incentive

- 31) Much of walkable Auburn's housing stock is old. Old houses often have lead paint, gerryrigged electrical wiring, and other hazards. Many are poorly insulated. They can also just feel old – creaky, worn, faded – instead of charming.
- 32) You can achieve equity through growth by preventing neighborhoods from entering a downward spiral. Quality renovations in older neighborhoods retain and attract well-off families. This in turn deconcentrates poverty and prevents a cycle of disinvestment from taking hold.
- 33) The City of Akron, Ohio, still recovering from industrial & corporate decline, gives a 15-year tax abatement for any residential investment above \$5,000. That is, the assessed increment resulting from the renovation or construction is untaxed. Although the program has not yet been rigorously evaluated, City Planner Jason Segedy believes it is a major success and has led to substantial reinvestment where almost none was occurring previously. I suspect that the program also protects the tax base by arresting declines in

value that would have occurred otherwise, especially in properties that would have been abandoned.

- 34) Auburn is not in Akron's shoes, and there's no reason to give a tax break to brand new residences in greenfield contexts. In Auburn, I recommend limiting the incentive in two ways: place a cap of perhaps \$50,000 or \$100,000 on the increment that can be abated and apply it only on lots where the existing house was built prior to 1960.²

Conclusion

There is no conflict among Auburn's goals of growth, equity, and vitality. However, there are serious headwinds facing the city and it could just as easily fall short on all three goals as achieve all three. The city should use its 2020 Comp Plan update as an opportunity to present a vision of a confident community capable of serving a growing number of homeowners and renters in the vibrant, walkable core while also expanding the economic uses of its fields and forests without compromising their environmental and aesthetic value.

² Houses of that vintage are more likely in bad shape and much more likely to contain lead-based paint. (Federal regulations mandating lead-safe work practices apply to such renovations regardless of tax treatment). As you know, Auburn has a high incidence of elevated blood-lead levels in children. Per Maine Environmental Public Health data for 2014-2018, Auburn had the 4th-highest incidence (5.8%) among the 76 Maine towns that tested at least 100 children.