

# **Report of the Mayor's Ad-Hoc Bona Fide Farming, Agricultural, Recreational and Natural Resources Land Use Committee**

December 16, 2024

## **Creation of the Committee**

The Committee was approved by order of the City Council on September 16, 2024.

## **Members of the Committee**

The following individuals were appointed to the Committee: Chris Carson, David Bell, David Griswold, David Trask, Joe Gray, Barbara Mitchell, Philip Savignano, Amy Dietrich, and John Cleveland.

The Committee held seven public meeting in Auburn Hall in the Community Room. The meeting were posted on the City's website on the community calendar. The Committee met on the following dates: October 9, October 24, October 29, November 7, November 13, November 21, and December 5, 2024.

## **Committee's Charge from Mayor Harmon**

Mayor Harmon convened the first meeting of the Committee on October 9, 2024. The Mayor reviewed the duties and responsibilities of the Committee including preparing agendas to be posted before every meeting, and preparing written minutes of each meeting. The Committee must provide a written report to the City Council. The date for the report was extended to December 16, 2024.

The Mayor explained that the charge of the Committee is to develop criteria to determine what constitutes a bona fide farming, agricultural, recreational or natural resource use in the Agricultural and Resource Protection Zone (AGRP) . The criteria will guide the planning staff and inform the public regarding the requirements for development in the AGRP zone before a dwelling can be permitted.

## **Committee's Purpose**

The purpose of the Committee is to develop clear and objective criteria and a review process that will provide consistency in determining the principal use of the property and what constitutes a bona fide farming, agricultural, recreational, or natural resource use in the AGRP zone.

## **AGRP Zone Requirements for Development**

The Agriculture and Resource Protection District in the City of Auburn Zoning Ordinance, Chapter 60 Article IV Section 2 Agriculture and Resource Protection District, Section 145 - Use Regulations requires that in evaluating an application for a proposed land use in the Agriculture and Resource Protection District, the Planning and Permitting Department shall make its determinations in the following order: first, whether the proposed use is allowed by permit or special exception in this District as the principal use of the property; second, whether the proposed use is a bona fide farming, agricultural, recreational or natural resource use; and third, if any residential dwelling is proposed, whether the dwelling is accessory to the proposed principal use.

## **Committee Recommendations**

After careful consideration and extensive discussions, the Committee has developed criteria for determining if an application for development in the AGRP District is a **bona fide** farming, agricultural, recreational, or natural resource use. Some of the criteria are common to all four land uses and some are specific to a particular land use. The Committee recommends the Planning and Permitting Department use the criteria in the application process to acquire the information necessary to make findings that the proposed land use meets the requirement of being a bona fide farming, agricultural, recreational, or natural resource use.

The specific criteria for each land use can be found below.

## **City Council Implementation of the Committee's Recommendations.**

The Committee recommends that the City Council review the Committee's recommendations and implement them in a manner that ensures their long term use and enforceability by current and future planning and permitting staff.

## AD-Hoc Committee - Bona Fide Farming & Agriculture Criteria

### Agriculture and Resource Protection District

In accordance with Chapter 60 , Article IV, Division 2 Agriculture and Resource Protection District Section 60-145(b)(2):

*“Provide a farm, agricultural, recreation, or natural resource use plan or land use plan that has been approved by the planning and permitting director or their designee. The planning and permitting director or their designee must make the following written findings prior to approval of the business plan or land use plan and prior to the issuance of a building permit.”*

And Subsection (i):

*“The business or proposed land use is feasible, and, and if implemented will constitute a bona fide farming, agricultural, recreational, or natural resource use allowed under subsection (a) permitted use, or subsection (b) special exception uses,…”*

In making the written findings required above the planning and permitting director or their designee must find that the principal use of the parcel is for farming, agricultural, recreational or natural resource use and any residential dwelling is an accessory to the principal use of the parcel and they must use the information derived from the following sources in making their written findings:

The planning director or their designee may request the following documents and information or other information that is relevant to the specific type of use:

1. A farming or agricultural plan and business plan. The plans must include sufficient information and details to the satisfaction of the planning director or their designee to make a finding that the principal use of the parcel is a bona fide farming, agricultural operation.

For a farming or agricultural uses, the planning director and their designee may request a land use and business plan that includes at a minimum the following:

- a. The agricultural or farm products that will be produced,
- b. A soil quality analysis,
- c. Marketing plan,
- d. Financial plan,
- e. The feasibility and sustainability of the farming, agricultural land use,
- f. Topography of the parcel with contour intervals as requested by the planning director or their designee,
- g. Location of wetlands and/or water bodies on the parcel,
- h. Boundary lines of the parcel and its city lot number,
- i. A site plan drawn to scale and other maps, visuals, or graphics that depict the information requested.

2. The amount of time on a weekly, monthly, seasonal or yearly basis the applicant, members of their family or others engaged by the applicant, that will be expended on the operation of the farming and agricultural activities in the farming, agricultural and business plans.
3. Written Information regarding the applicants knowledge and skills regarding the operation of the farming, agricultural activity in the farm and business plan. This information may include but is not limited to certificates or diplomas related to farming, agricultural education or training, apprenticeships, previous farming experience, or other related information. If the applicant is engaging others in the operation of the farm, written documentation of their knowledge and skills for each such person ,as listed above for the applicant, shall also be listed.
4. Any arrangements the applicant intends to make with others (farmers, vendors, etc.) for services or products related to their farming operation as contained in the farming and business plans.
5. Documentation that shows right and title to the property. That may be a deed or an executed purchase and sale agreement that includes a condition that the sale is subject to obtaining a permit of a bona fide farm, agricultural use from the planning director or their designee.

Other information that the planning director or their designee may consider:

1. Written statement from the Maine Department of Inland Fisheries and Wildlife regarding significant wildlife habitats.
2. Written statement from the Maine Historic Preservation Commission regarding historic and archaeological assets on the parcel.
3. Written statement from the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Agriculture, Conservation, and Forestry and Maine Natural Areas Program regarding endangered species of plants and animals.
4. Identification of any wetlands and vernal pools that will be impacted by the development of the farming, agricultural activities as submitted in the farm plan.
5. If the parcel is subject to Farm and Open Space Programs.
6. Identification of forested areas on the parcel that are enrolled in the Maine Tree Growth Program or in a carbon sequestration program, with copies of the terms of the agreements

AD-Hoc Committee - Bona Fide Recreation Criteria

Agriculture and Resource Protection District

In accordance with Chapter 60 , Article IV, Division 2 Agriculture and Resource Protection District Section 60-145(a)(1)(b)(2):

*“Provide a farm, agricultural, recreation, or natural resource use plan or land use plan that has been approved by the planning and permitting director or their designee. The planning and permitting director or their designee must make the following written findings prior to approval of the business plan or land use plan and prior to the issuance of a building permit.”*

And Subsection (2)(i):

*“The business or proposed land use is feasible, and, and if implemented will constitute a bona fide farming, agricultural, recreational, or natural resource use allowed under subsection (a) permitted use, or subsection (b) special exception uses,…”*

In making the written findings required above the planning and permitting director or their designee must find that the principal use of the parcel is for farming, agricultural, recreational or natural resource uses and any residential dwelling must be an accessory use to the principal use of the parcel. The director of planning and permitting or their designee must use the information derived from the following sources in making their written findings.

Bona Fide recreational uses include:

They are permanent **Outdoor** spaces intended or designed for public use, located on the owner’s parcel of land. They may include but are not limited to:

Larger Scale

- a. Golf courses (public or private) with related hospitality facilities
- b. Disc golf
- c. Driving Ranges
- d. Horse boarding and riding facilities
- e. Sports field complexes larger than 1 acre
- f. Commercial campgrounds and RV parks
- g. Mountain biking courses
- h. Skeet shooting facilities
- i. Public gardens, arboretums and botanical gardens
- j. Cross country skiing

Smaller Scale:

- a. Miniature golf,
- b. Skate board facility,

- c. Walking Trails,
- d. Water or boat access facilities,
- e. Outdoor education or training facilities.

The planning director or their designee may request the following documents and information or other information that is relevant to the specific type of use:

1. A recreational use and business plan. The plans must include sufficient information and details to the satisfaction of the planning director or their designee to make a finding that the principal use of the parcel is a bona fide recreational operation.

For a recreational use, the planning director and their designee may request a land use and business plan that includes at a minimum but is not limited to the following:

Facilities to be constructed for and related to the recreational use,

- a. Parking area,
  - b. Trail heads,
  - c. Signage,
  - d. Restroom facilities,
  - e. Marketing plan,
  - f. Financial plan,
  - g. The feasibility and sustainability of the recreational land use,
  - h. Topography of the parcel with contour intervals as requested by the planning director or their designee,
  - i. Location of wetlands and/or water bodies on the parcel,
  - j. Boundary lines of the parcel and its city lot number,
  - k. A site plan drawn to scale and other maps, visuals, or graphics that depict the information requested.
2. The amount of time on a weekly, monthly, seasonal or yearly basis the applicant, members of their family or others engaged by the applicant will expended on the operation of the outdoor recreational use in the recreational use and business plans.
  3. Written Information regarding the applicant's knowledge and skills regarding the operation of the proposed recreational use in the recreation and business plan. This information may include but is not limited to certificates or diplomas related to the recreation use, recreation education or training, apprenticeships, previous recreation operation experience, or other related information. If the applicant is engaging others in the operation of the recreation use written documentation of their knowledge and skills for each such person ,as listed above for the applicant, shall also be listed.

4. Any arrangements the applicant intends to make with others for services or products related to their recreational use operation as contained in the recreation and business plans.
5. Documentation that shows right and title to the property. That may be a deed or an executed purchase and sale agreement that includes a condition that the sale is subject to obtaining a permit of a bona fide recreational use from the planning director or their designee.

Other information that the planning director or their designee may consider:

1. 1. Written statement from the Maine Department of Inland Fisheries and Wildlife regarding significant wildlife habitats.
2. Written statement from the Maine Historic Preservation Commission regarding historic and archaeological assets on the parcel.
3. Written statement from the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Agriculture, Conservation, and Forestry and Maine Natural Areas Program regarding endangered species of plants and animals.
4. Identification of any wetlands and vernal pools that will be impacted by the development of the recreational use as submitted in the recreation plan.
5. If the parcel is subject to Farm and Open Space Programs.
6. Identification of forested areas on the parcel that are enrolled in the Maine Tree Growth Program or in a carbon sequestration program, with copies of the terms of the agreements.

*AD-Hoc Committee - Bona Fide Natural Resource Uses Criteria*

*Agriculture and Resource Protection District*

*In accordance with Chapter 60 , Article IV, Division 2 Agriculture and Resource Protection District Section 60-145(a)(1)(b)(2):*

*“Provide a farm, agricultural, recreation, or natural resource use plan or land use plan that has been approved by the planning and permitting director or their designee. The planning and permitting director or their designee must make the following written findings prior to approval of the business plan or land use plan and prior to the issuance of a building permit.”*

*And Subsection (2)(i):*

*“The business or proposed land use is feasible, and, and if implemented will constitute a bona fide farming, agricultural, recreational, or natural resource use allowed under subsection (a) permitted use, or subsection (b) special exception uses,…”*

**Definition:**

*Natural resource uses means uses that utilize naturally occurring assets such as air, water, soils, fuel, minerals, plants or animals to provide public benefit through the provision of raw materials and/or energy.*

In making the written findings required above the planning and permitting director or their designee must find that the principal use of the parcel is for farming, agricultural, recreational or natural resource uses and any residential dwelling must be an accessory use to the principal use of the parcel. The director of planning and permitting or their designee must use the information derived from the following sources in making their written findings.

Bona Fide natural resource uses may include but are not limited to:

- a. Extraction of top soils and composing of organic materials to create top soils and mulch.
- b. Extraction and processing of aggregate materials including sand, gravel, clay, rock and ledge.
- c. Extraction of minerals.
- d. Extraction and bottling of ground water.
- e. Forestry management, including CO2 sequestration

The planning director or their designee may request the following documents and information or other information that is relevant to the specific type of use:



A natural resource use and business plan. The plans must include sufficient information and details to the satisfaction of the planning director or their designee to make a finding that the principal use of the parcel is a bona fide natural resource use operation.

For a natural resource use, the planning director and their designee may request a land use plan, a business plan and a forest management plan that includes at a minimum but is not limited to the following:

- a. The raw materials or energy product that will be extracted or produced,
  - b. An estimate of the quantity of natural resource material available on the parcel,
  - c. Marketing plan,
  - d. Financial plan,
  - e. The feasibility and sustainability of the natural resource land use,
  - f. Topography of the parcel with contour intervals as requested by the planning director or their designee,
  - g. Location of wetlands and/or water bodies on the parcel,
  - h. Boundary lines of the parcel and its city lot number,
  - i. A site plan drawn to scale and other maps, visuals, or graphics that depict the information requested.
1. The amount of time on a weekly, monthly, seasonal or yearly basis the applicant, members of their family or others engaged by the application will be expending on the operation of the natural resource activity in the natural resource and business plans.
  2. Written Information regarding the applicants knowledge and skills related to the operation of the natural resource activity in the natural resource and business plans. This information may include but is not limited to certificates or diplomas related to the natural resource activity, education or training, apprenticeships, previous natural resource experience, or other related information. If the applicant is engaging others in the operation of the natural resource activity written documentation of their knowledge and skills for each such person ,as listed above for the applicant, shall also be listed.
  3. Any arrangements the applicant intends to make with others for services or products related to their natural resource operation as contained in the natural resource and business plans.
  4. Documentation that shows right and title to the property. That may be a deed or an executed purchase and sale agreement that includes a condition that

the sale is subject to obtaining a finding of a bona fide natural resource use from the planning director or their designee.

Other information that the planning director or their designee may consider:

1. Written statement from the Maine Department of Inland Fisheries and Wildlife regarding significant wildlife habitats.
2. Written statement from the Maine Historic Preservation Commission regarding historic and archaeological assets on the parcel.
3. Written statement from the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Agriculture, Conservation, and Forestry and Maine Natural Areas Program regarding endangered species of plants and animals.
4. Any wetlands and vernal pools that will be impacted by the development of the natural resource use as submitted in the natural resource plan.
5. If the parcel is subject to Farm and Open Space Programs.
6. Identification of forested areas on the parcel that are enrolled in the Maine Tree Growth Program or in a carbon sequestration program, with copies of the terms of the agreements