

Date: November 12th, 2024

Auburn Planning Board

Author: Natalie Thomsen, Planning Coordinator

Subject: Item # Staff Report on L.D. 2003 Workshop

I. Proposal: Public Hearing on L.D. 2003 Ordinance Updates/Priorities:

Review and give feedback on text amendment to Article II- General Provisions, Article IV Division 3- Low Density Country Residential District, Division 4- Low Density Rural Residence District, Division 5- Suburban Residence District, Division 6- Urban Residence District, Division 7- Multifamily Suburban District, Division 14 Form Based Code, Sec. 60-2 Definitions, and Article V- Off-Street Parking and Loading, all within Chapter 60.

II. Background:

The Legislature passed in 2021 a series of housing amendments commonly referred to as “LD 2003,” which were intended to increase opportunities for affordable housing to be developed statewide. These laws, codified at 30-A M.R.S. §§ 4364, 4364-A and 4364-B, require that municipal ordinances comply with the stated provisions by January 1, 2024.

Summary of L.D. 2003: L.D. 2003, An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, Sponsored by Speaker Ryan Fecteau, was signed into law by Governor Mills on April 27th, 2022. The law, in summary, requires that: 1.) Towns and cities with a comprehensive plan allow at least four units on a vacant lot in the designated growth area, and towns and villages without a comprehensive plan allow at least 4 units on vacant lots in areas served by sewer and water; 2.) Lots with an existing dwelling unit may have two additional dwelling units either one attached dwelling, one detached dwelling, or one of each; and 3.) “Affordable” housing developments must be allowed to be built at 2.5 times the density of market-rate units if they meet the conditions listed above (availability of sewer and water or within a designated growth area).

Summary of L.D. 1473: L.D. 1473 An Act to Protect Certain Unfiltered Drinking Water Sources, approved as public law on June 22, 2023, amends 30-A MRSA §4364, sub-§9, 30-A MRSA §4364-A, sub-§1-A, and 30-A MRSA §4364-B, sub-§1-A to exempt parts of Auburn which are in the Lake Auburn Watershed from the requirements of L.D. 2003 to protect the lake as an unfiltered drinking water source.

Summary of L.D. 1706: L.D. 1706, An Act to Clarify Laws Regarding Affordable Housing and Accessory Dwelling Units, approved as public law on June 16th, 2023, among other accomplishments, adds that the implementation date for L.D. 2003 must be

January 1, 2024, for municipalities with ordinances, and July 1, 2024, for all other municipalities.

The planning board held a workshop on text amendments to Auburn’s ordinance required to comply with L.D. 2003. On May 28 and October 08, the planning board reviewed staff’s suggestion for amendments to Chapter 60 based on feedback from the LD 2003 Ad Hoc Committee. At this past workshop, the planning board asked for a legal opinion on the correct way to interpret some of the text of LD 2003. Below, staff has outlined the Planning Board’s questions and in the summarized text amendment below, highlighted the uncertain language:

1. Do we need to allow multifamily units in land use zones that currently do not allow multi-family units? (UR, SR, RR, LDCR). A Board member has suggested that we could restrict the use to no more than 2 units per building and still meet the requirement of allowing four units in the growth are but not as a single 4-unit building. Instead, allowing 2, 2-unit buildings would meet the laws requirement to allow 4 units. Would the Planning Board prefer that multifamily buildings continue to be prohibited in certain zones?
2. We will likely make the ordinance retroactive to January 1, 2024, for the determination of vacant land vs. existing units and the allowable number of units. If the city does not make the ordinance retroactive, will that effect property owners that built in good faith of the rule change after January 1, 2024, and planned for more units when the City finishes the adoption process?
3. Can we drop the reference to the latest 30-A MRSA subsection 4364? Or should we reference that as the purpose of the changes. It seems unnecessary as long as we allow the required unit permissions to comply.

The draft available for the planning board has also updated the minimum lot size in the table for the MFS, GB, and GBII zoning districts reflecting the conversation which took place during the May 28 meeting.

During the October 8, 2024, Planning Board workshop, there was extensive discussion regarding the proposed size limits for accessory structures within the amendment to "Sec. 60-2. Definitions." The Board decided that, for the upcoming Public Hearing, the topics of density and accessory structure sizing should be treated as separate items. This approach will allow the public to provide input on each topic individually and ensure the Board has the opportunity to deliberate and vote on them separately, recognizing their distinct impacts on the overall amendment.

- III. **Suggested Ordinance Amendments:** See Attached A Article II- General Provisions, Article IV Division 3- Low Density Country Residential District, Division 4- Low Density Rural Residence District, Division 5- Suburban Residence District, Division 6- Urban Residence District, Division 7- Multifamily Suburban District, Division 14 Form

Based Code, Sec. 60-2 Definitions, and Article V- Off-Street Parking and Loading, all within Chapter 60, specifically pertaining to density and parking standards, as required for compliance with 30-A M.R.S. §§ 4364, 4364-A, and 4364-B.

IV. **Staff Recommended Action:** Consider feedback from the Public Hearing and send the recommended text change to the City Council related to edits established in Article II- General Provisions, Article IV Division 3- Low Density Country Residential District, Division 4- Low Density Rural Residence District, Division 5- Suburban Residence District, Division 6- Urban Residence District, Division 7- Multifamily Suburban District, Division 14 Form Based Code, Sec. 60-2 Definitions, and Article V- Off-Street Parking and Loading, all within Chapter 60, specifically pertaining to density and parking standards, as required for compliance with 30-A M.R.S. §§ 4364, 4364-A, and 4364-B.

V. **PLANNING BOARD ACTION/STAFF RECOMMENDATIONS:** Consider feedback from the Public Hearing and send the recommended text change to City Council related to edits established in Sec. 60-2, Definitions, specifically focusing on the definition of "accessory structure" and setting the maximum allowable size for such structures at 1,500 sq. ft.

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VI. **Potential Motion:** I make a motion to forward a favorable recommendation to the city council related to edits established in Sec. 60-2, Definitions, specifically focusing on the definition of "accessory structure" and setting the maximum allowable size for such structures at 1,500 sq. Ft.

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