



CASE STUDY: AUBURN, MAINE

INCREMENTAL VICTORIES WITH ZONING REFORM

BY SALIM FURTH AND ERIC COUSENS





MISSION

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CONTENTS

- 2 ABOUT AUBURN**
- 3 NEW MAYOR, POLITICS AND OPPORTUNITIES**
- 4 UNIFIED NARRATIVE, PIECEMEAL REFORMS**
- 5 CITIZEN FEEDBACK**
- 6 TIMELINE**
- 7 16 UNITS PER ACRE**
- 8 FORM OVER FUNCTION**
- 9 KEY DIMENSIONS OF AUBURN'S REZONING**
- 10 NEXT STEPS**
- 11 EARLY RESULTS AND TAKEAWAYS**

ABOUT AUBURN

Auburn, Maine, is an American everytown of 24,000 residents. Surrounded by second-growth forests, the city could just as easily be set in Midwestern cornfields or the suburbs of a major metropolis.

Like almost every American town, Auburn has contended with rising home prices; in Auburn's case, the market shifted a few years before the pandemic as demand overflowed from Portland. For the first time in memory, demand would support unsubsidized, new market-rate apartments in Auburn — if the city could make space for them.



NEW MAYOR, POLITICS AND OPPORTUNITIES

Jason Levesque, a local business owner, became mayor in late 2017 and brought an energetic, pro-growth attitude to the office.

At the same time, new ideas about zoning were beginning to percolate nationally, with writers on the left and right pointing to the need for reform. Young reform activists started calling themselves “YIMBYs”, flipping “No” to “Yes” in the usual attitude toward local development.

In another era, a pro-growth mayor might have treated zoning as a technical side issue. Instead, zoning became the center of Auburn’s new politics.

Auburn mayors have little formal power. To make change, Levesque had to work with an ideologically diverse City Council and Planning Board. Whether intentionally or not, he used an early confrontation to build consensus around ambitious reforms.

The political fulcrum in Auburn’s land-use debates is the vast Agriculture and Resource Protection District – the “Ag Zone” – that prevents development in 40% of Auburn. Few farms remain viable, so most of the Ag Zone is second-growth forest. Land values in the zone are almost nil, which means its residents,

IN ANOTHER
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whose homes largely predate the zone’s 1964 origin, pay little in taxes. The Ag Zone’s defenders include its residents, who understandably want to keep their taxes low and views bucolic, and progressive Auburnites skeptical of sprawl.



UNIFIED NARRATIVE, PIECEMEAL REFORMS

The Comprehensive Plan Committee, Planning Board, City Council, Mayor and city staff worked throughout 2021 and into 2022. With many of the same people meeting and debating across different forums a clear, unified narrative emerged:

Auburn wants more residents. It needs more, newer homes. Residents want more variety in their neighborhoods. Current zoning is standing in the way.

Rather than try to package the changes in a single major action, the Mayor and Council chose to roll out reforms one at a time. The piecemeal approach was both pragmatic and strategic. As a practical matter, preparing a single citywide rezoning would have taken more staff hours than were available. Strategically, piecemeal reform allowed the city to start small and give citizens time to test drive the new approach. It also allowed each proposed rezoning to succeed or fail on its own merits. But the unified narrative was never out of sight.

One early reform loosened residential zoning by allowing a second house on any parcel where duplexes had already been legal – which was most of Auburn. This is an especially permissive version of an Accessory Dwelling Unit (ADU) ordinance: The secondary house need not be smaller than the original and the

READ MORE: Furth's colleague Dan Rothschild explored Auburn's vision for growth, and the motives behind it, in an essay for Discourse magazine at <https://bcp.fyi/discourse>.

12,000 square foot minimum lot size for duplexes does not apply.

A few months later, the City Council slashed Auburn's parking requirements. Following the planning staff's recommendation, it eliminated all parking requirements for commercial uses citywide. The Council also reduced parking requirements for residences, eliminating them entirely in core areas where public parking is available.

Some reforms took place while the comprehensive planning process was still underway. This created a recursive process, giving the planners ongoing feedback as they advanced their work. If residents had reacted negatively to early reforms, the Comprehensive Plan would likely have been more modest.

CITIZEN FEEDBACK

Urban planning has always coexisted uneasily with democracy. Despite the claims of those who “speak for the community,” it’s difficult to assess constituents’ range of preferences or to even elicit opinions. People often have competing priorities.

In Auburn’s reform effort, citizen reactions have followed something like a pyramid structure. The base of the pyramid is submerged – many residents never participate, vote, or call, even after receiving city notices of proposed zoning changes.

The next layer is the city’s voters. Since Mayor Levesque has defined himself as a champion of growth, his re-election campaigns can be seen, at least in part, as referenda on the city’s efforts. In 2019, he won 59% of the vote, a substantial increase from his inaugural election. And in 2021, nobody ran against him. The contested 2021 Council elections went largely to members aligned with reform. This suggests voters think the city is on the right track.

The next step in the pyramid consists of the hundreds of residents who have called and spoken to planning staff during the reform process. When rezonings are proposed, the city sends notices to affected residents (as state law requires) and, for good measure, those living within 500 feet of a rezoned area. After each notice, a wave of calls comes in: Why did I receive this notice? Can you explain this term?

The planning staff fielded hundreds such calls in the past year. Many residents are skeptical or worried at first. After staff explained the changes and the city’s reason for increasing the allowed housing density, about two-thirds of callers were satisfied; a third remained unhappy.

These formal conversations occurred in parallel to many informal conversations around Auburn. City staff and Comprehensive Plan Committee members are also neighbors and friends to many res-

idents, and could personally explain their vision for a growing city and policies that would get them there. In a much larger city, or one with less social trust, earning residents’ assent to change might have been harder.

In addition to mailings, the city solicited input via an online survey, in-person meetings and hearings on the comprehensive plan and the specific rezonings. The online survey generated 151 responses that ran the gamut from “We need to rapidly expand our housing options,” to “There’s too many people in Auburn already I think you should stop people from

Continued on page 7

**Public meeting attendees:
Strongly unfavorable**

**Survey:
~3 out of 5
favorable**

**Callers:
Two-thirds favorable
or indifferent**

**Voters:
Re-electing pro-growth leaders**

**Population:
Unknown preferences**

TIMELINE

OCTOBER 2018: Mayor Levesque convenes Ag Zone action group

DECEMBER 2019: Council passes minor adjustments to the Ag Zone

NOVEMBER 2020: Comprehensive Plan Committee forms. Mayor Levesque contacts the Mercatus Center for outside expertise.

JANUARY 2021: Council extends T4.2 Form-Based District to neighborhoods in New Auburn and around Chestnut Park.

MAY 2021: Secondary dwelling ordinance passes.

MID-2021: Staff present Comprehensive Plan at community meetings & open online survey.

JULY 2021: Council passes parking reforms and allows duplexes in the Low-Density Country Residential zone.

NOVEMBER 2021: Comp Plan Update finalized and approved.

JANUARY 2022: Staff present first three rezoning proposals to implement the Comp Plan.

MARCH 2022: Council passes three rezonings, including upzoning the Court-Lake-Turner streets area to 16 units per acre.



16 UNITS PER ACRE

The most controversial and ambitious action in Auburn’s reform effort has been to rezone several of its neighborhoods to allow density up to approximately 16 units per acre, allowing small businesses and apartment buildings as well as small single-family lots.

Early in the comprehensive planning process, the mayor and other committee members identified 16 units per acre as an infill-growth target that would be economically viable but could stay within a 3.5-story height limit. The Gracelawn Apartments, four 12-unit buildings on a three-acre site that was developed shortly before the reform in an area zoned for multifamily development, proved this scale and density could work in Auburn.

As the reform process unfolded, some expected the ambitious density target to come down. But it never did.

Another surprise was the committee’s attitude toward retail business in residential zones. Auburn

sometimes define their neighborhoods by reference to small businesses like Heathco’s and Pizza Market. Committee members grew nostalgic talking about neighborhood businesses they had patronized as children. Although nostalgia typically promotes a resistance to change, in this case it was a key argument for upzoning.

Looking at how these processes often play out nationwide, Auburn could reasonably have expected a firestorm of criticism in response to a proposal to allow both apartment buildings and, by special permit, small commercial buildings throughout largely single-family neighborhoods. Instead, only a handful of people spoke in opposition.

Continued from page 5

coming here.” On balance, respondents favored housing growth. One question asked, “Do you support water and sewer expansion in the city to support higher density housing?”; 63% said yes. Increased density downtown was even more popular, earning 85% approval.

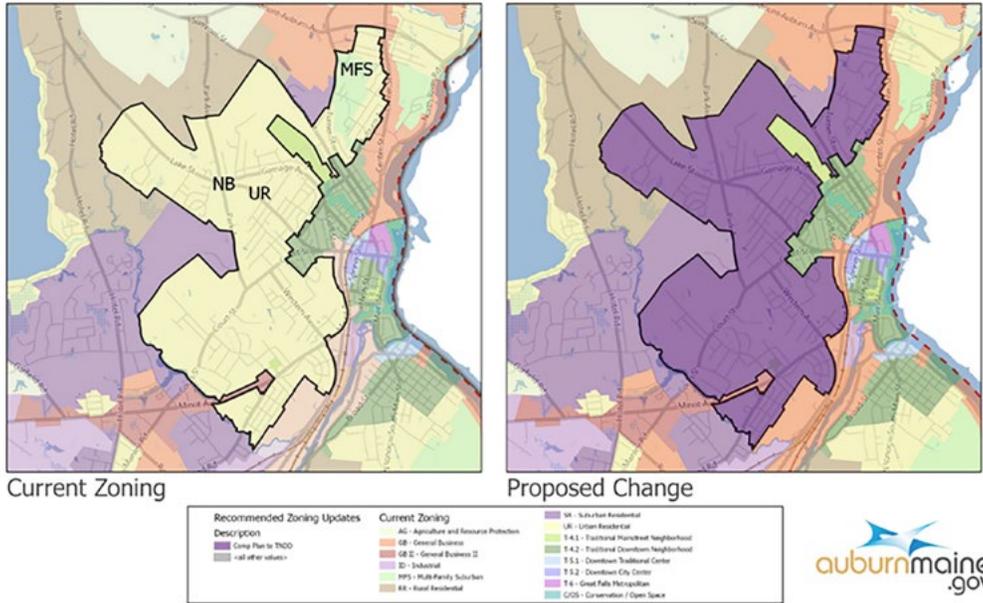
In contrast, public meeting attendees have radically different opinions.

The narrow top of the pyramid is those who show up

in person to voice their opinions at hearings and meetings. These voices have been mostly opposed to zoning reform, raising worries about changing the character of their neighborhoods. But they have also been few. At comprehensive planning events, attendance was typically 20 to 30 people.

Even as the Council moved to radically upzone 1,687 acres in March, 2022, just 12 people spoke, all but one of them in opposition to the change.

Court Street: Exhibit C



Planning staff proposed a 1,687 acre rezoning to allow mixed-density neighborhoods.

FORM OVER FUNCTION

To implement the change, planning staff rezoned a large area along Court, Lake and Turner streets into the existing “T4.2 - Downtown Traditional Neighborhood” form-based district. The form-based code does not have a specific density limit. Instead, its height and coverage limits accommodate buildings up to roughly 16 units per acre.

Form-based zoning is premised on the idea that neighborhoods are defined by buildings’ physical form – their height, position, and parking – rather than what goes on inside. In theory, a form-based zone should allow most non-polluting land uses as long as the building abides by common physical parameters.

Form-based zoning has its critics. Rather than liberalizing land uses, the argument goes, most cities that adopt it keep their restrictive use-based rules and add prescriptive rules on appearance, window area and landscaping. Additionally, form-based codes can be difficult to understand.

Auburn’s form-based code avoided those pitfalls, remaining brief and refreshingly non-prescriptive. For example, porches are allowed, but not required, and are not subject to restrictions on width, depth, height above

the curb, roof pitch or materials.

Auburn’s form-based code opens up the possibility of mixing houses, shops, apartments, and small offices as was the norm when its older neighborhoods developed. And it allows narrower lots, slightly taller buildings (3.5-story rather than 35 feet at the gable) and shallower front yards than Auburn’s traditional zoning code. The new code dispensed with minimum lot sizes, which were redundant to the lot width and density limits.

Table 1 summarizes the key differences between the T4.2 zone and the two zones that it replaced. Notably, the existing Multifamily Suburban district allowed a slightly higher density, but only for projects of at least an acre. Building small-scale density, such as exists in Auburn’s historic core neighborhoods, was impossible before the reform.

KEY DIMENSIONS OF AUBURN'S REZONING

REZONING	NEW T4.2 DISTRICT	PREVIOUS DISTRICT: URBAN RESIDENTIAL	PREVIOUS DISTRICT: MULTIFAMILY SUBURBAN
Minimum Lot Size (sq. ft.)	n/a	10,000	8,000 plus 2,000 per unit
Maximum density (units/acre)	n/a	4	17
Minimum lot width (ft)	24	100	100
Minimum rear setback (ft)	10	25	25
Maximum height	3.5 stories	35 ft.	45 ft.
Professional offices allowed?	By special permit	By special permit on arterial roads	By special permit on arterial roads
Retail stores allowed?	By special permit	No	No
Multifamily housing allowed?	Yes	No	Yes



NEXT STEPS

Auburn’s zoning reform continues. The Comprehensive Plan calls for revisions to zoning in several lower-density areas. And some existing boundaries between zones may be moved to maximize use of available utilities and infrastructure

In addition, planning staff has proposed to split the T4.2 district. The new additions along Court, Lake and Turner Streets are less urban and will likely be rezoned into T4-2B. The city’s goal is to encourage traditional mixed-density development in its historic neighborhoods and offer Auburn’s high quality of life to additional residents. At the same time, it seems reasonable to allow more and larger businesses, and perhaps higher residential density, only in the downtown-adjacent areas. The T4-2B zone, as proposed, would disallow most businesses. Only businesses attached to a residence would be permitted, and then only by special permit.

Regardless of the specifics, planning staff and elected officials will closely watch the evolution of the rezoned areas. Will businesses locate there at all? Will shifting public opinion force further amendments?

Not everything has been rosy. Citizens unhappy with recent changes have signed a petition to force the City Council to reconsider the key rezoning. One of Auburn’s legislators tried to overturn the Ag Zone’s restriction on non-agricultural income via legislation; that failed. And one of the business district rezonings resulted in a lawsuit from a neighboring city over the disputed impact on both cities’ water supply.

EARLY RESULTS AND TAKEAWAYS

With reforms still fresh, it's too soon for a complete evaluation. What is already clear: Developers and Auburnites are interested in the new opportunities.

In the two months since the T4.2 rezoning, the planning office has been fielding about 20 calls per week from property owners interested in the new possibilities for infill development. For example, a recent caller wanted to confirm that the new zoning would allow him to split his lot and build a duplex as an investment property. To be sure, some of these enthusiastic inquiries will take years to ripen and many will never go beyond daydreams. That's to be expected; residents are exploring their new possibilities.

At a larger scale, developers have begun permitting multifamily infill development on recently rezoned sites on Court St. and Brickyard Circle. The city estimates that more than 400 apartments are in the pipeline under the new zoning, along with 200 more already permitted under previous zoning and planned development agreements. In addition, the city expects many new single-family homes, some on small lots, and is in early discussions regarding a new-urbanist-style neighborhood subdivision.

Removing commercial and downtown parking requirements had immediate impact. The new regulations allowed the Auburn Mall to market several pad sites in its parking lot, and national chains Olive Garden and Target have also taken advantage of the change. Olive Garden will expand a shuttered restaurant into an underused parking lot, a tradeoff between parking and seating space difficult under the old rules. And in the heart of the city, developers have shown interest in turning a city-owned parking lot into a mixed-use building with no new parking.

Auburn's secondary dwelling ordinance has been in place for just over a year. Although the city had long allowed duplexes in the same areas, more residents have expressed interest in the second house option. In the first year, the city issued three permits for secondary dwellings. Relative to Auburn's eligible hous-

ing stock, this permitting rate is reasonable – equal to the rate inland California permitted ADUs after state-wide legalization in 2017. (Coastal California, where rents are much higher, permitted ADUs at a commensurately higher rate.) Secondary houses constitute a substantial share of the detached houses permitted over that year, which totaled 16 units including mobile homes and secondary homes.

WHAT CAN OTHER CITIES LEARN FROM AUBURN?

- Ambitious change requires a leader willing to stake political capital.
- Losing one battle – as Mayor Levesque did with the Ag Zone – can reveal a constituency that will be an ally on other fronts.
- Sweeping change requires a unifying narrative, clear strategic goals, and honest communication, but piecemeal implementation is practical.
- Broad outreach can fortify reformers so they don't overreact to the negative voices dominating the top of the pyramid.
- Your city might welcome much bigger changes than you think.

ABOUT THE AUTHORS

ERIC COUSENS, CITY OF AUBURN

ecousens@auburnmaine.gov | (207) 333-6601 ext. 1154

Eric Cousens is a planner and economic development professional who cares about the preservation of his long-time city. He has worked for the City of Auburn for more than 16 years, advocating for density at urban centers to allow people to live with people, in varied housing types, where services and infrastructure can be provided and shared efficiently.



SALIM FURTH, MERCATUS CENTER AT GEORGE MASON UNIVERSITY

sfurth@mercatus.gmu.edu | (703) 993-4930

Salim Furth is a Senior Research Fellow and Director of the Urbanity project at the Mercatus Center at George Mason University. His research focuses on housing production and land use regulation and has been published in Critical Housing Analysis and the IZA Journal of Labor Policy. He has testified before several state legislatures as well as the U.S. Senate and House of Representatives. He frequently advises local government officials on zoning reform and housing affordability.

Furth's writing has appeared in National Affairs, American Affairs, The City, Public Discourse, and numerous newspapers. He previously worked at the Heritage Foundation and taught at Amherst College, and earned his Ph.D. in economics from the University of Rochester in 2011.



LINKS

City Council Agenda, March 28, 2022, including T4.2 rezoning proposal.

<https://bcp.fyi/auburn032822>

City Council Agenda, June 21, 2021:

- Parking reform (pp. 119-131)
- Allowing two-family dwellings in Low-Density Country Residential (pp. 115-118)

<https://bcp.fyi/auburn062121>

City Council Agenda, May 3, 2021, secondary dwelling ordinance (pp. 57-63).

<https://bcp.fyi/auburn050321>



NEXT STEPS
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Phone (702) 546-8736
Email info@better-cities.org
Web better-cities.org

304 S. Jones Blvd.
Suite 2826
Las Vegas NV 89107

