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February 15, 2022

Town of Lyman Planning Board  
Lyman Town Hall  
11 South Waterboro Road  
Lyman, ME 04402

Re: Revised Request For Contract Rezoning (Lyman Zoning Ordinance Article I, Section 1.8.3)  
Tax Map 11, Lot 122 and Portions of Tax Map 11, Lots 53-1 & 124-B

Dear Planning Board Members:

This letter is accompanied by a revised request for contract rezoning affecting the above-referenced property. The revisions to the request are intended to be responsive to questions and concerns raised by residents of the Town during the initial public hearing held by the Planning Board on this request.

New conditions/restrictions (c), (d), (e) and (f) have been added at Section 7. Condition/restriction (c) limits the number of residential units that may be built and prohibits any subsequent expansion of those units. Condition/restriction (d) prohibits the use of the Cousens School building for residential purposes and mandates that any uses to which the building is put result in the least possible change to its structure and character. Condition/restriction (e) mandates that the Cousens School ballfield and basketball court remain available for use by the residents of the town. Condition/restriction (f) establishes a Unit Owners Association to own the land on which the residential units are located and be responsible for all required maintenance of the grounds, building exteriors and roadways.

Condition/restriction (b) has been revised to expand the period during which units will be exclusively available to Lyman residents and to give special consideration to residents who are 55 or older.

Because the possibility of developing 9 residential units in Cousens School has been eliminated and replaced with the possibility of developing no more than 3 professional office and or personal service business condominium units, the requested change in density per permitted

use has changed from 14,125 square feet per unit to 16, 300 square feet per unit.

In addition to identifying the material changes to the contract rezoning request, I would also like to take the opportunity to address two particular issues raised by the public comments.

The first issue concerns the assertion that there is language in the Comprehensive Plan suggesting the intent to require a minimum one acre lot size throughout the Town of Lyman. I assume for purposes of this discussion that this assertion is based on language that appears on page 6 of the Comprehensive Plan under the general heading "Land Use" and the sub-heading "Strategies". The fourth suggested strategy reads: "Consider establishment of a low density and medium density *rural* (emphasis added) zone. Low-density lot sizes between 2-5 acres should be considered to protect rural areas. One acre lot sizes should be considered near existing development in suitable areas." The intent of this language is made clear by the language which appears above it under the heading "Policies": "Investigate establishing differing lot sizes in *rural* (emphasis added) areas; smaller lot sizes near existing developed areas and larger lot sizes near farmland, natural resources, or large tracts of open space."

Contrast the language quoted above with the language of the third suggested strategy: "Develop varying land use density patterns, which maintain the semi-rural character of the community by adopting lot requirements in specific areas of the *residential zone* (emphasis added) that would allow for denser development."

Clearly, the suggestion in the Comprehensive Plan that lots be no smaller than one acre applies only to lots located in the rural zone.

The second issue concerns the designation of the contemplated project as a Planned Unit Development (PUD). A Planned Use Development is not, in and of itself, a land use. A proposed use is designated as a PUD when it possesses certain defining statistics. Generally speaking, any residential development which contains shared facilities (roads, open spaces, recreational facilities) which are owned and maintained by an association which owners in the development are compelled to join and support via assessments is a PUD. The advantage PUDs provide to a municipality is to place the burden of infrastructure maintenance on the homeowners within the PUD rather than on the resources of the municipality. In short, any zone in which condominiums or a subdivision with private roads are permitted is a zone where PUDs are permitted.

Finally, submitted along with this letter and the revised contract rezoning application is Bauneg Beg Development LLC's response to the standards set forth at Article I, Section 1.8.3 (F).

Very Truly Yours,

  
Joseph V. Lenkowski

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Tax Map 11, Lot 122 and Portions of Tax Map 11, Lots 53-1 & 124-B

Dear Planning Board Members:

This revised request for contract rezoning is submitted on behalf of Bauneg Beg Land Development, LLC (Bauneg Beg) which is the owner of 382 Goodwins Mills Road (Map 11, Lot 122) and the holder of contracts for the acquisition of portions of Tax Map 11, Lots 53-1 & 124-B, all of which together comprise a parcel of land consisting of 14.60 acres (collectively "the Property"). Hereafter for purposes of clarity this submission will follow the outline provided by Section 1.8.3(C) of the Ordinance.

**1. Evidence of right, title and interest in the property.**

As part of its request package Bauneg Beg has included a copy of a recorded deed from R&R Oil, Inc. conveying 6.1 acres consisting of Cousens Memorial School and its adjacent fields and grounds. Also included in the request package are copies of executed Purchase and Sale Agreements between Bauneg Beg and the Merrilee Stearns Meserve Revocable Trust and between Bauneg Beg and Patricia and Edward Maloney covering the balance of the Property.

**2. A plot plan showing the boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures.**

A plan prepared by Blais Civil Engineering containing the required information is included in the request package.

**3. A plan showing the location of existing streets and driveways within five hundred**

**(500) feet of the property.**

A survey plan prepared by Stephen W. Everett, PLS containing the required information is included in the request package.

**4. A detailed statement of the proposed use of the property and the precise zoning change requested and how the proposed use will benefit the town.**

Bauneg Beg is proposing the construction of up to 18 new residential duplexes for a total of 36 units. It is anticipated that the Cousens Memorial School building may be utilized to house up to 3 professional office and/or personal service business condominium units.

Bauneg Beg seeks the creation of a new zoning district consisting solely of the Property as shown on the Blais and Everett plans. The zoning district to be created would require a minimum of 16,300 square feet of land area per permitted use. Planned Unit Developments would be permitted in the new zoning district.

As discussed in the following section, the proposed use will benefit the town by helping to meet the goal of the Comprehensive Plan to increase the availability of “affordable and safe housing” while preserving open space. As reflected by sub-paragraph (b) in the response to item 7 below, Bauneg Beg proposes to restrict sale of units during the initial pre-construction sales period to existing Lyman residents, with special consideration for residents who are 55 years of age or older. Additionally, and unique to the present project, is the benefit of preserving the Cousens Memorial School building and keeping the appurtenant ball field, basketball court and surrounding fields available for community use.

**5. A statement explaining how it is consistent with the Comprehensive Plan and permitted and existing uses within any zoning district.**

Lyman’s current Comprehensive Plan adopts a housing goal “*to encourage affordable and safe housing opportunities for all Lyman residents*”. The policies suggested by the Plan to achieve this goal include:

- *Continue to encourage cluster development to preserve open space;*
- *Provide areas of higher density zoning to accommodate various forms of multi-unit housing.*

The zoning changes contemplated by Bauneg Beg’s current request are consistent both with the overall housing goal established by the Comprehensive Plan and with the policies quoted above recommended by the Plan to promote that goal.

The uses contemplated in the proposed new zoning district are currently permitted uses or uses allowed with site plan review within the existing district. The only change sought would allow for a greater density of permitted use consistent with the goals of the Comprehensive Plan.

**6. A description of the property's unusual nature or unique location.**

The Property is unique in its potential to meet the housing goals of the Comprehensive Plan while also providing the opportunity to preserve a long-standing town landmark. Cousens Memorial School is an important part of Lyman's cultural heritage. It has been an integral part of the town's social fabric since its construction in 1937. After rezoning, the unique nature and location of the property will allow for increased residential density while protecting a treasured cultural asset and preserving open space and community recreational facilities. It is hard to imagine an outcome which would be more in tune with the housing goals set by the Comprehensive Plan.

**7. A statement setting forth the conditions and restrictions that the applicant proposes.**

Bauneg Beg proposes that the new zoning district will be subject to the following conditions:

- a) Submission to the Lyman Planning Board of a subdivision application for the project to be constructed in the new zoning district. The contract zoning agreement would become null and void in the event of the failure to obtain Planning Board approval of the project within three years of the date of the contract zoning agreement. This deadline may be extended for one year upon request approved by the Board of Selectmen with a recommendation by the Planning Board.
- b) During the first 60 days of the pre-construction sale period, which shall commence upon the date that all necessary project approvals are obtained from the Town of Lyman, the residential units shall be exclusively available to residents of the Town of Lyman who are 55 years of age or older. During the 45 days following the expiration of the first 60 days of the pre-construction period, the residential units shall be exclusively available to all residents of the Town of Lyman.
- c) No more than 18 single story residential duplexes totaling 36 single family residential units shall be constructed on the Property. Each unit will consist of approximately 1,200 square feet of living space, with two bedrooms and an attached garage. Addition or renovations to the structures which would increase the structural footprint will be prohibited.
- d) The Cousens School building shall not be used for residential purposes. In the event that the Cousens School building is used to house professional office and/or personal service business condominium units, any required renovation shall fully preserve the front exterior of the building, except for changes, if any, required by local, state or federal ordinance, statute or regulation.
- e) The Cousens School ballfield shall continue to be available for use by Little

League and other organized youth leagues. The basketball court shall remain available for public use but may be relocated.

- f) A Homeowners Association shall be created in which membership will be mandatory for all residents. The Association shall own the land upon which the residential units are located, and be responsible for all required maintenance of the grounds, building exteriors and roadways.
- g) Bauneg Beg or its assignee shall construct adequate drainage, waste water removal, and septic systems in accordance with the Town of Lyman ordinances and any State or Federal regulations.
- h) Bauneg Beg or its assignee shall pay for all contract planning staff time as well as any third party engineering or legal review incurred by the Town in connection with the negotiation and execution of the contract zoning agreement.
- i) Except as otherwise established herein, the Property shall be subject to all applicable requirements of the underlying zoning district, as they may be amended from time to time.
- j) The provisions of the contract zoning agreement shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Town of Lyman and Bauneg Beg or its successors in interest to the Property.
- k) Except as expressly modified in the contract zoning agreement, the use and occupancy of the Property shall be governed by and comply with the provisions of the Town's Zoning Ordinance. This Contract Zoning Agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S. §4452) and the Zoning Ordinance.

Thank you for your consideration of this request.

Very Truly Yours,



Joseph V. Lenkowski

cc: Bauneg Beg Development, LLC