

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**The Red Barn
Minor Development Application
Findings of Fact and Conclusions of Law**

Pursuant to the provisions of the City of Augusta Land Use Ordinance, the City of Augusta Planning Board has considered the application of The Red Barn, including supportive data, staff review comments, public hearing testimony, and related materials contained in the record. The Planning Board makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. **Project Description:** The request is for a Minor Development review as per Section 4.5. The applicant proposes to expand a parking lot by 19,665 square feet.
2. **Owner:** The Red Barn
3. **Applicant:** The Red Barn
4. **Location:** 455 Riverside Drive
5. **Zoning:** Planned Development (PD) District
6. **Tax Map Number:** Map 49, Lot 13
7. **Existing Land Use:** Restaurant
8. **Acreage:** 4.5
9. On March 16, 2012, the applicant submitted the following:
 - a. Development Review Application Form
 - b. Narrative
 - c. Deeds
 - d. Agent authorization letter
 - e. Site Plan
10. On March 24, 2012 and March 31, 2012, the Kennebec Journal published legal advertisements for the public hearing regarding the application.
11. On March 23, 2012, City staff mailed notices to the owners of properties located within 1000 feet of the property regarding the public hearing regarding the application.
12. On April 10, 2012, the Planning Board held a public hearing regarding the application. The Planning Board conducted a detailed review of the material listed in Item 9 above, the staff review dated April 4, 2012, and considered testimony by the applicant and interested members of the public. Five individuals testified at the

public hearing and one written communications regarding the application was received. The Board voted to approve the application with conditions.

Conclusions of Law

In view of the above actions and the application and supporting documentation in the record, the Planning Board makes the following conclusions of law.

4.4.1 Criteria for Reviewing the Preapplication

4.4.1.1 Pollution. The proposal will not result in undue water or air pollution.

4.4.1.2 Sufficient Water. Not applicable.

4.4.1.3 Municipal water supply. Not applicable.

4.4.1.4 Soil erosion. The proposal will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

4.4.1.5 Highway or public road congestion. The proposal will not cause unreasonable public road congestion or unsafe conditions on public roads. The developer has made adequate provision for traffic movement of all types.

4.4.1.6 Sewage waste disposal. Not applicable.

4.4.1.7 Municipal solid waste and sewage waste disposal. Not applicable.

4.4.1.8 Aesthetic, cultural and natural values. In order to comply with this standard, further action is required by the applicant as specified in Conditions of Approval 1, 2, and 3.

4.4.1.9 Conformity with city ordinances and plans. The proposal complies with city ordinances and plans.

4.4.1.10 Financial capacity and technical ability. The applicant has adequate financial and technical ability to meet the terms of the ordinance.

4.4.1.11 Surface waters; outstanding river segments. The proposal is not located in the watershed of a pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, subchapter I, Article 2-B.

4.4.1.12 Ground water. The proposal will not adversely affect the quality or quantity of ground water.

4.4.1.13 Flood areas. The proposal is not in a flood-prone area.

4.4.1.14 Freshwater wetlands. All freshwater wetlands on the subject parcel(s) have been identified on maps submitted.

4.4.1.15 River, stream or brook. Any rivers, streams, or brooks within or abutting the subject parcel(s) have been identified on maps submitted as part of the application.

4.4.1.16 Stormwater. The proposed subdivision will provide for adequate stormwater management.

4.4.1.17 Access to direct sunlight. The proposal will not block access to direct sunlight to any structures utilizing solar energy.

4.4.1.18 Title 38 M.R.S.A. Not applicable.

4.4.1.19 Spaghetti lots. Not applicable.

4.4.1.20 Outdoor lighting. All outdoor lighting shall be of a design and construction that prevents light trespass beyond the boundaries of the parcel(s).

6.3.4 Site Plan Criteria Applicable for Conditional Uses

6.3.4.1 Neighborhood Compatibility

- a.
 - i. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to land uses.
 - ii. *Architectural design.* Not applicable.
 - iii. *Scale, bulk, and building height.* Not applicable.
 - iv. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to identity and historical character.
 - v. *Disposition and orientation of the buildings.* Not applicable.
 - vi. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to visual integrity.
- b. The elements of the site plan are designed and arranged to maximize the opportunity for privacy by the residents of the immediate area.
- c. The proposal will maintain safe and healthful conditions in the neighborhood.
- d. The proposal will not have a significant detrimental effect on the value of adjacent properties.

6.3.4.2 Plans and Policies. The proposal is in accordance with the 2007 Comprehensive Plan.

6.3.4.3 Traffic Pattern, Flow and Volume

- a. *Additional traffic.* Not applicable.
- b. Safe access will be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting.
- c. The proposal provides access for emergency vehicles and for persons attempting to render emergency services.
- d. The entrance and parking system provides for the smooth and convenient movement of vehicles both on and off the site. The proposal satisfies the parking capacity requirements of the city and provides adequate space suited to the loading and unloading of persons, materials, and goods.

6.3.4.4 Public Facilities

- a. *Water.* Not applicable.
- b. *Sewer.* Not applicable.
- c. *Electric and telephone utilities.* Not applicable.
- d. The public stormwater system has adequate capacity for the project.

6.3.4.5 Resource Protection and the Environment

- a. There are no known sensitive areas.
- b. The proposal complies with local, state, and federal air quality standards.
- c. The proposal complies with local, state, and federal water quality standards.
- d. *Sewage and industrial wastes.* Not applicable.
- e. The proposal is not in the shoreland zone.

6.3.4.6 Performance Standards

- a. The proposal complies with all dimensional and performance standards.
- b. The proposed land use can be conducted so that noise generated shall not exceed the performance levels specified in the performance standards.
- c. The proposal does not involve intense glare or heat.
- d. The exterior lighting will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area.
- e. *Landscaping.* The landscaping screens the parking areas, loading areas, trash containers, outside storage areas, blank walls or fences and other areas of low visual interest from roadways, residences, public open space (parks) and public view.
- f. All of the signs comply with the Land Use Ordinance.

6.3.4.7 Financial and Technical Ability

- a. The applicant has adequate technical ability to meet the terms of the ordinance.

- b. The applicant has adequate financial ability to meet the terms of the ordinance.

THEREFORE, the Planning Board hereby approves, with the following conditions, the application of The Red Barn to expand a parking lot by 19,665 square feet as described in the findings above.

Conditions of Approval

The following conditions shall be met prior to the Signature of Approval on the Site Plan. No site or building permit shall be issued until these conditions are met. These conditions shall be met within six months of the signing of these Findings of Fact and Conditions of Approval by the Chair of the Planning Board. If these conditions are not met within six months, the applicant must come before the Planning Board for review of the conditions:

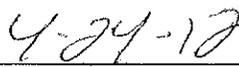
1. The site plan shall be modified to include a Bufferyard A between the parking lot expansion and the residences to the east and south and the western property line. A portion of the gravel area at the southern end of the parking lot shall be removed to allow room for the Bufferyard A.
2. The Bufferyard C areas, and there are three of them, will include a 50% substitution of large coniferous trees for the existing canopy trees that will be placed in such a way as to give maximize screening for the neighbors.

Additional conditions:

1. If the applicant chooses to use porta potties, the porta potties shall be completely screened from sight from the abutters.

This Conditional Approval shall expire within one year of the date of approval by the Planning Board, if a permit from the Bureau of Code Enforcement for the site and building work is not issued by that date.


Corey A. Vose, Planning Board Chair


Date

