

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**BADJ Properties, LLC
Major Development Application
Conditional Use 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 BADJ Properties, LLC, 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 Major Development review as per Section 4.5 and Conditional Use Review as per Section 6.3. The applicant proposes to create a staging area for processing scrap metal. The use is classified as Waste Facility, Type 1 which is a conditional use.
2. **Owner:** BADJ Properties, LLC
3. **Applicant:** BADJ Properties, LLC
4. **Location:** Lipman Road
5. **Zoning:** Industrial (IA) District
6. **Tax Map Number:** Map 53, Lot 22
7. **Existing Land Use:** Agriculture
8. **Proposed Land Use:** Waste Facility, Type 1
9. **Acreage:** 6.2 acres
10. On January 9, 2015, the applicant submitted the following:
 - a. Development Review Application Form
 - b. Narrative
 - c. Deed
 - d. Plan set
11. On January 26, 2015, City staff mailed notices to the owners of properties located within 500 feet of the property regarding the public hearing regarding the application.
12. On January 31, 2015 and February 3, 2015, the Kennebec Journal published legal advertisements for the public hearing regarding the application.

13. On February 4, 2015, the applicant submitted a letter from Michael Deyling of CES Inc.
14. On February 10, 2015, the Planning Board held a public hearing regarding the application. The Planning Board conducted a detailed review of the material listed in Items 10 and 13 above, the staff review dated February 4, 2015, and considered testimony by the applicant and interested members of the public. -- individuals testified at the public hearing and -- written communications regarding the application were 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. There is sufficient water available to meet the needs of the proposal.

4.4.1.3 Municipal water supply. The proposal will not cause an unreasonable burden on the municipal water supply.

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. The proposal will provide adequate sewage waste disposal.

4.4.1.7 Municipal solid waste and sewage waste disposal. In order to comply with this standard in regards to solid waste, further action is required by the applicant as specified in Condition of Approval 4. The proposal will not cause an unreasonable burden on the municipality's ability to dispose of sewage.

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 Condition of Approval 5.

4.4.1.9 Conformity with city ordinances and plans. The proposal complies with the 2007 Comprehensive Plan. In order to comply with this standard in regards to the Land Use Ordinance, further action is required by the applicant as specified in the Conditions of Approval.

4.4.1.10 Financial capacity and technical ability. In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 3.

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. Not applicable.

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 scale house is not in a flood-prone area. Not applicable.

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 proposal 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. Section 484, Chapters 371 and 373-377. The project is not regulated by the Site Location of Development Law. Not applicable.

4.4.1.19 Spaghetti lots. A subdivision is not proposed. Not applicable.

4.4.1.20 Outdoor lighting. In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 6 & 7.

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. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to architectural design.
 - iii. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to scale, bulk, and building height.
 - iv. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to identity and historical character.
 - v. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to disposition and orientation of the buildings.
 - 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. The proposal is designed so that the additional traffic generated does not have a significant negative impact on the surrounding neighborhood.
- b. *Safe access.* In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 1.
- 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. The public water utility has adequate capacity for the project.
- b. *Public sewer.* Waste water will be disposed of in a septic system. Not applicable.
- c. The electric and telephone utilities have adequate capacity for the project.
- d. The public stormwater system has adequate capacity for the project.

6.3.4.5 Resource Protection and the Environment

- a. *Sensitive areas.* In order to comply with this standard, further action is required by the applicant as specified in Conditions of Approval 2, 8, 9, 10, 11, 12, and 13.
- 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 will be treated and disposed of in such a manner as to comply with local, state and federal standards.
- e. The proposal is not in the shoreland zone.

6.3.4.6 Performance Standards

- a. The proposal complies with all performance and dimensional 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. The landscaping screens 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 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. *Financial ability.* In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 3.

THEREFORE, the Planning Board hereby approves, with the following conditions, the application of BADJ Properties, LLC to create a staging area for processing scrap metal 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 one year 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 one year, the applicant must come before the Planning Board for review of the conditions:

1. On the Site Plan, modify the angle of the driveway where it intersects Lipman Road so that there will be safe egress from the site. The design shall be acceptable to the City Engineer.

2. On the Site Plan, move the retaining wall back from the Lipman Road in order to allow space to stabilize the wall.
3. Submit a letter that indicates that BADJ Properties, LLC has the financial capacity to complete the project in accordance with the ordinance.
4. Submit a letter from the Public Works Director that indicates there is sufficient capacity at Hatch Hill for the solid waste.
5. Submit a letter from the Maine Historical Preservation Commission that indicates that there are no historic or archaeological sites in the project area.
6. Revise Sheet C-5, Site Details IV, to change the Light Pole and Precast Concrete Light Pole Base detail to revise "All lights shall be cut-off luminaire" to state "All lights shall be full cut-off luminaire."
7. Submit a photometric plan which demonstrates that the lighting standards will be met.

The following conditions shall also be met:

8. Complete routine quarterly inspections of the oil water separator and remove accumulated oil or grease (if any).
9. Maintain a spill response kit on the Site that can be used to respond to any unexpected leaks or spills from on-site equipment.
10. Surplus scrap metal should be stored on the proposed concrete pad or an area where stormwater contacting scrap metal can be collected and routed through the soil water separator.
11. Periodically clean the concrete pad surface to minimize buildup of fines that may accumulate. Fines should be disposed of off-site.
12. Provide training to on-site employees related to inspection of incoming scrap metal to identify unacceptable materials in loads such as liquids, unknown solid waste, foreign debris (soil, trash, etc.) and a means of segregating unacceptable waste on the concrete pad for off-site disposal.
13. Complete inspections of stormwater structures and discharges in accordance with the Site's Stormwater Pollution Prevention Plan (SWPPP). Special emphasis should be placed on the discharge location for the oil/water separator for the presence of sheens or discoloration. Any deficiencies should be promptly addressed.

This Conditional Approval shall expire within eighteen (18) months 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