

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**Shuman Family Second LLC
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 Shuman Family Second 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:** Request: The request is for a Minor Development review as per Section 4.5. The applicant proposes to construct a vehicle display lot.
2. **Owner:** Shuman Family Second LLC
3. **Applicant:** Shuman Family Second LLC
4. **Location:** 480 Western Avenue
5. **Zoning:** Regional Business (CC) District
6. **Tax Map Number:** Map 16, Lot 31A and 32
7. **Existing Land Use:** Retail
8. **Proposed Land Use:** Automobile Business
9. **Acres:** 2.13 acres (combined)
10. On February 6, 2015 the applicant submitted the following:
 - a. Development Review Application Form
 - b. Narrative
 - c. Deed
 - d. Agent authorization letter
 - e. Site Plan
11. On February 12, 2015 the applicant submitted a stormwater report.
12. On February 17, 2015 the applicant submitted a boundary survey.
13. On February 19, 2015 the applicant submitted a revised site plan.
14. On February 19, 2015, City staff mailed notices to the owners of properties located within 500 feet of the property regarding the public hearing regarding the application.
15. On February 21, 2015 and February 28, 2015, the Kennebec Journal published legal advertisements for the public hearing regarding the application.

16. On February 24, 2015 the applicant submitted impervious surface information.
17. On March 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, 11, 12, 13, and 16 above, the staff review dated March 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. No water supply is proposed. Not applicable.

4.4.1.3 Municipal water supply. No water supply is proposed. 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. No waste water disposal is proposed. Not applicable.

4.4.1.7 Municipal solid waste and sewage waste disposal. No solid waste or sewage waste disposal is proposed. 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 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 2 and 3.

4.4.1.10 Financial capacity and technical ability. In order to comply with this standard in regards to financial capacity, further action is required by the applicant as specified in Condition of Approval 4. The applicant has adequate 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 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 will require a Site Location of Development Law permit amendment.

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 2.

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.* A building is not proposed. Not applicable.
- iii. *Scale, bulk, and building height.* A building is not proposed. 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.* A building is not proposed. 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. The proposal is designed so that the additional traffic generated does not have a significant negative impact on the surrounding neighborhood.
- b. *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. Public water. No water supply is proposed. Not applicable.
- b. Public sewer. No waste water is proposed. 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. 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.* No sewage or industrial wastes are proposed. Not applicable.
- e. The proposal is not in the shoreland zone.

6.3.4.6 Performance Standards

- a. The proposal complies with all dimensional standards. In order to comply with the performance standards, further action is required by the applicant as specified in Condition of Approval 2 and 3.
- 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. *Exterior lighting*. In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 2.
- e. *Landscaping*. In order to comply with this standard, further action is required by the applicant as specified in Condition of Approval 3.
- 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 4.

THEREFORE, the Planning Board hereby approves, with the following conditions, the application of Shuman Family Second LLC to construct a vehicle display lot 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. Revise the site plan to add a right turn only sign beside the exit onto Western Avenue.
2. Submit a lighting specification sheet for the fixtures at the top of the poles which demonstrate that the fixtures are full cutoff and remove the fixtures that are mid-way up the poles.
3. Revise the site plan to either widen the bufferyard to the south of the display lot to 15 feet in width or add a fence to it.
4. Submit a letter which demonstrates that the applicant has sufficient financial capacity to comply with the ordinance.

5. Submit the response letters from the Maine Historic Preservation Commission, Maine Department of Inland Fisheries & Wildlife, and Maine Department of Conservation (Aesthetic, Cultural, and Natural Values).

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