

Conditional-Use Application

I. Applicant / Owner Information

1. Applicant Name:	<u>LAURA BENEDICT</u>	
Mailing Address:	<u>455 RIVERSIDE DRIVE</u>	
Phone Number:	<u>(207)623-9485</u>	
Email Address:	<u>redbarcn1977@gmail.com</u>	
2. Authorized Agent:	<u>ALICIA BARNES</u>	
Mailing Address:		
Phone Number:	<u>(207)660-3663</u>	
Email Address:	<u>entared@gmail.com</u>	
3. Property Owner Name:	<u>Laura Benedict</u>	
Mailing Address:	<u>455 RIVERSIDE DRIVE</u>	
Phone Number:	<u>(207)623-9485</u>	
Email Address:	<u>redbarcn1977@gmail.com</u>	
4. Which form of required "evidence of standing" is being submitted with this application?:		
<input type="checkbox"/> Deed	<input type="checkbox"/> Signed Lease Contract	<input type="checkbox"/> Signed Purchase/Sale/Option Agreement
<input type="checkbox"/> Signed Written Agreement from Owner		

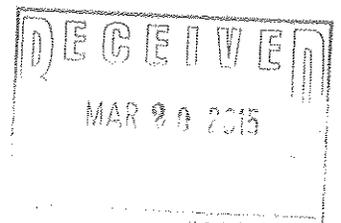
II. General Project Information

5. Please attach a narrative identifying the following about your project:

- Description of development project you are proposing (e.g. expansion of existing mixed-use commercial building; new office building; expansion of manufacturing shifts; expansion of commercial parking/loading areas; different land use; etc).
- size of any proposed building expansion (total sq.ft.).
- all the specific uses occurring on site (e.g. retail, warehouse, storage, manufact.) (identify what is occurring today and what will change after proposed development occurs).
- number of employees on-site for your largest shift (or for unmanned sites, how often per month site is visited by vehicles).
- estimated number of vehicles entering your site on a daily basis (broken down by number of delivery vehicles and number of customer/visitor/employee vehicles).
- total square footage of impervious surface area existing on site today (total square footage of first floor of each building plus square footage of all parking areas).
- total square footage of impervious surface area after proposed development occurs.

6. Lot Size: (ac.) ±4.5 acre 7. Lot Frontage: (ft.) 135ft 8. Zoning District(s): PD2

9. Project Location: 455 Riverside Drive Map 49 Lot 1413
Street Assessor Tax Map # + lot #(s)



III. Applicant Acknowledgments

10. Complete Application Required.

This application is being submitted under the requirements of the Augusta Land-Use Ordinance. As the applicant, I understand that this application must contain a complete submission of required materials by the application deadline date in order to be heard by the Planning Board. The deadline allows for adequate review by City Staff and the Planning Board; and as such, any applications that are not complete by the submission deadline date will not be placed on the Planning Board meeting agenda. To insure review by the Planning Board on the date desired, the applicant should submit materials at least 7 days ahead of the deadline so that staff can determine completeness of materials.

11. Drawings and/or Maps are required

For formal submittals to the Planning Board (see drawing requirements attached to this application). Generally, drawings for projects with new buildings or additions less than 1,000 sq. ft. in floor area, (or) projects that do not involve changing the existing structure, can be done by hand, as long as they are drawn to-scale. For developments creating 1,000 sq.ft. or more of new impervious development, a formal plan drawn by a professional engineer shall be required to be submitted with this application. Drawings are critical to the Planning Board and City staff in adequately understanding existing and proposed site conditions, as well as seeing the relationships between proposed structures and the projected impacts of parking, traffic, stormwater runoff, buffer areas, noise, etc. on abutters.

Signature of Applicant / Agent: Alicia Barnes

Signature of Property Owner: [Signature]

Today's Date: March 20, 2015

12. Checklist of Required Submission Materials:

Paper Copy	Included	Waiver Requested
10 copies of the application form and narratives	X	
10 copies of the deed, Purchase & Sale agreement, or other document to show standing	X	
3 copies of any stormwater report		X
2 copies of any traffic report		X
6 reduced-sized copies of the complete plan set on 11" x 17" size paper	X	
4 full-sized copies of the complete plan set on ANSI D or E size paper		X
10 copies of a letter authorizing the agent to represent the applicant	X	
Payment in full of \$50 application fee (Note: an abutter notification fee will be assessed after the application is determined to be complete. The fee is \$0.15 plus the cost of first class postage for each abutter that will be notified as required by the ordinance.)	X	
Electronic Copy		
1 CD that includes each of the application documents in Adobe PDF format		X

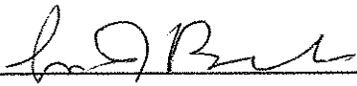
For Official Use:

\$50 Conditional Use Application Fee Paid. Received By (Initials): _____ Date: _____

\$_____ Abutter Notification Fee Paid. Received By (Initials): _____ Date: _____

March 20, 2015

I, Laura Benedict owner and President of Red Barn, Inc. LLC give permission to Alicia Barnes to act as my agent for the property located at 455 Riverside Drive for the specific request of a Conditional-use Application regarding a waiver to the City of Augusta's noise ordinance.



Owner

March 20, 2015

Date

TRANSFER. 50-36
TAX
PAID

WARRANTY DEED

BREWER'S DAIRY, INC., a/d/b/a BREWER'S DAIRY, a Maine corporation with a principal place of business in Augusta, County of Kennebec, State of Maine, for consideration paid, hereby grants to RED BARN, INC., a Maine corporation with a principal place of business at 455 Riverside Drive, Augusta, Maine, with Warranty Covenants the land in Augusta, County of Kennebec, State of Maine, more particularly described as follows, to wit: **006912**

A certain lot or parcel of land situated in Augusta on the east side of Riverside Drive and further bounded and described as follows, to wit:

Commencing at a point on the easterly side of Riverside Drive; thence continuing northeasterly 67± feet to the southerly line of Red Barn, Inc.; thence continuing easterly along the line of Red Barn, Inc. for 176'4"± to a point; thence southerly parallel to Riverside Drive to a point; thence westerly 176± to the point of beginning.

176'4" ±
176' ±
176' ±

Meaning and intending to convey a strip of land which extends northerly along Riverside Drive 67' in width and as excepted and reserved from a parcel described in Book 4015, Page 47.

IN WITNESS WHEREOF, the said WARREN BREWER, President of Brewer's Dairy, Inc. has set his corporate hand and seal this 12th day of April, 1995.

[Signature]
Witness

BREWER'S DAIRY, INC.:
Warren Brewer
By: Warren Brewer
Its: President

STATE OF MAINE
KENNEBEC, ss.

4/12/, 1995

Then personally appeared before me the above-named Warren Brewer, President of the grantor corporation, and acknowledged the above instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Rachel C. Mahaney
(Print Name)

Rachel C. Mahaney
Notary Public
Attorney-at-Law



RACHEL C. MAHANEY
NOTARY PUBLIC, MAINE
COMMISSION EXPIRES APRIL 27, 1997

SCHEDULE "A"

A certain lot or parcel of land situated in Augusta on the east side of Riverside Drive and further bounded and described as follows, to wit:

Commencing at a point on the easterly side of Riverside Drive; thence continuing northeasterly 67± feet to the southerly line of Red Barn, Inc.; thence continuing easterly along the line of Red Barn, Inc. for 176'4"± to a point; thence southerly parallel to Riverside Drive to a point; thence westerly 176± to the point of beginning.

Meaning and intending to convey a strip of land which extends northerly along Riverside Drive 67' in width and as excepted and reserved from a parcel described in Book 4015, Page 47.

RECEIVED KENNEBEC SS.

95 APR 18 AM 9:00

ATTEST: *Norma Ruth Marshall*
REGISTERED CLERK

**TRANSFER
TAX
PAID**

026486

6-47
SP114
Add 70
119-12

JOYCE E. GRAY, of So. China, County of Kennebec, State of Maine and
PAULINE B. PETERS, of Windham, County of Cumberland, State of Maine,
trustees of the RUTH L. BREWER ESTATE TRUST, by the power conferred
by law, and every other power, for one dollar and other valuable
consideration paid grant to the RED BARN, INC., a Maine corporation,
whose mailing address is 455 Riverside Drive real property in Augusta,
County of Kennebec, State of Maine, described as follows:

See Schedule A attached hereto and incorporated by reference.



Witness their hand and seal this 26th day of September, 1996.

Signed, Sealed and Delivered
in presence of:

Sharon M. Shaw

Witness

Sharon M. Shaw, Notary Public
State of Maine
My Commission Expires 11/19/2002

Joyce E. Gray

Ruth L. Brewer Estate Trust
By: Joyce E. Gray, Trustee

Ann Paul

Witness

Pauline B. Peters

Ruth L. Brewer Estate Trust
By: Pauline B. Peters

ACKNOWLEDGMENT OF TRUSTEES

State of Maine
Cumberland
County of Kennebec, ss

September 26, 1996



Then personally appeared the above named ~~Joyce E. Gray~~ and Pauline B. Peters in their capacity and severally acknowledged the foregoing instrument to be their free act and deed.

Before me,

Ann Paul
Notary Public

ANN M. PAULIN
Notary Public, Maine
My Commission Expires April 7, 2002

"Schedule A"

A certain lot or parcel of land, with any improvements thereon, situate southeasterly of Riverside Drive, so-called, in the City of Augusta, Kennebec County, State of Maine, and being bounded and described as follows:

Beginning at a capped 3/4-inch iron rod set on the southwesterly line of land now or formerly of one H. P. Hood, Inc., reference deed recorded in Book 4015, Page 47, Kennebec County Registry of Deeds, and the southeasterly line of other land of said Red Barn, Inc., reference deed recorded in said Registry of Deeds in Book 3049, Page 345 (third parcel), said iron rod being S 30° 48' 40" E and 179.51 feet from the southeasterly right-of-way line of said Riverside Drive as measured along the boundary dividing said land of H. P. Hood, Inc. on the northeast from said land of Red Barn, Inc. on the southwest;

thence S 30° 48' 40" E along said land of H. P. Hood, Inc. a distance of 135.49 feet to a capped 3/4-inch iron rod set at the southerly corner of said land of H. P. Hood, Inc.;

thence S 59° 19' 00" E along land being retained by said Trustees of Ruth L. Brewer Estate Trust a distance of 228.32 feet to a capped 3/4-inch iron rod set;

thence continuing S 59° 19' 00" E along land being retained by said Trustees of Ruth L. Brewer Estate Trust a distance of 50.00 feet to an unmarked point;

thence S 30° 41' 00" W along land being retained by said Trustees of Ruth L. Brewer Estate Trust a distance of 336.23 feet to a capped 3/4-inch iron rod set and land now or formerly of one Buxton, reference deed recorded in said Registry of Deeds in Book 1352, Page 320;

thence N 59° 19' 00" W along said land of Buxton on a line marked in part by stone wall and wire fence a distance of 400.00 feet to the southerly corner of land now or formerly of one Rodrigue, reference deed recorded in said Registry of Deeds in Book 3783, Page 347;

thence N 36° 39' 21" E along said land of Rodrigue a distance of 3.99 feet to the center of an elm stump;

thence continuing N 36° 39' 21" E along said land of Rodrigue, on a line marked in part by wire fence, a distance of 199.98 feet to a 1/2-inch iron rod found capped "Giroux" at the easternmost corner of said land of said Rodrigue;

228.32
50.00
278.32

11
B
199.98
223.97

thence N 58° 59' 50" W along said land of Rodrigue a distance of 125.37 feet to a capped 3/4-inch iron rod set and the southernmost corner of other land of said Red Barn, Inc., reference deed recorded in said Registry of Deeds in Book 4878, Page 47;

thence N 59° 05' 51" E along said other land of Red Barn, Inc., reference deeds recorded in Book 4878, Page 47 and in Book 3049, Page 345 (third parcel) a distance of 224.36 feet to the point of beginning, containing 3.36 acres, more or less.

Also conveying any interest which said Joyce E. Gray and Pauline B. Peters as Trustees of the Ruth L. Brewer Estate Trust may have in any easement for septic disposal purposes which may be situate on the above described premises, reference deeds recorded in Book 2052, Pages 191 and 192; Book 3410, Page 286 and Book 3049, Page 345, Kennebec County Registry of Deeds.

Being a portion of the same premises described in a deed of Joyce E. Gray and Pauline B. Peters as personal representatives of the Estate of Ruth L. Brewer to Joyce E. Gray and Pauline B. Peters as Trustees of the Ruth L. Brewer Estate Trust, dated June 12, 1985, recorded in Book 2811; Page 308, Kennebec County Registry of Deeds.

RECEIVED KENNEBEC SS.

1996 OCT -7 AM 9:00

ATTEST: *Normal Buck*
REGISTER OF DEEDS

50-24
Robison
Add to
49-13

RX 7096PG077

TRANSFER
TAX
PAID

**WARRANTY DEED
032617**

Brian T. King of Augusta, Maine for consideration paid, grants to

Red Barn, Inc. a Maine corporation with a principal place of business at 455 Riverside Drive,
Augusta, Maine

with WARRANTY COVENANTS

a certain lot or parcel of land situated in Augusta, County of Kennebec, State of Maine,
bounded and described as follows:

(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Grantor has set his hand and seal this 9th day of October, 2002.

Donald E. Guild
Witness

Brian T. King
Brian T. King

State of Maine
County of Kennebec, ss.

October 9, 2002

Then personally appeared the above-named Brian T. King and acknowledged the
foregoing to be his free act and deed.

Before me,

Donald E. Guild
Name:
Notary Public/Attorney-at-Law
Commission expires: _____



DONALD E. GUILD
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES MAY 5, 2003

② L. Gifford

PK 7096PG078

EXHIBIT A

A certain lot or parcel of land situated on the southeasterly side of State Route 201 (a/k/a the River Road) in Augusta, County of Kennebec, State of Maine, bounded and described as follows:

Beginning at an iron rod found (buried) at the northwesterly corner of land of Brian T. King described in the deed recorded in Kennebec County Registry of Deeds in Book 6718, Page 249;

Thence North $59^{\circ} 33' 00''$ East along the southeasterly sideline of said River Road a distance of 9.19 feet to a rebar set with cap marked "W.P. Libby 965";

Thence South $35^{\circ} 11' 35''$ East along remaining land of said King a distance of 103.8 feet to a rebar set with cap marked "W.P. Libby 965";

Thence South $59^{\circ} 54' 26''$ West along remaining land of said King a distance of 18.45 feet to a rebar set with cap marked "W. P. Libby 965" at land of Red Barn, Inc. described in deeds in recorded in said Registry in Book 3049, Page 345, Book 4878, Page 47 and Book 5233, Page 272, said rebar being North $30^{\circ} 05' 34''$ West a distance of 25.47 feet from a 1" iron pipe found;

Thence North $30^{\circ} 05' 34''$ West along said land of Red Barn, Inc. a distance of 103.33 feet to the point of beginning; being a parcel of land containing 0.03 acres, more or less.

Bearings referred to herein are referenced to "Maine State Highway Commission Right of Way Map: State Highway "H", Augusta, Kennebec County S.H.C. File No. 6-45", dated March 1950, Sheets 3 & 4 of 9. This description was written from the records of a survey performed in 2002 by Katahdin Survey Works under the direct supervision of Wayne P. Libby, PLS 965.

Meaning and intending to convey a portion of the premises described in the deed to Brian T. King recorded in Kennebec County Registry of Deeds in Book 6718, Page 249.

This is a conveyance of land to an owner of abutting land. The parcel being conveyed does not create a separate lot. By acceptance of this deed, the grantee agrees to the restriction that the land being conveyed will not be transferred within five years from the date of this deed without all of the abutting land into which it is being merged.

RECEIVED KENNEBEC SS.

2002 OCT 10 PM 2:27

ATTEST: *Carolyn Christy Wilkinney*
REGISTER OF DEEDS

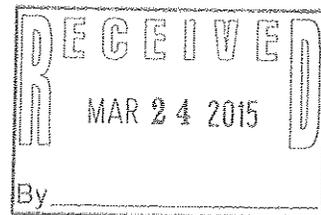
Amendment to March 20, 2015 Conditional-Use Application Narrative

- a. This Conditional-Use Application is for a temporary waiver of the City of Augusta's Noise Ordinance on the property at 455 Riverside Drive on Tuesday evenings beginning May 5, 2015 to September 29, 2015 from 5pm to 8pm.

The applicant wishes to host a car show with a DJ that may exceed the 60dB allowable limit. This event involves entertainment/music and may be exempt with any municipal permit in accordance with the Noise Ordinance. The applicant is seeking a Conditional-Use permit because the permit fee of \$100.00 for a Mass Gathering Permit for each event would cost approximately \$2,200.00 plus the cost of labor to complete and submit 22 permits.

If approved, cars will be on display behind the current gravel parking area.

- b. N/A
- c. The Red Barn serves food and there will be no changes if this Conditional-Use Application is approved.
- d. The number of employees on site during the largest shift is approximately 15.
- e. Delivery vehicles: 3; Customer/employee vehicles: 300
- f. N/A
- g. N/A



Narrative addressing Site Plan Review Criteria

(1) Neighborhood compatibility

- (a) (i)** Yes, A Conditional Use Permit would allow more restrictions than a Mass Gathering Permit. Any municipal permit granted provides an exception to 5.1.15.1. Air Quality. (1) Noise Standards for outdoor/music events during normal operation hours of 7:00am to 10:00pm. The Maine Department of Environmental Protection Site Location Law allows for an exemption of “occasional sporting, cultural, religious or public events allowed by the local municipality where the only affected protected locations are contained within that municipality.” An exemption in the Air Quality Ordinance is provided with any municipal permit. A request for a waiver of the Air Quality Ordinance, specifically the 60dB limit is for occasional usage and at specific times during the City of Augusta’s definition of normal operation hours of 7:00am to 10:00pm.
- (ii)** N/A No modification is proposed
- (iii)** N/A No modification is proposed
- (iv)** N/A No modification is proposed
- (v)** N/A No modification is proposed
- (vi)** N/A No modification is proposed
- (b)** Yes, there is a fence line on the Northeast property line and a coniferous tree line on the Southwest side.
- (c)** Yes, although what is safe and healthful is subjective. Safety has not been an issue at past events; there have been no injuries or accidents.
- (d)** No, we are requesting a restricted Conditional Use Permit for a fraction of time per calendar week.

(2) Plans and Policies

This proposal conforms to Augusta’s Comprehensive Plan adopted on January 2008 in the manner that it supports the leading ideas of Augusta becoming a cultural center and being a place where businesses can thrive. The location of 455 Riverside Drive is within a “mixed use” land area that encompasses businesses and residential neighborhoods and is within the projected growth area of the Comprehensive Plan. There are buffers on both property lines consisting of fencing or a coniferous tree line.

(3) Traffic Pattern, Flow, and Volume

- (a) In the event of additional traffic, for past events parking attendants have been utilized to make sure the flow of traffic is upheld and to ensure there is no on-street parking during concerts.
- (b) There are no proposed curb cuts
- (c) Yes.
- (d) Yes.

(4) Public Facilities

- (a) Yes.
- (b) Yes.
- (c) Yes.
- (d) Yes.

(5) Resource Protection and Environment

- (a-e) No Environmental impacts

(6) Performance Standards

- (a) No, Proposal is to request permit waiving the 60dB limit in accordance with exemptions for entertainment/music during normal operating hours of 7:00am to 10:00pm.
- (b) No, we are requesting a permit due to being an entertainment/music event allowed by exemption to the Air Quality Ordinance.
- (c) N/A
- (d) N/A
- (e) Yes. Fence line and coniferous tree line exist on property lines.
- (f) N/A

(7) Financial and Technical Ability

- (a) Yes.
- (b) Yes.

(D.1.i)

Available methods to control noise level

- 1. Equipment Settings:** It will be possible to lower the acoustic level of the DJ equipment, to what extent we cannot testify to unless allowed a test of such equipment
- 2. Sound barrier:** Sound barriers have a limited effect at low frequencies so they are not likely to achieve the allowable limit of 60dB at the property line with music playing because it typically contains sounds in the low, mid, and high frequency ranges. There is also no structure to support a sound barrier such as weatherproof sound blankets.
- 3. Location of DJ:** The only available area to display cars that would not interfere with normal traffic is on the field behind the gravel parking lot on applicant's property. It will be possible to relocate the DJ table and equipment in an effort to achieve the lowest sound pressure level possible while retaining the intended function of this application for a conditional use permit. We cannot estimate if the level reach will be complaint with the allowable limit of 60dB, therefore the applicant requests a permit in the event that a maximum of 60dB is exceeded to be in compliance with the City of Augusta's Air Quality Ordinance.

A Mass Gathering Permit also provides an exemption from the Air Quality Ordinance limiting the maximum allowable sound pressure level to 60dB. If a Conditional Use Permit is granted, we understand there may be more restrictive conditions imposed than a Mass Gathering Permit. Applying for multiple Mass Gathering Permits is prohibitively expensive for a small business offering free events.

(D.1.ii)

Noise easements are not available due to the distance from the property line abutting the back field location of applicant's property.

(D.2.ii)

According to the noise ordinance normal operating hours are between 7am to 10pm, this waiver request falls within the city's definition of reasonable operating hours. There will be no excessive noise created outside after 10pm or prior to 7am at unreasonable hours.