

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**Danny McCarthy/JODON LLC
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 Danny McCarthy/JODON 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 applicant proposes to convert the former Cumberland Farms to The Copy Center Plus. The previous use, neighborhood grocery/variety store, was a non-conforming use in the Institutional/Business/Professional District (BP). The proposed use, specialty print shop, is also a non-conforming use. Conditional Use review is required to determine whether the proposed use will have less impact than the previous non-conforming use.
2. **Applicant:** Danny McCarthy/JODON LLC
3. **Location:** 179 State Street
4. **Zoning:** Institutional/Business/Professional District (BP)
5. **Tax Map Number:** Map 33, Lot 55
6. **Existing Land Use:** Neighborhood grocery/variety store (non-conforming use)
7. **Proposed Land Use:** Specialty print shop (non-conforming use)
8. **Acreage:** 0.63 acres
9. On March 17, 2016 the applicant submitted the following:
 - a. Conditional-Use Application Form
 - b. Narrative
 - c. Deed
 - d. Purchase and Sale Agreement
 - e. Site Plans
10. On March 18, 2016 the applicant submitted the following:
 - a. Underground Storage Tank Removal Documentation
11. On March 26 and April 2, 2016, the Kennebec Journal published legal advertisements for the public hearing regarding the application.
12. On March 24, 2016, City staff mailed notices to the owners of properties located within 500 feet of the property regarding the public hearing regarding the application.
13. On April 12, 2016, the Planning Board held a public hearing regarding the application. The Planning Board conducted a detailed review of the material listed in Item 9 through

11 above, the staff review dated April 5, 2016, 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 _____ **the application.**

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.

300-603.E Site Plan Criteria Applicable for Conditional Uses

300-603.E(1) Neighborhood compatibility.

- (a) Compatibility and sensitivity to character of the site and neighborhood relative to:
- [1] The proposal is compatible with and sensitive to the character of the site and neighborhood relative to land uses.
 - [2] The proposal is compatible with and sensitive to the character of the site and neighborhood relative to architectural design.
 - [3] The proposal is compatible with and sensitive to the character of the site and neighborhood relative to scale, bulk, and building height.
 - [4] The proposal is compatible with and sensitive to the character of the site and neighborhood relative to identity and historical character.
 - [5] The proposal is compatible with and sensitive to the character of the site and neighborhood relative to disposition and orientation of the buildings.
 - [6] 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.

300-603.E(2) Plans and policies. The proposal is in accordance with the adopted elements of the 2007 Comprehensive Plan.

300-603.E(3) Traffic pattern, flow and volume.

- (a) The proposal is designed so that any additional traffic generated does not have a significant negative impact on the surrounding neighborhood.
- (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.

300-603.E(4) Public facilities.

- (a) The public water utility has adequate capacity for the project.
- (b) The public sewer utility has adequate capacity for the project.
- (c) The electric and telephone utilities have adequate capacity for the project.
- (d) The public stormwater system has adequate capacity for the project.

300-603.E(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 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.

300-603.E(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.

300-603.E(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 _____, with the following conditions, the application of Danny McCarthy/JODON LLC 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.

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 buildign work is not issued by that date.

Justin L. Poirier, Planning Board Chair

Date