

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

IN THE MATTER OF:

**North Augusta Market - Dunkin Donuts
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 Jeffrey Damon, WK Enterprises, Inc., 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:** Reduce existing convenience store space to add a second primary use of a Dunkin Donuts with a drive through to the existing North Augusta Market.
2. **Applicant:** Jeffrey Damon, WK Enterprises, Inc.
3. **Location:** 670 Civic Center Drive
4. **Zoning:** Rural Village (RV)
5. **Tax Map Number:** Map 1, Lot 41B
6. **Existing Land Use:** Retail, Convenience (allowed use in the RV district)
7. **Proposed Land Use:** Retail, Convenience (with a second primary use of a Restaurant with Drive Through (allowed use in the CC district, the drive through aspect triggers minor development review for the site)
8. **Acreage:** 2.0
9. On June 12, 2015 the applicant submitted the following:
 - a. Development Review Application Form
 - b. Narrative
 - c. Deed
 - d. Agent Authorization Letter
 - e. Site Plan
10. On August 29, 2015, the Kennebec Journal published a legal advertisement for the public hearing regarding the application.
11. On August 28, 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 September 8, 2015, 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 September 8, 2015, and considered testimony by the applicant and interested members of the public. One individuals testified at the public hearing and no written communications regarding the application were received. The Board voted to **deny 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.

4.4.1 Criteria for Reviewing the Preapplication

4.4.1.1 Pollution. Due to the fact that fill material required at an earlier approval was not sufficiently stabilized, this fill material is actively eroding into the wetland. Therefore the property does not meet this standard.

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. Due to the fact that fill material required at an earlier approval was not sufficiently stabilized, this fill material is actively eroding into the wetland. Therefore the property does not meet this standard.

4.4.1.5 Highway or public road congestion. With the current number of parking spaces delineated on the property, with parking that should not be taking place along the curb that abuts Route 27, and vehicles entering and exiting the gas pumps, a serious challenge faces customers presently utilizing the site.

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. The proposal will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage.

4.4.1.8 Aesthetic, cultural and natural values. The screening required by the May 22, 2012 approval was not fully installed; only half of the fence was constructed and that in the area where 15 of the required parking spaces were to be installed.

4.4.1.9 Conformity with city ordinances and plans. The proposal complies with the 2007 Comprehensive Plan and the Land Use Ordinance.

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 20B.

4.4.1.12 Groundwater. The proposal will not adversely affect the quality of quantity of groundwater.

- 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 is not regulated by the Site Location of Development Act. Not applicable.
- 4.4.1.19 Spaghetti Lots. A subdivision is not proposed. 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. 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 screening required by the May 22, 2012 approval was not fully installed; only half of the fence was constructed and that in the area where 15 of the required parking spaces were to be installed.
- 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 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. With the current number of parking spaces delineated on the property, with parking that should not be taking place along the curb that abuts Route 27, and vehicles entering and exiting the gas pumps, a serious challenge faces customers presently utilizing the site. The proposed drive through blocks many of the existing and proposed parking spaces and does not have a bypass lane allowing free circulation around the building even when the drive through is in use, creating serious on-site traffic movement problems.

6.3.4.4 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.

6.3.4.5 Resource protection and the environment.

- a. Due to the fact that fill material required at an earlier approval was not sufficiently stabilized, this fill material is actively eroding into the wetland. Therefore the property does not meet this standard.
- b. The proposal complies with local, state, and federal air quality standards.
- c. See a. above.
- 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. No evidence has yet been provided that shows the drive-thru can meet the noise standard of 60 dB at the property line.
- c. The proposed land use can be conducted so that noise generates shall not exceed the performance levels specified in the performance standards.
- d. The proposal does not involve intense glare or heat.
- e. The exterior lighting will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area.
- f. 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.
- g. 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 denies the application of the North Augusta Market - Dunkin Donuts. The application at the present time does not meet the standards of 4.4.1 Criteria for Reviewing the Preapplication or 6.3.4 Site Plan Criteria Applicable for Conditional Use. The application is denied, without prejudice, with the understanding that when all of the problems that currently exist on the site are corrected to the satisfaction of the appropriate city staff members, the applicant may bring this proposal back before us for consideration.



Corey A. Vose, Planning Board Chair

11-20-15

Date