

**City of Augusta, Maine**  
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT  
CODE ENFORCEMENT  
ECONOMIC DEVELOPMENT



ENGINEERING  
FACILITIES & SYSTEMS  
PLANNING

**IN THE MATTER OF:**

**Laura Benedict  
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 Laura Benedict, 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 Conditional Use Review as per Section 6.3. The applicant requests a noise waiver for the Red Barn.
2. Owner: Red Barn, Inc.
3. Applicant: Laura Benedict
4. Location: 455 Riverside Drive
5. Zoning: Planned Development 2 District (PD2)
6. Tax Map Number: Map 49, Lot 13
7. Existing Land Use: Restaurant
8. Proposed Land Use: Restaurant
9. Acreage: 4.5 acres
10. On March 20, 2015 the applicant submitted the following:
  - a. Conditional Use Application form
  - b. Narrative
  - c. Deeds
11. On March 24, 2015 the applicant submitted the following:
  - a. Revised narrative
  - b. Survey
12. On March 28, 2015 and April 4, 2015, the Kennebec Journal published legal advertisements for the public hearing regarding the application.
13. On March 26, 2015, City staff mailed notices to the owners of properties located within 1,000 feet of the property regarding the public hearing regarding the application.
14. On April 14, 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 11 above, the staff review dated April 8, 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 applicant requested a noise ordinance waiver. Not applicable.

4.4.1.2 Sufficient Water. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.3 Municipal water supply. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.4 Soil erosion. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.5 Highway or public road congestion. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.6 Sewage waste disposal. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.7 Municipal solid waste and sewage waste disposal. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.8 Aesthetic, cultural and natural values. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.9 Conformity with city ordinances and plans. The proposal complies with the 2007 Comprehensive Plan. The applicant requested a noise ordinance waiver.

4.4.1.10 Financial capacity and technical ability. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.11 Surface waters; outstanding river segments. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.12 Ground water. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.13 Flood areas. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.14 Freshwater wetlands. All freshwater wetlands within the proposal have been identified on any maps submitted as part of the application.

4.4.1.15 River, stream or brook. Any river, stream or brook within or abutting the proposal have been identified on any maps submitted as part of the application.

4.4.1.16 Stormwater. The applicant requested a noise ordinance waiver. Not applicable.

4.4.1.17 Access to direct sunlight. The applicant requested a noise ordinance waiver. Not applicable.

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. The applicant requested a noise ordinance waiver. Not applicable.

### **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*. The applicant requested a noise ordinance waiver. Not applicable.
  - iii. *Scale, bulk, and building height*. The applicant requested a noise ordinance waiver. 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*. The applicant requested a noise ordinance waiver. Not applicable.
  - vi. *Visual integrity*. The applicant requested a noise ordinance waiver. Not applicable.
- b. *Privacy*. The applicant requested a noise ordinance waiver. Not applicable.
- 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

The applicant requested a noise ordinance waiver. Not applicable.

6.3.4.4 Public Facilities

The applicant requested a noise ordinance waiver. Not applicable.

6.3.4.5 Resource Protection and the Environment

The applicant requested a noise ordinance waiver. Not applicable.

6.3.4.6 Performance Standards

- a. The proposal complies with all dimensional standards. The applicant requested a noise ordinance waiver.
- b. The applicant requested a noise ordinance waiver.
- c. *Glare or heat*. The applicant requested a noise ordinance waiver. Not applicable.
- d. *Exterior lighting*. The applicant requested a noise ordinance waiver. Not applicable.
- e. *Landscaping*. The applicant requested a noise ordinance waiver. Not applicable.
- f. *Signs*. The applicant requested a noise ordinance waiver. Not applicable.

6.3.4.7 Financial and Technical Ability

The applicant requested a noise ordinance waiver. Not applicable.

THEREFORE, the Planning Board hereby approves the application of Laura Benedict for a noise ordinance waiver as described in the findings above.

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Corey A. Vose, Planning Board Chair

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Date