



City of Auburn, Maine
Office Economic and Community Development
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207.333.6601

PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Zach Mosher, City Planner

Re: Minor Subdivision Amendment request to a Commercial Subdivision and Setback Waiver for the creation of an additional lot at 65 Mount Auburn Ave.

Date: December 12 2017

I. PROPOSAL – Mike Gotto, on behalf of Schilling Drive LLC, is seeking approval of a Minor Subdivision Amendment request to a Commercial Subdivision for the creation of an additional lot and a Site Plan Review for a setback waiver for both the parent and child parcels at 65 Mount Auburn Ave, pursuant to Chapter 60, Article XVI, Division 4- Subdivision; and Chapter 60 Article XVI Division 2, Sec. 60-1312 of the City of Auburn Code of Ordinances.

Turner Street Plaza was originally approved in 1991 for five lots and later approved for the creation of a sixth lot. The applicant is proposing splitting Lot 3, the current site of Hobby Lobby (PID: 280-006), of the Turner St Plaza. Lot 3 was originally 7.86 acres, but is now 7.81 acres given some modifications to the adjacent ROW limits to provide land for the Mall area traffic improvements and is located within the General Business District (GB). The project was reviewed by the city of Auburn’s delegated authority at that time for Site Location of Development Review. Since this site is under a Site Location Development permit from the original approval in 1991, a notification has been sent to MDEP requesting that Auburn use its delegated authority to review a Site Location of Development Plan Amendment as part of this lot split.

The proposed split of Lot 3 will create Lots 3A and 3B. Lot 3A will be the site of the existing 55,000 sq. ft. Hobby Lobby building and the 166 parking spaces currently existing. Lot 3A will also contain about 143’ of frontage on Mt. Auburn Ave and be approx. 3.9 acres in size. Lot 3B will be approx. 3.9 acres and contain about 301’ of frontage on Mt. Auburn Ave. During the original Hobby Lobby development of this property the City reviewed and approved the traffic, drainage, infrastructure improvements, availability of water and sewer, fire protection and the impact on the environment.

Lots 3A and 3B will be conveyed with common maintenance responsibilities for the shared parking facilities along with common access rights to those spaces. These lots will also share

the rights of access, restrictions and maintenance responsibilities outlined in the recorded Easement and Covenant restrictions (ECR) for all lots in the Turner Street Plaza subdivision. An amendment to these ECR documents is currently being drafted by the applicant to reflect the proposed lot change.

The applicant is requesting a setback waiver for both of the proposed lots: 3A and 3B. A zero setback for both lots will allow the existing Hobby Lobby building to be connected to the future construction of a building on Lot 3B, yet be under separate ownership for financing purposes. This proposal to split Lot 3 and setback waiver request is very similar to the previously approved split of Lot 2 in the Turner St Plaza subdivision in 2005 and placed a boundary line through the old Wal-Mart building originally constructed on that lot. Lot 2 is now the site of Kohl's and has a separate building attached to it.

The Planning Board has the authority to grant setback waivers according to either Site Plan Review or Subdivision Review. Staff opines that Site Plan Review would be more appropriate in granting the zero setback waiver for both lots 3A and 3B. The applicant has provided a schematic of what the future construction of a building on Lot 3B would look like, despite there being no building improvements proposed at this time for Lot 3B. The applicant has also shown a 14,800 square foot building attached to the Hobby Lobby building, but the setback waiver would allow the building to be placed anywhere within the approved envelope. This future building could have several small tenants with some units facing Mt. Auburn Avenue and others facing Turner Street. The applicant is requesting a zero setback waiver along the new shared property line between lots 3A and 3B pursuant to Chapter 60, Sec. 60-1312 of the Auburn Code of Ordinances.

II. DEPARTMENT REVIEW

Police Department - No comment.

Fire Department – No comment.

Water and Sewer District - No comment.

Engineering Department – No comment.

Economic and Community Development Department – No Comment.

III. PLANNING BOARD ACTION- The Planning Board will review and take action on this **Minor Subdivision Amendment** for the split of Lot 3 into Lot 3A and Lot 3B using Division 4 Subdivision, Chapter 60 - Sections 1359 Subdivision Guidelines. The Planning Board will also review and take action on the zero setback waiver request for the future placement of a building on Lot 3B to be connected to the existing Hobby Lobby building on Lot 3A using Chapter 60, Sec. 60-1277 Site Plan Review.



- A. Sec. 60-1359. – Subdivision Guidelines** - When reviewing any subdivision for approval, the planning board shall consider the following criteria, and before granting either approval or denial, shall determine that the proposed subdivision:
- (1) Will not result in undue water, air or noise pollution. In making this determination it shall at least consider:
 - a. The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal;
 - b. The slope of the land and its effect on effluents;
 - c. The availability of streams for disposal of effluents; and
 - d. The applicable state and local health and water resources regulations, including stormwater management requirements in accordance with section 60-1301(14); ***The previous lot split was approved by MDEP under SLODA requirements; a notification has been sent to MDEP requesting a SLODA amendment.***
 - (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision; ***(Public water is available.)***
 - (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized; ***(Public water is available.)***
 - (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; ***(The Turner St Plaza was originally approved by MDEP under the Site Location of Development Act. The proposed lot split will not affect soil erosion or water runoff.)***
 - (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed; ***(No alterations to vehicular access or parking are being proposed at this time.)***
 - (6) Will provide for adequate sewage waste disposal; ***(All easement and covenant restrictions are being maintained as part of the lot split.)***
 - (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized; ***(There is an existing easement and covenant agreement in place and that will not be changed.)***
 - (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas; The proposal will not have a negative effect on the surrounding area).
 - (9) Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any; ***(The lot split conforms with the master plan and follows the lot split that occurred immediately adjacent on Lot 2.)***
 - (10) Is funded by a subdivider has adequate financial and technical capacity to meet the standards of this section; ***(The financial capacity exists for the split.)***

- (11) Will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application; **(The proposal will not affect surrounding property values.)**
- (12) Has provisions for on-site landscaping that are adequate to screen neighboring properties from unsightly features of the development; **(As previously approved, the landscaping agreement will be kept in place.)**
- (13) Will not create a fire hazard and has provided adequate access to the site for emergency vehicles; **(As previously approved there is adequate access for emergency vehicles.)**
- (14) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater; **(The proposal will not affect groundwater.)**
- (15) Does not have long-term cumulative effects of the proposed subdivision will that unreasonably increase a great pond phosphorus concentration during the construction phase and life of the proposed subdivision. **(Lot 3 is not located within a great pond watershed.)**

B. SITE PLAN REVIEW- A Site Plan Review is being presented for the zero setback waiver request. According to Chapter 60, Sec. 60-1312, “The modifications of the dimensional requirements shall be allowed as the planning board may deem necessary to carry out objectives and intent of site plan review...” The applicant has met the requirements of the Site Plan Law in their application. The Planning Board needs to make its decision based on the Site Plan Law, **Sec. 60-1277. Objective-** “In considering a site plan, the planning board shall make findings that the development has made provisions for:”

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air; **(The original subdivision plan was approved in 1991 and there are no building changes being proposed at this time. The proposed lot split is for the purposes of ownership flexibility. The proposed zero setbacks for both lots will create the necessary boundary line for connected buildings on Lots 3A and 3B.)**
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas; **(The lot split will not disturb the established vehicular and pedestrian movements on the site and will allow the site to function as originally approved. Without a setback waiver the split would require a 50’ open space between the two buildings which would negatively impact circulation on the site.)**
- (3) Adequacy of the methods of disposal for wastes; and **(The lot split will not disturb waste disposal methods already approved.)**
- (4) Protection of environment features on the site and in adjacent areas. **(The proposed lot split and zero setback waiver will not disturb any environmental features on the site or in adjacent areas.)**



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IV. STAFF RECOMMENDATION – The staff recommends APPROVAL of the lot split and zero setback waiver request at 65 Mount Auburn Ave. at the Turner St Plaza with the following findings:

1. The lot split meets the 15 conditions of Subdivision, pursuant to Chapter 60, Sec.60-1359 – Subdivision and of the Auburn Code of Ordinances as per Section III
2. By granting the zero setback waiver request the proposal meets the 4 conditions of Site Plan Review and is necessary to carry out the objectives and intent of site plan review, pursuant to Chapter 60, Sec. 60-1312 and Sec. 60-1277.

A handwritten signature in black ink that reads "Zach Mosher".

Zach Mosher
City Planner