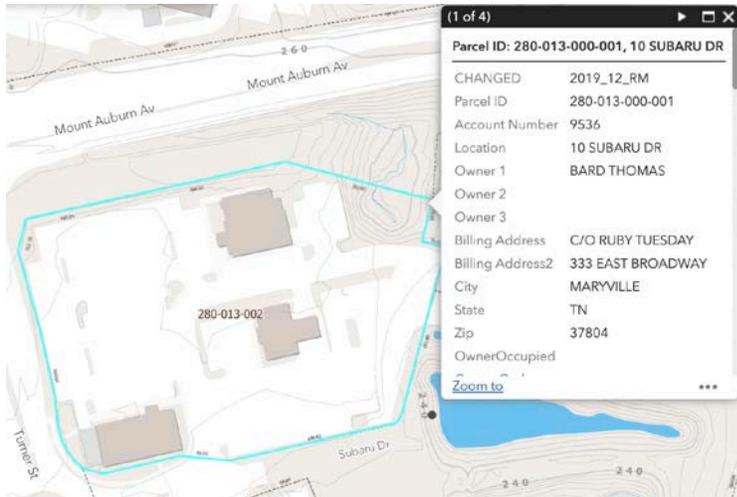


To: Auburn Planning Board  
 Fr: Eric Cousens, Director of Planning and Permitting  
 Re: Site Plan/Special Exception Plan Modification/Amendment  
 Date: March 8, 2022



**I. PROPOSAL** – Trillium Engineering Group, on behalf of Olive Garden applied for a received approval for a Site Plan/Special Exception for the construction of a 6,600 square foot Olive Garden to replace the existing Ruby Tuesday at 649 Turner Street in September 2021.

The applicant submitted plans for building permits and State Fire Marshalls ADA Barrier Free Permit and found that the restaurant designed by an out-of-state licensed Architect did not meet the fixture requirements of the Maine State Internal Plumbing Code and

accessibility requirements. Staff has worked with the applicant to increase fixture counts and maintain clear spaces required for mobility in the bathrooms. The applicant attempted to shift the building away from the side property line to make room for the additional space and maintain the approved side setback but found a revised building location would conflict with an existing underground Central Maine Power high voltage power line and protective concrete vault that passes through the site. In order to move forward with the development of the Olive Garden restaurant a setback waiver is required.

It is staff’s opinion that the modified building footprint does not change any findings from the September approval, however, only the Planning Board can approve a setback modification.

**Waiver Requests:**

- (1) The Applicant has requested a waiver from Sec. 60-500(3)(b): There shall be a distance of five feet between any side property line, plus the side yard setback shall be increased one foot for every two feet or part thereof increase in street frontage over 60 feet to a maximum of 25 feet for side yard setback.

*This waiver has been requested to allow the proposed Olive Garden to avoid site obstructions noted above, to maintain existing traffic circulation within the PUD and to add accessible bathroom fixtures as required by the Maine State Plumbing Code.*

*This waiver has been requested to allow for the construction of one additional free-standing sign to contain the three businesses located at this PAD site.*

II. DEPARTMENT REVIEW-

- a. **Police-** No Concerns.
- b. **Auburn Water and Sewer** – No Concerns.
- c. **Fire Department/Code Enforcement** – The waiver is needed to meet the fixture count requirements of the code. .
- d. **Engineering** – No Concerns.
- e. **Public Services-** No Concerns.
- f. **Airport** – No Comments Received.

III. PLANNING BOARD ACTION- The proposed project requires review and findings for approval of Sections 60-1277 and 60-1336:

**A. Site Plan Review, Section 60-1277:**

1. The site plan protects 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.
2. The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas has been adequately addressed. The setback waiver is necessary to provide for vehicular and pedestrian movements on the site and accessibility to bathroom fixtures that meet the Maine State Plumbing Code.
3. The proposed methods of disposal for wastes are adequately addressed.
4. The site plan provides adequate protection of environment features on the site and adjacent areas. The setback waiver is necessary to provide for protection of utility services serving the site and adjacent site.

**B. Special Exception, Section 60-1336. -** The board shall require evidence of the following:

1. That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
2. That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
3. That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.
4. That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
5. That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301 (14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
6. That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
7. That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.

III. STAFF RECOMMENDATIONS- The Staff recommends the Planning Board review/discuss the waiver request. Staff recommends the Planning Board find that the Site Plan for the



## City of Auburn, Maine

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proposed development, meets the requirements of Sec. 60-1277, and further that the application meets the requirements of Special Exception Law, Sec. 60-1336, and APPROVE the project application. Staff recommends the following conditions:

- A. *No development activity until any bonding or inspection fees is determined by the Auburn Engineering Department.*
- B. *An amended plan shall be recorded replacing note #12 on the previously approved plan - Subdivision Plan of Mount Auburn Plaza, dated August 2, 2018 - to require that development at the site shall substantially conform with the Site Plan approved on March 8, 2022.*

*Suggested Motion:* I make a motion to approve the Site Plan/Special Exception: Proposed Olive Garden to Replace the Existing Ruby Tuesday at 649 Turner Street (PID 280-013-000-001) in the General Business Zoning District as shown on the submitted plans with the following conditions:

- a. *No development activity until any bonding or inspection fees is determined by the Auburn Engineering Department.*
- b. *An amended plan shall be recorded replacing note #12 on the previously approved plan - Subdivision Plan of Mount Auburn Plaza, dated August 2, 2018 - to require that development at the site shall substantially conform with the Site Plan approved on March 8, 2022.*