

Town of Acton

APPLICATION FOR SITE PLAN SPECIAL PERMIT

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To The

Board Of Selectmen

Refer to the 'Rules and Regulations for Site Plan Special Permits' available from the Office of the Board or the Site Plan Coordinator for details on the information and fees required for this application. Contact the Site Plan Coordinator at 264-9632 with any questions concerning the Rules. Incomplete applications may be denied.

Please type or print your application.

APPLICANT'S

Name & Address

TRB Development Group, Inc.  
36 Londonderry Turnpike  
Hooksett, NH 03106  
Telephone (603) 669-8500

Location and Street Address of Site

408 Massachusetts Avenue (Route 111)  
Acton, MA

Tax Map & Parcel Number

Map 3F--Lots 127, 128, 118-2, & 134

Area of Site ac.

+/- 109,268 SF or (2.51 acres)

Zoning District

Kelley's Corner District (KC)

OWNER'S

Name & Address

Daniel & Carl Silverstrone (Mgrs)  
Mustard Seed Properties, LLC  
c/o Page Road, Bedford, MA 01730-1333  
Telephone (781) 276-0718

any site plans have been filed previously for this site give file numbers:

The undersigned hereby apply to the Board of Selectmen for a public hearing and a site plan special permit under Section 10.4 of the Zoning Bylaw approving the attached site plan.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

04.17.14

Date

Signature of Petitioner

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

(See Attached)

Date

Signature of Owner

**MEMORANDUM**

**TO:** Town of Acton Board of Selectmen

**FROM:** TRB Development Group, Inc.  
Developer for CVS Pharmacy

**RE:** 408 Massachusetts Avenue – Application for Site Plan Special Permit  
for CVS Pharmacy

**DATE:** April 16, 2014

**I. SITE AND PROJECT BACKGROUND**

This memorandum is submitted in support of the application of TRB Development Group, Inc. (“TRB”) for a Site Plan Special Permit for the construction and operation of a CVS Pharmacy store at 400 Massachusetts Avenue Acton, Massachusetts (the “Site”). The site has been combined with the abutting TD Bank site at 408 Massachusetts Avenue and contains +/- 109,268 ( 2.51Ac) sq. ft of land. The site includes the area shown on the Acton Assessors Tax Map 3F lot 127 and a portion of Lots 118-2 & 134 (see Zoning Analysis Table for details). A more detailed description is included on the civil engineering drawing prepared by Bohler Engineering (Appendix 8).

This proposed project would involve the relocation to the site of the existing CVS, which is currently located across the street from the Site at 393 Massachusetts Avenue, Acton, MA. The Site is located within Kelley’s Corner District established by Section 5.6 of the Acton Zoning Bylaw. TRB Development Group, Inc., has spent considerable time and effort, as outlined below, to demonstrate proposed project’s commitment to uphold the vision and future development goals outlined in Acton’s bylaws for Kelley’s Corner District. Specifically, significant effort has been made to integrate feedback to TRB’s proposed CVS building and site design from Acton’s Design Review Committee (“ADRC”) to adjust the building’s size by 602 square feet (5%) and to improve the proposed design’s streetscape and façade. Moreover, provisions have been made for future development connections of both walkways and driveways to contiguous properties (both pedestrian and vehicular) to ensure the cohesive and orderly future development of Kelley’s Corner.

**Requirements:****A. Existing Conditions**

The site contains approximately 400 feet of frontage on Massachusetts Avenue (Route 111) and situated in the Kelley’s Corner Business District. Presently at the Site is Goodyear Tire, a vehicle service center providing automotive tires and automobile repair services. Currently the Site is improved with a ±7,056 square foot building. One curb cut onto Massachusetts Avenue provides access to the Site. The Site is subject to a 20-foot wide drainage easement that runs in favor of the Town of Acton in the front of the Site and a 20-foot wide permanent utility easement along the eastern property line. Copies of the easements are attached as Tab 3.

B. Proposed Project

The existing Goodyear Tire Center and parking field will be demolished and removed as part of the CVS development. In its place on lots 128 (containing 57,677sf of land) and a portion of lot 118-2 (containing +/- 6,552 sf of land), TRB proposes to construct a one (1) story 13,602 sf CVS with a 35-space side parking lot and 29-space rear parking lot. In addition, 5-parallel spaces are located on the eastern side of the building. The building shall also include a 2,461sf mezzanine for mechanical and product storage. The building has been designed to allow for a potential future pharmacy drive-thru. Several unique customized features have been incorporated into the design, including without limitation the addition of 602 sf bump onto the front of the building with full windows to address a request by the ADRC. CVS also agreed to relocate the stockroom and interior mezzanine to the rear and eastern section of the building as also requested by the ADRC. (The demolition, removal and construction will be collectively referred to as the "Project".)

## II. COMPLIANCE WITH SUBMISSION REQUIREMENTS

A. Application Form

TRB Development Group, Inc. submitted the completed Application for a Site Plan Special Permit executed by representatives of the developer and the owner of the site.

B. Certified Abutters List

TRB Development Group, Inc. obtained certified abutters lists for the Site (400 Massachusetts Avenue) from the Town of Acton Board of Assessors, copies of which are attached at Tab 2. We have chosen to provide notice to the abutters of the parcel abutting the Site to the north (408 Massachusetts Avenue, also known as "408 Massachusetts Avenue Behind," Parcel ID F3-118-2) to the east 394 Massachusetts Avenue (Map 3F Lot 134) to the west 408 Massachusetts Avenue Map 3F, Lot 127) , Small portions of these lots are being added to the site in addition, due to grading, common access, and traffic circulation that will occur on that property in preparation for future development.

C. Existing and Proposed Use Description

As mentioned above, the site is currently used a Goodyear Tire and Automotive Service Center located in a ±7,050 square-foot building, with seven service bays and 2,150 square-foot sales floor and office area. The "tire service center" use is permitted with a Special Permit from the Board in the Kelley's Corner Business District, subject pursuant to Bylaw § 3.5.20 and the Table of Principal Uses.

TRB Development Group, Inc. purposes to construct a one-story 13,602 square foot CVS Pharmacy with a 69-space parking lot. The proposed "retail" use is permitted as of right in the Kelley's Corner Business District, subject to approval of a Site Plan Permit from the Board, pursuant by Bylaw § 3.5.1 and the Table of Principal Uses.

The proposed CVS Pharmacy will not generate, store, use, or dispose of Hazardous Materials or Waste as that term is defined Town of Acton General Bylaw Chapter I (Hazardous Materials Control) § 1.3.8

D. Other Permits and Variances

CVS requires a 24-hour Operating Permit, consistent with CVS's existing store at 393 Massachusetts Avenue in Acton. Our request for such 24-hour permit is to transfer the current CVS 24-Hour Operating Permit for the 393 location to the new CVS store planned for the Site effective upon opening the new store, thus assuring that at no point will there be a gap in the continuance of this 24-Hour Operating Permit (Please see Appendix 7).

E. Recorded Permits & Plans

1. Application for permit to build, dated 06/17/1974 for Acme Associates to building a 141'x50' Goodyear Service Store.
2. Building Permit dated 06/17/1974 to Dalton Industries, Inc. to build a 50'x141' commercial building on 400 Massachusetts Avenue.
3. Application for Permit of Occupancy dated 11/21/1974 and signed by Department on 12/09/1974.
4. Building Permit Application dated 10/24/1984 issued to David Santo to construct a enclosed ATM Machine for Leader Federal Savings. **NOTE: Permit issued but Never constructed**
5. Drawing #1 - Site grading plans and details proposed Goodyear Service Store dated 03/05/74 by ACME Associates.
6. Drawing #2 - Proposed underground water drain system.
7. Drawing #3 – Leader Federal Savings, Alton Branch ATM Enclosure

F. Drainage Calculations

Bohler Engineering has provided drainage calculations in accordance with the requirements of Site Plan Permit Rules and Regulations §3.6. Please refer to the Storm Water Drainage Report included as part of the applications.

G. Water Balance Calculations

The site is located within a Groundwater Protection District Zone 4. The Storm Water Drainage Report includes a yearly hydrologic water balance calculation for pre and post development conditions based on the annual prescription that quantifies evapotranspiration, runoff, and recharge, which demonstrates that the proposed development will meet or exceed the existing volumes of storm water infiltration on site.

H. Earth Removal Calculations

Calculations showing the amount of earth to be removed from, as well as the amount of fill to be brought to, the Site are included within the Storm Water Drainage Report.

I. Plans

TRB Development Group, Inc. filed plans titled "Site Development Plans for CVS Pharmacy, 400 Massachusetts Avenue, Town of Acton, Middlesex County" consisting of 16 sheets meeting the requirements of Site Plan Special Permit Rules and Regulations § 3.9. The plans were prepared by Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772 and the table below provides a list of the drawings included with the application.

Drawing Title	Drawing Number	Revision Date
Cover Sheet	1	07/08/13
General Notes Sheet	2	07/08/13
Demolition Plan	3	07/08/13
Site Plan	4B	04/03/14
Grading & Drainage Plan	5	07/08/13
Grading & Drainage Plan B	6	07/08/13
Utility Plan	7	07/08/13
Soil Erosion & Sediment Control Plan	8	07/08/13
Soil Erosion Control Notes & Details Sheet	9	07/08/13
Landscape Plan	10	07/08/13
Landscape Notes & Details Sheet	11	07/08/13
Lighting Plan	12	07/08/13
Paving Detail Sheet	13	07/08/13
Construction Detail Sheet	14	07/08/13
Construction Detail Sheet	15	07/08/13
Boundary & Topographic Survey	16	10/03/12

### III. COMPLIANCE WITH SITE DESIGN STANDARDS FOR SITE PLAN SPECIAL PERMIT

TRB Development Group, Inc. seeks a Site Plan Special Permit pursuant to Table of Principal Uses and Bylaw § 3.5.1 to have a retail use in the Kelley's Corner District and pursuant to Bylaw §10.4.1.2(3) to expand ground area by 1,200 square feet or more of impervious material. Bylaw § 10.4.3 establishes the Site Design Standards for Site Plan Special Permits to "ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety and to the suitability of a proposed USE on a site." As demonstrated below, the Project meets each of the Site Design Standards of Bylaw § 10.4.3.

#### A. Storm Water Runoff (Bylaw § 10.4.3.1)

As demonstrated in the Storm Water Drainage Report submitted with the application, the peak rate of storm water runoff in the post-development condition will not exceed the pre-development rate based on the 10-year design. Also, based on discussion with the Town Engineer, the Site's storm water runoff will be collected and discharged in a controlled manner to the existing 24" pipe located within the drainage easement at the front of the property. The peak rates of runoff for all storm events have been decreased in the post-development condition and as a result, there will be no negative impacts to the existing drainage infrastructure or receiving waters.

#### B. Outdoor Lighting (Bylaw § 10.4.3.1)

Bylaw § 10.4.3.1 requires that the Project comply with the standards for outdoor lighting of Bylaw § 10.6. As discussed below, the Project meets these requirements.

1. Lighting Plan (Bylaw § 10.6.4)

The Lighting Plan included with the Site Development Plans (sheet 12) meets the requirements of Bylaw § 10.6

2. Luminaire Design and Shielding (Bylaw § 10.6.2.1)

The light fixtures utilized on the site will all be shielded.

3. Control of Light Trespass and Glare (Bylaw § 10.6.2.2)

The site's lighting design will comply with the regulations related to the control of light trespass and glare.

4. Hours of Operation (Bylaw § 10.6.2.3)

Consistent with the existing permit for the CVS currently located on Massachusetts Avenue, the store will operate 24-hours a day.

5. Total Site Power Limits (Bylaw § 10.6.3)

As demonstrated on the Lighting Plan, the total proposed lighting power is not greater than the total allowed lighting power. As a result, the Lighting Plan complies with Bylaw § 10.6.3

C. Common Driveway (Bylaw § 10.4.3.3)

As demonstrated by the Traffic Operations Study submitted with the Application, a common driveway is being proposed as part of this project which will provide safe vehicular and pedestrian movement on the Site.

D. Sidewalks (Bylaw § 10.4.3.4)

The project proposes a sidewalk along the entire frontage of the site, as required by Bylaw § 10.4.3.4.

E. Open Space Landscaping Standards (Bylaw § 10.4.3.5)

As depicted on the Landscape Plan (sheet 10), open spaces have been adequately landscaped in accordance with Bylaw § 10.4.3.5.

F. Developable Site Area (Bylaw § 10.4.3.7)

In accordance with Bylaw § 10.4.3.7, the developable site area is 109,268sf, which includes 57,677sf associated with the CVS lot (Map 3F, Lot 128) plus 45,734sf associated with the adjacent TD Bank lot (Map 3F, Lot 127). In addition, the new lot to be created via lot line adjustment/ANR Plan and included 6, 552sf portion of Lot 118-2 and 1,094sf port of lot 134.

G. Maximum Net Floor Area (Bylaw § 10.4.3.8)

In accordance with Bylaw § 10.4.3.8, the maximum net floor area 0.16. Please refer to the Zoning Analysis Table located on the Site Plan for a breakdown of this calculation.

H. Special Provisions Applicable to the Kelley's Corner District (Bylaw § 10.4.3.10)

Section 10.4.10 of the Bylaw required all developments in the Kelley's Corner District to comply with Bylaw § 5.6

1. Sidewalks and Walkways (Bylaw § 5.6.2.1)

In compliance with Bylaw § 5.6.2.1, the Project provides sidewalks along the Site's frontage and a walkway between the CVS building entrance and the street with minimal interruption. When they walkway does cross the driveways, stop signs with stop bars have been proposed for pedestrian safety.

2. Connections to Abutting Lots (Bylaw § 5.6.2.2)

The Project proposes cross-connection with the adjacent Bank development to the west of the Site with proper stop signs and stop bars to promote vehicle safety. The project proposed cross-connection to the east of the site with a sidewalk and crosshatched striped pavement. In addition, future cross-connection with the parcel to the rear is anticipated.

3. Connections to Abutting Neighborhoods and Facilities Outside the Kelley's Corner District (Bylaw § 5.6.2.3)

The Project provides pedestrian connections to abutting parcels by including the sidewalk running along the front of the site. Future pedestrian connections to the abutting parcels to the rear are anticipated.

**IV. THE SITE PLAN MEETS THE REQUIREMENTS OF BYLAW § 10.4.5**

In considering a site plan, the Board "shall ensure a USE of the site consistent with the USES permitted in the district in which the site is located and shall give due consideration to the reports received under Section 10.3.3." Bylaw § 10.4.5 requires the Board to find that, to the degree reasonable, the site plan meets seven (7) criteria.

The proposed retail use is consistent with the uses permitted in the Kelley's Corner Business District in Bylaw § 3.5.1. The immediate surrounding area contains several retail uses including several within the Acton Shopping Plaza across Massachusetts Avenue from the Site.

As demonstrated below, to the degree reasonable, the site plan meets the seven (7) criteria established in Bylaw § 10.4.5.

A. Consistency with the Master Plan

The Project is consistent with Acton's Master Plan (1991), Acton's Master Plan Update (1998), Kelley's Corner Specific Area Plan (1995), and Kelley's Corner Business District – Final Circulation Plan (1997), to the degree reasonable. When inconsistencies arose between the town's bylaws referenced above, and the Kelley's Corner bylaws, were more closely followed guidance governed by the Kelley's Corner bylaws. The Site is the redevelopment of an existing automotive service center. The existing auto service center use is unattractive with poor vehicular and pedestrian circulation. The proposed Project creates safer and more efficient vehicular circulation, provides a pedestrian connection to the CVS building from the sidewalk along the frontage, and accommodates future development of the parcel to the rear. The site has also been designed such that the peak rate of storm water runoff discharged from the site will be reduced, and water quality improved.

The various Master Plan documents encourage the use of alternative methods of transportation, including walking between uses and more extensive utilization of bicycles. In order to encourage the use of bicycles, the Project includes a bicycle rack on the stamped concrete area near the northwest corner of the site. See Kelley's Corner Circulation Plan, p. 3; Kelley's Corner Specific Area Plan, p. 4. Bike racks assist in encouraging the use of bicycles in the Kelley's Corner Business District and provide infrastructure for eventual development of bikeways.

B. Protection Against Seriously Detrimental or Offensive Users

The proposed CVS is a safe, clean, and quiet use of the Site. As demonstrated by the numerous CVS's operating without issue in the region, it would not be a seriously detrimental or offensive use. The CVS will not handle or generate hazardous wastes and is not a manufacturing operation. As a result, it will also not have an adverse effect on the natural environment and will provide significant improvement over the existing automotive service center.

C. Safe and Convenient Vehicular and Pedestrian Movement

As demonstrated by the Traffic Operations Study submitted with the Application, the vehicular and pedestrian movement on the Site will be both safe and convenient and a considerable improvement over the existing conditions. The Project will modify the existing driveway opening onto Massachusetts Avenue, which will require the approval of the Massachusetts Department of Transportation.

D. Parking and Loading Spaces

The parking and loading spaces provided as part of the project are adequate in amount and arrangement for the proposed retail use of the Site. CVS is proposing a 73-space parking lot, which, based on its extensive experience with other stores of this size, is necessary to allow convenient parking for customers and its employees. The arrangement of the parking areas also provides safe circulation through the Site while providing adequate parking.

E. Adequate Methods of Disposal of Refuse or other Wastes

CVS will not handle or generate hazardous wastes. Standard waste from the CVS will be hauled by employees to the trash enclosure and compactor located within the southeast corner of the site. Waste will then be picked up by the CVS's licensed waste hauler on a regularly scheduled basis.

F. No Adverse Effect on Surface and Groundwater Resources

As demonstrated in the drainage calculations, water balance calculations, and grading plans submitted with the Application, the CVS will have no adverse effect on surface or groundwater resources in the Town of Acton.

G. Compliance with Applicable Requirements of this Bylaw

1. The Proposed Bank Use is Permitted

The proposed retail use is permitted as and allowed use in the Kelley's Corner District with a Site Plan Special Permit from the Board. Accordingly, the Project complies with the applicable use provisions of the Bylaw with the grant of this permit

2. The Project Meets All Dimensional Requirements

The Zoning Analysis Table depicted on the Site Plan summarizes the required dimensional limitations of the Site and the Project's compliance with the required dimensional requirements pursuant to the Table of Standard Dimensional Requirements.

3. Parking Requirements are Satisfied

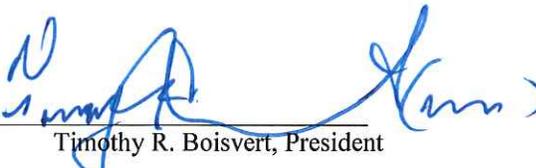
Section 6.3.1.6 of the Bylaw sets forth required parking for the proposed retail use as one (1) parking space per 300 square feet of Net Floor Area. The proposed CVS contains 13,602 square feet of Net Floor Area, requiring 46 parking spaces. CVS's proposed 69-space parking lot meets the Bylaw's minimum requirement.

V. **CONCLUSION**

TRB Development Group, Inc., believes that it has demonstrated through this memorandum, attachments, and submitted drawings, its commitment to upgrade Kelley's Corner by ensuring the aesthetic and orderly development goals desired by the Town of Acton have been achieved. Therefore, we respectfully request that this proposed CVS project receive a Site Plan Special Permit to advance its development.

Respectfully Submitted,

TRB DEVELOPMENT GROUP, INC.

By:   
Timothy R. Boisvert, President