



**Planning Department**

**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 929-6631  
Fax (978) 929-6340  
www.acton-ma.gov  
planning@acton-ma.gov  
www.acton-ma.gov

***INTERDEPARTMENTAL COMMUNICATION***

**To:** Steven Ledoux, Town Manager **Date:** October 31, 2013  
**From:** Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner  
**Subject:** Site Plan Special Permit Application #08/01/13-444

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Location: 400 – 408 Massachusetts Avenue  
Applicant: TRB Development Group, Inc., 36 Londonderry Turnpike, Hooksett, NH 03106  
Owner: Daniel & Carl Silverstrone, Mustard Seed Properties, LLC., c/o Page Road, Bedford, MA 01730-1333  
Engineer: Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772  
Architect: BKA Architects, Inc., Architecture and Interiors, 142 Crescent Street, Brockton, MA 02302  
Zoning: Kelley's Corner (KC)  
Groundwater Protection District Zone 4  
Proposed FAR: 0.15 (Includes proposed CVS and existing TD Bank)  
Base FAR – 0.20  
Maximum FAR – 0.40 (Based upon requirements set forth in Section 5.6)  
Proposed Uses: CVS Pharmacy (with potential for future drive-up facility) & TD Bank Branch  
Map/Parcel: F-3/13,786 ft<sup>2</sup> of 118-2, 127 & 128  
Hearing Date: September 9, 2013  
Decision Due: December 8, 2013

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Attached are the legal ad, application, plan sheets and interdepartmental review comments received to date. As of this date, comments have been received from the Town of Acton's Design Review Board, Health Department, Water Supply District of Acton, Engineering Department and an email from the Planning Director.

This memorandum is respectfully being submitted as supplemental and in addition to the previous memorandum dated September 6, 2013. The creation of this memorandum is based upon a revised Site Plan Layout as well as written documentation provided by the Applicant to address comments and concerns which arose at the September 9, 2013 hearing.

The applicant is proposing to demolish an existing structure (Goodyear building) and construct a new CVS retail store in its place. As per the Town of Acton Assessor's Office information, the existing "Goodyear" Site is 1.32 acres (57,499 square feet) in area, has approximately 200'-0" of frontage along Massachusetts Avenue, and is located within the Kelley's Corner zoning district. The existing "Goodyear" structure is approximately 6,933 square feet in size and was constructed in 1974, according to Assessor's Office records.

**The Site Plan:**

Legal counsel representing the Applicant, has provided a letter and documentation (attached hereto) in order to address the previous concerns regarding the long-term ownership of the 400 Massachusetts Avenue property as well as the immediately abutting land parcels. The submitted documentation describes the Applicants intent to combine 400 Massachusetts Avenue (proposed CVS property), 408 Massachusetts Avenue (TD Bank) and +/- approximately 13,786 square feet of the 408 Massachusetts Avenue Rear property into one parcel of land all under one single common ownership entity should the Site be developed as proposed in the Site Plan Special Permit application.

The site plan special permit application proposes to construct a new essentially one-story (less than 36’ high), 14,705 square foot (total NET FAR) CVS retail outlet. The proposed structure is predominantly a one story building, with the exception of a mezzanine level located along the eastern side of the building. The proposed use of the mezzanine level would primarily be for storage of the retailer’s merchandise. The ground floor of the proposed CVS building is +/- approximately 12,578 square feet of NET FAR, while the proposed mezzanine is +/- approximately 2,127 square feet of NET FAR in size.

The portion of the Site Plan Special Permit which proposes the construction of the CVS building, includes a 73 space parking lot and provisions for a future pharmacy drive-through pick-up window facility. The new proposed 73 parking spaces are in addition to the 24 parking spaces already in existence as part of the TD Bank development. Due to the parcels of land being consolidated into one single ownership parcel of land, a total of 97 parking spaces will now be provided on the overall Site. The current site plan layout places 34 of the parking spaces and a 24’-0” wide accompanying maneuvering aisle along the side of the CVS building and perpendicular to Massachusetts Avenue. The remainder of the 73 parking spaces are located behind the proposed building. Based upon the parking requirements set forth in Section 6.3 of the Zoning Bylaw along with the permitted reduction in parking requirements set forth in the Kelley’s Corner Zoning District through Zoning Bylaw Section 6.9.5.3, a total of only 34 parking spaces are required for the proposed development of the CVS building. Again, the Site Plan Special Permit application as currently proposed, is seeking approval for a total of 73 new and additional parking spaces for the CVS retail use.

The Site Plan Special Permit application also proposes an approximately +/- 25’-0” wide driveway to run across the front of the property and parallel to Massachusetts Avenue. This results in the proposed CVS structure being set back +/- approximately 51’-3” from the Massachusetts Avenue property line at its absolute closest corner only. The proposed CVS structure is not sited parallel to Massachusetts Avenue, which results in the majority of the proposed building being setback further than the closest corner. The neighbouring TD Bank building is currently setback 34’-4” from the Massachusetts Avenue property line.

The initial site plan and layout of the property resulted in multiple non-compliant issues with regards to the minimum parking lot dimensional design requirements. These issues have been addressed through the submission of a Parking Proof Plan in accordance with Section 6.7.9 of the Bylaw. Although the Parking Proof Plan does provide an alternate design layout and configuration for property, it may not be viewed as ideal, as it would move the proposed CVS structure further back into the property, and create a large parking area and 24’-0” maneuvering aisle in front of the building.

The proposed relevant zoning information for the subject site is summarized in the following table:

<b>By-Law Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Min. Lot Area (ft <sup>2</sup> )	10,000 ft <sup>2</sup>	57,677 ft <sup>2</sup>	117,177 ft <sup>2</sup> *
Min. Lot Frontage (ft)	100’-0”	200’-0”	400’-0”**
Min. Front Yard (ft) - North	30’-0”	NA	51.2’**
Min. Side Yard (ft) – East	NR	NA	28.8’
Min. Side Yard (ft) – West	NR	NA	120.6’
Min. Rear Yard (ft) – South	NR	NA	126.1’

Max. Building Height (ft)	36'-0"	NA	Unknown
Max. F.A.R. (Floor Area Ratio)	0.20	NA	0.15****
Open Space	NR	NA	NA
<b>Parking Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Use: Retail Store (14,705ft <sup>2</sup> ) 1 space/300ft <sup>2</sup> of N.F.A.	49	NA	73
Kelley's Corner Zoning District Reduction as per 6.9.5.3	34	24 (Existing in association with TD Bank)	73***** (97 total including TD Bank)

\* This number is based upon the most recent amended site plan submitted (dated 10/30/13), and works on the notion that lands, either in their entirety or portions thereof, immediately abutting the 400 Massachusetts Avenue property will be consolidated into one single owner/entity should the proposed Site Plan Special Permit be granted and development of such plan begin.

\*\* The front setback is being measured from the Massachusetts Avenue property line to the closest projection of the proposed CVS structure. The proposed structure is not sited parallel to the Massachusetts Avenue property line which results in the majority of the proposed building being setback further than the closest corner.

\*\*\* The adjusted total developable site area (as described in note \* above) is 117,177 square feet. With regards to FAR, the previously constructed and already existing TD Bank building is included in the overall Floor Area Ratio calculations. Based upon preliminary calculations, the proposed net floor area of the CVS structure is +/- approximately 14,705 square feet and the existing TD Bank building is approximately +/- 2,958 square feet. Therefore, the proposed net floor area of the entire property as currently proposed is approximately 0.15.

\*\*\*\* Due to the parcels of land being consolidated into one single ownership parcel of land, a total of 97 parking spaces will now be provided on the overall Site. 73 new parking spaces are being proposed as part of the CVS development and are in addition to the 24 parking spaces already in existence as part of the TD Bank development. Based upon the parking requirements set forth in Section 6.3 of the Zoning Bylaw along with the permitted reduction in parking requirements set forth in the Kelley's Corner Zoning District through Zoning Bylaw Section 6.9.5.3, a total of only 34 parking spaces are required for the proposed development of the CVS building. The Site as a whole, results in a combined minimum parking requirement of 41 spaces. Based upon the currently submitted Site Plan Special Permit application, if approved as proposed, an overall total of 97 parking spaces would be provided on the property.

## ITEMS FOR BOARD OF SELECTMEN CONSIDERATION

### 1) Access Driveways

6.7.3 *ACCESS Driveways – Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS driveway for one-way traffic only may be a minimum of 14 feet wide. There shall be no more than one additional ACCESS driveway for each 200 feet of FRONTAGE and all such additional ACCESS driveway(s) shall be at least 200 feet apart on*

*the LOT measured from the centerline of each ACCESS driveway. No driveway for a nonresidential PRINCIPAL USE shall cross land in a residential zoning district in which the PRINCIPAL USE is not allowed.*

Once the existing property lines are reconfigured to create one single consolidated lot, the two access driveways previously approved as part of the Site Plan Special Permit which constructed the TD Bank branch will remain. The access driveway which was built on the eastern side of the former TD Bank property would become the main entrance into the proposed CVS development. The Site Plan as currently proposed indicates a third (3<sup>rd</sup>) access driveway to be created on the far eastern side of the CVS property which would provide egress only from the Site. With the exception of delivery trucks, traffic utilizing this exit would be required to make a right hand turn onto Massachusetts Avenue.

The third (3<sup>rd</sup>) access driveway referenced in the preceding paragraph, is designed to comply with the minimum 200'-0" distance separation from any other access drive as measured from centerline to centerline. This third (3<sup>rd</sup>) access drive may be approved at the discretion of the Board of Selectmen based upon their review of its current necessity and/or provide an opinion and determination otherwise. If in the opinion of the Board of Selectmen, the third (3<sup>rd</sup>) access driveway is currently necessary, some thought or discussion may be warranted regarding if and/or when any other abutting property should be the subject of a Site Plan Special Permit. Should any development of abutting or adjoining land be proposed, the Board of Selectmen may wish to revisit this third (3<sup>rd</sup>) access driveway and perhaps modify accordingly if necessary.

## 2) Excess Amount of Parking Spaces

### Proposed CVS Development

Required: 34 parking spaces

Proposed: 73 parking spaces

### Existing TD Bank

Required: 7 parking spaces

Built: 24 parking spaces

Total Number of Spaces Required for Entire Property: 41 parking spaces

Total Number of Spaces Proposed for Entire Property: 97 parking spaces

## 3) Additional Drive Across Front of Property

The currently submitted Site Plan proposes an approximately +/- 25'-0" wide coloured stamped asphalt driveway spanning across the front of the property and in front of the proposed CVS building. Approval of this proposed drive is at the discretion of the Board of Selectmen. Without this drive, there is potential for the proposed CVS building to perhaps be pulled closer to the Massachusetts Avenue property line and would be more in overall line with the neighbouring TD Bank building.

## 4) Proposed Flexible Parking Plan

Although the Applicant has provided a Parking Proof Plan which complies with the requirements of the Zoning Bylaw, it is not the preferred choice of site design and layout by the Applicant. The Applicant would prefer to construct the site plan and parking lot layout shown on the Proposed Flexible Parking Plan. Approval of the Proposed Flexible Parking Plan is at the discretion of the Board of Selectmen.