



SP-12-62-10: A site plan for the redevelopment of the Dillons store located at 1740 Massachusetts Street. Submitted by Dillons Companies, Inc, property owner of record.

ADMINISTRATIVE DETERMINATION: The Planning Director approves the above-described Site Plan subject to the following conditions:

1. Provision of an executed site plan performance agreement.
2. City Commission approval of the associated sidewalk dining and use of right-of-way requests.
3. City Commission affirmation of the Planning Director's approval of the site plan with conditions.
4. Use of right-of-way agreements for the use of the Massachusetts and New Hampshire Streets right-of-way, including street furniture, sidewalk dining, all constructed elements related to the drive-through pharmacy, the bio-swale, etc., shall be executed and recorded prior to the release of the plan for building permits.
5. Public Improvement Plans shall be submitted and approved prior to the release of the plan for building permits.
6. The applicant shall contact the U.S. Postal Service to arrange the removal of the mailboxes on Massachusetts Street.
7. Dillon's has offered to donate \$40,000 to be used for traffic calming measures on 18th, 17th Terrace or New Hampshire if the traffic calming measures are agreed upon by the City and the neighborhood. Therefore, it shall be a condition of site plan approval that \$40,000 be provided to the city at time of building permit issuance. The city shall work diligently with the Barker Neighborhood Association to determine the best traffic calming measures and locations. If a traffic calming project is not developed within 12 months of the date of the certificate of occupancy for the Dillon's store, then the \$40,000 will be returned to Dillon's and Dillon's shall have no responsibility to participate in future traffic calming projects in the area as it relates to this development project.
8. Prior to occupancy of the store, the city, Dillon's and neighbors shall work to devise a parking plan for New Hampshire Street related to semi-trucks accessing the loading docks. Removal and addition of parking spaces in the right-of-way may be necessary to accommodate semi-truck movement to the loading docks.
9. Applicant shall provide a revised site plan that includes the following notes and changes:
 - A. LANDSCAPING
 - i. The landscape calculations shall be revised to list the required street tree ratio correctly as 1 tree per '40' ft of street frontage and the required number of street trees noted per street frontage: Massachusetts Street (530 ft) – 14 trees and New Hampshire Street (370 ft) – 9 trees with a note that the City Horticulture Manager recommended 12 trees on Massachusetts Street due to driveway placement and sight distance. The plan should also note that 12 street

trees are provided on Massachusetts and 9 are provided on New Hampshire Street.

- ii. The following note shall be added to Sheet L1.1: *"All interior parking lot landscaping areas shall be planted with turf, ground cover, ornamental trees, or shrubs in addition to the required landscaping."*
- iii. The interior parking lot landscaping revised to include 3 shrubs per each tree, placed on approximately 5 ft centers.
- iv. The plan and legend shall be revised to reflect the landscaping approved through Alternative Compliance with the species recommended by the City Horticulture Manager.
- v. The plan shall note that the Planning Director approved the parking lot and bufferyard landscaping shown on the plan through Alternative Compliance.
- vi. The following note shall be added to the plan: *"All mechanical equipment shall be roof-mounted. Per Section 20-1006, mechanical equipment shall be fully screened from view of adjacent properties and from street rights-of-way (as measured 6 ft above ground level). Screening shall be in the form of an architectural treatment compatible with the architecture of the building."*
- vii. A 3 ft high architecturally compatible fence or wall shall be shown along the perimeter of the parking lot adjacent to New Hampshire Street and set back 1.5 ft from the curb of the parking lot. Day Lilies and/or feather-reed grasses shall be shown along the street side of the fence. The fence or wall shall be approximately 6" off the ground to permit storm water flow.
- viii. Additional landscaping, in the numbers approved through Alternative Compliance, shall be provided along the New Hampshire Street frontage, with water tolerant plants in the bioswale and yews and other shade tolerant shrubs and ornamental plants along the pharmacy drive thru. (see alternative compliance memo)
- ix. The street trees to the north and south of the Massachusetts Street north access point (2 trees) shall be located on the east side of the walk where more space is available. The trees must be planted at least 8 ft from the utility lines in this area.

B. SITE PLAN:

- i. Addition of the following note: *"The BZA acted on January 6, 2011 to approve a variance from the landscaping requirements to allow Alternative Compliance and on Feb 3, 2011 to allow 129 parking spaces and 0-foot setbacks on New Hampshire and Massachusetts Streets."*
- ii. The 3 ft wide pedestrian walkway connecting Babcock Place to the store entrance shall be increased to 5 ft. To accommodate this, the trees in this bufferyard shall be planted further to the east, while maintaining separation, as approved by the Utilities Department, from the sanitary sewer line.
- iii. Addition of the following note regarding the design of the restricted access on New Hampshire Street shall be added to the plan: *"The restricted access located on New Hampshire Street between the pharmacy entrance-only point and the north entrance-only point and including mountable curbing and grass pavers shall only*

be used for emergency personnel, when necessary, and for semi-truck deliveries in the very rare occasion that the surrounding city street system prevents semi-trucks from reaching the New Hampshire Street loading docks. If the mountable curbing and grass pavers do not function adequately to restrict ingress and egress at the restricted access location, then a physical structure approved by the Fire Department, such as removable bollards or a gate with an opti-com system, shall be installed at or near the property line that permits emergency personnel and the occasional semi-truck, but that otherwise prevents patron vehicular access at this location. The grass pavers on and off site shall be maintained by the property owner in a healthy, aesthetically pleasing fashion at all times."

- iv. Plan Sheet CD1, and other applicable sheets, shall be revised to show the correct location of the sanitary sewer service line, per the approval of the City Utilities Engineer.
- v. The height of the retaining wall in the New Hampshire Street right-of-way adjacent to the pharmacy drive-through lane shall be noted on the plan.
- vi. The plan may be revised to eliminate the raised pavement in the main access drive, but the pavement markings shall remain.
- vii. Show 'Do Not Enter' signs at each side of the entrance-only access from New Hampshire as well as the pharmacy drive thru-lane exit point.
- viii. Addition of the following note: "*Pallets, bakery racks, and other items associated with the operation of the store are to be stored within the fenced enclosure on the south side of the building. Storage of any such items shall not be permitted outside of the fenced area.*"
- ix. Note that the fenced area will be enclosed by 8 ft high view obscuring fencing or wall.
- x. Additional bicycle parking (5-bike minimum) shall be provided on the north side of the building near the main entrance.
- xi. All code required perimeter light levels shall be achieved to not exceed one (1) foot candle at the property line, where necessary per code, except that lighting levels at the pharmacy drive-through may exceed this threshold by installing only one ceiling mounted fixture in the canopy that is tilted toward the building wall. The bulb in the canopy fixture shall not be visible and the light level at the adjacent New Hampshire Street west curb line shall be zero foot candles.

ASSOCIATED CASES

- Use of Right-of-Way Requests for the New Hampshire and Massachusetts Street rights-of-way. These requests are being considered by the City Commission at their April 26th meeting concurrently with the site plan.
- Sidewalk Dining Application for sidewalk dining within the Massachusetts Street right-of-way. This request is being considered by the City Commission at their April 26th meeting concurrently with the site plan.
- B-12-13-10; Variances from the parking requirements in Section 20-902 of the Development Code to permit provision of 129 spaces rather than the 150 spaces required by Code; the front

and rear setbacks required in Section 20-602 of the Development Code to permit '0' setbacks along New Hampshire and Massachusetts Streets; and the bufferyard and interior landscaping requirements in Article 10 to allow Alternative Compliance. The BZA approved the variance from the landscaping requirements at their January 6, 2011 meeting by a vote of 4-0 and approved the variances from the required setbacks and parking at their February 3, 2011 meeting by a vote of 6-0. A copy of the BZA meeting minutes is included as Attachment D.

- DR-12-138-10; Historic Resource Commission review of variances. Commission approved variances at their January 20, 2011 meeting subject to the condition that any changes to the approved project will be submitted to the Historic Resources Administrator prior to the commencement of any related work.
- DR-11-126-10; Historic Resource Commission (HRC) review of proposed demolition and reconstruction. The Historic Resource Commission approved the demolition and proposed reconstruction at their December 16, 2010 meeting subject to conditions. The HRC also forwarded the following recommendations on to staff regarding the redevelopment:
 - A. Review traffic study, paying close attention to the impact of New Hampshire Street, 17th Terrace and, 18th and 19th Streets.
 - B. Traffic calming should be installed in parking lot to prevent cut-thru traffic from Massachusetts Street to New Hampshire Street.
 - C. Photometric Plan should be evaluated for light pollution and spillage into the residential neighborhood.
 - D. The drive thru window should be evaluated for the potential traffic, sound and lighting impact on the residential neighborhood.
 - E. The site plan should be carefully evaluated for drainage impacts to the east and to the north, particularly the apartment complex at 1725 New Hampshire Street, which has basements units.

A copy of the approval letter is included with this staff report as Attachment E. This recommendations are discussed later in this staff report along with the review of the project

ATTACHMENTS

- A. Staff Memo regarding the Use of Right-of-Way Requests and Sidewalk Dining Application
- B. Use of Right-of-Way Request and Exhibit
- C. Sidewalk Dining Application and Exhibit
- D. Board of Zoning Appeals Minutes
- E. Historic Resources Commission action letter
- F. Alternative Compliance Memo
- G. Traffic Analysis
- H. Public Comment

KEY POINTS

- The site plan was administratively approved by the Planning Director subject to the conditions noted in this report. Given the fact that the use of right-of-way requests are a key component of the site plan and the concerns raised by the neighborhood association and nearby property owners, the site plan has been placed on the agenda along with the use of right-of-way and sidewalk dining requests so that the City Commission may consider them as a whole. In addition to acting on the use of right-of-way requests, Staff requests that the City Commission

- affirm the administrative decision on the site plan.
- Changes being proposed with this redevelopment include:
 - Increase in building size from 38,089 sq ft to 43,433 sq ft (an increase of 5,344 sq ft or 14% of the existing building).
 - Increase in pervious, landscaped area from 1,895 sq ft to 8,090 sq ft.
 - Reorientation of the building to the east and west with the main entrance facing the parking lot north of the building.
 - Building placement to New Hampshire and Massachusetts Street right-of-way lines, 0' setback.
 - Redesign of the parking lot to allow 2-way drive aisles.
 - Addition of pedestrian furnishings and sidewalk dining in the Massachusetts Street right-of-way.
 - Addition of a drive-thru pharmacy on the east side of the building, with a drive-thru lane located in the New Hampshire Street right-of-way.
- One-way access currently exists from the site onto New Hampshire Street. One-way access is being proposed with the redevelopment, but will be from New Hampshire *into* the site.
- All loading activities currently occur on the New Hampshire Street frontage. These activities are being separated with this proposal with semi-truck deliveries remaining on New Hampshire and dedicated service deliveries, such as bread and beverage trucks, occurring off of Massachusetts Street.
- Historic Resource Commission approval of the final design is necessary before the plan may be released.

ACTIONS REQUESTED OF THE CITY COMMISSION:

1. City Commission affirmation of the Planning Director's administrative approval of the site plan.
2. City Commission approval of the use of right-of-way request for Massachusetts Street.
3. City Commission approval of the sidewalk dining application for Massachusetts Street
4. City Commission approval of the use of right-of-way request for New Hampshire Street.

OTHER ACTION REQUIRED

- City Commission approval of the use of right-of-way requests and sidewalk dining application.
- Historic Resource Commission and Architectural Review Committee approval of plans before building permits may be obtained.
- Submittal of 4 copies of the approved site plan for release to Development Services for building permits.
- Completion of all conditions of approval.

PLANS AND STUDIES REQUIRED

- *Traffic Study* – Accepted
- *Downstream Sanitary Sewer Analysis* – Reviewed and approved.
- *Commercial Design Guidelines* – Not applicable as the property is located within the environs of a listed historical property and is subject to review under Kansas Statutes K.S.A. 75-2715 through 75-2725, as amended (Kansas Historic Preservation Act) and Chapter 22 of the City Code (Conservation of Historic Resources Code).
- *Drainage Study* – Accepted. Storm water addressed through reduction of impervious surface,

and use of a bio-swale detention area in the New Hampshire Street right-of-way.

- *Retail Market Study* – Not applicable to project.
- *Alternative Compliance* – Plan provided and approved.

GENERAL INFORMATION

Current Zoning and Land Use	CS (Commercial Strip) District; <i>Food and Beverage Sales</i>
Surrounding Zoning and Land Use	To the north: RM24 (Multi-dwelling Residential) and RS5 (Single-dwelling Residential) Districts; <i>multi-dwelling residences</i> . To the east: RS5 (Single-dwelling Residential) District; <i>detached dwellings</i> . To the south: CS (Commercial Strip) District; On the Rocks liquor store
Legal Description:	Lots 4-10 and 25-29, all in Block 16 Babcock's Enlarged Addition, an Addition to the City of Lawrence, Douglas County, Kansas

SITE SUMMARY

	Existing	Proposed	Change
Land Use:	<i>Food and Beverage Sales</i>	<i>Food and Beverage Sales</i>	--
Land Area (sq ft):	112,384.8 sq ft	112,384.8 sq ft	--
Existing Building (sq ft):	32,089 sq ft	44,770 sq ft	+12,681 sq ft
Total Pavement:	75,511 sq ft	59,077 sq ft	-16,434 sq ft
Total Impervious Area (sq ft):	110,600 sq ft	102,510 sq ft	-8,090 sq ft
Total Pervious Area (sq ft):	1,895 sq ft	9,985 sq ft	+8,090 sq ft

PARKING SUMMARY

Use	Parking Requirements	Spaces Required	Spaces Provided
<i>Food and Beverage Sales</i>	1 per 300 sq ft	150 spaces required by Code. Variance approved to permit 129 spaces.	129

The proposed parking complies with the parking requirement established by Variance B-12-13-10. Access to the site is provided from three full-access driveways onto Massachusetts Street and entrance-only drives on New Hampshire Street, one into the parking lot and one into the drive-thru pharmacy lane.

STAFF REVIEW

The applicant proposes to demolish the existing Dillon's store and construct a new store with an east/west orientation along the south side of the property. The applicant has considered other site designs, but indicated that this orientation will allow the store to operate with the greatest efficiency. This orientation will also create more of an 'urban' design rather than a 'strip' development with the building being located closer to the street and no parking occurring between the building and the street. This layout creates a parking lot on the north side of the property which can accommodate two-way traffic, rather than the one-way traffic in the current lot. With the proposed site layout, the loading activities will be divided between New Hampshire Street and Massachusetts Street. The loading area which is currently located along New Hampshire Street will be replaced with landscaping, the store with a drive through pharmacy lane, a smaller loading area for semis, parking lot and a stormwater bioswale. The design would move the dedicated service deliveries such as bread trucks to the Massachusetts loading area. (See Figures 1 and 2 for a comparison of the existing and proposed development.)

With this design the building is located at the property line on both New Hampshire and Massachusetts Streets. The Board of Zoning Appeals approved a variance from the setback requirements to permit a '0' setback on New Hampshire and Massachusetts Streets after revisions were made to the plan to increase the visibility for the store to the south, On the Rocks Liquor. The Board of Zoning Appeals also approved a variance from the parking requirements in Article 9 of the Development Code to permit 129 parking spaces rather than the 150 required by Code after considering information provided by the applicant on the parking requirements for more urban grocery stores and the fact that many of their customers are pedestrians or use alternative forms of transportation such as bicycles and scooters. Copies of the Board of Zoning Appeals January and February minutes are included as Attachment D.

The Historical Resources Commission approved the proposed design with conditions and recommended that the Planning Office consider certain items in the review of the proposal. The minutes of the HRC meeting and the letter containing the recommendations are included as Attachment E.

A retaining wall is proposed between the pharmacy drive-thru lane and New Hampshire Street. The height of this wall should be noted on the plan.

The neighborhood expressed concerns with the various items which remain on-site, such as bakery racks and pallets. In response to this, and to enhance the aesthetics of the site, the applicant is proposing an area on the south side of the building which will be enclosed with a view obscuring fence for these types of items. The site plan should note that these types of items are required to be kept within this fenced enclosure.



Figure 1a. Current view of property from New Hampshire Street



Figure 1b. Proposed New Hampshire Street elevation



Figure 2a. Current view of property from Massachusetts Street



Figure 2b. Proposed Massachusetts Street elevation

Landscaping and Screening

Street Trees

There is 530 ft of frontage along Massachusetts Street and 370 ft along New Hampshire Street. Per Section 20-1002 of the Code, 1 street tree must be provided for each 40 ft of frontage except where overhead lines occur or when it is not possible to space the trees in this manner due to other site features. Section 20-811(e)(1)(ii) requires one street tree for every 40 ft of frontage except that the City may approve a plan that varies from this requirement to allow for driveways, utilities and intersection visibility requirements. Overhead power lines are present on the New Hampshire Street frontage; therefore, ornamental trees are being utilized. The City Horticulture Manager recommended planting fewer trees than required by Code since the trees are being planted in areas that have been paved, and additional area will be necessary to insure their success. The plan lists the street tree ratio incorrectly as 1 tree per 25 ft of street frontage. This should be corrected to '40' ft and the required number of street trees noted per street frontage: Massachusetts Street – 14 trees and New Hampshire Street – 9 with a note that the City Horticulture Manager recommended 12 trees on Massachusetts Street. The plan should note that 12 street trees are provided on Massachusetts and 9 are provided on New Hampshire Street. The street trees to the north and south of the north access point should be pulled back to the east side of the walk where more space is available. The trees must be planted 8 ft from the utility lines in this area.

Alternative Compliance

The applicant requested alternative compliance from the landscaping requirements in Article 10. A detailed discussion of the landscape requirements and alternative compliance are provided in Attachment F. A summary is provided below:

Interior Landscaping

The Code requires 40 sq ft of interior parking lot landscaping for each parking space. The 129 parking spaces would require 5,160 sq ft of landscaping. Due to the limited area available for this redevelopment and the fact that 129 parking spaces are required, Alternative Compliance has been granted from the interior parking lot landscaping requirement to allow the 2,241 sq ft of landscaped area provided on the plan. This equates to approximately 17 sq. ft. of interior parking lot landscaping per parking space.

The Code requires 1 tree and 3 shrubs for every 10 parking spaces in the interior landscaping areas or 13 trees and 39 shrubs. The plan shows 13 trees but no shrubs. The City Horticulture Manager indicated that 3 shrubs could be planted on 5 ft centers with each tree in the planting islands. Alternative compliance was not approved from the Interior Parking Lot planting requirement. The Code requires that all interior parking lot landscaping areas shall be planted with turf, ground cover, ornamental trees, or shrubs in addition to the required landscaping. A note to this effect should be placed on the plan.

Perimeter

The Development Code requires perimeter parking lot landscaping at a ratio of 1 shade tree per 25 feet of parking lot frontage and either a solid masonry wall or a berm to screen the parking from the street right-of-way. Street trees may be used to fulfill this requirement.

The 220 ft of parking lot perimeter adjacent to the Massachusetts Street frontage requires 9 trees and the plan shows 8 street trees in this area. Given the City Horticulture Manager's recommendation on the spacing of trees along the Massachusetts Street frontage, the 8 trees have been approved. The applicant proposes a hedge of shrubs in lieu of the wall or berm required by Code. The Planning Director approved the use of the hedge in lieu of the berm or wall through Alternative Compliance taking into account the space constraints and the fact that the shrubs will serve as an effective screen and add greenery to the area.

The 110 ft of parking lot adjacent to the New Hampshire Street frontage requires 5 trees and 5 are provided on the plan. A wall of shrubbery was suggested in lieu of the wall or berm to increase landscaping on the site but the City Horticulture Manager indicated that shrubs would not do well in the wet conditions of a swale and recommended the use of an architecturally compatible fence or wall (3 ft high minimum) to screen the parking lot. The fence or wall should be set back 1.5 ft from the curb of the parking lot to allow space for vehicle overhang. Day Lilies and/or feather-reed grasses could be planted on the street side of the fence to provide greenery as these plants would do well in the wet conditions. Alternative compliance has been granted to allow a fence in lieu of a masonry wall for this area and to allow the use of day lilies and/or feather-reed grasses in lieu of shrubbery.

Bufferyards

Per Article 10, a Type 2 Bufferyard is required when development occurs on property in the CS District that is adjacent to residentially zoned properties. The applicant is proposing a 15 ft Type 2 Bufferyard that requires 4 trees and 15 shrubs per 100 linear feet. The bufferyard requirements and the Planning Director's determination on the Alternative Compliance are discussed in the Alternative Compliance Memo, Attachment F. The plan should be revised to reflect the approved landscaping in these areas and to note that the Planning Director approved the interior and perimeter parking lot and bufferyard landscaping as shown on the plan through Alternative Compliance.

Mechanical Equipment

All mechanical equipment is to be roof-mounted. The following note should be added to the plan: *"All mechanical equipment is to be roof-mounted. Per Section 20-1006, mechanical equipment shall be fully screened from view of adjacent properties and from street rights-of-way (as measured 6 ft above ground level). Screening shall be in the form of an architectural treatment compatible with the architecture of the building."*

Lighting

The applicant proposes pedestrian scale lighting along Massachusetts Street in addition to the regular street lights. Parking lot lighting will also be utilized. The applicant provided a photometric plan for staff review to insure that the lighting complies with Code requirements in Section 20-1103. These standards are intended to eliminate spillover light and light glare on motor vehicle operators, pedestrians, and land uses near light sources. The photometric plan complies with Code except for the New Hampshire Street Side. Section 20-1103(d)(3) limits spillover light for properties that are across the street from residentially zoned property to 1 foot candle at the property line. The fact that this development utilizes part of the right-of-way places some of the lighting within the right-of-way. The lighting near the pharmacy is 5 foot candles near the canopy at the property line, but less than 1 at the curb-line. The parking lot lighting has a foot-candle rating between 1.2 and 3.9 foot candles along New Hampshire Street. The lighting in this area should be revised, either the location, the angle of the light, or the wattage, to reduce the foot-candles. The lighting at the pharmacy should also be revised. Staff recommends the use of landscape lighting to light the drive lane and lower wattage lights under the canopy. The 1 foot candle requirement should be achieved at all points along the property line except at the pharmacy drive-through where the requirement should be no more than 3 foot candles at the property line and zero foot candles at the adjacent curb. Additionally, no light source should be visible along the perimeter of the east side of the site from New Hampshire Street.

Access

The property will have 3 access points on Massachusetts Street and 3 on New Hampshire Street. The Massachusetts Street access points include a 35.28 ft access to the loading area on the south side of the property, and 2 three-lane vehicular access points in the center and north portions of the property. The southern access point is a shared access with the property owner to the south. The spacing of the proposed access points is 164 ft between the loading access and the center access and 202 ft between the center and northern access. Currently the access points are separated by 316 ft and 100 ft. As proposed, the access points would be more evenly distributed with a spacing of 169 and 202 ft. (Figure 3) Per Section 20-915(e)(3), the City Engineer may grant a waiver from the access management standards if it is found that the requested waiver will not create a serious detriment to the safety or operation of traffic on the street and only for infill or redevelopment projects where no other option exists. The City Engineer made this determination based on a review of the Traffic Impact Study provided by the applicant. This waiver will be reported on the next Planning Commission agenda, April 25th meeting, as required by Code.

The Code allows one driveway opening with 200 ft of continuous street frontage on a local street [Section 20-915(f)]. As New Hampshire Street has more than 200 ft of continuous street

frontage, additional access points are allowed. The Fire Department indicated that the access points on Massachusetts Street are necessary to meet the Fire Code and recommended the restricted access on New to increase emergency vehicle access to the site.

Due to the site's central location it has a significant amount of bicycle traffic. The plan includes a parking area for bicycles on the Massachusetts St right-of-way and a scooter parking area on the north side of the building. In order to better accommodate bicyclists that may be coming from the east, additional bicycle parking should be installed near the main entrance.

Utilities

The City Engineer and Utility Engineer indicated that public improvement plans would need to be submitted for the extension of sanitary sewer lines and work in the right-of-way. These plans must be submitted and approved prior to the release of building permits.

The City Utility Engineer commented that a sanitary sewer service line was shown incorrectly on the existing conditions sheet, Sheet CD1, and indicated the plan should be revised to show the line correctly.

Discussion of HRC Recommendations:

- i. Review traffic study, paying close attention to the impact of New Hampshire Street, 17th Terrace and, 18th and 19th Streets.*
--An additional traffic study was completed to analyze the impact on adjacent streets and included these streets. The traffic study concluded that traffic calming measures would be permitted on these streets, but the amount of traffic generated from this project should not have a negative impact on the operation of the streets.
- ii. Traffic calming should be installed in parking lot to prevent cut-thru traffic from Massachusetts Street to New Hampshire Street.*
--A speed hump and marked pavement were recommended by staff originally, but the reconfiguration of the access points on Massachusetts and New Hampshire Streets removed the direct access drive through the parking lot so the speed hump is no longer needed. The marked pavement will still mark the pedestrian crossing area.
- iii. Photometric Plan should be evaluated for light pollution and spillage into the residential neighborhood.*
--the photometric plan was evaluated per the standards in Section 20-1103(d) of the Code and revisions are required to reduce the spillage onto New Hampshire Street.
- iv. The drive thru window should be evaluated for the potential traffic, sound and lighting impact on the residential neighborhood.*
--The pharmacy will not have a speaker or lighted signage. The traffic generated would average out to approximately 4 cars per hour. The proposed lighting does not comply with Code so revisions are necessary.

v. The site plan should be carefully evaluated for drainage impacts to the east and to the north, particularly the apartment complex at 1725 New Hampshire Street, which has basements units.

--The stormwater drainage is to be directed toward Massachusetts and New Hampshire Streets. No stormwater from the site is directed toward the apartments at 1725 New Hampshire. A shallow swale is proposed in the bufferyards between Dillons and the apartment to direct any rainwater to New Hampshire Street.



Figure 3a. Existing access point separation

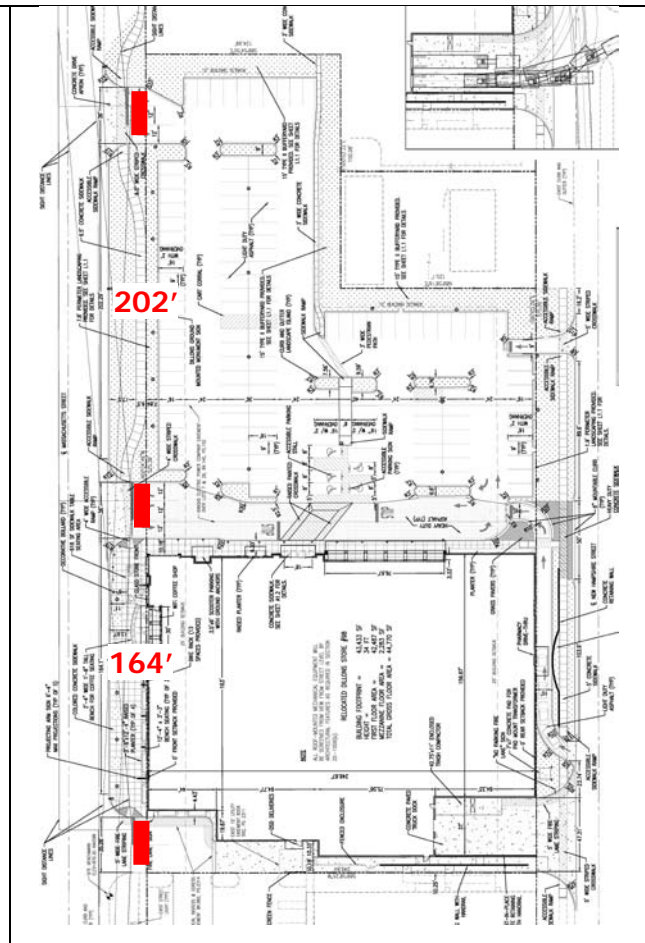


Figure 3b. Proposed access point separation

Findings

Per Section 20-1305, staff shall first find that the following criteria have been met:

1) The Site Plan shall contain only platted land;

The site is platted as Lots 4-10, and 25-29 of Block 16 of Babcock's Enlarged Addition.

2) The site plan shall comply with all standards of the City Code, this Development Code and other adopted City policies and adopted neighborhood or area plan;

Variances from the parking and setback requirements were approved by the Board of Zoning Appeals at their January and February meetings. The site plan should note that the BZA acted on

January 6, 2011 to approve a variance from the landscaping requirements to allow Alternative Compliance and on Feb 3, 2011 to allow 129 parking spaces and 0 setbacks on New Hampshire and Massachusetts Streets.

The site plan notes that 36 street trees are required. The plan should also note that 21 street trees are provided based upon recommendations of the City Horticulture Manager.

Article 6 of the Development code sets a maximum impervious surface cover limit of 80% in the CS District. Approximately 110,600 sq ft of impervious surface is currently provided on site (about 98% of the total site) and 104,553 sq ft of impervious surface is proposed with this redevelopment (about 93% of the site). While the amount of impervious surface is greater than required by Code, this redevelopment is increasing the amount of pervious surface and landscaping as well as installing stormwater management measures to reduce the flow of stormwater to adjacent properties. Per Section 20-1305(b)(v) of the Development Code, full compliance with all City Codes, including the Development Code is required for major development projects unless otherwise determined by the Planning Director to be waived for good cause. Code requirements may be waived only if it is demonstrated that the intent of the code is fulfilled and if the development project otherwise meets sound site planning principles. Based on the increase in pervious surface and landscaping and the stormwater management improvements, the Planning Director approves a waiver from the 80% impervious surface limit to allow the 93% shown on the plan.

The site plan, with the approved variances and alternative compliance, is compliant with all standards of the Code.

3) The proposed use shall be allowed in the district in which it is located or be an allowed nonconforming use;

The subject property is zoned CS (Commercial Strip) District. *Food and Beverage Sales* is a permitted use in the CS District.

4) Vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well and shall also conform with adopted corridor or access management policies and;

The applicant provided sight distance exhibits for the access points onto Massachusetts Street when the 'O' right of way was being considered by the BZA. The City Traffic Engineer accepted these exhibits and determined the access points and the proposed building location on Massachusetts Street would maintain adequate sight distance for traffic to exit safely.

The Barker Neighborhood Association and neighboring property owners expressed concern about the additional traffic which would be generated on New Hampshire Street as a result of the larger store and the drive-thru pharmacy. The applicant had originally requested a full in/out access onto New Hampshire, but has agreed to restricted access in response to the neighborhood's concerns. The applicant provided additional traffic impact analysis, Attachment G, which shows

the amount of increase that is expected with the redevelopment. The Architectural Review Committee of the Historic Resources Commission (ARC) and the neighborhood both expressed concern with cut-through traffic using the direct access aisle between New Hampshire and Massachusetts Street. The applicant stated that they need direct access to accommodate semi-truck traffic in the event that access to the street network from 19th Street is ever blocked. Many in the neighborhood indicated they would prefer 'no access' onto New Hampshire Street. The applicant expressed a desire to have connectivity into the neighborhood, as well as a limited need for trucks to be able to use the access drive to access Massachusetts Street. The City Fire Inspector recommended a 20 ft wide fire access on New Hampshire Street. The access design being proposed with the revised site plan is the result of work between the fire department, city staff and the applicant. (Figure 4)

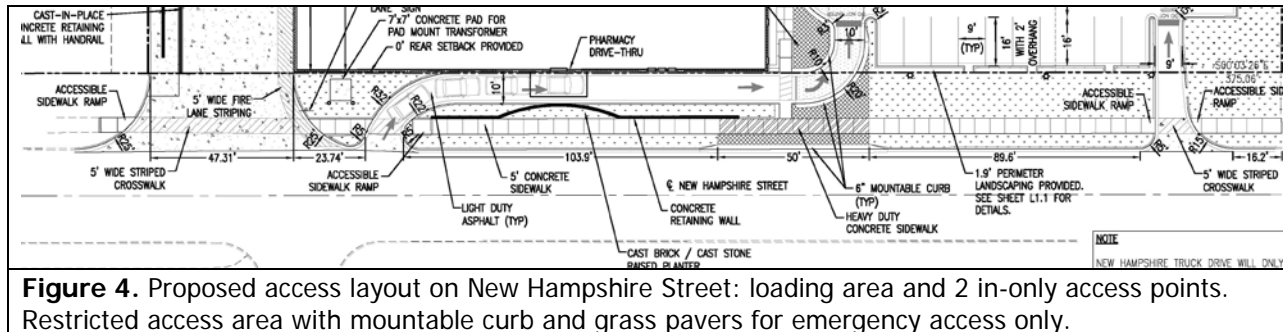
The pharmacy drive had originally been designed to both enter from and exit onto New Hampshire, but this design was revised based on safety concerns raised by the City Traffic Engineer and the neighborhood's concerns with traffic onto New Hampshire. With the proposed revision, the pharmacy drive-thru traffic is directed back into the parking lot and will then exit on Massachusetts Street. A mountable curb and grass pavers will be used to create a restricted access in the event it is needed by emergency vehicles or truck traffic if access to the south on New Hampshire Street is not possible. Members of the neighborhood association were concerned that the design of the restricted access may not be adequate to deter traffic and requested that the restricted access design be conditioned so that Dillons will change the feature if it does not function to restrict ingress and egress at that location and also if the pavers cannot support the healthy growth of grass. The grass-pavers will be located within the right-of-way and will be discussed further in the review of the use of right-of-way request.

The 'entrance-only' vehicular access point on New Hampshire is located further to the north, which removes the direct access and will help reduce the 'cut-through' traffic. When the plan was reviewed originally, the access drive was a direct line between Massachusetts and New Hampshire Streets and a raised pavement area was recommended by staff as a deterrent to cut-through traffic. With the relocation of the New Hampshire access to the north, cut-through traffic is less likely; therefore, the raised pavement is no longer required. The marked pavement is still necessary, however, to signify this as a pedestrian crossing area.

The neighborhood association also raised concerns that the turning semis occasionally run over the New Hampshire Street curb and damage the neighbor's yards. The applicant provided a turning diagram on the site plan which shows that the trucks can turn without running over the curb, and included a note that if trucks do encroach on the New Hampshire Street curb Dillons will work with the City to find a solution. At the April 19th stakeholder meeting, the applicant agreed to provide a truck turning exhibit to illustrate the turning movements of both trucks entering the loading dock on New Hampshire Street as well as both trucks exiting. They will also show the turning movements of trucks when they use the emergency access into the parking lot. These exhibits are not available for inclusion in this staff report, but will be made available to the Commission and the public as soon as they are received. It is possible that some on-street parking on New Hampshire Street will be removed or relocated in order to accommodate the truck's turning movements. This parking arrangement should be worked out between the City,

neighborhood, and the applicant prior to the release of occupancy permits.

The applicant provided sight distance exhibits for the access points onto Massachusetts Street. The City Traffic Engineer accepted these exhibits and determined the access points and the proposed building location on Massachusetts Street would maintain adequate sight distance for traffic to exit safely.



5) The site plan provides for the safe movement of pedestrians within the site;

Sidewalks adjacent to the property will be installed along New Hampshire and Massachusetts Streets with this redevelopment. On Massachusetts Street, the sidewalk will meet the plaza area at the northwest corner of the store which continues to the entrances. A continuous sidewalk is also provided from New Hampshire Street to the entrance; however, it is necessary to cross the pharmacy drive-thru lane. Currently, residents from Babcock Place often cut through the parking lot to shop at Dillons. (Figure 5) A 3 ft wide walkway is proposed to connect Babcock Place with the store. This walkway will be raised where it passes between parked cars to protect the pedestrians. It would not be possible for 2 wheelchairs or walkers to pass on a 3 ft wide walkway, so the possibility of creating a wider connecting walkway was reviewed. The City Horticulture Manager recommended planting the trees farther to the east so they would not encroach into the walkway. The trees must be planted an appropriate distance from the sanitary sewer line. This would leave 4 to 5 ft of separation between the trees and the walkway. With this layout, a 5 ft sidewalk is possible.

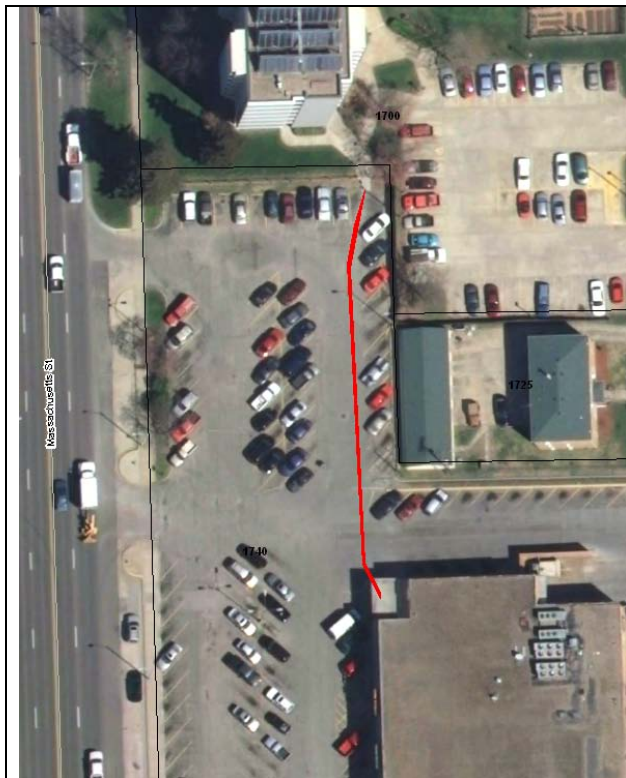


Figure 5a. Current cut-through route for Babcock Place customers, through parking lot to access the entry.

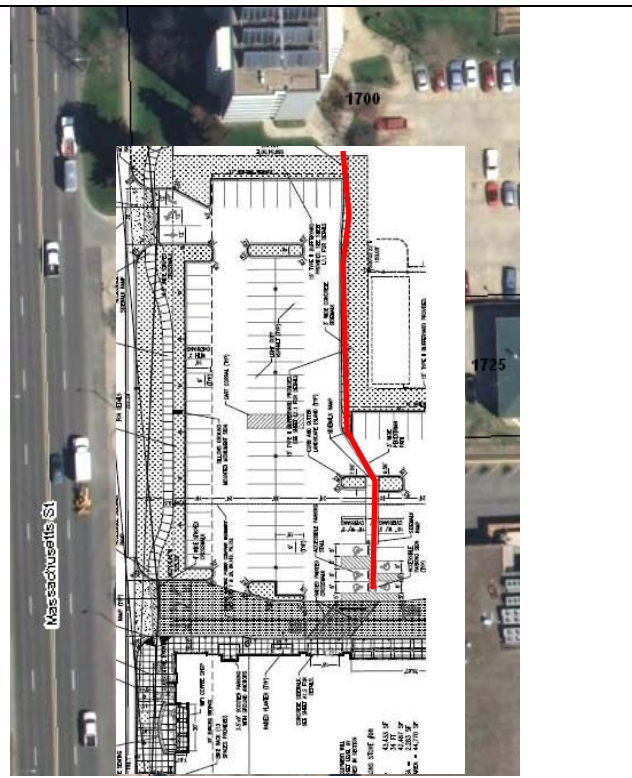


Figure 5b. Proposed cut-through route including a concrete walkway in bufferyard, crossing an access aisle and a raised walkway between parked cars to access the entry.

Neighborhood Involvement

There has been significant communication between the applicant and the neighborhood with this application. The applicant contacted the neighborhood associations in the nearby area prior to submittal of the site plan to discuss the proposal with them. Since the application has been submitted planning has received numerous communications from the neighborhood association and nearby property owners on this project. These communications are included as Attachment H. The applicant, Dillons, and their consultant met with the neighbors in the Planning Office on December 18, 2010 to discuss the project and the neighborhood's concerns. The applicant arranged a meeting with stakeholders in January of 2010 at the BZA's recommendation to discuss the variances being requested and possible solutions to the neighbor's concerns. A final meeting was held with the neighborhood association and nearby neighbors on Tuesday, April 19th to allow Dillons the opportunity to answer the neighborhood's questions about the revised plans and explain the changes which have been made.

Below are some of the principal concerns raised by the neighbors and the measures that have been taken to address them:

1. The property owner and store managers for the property to the south were concerned that the 'O' building setback line would decrease the visibility of their store to the vehicles travelling south on Massachusetts Street.

The consultant prepared a diagram which showed the visibility which the store would have if the Dillons store extended to the building 25 ft setback as permitted by Code and the visibility the store would have if the Dillons store were built to the property line with the 'O' setback. The building would be visible 18 ft earlier, approximately one-half second, at a speed of 30 mph, if the building were built to the 25 ft rather than the 'O' setback.

2. The property owner and store managers for the property to the south were concerned about the aesthetics of the south facing wall and the delivery area. They did not want the wall to appear as a 'back wall' since they have a view of that area.

The Architectural Review Committee of the HRC is reviewing the revised elevations. Ivy plantings have been suggested for the south building façade, to create visual interest. In addition, a screening fence will be installed to block the view of some of the loading activities and a fenced enclosure was added to the south side of the building to house empty bread racks and other loading apparatus.

3. The neighborhood association and nearby neighbors were concerned that the pharmacy drive-thru may have a negative impact on New Hampshire Street.

The applicant provided the following description of the pharmacy drive-thru use:

"The pharmacy will operate generally between the hours of 8 am and 9 pm, Monday through Friday and 9 am to 6 pm Saturday and Sunday. The actual hours have not yet been set; however, it is anticipated that the pharmacy will operate for a total of 78 hours per week. Based upon actual customer sales data at the existing Dillons pharmacy, 320 customers per week are anticipated at the drive-thru which equates to an average of 4 drive-thru customers per hour. The estimate is based upon the typical percentage of Dillon's pharmacy customers; however, the pedestrian nature of the store will likely generate less than average pharmacy drive-thru customers. It is also anticipated that due to the relatively small "neighborhood" size of the store, some pharmacy customers that would typically use a drive-thru will likely park and go inside the store. Current HIPA privacy laws prevent the loud speaker style communications; therefore, pharmacy employees and customers should not be heard by the neighborhood. Neon and illuminated pharmacy signage will not be provided. Typical wait times for drive-thru customers are 1-2 minutes which provides for a short timeframe for customers to access the drive-thru."

A speaker box is not being provided for the drive-through and light levels will be required to remain low with no glare into the residential area to the east. Given the information provided by the applicant and the fact that there is no additional exterior lighting proposed, the drive-thru lane should not negatively impact the character of New Hampshire Street.

4. Neighbors were concerned with the impact of the additional traffic on New Hampshire and other nearby streets.

The City conducted traffic counts on New Hampshire and the nearby streets and the applicant prepared a Traffic Impact Analysis regarding the amount of additional traffic that could be expected at each access point. The City Engineer indicated that the amount of traffic being generated was acceptable for the local streets. Based on the traffic analysis, traffic calming would be permitted on New Hampshire, 18th Street and 17th Terrace. The applicant has offered to donate \$40,000 toward the cost of traffic calming in the area. The City Engineer indicated that traffic calming on 18th Street has been approved by the City Commission but has not been funded. Dillons' donation will be used for traffic calming measures on 18th, 17th Terrace or New Hampshire if the calming measures are agreed upon by the City and the neighborhood within 12 months of the date of the certificate of occupancy. If the agreement is not reached by that time, the funds will be returned to Dillon's.

The applicant revised their original proposal, which included an entrance and an exit for the pharmacy drive-thru on New Hampshire Street along with a full access drive onto New Hampshire, to an entrance-only access for the pharmacy and another entrance-only access into the parking lot further to the north. The staggered access drives should serve as a disincentive for cut-through traffic between Massachusetts and New Hampshire Streets.

5. Concerns were raised that the Babcock residents would not be able to cut through the parking lot as they currently do.

The applicant included a pedestrian walkway within the bufferyard area and between rows of parked cars to create a safer pedestrian connection to the store than currently exists. This walkway will be widened to 5 ft to insure adequate space for the Babcock residents who may use mobility devices or shopping carts.

6. Concerns were raised about the appropriateness of commercial uses and access adjacent or across from residential areas. While a drive-thru pharmacy lane in the right-of-way is not typical, commercial related elements such as sidewalk dining, canopies, signs and parking do exist, most notably in the downtown area. Some examples of where commercial uses and residential uses co-exist in close proximity include:

- a. 9th and Mississippi
- b. Commercial center, including the Merc, at 9th and Iowa
- c. 7th and Michigan, Johnny's West
- d. 600, 700, and 800 Blocks of Rhode Island
- e. Douglas County Bank at 9th and Tennessee

The following figures are examples:



Figure 6a. 1100 Block of Rhode Island Street

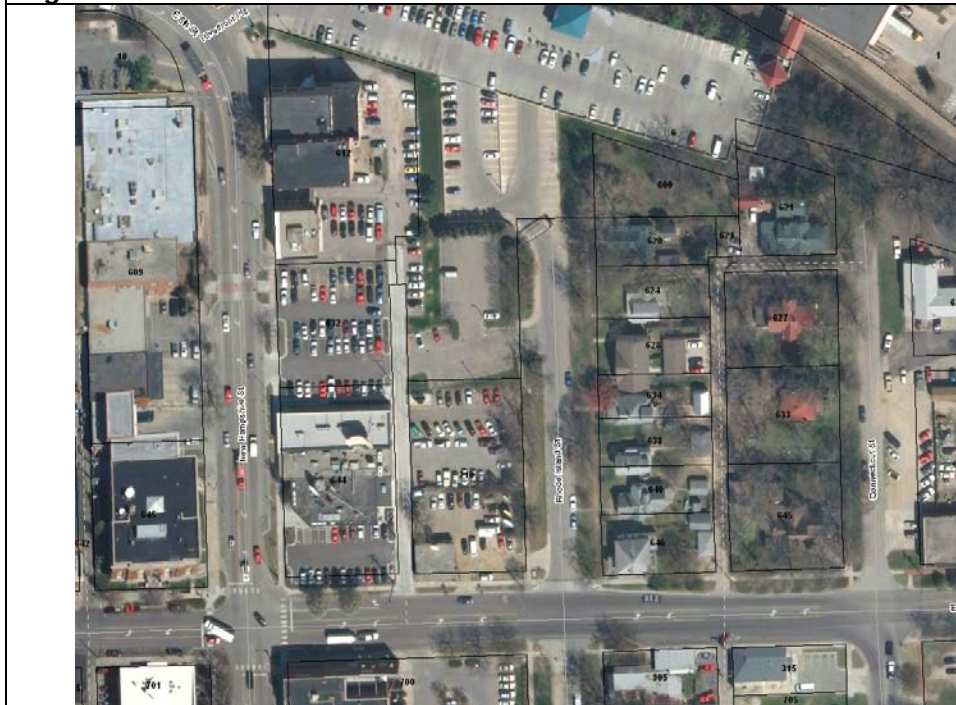


Figure 6b. 600 Block of Rhode Island Street

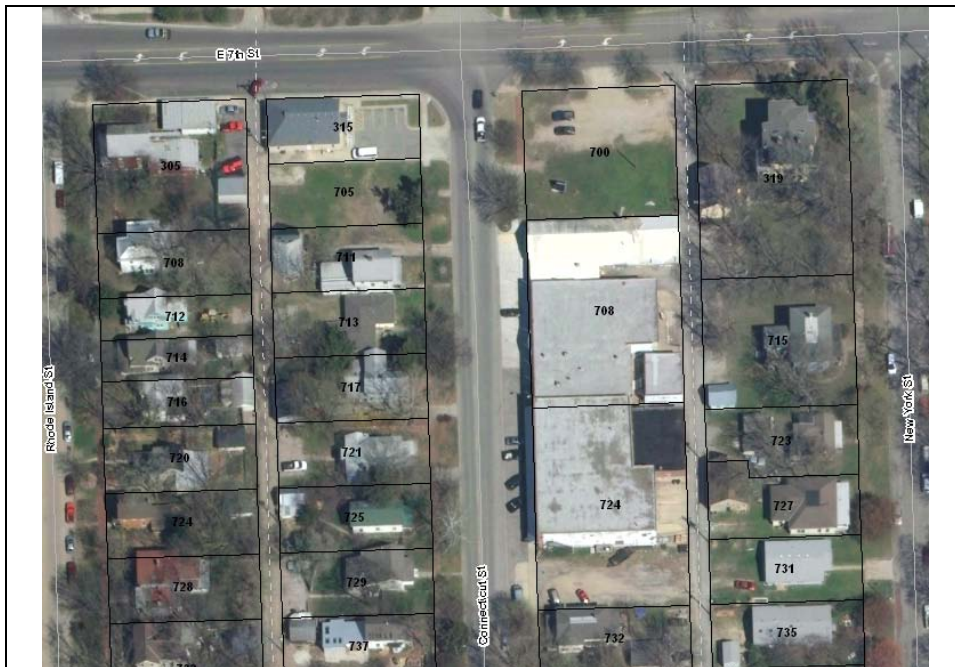


Figure 6c. 700 Block of Connecticut

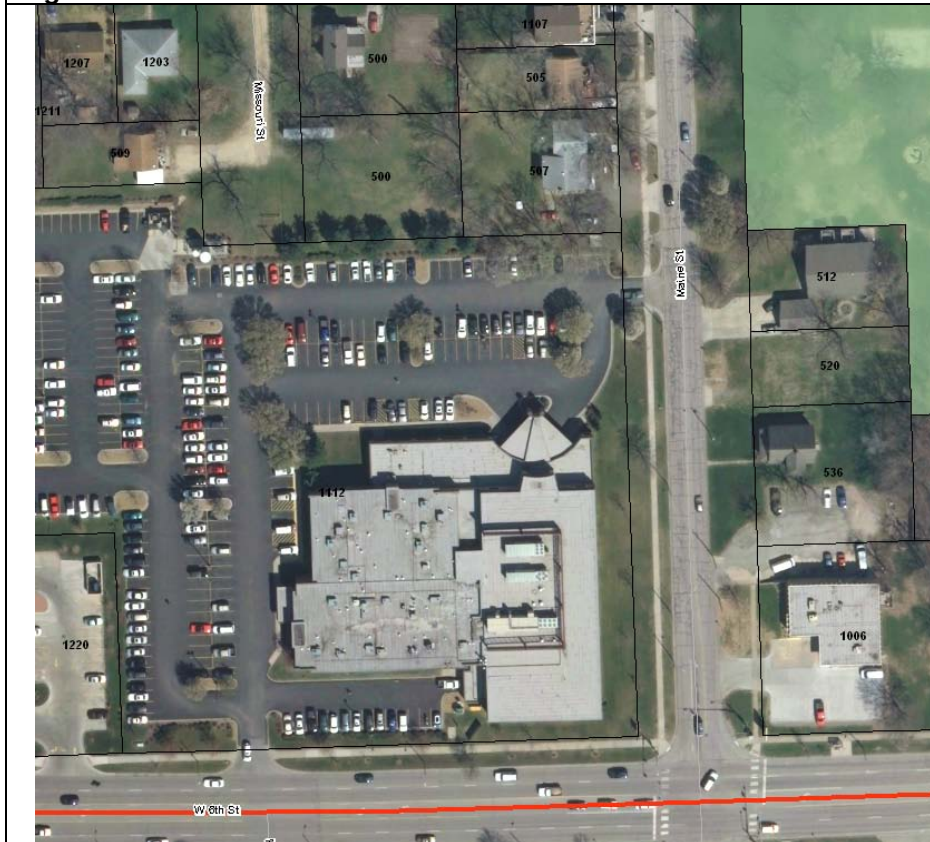


Figure 6d Maine and 9th Street

One neighbor commented that the northernmost access point on Massachusetts Street has a narrow throat in the parking lot which may limit stacking space and recommended that this access be revised to 3 full lanes, similar to the southern access point. Dillons indicated that they require the 129 parking spaces to operate their store and would not be willing to reduce the number of parking spaces to widen this access drive. The City Engineer indicated that the design, while not perfect, is acceptable.

7. Several other neighborhood concerns have been discussed in the staff report. These include: concerns with truck movements on New Hampshire, concern with the appearance of the store and storage of ancillary items such as pallets and racks, concern that the grass pavers will not result in health, attractive vegetation, concern that traffic may still use the restricted access on New Hampshire.

Summary

With the conditions of approval and alternative compliance, the site plan is in conformance with the Development Code and is approved by staff. However, the right-of-way requests remain key elements and the site plan demands full review by the City Commission to determine if all of the elements of this redevelopment project are in the best interest of the community.