



Land Use Committee Report

City of Newton **In City Council**

Tuesday, October 15, 2019

Present: Councilors Schwartz (Chair), Lipof, Laredo, Auchincloss, Kelley, Markiewicz, Crossley,

City Staff Present: Associate City Solicitor Jonah Temple, Senior Planner Neil Cronin, Planning Associate Katie Whewell, Chief Planner Jennifer Caira

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#332-19 Class 2 Auto Dealer License
NEWTON COLLISION d/b/a GM Autobody
64 Crafts Street
Newton, MA. 02458

Action: **Land Use Approved 7-0**

#333-19 Class 2 Auto Dealer License
PARAGON EXPORTS
40 Summit Street
Newton, MA. 02458

Action: **Land Use Approved 7-0**

Note: Committee members reviewed the request for Class 2 Auto Dealer Licenses for items #332-19 and #333-19. It was noted that there have been no site-specific complaints at the addresses of the proposed auto dealerships. Committee members expressed no concerns relative to the requests and voted unanimously in favor of approval of both licenses.

#268-19 Petition to allow adult-use marijuana dispensary at 58 Cross St/1089 Washington St
ASCEND MASS, LLC petition for a **SPECIAL PERMIT/SITE PLAN APPROVAL** to allow retail marijuana sales and waivers to the extent necessary for minimum stall dimensions, perimeter screening requirements, interior landscaping requirements and lighting requirements at 58 Cross Street/1089 Washington Street, Ward 3, West Newton, on land known as Section 31 Block 09 Lot 07, containing approximately 25,122 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 4.4.1, 5.1.8.A.1, 5.1.8.B.2, 5.1.9.A, 5.1.9.B, 5.1.10, 5.1.13, 6.10.3.D of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 7-0; Public Hearing Continued**

Note: Attorney Katherine Adams, offices of Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, Ascend Mass, LLC. Atty. Adams presented details of the request for a special permit to locate an adult-use marijuana dispensary at 58 Cross Street/1089 Washington Street. Details of the request are shown in the attached presentation. Atty. Adams noted that Ascend executed a Host community agreement in July 2019. The petitioner proposes to renovate the existing building and operate in 4,985 sq. ft. of the 8,580 sq. ft. building. The remainder of the building will remain vacant. Atty. Adams noted that the facility is .90 miles from Garden Remedies (697 Washington Street) and contains 27 parking spaces. The parking facility is accessed through an entry only curb cut on Washington Street and exited through an exit only curb cut on Cross Street. Atty. Adams noted that the Mass Traffic Assessment submitted by the petitioner was peer reviewed by the City as well as members of the City's Transportation Division. Atty. Adams noted that several community meetings were held to discuss the proposal as well as circulation of the driveway. She stated that while the petitioner understands the concerns relative to the exit on Cross Street but noted that it has been determined to be the safest option by the transportation and traffic engineers. The curb cut exiting the site onto Cross Street has been oriented to eliminate right turns onto Cross Street. The proposed layout plan allows for substantial landscape screening along the perimeter of the parking lot, including ornamental trees, shrubbery and a 4' fence. A white vinyl privacy fence will be installed at the north of the site. The facility will feature 6 point of sale stations and an area for pickup of online orders.

Ascend CEO Andrea Cabral introduced members of the Ascend Team. She stated that she worked in regulatory compliance as Secretary of Public Safety and as Suffolk County Sheriff. Members of the team include former Superintendent of the Nashua Street Jail Jean Sumter as Chief of Security and Compliance, Kim Keifer as Chief of Stores and Vice President of Stores Joe Gulia. Mr. Gulia has over 5 years of experience working in a retail dispensary in Colorado. Ms. Cabral explained that there will be several points that customers will be required to show identification and stated that each customer will be required to sign a "customer pledge" (shown on the attached presentation). Violators of the pledge will be banned from all Ascend facilities. A parking attendant can be located in a security booth at the back of the lot to ensure no right turns onto Cross Street are taken. Atty. Adams confirmed that a revised photometric plan will be submitted to the City. In accordance with the Engineering Department's recommendations, a revised site plan will be submitted reflecting removal and replacement of sidewalks on Washington and Cross Street, a reduction in the driveway apron to 14', replacement of the interior landscaping with rain gardens. It was noted that the landscaping plans are still being modified. Ms. Cabral stated that there will be bicycle parking, free MBTA passes for employees and a pair of walking shoes provided every year. She explained that the business website will be maintained to help manage customer flow. She emphasized that no queuing will be permitted outside of the site.

Planning Associate Katie Whewell reviewed the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Ms. Whewell noted that the hours of the prior athletic use were more expansive than the hours for the proposed dispensary. The proposed dispensary will meet the transparency requirements. Ms. Whewell noted that a waiver is required for interior landscaping but stated that the proposed landscaping is a vast improvement. The petitioner will respond to the comments from the City's transportation peer reviewer prior to the next public hearing.

The Public Hearing was Opened.

Jonathan Katz, 16 Cross Street, noted that the neighborhood is reasonable and not opposed to the proposed dispensary. He stated that the neighborhood has met with the Ascend Team several times and noted that some issues remain open relative to the dispensary. Mr. Katz noted that the neighborhood has hired an independent traffic engineer to evaluate the traffic study and the parking layout. He emphasized the narrowness of Cross Street and concerns relative to egress from the Ascend site. Mr. Katz noted that the landscaping at the site was removed in July 2018, prior to sale of the property to Ascend.

Tim Techler, 40 Cross Street, noted that trip data for marijuana dispensaries is limited and could be expanded based on existing dispensaries in Massachusetts. He noted that no study was conducted on Cross Street or on Saturdays. He explained that if queuing occurs, overflow traffic will be forced onto Washington Street, Cross Street or Wiswall Street. He noted that when there is a high parking demand, residents and visitors park on sidewalks, which is not enforced. Mr. Techler provided an example of an alternate parking configuration as shown attached. He noted that a circular configuration would allow cars to queue within the site and additional landscaping and discouraged the approval of landscaping waivers.

Sean Stetson, 16 Wiswall Street, stated the petitioner is not meeting requirements of the petition. Mr. Stetson expressed concern relative to the parking lot configuration, traffic on Cross Street and spillover traffic and parking into the neighborhood.

Sarah, 35 Cross Street, noted that residents near NETA in Brookline are suffering from litter, public consumption, traffic impact and public urination. She urged Councilors to include measures in the Council Order that hold the petitioner accountable. She asked for the inclusion conditions relative to number of trash receptacles, trash pickup frequency, enforcement of public consumption measures and a guarantee that bathrooms are open to customers. She noted that Cross Street is already burdened by traffic and is supportive of the elimination of the exit onto Cross Street.

Laurie Palapu, 170 Chestnut Street, noted that marijuana was approved to provide safe and legal access, which has already been accomplished by two prior petitions. She emphasized that the petitioner is a large company and not a local entity.

Jane Frantz, 12 Glastonbury Oval, noted that the regulations that have been put in place were carefully thought out and are thorough. She stated that Ascend should make changes based on concerns raised by residents, wherever possible and stated that when she visited the Beacon Hill Athletic Club she always exited via a left turn onto Cross Street.

Curt Lamb, 1075 Washington Street, noted that he owns a business in the same block as the proposed dispensary. He stated that he has no concerns relative to the dispensary, but he does have concerns about the use of street parking by employees of the dispensary. He suggested the petitioner should demolish the portion of the building that will remain vacant and use that space for additional parking.

Nora Wiley, 16 Cross Street, noted the developer is not inclined to demolish the unused portion of the building because of the cost of mitigating the water runoff at the site. She urged Committee members to prohibit a marijuana café and expansion of the facility.

Philip, noted that the petitioner's traffic study does not address where the increased traffic is coming from. He noted that the West Newton Square redesign construction will be ongoing and will also impact traffic flow. He expressed concern relative to safety impacts in the neighborhood from the increase in traffic.

Antonio Vicentes, 15 Cross Street, emphasized the narrowness of Cross Street. He has concerns relative to traffic at the site and the use of a gate at the site.

Joe Lee, 53 Cross Street, has concerns relative to safety and traffic at the site as well as the removal of snow during winter.

Amanda Caruso, 67 Tolman Street, has concerns relative to the use of on street parking. She noted that there are a lot of visitors to businesses at 1075 Washington Street that need the on-street parking. She stated that the proposed hours of operation are less expansive than the fitness use, but more expansive than Garden Remedies. She does not believe the lighting waiver is appropriate.

Mark, 21 Cross Street, expressed concerns relative to safety of children in the neighborhood and traffic.

Bruno Cedrone, 26 Wiswall Street, noted that there is water drainage from the site onto Cross Street and expressed concern relative to the number of transactions.

Nancy, Harding Street, expressed concerns relative to the hiring of ex-offenders who might have substance abuse issues.

Mihaela Desantis, 46 Parsons Street, noted that Washington Street is going to significantly change over the course of the next several years. She has concerns about the impact on cut through traffic on Eddy Street and Parsons Street and urged Committee members to work to find a solution to address traffic in the neighborhoods.

Judy Duffy, 43 Cross Street, noted that Cross Street is so narrow that it cannot be walked on with a carriage. She stated she is not opposed to the proposed dispensary but believes the petitioner should be a good neighbor.

Julia Malakie, 50 Murray Road, is not supportive of the waivers for landscaping and lighting at the site. She raised concerns relative to ensuring the petitioner is not using the vacant space in the existing building and questioned whether the facility needs to be 5,000 sq. ft.

Atty. Adams confirmed that the proposed plan does not include "appointment only" operations but confirmed that the petitioner is amenable to a condition that requires appointment only operations until a point where it is determined that it is no longer necessary. A Committee member questioned whether

the petitioner should be required to operate as appointment only. A Committee member questioned why the proposed location is an appropriate location for the proposed dispensary, noting that the use and activity at the site is inconsistent with the Washington Street Vision Plan. Councilors shared concerns relative to the maintenance of vacant building space at the site, the size of the building, the size of the parking lot, the exit onto Cross Street and the lack of consistency with the Washington Street Vision Plan. A Committee member asked the Planning Department provide analysis of whether the proposed dispensary is consistent with the Washington Street Vision plan for the next hearing.

Ms. Cabral confirmed that the business will comply with regulations regarding vapes as they are established by the state and noted that the partnership with the Suffolk County Sheriff's office regarding the re-entry program was intended for the Boston dispensary. A Committee member stated that the re-entry program would be welcome in Newton if the petition approved.

Ms. Cabral noted that Ascend Retail is leasing the facility from Mass Grow and by Ascend Wellness Holdings. She explained that when the portion of the building not to be used was under consideration for demolishing, the Engineering Department recommended installation of a drainage system to address water runoff from the entire site as if the total facility was being constructed rather than a system that accounts for the increase in green space. It was confirmed that while the petitioner has decided not to demolish a portion of the building at this time. Committee members asked for clarification at the next hearing with regard to what the Engineering Department requirements are. A Committee member asked for details relative to the sidewalk width at the site and whether an alternative parking lot plan can be considered. A Committee member questioned whether the Planning Department can evaluate the locate of the accessible parking stalls, the parking stall sizes and how they impact the amount of interior landscaping and the drainage. A Committee member explained that because the ordinance requires more lighting than is necessary, waivers are often preferred to prevent light pollution. A Committee member questioned whether the security cameras tied to the Police Department. With that, Councilor Kelley motioned to hold the item which carried unanimously.

#425-18 Request to Rezone three parcels for Northland Development
NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, NORTHLAND OAK STREET, LLC petition for a change of zone to BUSINESS USE 4 for land located at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), currently zoned MU1.
Action: Land Use Held 7-0; Public Hearing Closed 09/24/2019

#426-18(2) Special Permit to allow mixed use development
NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, LLC, NORTHLAND OAK STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a mixed-use development greater than 20,000 sq. ft. with building heights of up to 96' and up to eight stories, to allow a development with an FAR of up to 2.0, consisting of 800 residential units, with ground floor residential units, containing restaurants with more than 50 seats, for-profit schools and educational uses, stand-alone ATMs, drive-in businesses, open air businesses, hotels, accessory multi-level parking facilities, non-accessory single-level parking facilities, non-accessory multi-level parking facilities, places of amusement, radio

or TV broadcasting studios, and lab and research facilities, to allow a reduction in the overall parking requirement, to allow tandem spaces, to allow valet spaces, to waive dimensional requirements for parking stalls, to allow assigned spaces, to waive end stall maneuvering requirements, to allow driveway entrances and exits in excess of 25', to waive perimeter landscaping requirements, to waive interior landscaping and planting area requirements, to waive lighting requirements for parking lots, to waive tree requirements, to waive bumper overhang requirements, to waive 1-foot candle lighting requirements, to waive general lighting, surfacing and maintenance requirements, to waive off-street loading facilities requirements, to allow the extension of a nonconforming front setback, loading docks and nonconforming retaining wall to the extent necessary and to waive sign requirements relative to number, size, location or design, to waive the number of signs allowed at all properties known as 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), Newton Upper Falls, Ward 5, on 22.6 acres of land in a proposed BU4 district. Ref: Sec. 7.3.3, 7.4, 7.8.2.C, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 4.4.1, 5.1.3.E, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.D.2, 5.1.8.E.1, 5.1.9.A, 5.1.9.B, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10, 5.1.10.A.1, 5.1.12, 5.1.13, 5.2, 5.2.13, 5.4.2 and of the City of Newton Rev Zoning Ord, 2017.

Public Hearing Closed 09/24/2019

Action: **Land Use Held 7-0; Public Hearing Closed 09/24/2019**

Note: **Design Review**

To facilitate review of the conditions in the draft Council Order relative to Design Review, Chief Planner Jennifer Caira created the attached flow chart; which details the process by which the petitioner must seek Design Review. The petitioner can submit design plans and design guideline evaluation template for design review. Planning and the Urban Designer will provide a comprehensive review of the plans and present the analysis to the Urban Design Commission, highlighting specific areas of focus. Planning will then present the analyses of the UDC and the Planning Department to the Land Use Committee for a consistency ruling. The Committee will make a recommendation to the Commissioner who may then find the plans consistent, require changes or require an amendment to the special permit.

The petitioner must still submit plans at the time of building permit review. If no changes have been made, the Commissioner may find the plans consistent. Any significant changes to the special permit at any time will require an amendment to the special permit. Ms. Caira confirmed that the Design Review guideline template was provided to the Council with the Design guidelines. Several Committee members expressed support for further review of the Design Guidelines and proposed buildings and noted that changes have been made to the site design after the plans were submitted. A Committee member noted that there are some details included in the petitioner's "Design Guidelines" that are not detailed in the draft Council Order. A Committee member noted the draft Council Order refers to "compliance with the UDC's guidelines" which may be inappropriate as the UDC's authority is limited to a recommendation. It was suggested that the plans before the UDC for review should be reviewed for consistency with the design master plan. It was noted that some components will have to return to the Committee via a consistency ruling (i.e. new buildings, changes to open space, etc.), but de minimus aspects of the project

are not required to be reviewed by a consistency ruling. Committee members questioned whether the Commissioner should be required to request a consistency ruling for matters other than new buildings.

Transportation Demand Management (TDM)

Committee members reviewed the draft conditions relative to the TDM plan. Ms. Caira confirmed that counting and monitoring should begin 6 months after issuance of 400 Certificates of occupancy and stated that the TDM measures will begin at issuance of 400 Certificates of occupancy. Committee members shared concerns that the retail trips to the site are not accounted for as a measure for tracking and enforcement and questioned why, noting that increased traffic is a major consideration for the proposed development.

Ms. Caira and Director of Planning and Development Barney Heath explained that the retail trips are not included because they are difficult to monitor and enforce, and it could be counterproductive to limit retail trips to the site; as it could limit success of the project. A Councilor questioned whether the goals that the petitioner is required to meet can be tied to the census tract, suggesting that as behavior is changed; the petitioner should be required to reduce their traffic impacts accordingly. Ms. Caira noted that tying the goals to the census tract can be difficult because the goals will have to be constantly adjusted. It was noted that there is not a similar model that the City can use to model the enforcement and monitoring after. Ms. Caira noted that the TDM monitoring and enforcement has been evaluated by peer reviewers and counting retail trips has not been included. She explained that retail is going to range as the uses change and stated that there are also public spaces at the site which will encourage additional visits. Ms. Caira confirmed that requiring real time data in addition to the intercept surveys will help generate the data to inform what changes might be necessary.

Ms. Caira confirmed that the petitioner can submit a revised TDM plan and incorporated by reference in the Council Order. With a motion to hold the item from Councilor Lipof, Committee members voted unanimously in favor of holding the item.

The Committee adjourned at 10:45 pm.

Respectfully Submitted,

Greg Schwartz, Chair



Land Use Committee Public Hearing
58 Cross Street/1089 Washington Street
October 15, 2019

1

1089 WASHINGTON/59 CROSS STREET STREET AERIAL VIEW



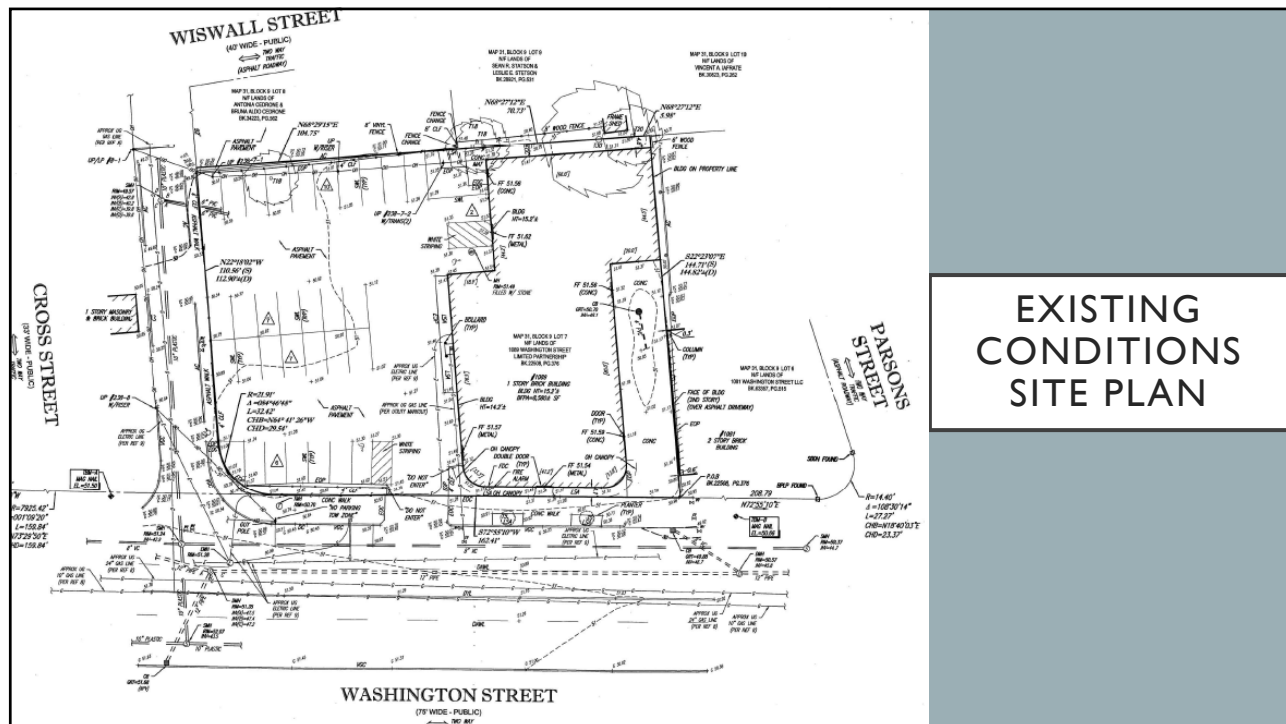
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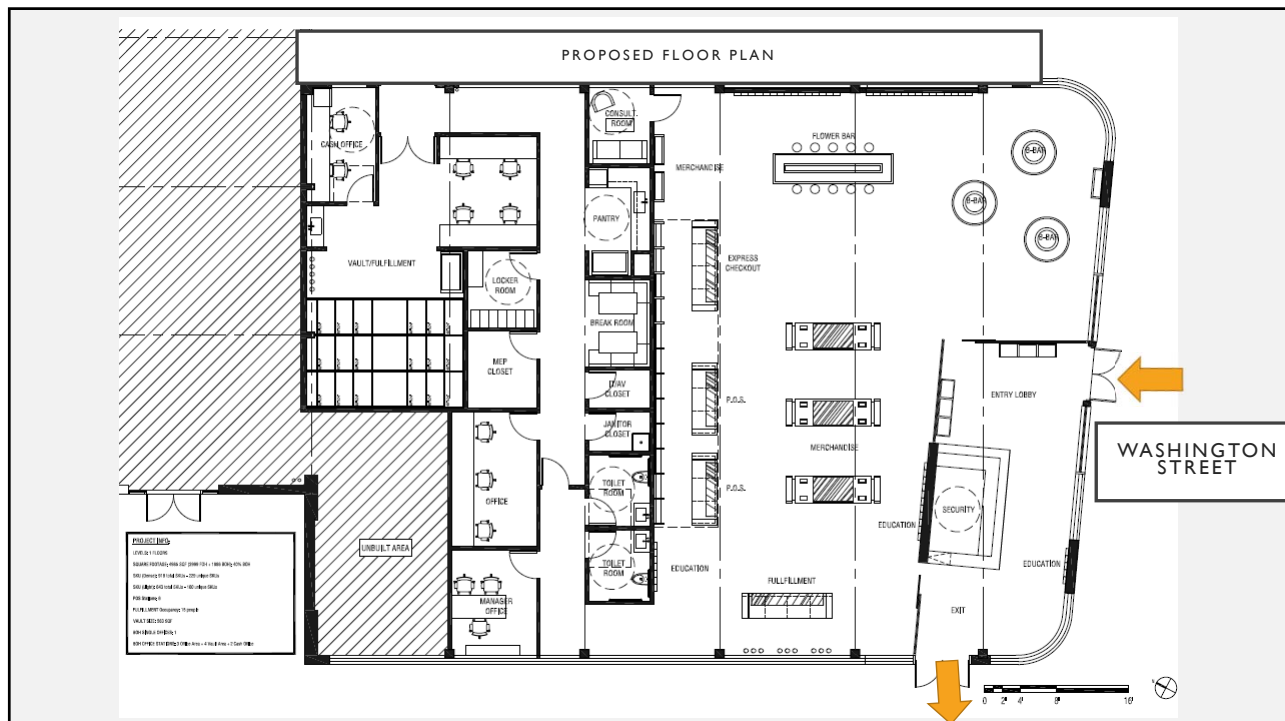
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6



7



8

RELIEF REQUESTED

Section 6.10.3.D/4.4.1	Allow a marijuana retailer
Section 5.1.8.A.1	Allow parking in the front setback
Section 5.1.9.B/5.1.13	Waive interior landscape requirements
Section 5.1.10/5.1.13	Waive the lighting requirements

9



10



ANGLED EXIT
CURB CUT

11



PARKING ATTENDANT BOOTH

12



13

CUSTOMER PLEDGE

I, _____, hereby confirm that I am in receipt of Ascend Mass, LLC's customer safety documents. As discussed with an Ascend representative on my initial visit to the facility, these documents outline critical materials relative to the safe consumption of cannabis, including information relative to dosage, storage, and safe consumption locations.

I understand that customers should only open packages and utilize products at home. Opening packages or ingesting marijuana in a public place - including the Ascend facility; adjacent sidewalks, streets, or parking lots surrounding the facility; in or around adjacent businesses; and within my vehicle – is illegal. I understand that customers that do not abide by these community norms will not be permitted to make future purchases at Ascend and may be reported to law enforcement.

I understand that the product that I have purchased is only intended for use by adults over the age of 21. Diverting product to youth is illegal under state law. I understand that diversion of product is illegal and will be reported to law enforcement.

14

Department of Planning and Development



PETITION #268-19
58 CROSS ST./
1089 WASHINGTON ST.

SPECIAL PERMIT TO ALLOW A MARIJUANA RETAILER, WAIVE MINIMUM PARKING STALL DIMENSIONS, ALLOW PARKING WITHIN THE FRONT SETBACK, AND WAIVE LANDSCAPING AND LIGHTING REQUIREMENTS



OCTOBER 15, 2019

1

Requested Relief



Special Permit per §7.3.3 of the Newton Zoning Ordinance to:

- To allow a Marijuana Retailer (§4.4.1, §6.10.3.D)
- To allow parking within the front setback (§5.1.8.A.1)
- To waive perimeter and interior screening requirements (§5.1.9.A, §5.1.9.B)
- To waive the lighting requirements (§5.1.9.A)
- Waiver for minimum stall dimensions (§5.1.8.B.2)

2

Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Marijuana Retailer (§7.3.3.1).
- The Marijuana Retailer, as developed and operated, will not adversely affect the neighborhood (§7.3.3.2).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.3).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.4).
- Literal compliance with parking, landscaping and lighting requirements is impracticable due to the nature of the use, size, width, depth, shape or grade of the lot or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

3

Criteria to Consider Continued



- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
- The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)

4

Criteria to Consider Continued

- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
- The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.G.2.g)

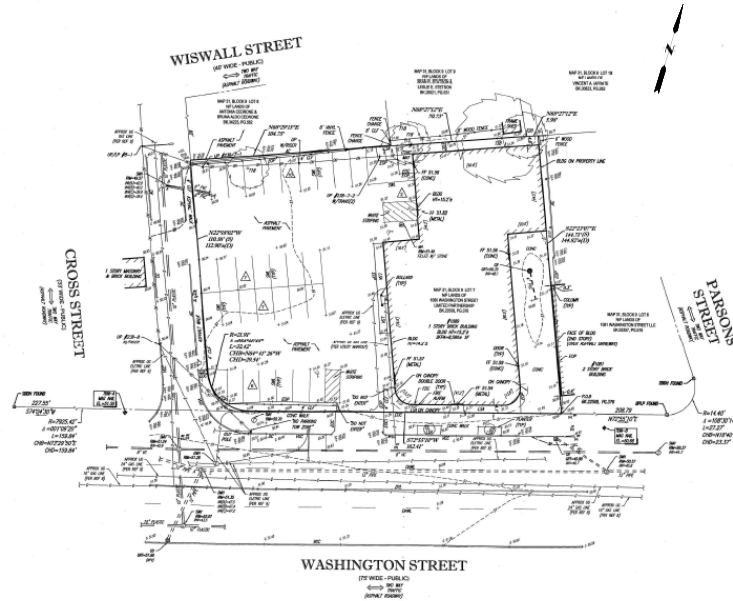
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AERIAL/GIS



6

Existing Site Plan



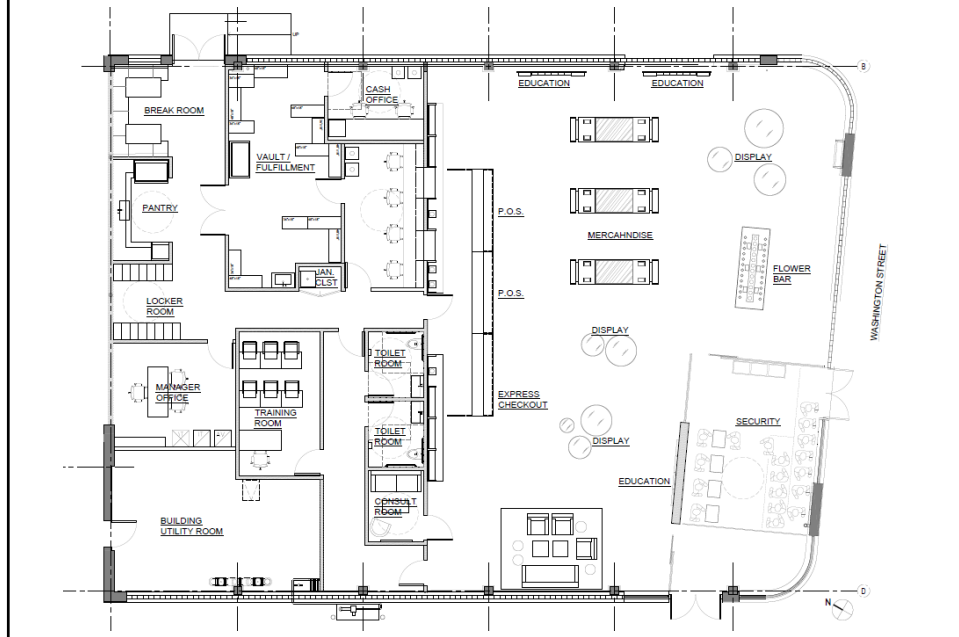
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Proposed Site Plan



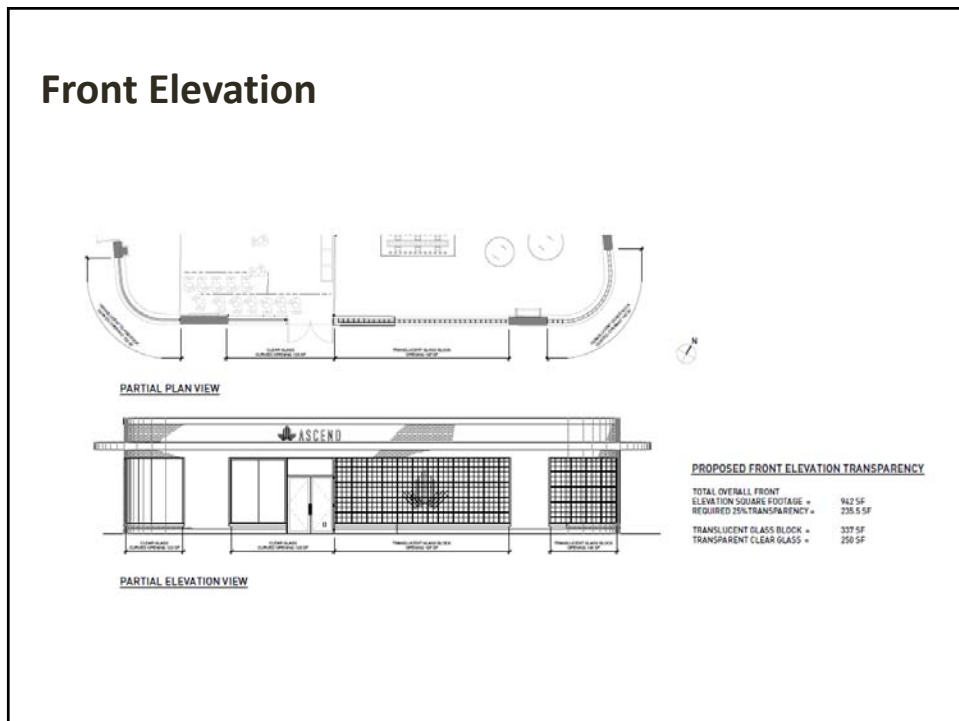
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Floor Plan



9

Front Elevation



10

Landscape Plan



11

Transportation Peer Review

- The City engaged a third-party firm to peer-review the petitioner's Traffic Review Letter
- Peer-Review believed further study was warranted for:
 - Peak Hour turning movement counts – weekday AM, PM and Saturday midday peak hours
 - Traffic Operations analysis at Washington and Cross St.
 - Mitigation for project related impacts
 - Pedestrian and bicycle facilities, mode share and pass by, infrastructure
 - Crash data for Washington and Cross St.
 - Evaluation of loading, deliveries, and trash pick up
 - Sight distance evaluation
- Petitioner responses expected October 18th

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Outstanding Items

- Petitioner responses to peer review
- Location of ADA stalls and cross walk at entrance of the site
- Lighting – intensity towards the northern boundary line
- Withdraw unnecessary relief
 - Perimeter landscaping

13

Language – Garden Remedies

1. After the marijuana retail establishment commences, the petitioner shall attend “look-back review meetings with staff from the Planning Department, Transportation Division of the Public Works Department and the Newton Police Department at intervals of 30, 60 and 90 days, and thereafter at intervals of 6, 12, 18 and 24 months. During the first 90-day period, the petitioner shall keep records detailing the number of appointments per day, and the number of appointments taken outside of established appointment protocols i.e., “first available” as well as early and late appointments .The Planning Department shall also solicit comments from the three Ward 2 councilors, and shall review any comments from the public. At such time as the Planning Department concludes that this “appointment only” condition is no longer required, the petitioner may seek an amendment to this special permit.

14

Language – Cypress Tree

Six months after commencement of operations of the Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional Services, the Director of Planning and Development and the Clerk of the Council requesting an appearance before the Land Use Committee to no longer require that all patrons be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:

- Met with the Commissioner of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety, site security, and valet parking in accordance with Condition #2 above and with Condition #8 below.
- Met with the Commissioner of Public Works and the Director of Planning and Development regarding Transportation Demand Management and the Employee Parking Plan in accordance with Conditions #7 and #21 below.
- Appeared before the Newton Upper Falls Area Council to discuss the operations of the Marijuana Retailer, including the number of patrons coming to the site during peak times and the petitioner's desire to no longer serve patrons by appointment only.

The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the petitioner is able to maintain an orderly flow of patrons, accommodate all patrons waiting to see a customer service representative inside the building, and accommodate patron parking on site without the "appointment only" requirement. Prior to any decision on the petitioner's waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a "consistency" ruling on a special permit is requested from the Commissioner of Inspectional Services.

15

Marijuana Retailers in Newton

Retailer	Building Size
Garden Remedies	1,700 square feet (950 retail, 750 storage)
Cypress Tree	4,043 square feet
Ascend	4,850 square feet

16

View towards Washington St on Cross St



View from Washington St down Cross St





Parking layout

- Multi-point turns into the spaces on the left as you enter
- Lack of a recirculation lane from this parking aisle will force cars to queue on Washington Street
- Location of HP spaces as you have to move across incoming traffic to get to the building
- Cross Street left turn only will require active enforcement

Flink Consulting-Ruth Bonsignore

- Formerly Senior Vice President and Transportation Practice Area Leader at the Massachusetts-based consulting firm VHB
- Oversaw VHB's largest practice consisting of 400+ transportation professionals across 22 offices
- Member of the Board of Directors of Mass DOT

Key points made in her review of the Fuss And O'Neil report

- Trip rate data for Marijuana Dispensary was limited and varied and could be bolstered by adding recently opened facilities in MA
- Parking Demand-does not address how parking supply meet with peak demand based on anticipated arrival and processing rates for clients
- As pointed out by the City peer review there was not traffic study performed on Cross Street nor a peak study on Saturdays

Department of Planning and Development

**156 Oak Street, 275-
281 Needham Street
and 55 Tower Road**

Petition #425-18

for a change of zone to BUSINESS
USE 4 for land currently zoned
Mixed Use 1.

Petition #426-18

for SPECIAL PERMIT/SITE PLAN
APPROVAL to allow a mixed-use
development with 13 buildings,
822 units, 193,000 square feet of
office space, and 237,000 square
feet of retail space on a 22.6
acre site.

October 15, 2019

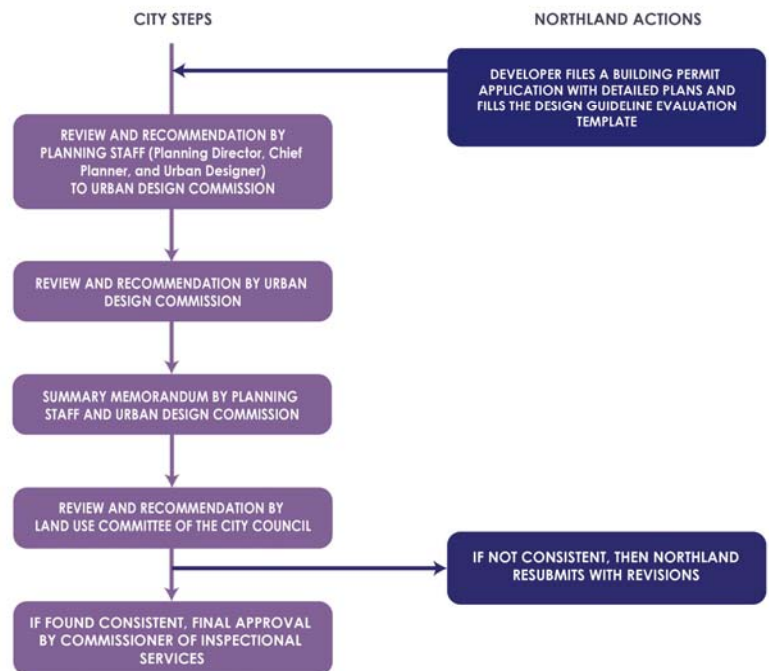
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Topics to be discussed

- Design Review Process
- TDM Conditions

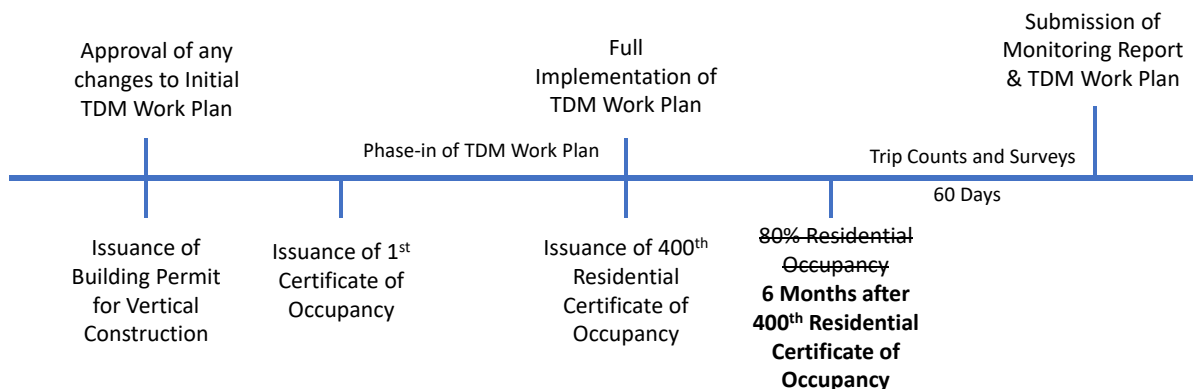
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Design Guidelines Review Process

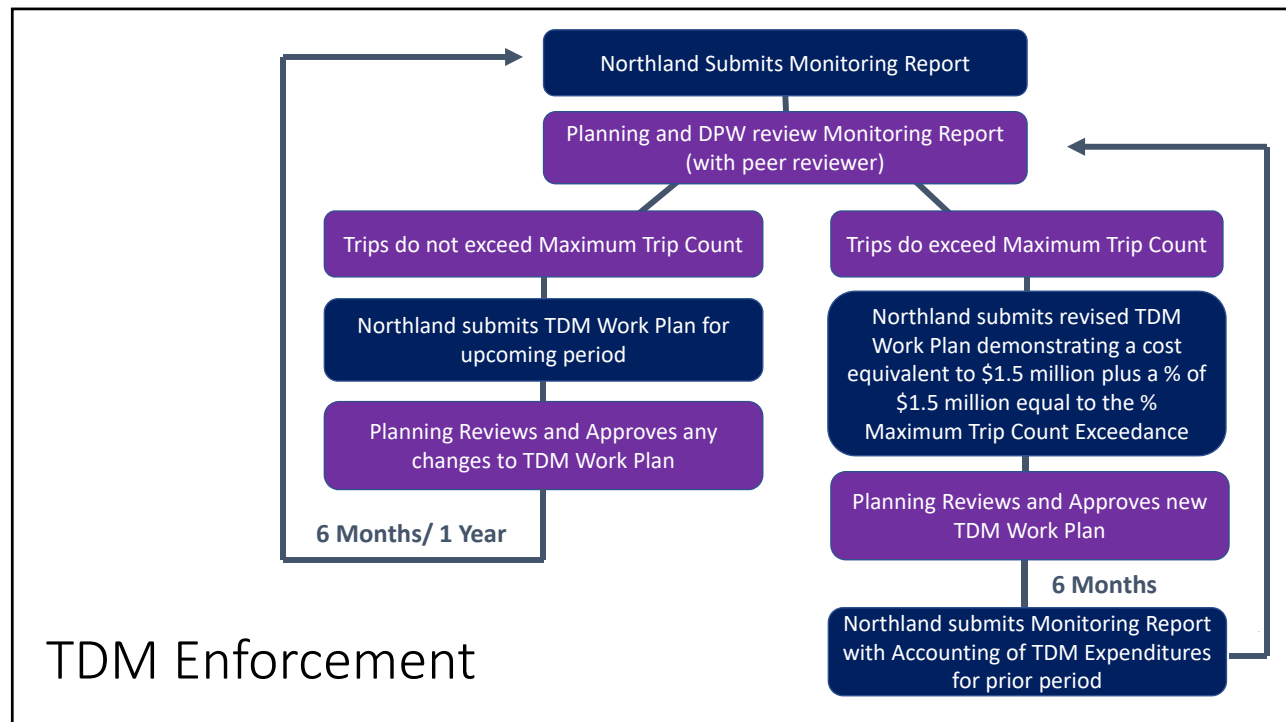


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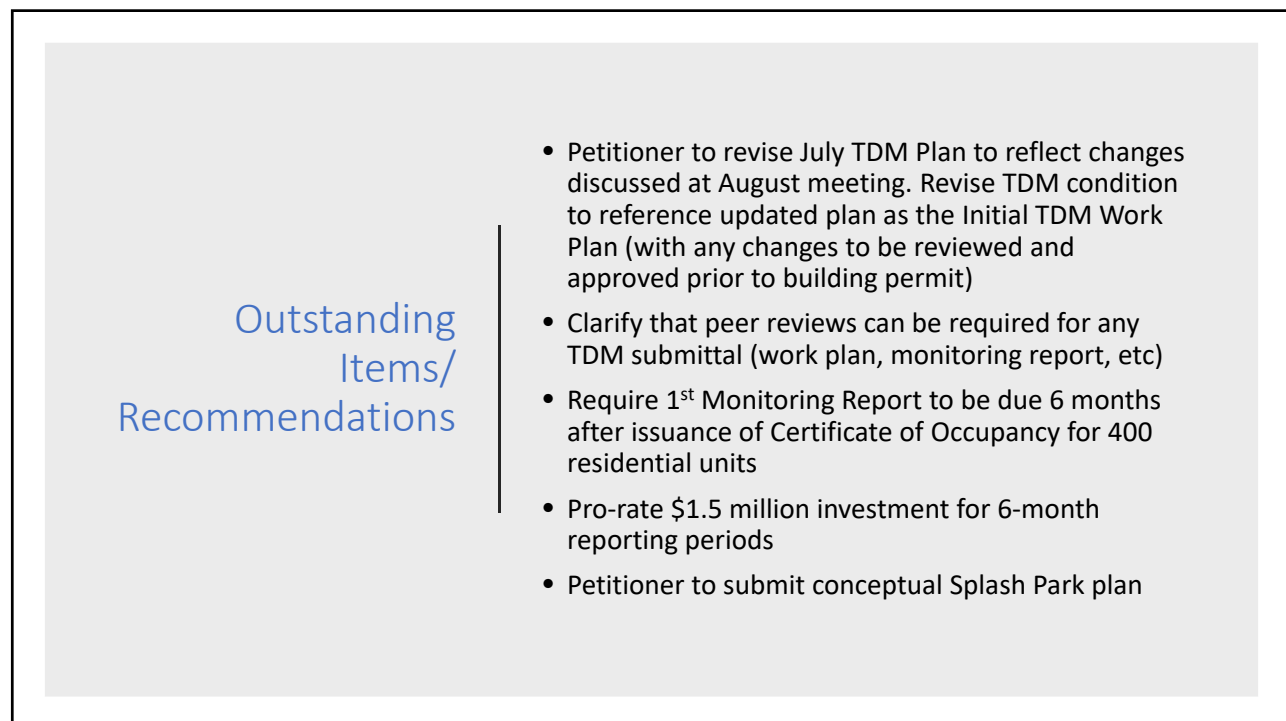
TDM Timeline



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5



6

Design Review & Master Plan Consistency Conditions:

• Preliminary Submission Of All Building Permit Plans

- Prior to any application for a building permit (other than a demolition permit or renovation permit for 156 Oak Street), the Petitioner must file the following with the Director of Planning and Development, the Commissioner of Inspectional Services, the Director of Public Works, and the City of Newton's Urban Design Commission (UDC):
 - a copy of all final plans related to the permit being sought ("Request Plans");
 - a signed certificate from the Petitioner's architect and/or civil engineer certifying that the Request Plans are consistent and in full compliance with the Project Master Plans (the "Compliance Certificate");
 - a completed Evaluation Template in accordance with and in the form required by the Design Guidelines.

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• Formal Submission Of Building Permit Application

- Upon receipt of a complete building permit application, the Commissioner of Inspectional Services shall make a final determination, with due consideration given to the written opinions of the Director of Planning and Development and the UDC, as to whether the plans filed with such application are consistent and in full compliance with the Project Master Plans and the Design Guidelines.
- In making the final consistency determination, the Commissioner of Inspectional Services may elect to refer the matter to the Land Use Committee for the Committee's review and recommendation, provided however that referral to the Land Use Committee is required for any modifications or changes to the following: (i) building locations; (ii) building elevations; (iii) footprints of buildings and other structures; (iv) program; (v) driveway and parking stall location; (vi) interior road network; and (vii) open space. The Land Use Committee shall not be required to vote or to approve any matter referred to it in accordance with this condition.
- If the Commissioner determines that the application plans are inconsistent with either the Project Master Plans or the Design Guidelines, no building permit will be issued, and the Petitioner must either: (i) submit revised plans which the Commissioner deems to be consistent, or (ii) seek an amendment to this Special Permit/Site Plan Approval.
- Any increase to the maximum building heights, number of units, total floor area of the Project, total floor area of any building great then ten percent, any increase or decrease to the number of parking stalls, or any decrease to the amount of open space of the Project from what is shown on the Project Master Plans shall not be eligible for a consistency determination and such modification can only be done through amendment of this Special Permit/Site Plan Approval.

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- Formal Submission Of Building Permit Application
- The procedure for preliminary review of building permit plans set forth in Conditions #7-8 may be utilized by the Petitioner earlier in the design process for one or more buildings or public spaces in order to receive initial opinions on the consistency of schematic/architectural drawings. If the opinions of both the Director of Planning and Development and the UDC after such an initial schematic review are that the schematic drawings are consistent and in full compliance with the Project Master Plans and the Design Guidelines, the Commissioner of Inspectional Services may accept final building permit plans without further preliminary review so long as they do not include any additional design elements or change any design elements governed by the Design Guidelines.

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TDM Conditions:

- Petitioner's Trip Reduction Obligation
 - The Petitioner is required to reduce the number of the projected residential and office trips that will be generated by the Project, as set forth herein as the Maximum Trip Count, in order to mitigate the traffic impacts of the Project.
 - The Petitioner shall not exceed the **Maximum Trip Count** as follows:
 - The total Maximum Trip Count for all office and residential uses within the Project is 289 vehicles during the weekday morning peak hour and 220 vehicles during the weekday evening peak hour.
 - The Petitioner shall prepare, submit and implement a **Transportation Demand Management Work Plan** (the "TDM Work Plan"), in accordance with Condition #64, that includes strategies and measures necessary to comply with the Maximum Trip Count.
 - The Petitioner has the burden to demonstrate that it is in compliance with the Maximum Trip Count. In order to demonstrate compliance, the Petitioner shall periodically conduct trip counts in accordance with the **Trip Count Methodology** set forth in Condition #63 and submit **TDM Monitoring Reports** to the City in accordance with Condition #62.
 - If the Petitioner fails to achieve the Maximum Trip Count, the Petitioner will be required to revise its TDM Work Plan and invest the **TDM Investment Amount** of \$1,500,000, plus additional funds in accordance with the **Additional Investment Amount** set forth in Condition #65, in implementing its TDM Work Plan.

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- Commencement of Petitioner's Trip Reduction Obligation

- The Petitioner must comply with the Maximum Trip Count beginning on the date of the issuance of a Certificate of Occupancy (temporary or final) for 80% of the residential units.

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- Reporting Requirements

- Initial TDM Monitoring Report and Trip Count

- The Petitioner shall conduct its first trip count and submit an Initial TDM Monitoring Report within sixty (60) days after the issuance of a Certificate of Occupancy (temporary or final) for 80% of the residential units.
- The trip count must be conducted in accordance with the Trip Count Methodology set forth in Condition #63 and the Initial TDM Monitoring Report must be prepared and submitted in accordance with Condition #62.

- Subsequent Periodic Reporting

- Following submission of the Initial TDM Monitoring Report, the Petitioner shall thereafter submit TDM Monitoring Reports every six months from the date of submission of the initial report.
- The reporting period shall change to once per year only after the Petitioner/Project has been fully compliant with the Maximum Trip Count for two consecutive six-month reporting periods following 80% occupancy of the residential units and office building.
- Once the Petitioner/Project has been in full compliance with the Maximum Trip Count for five (5) consecutive years, the Petitioner's reporting and monitoring requirements will cease so long as there are no changes to the TDM Work Plan. Any substantial changes to the TDM Work Plan after such full compliance must be approved by the Director of Planning and Development, who may require the submission of trip count prior to approval.

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62. Submission of TDM Monitoring Reports

- The Petitioner shall submit all TDM Monitoring Reports to the Director of Planning and Development and the Commissioner of Public Works within thirty (30) days after the end of each reporting period following submission of the initial TDM Monitoring Report. Submission dates may be adjusted slightly at the discretion of the Director of Planning and Development to accommodate counts and surveys being conducted during a typical week.
- The TDM Monitoring Reports shall contain the results of the required trip counts and surveys, a description of methodology, and the qualifications of the consultant(s) performing the counts and surveys.
- The Petitioner shall pay the reasonable fees of any consultants/peer reviews as necessary for the Director of Planning and Development or the Director of the Transportation Division to analyze the reports.
- In the event the Petitioner fails to comply with the Maximum Trip Count, pursuant to Condition #65, subsequent TDM Monitoring Reports must include a certified financial accounting of how the TDM Investment Amount and the Additional Investment Amount were allocated and spent on implementing the approved TDM Work Plan.
- In accordance with Condition #64, a TDM Work Plan shall also be submitted with every submission of a TDM Monitoring Report. The TDM Work Plan must include a comprehensive list of the measures proposed for the upcoming reporting period and, if required by Condition #7, proposed expenditures.

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63. Trip Count Methodology

- Trip counts shall be done by a qualified professional firm, to be approved by the Director of Planning and Development.
- Trip counts shall measure residential and office trips during the weekday morning and evening peak hours.
- Trip counts shall include the following:
 - A count of the resident and office vehicles entering and exiting at all residential and office garage entries during the weekday and evening peak hours.
 - Intercept surveys taken at every residential and office building entry/exit point to capture residential and office visitors and pick-up and drop-off trips.
- Trip counts shall be conducted over three consecutive weekdays (Tuesday through Thursday) during a typical week with no holidays or school vacations.
- The time period for all trip counts, the peak hours, methodology and intercept survey questions shall be reviewed and approved by the Director of Planning in advance.
- Every two years, beginning with the initial TDM Monitoring Report, trip counts shall also include the total number of vehicular trips during peak hours at each driveway.
- The Petitioner shall utilize technology to track real time counts of residential and office vehicles entering and exiting at all garage entries. This data shall be made available to the Director of Planning and Development upon request.

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64. Approval of the TDM Work Plan

- Prior to the issuance of the first building permit for any new vertical construction, the Petitioner shall submit an initial TDM Work Plan to the Director of Planning and Development and Commissioner of Public Works for review and approval.
 - The Initial TDM Work Plan shall include a detailed plan for the phase-in of TDM measures.
 - As feasible, TDM measures, including potential transit subsidies and options for first/last mile connections, shall begin with initial occupancy permits.
 - Full implementation of the TDM Work Plan shall begin no later than the issuance for a Certificate of Occupancy for 400 residential units.
 - The full-time TDM Coordinator shall start no later than the issuance of a Certificate of Occupancy for 25,000 square feet of office space, or 12 months after the issuance of the first residential building permit (whichever comes first).

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64. Approval of the TDM Work Plan cont.

- The TDM Work Plan shall set forth sufficient Transportation Demand Management (TDM) strategies and measures necessary to comply with the Maximum Trip Count, including, but not limited to, last-mile connections to mass transit, subsidies for transit passes for employees and residents, a full-time TDM coordinator, on-site support facilities and information, marketing and awareness programs, financial incentives, and car and bike share programs.
- The TDM Work Plan may change over time to respond to changing transportation needs and circumstances, with the objective of meeting the trip reduction goal through compliance with the Maximum Trip Count. All changes must be reviewed and approved by the Director of Planning and Development prior to implementation.
- A TDM Work Plan shall also be submitted with every submission of a TDM Monitoring Report. The TDM Work Plan must include a comprehensive list of the measures proposed for the upcoming reporting period, and shall be based on best practices, results of prior counts and surveys, and additional data collected by the Petitioner.

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65. Enforcement

- If a TDM Monitoring Report shows that the Petitioner/Project exceeded the Maximum Trip Count, the Petitioner shall be required to invest funds into implementation of its TDM Work Plan as follows:
 - The Petitioner shall spend the **TDM Investment Amount** of \$1,500,000.00 in implementing its TDM Work Plan during the 12 month period following submission of the TDM Monitoring Report where the Maximum Trip Count was exceeded. The TDM Investment Amount shall be adjusted annually from the date of commencement of Petitioner's trip reduction obligation based upon the Consumer Price Index.
 - In addition to the TDM Investment Amount, during the same time period the Petitioner shall also expend an **Additional Investment Amount** which shall be calculated as a percentage of the TDM Investment Amount (adjusted per the CPI) equal to the percentage of trips reported over the Maximum Trip Count.
 - There is no maximum cap on the Petitioner's additional investment.
 - The TDM Investment Amount and the Additional Investment Amount shall be expended annually until the Petitioner submits a TDM Monitoring Report demonstrating compliance with the Maximum Trip Count.

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Example: if the number of actual trips was 20% more than the Maximum Trip Count, the Petitioner shall create a TDM Work Plan for the upcoming reporting period that costs at a minimum \$1.5 million + 20% of \$1.5 million, for a total investment of \$1.8 million (prior to CPI adjustment).

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65. Enforcement cont.

- If the Maximum Trip Count is exceeded, the Petitioner must submit a revised TDM Work Plan for the next Reporting Period that shall include a narrative of how the changes to the TDM Work Plan for the upcoming reporting period will reduce the number of vehicular trips during peak hours and a detailed proposal of how the TDM Investment Amount and the Additional Investment Amount will be spent. The TDM Work Plan and the proposal for TDM expenditures shall be reviewed and approved by the Director of Planning and Development.
- The Petitioner agrees to and shall embody these financial commitments in a contractual agreement with the City to be entered into prior to the issuance of the first building permit for a residential building in the Project, which agreement shall allow for the remedy of specific performance.
- Failure to comply with the Maximum Trip Count for five (5) consecutive Reporting Periods will constitute a violation of this Special Permit/Site Plan Approval.
- So long as the Petitioner complies with the Maximum Trip Count, there is no minimum TDM Investment Amount required.

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