



#67-20

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: February 4, 2020
Land Use Action Date: April 28, 2020
City Council Action Date: May 4, 2020
90-Day Expiration Date: May 4, 2020

DATE: January 31, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #67-20**, SPECIAL PERMIT/SITE PLAN APPROVAL to allow retail marijuana sales and waivers to 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, 5.1.10, 5.1.13, 6.10.3.D of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



58 Cross Street

EXECUTIVE SUMMARY

The subject property at 58 Cross St, also known as 1089 Washington Street consists of a 25,122 square foot lot improved with a one-story commercial building constructed in 1950 as well as a surface parking area consisting of 32 parking stalls. The property is located in the Business 2 (BU-2) zone in West Newton. The Newton Zoning Ordinance (Ordinance) allows Marijuana Retailers by special permit in the Business 2 (BU-2) zone with additional requirements and limitations on approval to “permit RMDs and Marijuana Establishments where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.”

The petition was first brought before the Land Use Committee last term. At the end of the term, the petitioner only needed a waiver from the lighting requirements and to allow retail marijuana sales. The petitioner withdrew the petition at the last Land Use Committee meeting on December 10, 2019 and refiled in early January. Based on plans received on January 23, 2020 and subsequent updates, a new zoning memorandum (**Attachment A**) was drafted and identifies additional relief based on the submitted plans. In addition to the lighting and use, the petitioner requires a special permit to reduce the minimum stall depth requirement and to waive perimeter screening requirements. This relief requires the petitioner to submit an amended application applying for the relief, and the City will then re-notice the petition with the requested relief.

While the Planning Department believes the petition meets the criteria required of Marijuana Retailers in the City’s Marijuana Use ordinance given its proximity to regional roadways and public transportation, additional relief is requested that requires re-noticing for a future public hearing. The below analysis is based on plans received Thursday, January 30, 2020 and it is the Planning Department’s understanding that additional plans are forthcoming. The Planning Department has requested information from the petitioner regarding the emergency access and approval of the configuration and gate from the Newton Fire Department.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed marijuana retailer (§7.3.3.1).
- The proposed marijuana retailer as developed and operated will not adversely affect the neighborhood (§7.3.3.2).

- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).
- Literal compliance with the lighting and parking 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.

With regard to special permits concerning the Marijuana Retailer on site, pursuant to §6.10.3.G:

- 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)
- 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)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located on the corner of Cross Street and Washington Street in the BU-2 district in West Newton. The site fronts Washington Street and is approximately .4 miles east from the intersection of Washington Street and Watertown Street in West Newton Square. The site is .6 miles west of the Walnut Street and Washington Street intersection. The immediate area contains several zones including Multi-Residence zones to the north and east. The BU-2 zone fronts Washington Street surrounding the site, and the Multi Residence 3 zone begins after Parsons Street and extends east down Washington Street (**Attachment A**).

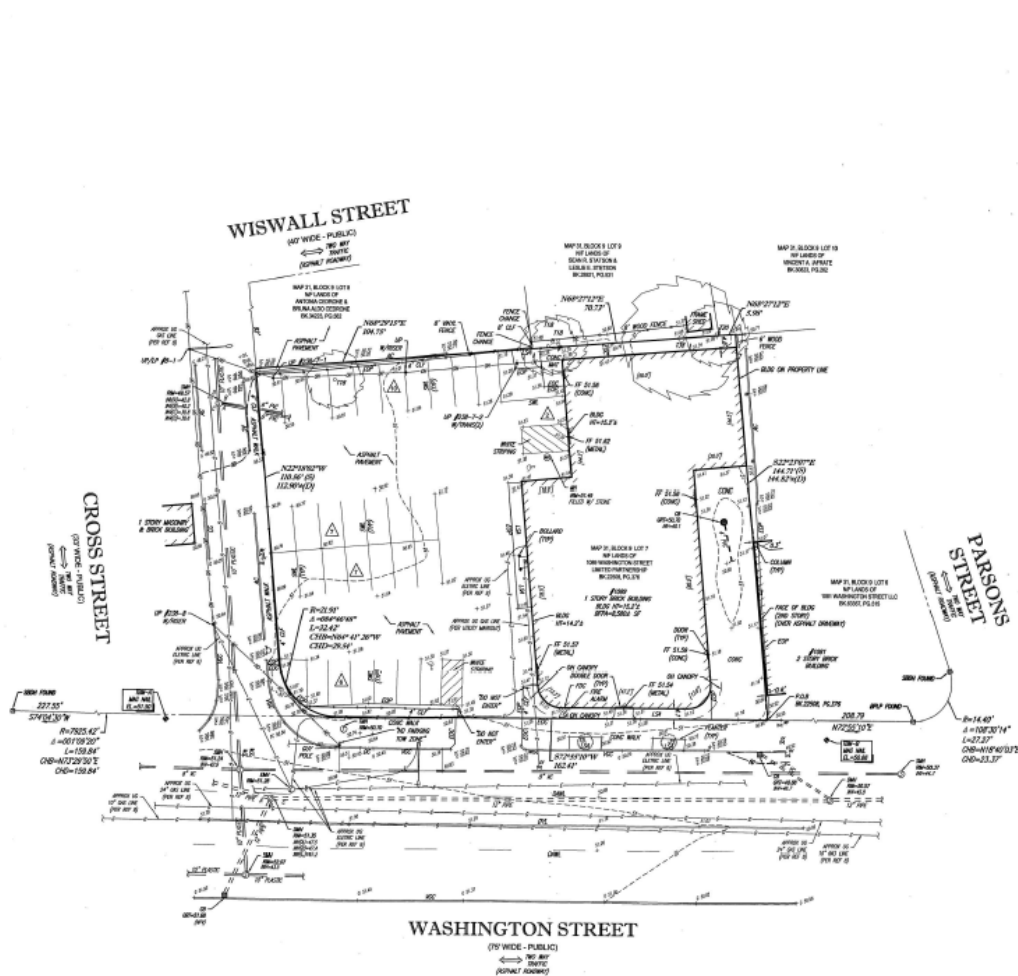
The area surrounding the site contains a variety of uses but is predominantly multifamily residential on Wiswall and Cross Streets and commercial uses on Washington Street (**Attachment B**). The Washington Street Corridor is currently comprised of a mix of zones and is being considered for a proposed rezoning. There are manufacturing, public use, business, multi-residential, and mixed-use zones that make up the Washington Street Corridor today.

Two express bus lines run along Washington Street. During the week, the headway can range from 12 to 30 minutes, and 45 minutes on the weekend. The 59-bus route runs from Needham Junction to Watertown Square and stops at Washington St at Walnut St, less than a mile from the site. During the weekday this route has a headway of approximately one bus every 30 minutes, and less frequent service on Saturdays and Sundays - approximately once an hour. The 553 and 554 express buses to Boston run from Waltham or Belmont to downtown Boston and stop directly in front of the site as well as other stops on Washington Street. Coming from their origin station, they run the same route to Boston after reaching Central Square in Waltham. Both routes stop across the street from the site going inbound to Boston and outbound trips stop directly on the corner of Washington and Cross Streets. The site is also in close proximity to the commuter rail and is equidistant from the West Newton and Newtonville commuter rail lines. Both are .6 miles from the site and are on the Framingham/Worcester commuter rail line that travels between South Station in Boston and Worcester and/or Framingham.

B. Site

The site consists of a 25,112 square foot lot improved with a one-story, 8,585 square foot commercial building constructed circa 1950. The site is relatively flat, has little

to no landscaping and is largely impervious surfaces bound by a black chain link fence surrounding the perimeter of the parking lot. The site has two points of access, a curb cut on Washington Street and one on Cross Street. The Washington Street curb cut provides access to a drive aisle and a 32-stall surface parking facility west of the building. The site also features a driveway off Washington Street that leads to the rear portion of the building. The site is bound by Cross Street to the west, a narrow two-way road. The site was most recently the home of the Beacon Hill Athletic Club.



Existing Site Plan

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The site is currently vacant, formerly occupied by a health club. If this petition were to be approved, the land use of the site would change to the proposed use of a Marijuana Retailer.

B. Marijuana Retailer

In 2018, the City Council passed Ordinance B-16 that established rules governing medical and nonmedical marijuana uses in accordance with the Department of Public Health (DPH) and the Cannabis Control Commission (CCC) guidelines. The Ordinance nullified the moratorium which prohibited recreational marijuana uses and offered new defined terms distinguishing medical from nonmedical marijuana uses. Specifically, a Marijuana Retailer is an entity that can sell recreational or adult use marijuana. The Mayor has signed a provisional Host Community Agreement (HCA) with Ascend. An HCA is required prior to applying for a Special Permit or a license from the Cannabis Control Commission.

C. Operations

The petitioner will offer only recreational marijuana on site and will demolish the rear portion of the existing building that was to remain vacant. The petitioner stated after demolition, the remaining space for the marijuana retailer is 4,973 square feet.

All marijuana will be grown off-site at a cultivation facility and delivered to the site at least two times per week at off peak hours. Deliveries will be made to the rear of the building via a secure driveway off Washington Street along the eastern property line. The petitioner intends to dedicate this portion of the site to deliveries only.

A customer must be 21 years of age to enter the Marijuana Retailer. Prior to entering the facility, the customer will be asked to provide identification and verification that they are at least 21 years of age. Once the customer is inside the retail area, they will receive individualized service. Upon selecting the product they intend to purchase customers will be required to confirm their identity and age again. Product will be retrieved by a staff member from the product storage area, which is located to the rear of the building and behind the point of sale systems. The petitioner will also provide educational materials to help customers make informed decisions regarding their purchase.

The petitioner is proposing to employ thirty-five (35) staff members, fifteen (15) of which during the largest shift. The petitioner plans to operate Monday-Saturday from 9:00 AM – 9:00 PM, and Sundays 12:00 PM – 6:00 PM. The staff will assist customers from the point of entry up until point of sale.

The site has sufficient parking for visitors per the Newton Zoning Ordinance and does not require a parking waiver at this time. The parking provided exceeds the number of stalls required.

D. Site Design

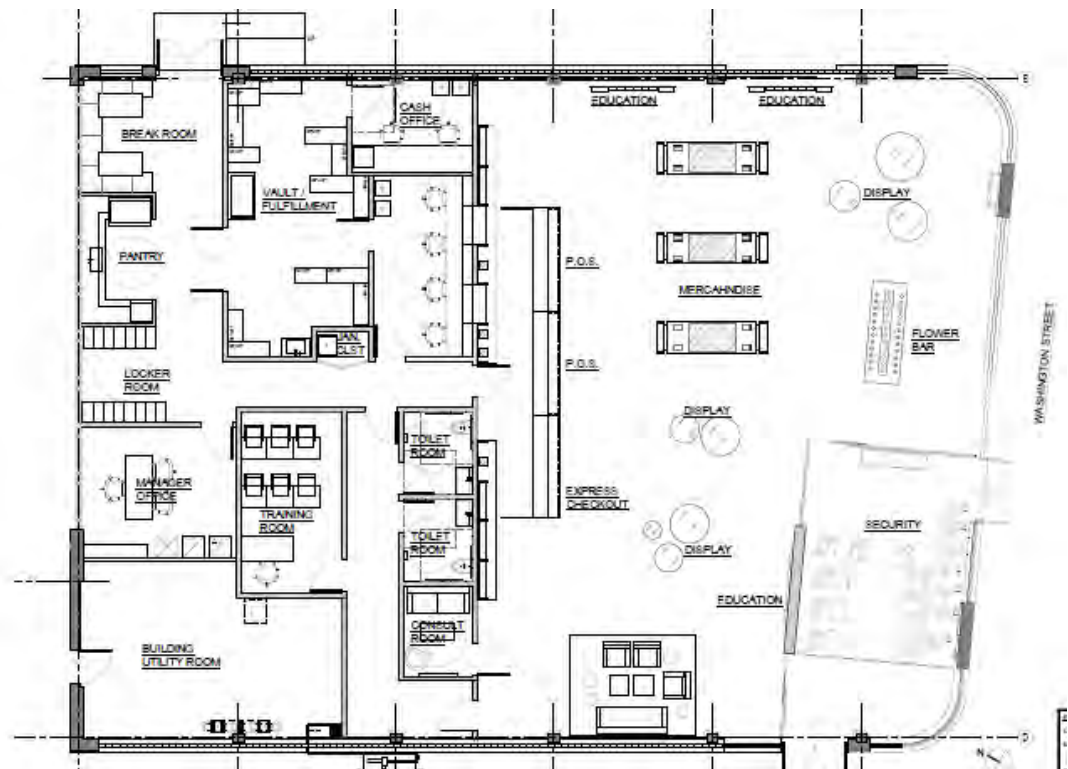
In place of the rear building, the petitioner is relocating parking there to accommodate a rain garden at the Washington Street and Cross Street corner of the site. The proposed rain garden and outflow satisfies recommendations from the Engineering Department outlined in the Engineering Memorandum, dated January 23, 2020 (**Attachment D**).

The petitioner will occupy 4,973 square feet of space that accounts for the rear of the existing building being demolished. The petitioner is proposing entrance and egress onto Washington Street, and an emergency access only at Cross Street, secured by a gate. The Planning Department has requested more information regarding this gate as well as Newton Fire Department's approval of the proposed gate for emergency access. The petitioner is proposing significant improvements in on site landscaping, where none exists, as well as various fencing around the site. At the rear of the site, there will be a four-foot-high cedar fence, details still need to be provided to determine the amount of screening it will provide. An ornamental fence will extend around the perimeter of the site, with the exception of the emergency access gate proposed, the 20' wide curb cut on Washington Street, the portion of the site in front of the building and the curb cut providing access to the driveway along the eastern property line, to be used for deliveries and loading.

Delivery and refuse pick up vehicles will enter the site at the eastern property line and will be secured by gates once the vehicle is on site. After the vehicle makes the delivery, it will exit the site by pulling forward around the rear of the building and exiting along the western side of the building so as not to reverse onto Washington Street.

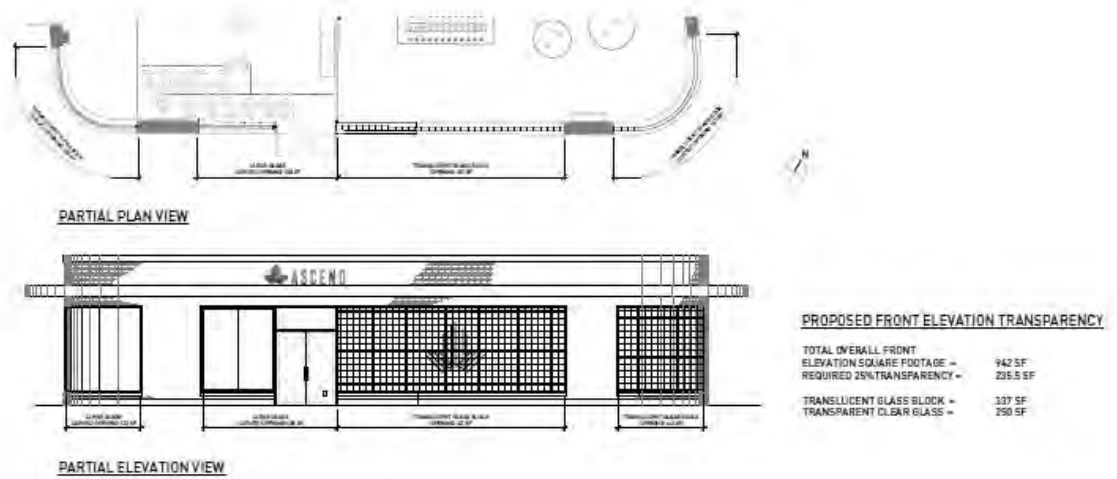


The Petitioner submitted plans that show the rear of the building demolished. After demolition, the remaining space for the marijuana retailer is decreasing to 4,973 square feet. In place of the rear building, the petitioner is relocating parking there to accommodate a rain garden at the Washington Street and Cross Street corner of the site. The petitioners provided floor plans that illustrate the locations of the first point of security, point of sale systems, the vault/fulfillment and various staff areas. Staff areas behind the point of sale are not accessible to the public due to the nature of the use and strict security measures.



Floor Plan

The City's Registered Marijuana Use ordinance requires that Marijuana Retailers "located on the ground level shall provide at least 25 percent transparency along the building's front façade at ground level, unless waived by the City Council." The intent of this requirement is to ensure the security requirements found in the State Law do not overburden the aesthetics of the structure in relationship to the adjacent structures. The petitioner is proposing 27% transparency, thus meeting the minimum 25% transparency requirement.



Proposed Front Elevation

F. Parking, Landscaping, and Lighting

The site currently has 32 surface parking stalls. The petitioner is proposing to reconfigure the parking area which will result in 26 spaces, where 22 is required. Many of the existing parking stalls are nonconforming and the facilities themselves do not meet the requirements of the Ordinance for parking facilities containing over five stalls, i.e. screening from adjacent properties, interior landscaping, and lighting. The parking facility will feature directional signage and striping.

The petitioner requires a waiver from the minimum stall depth requirements, based on new plans submitted, the zoning requirement is such that landscaping must be provided on the abutters side of the fence. As the petitioner would like to provide as much landscaping as possible, the stall dimensions are 17 feet in depth, where 19 feet is required.

Outdoor parking facilities with more than five stalls must be screened from abutting streets and properties with at least five feet in width of dense shrubs and trees. The Petitioner has stated that the landscaping proposed is less than four feet in width. The petitioner requires a special permit for waiving perimeter landscaping requirements. The site currently features no landscaping. The proposed landscaping is generous and provides screening from Cross Street and Washington Street. Staff have no concerns with the waiver of the landscaping requirement as the proposed landscaping and rain garden are vast improvements over the current site with no landscaping.

The petitioner is also seeking a waiver from the lighting requirements. The minimum lighting requirement for parking facilities used at night have security lighting with a minimum intensity of one foot candle. The petitioner's photometric plan shows limited areas of illumination with less than one foot candle, thus requiring a special permit. The Planning Department is supportive of this waiver and implored the petitioner to reduce lighting further throughout the site, especially at the northern property line that abuts residential uses.

G. Traffic

The petitioner submitted a Traffic Review Letter (**Attachment E**) examining the projected trips generated from the petition. The analysis indicates the proposed project is expected to generate approximately 52 new vehicle trips (29 entering/23 exiting) during the weekday morning peak hour and approximately 109 new vehicle trips (54 entering/55 exiting) during the weekday afternoon peak hour. During the Saturday peak hour, 182 vehicle trips are anticipated (91 entering, 91 exiting). The memorandum indicates the new trips would access the site comparatively from the east and west (55% west, 45% east) via Washington Street.

The Planning Department engaged BSC Group (BSC) to conduct a peer-review of the petitioner's Traffic Letter and issued the attached Peer Review Memorandum (**Attachment F**). BSC noted that the evaluation did not include peak hour turning movement volumes or a traffic operations analysis at any intersections. No information was provided regarding pedestrian and bicycle traffic travel. In the Transportation Demand Management plan (**Attachment G**), the petitioner addressed the alternative mode of transportation concerns with several measures to reduce single occupancy vehicle trips. The petitioner plans to provide pre-paid MBTA passes to employees who can utilize public transportation to commute and provide relevant schedules and maps. For employees who would like to commute by bicycle, the petitioner is installing secure bicycle storage on site, and plans to enroll employees in a bikeshare program, should there be one operating within the City. At the time of the initial filing Limebike had not yet announced they were discontinuing service to the City of Newton and that was the preferred bikeshare plan. Further, the petitioner is proposing to reimburse employees who walk to work with the cost of a new pair of walking shoes each calendar year. If necessary, the petitioner is open to providing a shuttle, and/or vouchers for rideshare services.

The response provided by Fuss and O'Neil (**Attachment H**) provided the information requested by BSC. At a subsequent meeting to go over the peer review and responses, the Petitioner stated they will be installing a crosswalk on Cross Street.

Saturday midday peak hour trip generation is expected to be 182 total vehicles, with 91 entering and 91 exiting. The site plans also show a bike rack, which was also recommended by BSC as it is anticipated the site will attract multimodal transportation. BSC has stated they are satisfied with the response to the peer review.

In addition to the standard City processes for evaluating transportation and traffic impacts, the Planning Department received the traffic letter (**Attachment I**) in late November from neighbors who hired Flink Consulting to do an assessment. Below is a summary of responses to the concerns raised by Flink Consulting and subsequent response from Director of Transportation Jason Sobel. These include the most relevant points that remain since prior iterations of the plans have been updated and improved upon, including the rear of the building being demolished.

Trip Generation

Recommendation: Flink states that given the limited data set, confidence in the estimates of expected traffic to be generated would be bolstered by actual counts from recently opened facilities in Massachusetts.

Newton Transportation: Flink notes that ITE data is fairly limited. While it is acknowledged that the marijuana retailer use is fairly new nationwide, it's the best data currently available. Flink suggests gathering data from other local dispensaries, however the transportation division thinks that would overestimate the trip generation, as Massachusetts is still in the initial period for adult use marijuana dispensaries. Local counts at other locations are probably not indicative of long-term trip generation characteristics.

Parking Demands

Recommendation: Flink asks for a peak parking demand evaluation, and the proponent should demonstrate how the proposed supply will serve peak period demands based on anticipated arrival and processing rates for customers. They should also clarify peak employee demands and designated parking. Online estimates indicate people typically spend 15-30 minutes at other Massachusetts dispensaries. If the on-site parking is inadequate to serve peak demands, the proponent should estimate the availability of on-street parking to accommodate overflow demands.

Newton Transportation: Flink asks for a peak parking demand evaluation. If the parking demand exceeds the parking lot capacity, it's clear that Washington Street would be the overflow parking area. Cross Street neighbors will likely be concerned about overflow parking on Cross Street. We had similar concerns from Court Street residents near Garden Remedies, and the City worked with Garden Remedies on their messaging to their customers to tell people to park on Washington Street and not Court Street. Ascend has a lot more parking than Garden Remedies, and it is less likely that customers would choose to park on Cross Street. If there were a problem, City staff could work with Ascend on messaging to their customers and/or change parking regulations on Cross Street.

IV. MINIMUM CRITERIA AND LIMITATIONS ON APPROVAL

A. Location

The Marijuana Use Ordinance requires that a marijuana retailer may not be located within a 500-foot radius of an existing private or public K-12 school. As such, the proposed Marijuana Retailer satisfies the criterion.

B. Registration

All Marijuana Retailers must be properly registered with the Department of Public Health or the CCC. The petitioner is in the process of seeking licensure from the CCC for the retail sale of recreational marijuana. The petitioner is required to obtain licensure from the CCC before obtaining a certificate of occupancy.

C. Signage

State Law and the Registered Marijuana Use Ordinance prohibit graphics, symbols, or images of marijuana or related paraphernalia from being displayed or clearly visible from the exterior of a Marijuana Retailer. As such, all signage will be submitted to the Urban Design Commission for review and approval. All signage must also meet the state requirements and be reviewed by the CCC.

D. Hours of Operation

The petitioner has proposed hours of operation 9:00 AM – 9:00 PM Monday through Saturday and 12:00 noon until 6:00 PM on Sunday.

E. Number

The number of Marijuana Retailers shall not exceed 20% of the number of liquor licenses issued in the City pursuant to G.L.c 138 § 15 (commonly known as “package stores”). The number of Marijuana Retailers in the City is less than 20% of the number

of package stores currently.

F. Distance from Other Marijuana Retailers

The Registered Marijuana Use Ordinance prohibits RMDs and marijuana retailers from locating within a one-half mile radius of an existing RMD or marijuana retailer. The Marijuana Retailer located at 697 Washington Street is approximately .9 miles from the subject property.

G. Size

The Registered Marijuana Use Ordinance prohibits RMDs or marijuana retailers from occupying more than 5,000 square feet. The proposed marijuana retailer will occupy approximately 4,973 square feet.

H. Transparency

The Petitioner is meeting the transparency requirement at 27%, where 25% is the minimum allowed.

There remain several additional minimum criteria and limitations on approval for Marijuana Retailers that are understood by the petitioner and that will be conditioned prior to the issuance of a temporary certificate of occupancy, should this petition be approved. For a complete list of all criteria please see Exhibit 1 – Special Permit Criteria (Pursuant to Section 6.10.3 **(Attachment J)**).

V. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning. Based on the Memorandum, the petitioner is seeking the following relief:

- §4.4.1, §6.10.3.D, and §7.3.3 of Section 30, to allow a Marijuana Retailer
- §5.1.9.A and §7.3.3 of Section 30, to waive the lighting requirements

Additional relief to be requested by the petitioner:

- §5.1.8.B.2 and §7.3.3 of Section 30, to reduce the minimum stall depth requirement
- §5.1.9.A and §7.3.3 of Section 30, to waive perimeter screening requirements

B. Engineering Review

Associate City Engineer, John, Daghljan, reviewed the plans and issued the attached Engineering Memorandum dated January 23, 2020. Mr. Daghljan states that on DPW's request, the petitioner is installing a rain garden to collect and treat runoff from the parking lot that will improve stormwater quality and quantity of the runoff. Mr. Daghljan states that the petitioner must perform a CCTV inspection and witnessed by Engineering.

Mr. Daghljan will review the final engineering, utility, and drainage plans prior to the issuance of a building permit, should this petition be approved.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

As the petition requires additional relief, the petitioner must amend their application and submit to both the City Clerk and Planning Department. Accompanying this submittal, digital and hard copies of plans are required.

ATTACHMENTS:

Attachment A:	Zoning Review Memorandum, dated January 29, 2020
Attachment B:	Zoning Map
Attachment C:	Land Use Map
Attachment D:	Engineering Memorandum, dated January 23, 2020
Attachment E:	Petitioner submitted Traffic Review Letter, dated August 1, 2019
Attachment F:	BSC Group Peer-Review, dated September 26, 2019
Attachment G:	Petitioner submitted TDM Plan, dated October 8, 2019
Attachment H:	Fuss and O'Neil response to the Peer Review
Attachment I:	Flink Consulting Letter, submitted by the neighbors, dated October 4, 2019
Attachment J:	Special Permit Criteria



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 29, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: 1089 Washington Street Lmted Prtnsp, applicant
Michael Ross, Attorney
Donnalynn Kahn, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow a marijuana retail establishment and associated parking waivers

Petitioner: 1089 Washington Street Lmted Prtnsp	
Site: 58 Cross Street/1089 Washington Street	SBL: 31009 0007
Zoning: BU2	Lot Area: 25,122 square feet
Current use: Health club	Proposed use: Marijuana retail establishment

BACKGROUND:

The property at 58 Cross Street (also known as 1089 Washington Street) consists of a 25,122 square foot lot improved with a one-story building constructed in 1950 formerly occupied by a health club. The petitioner is seeking to operate a marijuana retail establishment pursuant to section 6.10.3.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Katherine Baucher Adams, attorney, dated 6/13/2019
- Existing Conditions Plan, prepared by Fuss & O'Neill, dated 5/31/2019
- Preliminary Proposed Conditions Plan, prepared by Fuss & O'Neill, dated 6/7/2019
- Floor Plans, prepared by From Architecture, architect, dated 5/28/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner is proposing to operate a marijuana retail establishment. This use requires a special permit from the City Council per Section 6.10.3.D of the Newton Zoning Ordinance.
2. Per Section 6.10.3.E.1 a marijuana retailer shall not be located within a radius of 500 feet from a K-12 public or private school, or a lesser distance if the Council deems it appropriately buffered. There is no school within this radius.
3. Section 6.10.3.E.5 states that a marijuana retailer are subject to the parking requirements of 5.1.4, which requires one stall for every 300 square feet of gross floor area, and one stall for every three employees at the highest shift for a retail use. The petitioners are proposing to use 4,985 square feet for the operation, and may have a maximum of 24 employees at the busiest shift. The proposed establishment requires 25 parking stalls. The petitioner is proposing to reconfigure the existing parking area with 25 parking stalls, meeting the requirements of section 5.1.4.
4. Per section 5.1.8.B.2, parking stalls are required to be a minimum of 19 feet in depth. The petitioner proposes to construct 15 parking stalls along the rear lot line with 17 feet in depth, requiring a waiver per sections 5.1.8.B.2 and 5.1.13.
5. Per section 5.1.9.A, outdoor parking facilities with more than five stalls must be screened from abutting streets and properties with a strip of at least five feet in width of dense shrubs or trees and/or a wall, fence etc. of at least six feet in height and three feet of landscaping. This section requires that landscaping, when used in conjunction with a fence, is located between the fence and an abutting street or property. The petitioner proposes a six-foot fence with a three-foot landscape buffer between the fence and parking area. A special permit is required to waive section 5.1.9.A.1.ii to allow for the landscape buffer to be located on the interior of the fence rather than between the fence and the abutting property.
6. Section 5.1.10.A requires that parking facilities which are used at night have security lighting with a minimum intensity of one-foot candle on the entire surface of the parking facility. To the extent that any proposed lighting in the parking facility does not meet the requirements of section 5.1.10.A, a special permit is required.
7. The petitioner will present a sign package to the UDC prior to the special permit hearing, and intends to comply with 105 CMR 725.105(L) and section 5.2 of the Newton Zoning Ordinance, per section 6.10.3.E.6
8. Sections 6.10.3.E.7 require that the RMD's or marijuana retailer's hours of operation have no significant adverse impacts on nearby uses and in no case shall operate outside the hours of 9 a.m. to 9 p.m. The petitioner proposes operating from 9:00 a.m. until 9:00 p.m. Monday through Saturday, and from noon to 6:00 p.m. on Sundays, as is consistent with the approved hours of operation for the special permit to operate the RMD.
9. Section 6.10.3.E.9 requires that no RMD or marijuana retailer may locate within a half-mile radius of an existing or approved RMD or marijuana retailer. Garden Remedies is located approximately

0.9 miles from the site. The proposed operation is not located within the prescribed radius of any other operations.

10. See “Zoning Relief Summary” below:

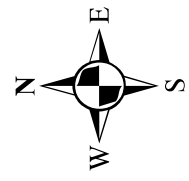
Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§6.10.3.D §4.4.1	To allow a marijuana retailer	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	To reduce minimum stall depth requirement	S.P. per §7.3.3
§5.1.9.A.1.ii §5.1.13	To waive perimeter screening requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive the lighting requirements	S.P. per §7.3.3

Zoning

58 Cross St.
1089 Washington St.
*City of Newton,
Massachusetts*

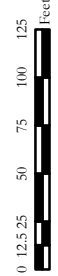
Zoning

- Single Residence 2
- Multi-Residence 1
- Multi-Residence 3
- Business 2



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



ATTACHMENT C

Land Use

58 Cross Street
1089 Washington Street

City of Newton,
Massachusetts

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Mixed Use
- Open Space
- Vacant Land

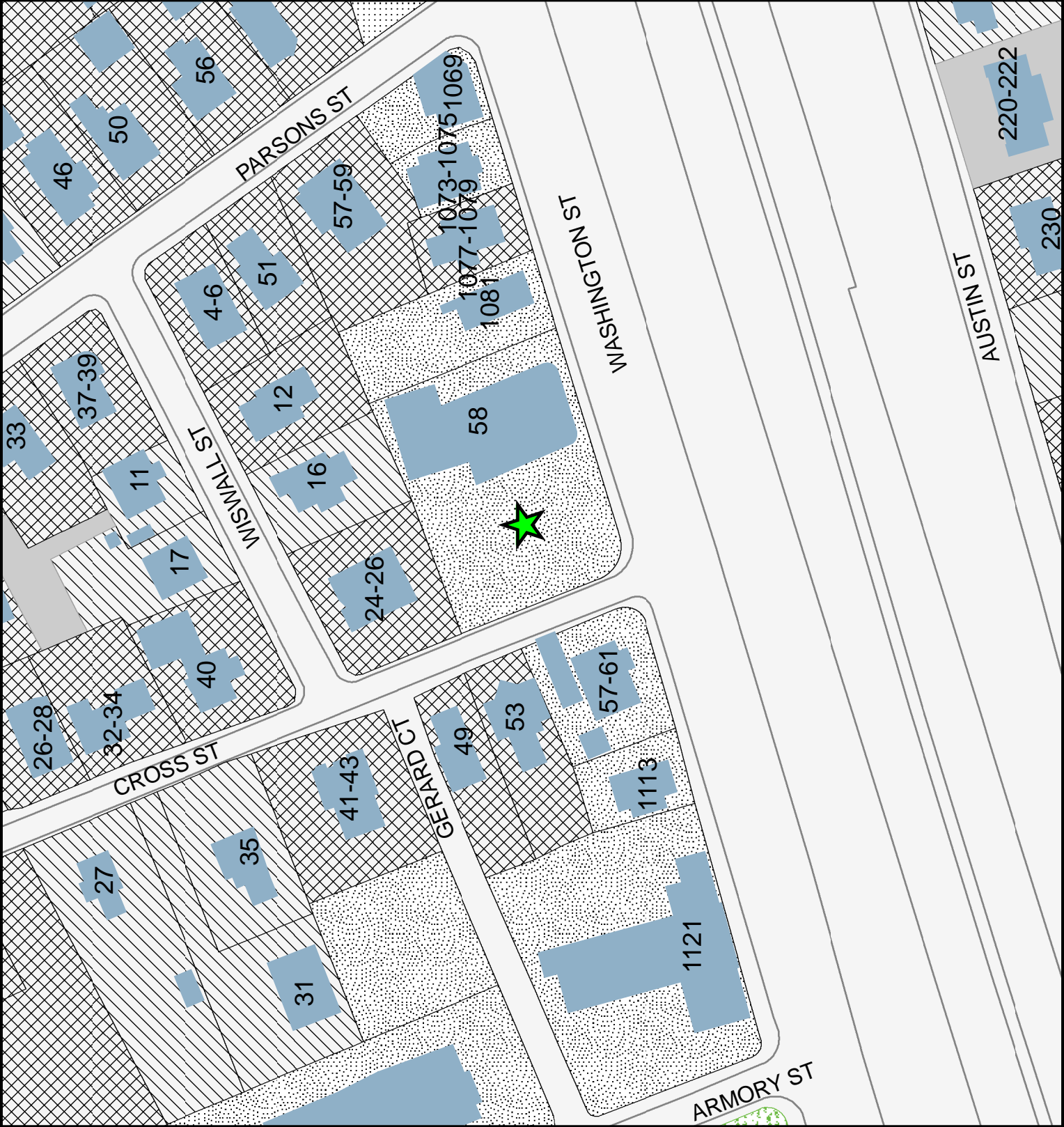


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 feet

Map Date: January 31, 2020



CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 1089 Washington Street

Date: January 23, 2020

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Ascend Mass Dispensary
1089 Washington Street
Permitting Plans
Prepared by: Fuss & O'Neil
Dated: August 1, 2019
Revised: December 19, 2019*

Executive Summary:

The revised plan entails the demolition of a portion of the building at the rear of the lot, approximately a (45'x 65') space will be removed to allow for the expansion of additional parking stalls. The existing Washington Street driveway apron that is 26 feet wide is being reduced to 20 -feet wide which will accommodate two-way (*in and out*) passage into the parking lot.

The existing driveway onto Cross Street is to be gated off as "*Emergency Access Only*" with an ornamental gate.

The plan also indicates that the sidewalk along the frontage of the property on Cross Street will be replaced to current standards to include new pedestrian curb cuts on both east and west sides of Cross Street. The improvements also extend the replacement of sidewalk up to the southwest (left) corner of the building; DPW requests that the sidewalk along the entire frontage of the building on Washington Street be upgraded to facilitate the expected heavy foot traffic and the replacement of the damaged sidewalk that is not in compliance, approximately 85-feet of additional sidewalks should be replaced, as required by the new Ordinance; see photo below.



Based upon DPW's request, the enhancements to the site includes a new *rain garden* to collect and treat runoff from the parking lot with appropriate plantings that will improve stormwater *quality and quantity* of runoff from the site. The rain garden does have an overflow connection to the City's drainage system via a HDPE pipe which shall be a ductile iron pipe, additionally calculations are needed to demonstrate the treatment and capacity of the rain garden; these may be submitted at the Building Permit phase should this Special Permit receive approval. In concert with the proposed overflow connection, a *Pre & Post* Closed Circuit Television [CCTV] inspection must be performed and witnessed by the Engineering Division, 48 hours prior notice shall be given for each inspection. Washington Street is a reinforced cement concrete roadway, restoration of any trench on the street shall be to the original design of two-way reinforced cement concrete slabs, depending on the limit of the trench work either a 1/3 or half, or entire slab maybe required; this shall be determined once the Utility Connection Permit is submitted.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so, copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The City's Water & Sewer policy for buildings that are gutted requires that both the water and sanitary sewer services be updated to current standards. Based on a site visit on August 7th the building has been completely been gutted. Therefore, the existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service shall be pressure tested and videotaped after final installation is complete. The sewer service will NOT be accepted until it is tested and passed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until testing is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the fire suppression system to meet current Fire Department Codes. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing; test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

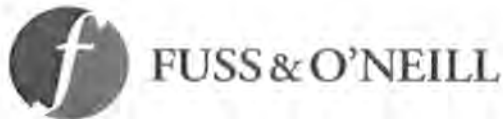
1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should

show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***

7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. The contractor of record shall contact the Newton Police Department 48 hours in advance and arrange for Police detail to help residents & commuters navigate around the construction activity.
9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me @ 617-796-1023.



August 1, 2019

Andrea Cabral, CEO
Ascend Mass, LLC
125 Cambridge Park Drive
Cambridge, MA 02140

Re: Traffic Review Letter
Marijuana Dispensary
58 Cross Street/1089 Washington Street, Newton, MA
Fuss & O'Neill Reference No. 20190241.A20

Dear Ms. Cabral:

Ascend Mass, LLC proposes to use an existing building to site a marijuana dispensary at 58 Cross Street/1089 Washington Street in Newton, Massachusetts. The proposed building will have approximately 5,000 square feet of gross floor area to be used for retail. The business is expected to open in 2020.

The existing property is situated on 0.57 acres of land on the northeast corner of the intersection of Washington Street and Cross Street in West Newton, approximately 2,200 feet east of the confluence of Waltham Street and Watertown Street at Washington Street, in the center of West Newton Square. Two existing driveways are proposed to continue to provide access to the parcel, one entrance only from Washington Street and one exit only onto Cross Street. On-street parking is permitted on both sides of Washington Street in the vicinity of the site, except for in one marked bus stops. The Massachusetts Bay Transportation Authority (MBTA) bus lines 553 and 554 run along Washington Street with headways ranging from 12 to 30 minutes for peak hour service during the week and 45 minute headway during the weekend.

The parcel is bounded by Washington Street to the south, Cross Street to the west, residential properties to the north, and commercial property (Mattress Firm) to the east. This area is located in the Business 2 District (BU2).

Fuss & O'Neill has been retained to study the impact of the proposed business on traffic conditions throughout the adjacent roadway network. This letter has been prepared to document the findings of the study and is being submitted to the City of Newton in support of the project's special permit application.

108 Myrtle Street
Suite 302
Quincy, MA
02171
T 617.282.4675
800.286.2469
F 617.481.5885

www.fandoc.com

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Traffic Volumes and Speeds

The greatest potential for traffic impact on the roadway network by the proposed business will occur during the morning and afternoon peak hours, the periods when commuter related trips are at their highest levels. In order to determine the traffic impact of the proposed business on adjacent street traffic, representatives of Fuss & O'Neill conducted 24-hour traffic volume and speed counts with automatic traffic recorder (ATR) road tubes. The count was located on Washington Street east of Cross Street. Copies of the ATR data is included as an attachment to this letter.

The 85th percentile speed on Washington Street was recorded at 52 miles per hour westbound and 43 miles per hour eastbound. The 24-hour traffic volume on this roadway (total for both directions) was recorded to be 12,585 vehicles.

The raw count data has been included as an attachment to this letter.

Trip Distribution

The distribution of traffic entering and exiting the proposed site was applied to the road network based on the existing regional traffic distributions and the layout of the adjacent roadway network. During the peak hours, the following arrival distributions of traffic are anticipated:

- 55 percent from Washington Street west of the site
- 45 percent from Washington Street east of the site

Figure 1 attached provides a depiction of the expected trip distribution.

Trip Generation

The current and expected site generated traffic for the morning and afternoon peak hours was calculated using existing empirical data from the Institute of Transportation Engineers (ITE) publication Trip Generation, 10th edition, 2017. This publication is an industry-accepted resource for determining trip generation.

The prior land use, Beacon Hill Athletic Club, can be closely modeled by the Land Use Code (LUC) 493, "Athletic Club". Based on 8,500 square feet of recreational space, ITE Trip Generation indicates that the facility generated a total of 27 vehicle trips (16 entering, 11 exiting) in the morning peak hour, and 53 vehicle trips (33 entering, 20 exiting) in the afternoon peak hour. Based on data collected on Washington Street, the weekday morning peak hour was determined to be from 8:00 a.m. until 9:00 a.m., the weekday afternoon peak hour was determined to be 5:30 p.m. until 6:30 p.m., and the Saturday peak hour was determined to be 12:00 p.m. until 1:00 p.m.



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The proposed land use can be modeled with LUC 882, "Marijuana Dispensary". This LUC is expected to provide a conservative estimate of the number of trips generated by this facility. Based on 5,000 square feet of retail space, ITE Trip Generation indicates that the facility is expected to generate a total of 52 vehicle trips (29 entering, 23 exiting) in the morning peak hour, and 109 vehicle trips (54 entering, 55 exiting) in the afternoon peak hour. During the Saturday peak hour, the facility is expected to generate a total of 182 vehicle trips (91 entering, 91 exiting).

The change in trip generation resulting from the proposed use is projected to be a total of 25 trips during the morning peak hour (13 entering, 12 exiting) and 56 trips during the afternoon peak hour (21 entering and 35 exiting).

Figure 2 attached provides a depiction of the expected trip generation. ITE Trip Generation work sheets have also been attached.

Parking Analysis

According to the City of Newton Zoning Ordinance, one parking space must be provided for every 300 square feet of retail space, plus an additional parking space for every three employees of a retail use. For the proposed business, 17 spaces are required for the 5,000 square feet of retail space, plus seven spaces for 21 employees, for a total of 24 spaces. A total of 28 parking spaces, including two accessible spaces, are proposed for the site.

The parking lot will have two driveways; one entrance only from Washington Street and one exit only onto Cross Street. The exit on Cross Street will be restricted as a left turn only. All traffic must enter through Washington Street and exit through Cross Street. A depiction of the site circulation has been attached at the conclusion of this letter.

Intersection Sight Distance Analysis

Intersection sight distances were calculated at the proposed site driveway in accordance with criteria set forth in the 2006 Massachusetts Highway Department Project Development & Design Guide (PDDG). This sight distance is measured from a point 15 feet back from the edge of travel-way at a height of 3.5 feet, the standard height of a driver's eye.

The design speed on Cross Street is 30 miles per hours, five miles per hours greater than the posted speed limit. In accordance with criteria set forth in the 2006 PDDG, 365 feet of intersection sight distance is required for a passenger car looking to the right or left from the site driveway when approaching a four-lane roadway without a median.

At the Cross Street site driveway, sight distance extends 500 feet looking right (north) and only left turns are proposed to be permitted from the site. The sight distance triangle is not obstructed and



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does not encroach upon abutting landowner property. The sight distance exceeds MassDOT criteria for safe egress from the site.

Crash Analysis

Crash data was gathered from the MassDOT Crash Portal along Washington Street and Cross Street in vicinity of the site driveways. The records were gathered for the most recent three years of available data, 2014 through 2016. A total of six crashes were reported over this time period, four in 2016, one in 2015 and one in 2014, for an average of two crashes per year. No injuries were reported in any of the six crashes.

A summary of the crash data has been attached to this report.

Conclusions

The purpose of preparing a traffic impact study is to identify the impact of the proposed business's site generated traffic. The study efforts have indicated that the proposed facility will generate a total of 52 vehicle trips (29 entering, 23 exiting) in the morning peak hour, and 109 vehicle trips (55 entering, 54 exiting) in the afternoon peak hour. This represents an increase of 41 vehicles trips in the morning peak hour and 80 vehicles trips in the afternoon peak hour when compared with current facility vehicle trips generation.

A review of crash data provided by the MassDOT Crash Portal indicated that there were no abnormal crash patterns or frequencies in the study area.

For the proposed business, 17 spaces are required for the 5,000 square feet of retail space, plus seven spaces for 21 employees, for a total of 24 spaces. A total of 28 parking spaces, including two accessible spaces, are proposed for the site.

For drivers exiting onto Cross Street and turning left (south), the sight distance triangle is not obstructed and does not encroach upon abutting landowner property. The sight distance exceeds MassDOT criteria for safe egress from the site.



FUSS & O'NEILL

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Based on the results of the foregoing analysis, it is the professional opinion of Fuss & O'Neill, Inc. that the proposed business will not have a significant impact to traffic operations within the study area.

Sincerely,

Matthew W. Skelly, PTOE

Senior Transportation Engineer

Attachments: ATR Count Data
 Traffic Volume Figures
 Trip Generation Worksheets
 Circulation Figure
 Crash Data

Accurate Counts
978-664-2565

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Location : Washington Street
Location : East of Cross Street
City/State: Newton, MA

1089VOL1

Start Time	3/28/2019 Thu	WB		Hour Totals		EB		Hour Totals		Combined Totals	
		Morning	Afternoon	Morning	Afternoon	Morning	Afternoon	Morning	Afternoon	Morning	Afternoon
12:00		14	117			4	105				
12:15		6	118			1	78				
12:30		5	127			7	83				
12:45		6	124	31	486	2	89	14	355	45	841
01:00		7	105			4	90				
01:15		2	108			3	86				
01:30		4	112			4	72				
01:45		8	101	21	426	4	95	15	343	36	769
02:00		8	113			2	92				
02:15		8	105			0	101				
02:30		7	125			0	100				
02:45		5	136	28	479	2	96	4	389	32	868
03:00		8	100			1	107				
03:15		7	137			1	115				
03:30		10	147			1	86				
03:45		15	130	40	514	6	109	9	417	49	931
04:00		8	112			4	100				
04:15		13	106			3	109				
04:30		14	111			7	87				
04:45		25	119	60	448	13	106	27	402	87	850
05:00		26	109			11	108				
05:15		27	99			15	121				
05:30		28	98			27	128				
05:45		29	123	110	429	31	135	84	492	194	921
06:00		44	116			38	120				
06:15		63	115			58	109				
06:30		73	100			58	114				
06:45		73	103	253	434	58	73	212	416	465	850
07:00		64	95			67	75				
07:15		99	86			83	64				
07:30		116	95			109	48				
07:45		111	61	390	337	138	73	397	260	787	597
08:00		122	53			139	49				
08:15		121	62			109	47				
08:30		133	73			130	35				
08:45		116	41	492	229	140	49	518	180	1010	409
09:00		99	37			123	23				
09:15		95	39			106	31				
09:30		98	37			84	28				
09:45		82	32	374	145	106	16	419	98	793	243
10:00		100	29			99	16				
10:15		104	20			101	17				
10:30		90	24			91	15				
10:45		103	17	397	90	96	10	387	58	784	148
11:00		118	18			69	19				
11:15		98	13			90	7				
11:30		104	10			91	7				
11:45		123	13	443	54	88	8	338	41	781	95
Total		2639	4071			2424	3451			5063	7522
Percent		39.3%	60.7%			41.3%	58.7%			40.2%	59.8%
Grand Total		2639	4071			2424	3451			5063	7522
Percent		39.3%	60.7%			41.3%	58.7%			40.2%	59.8%
ADT	ADT 12,585		AADT 12,585								

Accurate Counts
978-664-2565

Page 1

Location : Washington Street
Location : East of Cross Street
City/State: Newton, MA

1089VOL1

Start Time	3/28/2019																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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1089SPD1

Daily	15th Percentile	30 MPH
	50th Percentile	37 MPH
	85th Percentile	52 MPH
	95th Percentile	58 MPH
	Mean Speed(Average)	40 MPH
	10 MPH Pace Speed	31-40 MPH
	Number in Pace	3157
	Percent in Pace	47.0%
	Number of Vehicles > 35 MPH	4168
	Percent of Vehicles > 35 MPH	62.1%

Overall	15th Percentile	30 MPH
	50th Percentile	37 MPH
	85th Percentile	52 MPH
	95th Percentile	58 MPH
	Mean Speed(Average)	40 MPH
	10 MPH Pace Speed	31-40 MPH
	Number in Pace	3157
	Percent in Pace	47.0%
	Number of Vehicles > 35 MPH	4168
	Percent of Vehicles > 35 MPH	62.1%

Accurate Counts
978-664-2565

Page 2

Location : Washington Street
Location : East of Cross Street
City/State: Newton, MA

1089SPD1

EB

Start Time	15	20	25	30	35	40	45	50	55	60	65	70	75	999	Total
03/28/19	0	0	1	4	3	4	0	0	1	1	0	0	0	0	14
01:00	0	0	0	1	8	3	0	1	1	1	0	0	0	0	15
02:00	0	0	0	1	0	2	0	1	0	0	0	0	0	0	4
03:00	0	0	0	0	2	1	0	2	2	1	1	0	0	0	9
04:00	2	0	0	3	4	3	4	3	3	5	0	0	0	0	27
05:00	0	0	0	6	9	24	19	7	13	8	0	0	0	0	84
06:00	0	1	3	8	33	72	89	17	6	1	1	0	1	0	212
07:00	0	2	9	12	49	173	107	35	10	0	0	0	0	0	397
08:00	0	3	1	11	75	229	152	35	10	1	1	0	0	0	518
09:00	1	4	8	13	88	164	111	23	6	1	0	0	0	0	419
10:00	1	8	11	37	94	152	70	10	3	1	0	0	0	0	387
11:00	0	2	9	31	96	119	53	15	9	2	2	0	0	0	338
12 PM	1	3	6	34	90	124	63	17	12	4	1	0	0	0	355
13:00	1	2	9	36	111	124	40	9	6	5	0	0	0	0	343
14:00	0	1	7	47	109	145	63	11	3	2	1	0	0	0	389
15:00	2	3	8	35	120	160	70	13	2	4	0	0	0	0	417
16:00	0	4	7	32	100	157	83	18	1	0	0	0	0	0	402
17:00	0	2	5	33	133	180	115	18	4	2	0	0	0	0	492
18:00	0	3	10	19	129	152	74	14	6	6	2	0	1	0	416
19:00	1	1	7	52	87	72	30	3	2	3	1	1	0	0	260
20:00	0	2	5	31	79	47	9	3	1	3	0	0	0	0	180
21:00	0	0	2	14	33	31	8	5	3	2	0	0	0	0	98
22:00	0	4	0	15	14	14	6	2	1	0	1	1	0	0	58
23:00	0	0	2	5	13	11	5	2	3	0	0	0	0	0	41
Total	9	45	110	480	1479	2163	1151	264	108	51	11	2	2	0	5875

Daily

15th Percentile : 30 MPH
50th Percentile : 36 MPH
85th Percentile : 43 MPH
95th Percentile : 47 MPH

Mean Speed(Average) : 37 MPH
10 MPH Pace Speed : 31-40 MPH
Number in Pace : 3642
Percent in Pace : 62.0%
Number of Vehicles > 35 MPH : 3752
Percent of Vehicles > 35 MPH : 63.9%

Grand Total 9 45 110 480 1479 2163 1151 264 108 51 11 2 2 0 5875

Overall

15th Percentile : 30 MPH
50th Percentile : 36 MPH
85th Percentile : 43 MPH
95th Percentile : 47 MPH

Mean Speed(Average) : 37 MPH
10 MPH Pace Speed : 31-40 MPH
Number in Pace : 3642
Percent in Pace : 62.0%
Number of Vehicles > 35 MPH : 3752
Percent of Vehicles > 35 MPH : 63.9%

Accurate Counts
978-664-2565

Page 3

Location : Washington Street
Location : East of Cross Street
City/State: Newton, MA

1089SPD1

WB, EB

Start Time	15	20	25	30	35	40	45	50	55	60	65	70	75	999	Total
03/28/19	0	0	3	6	6	9	2	5	5	6	2	1	0	0	45
01:00	0	0	0	1	11	4	2	2	4	7	5	0	0	0	36
02:00	0	0	0	2	1	4	0	4	4	13	4	0	0	0	32
03:00	0	0	0	2	3	2	0	7	13	17	5	0	0	0	49
04:00	2	0	0	3	5	7	9	11	16	28	6	0	0	0	87
05:00	0	0	0	16	19	33	27	17	35	39	5	2	1	0	194
06:00	0	3	5	20	76	111	93	36	59	47	10	4	1	0	465
07:00	0	4	12	30	95	232	169	71	77	35	12	0	0	0	787
08:00	0	7	5	34	168	346	255	102	71	16	5	1	0	0	1010
09:00	5	8	15	52	166	239	150	51	60	33	9	2	0	3	793
10:00	1	16	21	72	185	237	110	36	54	43	7	2	0	0	784
11:00	3	5	21	77	181	204	87	44	90	53	15	1	0	0	781
12 PM	3	4	13	90	194	214	110	65	66	62	14	6	0	0	841
13:00	4	3	13	73	222	216	80	35	61	48	12	2	0	0	769
14:00	3	3	15	95	220	254	127	70	56	21	3	1	0	0	868
15:00	18	34	34	96	255	321	125	27	11	9	1	0	0	0	931
16:00	5	17	35	89	253	276	148	25	2	0	0	0	0	0	850
17:00	4	10	17	86	266	315	180	30	9	2	0	2	0	0	921
18:00	3	6	25	73	257	278	130	40	24	8	3	2	1	0	850
19:00	4	3	25	105	171	163	64	33	18	8	1	2	0	0	597
20:00	0	3	9	65	159	113	25	16	11	6	2	0	0	0	409
21:00	0	2	3	32	70	69	22	18	16	7	4	0	0	0	243
22:00	1	5	0	23	46	31	12	8	7	9	3	3	0	0	148
23:00	0	0	4	9	21	21	12	13	7	6	2	0	0	0	95
Total	56	133	275	1151	3050	3749	1939	766	776	523	130	31	3	3	12585

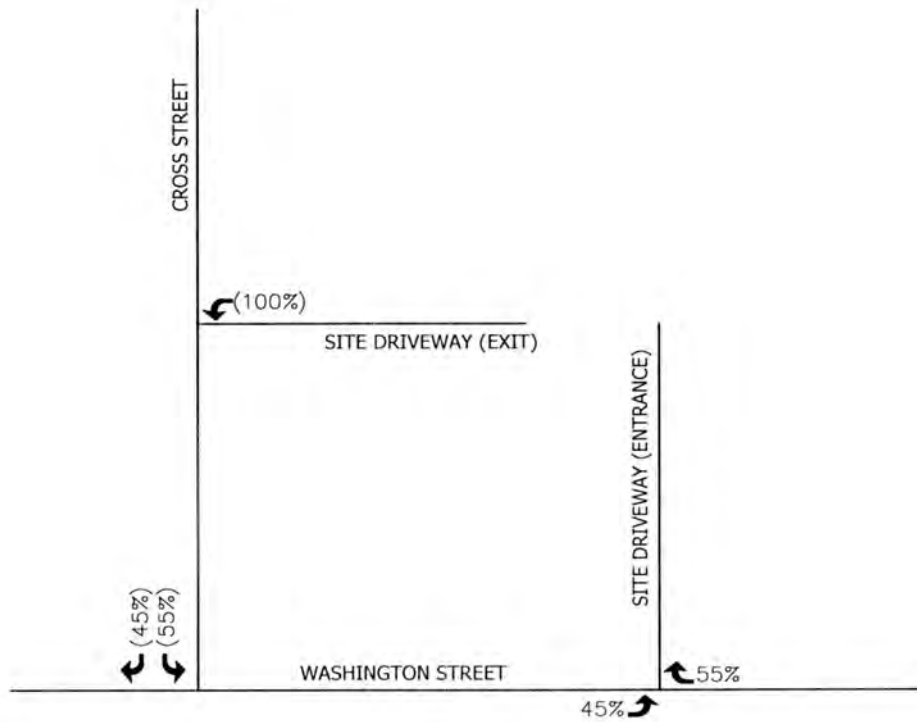
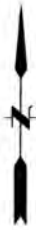
Daily

15th Percentile : 30 MPH
50th Percentile : 37 MPH
85th Percentile : 47 MPH
95th Percentile : 55 MPH
Mean Speed(Average) : 39 MPH
10 MPH Pace Speed : 31-40 MPH
Number in Pace : 6799
Percent in Pace : 54.0%
Number of Vehicles > 35 MPH : 7920
Percent of Vehicles > 35 MPH : 62.9%

Grand Total 56 133 275 1151 3050 3749 1939 766 776 523 130 31 3 3 12585

Overall

15th Percentile : 30 MPH
50th Percentile : 37 MPH
85th Percentile : 47 MPH
95th Percentile : 55 MPH
Mean Speed(Average) : 39 MPH
10 MPH Pace Speed : 31-40 MPH
Number in Pace : 6799
Percent in Pace : 54.0%
Number of Vehicles > 35 MPH : 7920
Percent of Vehicles > 35 MPH : 62.9%



XXX(XXX) = ENTERING TRAFFIC (EXITING TRAFFIC)



FUSS & O'NEILL

108 MYRTLE STREET, SUITE 502
QUINCY, MA 02171
617.282.4675
www.fandco.com

FIGURE 1: TRIP DISTRIBUTION

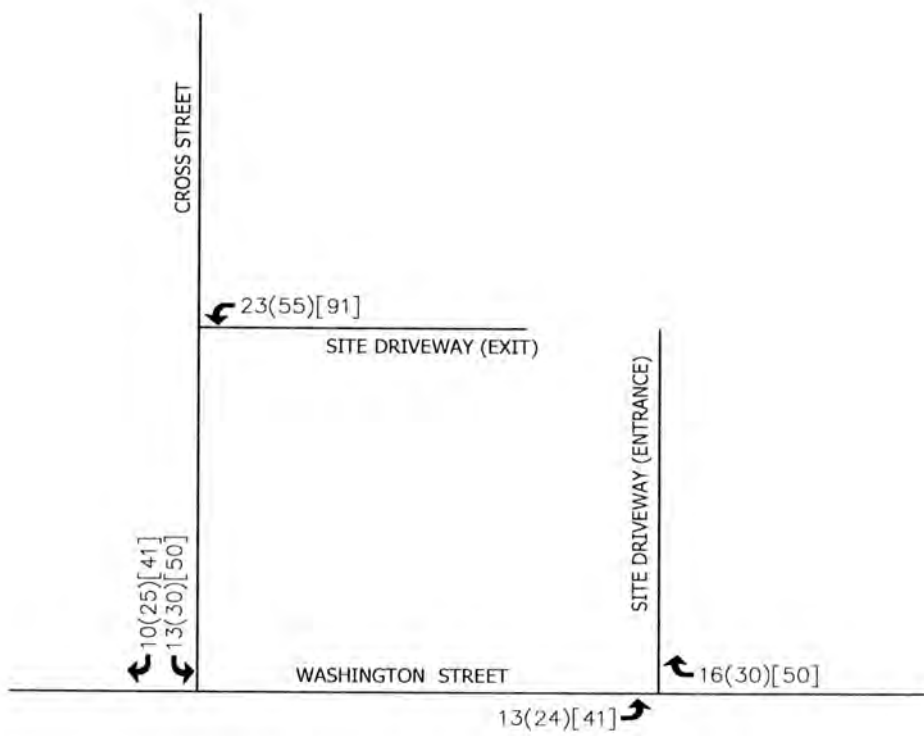
PROJ. NO: 20190241.A20

1089 WASHINGTON STREET
NEWTON, MA

AUGUST 1, 2019



SITE GENERATED TRAFFIC VOLUMES			
	ENTER	EXIT	TOTAL
MORNING	29	23	52
AFTERNOON	54	55	109
SATURDAY	91	91	182



XXX(XXX)[XXX] = WEEKDAY MORNING PEAK HOUR (WEEKDAY PM PEAK HOUR) [SATURDAY PEAK HOUR]
8:00 AM - 9:00 AM (5:30 PM - 6:30 PM) [12:00 PM - 1:00 PM]

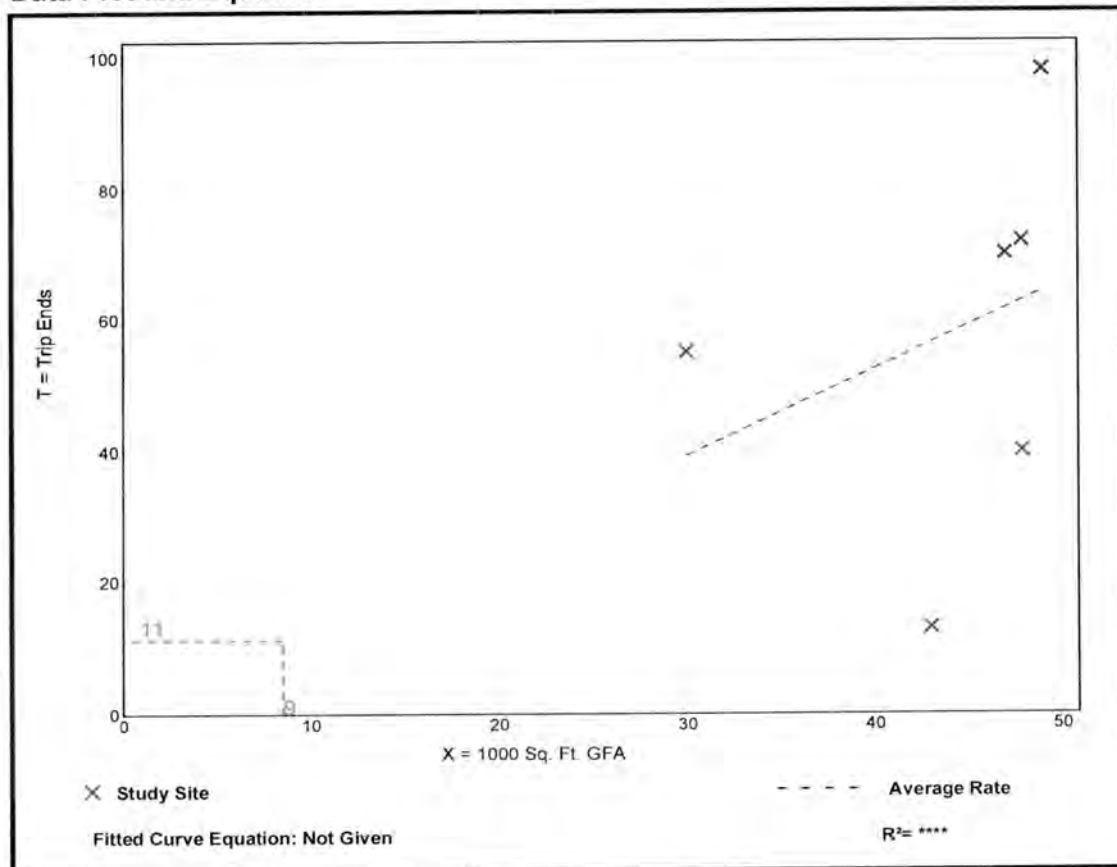
Health/Fitness Club (492)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 6
 Avg. 1000 Sq. Ft. GFA: 44
 Directional Distribution: 51% entering, 49% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
1.31	0.30 - 2.00	0.64

Data Plot and Equation



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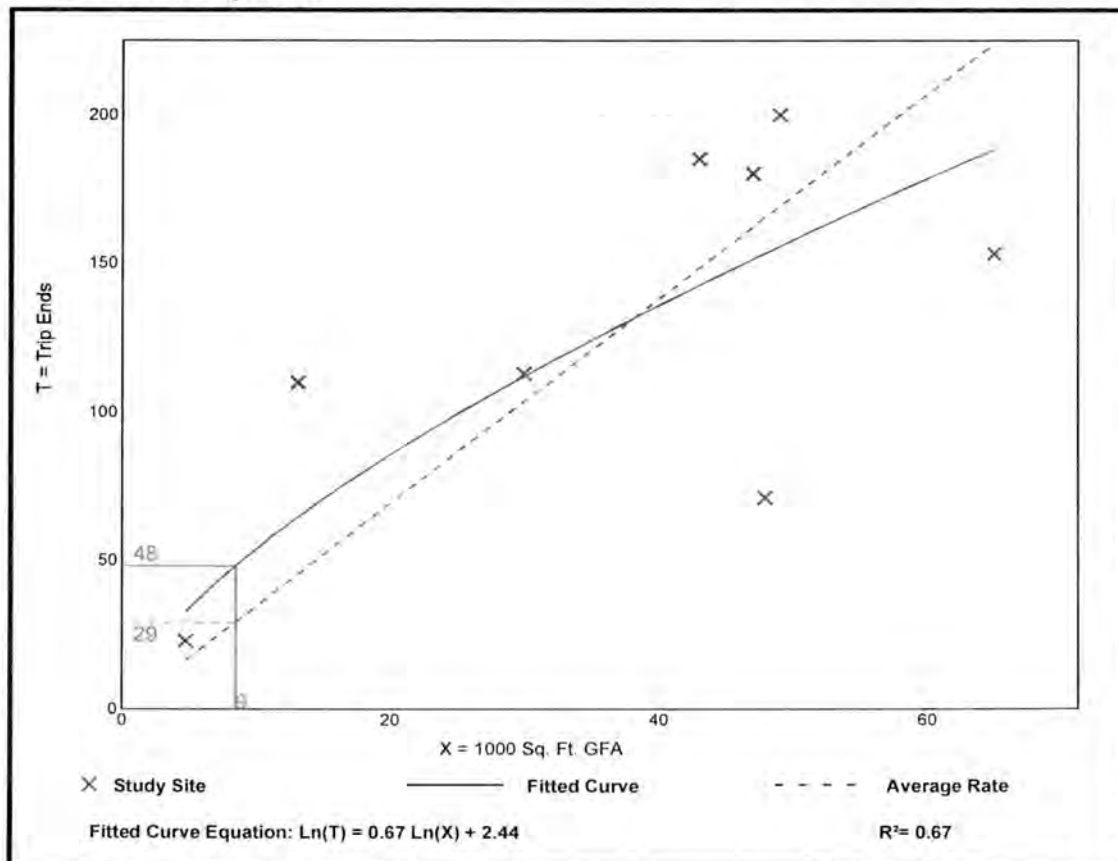
Health/Fitness Club (492)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 4 and 6 p.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 8
 Avg. 1000 Sq. Ft. GFA: 37
 Directional Distribution: 57% entering, 43% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
3.45	1.48 - 8.37	1.57

Data Plot and Equation



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Marijuana Dispensary (882)

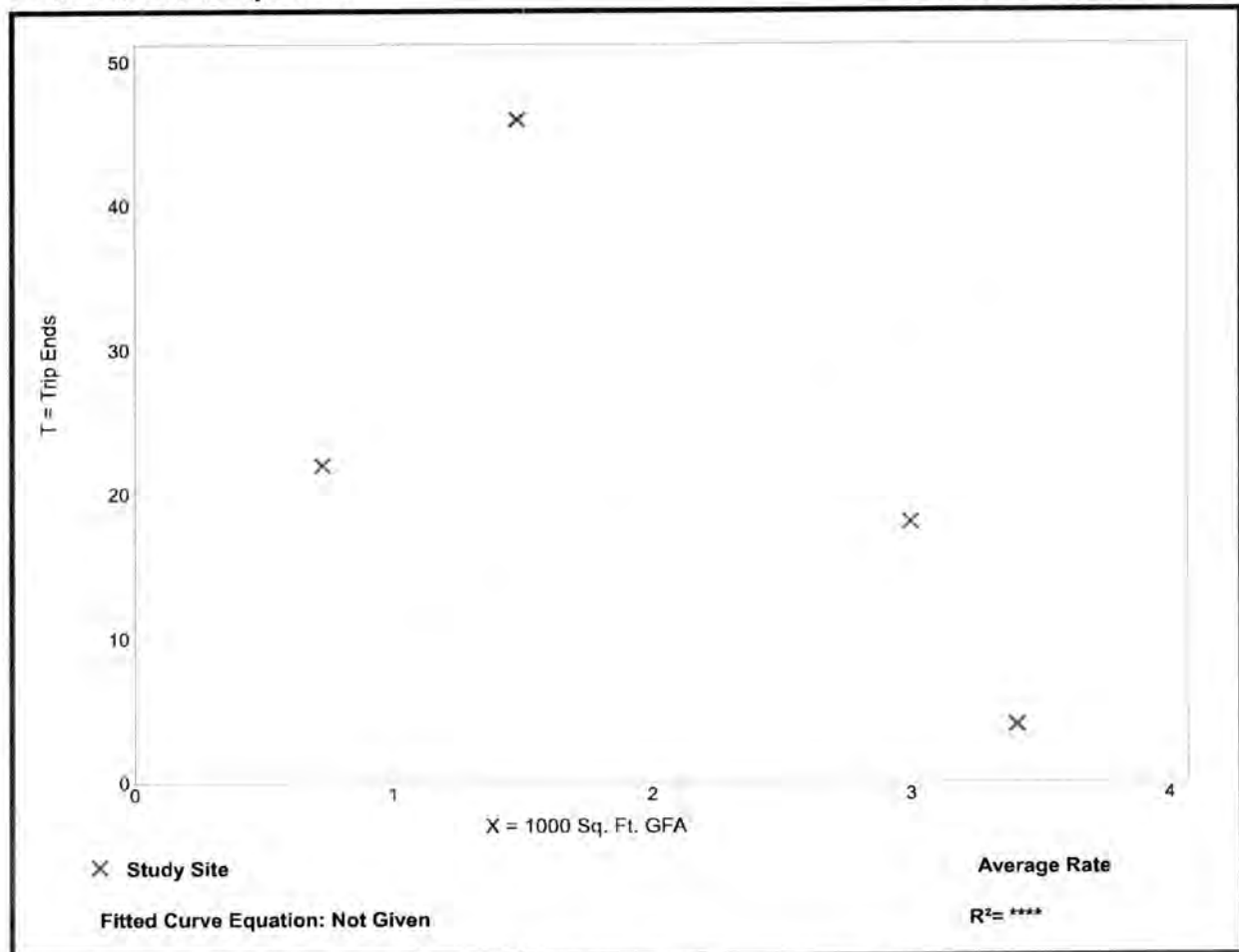
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 4
 Avg. 1000 Sq. Ft. GFA: 2
 Directional Distribution: 56% entering, 44% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
10.44	1.17 - 31.08	14.00

Data Plot and Equation

Caution – Small Sample Size



Trip Generation Manual, 10th Edition • Institute of Transportation Engineers

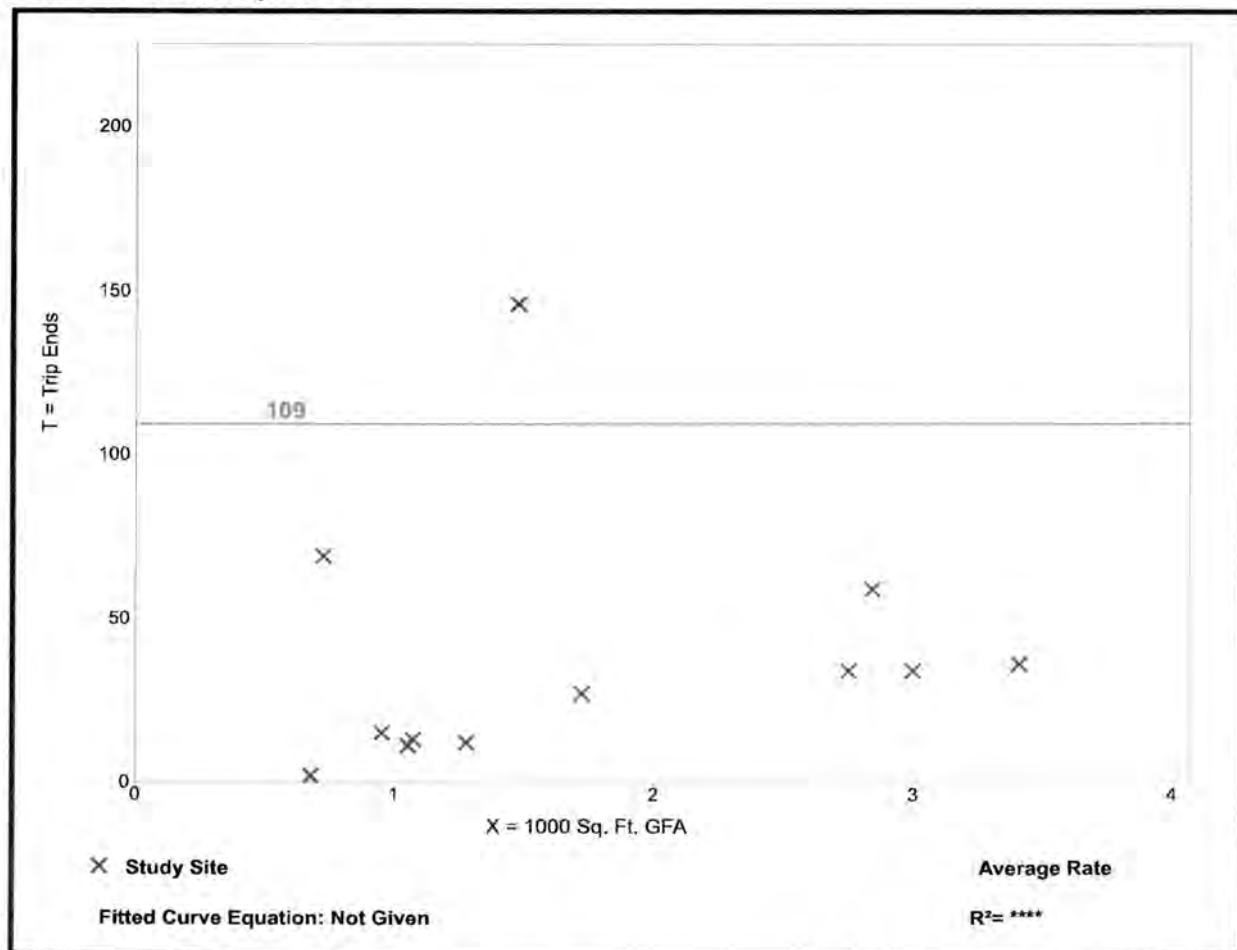
Marijuana Dispensary (882)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 12
 Avg. 1000 Sq. Ft. GFA: 2
 Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
21.83	2.94 - 98.65	27.36

Data Plot and Equation



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Marijuana Dispensary (882)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Saturday, Peak Hour of Generator

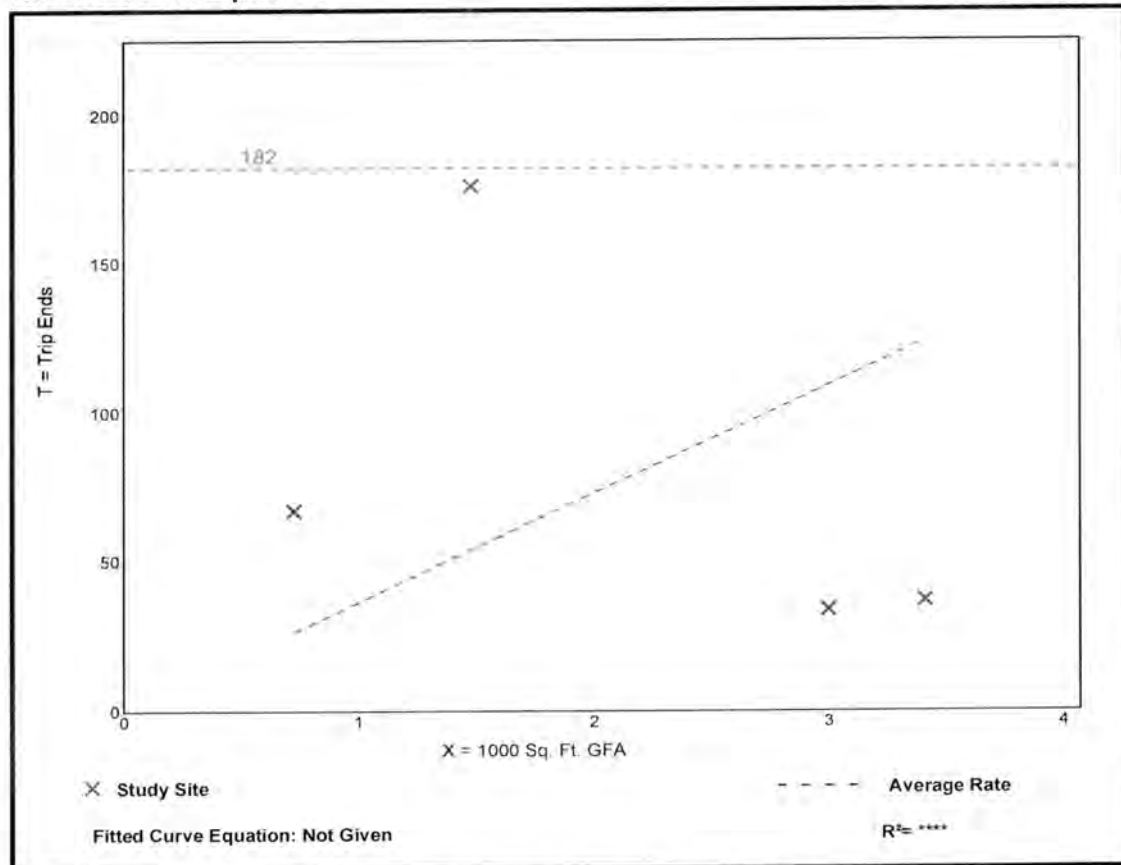
Setting/Location: General Urban/Suburban
Number of Studies: 4
Avg. 1000 Sq. Ft. GFA: 2
Directional Distribution: Not Available

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
36.43	10.85 - 118.92	50.44

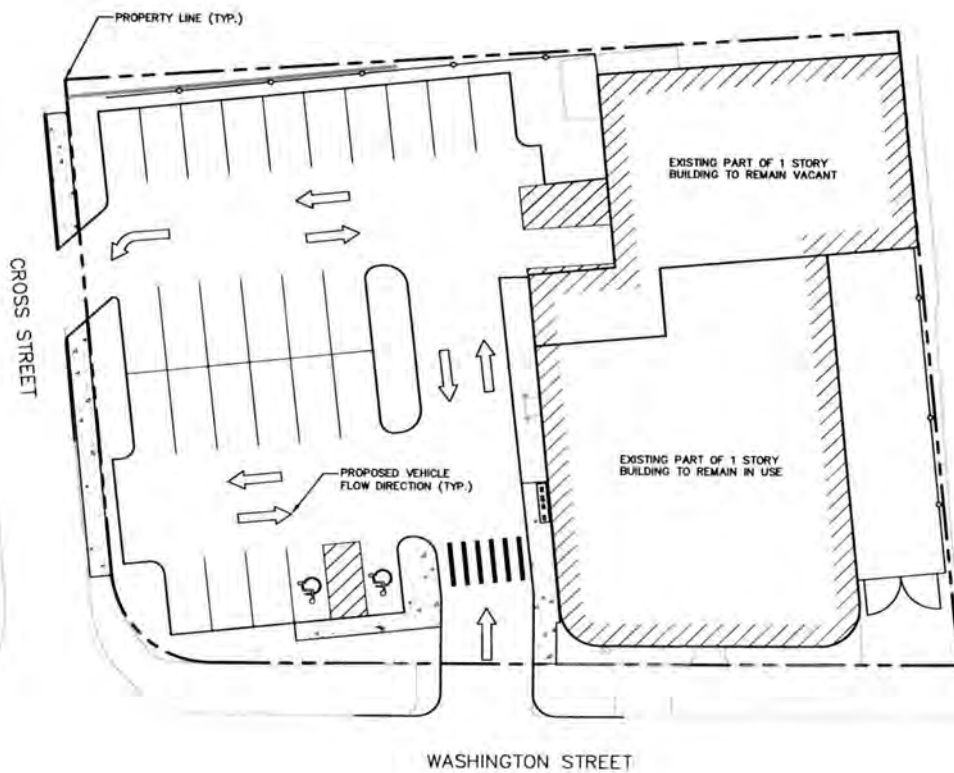
Data Plot and Equation

Caution – Small Sample Size



Trip Generation Manual, 10th Edition • Institute of Transportation Engineers

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FUSS & O'NEILL INCORPORATED 100 WASHINGTON STREET WASHINGTON, DC 20001 202.462.1234 www.fussandoneill.com	
ASCE/ENR, LLC VEHICLE FLOW DIRECTION 1000 WASHINGTON STREET WASHINGTON, DC 20001	
CT-001	

TABLE A-1
CRASH DATA SUMMARY - 2014 to 2016
STUDY AREA INTERSECTIONS

Washington Street	
Criteria	
YEAR	
2014	1
2015	1
<u>2016</u>	<u>4</u>
Total	6
Average No. of Crashes	2.00
Crash Rate	0.44
TYPE	
Angle	2
Rear-End	2
Head-On	0
Sideswipe	2
Pedestrian/Bicycle	0
Collision w/ Fixed Object	0
<u>Unknown/Other</u>	<u>0</u>
Total	6
SEVERITY	
Property Damage Only	5
Non-fatal Injury	0
Fatality	0
<u>Unknown/Other</u>	<u>1</u>
Total	6
WEATHER	
Clear	5
Wet	0
Snow/Ice	0
Clouds	1
Fog	0
<u>Unknown/Other</u>	<u>0</u>
Total	6
TIME	
Weekday 7:30 AM - 9:30 AM	0
Weekday 3:30 PM - 5:30 PM	1
<u>Other</u>	<u>5</u>
Total	6

District #6 Average Crash Rates: 0.71 Signalized Intersections
0.52 Unsignalized Intersections



MEMORANDUM

803 SUMMER STREET, BOSTON, MA 02127 - www.bscgroup.com

TEL 617-896-4300 - 800-288-8123

To:	Ms. Katie Whewell Planning Associate City of Newton, Massachusetts	Date:	September 26, 2019
From:	Michael A. Santos, PE, PTOE	Proj. No.	28402.02
Re:	Transportation Peer Review – Marijuana Dispensary 58 Cross Street/1089 Washington Street Newton, Massachusetts		

As requested, BSC Group, Inc. (BSC) conducted a peer review of the Traffic Review Letter prepared for the proposed marijuana dispensary at the 1089 Washington Street and 58 Cross Street in the village of West Newton in Newton, Massachusetts.

The purpose of this review is to ensure that the traffic analysis conforms to industry standards, to confirm that the traffic study methods are appropriate for the setting, and to ensure that the recommendations and proposed mitigation adequately address potential project impacts and are consistent with the City of Newton's recommended guidelines for transportation improvements.

The Project site is located at the corner of Washington Street and Cross Street, approximately 0.4 miles east of West Newton Square. The Project will reuse part of the existing building on the site, which formerly contained an 8,500 square foot (sf) Beacon Hill Athletic Club. The proposed development will consist of approximately 5,000 sf of gross floor area to be used by the marijuana dispensary. A total of 28 parking spaces will be provided on the site (inclusive of two accessible spaces). Access to the site will be provided at two locations: an entrance-only driveway along Washington Street and an exit-only, right-turn only driveway along Cross Street. The driveways will be located in the approximate locations of the existing curb cuts that serve the site.

The key findings of our review of the Traffic Review Letter are presented in the following sections. **BSC's comments and recommendations are presented in bold.**

Scope of Review

The following topics were reviewed in the Traffic Review Letter as part of the peer review:

- Study methodology
- Existing traffic volumes
- Crash Analysis
- Trip distribution and trip generation
- Parking Analysis, Sight Distance, and Site Plan

Study Methodology

The traffic analysis provided in the Traffic Review Letter presented a limited evaluation of the impacts of the Project. The evaluation included traffic counts along Washington Street, a trip generation, distribution, and assignment analysis, a review of motor vehicle crash data, a parking analysis, and sight distance

measurements. The evaluation did not include peak-hour turning movement volumes or a traffic operations analysis at any intersections and did not provide information related to pedestrian and bicycle travel to/from the site. The evaluation also did not present specific mitigation or transportation demand management measures to be implemented by the Applicant as part of the Project.

- 1. BSC recommends the City request the Applicant to conduct peak hour turning movement counts during the weekday morning, weekday evening, and Saturday midday peak hours at the intersection of Washington Street at Cross Street.**
- 2. A traffic operations analysis should be conducted at the intersection of Washington Street at Cross Street and at the driveway locations for the Existing, No-Build, and Build conditions, in accordance with the MassDOT Traffic Impact Assessment (TIA) Guidelines, to determine if improvements or modifications to existing traffic control are needed to accommodate the Project.**
- 3. Mitigation was not proposed in the Traffic Review Letter. Based on the results of an operations analysis, mitigation should be explored to offset any Project-related impacts. At a minimum, the Applicant should upgrade the existing sidewalks adjacent to the Project site and ensure that they are compliant with the requirements of the Americans with Disabilities Act (ADA). A crosswalk should be installed across Cross Street at its intersection with Washington Street and the curb ramps should be reconstructed to include detectable warning panels.**
- 4. The Applicant should develop a transportation demand management (TDM) plan to reduce the number of single-occupancy vehicles that travel to the site.**
- 5. The Applicant should include a description and qualitative evaluation of the pedestrian and bicycle facilities that serve the Project site. Due to the site's location near West Newton Square, we expect that some of the trips to and from the site will be made by non-motorized modes of travel.**

Existing Traffic Volumes

The Applicant collected automatic traffic recorder (ATR) counts and speed measurements along Washington Street, east of Cross Street, on Thursday March 28, 2019. Washington Street currently carries approximately 12,585 vehicles on a typical weekday in March. The 85th percentile speeds along Washington Street were measured to be 52 miles per hour (mph) in the westbound direction and 43 mph in the eastbound direction.

- 6. As previously stated, BSC recommends that the City request the Applicant to conduct weekday morning, weekday evening, and Saturday midday peak hour turning movement counts at the intersection of Washington Street at Cross Street. The Applicant should also research seasonal adjustment factors for the traffic counts and apply them accordingly.**

Crash Analysis

The Applicant provided crash data obtained from the MassDOT Crash Portal for portions of roadway “along Washington Street and Cross Street in the vicinity of the site driveways.” A total of six crashes were reported over the most recent three years of available data.

- 7. It is unclear if crash data was provided for the intersection of Washington Street at Cross Street. The Applicant should provide clarification on the location of the crashes. Crashes that occurred at the intersection of Washington Street at Cross Street should be included in the analysis and a**

crash rate should be calculated for the intersection and compared to the MassDOT District 6 average for unsignalized intersections to determine if there is an existing safety issue that should be addressed as part of the Project.

Trip Distribution and Trip Generation

The Traffic Review Letter estimates the trips generated by the Project based on the *Institute of Transportation Engineers (ITE)'s Trip Generation, 10th Edition*, using Land Use Code (LUC) 882 – Marijuana Dispensary. The trips related to the athletic club previously occupying the site were also estimated based on LUC 493 – Athletic Club. Based on the evaluation provided in the Traffic Review Letter, the dispensary is expected to generate 52 trips during the weekday morning peak hour, 109 trips during the weekday evening peak hour, and 182 trips during the Saturday midday peak hour. This represents an increase of 25 trips during the weekday morning peak hour and 56 trips during the weekday evening peak hour when compared with the former athletic club that previously occupied the site. Trip generation estimates were only provided for the re-use of 5,000 sf of the 8,500 sf building.

- 8. BSC generally agrees with the methodology to estimate the peak hour trip generation and the trip distribution for the Project. The ITE LUCs that were used are appropriate for the previous and proposed land uses. Trip generation estimates were not provided for the remaining 3,500 sf of space in the building. In order to compare trip generation characteristics between the former uses and the full re-occupancy of the building, estimates should be provided for the re-use of the additional 3,500 sf in the building.**
- 9. We recommend that the City request the Applicant to estimate the additional Saturday midday peak hour trips generated by the Project. The Project is expected to generate more trips during Saturday midday peak hour than either of the weekday peak hours. Accordingly, the Saturday peak hour should be included in any additional analyses.**
- 10. It is expected that some trips will occur by non-vehicular modes such as walking and bicycling. It is also expected that some trips may occur in the form of pass-by trips, which represent vehicles already traveling along Washington Street that stop at the site as they travel to their final destination. The Applicant should apply appropriate mode share and expected pass-by percentages to the trip generation estimates.**

Parking Analysis, Sight Distance, and Site Plan

The Applicant provided a parking analysis based on requirements of the City of Newton Zoning Ordinance. Based on the ordinance, a total of 24 spaces are required (1 space per 300 sf and an additional space per 3 employees). A total of 28 parking spaces will be provided on the site, including two accessible spaces. The parking supply meets the zoning requirements.

- 11. The parking supply shown on the site plan is adequate and meets the needs of the Project. However, the site plan shows that the Project will occupy 5,000 sf of the 8,500 sf of the existing building on the site. Should the other portion of the site become occupied, a parking analysis will be required to ensure that the parking supply is adequate to support additional future uses on the site.**

Access to the site will be provided by an entrance-only driveway along Washington Street and an exit-only driveway on Cross Street. The Cross Street driveway will be limited to left-turns only and will prohibit vehicles from traveling through the residential neighborhood north of the site.

- 12. The site plan should show the proposed traffic control at both site driveways and should clearly indicate how right-turns will be restricted from exiting the site on to Cross Street.**
- 13. An evaluation of loading, deliveries, and trash pick-up was not provided in the Traffic Review Letter. The Applicant should provide information related to these activities, including indicating the anticipated design vehicle for loading and servicing, the frequency of deliveries, and the anticipated time of day for deliveries. The Applicant should provide a design to allow all loading and servicing to occur on the site to minimize impacts to the public right-of-way and surrounding transportation network.**
- 14. An evaluation of existing pedestrian and bicycle infrastructure was not provided in the Traffic Review Letter. The Applicant should indicate the location and condition of bicycle and pedestrian facilities that serve the site. As previously noted, it is expected that this facility will generate pedestrian and bicycle trips due to the nature of its location near West Newton Square and the surrounding residential neighborhoods. Based on the requirements in the City of Newton Zoning Code (Chapter 30: Zoning Ordinance, Section 5.1.11), one bicycle space shall be provided per ten parking stalls. The Applicant should commit to providing at least three bicycle spaces and indicate where they will be located on the site plan.**

The Applicant provided a sight distance analysis at the proposed exit-only driveway along Cross Street. Based on the design speed of 30 mph, a total of 365 feet is recommended for intersection sight distance (ISD), which is the distance needed for a vehicle to exit a side street or driveway and make a left-turning maneuver onto the intersecting roadway. Based on the evaluation, adequate sight distance is provided at the Cross Street driveway.

- 15. An evaluation of sight distance was not provided for the entrance-only driveway along Washington Street. Although vehicles will not exit the driveway, sight distance should still be provided for left-turning vehicles into the site. At a minimum, stopping sight distance (SSD) should be provided for vehicles traveling along Washington Street in the westbound direction. Based on a speed of 55 mph, which is 3 mph higher than the measured 85th percentile speed, a total of 495 feet is required for SSD. The segment of Washington Street adjacent to the site is generally straight and flat and provides adequate sight distances in excess of 700 feet in both directions. No additional sight distance evaluation is needed.**

Conclusions

BSC reviewed the Traffic Review Letter submitted for the proposed marijuana dispensary located at 1089 Washington Street and 58 Cross Street. Based on the trip generation estimates presented in the letter, we recommend further study of the surrounding transportation network, including an operations analysis of the intersection of Washington Street at Cross Street. We also recommend that the City of Newton require the Applicant to respond to and address all BSC's numbered comments in this letter and submit a response letter for our review.



M E M O R A N D U M

TO: Andrea Cabral, CEO
Ascend Mass, LLC

FROM: Matthew W. Skelly, PE, PTOE

DATE: October 8, 2019

RE: 1089 Washington Street Dispensary
Transportation Demand Management Plan

In order to reduce the number of single occupancy vehicle (SOV) trips to and from the proposed cannabis dispensary located at 1089 Washington Street in Newton, Massachusetts, Ascend Mass, LLC has developed the following Transportation Demand Management (TDM) Plan. This plan is intended to function in part with the Massachusetts Bay Transportation Authority (MBTA), specifically routes 553 and 554 which both service stops at the intersection of Washington and Cross Streets. These buses provide connections to the Newtonville Commuter Rail station, and to the 59 bus which connects to the Newton Highlands Green Line stop.

The following actions will be taken by Ascend Mass, LLC in order to promote the use of the above referenced bus lines, as well as other modes of transportation:

- Provide a pre-paid CharlieCard and/or Commuter Rail pass to any employee who is able to utilize the MBTA system to commute to the dispensary. Ascend Mass, LLC intends to enroll in the MBTA Perq program, or similar replacement, in order to facilitate this process.
- Prominently display all public transit schedules in a visible location at the dispensary.
- Provide MBTA maps depicting station locations to both employees and customers in order to supply transit users with the information required to utilize the system.
- Install a secure bicycle storage area on site, with longer term storage for employees and shorter term storage for customers.
- Enroll employees in the LimeBike program, a dockless bike share that will help employees (or customers) connect to the Commuter Rail and Green Line.
- Reimburse employees who regularly walk to work the cost of a new pair of walking shoes each calendar year.
- Incentivize employees to carpool with small bonuses or other programs as appropriate.
- If necessary, Ascend Mass, LLC may also provide a shuttle, or vouchers for transportation network companies (e.g. Uber or Lyft) in order to make last mile connections to transit.



October 25, 2019

Ms. Katie Whewell
Planning Associate
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Re: Transportation Peer Review – Marijuana Dispensary – Response to Comments
58 Cross Street/1089 Washington Street
Newton, Massachusetts

Dear Ms. Whewell:

This letter will serve as a response to traffic engineering comments submitted by BSC Group on September 26, 2019. The comments are reprinted in *italics* with our response below. Additionally, a technical memorandum has been prepared to address comments 1, 2, 6, and 9, and is attached to this letter. The memorandum will be referenced as appropriate throughout this letter.

Study Methodology

1. BSC recommends the City request the Applicant to conduct peak hour turning movement counts during the weekday morning, weekday evening, and Saturday midday peak hours at the intersection of Washington Street at Cross Street.

Weekday morning, afternoon, and Saturday peak hour counts have been conducted at the intersection of Washington Street and Cross Street. The data is included in the attached technical memorandum.

2. A traffic operations analysis should be conducted at the intersection of Washington Street at Cross Street and the driveway locations for the Existing, No-Build, and Build conditions, in accordance with the MassDOT Traffic Impact Assessment (TIA) Guidelines, to determine if improvements or modifications to existing traffic controls are needed to accommodate the Project.

Based on the turning movement counts conducted in response to comment 1, capacity and queue analysis was performed for the Build and No-Build scenarios during the weekday morning, afternoon, and Saturday peak hours using Synchro Professional Software, version 10. The analysis is detailed in the attached technical memorandum.

3. Mitigation was not proposed in the Traffic Review Letter. Based on the results of an operations analysis, mitigation should be explored to offset any Project-related impacts. At a minimum, the Applicant should

108 Myrtle Street
Suite 502
Quincy, MA
02171
t 617.282.4675
800.286.2469
f 617.481.5885
www.fando.com

California
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Ms. Katie Whewell

October 25, 2019

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upgrade the exiting sidewalks adjacent to the Project site and ensure that they are compliant with the requirements of the Americans with Disabilities Act (ADA). A crosswalk should be installed across Cross Street at its intersection with Washington Street and the curb ramps should be reconstructed to include detectable warning panels.

The crosswalk will be included on the final site plan if requested by City staff. In addition, all sidewalks along the site frontage will be reconstructed as part of this project.

4. The Applicant should develop a transportation demand management (TDM) plan to reduce the number of single occupancy vehicles that travel to the site.

A transportation demand management (TDM) plan, dated October 8, 2019, was submitted to Ascend Mass, LLC and has been attached to this letter.

5. The Applicant should include a description and qualitative evaluation of the pedestrian and bicycle friendly facilities that serve the Project site. Due to the site's location near West Newton Square, we expect that some of the trips to and from the site will be made by non-motorized modes of travel

Eleven foot sidewalks exist along the site frontage on Washington Street and narrow to five feet as they transition to Cross Street. Sidewalks are in fair condition and slope down at driveways and intersections; however no formal ramps are installed within the study area. All sidewalks along the site frontage will be reconstructed as part of this project.

Washington Street provides two ten-foot travel lanes and a seven foot on-street parking lane in both the eastbound and westbound directions. While there are no sharrows markings in the area, cyclists were observed utilize the travel lanes as well as the sidewalks regularly.

Study Methodology

6. As previously stated, BSC recommends that the City request the Applicant to conduct weekday morning, weekday afternoon, and Saturday midday peak hour turning movement counts at the intersection of Washington Street at Cross Street. The Applicant should also research seasonal adjustment factors for the traffic counts and apply them accordingly.

As previously stated in response to comments 1 and 2, peak hour counts were conducted and grown based on seasonal and background adjustment factors obtained from MassDOT. Details on this process and the analysis can be found in the attached technical memorandum.

Crash Analysis

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7. It is unclear if crash data was provided for the intersection of Washington Street at Cross Street. The Applicant should provide clarification on the location of crashes. Crashes that occurred at the intersection of Washington Street at Cross Street should be included in the analysis and a crash rate should be calculated for the intersection and compared to the MassDOT District 6 average for unsignalized intersections to determine if there's an existing safety issue that should be addressed as part of the Project.

All crashes identified in the crash analysis were located at the intersection of Washington Street and Cross Street. No crashes were identified along the site frontages outside of the intersection.

Using the MassDOT Intersection Crash Rate Worksheet, the crash rate for this intersection was calculated to be 0.42 which is lower than the District 6 average crash rate which is 0.52 for an unsignalized intersection. The worksheet for this intersection is attached to this letter.

Trip Distribution and Trip Generation

8. BSC generally agrees with the methodology to estimate the peak hour trip generation and the trip distribution for the Project. The ITE LUCs that were used are appropriate for the previous and proposed land uses. Trip generation estimates were not provided for the remaining 3,500 sf of space in the building. In order to compare trip generation characteristics between the former uses and the full re-occupancy of the building, estimates should be provided for the re-use of the additional 3,500 sf in the building

It is anticipated that an amendment to the Special Permit will be required in order for the remaining 3,500 square feet of the existing building to be used, otherwise it must remain vacant.

9. We recommend that the City requests the Applicant to estimate the additional Saturday midday peak hour trips generated by the Project. The Project is expected to generate more trips during Saturday midday peak hour than either of the weekday peak hours. Accordingly, the Saturday peak hour should be included in any additional analysis.

The trip generation during the Saturday midday peak hour is expected to be 182 total vehicles (91 entering, 91 exiting). Based on this data, Saturday peak hour analysis was performed and is included in the attached technical memorandum.

10. It is expected that some trips will occur by non-vehicular modes such as walking and bicycling. It is also expected that some trips may occur in the form of pass-by trips, which represent vehicles already traveling along Washington Street that stop at the site as they travel to their final destination. The Applicant should apply appropriate mode share and expected pass-by percentages to the trip generation estimates.

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It is expected that initially, cannabis retail stores will likely have mode shares that are more similar to a destination retail store for the first few years. While some trips are expected to occur by non-vehicular modes of transportation, for the purpose of this study it was a conservative assumption to count all trips as new vehicular trips in order to analyze the surrounding roadway network.

11. The parking supply shown on the site plan is adequate and meets the needs of the Project. However, the site plan shows that the Project will occupy 5,000 sf of the 8,500 sf of the existing building on the site. Should the other portion of the site become occupied, a parking analysis will be required to ensure that the parking supply is adequate to support additional future uses on site.

As stated regarding comment #8, it is anticipated that without an amendment to the special permit, the remaining 3,500 square feet of the existing building is to remain vacant.

12. The site plan should show the proposed traffic control at both site driveways and should clearly indicate how right-turns will be restricted from exiting the site on to Cross Street.

A copy of the site plan has been included with this submission.

13. An evaluation of loading, deliveries, and trash pick-up was not provided in the Traffic Review Letter. The Applicant should provide information related to these activities, including indicating the anticipated design vehicles for loading and servicing, the frequency of deliveries, and the anticipated time of day for deliveries. The Applicant should provide a design to allow all loading servicing to occur on site to minimize impacts to the public right-of-way and surrounding transportation network.

Deliveries and trash pickups will all be scheduled during off-peak hours, and will occur in an area enclosed by fence on the east side of the building. The deliveries will all be made by van. Since delivery schedules are highly regulated they will be randomized as much as possible. This will help to minimize impacts to the public right-of-way and surrounding transportation network.

14. An evaluation of existing pedestrian and bicycle infrastructure was not provided in the Traffic Review Letter. The Applicant should indicate the location and condition of bicycle and pedestrian facilities that serve the site. As previously noted, it is expected that this facility will generate pedestrian and bicycle trips due to the nature of its location near West Newton Square and the surrounding residential neighborhoods. Based on the requirements in the City of Newton Zoning Code (Chapter 30: Zoning Ordinance, Section 5.1.11), one bicycle space shall be provided per ten parking stalls. The Applicant should commit to providing at least three bicycle spaces and indicate where they will be located on the site plan.

Ms. Katie Whewell

October 25, 2019

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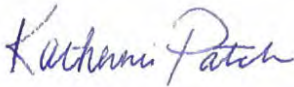
As previously stated in response to comments 5, sidewalks are present in the vicinity of the site and are in fair condition. At least three bicycle spaces will be provided.

15. An evaluation of sight distance was not provided for the entrance-only driveway along Washington Street. Although vehicles will not exit the driveway, sight distance should still be provided for left-turning vehicles into the site. At a minimum, stopping sight distance (SSD) should be provided for vehicles traveling along Washington Street in the westbound direction. Based on a speed of 55 mph, which is 3 mph higher than the measured 85th percentile speed, a total of 495 feet is required for SSD. The segment of Washington Street adjacent to the site is generally straight and flat and provides adequate sight distances in excess of 700 feet in both directions. No additional sight distance evaluation is needed.

Noted.

We respectfully request your prompt review of the enclosed materials. We trust that this information will be sufficient; however, if you should require additional information or have any questions, please contact me.

Sincerely,



Katherine Patch, EIT
Transportation Engineer



Matthew W. Skelly, PE, PTOE
Senior Transportation Engineer

Enclosures: Technical Memorandum, October 25, 2019
Intersection Crash Rate Worksheet
Transportation Demand Management Plan, October 8, 2019
Turning Movement Counts, October 2 and 19, 2019
Site Plan

cc: Andrea Cabral, CEO – Ascend Mass, LLC
Stephen Buchbinder, Esq.



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As previously stated in response to comments 5, sidewalks are present in the vicinity of the site and are in fair condition. At least three bicycle spaces will be provided.

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Noted.

We respectfully request your prompt review of the enclosed materials. We trust that this information will be sufficient; however, if you should require additional information or have any questions, please contact me.

Sincerely,

Katherine Patch, EIT
Transportation Engineer

Matthew W. Skelly, PE, PTOE
Senior Transportation Engineer

Enclosures: Intersection Crash Rate Worksheet
Technical Memorandum, October 25, 2019
Turning Movement Counts, October 2 and 19, 2019
Transportation Demand Management Plan, October 8, 2019

cc: Andrea Cabral, CEO – Ascend Mass, LLC
Stephen Buchbinder, Esq.

TECHNICAL MEMORANDUM

TO: Andrea Cabral, CEO
Ascend Mass, LLC

FROM: Matthew W. Skelly, PE, PTOE
Katherine Patch, EIT

DATE: October 25, 2019

RE: Additional Traffic Analysis
1089 Washington Street Ascend Dispensary
Newton, Massachusetts

This memorandum will serve as an addendum to the preliminary traffic review letter dated August 1, 2019 discussing the impact of the proposed adult use cannabis dispensary at 58 Cross Street/1089 Washington Street in Newton, Massachusetts. The intention of the previously submitted letter was to provide a high level review of the traffic, transit, pedestrian and bicycle infrastructure and conditions in the vicinity of the site. This memorandum will provide a more detailed analysis of those parameters, specifically focused on the traffic conditions and other comments submitted on September 26, 2019 by BSC Group.

Adjacent Roadway Network

The adjacent roadway network consists of the following roadways:

- Washington Street
- Cross Street

Other nearby roadways include Wiswall Street, Parsons Street, and Eddy Street. It is unreasonable to expect that any of these roadways will experience a noticeable increase in traffic as a result of the proposed development.

Washington Street is an east/west roadway that runs throughout the City of Newton with varying roadway characteristics. In the vicinity of the site the roadway carries four lanes of travel, two in each direction, with a posted speed limit of 35 miles per hour. It is classified by the Commonwealth and City as an urban minor arterial roadway. On-street parking is provided on both sides of the street, and a sidewalk is provided on the north side. No dedicated bicycle facilities are currently provided, however it should be noted that the City of Newton is currently undertaking a significant planning effort regarding Washington Street that is likely to change many of its characteristics, however the results of that effort are not yet available at the time of this study.

Ms. Andrea Cabral
October 25, 2019
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Cross Street is a north/south local roadway running for approximately 800 feet between Washington Street and Watertown Street. The posted speed limit is 25 miles per hour and sidewalks are provided on both sides, and no parking restrictions currently exist on the roadway. It should be noted that Cross Street is a narrow roadway, carrying a typical width of approximately 18 feet.

Study Area Intersection

The intersection of Washington Street and Cross Street was reviewed for this study. It is an unsignalized "T" shaped intersection with Cross Street providing the southbound approach and Washington Street providing the eastbound and westbound approaches. The southbound Cross Street approach provides one combined left/right turn lane. The eastbound Washington Street approach provides a dedicated through lane and a combined through/left turn lane. The westbound Washington Street approach provides a dedicated through lane and a combined through/right turn lane. As previously stated, on-street parking is permitted on both sides of both roadways, and no dedicated bicycle facilities are provided.

Traffic Volumes, Speeds, and Counts

The greatest potential for traffic impact on the roadway network by the proposed dispensary will occur during the weekday morning and afternoon peak hours, the periods when commuter related trips are at their highest levels, and the midday on Saturday, when the dispensary is expected to generate the most trips. In order to determine the traffic impact of the proposed development on adjacent street traffic, representatives of Fuss & O'Neill conducted peak hour turning movement counts (TMCs) on Wednesday, October 2, 2019 and Saturday, October 19, 2019. These peak hours were subsequently analyzed for impacts.

According to Massachusetts Department of Transportation (MassDOT) standards, traffic volume data must be reviewed to account for seasonal fluctuation. MassDOT traffic count data indicates that the background traffic volumes during the month of October are approximately eight percent higher than the yearly average, and as such the counts were not adjusted for any seasonal growth. Those volumes are depicted in the attached Figure 3. The counts were grown to a design year of 2026 at a rate of 0.5 percent per year, through review of historic count data and consultation with City of Newton staff. Those 2026 No-Build volumes are depicted in the attached Figure 4.

Fuss & O'Neill also contacted City of Newton staff in order to identify other permitted developments in the vicinity of the site expected to generate traffic in the study area. No such developments were identified.

Proposed Conditions

As stated in the August 1, 2019 Traffic Review Letter, the development is expected to generate a total of 52 vehicle trips (29 entering, 23 exiting) during the weekday morning peak hour, 109 vehicle trips (54

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entering, 55 exiting) during the weekday afternoon peak hour, and 182 vehicle trips (91 entering, 91 exiting) during the Saturday peak hour.

For all three periods of analysis, the site generated traffic was distributed to the roadway system based on the arrival/departure distributions presented in the August 1, 2019 Traffic Review Letter. Those volumes were then added to the No-Build volumes to yield the 2026 Build volumes shown in the attached Figure 5.

It should be noted that the capacity analysis compares the build volumes to a vacant site. In order to provide a conservative analysis, credit for trips generated by the previous Health Club use, which generated approximately half as many trips as the proposed dispensary, was not taken.

Intersection Capacity Analysis

Capacity analyses for the unsignalized intersections was conducted using Synchro Professional Software, version 10.0.

In discussing intersection capacity analyses results, the term level of service (LOS) is used to describe the operating condition of the intersection.

LOS is a measure of the delay experienced by stopped vehicles at an intersection. LOS is rated on a scale from A to F, with A describing a condition of very low delay (less than 10 seconds per vehicle), and F describing a condition where delays will exceed 50 seconds per vehicle.

The definition for LOS, as well as the methodology for conducting unsignalized intersection capacity analyses, are taken from the "Highway Capacity Manual 6th Edition" published by the Transportation Research Board.

In discussing two way stop controlled unsignalized intersection capacity analyses, LOS is used to provide a description of the delay and operational characteristics of the turns from the minor street (stop sign controlled) to the major street, and turns from the major street to the minor street. Through vehicles are not delayed by the minor street and do not experience delay, therefore they are not rated with a level of service.

Using the above referenced methodologies, weekday morning and afternoon and Saturday midday peak hour capacity analyses were conducted at the intersection of Washington Street and Cross Street. A summary of the results is included in Table 1 below.

The Washington Street eastbound left turn onto Cross Street experience no change in delay between the No-Build and Build conditions.

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The Cross Street southbound approach experiences a small increase in average delay per vehicle in each peak hour between the No-Build and Build conditions. The capacity analysis indicates that the average delay experienced per vehicle will increase by 1.8 seconds during the morning peak hour, by 5.8 seconds during the afternoon peak hour, and by 4.5 seconds during the Saturday peak hour.

Table 1 – Critical Movement Average Delay per Vehicle

Stop Controlled Intersections (Critical Movements)	2026 Morning Peak Hour		2026 Afternoon Peak Hour		2026 Saturday Peak Hour	
	No-Build	Build	No-Build	Build	No-Build	Build
Washington Street at Cross Street						
Eastbound Left Turn	8.4 sec	8.4 sec	9.0 sec	9.0 sec	8.4 sec	8.4 sec
Southbound Approach	13.6 sec	15.4 sec	13.8 sec	19.6 sec	13.8 sec	18.3 sec

The eastbound left turn operates at LOS A in all conditions. The threshold between LOS B and LOS C for unsignalized intersection approaches is 15 seconds. Therefore, the southbound approach changes from LOS B to LOS C in all conditions as a result of the site generated traffic, despite the de minimis increase in the average delay.

Also analyzed was the stop controlled site driveway egress onto Cross Street. The driveway exiting the site is expected to operate at LOS A during all Build conditions. Copies of the Synchro analysis reports have been included as an attachment to this memorandum.

Queue Analysis

No-Build and Build condition 95th percentile (design) queue lengths were also reviewed at the study intersection. The 95th percentile vehicle queue lengths represent the maximum queue lengths that can be expected at each of the critical approach lanes of the study intersection. The queue lengths are provided in the attached Synchro capacity analysis worksheets. Table 2 below provides a summary of the queue lengths for the critical lanes.

Queue lengths are not expected to increase between the No-Build and Build conditions by more than one to two vehicle lengths on either critical movement in any peak hour.

Table 2 –Peak Hour Queue Length Summary

Peak Hour	Approach Lane	2026 No-Build	2026 Build
Morning	Eastbound Left Turn	0 veh*	0 veh
	Southbound Approach	0.4 veh	0.7 veh
Afternoon	Eastbound Left Turn	0.1 veh	0.1 veh
	Southbound Approach	0.4 veh	1.6 veh
Saturday	Eastbound Left Turn	0.1 veh	0.1 veh
	Southbound Approach	0.2 veh	1.5 veh

* values listed are vehicle lengths, typically 20-25 feet per vehicle

Conclusion

The purpose of this memorandum is to address the comments raised in the BSC Group peer review letter dated September 26, 2019 specifically with regard to traffic analysis, and will be submitted accompanying a formal response to comment letter. This memorandum is intended to serve as an addendum to the Traffic Review Letter dated August 1, 2019 which includes greater detail about the proposed site and general transportation characteristics.

Peak hour turning movement counts were conducted at the intersection of Washington Street and Cross Street in Newton during October, 2019. The data collected was grown to an analysis year of 2026 according to MassDOT Transportation Impact Assessment (TIA) standards to develop a No-Build condition. The previously determined trips expected to be generated by the proposed dispensary were added to the No-Build volumes in order to create a Build condition. Both conditions were analyzed for the weekday morning, afternoon, and Saturday peak hours.

Capacity analysis indicates that on average, motorists can be expected to experience no more than 6 seconds of additional delay in any peak hour as a result of the trips associated with the site. The study intersection of Washington Street at Cross Street operates acceptably at LOS C or better in all conditions. Queue lengths are expected to increase by no more than one to two vehicle lengths between the No-Build and Build conditions in any peak hour of analysis.

It is the opinion of Fuss & O'Neill at the proposed development will have no significant impact on traffic delays or queues at the intersection of Washington Street and Cross Street.



October 4, 2019

Dr. Greg Schwartz
Chair, Newton Land Use Committee
1000 Commonwealth Ave
Newton Centre, MA 02459

Re: Ascend Mass Dispensary, Washington Street, Newton, MA

Dear Dr. Schwartz-

I have been requested by residents of Cross Street in West Newton to review the traffic study and parking plan of August 1, 2019 prepared by Fuss & O'Neill (F&O) on behalf of Ascend Mass Dispensary for their proposed marijuana dispensary at 58 Cross Street/1089 Washington Street. I have also reviewed an alternative parking plan that was presented to Ascend by the neighborhood dated 6-20-19 (attached). This letter offers a summary of my review.

Trip Generation

F&O calculated trip generation based on the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition, which included trip rates for Marijuana Dispensary (Land Use Code 882) based on counts at 4 dispensaries in Oregon and Colorado. The source information provided in their attachments clearly indicate the wide disparity in the trip rate data. Given the limited data set, confidence in the estimates of expected traffic to be generated by the proposed facility would be bolstered by actual counts from recently opened facilities in Massachusetts.

Parking Demands

F&O demonstrates that the parking provided meets (or exceeds) zoning requirements (1 space/300 SF of retail space plus 1 space/3 employees). They do not provide an assessment of the adequacy of this parking supply based on expected demands. The proponent should demonstrate how the proposed supply will serve peak period demands based on anticipated arrival and processing rates for customers. They should also clarify peak employee demands and designated parking spaces. (Online estimates

indicate that people typically spend 15 to 30 minutes at other Massachusetts dispensaries). If the on-site parking is inadequate to serve peak demands, the proponent should estimate the availability of on-street parking to accommodate overflow demands.

Parking Layout/Operations

The proposed layout of the parking lot seeks to maximize the number of on-site parking spaces while providing some level of internal landscaping features. I have concerns, however, about the geometry of this layout, especially in the vicinity of the lot entrance from Washington Street and in particular with the placement of and access to the designated HP parking spaces. Access to these spaces, based on the current geometry, will require a multi-point turn for most vehicles, risking additional congestion at the driveway and queuing of vehicles onto Washington Street. This situation is further exacerbated by the lack of a recirculation lane from this parking aisle (forcing vehicles to enter and exit at the same location). The Proponent should explore the viability of relocating the HP spaces to the northeast corner of the lot with an accessible path, unimpeded by traffic, to the front door. Furthermore, if employees will be parking on-site, it may be beneficial to have them park in the aisle closest to Washington Street to minimize turnover in this portion of the lot. Finally, with respect to operations, I will simply point out that a left-turn only restriction onto Cross Street is difficult to ensure without active enforcement.

Alternative Parking Layout

I was also asked to review the alternative parking layout generated by a local landscape architect (see attached). This plan addresses the concerns that I have with the current site plan, improves site circulation with a one-way flow with opportunity to recirculate, and offers on-site queuing space that will minimize the potential for site traffic to spill over onto the public way. This option appears to satisfy the zoning requirements but provides 4 fewer spaces than the current proposal. It is my opinion that it should be considered in conjunction with a more complete site circulation/parking analysis and review.

Respectfully submitted,

A handwritten signature in black ink, reading "Ruth M. Bonsignore". The signature is fluid and cursive, with the first name "Ruth" being more prominent and the last name "Bonsignore" following in a similar style.

Ruth M. Bonsignore, P.E. (MA)
Principal, Flink Consulting LLC

0 10 20 30 40 50 FEET WASHINGTON STREET

DATE: 6/20/19

1089 WASHINGTON ST,
4- 5000 S.F.

4- 3000 S.F.

DUMPSTER PICK-UP

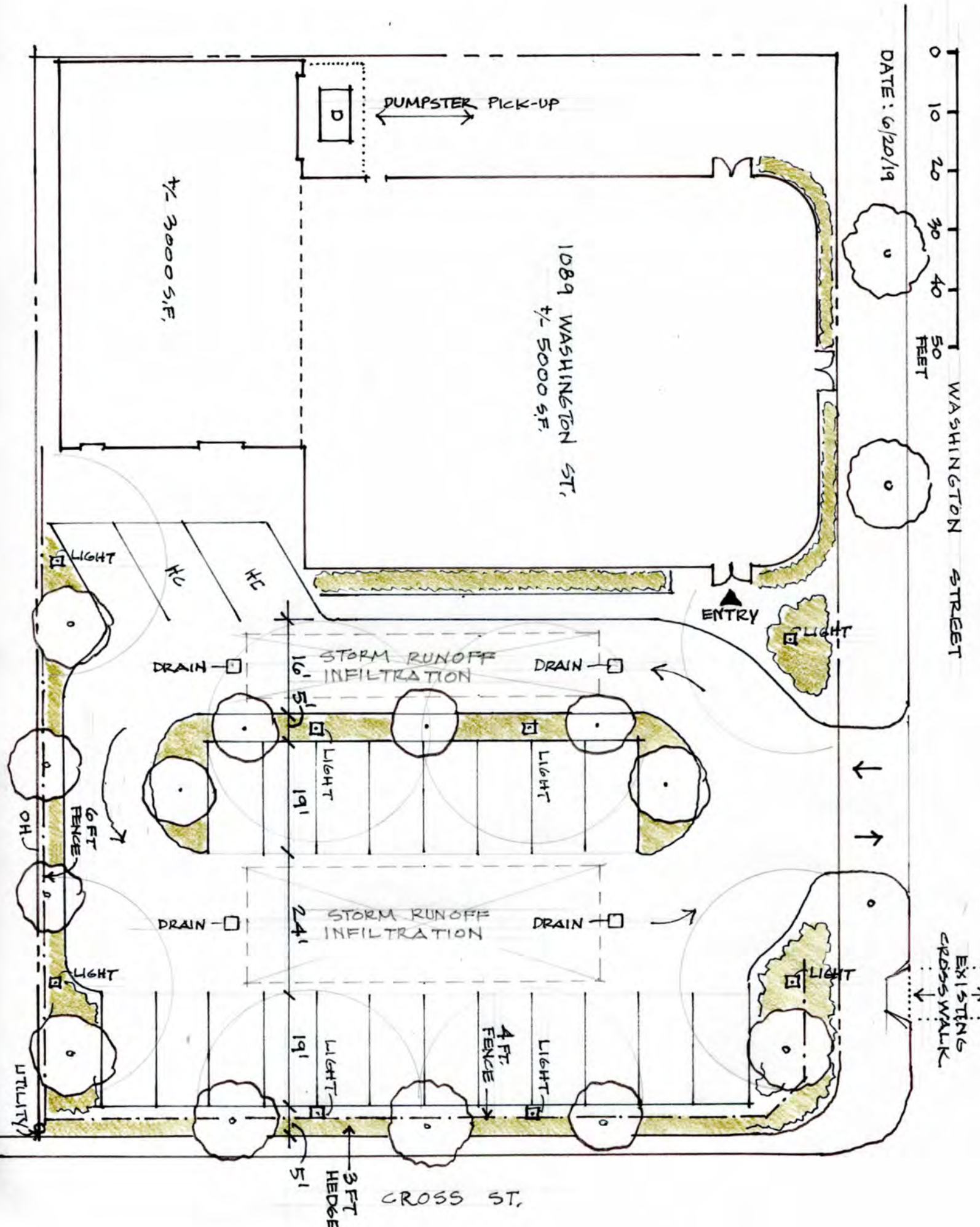
ENTRY

STORM RUNOFF INFILTRATION

STORM RUNOFF INFILTRATION

EXISTING CROSSWALK

CROSS ST.



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IV. Special Permit Criteria

The Applicant respectfully submits that it has satisfied the criteria for obtaining a Special Permit from the City Council set forth in the Process and the Ordinance as follows:

Section 6.10.3 Registered Marijuana Use

- A. **Purpose.** The purpose of this Sec. 6.10.3 is to provide for the limited establishment of Registered Marijuana Dispensaries ("RMDs") and adult use Marijuana Establishments within the City as they are authorized pursuant to state regulations set forth in 105 CMR 725.000 and 935 CMR 500.000. Since RMDs and Marijuana Establishments are strictly regulated by the Massachusetts Department of Public Health and the Cannabis Control Commission, the intent of this Sec. 6.10.3 is to permit RMDs and Marijuana Establishments where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

The Applicant respectfully submits that its proposal satisfies the purpose and intent of Section 6.10.3 of the Ordinance as it is proposing to site a Marijuana Retailer within the BU2 zoning district. The BU2 Zoning district has been deemed an appropriate location for Marijuana Retailers, pursuant to the Host Community Agreement from the Mayor's Office and subject to a Special Permit from the City Council.

The Applicant respectfully submits that the Property is ideally situated for a Marijuana Retailer. The Property has adequate access to Washington Street, a regional roadway. The Property is located near Route 16 and Interstate Highway 90, providing additional access across the Commonwealth. Additionally, the Property has ample access to public transportation options, including the MBTA 553 and 554 bus lines, which stop in front of the Property, and the West Newton and Newtonville Commuter Rail stations are under a fifteen-minute walk from the Marijuana Retailer.

Pursuant to the Applicant's proposed security plan, attached hereto and incorporated herewith, the Applicant respectfully submits that its Marijuana Retailer's security plan and procedures will be put in place by Kroll Inc., an international security firm, and its managing director of their Boston Office, Daniel Linskey, a 27-year veteran of the Boston Police Department and former Superintendent-in-Chief of the Boston Police Department. The Applicant will provide direct video feed access to its video surveillance system and will work with local law enforcement and the Cannabis Control Commission to ensure its video cameras are properly positioned within the Marijuana Retailer.

The Property is also ideally located in that it will not adversely impact the character of the neighborhood. The Property located in a commercial business corridor and neighbors' multiple businesses including Trader Joes, Oakley Food Mart, Alpha Cleaners, and a few furniture and auto repair shops. Furthermore, the segment of Washington Street which the Property is on is only fronted by

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buildings and businesses on one side of the street, as the other side of the street is buffer zone for Interstate Highway 90, so there is minimal impact to the neighborhood. Ascend also proposes fencing on the sides of the Property directly abutting residential houses to minimize its impact on its neighbors.

B. Definitions.

The Applicant respectfully submits that it is proposing to site a Marijuana Retailer, which is defined in the Newton Zoning Ordinance as an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Per the Newton Zoning Ordinance, a Marijuana Retailer is a type of Marijuana Establishment.

- C. Marijuana uses not Allowed As-of-Right. Marijuana uses are not included within the definition of retail sales or services, agriculture, manufacturing, research, or any other lawful business permitted as of right or by special permit as provided in this Chapter.**

Pursuant to this application the Applicant respectfully submits that it is in compliance with this requirement.

- D. Marijuana uses allowed by special permit. Use of land, buildings or structures for an RMD or Marijuana Establishment shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3.**

Pursuant to this application the Applicant respectfully submits that it is in compliance with this requirement.

E. Minimum criteria and limitations on approval

- 1. An RMD shall not be located within a radius of 500 feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, and a Marijuana Retailer shall not be located within a radius of 500 feet from an existing public or private k-12 school, unless the City Council finds that the RMD or Marijuana Retailer is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the facility.**

The Property is not located within a radius of 500 feet from an existing public or private K-12 school. Please see the context map included with the Plans and incorporated herein.

2. **An RMD or Marijuana Establishment shall be properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission pursuant to 105 CMR 725.100 or 935 CMR 500.100 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD or Marijuana Establishment that is not properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission. The RMD or Marijuana Establishment shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance and shall immediately notify said clerk if its registration is not renewed or is revoked. The RMD or Marijuana Establishment shall provide the Newton Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.**

The Applicant hereby submits that it shall diligently pursue registration from the Cannabis Control Commission pursuant to 935 CMR 500.000 *et. seq.* and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. The Applicant further pledges to file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance and shall immediately notify said clerk if its registration is not renewed or is revoked. The Applicant shall provide the Newton Police Department with the names and contact information for all management staff and shall notify the police department of any changes.

3. **A special permit granted by the City Council authorizing the establishment of an RMD or Marijuana Establishment shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the RMD or Marijuana Establishment has been authorized by the special permit. If the registration for the RMD or Marijuana Establishment is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.**

The Applicant hereby submits that it shall maintain the registered entity for which the special permit is issued on the Property.

4. **An RMD or Marijuana Establishment shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.**

The Applicant hereby submits that the Marijuana Retailer will be located within a restored and renovated freestanding permanent building and all sales shall be conducted either within the building to qualified customers pursuant to applicable state regulations.

5. **An RMD or Marijuana Establishment shall be subject to the number of parking stalls required in Sec. 5.1 unless a lesser or greater number of stalls is required by the City Council based on the transportation analysis provided by the applicant. An RMD or Marijuana Retailer shall comply with the parking requirements for Retail uses; a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Microbusiness, or Marijuana Product Manufacturer shall comply with the parking requirements for Manufacturing; and a Marijuana Research Facility or Independent Testing Laboratory shall comply with the parking requirements for Research, Laboratory.**

Pursuant to the Plans, the Applicant respectfully submits that it is in compliance with this requirement. The Applicant is proposing to include 25 parking spaces on site, exceeding the required number of parking stalls pursuant to Section 5.1 of the Ordinance. Pursuant to Section 5.1.4, and as determined in the Zoning Review Memorandum, retail uses are required to have one (1) parking stall per every three (3) employees at the highest shift plus one (1) parking stall per three hundred (300) square feet of retail space. The Marijuana Retailer is proposed to be 4,973 square feet and combined with the proposed 15 employees during the peak shift, the Ordinance therefore requires 22 parking spaces, or three (3) fewer than the allotted 25 parking spaces.

6. **All signage shall conform to the requirements of 105 CMR 725.105(L) and 935 CMR 500.105(4) and to the requirements of Sec. 5.2. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD or Marijuana Establishment. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.**

The Applicant hereby submits that it will comply with this requirement. All signage at the Marijuana Retailer be subject to review and approval by the Cannabis Control Commission and shall conform to 935 CMR 501.105(12), 935 CMR 500.105(4) and Section 5.2 of the Ordinance. No graphics, symbols or images of marijuana or related paraphernalia will be displayed or clearly visible from the exterior of the Marijuana Retailer.

7. **The RMD or Marijuana Retailer's hours of operation shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall the Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m.**

The Applicant hereby submits that it shall comply with this requirement.

8. **The number of Marijuana Retailers shall not exceed 20 percent of the number of liquor licenses issued in the City pursuant to G.L. c.138 § 15 (commonly known as "package stores").**

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The Applicant respectfully submits that to the best of its knowledge and belief, there is currently only one (1) licensed Marijuana Retailer in the City. Accordingly, should it receive a license, the Applicant shall not violate this requirement.

- 9. No RMD or Marijuana Retailer shall be located within a radius of one half-mile of an existing or approved RMD or Marijuana Retailer. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the existing RMD or Marijuana Retailer. The co-location of a RMD and Marijuana Retailer on the same site shall not be subject to this buffer requirement.**

The Applicant hereby submits that the Marijuana Retailer will not be located within a radius of one half-mile of an existing or approved RMD or Marijuana Retailer. The nearest Marijuana Retailer is Garden Remedies, which is 0.9 miles away from the Property. Please see the attached context map.

- 10. No RMD or Marijuana Establishment shall be located within a building containing a residential use.**

The Applicant hereby submits that the Building currently located on the Property that will host the proposed Marijuana Retailer is a standalone building. The Marijuana Retailer will occupy the whole Building, therefore no residential uses will be within the same Building.

- 11. No RMD or Marijuana Retailer or co-located facility shall exceed 5,000 square feet of floor area.**

The Applicant hereby submits that it is in compliance with this requirement as the proposed Marijuana Retailer is approximately 4,973 square feet of floor area.

- 12. All RMDs and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.**

The Applicant respectfully submits that it has submitted a preliminary security plan along with this submittal and also pledges to submit a state approved security plan to the Newton Police Department for review and approval.

- 13. All RMDs and Marijuana Establishments shall submit a state approved emergency response plan to the Newton Police Department and Newton Fire Department for review and approval.**

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The Applicant will provide the Newton Police Department and Newton Fire Department copies of its emergency response plan.

- 14. All RMDs and Marijuana Establishments shall submit a state approved Operation and Management Plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.**

The Applicant shall submit its state approved plans as required in the Management and Operations Profile application to the Inspectional Services Department and the Department of Planning and Development for review and approval.

- 15. An RMD or Marijuana Retailer located at the ground level shall provide at least 25 percent transparency along building's front façade at ground level and existing buildings shall not be modified to reduce the transparency of the front façade at the ground level to below 25 percent, unless the City Council finds impacts to security and aesthetics have been appropriately mitigated.**

Please see the attached Plans for further details on the Applicant's proposal.

- 16. Any marijuana cultivation shall offset 100 percent of energy used for cultivation through renewable energy, either by any combination of purchasing Renewable Energy Certificates through the State, generating renewable energy onsite, and/or through Newton Power Choice, if available.**

The Application respectfully submits that this requirement is not applicable, this application is for a Marijuana Retailer.

- 17. The RMD or Marijuana Establishment shall be ventilated in such a manner that no:**
 - a. Pesticides, insecticides, or other chemicals or products in cultivation or processing are dispersed into the outside atmosphere; or**
 - b. Odor from marijuana may be detected by a person with a normal sense of smell at the exterior of the building or at any adjoining use or property.**

The Applicant hereby submits that it will use industry best practices to ventilate its proposed Marijuana Retailer and shall comply with the aforementioned requirements to the extent reasonably practicable. Furthermore, this application is for a Marijuana Retailer, not a cultivator, and as such will not include the active use of any pesticides, insecticides, or other chemicals or products relating to cultivation.

- 18. A Marijuana Research Facility may not sell marijuana cultivated under its research license.**

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The Application respectfully submits that this requirement is not applicable, this application is for a Marijuana Retailer.

- 19. Marijuana Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Marijuana Establishment.**

The Applicant hereby submits that it shall comply with all rules and regulations enacted by the City of Newton regarding delivery and consumption of cannabis.

F. Special Permit Application and Procedure

- 1. Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.**

The Applicant respectfully submits that this Application provides the materials necessary for the Land Use Committee to conduct a thorough and comprehensive review of this proposal. To the extent additional information is required, the Applicant shall provide such additional information.

- 2. RMD Service Area: Applications for an RMD shall include a map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD's exist or have been proposed within the expected service area.**

N/A, this application is associated with a Marijuana Retailer, not an RMD.

- 3. RMD and Marijuana Retailer Transportation Analysis: An application for an RMD or Marijuana Retailer shall include a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Director of Planning and Development and the Director of Transportation, analyzing the proposed new vehicular trips, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site. An RMD or Marijuana Retailer that does not provide the number of parking stalls required per this Sec. 6.10.E.6. shall also provide a parking study.**

The Applicant hereby submits its Transportation Letter as prepared by Fuss & O'Neil, a copy of which is attached hereto and incorporated herewith.²

² Please note, the Transportation Letter identified a total of 28 on-site parking stalls, however that amount is reduced in this submission as a result of the correctly identified total number of employees

4. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.

The Applicant hereby submits its Site Lighting Photometric Plan as prepared by Fuss & O'Neill, a copy of which is attached hereto and incorporated herewith.

5. **Context Map:** A map depicting all properties and land uses within a minimum 1,000-foot radius of the proposed lot, whether such uses are located in the City or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in paragraph D.1 above.

The Applicant hereby submits a context map as prepared by Fuss & O'Neill and indicates that Collegewise Consulting, a college preparation company, is located at 1185 Washington Street, Newton, MA, and In Home Jams, offering music lessons, is located at 230 Austin Street, Newton, MA.

6. **Registration Materials:** Copies of registration materials issued by the Massachusetts Department of Public Health or Cannabis Control Commission and any materials submitted to that Department for the purpose of seeking registration, to confirm that all information provided to the City Council is consistent with that provided to the Massachusetts Department of Public Health or Cannabis Control Commission.

The Applicant hereby submits that it shall provide copies of all required registration materials upon submission to the Cannabis Control Commission.

G. Special Permit Criteria

1. Criteria for all marijuana uses:

- a. **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 lot, whether driving, bicycling, walking or using public transportation.**

The Property is located in the BU2 district, which is one of the limited areas that the City of Newton has permitted the use of property as a Marijuana Retailers, subject to the granting of a Special Permit from the City Council. The Property has adequate access to Washington Street. Additionally, the Property has

per shift, and to accommodate enhanced landscaping, and other changes to the plan, as a part of the community process.

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ample access to public transportation options, including the MBTA 553 and 554 bus lines which stop in front of the Marijuana Retailer and the West Newton and Newtonville Commuter Rail stations, approximately a fifteen-minute walk from the Marijuana Retailer.

The Applicant respectfully submits that the Property as it is currently designed provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the Property by multiple means of transportation.

b. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

The Applicant shall be conducting an interior fit-up of the existing building located on the Property. It shall design loading, refuse and services areas in compliance with state regulations subject to review and approval by the Cannabis Control Commission.

c. The RMD or Marijuana Establishment is designed to minimize any adverse impacts on abutters.

The Applicant and its team has deep experience in the cannabis industry and has designed a number of cannabis establishments, all with the goal of minimizing impacts on abutters. The Applicant has spent a significant amount of time searching for appropriate locations for its Marijuana Retailer, and chose this location because of its business character and significant distance from sensitive uses. The Property is ideally located in that it will not adversely impact the character of the neighborhood. The Property is bounded on each side by numerous other commercial businesses and bounded on the South by Interstate Highway 90. The Applicant also respectfully submits that there are no additional impacts on the residential neighbors to the rear portion of the Property, as compared to the immediately prior use of the Property as a gym with an entrance opening on Cross Street. The Applicant submits that its Marijuana Retailer, as currently designed, minimizes any adverse impacts on abutters.

d. The RMD or Marijuana Establishment has satisfied all of the conditions and requirements in this section.

The Applicant respectfully submits that it will comply with all of the conditions and requirements in this Section G.

2. Additional criteria for RMDs and Marijuana Retailers:

- a. The lot location complies with Sec. 6.10.3.E.1, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation.**

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The Property is not located within a radius of 500 feet from an existing public or private K-12 school.

- b. Traffic generated by client trips, employee trips, and deliveries to and from the RMD or Marijuana Retailer shall not create a significant adverse impact on nearby uses.**

The Property is an ideal location for the proposed Marijuana Retailer with respect to traffic and congestion. The Marijuana Retailer will be located in a stand-alone building with a private parking lot, in a commercial corridor of the City that is part of a limited area of the City that allows for Marijuana Retailers. Accordingly, it will not cause any more traffic or congestion than other allowed uses for this zoning district. The proposed Marijuana Retailer will not disturb the existing right of way, pedestrian access, and will not cause a serious hazard to vehicle or pedestrian traffic or create a nuisance. The Applicant will be improving the lot so as to make traffic and parking safe thereon, as well as make available 25 parking stalls available, exceeding the minimum zoning requirements.

As such, the Applicant respectfully submits that any impact on traffic flow and safety and parking and loading requirements on nearby uses will be de minimus.

- c. The building and lot 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.**

The Marijuana Retailer will be located in a renovated one-story building previously built and designed to be compatible with other buildings in the area. The renovated interior will be tastefully designed to prevent any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

- d. The building and lot are accessible to persons with disabilities.**

The Applicant respectfully submits that the building and lot will be accessible to persons with disabilities as required by the Ordinance and 935 CMR 500.000 *et. seq.*

- e. The lot is accessible to regional roadways and public transportation.**

The Property is located on Washington Street, a major thoroughfare for Newton, and is located near Route 16 and Interstate Highway 90. The Property also has ample access to public transportation options, including the MBTA 553 and 554 bus lines which stop immediately in front of the Marijuana Retailer and the West Newton and Newtonville Commuter Rail stations, approximately a fifteen-minute walk from the Marijuana Retailer.

- f. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel.**

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The Property is located along a major roadway in a business subdistrict, promoting ease of monitoring for both law enforcement and other code enforcement personnel. The Applicant will provide direct video feed access to its video surveillance system and will work with local law enforcement and the Cannabis Control Commission to ensure its video cameras are properly positioned within the Marijuana Retailer.

- g. The RMD or Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses.**

Pursuant to the Ordinance, the hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall the Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m. Accordingly, the Applicant respectfully submits that any impact from hours of operation will be de minimus.

V. Summary

The Applicant hereby requests that its proposed Marijuana Retailer will be in harmony with the purpose and intent of the Ordinance and will not have any adverse effect on the neighborhood within which the Property is located in particular, and the City of Newton as a whole. The findings are made in view of the particular characteristics of the Property and of the Applicant's proposed Marijuana Retailer, as detailed above and herein. The Property is the most appropriate location for the Marijuana Retailer and adequate and appropriate facilities will be provided for the proper operation of the use of the Property as a Marijuana Retailer and finally that such a use will not create any nuisance.

For the foregoing reasons the Applicant respectfully requests that the Land Use Committee approve its Special Permit Application as described herein.

Sincerely,


Michael P. Ross, Esq. (AIRT)
Direct: 617-456-8149
Email: mross@princelobel.com

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow retail marijuana sales and waivers to the extent necessary for lighting requirements as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed Marijuana Retailer due to its location within the Business Use 2 zone. (§7.3.3.1)
2. The proposed Marijuana Retailer as developed and operated will not adversely affect the neighborhood given its proximity to the varied uses along the Washington Street Corridor and the petitioner's proposals to manage traffic and parking. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the site's proximity to regional roadways such as the Massachusetts Turnpike and Washington Street. (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians due to the petitioner's upgrades to the site, including new sidewalks along the site's frontage and in the interior of the site. (§7.3.3.4)

With regard to special permits concerning the Marijuana Retailer on site, pursuant to §6.10.3.G:

5. 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)
6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters with reduced lighting, fencing, landscaping and site design that prohibits right turns onto Cross Street. (§6.10.3.G.1.c)

8. 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)
9. 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)
10. 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)
11. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
12. The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
13. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
14. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Washington Street Corridor. (§6.10.3.G.2.g)

PETITION NUMBER: #67-20

PETITIONER: Ascend Mass, LLC.

LOCATION: 58 Cross Street/1089 Washington Street, on land known as SBL 31, 09, 07, containing approximately 25,122 square feet of land

OWNER: 1089 Washington Street Limited Partnership

ADDRESS OF OWNER: 10 Newbury Street
Boston, MA 02116

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

EXPLANATORY NOTES: To allow retail marijuana sales and waivers to the extent necessary for lighting requirements (§7.3.3, §7.4, §6.10.3.D, §4.4.1, §5.1.10, §5.1.13)

ZONING: Business Use 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:

- a. Existing Conditions Site Plan signed and stamped by Gerry Holdright, Professional Land Surveyor, dated March 26, 2019.
 - b. Proposed Site Plan unsigned and unstamped, prepared by Fuss and O'Neil, November 12, 2019, most recently revised January 30, 2020;
 - c. Site Landscape Plan, LP-101 signed and stamped by Daniel F. Delany, Professional Engineer, dated November 12, 2019, most recently revised January 23, 2020
 - d. Floor Plans and Front Elevations A01 and A02 signed and stamped by Keith Bettencourt, Registered Architect, dated August 2, 2019.
 - e. Proposed Lighting Plan, SL-101, prepared by Fuss and O'Neill, dated November 12, 2019 most recently revised January 23, 2020.
2. The petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. Given that the petitioner requires each patient/customer to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of patients arriving to and leaving from the site, to avoid patients waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate patient volume.

The petitioner may use reasonable flexibility to accommodate patients where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in patients' and patients' schedules affect the appointment schedule. The petitioner shall also accommodate those patients who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that patient.

Six months after commencement of operations for 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 patients be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:

- Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety and site security.
- Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #6 below.

The appearance before the Land Use Committee shall not be a public hearing, and the Committee shall not be required to take public testimony. Should the Committee continue to require that all visitors be served by appointment only, the petitioner shall require an amendment to this Special Permit/Site Plan Approval to remove this condition. Alternatively, should the Committee move that appointments are no longer required, the petitioner shall still be responsible for submitting a report to the Commissioner of Inspectional Services, the

Director of Planning and Development, the Clerk of the Council at twelve months after commencement of operations in accordance with Condition #15 below.

3. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
4. There shall not be more than fifteen (15) staff members, on site at any one time.
5. The Petitioner shall update the sidewalks along the Washington and Cross Streets frontage, install a crosswalk across Cross Street, and install rain gardens on site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
6. The Petitioner shall implement a Transportation Demand Management Plan to reduce vehicle trips to the site. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules in a visible location at the dispensary;
 - b. Provide pre-paid CharlieCard and/or Commuter Rail passes to any employee who can utilize the MBTA system to commute to the retailer;
 - c. Participating in the City of Newton Bikeshare program;
 - d. Providing a secure bicycle storage area on site;
 - e. Incentives for employees to carpool with small bonuses or other programs;
 - f. Establishing an on-site car-pool, rideshare program with guaranteed ride home; and
 - g. Reimburse employees who regularly walk to work the cost of a new pair of walking shoes each calendar year.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the Marijuana Retailer, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

7. Security lighting shall be in accordance with the standards imposed by the Department of Public Health. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
8. The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.
9. The granting of a special permit to allow a Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.

10. Snow shall not be stored on site.
11. Should the petitioner seek to extend the Marijuana Retailer authorized by this Order, including but not limited to, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.
12. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
13. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
14. The petitioner shall maintain its registration with the Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
15. In order to provide information to the City regarding the operation of the Marijuana Retailer and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the Marijuana Retailer's operation in the following areas and at the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:
 - a. Within six (6) months and again at twelve (12) months of commencing operations of the Marijuana Retailer, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the Marijuana Retailer and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the Marijuana Retailer at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the Marijuana Retailer are warranted to address such public safety or security of the facility concerns.

16. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.

17. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.
18. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved emergency response plan to the City of Newton Fire Department for review and approval.
19. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
20. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a Pre and Post closed-circuit television inspection of the City's drainpipe in concert with the proposed overflow connection and provide an electronic copy of such inspection to the Commissioner of Public Works.
21. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise and vibration control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;

- anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
22. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
- a. Recorded a certified copy of this Council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Received approval of the final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - d. Received approval of the Cross Street gate from the Fire Department.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
23. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
 - d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #16.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - f. Received approval from the appropriate City Departments in accordance with Conditions #17, #18, and #19 above.
24. Notwithstanding the provisions of Condition #23 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of

Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.