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Mayor

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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION III MEMORANDUM

DATE: October 23, 2020
MEETING DATE: October 27, 2020
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner
CC: Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

PETITION #25-20

1158 Beacon Street

Petition #25-20 SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retail marijuana establishment, to waive the minimum driveway width for two-way traffic, to waive minimum driveway width by use of an easement, to waive perimeter screening requirements, to waive perimeter screening requirements by use of an easement, to allow parking in the side setback, and to waive lighting requirements at **1158 Beacon Street**, Ward 6, Newton Highlands, on land known as Section 54 Block 22 Lot 49A, containing approximately 20,443 sq. ft. of space in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.1, 5.1.10, 5.1.8.A.1, 5.1.6.A, 5.1.6.B, 5.1.13, 5.1.8.D.1, 5.1.9.A of the City of Newton Rev Zoning Ord, 2017.

The Land Use Committee (the "Committee") held a public hearing on February 4, 2020, June 16, 2020 and September 15, 2020 on this petition. This memo reflects additional information addressed to the Planning Department as of October 22, 2020.

Background

The petitioner is seeking a special permit from the City Council to operate a marijuana retail establishment pursuant to Section 6.10.3 of the Newton Zoning Ordinance in a space previously occupied by a dry cleaner (an existing take-out restaurant on the property is expected to continue operations). As originally designed the proposed marijuana retailer required certain additional zoning relief, including exceptions to requirements that:

- two-way entrance and exit driveways be a minimum of 20 feet wide;
- outdoor parking facilities with more than five stalls be adequately screened from abutting streets and properties; and
- parking facilities used at night have security lighting with a minimum intensity of one-foot candle on their entire surfaces.

The petition subsequently made several modifications to the plan, including providing additional functional width for the driveway along the right side of the property via an easement on an abutting property. These changes in turn required the petitioner to seek additional zoning relief, including allowing a portion of the driveway's width to be provided off-site, to provide some required perimeter screening off-site, and to waive certain perimeter screening requirements. In addition to this relief, the petitioner is also seeking relief to waive certain lighting requirements and to allow one parking stall in a setback at the rear left of the parcel.

Petition Update

Traffic and Transportation

As noted in the Planning Department's September 11, 2020 memo, the petitioner submitted provided a letter (**Attachment A**) on that same day responding to the August 13, 2020 comments made by the City's transportation peer reviewer, the BSC Group. The petitioner's response also included updated site plans (as revised through August 23, 2020) reflecting changes responsive to previous comments from City staff and the peer reviewer. These changes include the installation of additional entrance and exit signage at the vehicular entrance to the site, a speed bump to slow vehicles within the side driveway, and to narrow the enter-only curb cut on Beacon Street to 14 feet in width. The petitioner has also indicated that a parking lot attendant will be provided at peak times to manage on-site parking and circulation activities and has reiterated that the number of "points of sale" onsite would be limited to six which, in conjunction with the appointment only requirement, can be expected to limit peak activity at the proposed retailer.

Given the timing of the petitioner's September 11, 2020 response, City staff and the peer reviewer did not have adequate time to review the additional material in advance of the public hearing scheduled for September 15. As a result, the public hearing was continued without discussion.

That material was subsequently reviewed by the peer reviewer in consultation with City staff. The peer reviewer has indicated that these responses provided by the petitioner are satisfactory. The peer reviewer has further indicated, however, that as the petitioner's parking projections are premised upon the proposed marijuana retailer operating on an appointment-only basis (a requirement that is expected to be a condition of any council order granting the sought-special permit), these projections,

and then-existing conditions and operations, will need to be revisited and reevaluated in the event the petitioner seeks to eliminate the appointment-only requirement at some future time. The Planning Department notes that these conditions are intended to be consistent with those included in special permits for other similar marijuana retailers.

The City's peer reviewer is scheduled to be available at the upcoming public hearing.

Engineering Review

Responding to additional information (updated plans and drainage report) submitted by the petitioner in response to Engineering Division concerns indicated in its July 13, 2020 memorandum, the Engineering Division issued the attached updated memorandum addressing various aspects of the proposal (**Attachment B**). Among other technical aspects, the memorandum indicates that the petitioner has satisfactorily responded to Engineering's previously expressed concerns.

(As the memorandum references the expected Inflow and Infiltration ("I&I") fees associated with this project, the Planning Department again notes that that calculation, based on the square footage of the portion of the existing structure to be used for the proposed marijuana retailer, is recommended to be \$10,085.50.)

ATTACHMENTS

Attachment A	Petitioner's September 11, 2020 response to transportation peer reviewer's (BSC Group) August 13, 2020 comments
Attachment B	Engineering Division review memorandum (updated September 19, 2020)
Attachment C	DRAFT Council Order

ATTACHMENT A



September 10, 2020

Mr. Michael Gleba
Senior Planner
City of Newton
1000 Commonwealth Avenue
Newton Centre, Massachusetts 02459

Re: Transportation Peer Review
Cannabis Dispensary
1158 Beacon Street, Newton, MA
Fuss & O'Neill Reference No. 20190241.A30

Dear Mr. Gleba:

This letter will serve as a response to the Transportation Peer Review comments submitted to BSC Group, Inc. (BSC) on August 13, 2020 for the cannabis dispensary proposed at 1158 Beacon Street in Newton, Massachusetts. The comments are reprinted in *italics* with our responses below.

In our March 2 letter, we requested that the Applicant provide a plan for potential parking overflow in the event that the parking lot becomes full during normal operations. There is currently no on-street parking allowed along Beacon Street or in the vicinity of the site. The Applicant proposes to include 18 parking spaces on the site, which will serve both the dispensary and the existing restaurant uses that are located in the building.

The proposed dispensary will operate by appointment only upon opening in order to reduce traffic and parking congestion on-site and within the vicinity of the dispensary, as well as to reduce the occurrence of customer line formation outside of the establishment. Once the dispensary can operate effectively within its spatial parameters, the dispensary may be allowed by the City of Newton to transition to operate on a first-come/first-served basis, with the option to reinstate the appointment-only parameter as needed. It is important to note that this change may not occur without the consent of the City.

It is acknowledged that on-street parking is not provided along Beacon Street in the vicinity of the site. This allows for clear view corridors for exiting or entering pedestrians and vehicles. As a result of our parking lot attendee, customers observed to be parking or loading along Beacon Street will not be permitted to enter the dispensary.

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Maine
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New Hampshire
Rhode Island
Vermont

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Provide a description of anticipated operations of the facility related to appointment times, duration, and points of sale.

We recommend appointments be made available every 15-minutes throughout the hours of operation, 9:00 a.m. – 10:00 p.m. The proposed dispensary will have a total of six points of sale available for operation throughout the day. Two of these six points of sale are expected to primarily serve as express lanes to service customers picking up online orders.

Provide the anticipated parking demand of employees and patrons for the appointment-only operations of the facility.

The dispensary is expected to employ a maximum of ten people while a typical shift will consist of four to six employees. All employees will be encouraged and incentivized to seek alternative modes of transportation to commute to work each day. For more information, please reference the Transportation Demand Management Plan, dated June 6, 2020.

It is anticipated that at most, approximately 50 percent of employees on a shift would require a parking space, which would result in approximately three out of the total 18 spaces being occupied. It is also anticipated that for normal operating conditions, as well as pursuant to existing zoning requirements, the restaurant will require a total of two parking spaces. This would result in 13 of the 18 parking spaces being open for customers to occupy.

Typically one appointment slot be made available for each open point of sale for each 10-15 minute time frame. With all points of sale open, even if all six customers overlapped with the next six customers, thereby occupying 12 total spaces, six additional spaces would be still be available for employee and restaurant parking. Given an average transaction time of between five and ten minutes, ample time between customers departing an arriving will be provided.

In practice, Union Twist will be able to adjust the number of appointments available in each five minute slot to ensure that the parking lot does not become completely full, and that they also do not unduly restrict their flow of customers.

Should, in the even the dispensary is outside its mandatory appointment only period, and the parking lot ever approaches being completely full, we recommend that the parking lot attendant relocate to the front of the building, to tell customers to return at a later time, and/or, the facility can voluntarily switch back to appointment mode for a period of time.

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Work with the City of Newton to develop specific conditions related to a parking management plan prior to changing to a first-come/first-serve style of operation.

As mentioned above, the dispensary may not transition away from appointment only operation without the approval of the City of Newton. Union Twist will work with the City to provide the data required in order for the City to make its decision.

BSC also has concerns related to vehicular circulation on the site. The site will locate four parking spaces in the front of the building and the remaining 14 spaces in the rear of the building that will be accessed via a 20-foot wide driveway adjacent to the side of the building. Based on a review of the site plan, there may be potential conflicts between vehicles exiting the rear parking lot and the angle parking space located in the front of the building, closest to the driveway. We recommend that the Applicant install traffic calming devices along the driveway to promote low speeds for exiting vehicles. We also recommend that the Applicant install appropriate signage for exiting vehicles and that any vegetation between the driveway and the angled parking spaces be maintained to provide adequate sight distance.

A hard rubber speed bump has been added to the plan, depicted in the drive aisle approximately half way between the entrance and the rear parking lot.

A number of signs are depicted on the site plan, including an entrance only and do not enter signs at the entrance drive, as well as an Exit Right sign for drivers as they are exiting the rear of the building. A do not enter sign is also provided facing Beacon Street at the exit of the site. Additional signage directing pedestrians to the east side of the building is also proposed.

Lastly, landscaping between the drive aisle and angled parking spaces in front of the building is proposed to be Creeping Juniper, which grows to a maximum height of approximately four inches, to provide adequate sight distance for drivers as they exit the site.

There are also concerns that the entrance-only driveway may operate as a full-access driveway due to the proposed curb cut width of 22-feet and the alignment of the driveway that serves the parking stalls in the rear of the site. The City of Newton Zoning Ordinance requires a one-way driveway to be a minimum of 12-feet in width. We recommend that the Applicant reduce the width of the curb cut to 14-feet in width, consistent with the curb cut that serves the exit driveway.

The western curb cut has been reduced to 14 feet in width, as shown on sheet CS-101 of the attached plan set.



FUSS & O'NEILL

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We have enclosed a revised plan set, dated August 25, 2020 for your review. We trust that this information will be sufficient; however, if you should require additional information or have any questions, please contact us.

Sincerely,

Katherine Patch, EIT
Transportation Engineer

Matthew Skelly, PE, PTOE
Project Manager

Enclosures: Plan Set, dated August 25, 2020

cc: Michael A. Santos, PE, PTOE, BSC Group (w/ enclosures)

ATTACHMENT B
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 – 1158 Beacon Street

Date: September 18, 2020

CC: Barney Heath, Director of Planning
Neil Cronin, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner
Michael Gleba, Sr. Planner

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

Union Twist Dispensary
1158 Beacon Street
Prepared by: Fuss & O'Neill
Dated: October 23, 2019
Revised: August 25, 2020

Executive Summary:

The engineer of record has updated the plans and drainage report and responded to the concerns of my July 13th memorandum to my satisfaction.

Prior to final approval [Building permit] of the overflow connection, the engineer of record needs to submit hydraulic calculation to ensure that there is adequate capacity in the City's drainpipe in Beacon Street from the point of connection to the next downstream manhole. Additionally, a Closed-Circuit Television (CCTV) inspection will be required for Pre & Post Construction and must be witnessed by the Engineering Division, video copies shall be provided for review.

In accordance to Chapter 29 Sections 157-166: Updates to building sewer, water service pipes will be required if *Substantially remodeled or rehabilitated*: When a dwelling or building is (1) renovated and/or gutted more than fifty percent (50%).

Beacon Street was paved in 2018, any excavation within the roadway will require compliance with the DPW Pavement Restoration Policy for 5 Year Moratorium Streets, which includes milling and paving curb line to curb line for the limits of construction.

Drainage:

1. The updated Operations & Maintenance is approved; it must be registered at the Middlesex Registry of Deeds; proof of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of on-site drainage system and all appurtenances including but not limited to infiltration basins, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Infiltration & Inflow:

Has be addressed via a separate memo.

General:

1. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor of record 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 services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view,

backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*

4. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
5. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
6. All site work including trench restoration, sidewalk, curb ,apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
7. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
8. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning 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 at 617-796-1023.

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; allow parking in the side setback; allow the minimum driveway width for two-way traffic to be provided off-site; waive perimeter screening requirements; allow perimeter screening to be provided off-site; and waive the 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 mixed uses along Beacon Street 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 projected trip generation associated with the proposed use (§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 narrowed curb cut access along Beacon Street (§7.3.3.4)
5. Literal compliance with the lighting and parking requirements is impracticable due to the nature of the size and shape of the lot, further, the provision of some driveway width on an adjoining property is in the interest of safety as it allows for a wider two-way driveway, and the waiver of lighting requirements is in the public interest as it will limit light overspill onto adjoining properties (§5.1.10, §5.1.13)

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

6. 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)
7. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)

8. The Marijuana Retailer is designed to minimize any adverse impacts on abutters with fencing, landscaping and reduced lighting (§6.10.3.G.1.c)
9. 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)
10. 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 due to the appointment only system set forth in Condition 2. (§6.10.3.G.2.b)
11. 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)
12. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
13. The lot is accessible to regional roadways and public transportation due to its location on Beacon Street and proximity to the MBTA's bus route 59. (§6.10.3.G.2.e)
14. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
15. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the surrounding area along Beacon Street and presence of commercial uses nearby that operate during similar hours. (§6.10.3.G.2.g)

PETITION NUMBER: #25-20

PETITIONER: Union Twist, Inc.

LOCATION: 1158 Beacon Street, on land known as Section 54 Block 22 Lot 49A, containing approximately 25,122 square feet of land

OWNER(S): Gerald A. Baratz and Barbara H. Baratz

ADDRESS OF OWNER(S): 90 Langley Road
Newton, MA 02459

TO BE USED FOR: Marijuana Retailer

CONSTRUCTION: Concrete

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

- allow a marijuana retailer (§6.10.3.D, §4.4.1)
- allow parking in the side setback (§5.1.8.A.1, §5.1.13)
- allow the minimum driveway width for two-way traffic to be provided off-site (§5.1.8.D.1, §5.1.6.A, §5.1.6.B)

- waive perimeter screening requirements (§5.1.9.A, §5.1.13)
- allow perimeter screening to be provided off-site (§5.1.9.A, §5.1.6.A, §5.1.6.B)
- waive the lighting requirements (§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. A set of plans entitled “Union Twist Dispensary, 1158 Beacon Street, Newton, MA, Permitting Plans,” Dated October 23, 2019, as revised through August 25, 2020, prepared by Fuss & O’Neill, comprised of the following sheets:
 - i. Cover Sheet (GI-001)
 - ii. General Notes (CN-101)
 - iii. Context Map (GI-100)
 - iv. Boundary & Topographic Survey by Control Point Associates (Sheet 1 Of 1)
 - v. Site Preparation Plan (CP-101)
 - vi. Erosion and Sediment Control Plan(CE-101)
 - vii. Site Layout Plan (CS-101)
 - viii. Grading and Drainage Plan (CG-101)
 - ix. Site Landscaping Plan (LP-101)
 - x. Erosion and Sediment Control Details (CD-501)
 - xi. Site Details (CD-502-506)
 - xii. Site Photometric Plan (SL-101)
 - b. Architectural plans entitled “Union Twist- Newton, 1158 Beacon Street, Newton, MA 02461,” prepared by BKA Architects, comprised of the following sheets:
 - i. Floor Plan (A-1), dated June 1, 2020
 - ii. Exterior Elevations (A 300), dated June 11, 2020
2. The petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. Given that the petitioner requires each customer to be served individually by a customer service representative, the “appointment only” requirement is intended to ensure a smooth flow of customers arriving to and leaving from the site, to avoid customer waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate customer volume.

The petitioner may use reasonable flexibility to accommodate customers where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in customers’

schedules affect the appointment schedule. The petitioner shall also accommodate those customers 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 customer.

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 to no longer require that all customers 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.
3. The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the “appointment only” requirement if they determine that the petitioner is able to maintain an orderly flow of patrons, accommodate all patrons waiting to see a customer service representative inside the building, and accommodate patron parking on site without the “appointment only” requirement. Prior to any decision on the petitioner’s waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a “consistency” ruling on a special permit is requested from the Commissioner of Inspectional Services.
 4. 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 Noon to 6:00 p.m. on Sunday.
 5. If the appointment only condition is removed and at any time the Director of Planning in conjunction with the Commissioner of Inspectional Services, Chief of Police, and Commissioner of Public Works, determines there is a public safety concern due to the lack of appointments, the petitioner shall meet with the Director of Planning to discuss and implement measures to address concerns, including resuming appointments during peak periods.
 6. Should any line form following the possible conclusion of the appointment only condition, lines for customers waiting must form only on the internal sidewalk on the left (east) side of the property and must not form along Beacon Street.
 7. There Marijuana Retailer may not have more than six points of sale.
 8. There shall not be more than ten (10) staff members, on site at any one time not including delivery personnel.
 9. Employees of the Marijuana Retailer shall not park on residential streets in the vicinity of the site. The Marijuana Retailer shall provide messaging to customers and employees in that parking on residential streets is prohibited.

10. The Petitioner shall implement a Transportation Demand Management Plan to reduce vehicle trips to the site as described in a memorandum submitted by the petitioner, entitled “1158 Beacon Street Cannabis Dispensary, Transportation Demand Management Plan,” from Matthew W. Skelly, PE, PTOE and Katherine Patch, EIT, to Ms. Marie St. Fleur of Union Twist, Inc., dated June 6, 2020 an on file with the City Clerk’s Office and the Planning Department
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.
11. 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 Site Photometric Plan identified in Condition 1 above.
12. The petitioner shall locate, secure, and screen any dumpster(s) on the site to minimize its visibility from the public way. Any dumpster(s) shall be kept closed and secured and the area surrounding the dumpster(s) shall be kept free of debris.
13. 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.
14. Snow shall not be stored on site.
15. 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.
16. 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.
17. 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.
18. 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.

19. 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 have concerns and/or 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. If 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 meet with the Director of Planning 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.

20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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 or designee.
 - 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.
26. 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
27. 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 #20.
 - 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.
28. Notwithstanding the provisions of Condition #27 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.