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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION II MEMORANDUM

DATE: December 3, 2021
MEETING DATE: December 9, 2021
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 #299-21

131 Rumford Avenue

Petition #178-21, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retail marijuana establishment, to allow parking facility requirements to be met off-site, to waive the minimum driveway width requirement, to waive perimeter screening requirements, to waive lighting requirements and to waive the 25% façade transparency requirement at **131 Rumford Avenue**, Ward 4, Auburndale, on land known as Section 41 Block 31 Lot 50, containing approximately 20,443 sq. ft. of land in a district zoned BUSINESS USE 2.Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.1, 5.1.6.A, 5.1.6.B, 5.1.8.D.1, 5.1.13, 5.1.9.A, 5.1.10, 6.10.3.E.15 of the City of Newton Rev Zoning Ord, 2017.

The Land Use Committee (the “Committee”) held a public hearing on September 24, 2021 and November 16, 2021, on this petition. This memo reflects additional information addressed to the Planning Department as of December 2, 2021.

Background

The subject property at 131 Rumford Avenue consists of a 20,443 square foot vacant lot located in a Business 2 (BU2) district. The lot was created in 2016 when a large parcel was subdivided into the subject site and the larger adjacent parcel known as 137 Rumford Avenue.

The petitioner is proposing to construct a one-story, 5,000 square foot building and a 25-stall surface parking facility and operate a marijuana retailer on the lot pursuant to Sec. 6.10.3 of the Newton Zoning Ordinance (NZO), requiring a special permit from the City Council. As designed, the proposed marijuana retailer would require other zoning relief including exceptions to the NZO's requirements that two-way driveways have a minimum width of 20 feet on the same lot as the principal use, outdoor parking facilities with more than five stalls provide perimeter screening from abutting streets and parcels for certain portions of the parcel, a parking facility used at night to have security lighting with a minimum intensity of one-foot candle on its entire surface, and a ground level marijuana retailer have at least 25 percent transparency along the building's front façade.

UPDATE

Traffic and Transportation

As discussed in the Planning Department's previous memorandum, the Petitioner submitted its response to the peer review on November 9, 2021. The peer reviewer drafted a memo dated November 18, 2021 seeking some clarification on a few issues (**Attachment A**). The petitioner, in turn responded with a letter dated November 23, 2021 (**Attachment B**).

The peer reviewer has indicated that it appears all of its comments have been addressed and will be at the upcoming hearing to discuss and answer any outstanding questions.

Engineering

On November 9, 2021, the petitioner submitted its response to the Engineering Division's memorandum.

Engineering has issued an updated memorandum (**Attachment C**) in response. The memo states that the petitioner has responded to all of Engineering's with the exception that it cannot confirm that the City owned 12" concrete pipe that is shown as traversing on the petitioner's site plans has been abandoned or relocated. As the proposed building is to be sited directly over this pipe, the Division recommends that test pits and or Closed-Circuit Television (CCTV) be performed to confirm whether the pipe has been abandoned as the proposed construction would not be permitted if it is still in place and operational.

The Planning Department will have a draft Order available in anticipation of the upcoming hearing.

ATTACHMENT(S)

Attachment A	Peer Reviewer response letter, dated November 18, 2021
Attachment B	Petitioner response letter, dated November 23, 2021
Attachment C	Engineering Division Memorandum, dated December 2, 2021



November 18, 2021

Mr. Neil Cronin
Chief Planner
Planning and Development Department
Newton City Hall
1000 Commonwealth Ave
Newton, MA 02459

Subject: **Transportation Peer Review Responses
Proposed Marijuana Use
131 Rumford Avenue
Newton, Massachusetts**

Dear Mr. Cronin:

On behalf of the City of Newton (the City), Green International Affiliates, Inc. (Green) is submitting this letter of review of Fuss & O'Neill's responses to the original comments submitted by Green to the City on October 28, 2021 from our engineering peer review of the application package for the proposed residential use on Boylston Street and Jackson Street. This review included an examination of the following documents submitted in support of the proposed project:

- Technical Memorandum titled "Traffic Analysis – 131 Rumford Avenue Cannabis Dispensary," prepared by Fuss & O'Neill, dated July 8, 2021.
- Plan Set titled "131 Rumford Cannabis Dispensary – Permitting Plans

What follows are the original comments submitted by Green, followed by the corresponding Fuss and O'Neill response in italicized text, followed by Green's latest comments in bold text.

July 2021 Traffic Analysis

1. Green's original comment: Existing conditions should include discussion of transit options in the vicinity of the project site. There are bus routes on Rumford Avenue, River Street, and Lexington Street.

F&O Response: The existing conditions section of the memorandum has been updated to include this information.

Green's Response: No further information is required.

2. Green's original comment: The memorandum included the following two study intersections:
 - Rumford Avenue/ River Street at Lexington Street
 - Rumford Avenue at Site Driveway

Green concurs with the study area and no further information is necessary.

F&O Response: Noted.

Green's Response: No further information is required.

3. Green's original comment: Turning movement counts (TMCs) were conducted at the signalized intersection of Rumford Avenue and Lexington Street on Saturday, June 19, 2021 and Tuesday, June 22, 2021. Historical TMCs for this intersection from Thursday, October 24, 2019 and Saturday, October 26, 2019 were reviewed. The TMCs conducted in 2021 were found to be approximately 25% lower than those conducted in 2019. To be conservative and account for any potential reductions in traffic due to the COVID-19 pandemic, the traffic volumes from 2019 were used. Green concurs with this approach.

F&O Response: Noted.

Green's Response: No further information is required.

4. Green's original comment: The existing site driveway for the adjacent self-storage facility will be utilized to access the proposed building. A total of 25 parking spaces, including two accessible spaces, will be provided on the site. The number of proposed parking spaces exceeds the minimum number required by the City of Newton. A covered bicycle rack will be provided on-site. Please specify the total capacity of the proposed bicycle rack.

F&O Response: The proposed bicycle rack will have the capacity for 8 parked bicycles. This amount of parking complies with the Newton Zoning Ordinance 5.1.11 which states that in the design and construction of parking facilities with 20 or more stalls, a minimum of one bicycle space must be provided per ten parking stalls.

Green's Response: Green finds the capacity of the bicycle rack satisfactory and no further information is required.

5. Green's original comment: The Applicant should clarify whether consideration was given to nearby planned developments in establishing No-Build traffic volumes. Future developments in Waltham should also be reviewed due to the site's proximity to the city boundary.

F&O Response: No developments that include the study area intersections were identified. It is assumed that the background growth rate accounts for any future developments that may contribute to an increase in traffic on the surrounding roadway network.

Green's Response: No further information is required.

6. Green's original comment: Trip distribution was established based on existing traffic distributions and the layout of the roadway network. During the peak hours, 80% of site trips are expected to access the site to and from Rumford Avenue east of the site, and 20% are expected to access the site to and from Rumford Avenue west of the site.

Green reviewed the existing traffic volumes and found that approximately 12% of existing traffic travels to and from the west of the site, indicating that more site trips would be expected to pass through the intersection of Rumford Avenue and Lexington Street. Green also found that traffic patterns on Lexington Street differ between weekday evening and Saturday peak hours. The

Applicant should provide more detail regarding how trip distribution percentages were determined. Green recommends that separate distributions be utilized for weekday evening and Saturday peak hours.

F&O Response: The arrival/departure distribution of site generated traffic has been revised to depict 90 percent of traffic arriving from the east, and 10 percent of traffic arriving from the west. Please see the attached memorandum for the updated analysis.

Differences in the distribution of existing traffic between weekdays and Saturdays may be attributed to existing travel patterns. We have no reason to assume that the distribution of dispensary traffic would be different on a weekday than on a Saturday, as it is assumed in our analysis that all trips are new to the network.

Green's Response: Green has reviewed the revised trip distribution and finds this acceptable. No further information is required.

7. Green's original comment: Existing traffic volumes at the site driveway were estimated using ITE Trip Generation rates for Land Use Code (LUC) 151 "Mini Warehouse." The MassDOT *Transportation Impact Assessment (TIA) Guidelines* require TMCs to be conducted at all site driveways and ITE recommends that local data be utilized when possible. The Applicant should conduct TMCs at the site driveway to establish accurate existing conditions as a self-storage site is unlikely to be significantly impacted by COVID restrictions.

F&O Response: Traffic counts at the site driveway were conducted from 4-6 PM on Thursday, November 4, and from 11 AM-1 PM on Saturday, November 6, to determine the traffic generated by the existing self-storage facility. The facility was found to generate a total of 2 vehicle trips (1 entering, 1 exiting) during the afternoon peak hour, and 13 vehicle trips (9 entering, 4 exiting) during the Saturday peak hour. The ITE Trip Generation estimate exceeds the vehicle counts and was used to provide a conservative analysis. Count data has been included as an attachment to this letter.

Green's Response: Green has reviewed the counts conducted at the site driveway and concurs that using the ITE Trip Generation rates results in a more conservative analysis. No further information is required.

8. Green's original comment: A table of traffic counts from local dispensaries is included. The table shows that all the dispensaries generate a lower number of trips than ITE predicts; therefore, ITE rates were used to be conservative. A recent traffic study by Fuss and O'Neill included counts at Garden Remedies, which were higher than ITE projections. Please include Garden Remedies in the table and provide discussion of local trends to justify the use of ITE rates.

F&O Response: Please see the attached memorandum for a discussion of the Garden Remedies Trip Generation.

Green's Response: Green has reviewed the discussion and concurs that the proposed dispensary is expected to generate fewer trips per square foot than Garden Remedies. The averages of the trip generation rates of the local dispensaries are lower than the ITE Trip Generation 10th Edition rates. The ITE Trip Generation 10th Edition rates yield more conservative results, and no further information is required.

9. Green's original comment: Site-generated trips were estimated using LUC 882 "Marijuana Dispensary" with a proposed 5,000 SF gross floor area. It is estimated that the proposed site will generate 109 vehicle trips (54 entering, 55 exiting) during the weekday afternoon and 182 vehicle trips (91 entering, 91 exiting) during the Saturday peak hour. The daily trip generation should also be discussed. Please include Trip Generation calculations in the Attachments.

F&O Response: This information has been provided in the attached memorandum.

Green's Response: Green has reviewed Trip Generation Calculations and found that they were performed in accordance with industry standards. No further information is required.

10. Green's original comment: The No-Build operational analysis was conducted using existing traffic signal timings. The Build analysis used optimized timings. To provide a consistent basis for comparison, the signal timing should be consistent between No-Build and Build conditions. If the applicant is proposing mitigation to upgrade the signal, a Build with Mitigation condition should be included alongside the traditional Build operational analysis.

F&O Response: The analysis has been updated to include a No-Build condition, a Build condition, and a Build with Mitigation condition. Please see the attached memorandum for the updated analysis.

Green's Response: Green has reviewed the Build operational analysis with existing traffic signal timings. During the afternoon peak hour, the eastbound approach is expected to operate at LOS E under No-Build conditions and LOS F under Build conditions. It is expected to operate at LOS E under Build with Mitigation conditions. The southbound approach is expected to operate at LOS D under No-Build conditions and LOS E under both Build and Build with Mitigation conditions.

During the Saturday peak hour, the eastbound approach is expected to operate at LOS C under No-Build conditions and LOS D under Build conditions. Please clarify why a Build with Mitigation scenario was not analyzed for Saturday.

11. Green's original comment: The existing traffic signal timings were designed to accommodate changes in traffic based on the closure of the Woerd Avenue Bridge. The traffic memo recommends new timings to be implemented now that the bridge is open; however, traffic volumes that were counted while the bridge was closed are used as the basis for these optimized timings. Revised traffic signal timings should be based on current traffic patterns now that the bridge is opened and would apply to both No-Build and Build conditions. The Applicant should commit to funding and facilitating the traffic signal timing modifications.

F&O Response: The Applicant has agreed to fund and facilitate traffic signal timing modifications should such mitigation be deemed necessary by the Transportation Division of the City of Newton Public Works Department.

Green's Response: The Applicant should submit proposed signal timings to the Department of Public Works and commit to funding and facilitating any necessary changes determined by DPW.

12. Green's original comment: Tables 2 and 3 summarize the No-Build and Build Level of Service (LOS) for the study intersections. Average delays and volume to capacity ratios should be added to the tables for more detailed comparisons.

F&O Response: Analysis summary tables have been updated to include this additional information. Please see the attached memorandum.

Green's Response: No further information is required.

13. Green's original comment: Table 3 includes the No-Build and Build LOS for the signalized intersection of Lexington Street at River Street/ Rumford Avenue during both the weekday afternoon and Saturday peak hours. Analysis results for each movement should be included in the table in addition to overall intersection results.

F&O Response: Analysis summary tables have been updated to include this additional information. Please see the attached memorandum.

Green's Response: No further information is required.

14. Green's original comment: Crash data for the study intersections for the years of 2016-2020 were analyzed. The intersection of Lexington Street at River Street/Rumford Avenue experienced 12 crashes during the study period, and the intersection of Rumford Avenue and the site driveway experienced 3 crashes. Please include a discussion of crash rates.

F&O Response: The crash rate at the intersection of Lexington Street and River Street/Rumford Avenue is 0.3, and the crash rate at the site driveway is 0.37. The District 6 average crash rates are 0.7 and 0.52 for signalized and unsignalized intersections, respectively. Therefore, the crash rates experienced at the study area intersections are below district averages.

Green's Response: Green concurs that crash rates are not indicative of any major safety concerns and no further information is required.

15. Green's original comment: Stopping sight distances and intersection sight distances were measured at the site driveway on Rumford Avenue. The report stated that minimum required sight distances were met in each direction for both stopping sight distance and intersection sight distance. Green measured the sight distances during our site visit on October 7, 2021 and found that the minimum stopping sight and intersection sight distances were not met due to the presence of vehicles parked in on-street parking spaces near the site driveway. Please provide a figure showing sight distance triangles to the site driveway and clarify how clear site lines will be maintained.

F&O Response: Please see the attached memorandum for a figure depicting sight distance triangle and further discussion of intersection sight distance at the driveway.

The applicant is open to removing parking spaces immediately adjacent to the site driveway if that is the preference of the City of Newton, however we emphasize that the proponent intends to utilize an existing driveway that has no significant crash history indicating substandard sight distance.

Green's Response: The Applicant should apply to the City Traffic Council for a parking restriction near the site driveway. Although the driveway is existing, the number of vehicles entering and exiting will increase significantly. Please clarify whether a new sign is proposed west of the site driveway for the existing parking restriction.

16. Green's original comment: The City is currently finalizing standardized TDM requirements and will provide them to the Applicant shortly, the TDM is likely to include financial contributions to shuttle service and bicycle share, as well as other TDM elements to be provided by the proponent.

F&O Response: The proponent is willing to make a financial contribution to the shuttle service and bicycle share program. The TDM has been updated to include this information.

Green's Response: Green has reviewed the proposed TDM plan and finds the measures satisfactory. The City requests that the Applicant submit a one-time payment of \$10,000 to be used for both bicycle share and NewMo rideshare programs.

July 2021 Site Plan

17. Green's original comment: The site plans generally conform to the City of Newton regulations.

F&O Response: Noted.

Green's Response: No further information is required.

18. Green's original comment: Two accessible parking spaces are provided, one of which is van accessible. The spaces are 8 feet wide, separated by an 8-foot aisle. The accessible parking spaces should be relocated such that they are in front of the accessible building entrance.

F&O Response: It is not possible to maintain the grade required for an ADA accessible space if the spaces are relocated to be immediately in front of the building entrance.

Green's Response: Please clarify why ADA-compliant grades cannot be maintained at this location. It appears that there is sufficient room to achieve these grades.

19. Green's original comment: The proposed granite curb along the site frontage is shown to curve towards the site near the driveway. If the existing curb corner at the driveway is not being removed, the proposed curb should not be curved and should meet the existing curb corner. If the existing curb corner is to be removed, the proposed curb should extend past the existing detectable warning panel. Please show clearly what the final proposed condition will be for the sidewalk in front of the building, and what changes, if any, will be conducted by the applicant.

F&O Response: The sidewalk in front of the building is proposed to be reconstructed within the limits of the proposed trenching. The site plan has been revised to show a new detectable warning panel proposed behind the proposed curb.

Green's Response: Green finds the addition of a new detectable warning panel satisfactory and will review the revised site plan when it is available.

Mr. Neil Cronin
November 18, 2021

If either the City staff or the Applicant's engineer would like to discuss any of these comments further, please feel free to contact me at 978-843-5214.

Sincerely,
Green International Affiliates, Inc.



Corinne Tobias, P.E., PTOE
Transportation Planning Group

cc: W. Wong, Green
W. Scully, Green

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November 23, 2021

Mr. Neil Cronin
Chief Planner
Planning and Development Department
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: Response to Comments- Traffic Study Peer Review
Proposed Marijuana Dispensary
131 Rumford Avenue
Newton, Massachusetts

Dear Mr. Cronin:

This letter will serve as a response to peer review comments received from the Newton Planning and Development Department on November 22, 2021. The comments excerpted from the letter are reprinted in *italics* with our responses below.

1. *During the Saturday peak hour, the eastbound approach is expected to operate at LOS C under No-Build conditions and LOS D under Build conditions. Please clarify why a Build with Mitigation scenario was not analyzed for Saturday.*

The signal currently runs three different timing plans: one for the morning peak period (6 AM – 9 AM) one for the afternoon peak period (2 PM- 7 PM) and one for all other times.

The timings during the Saturday midday peak hour are used at all times outside of the morning and afternoon peak periods. Since the intersection operates acceptably at LOS C, we do not believe it to be necessary to run timings specific to the Saturday midday peak period. Additionally, we do not believe that volumes during the Saturday peak hour should determine the timings used all of the time.

Should DPW request revised timings for the Saturday peak hour, we will provide them.

2. *The applicant should submit proposed signal timings to the Department of Public Works and commit to funding and facilitating any necessary changes determined by DPW.*

Agreed.

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Mr. Neil Cronin
November 23, 2021
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- 3. The Applicant should apply to City Traffic Council for a parking restriction near the site driveway. Although the driveway is existing, the number of vehicles entering and exiting will increase significantly. Please clarify whether a new sign is proposed west of the site driveway for the existing parking restriction.*

The Applicant will apply to City Traffic Council for a parking restriction near the site driveway. Should they approve the new restriction, a new sign will be installed east of the driveway. If the new restriction is not approved, a new sign will be installed west of the site driveway reflecting the existing parking condition.

- 4. Green has reviewed the TDM plan and finds the measures satisfactory. The City requests that The Applicant submit a one-time payment of \$10,000 to be used for both bicycle share and NewMo rideshare programs.*

The Applicant agrees to a one-time financial contribution of \$10,000 to the bicycle share and NewMo rideshare programs.

- 5. Please clarify why ADA-compliant grades cannot be maintained at this location. It appears there is sufficient room to achieve these grades.*

The slope along the southern end of the parking spaces in front of the door is 3% for site drainage purposes. This is not an acceptable slope for an ADA-compliant accessible space. Please see the attached diagram for further clarification.

We trust that this information is sufficient for you to complete your review. Should you have any questions or require additional information, please contact us.

Sincerely,



Katherine O'Shea, EIT
Transportation Engineer



Matthew W. Skelly, PE, PTOE
Project Manager

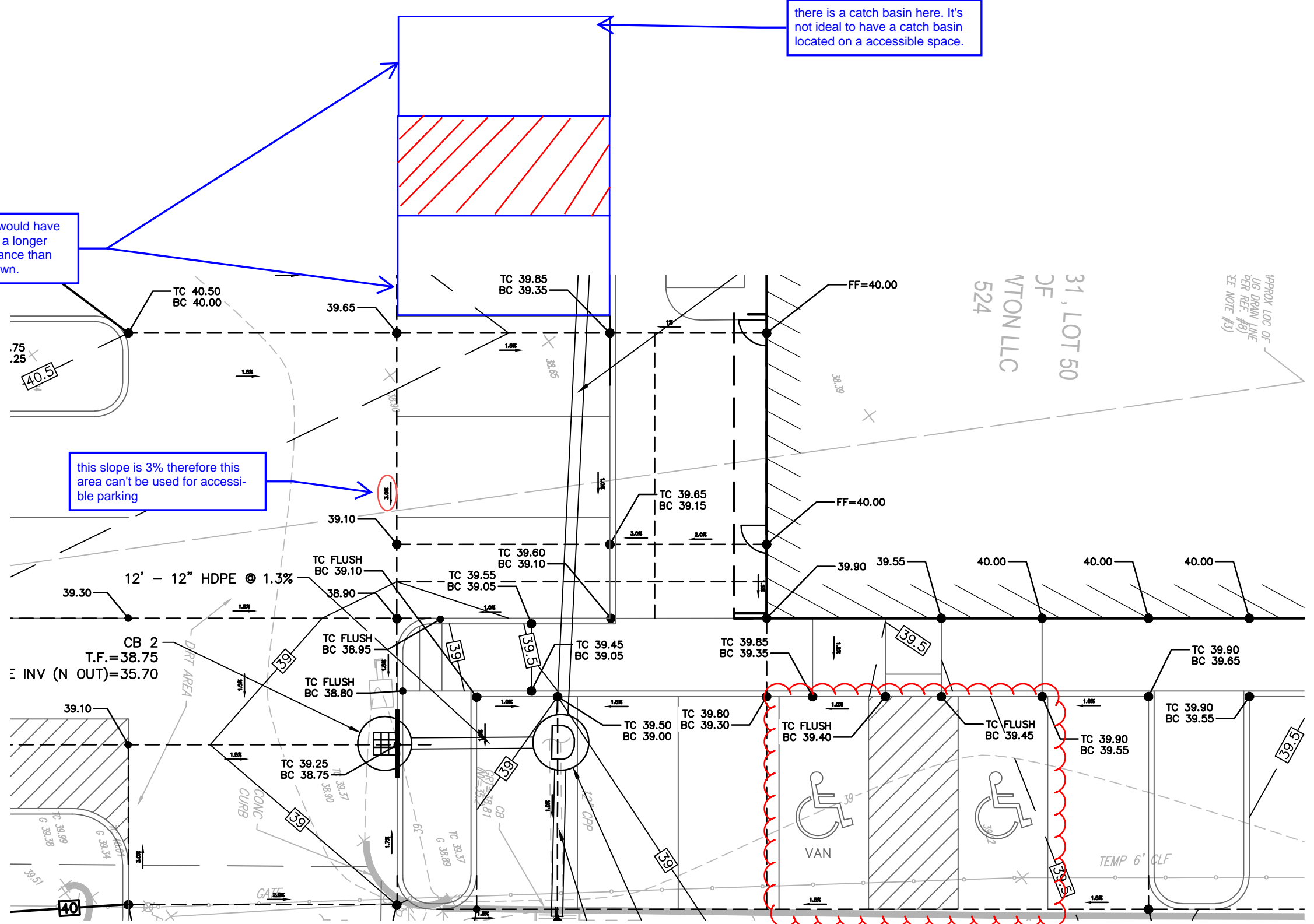
Attachments: Site grading diagram

there is a catch basin here. It's not ideal to have a catch basin located on a accessible space.

accessible parking would have to be here, which is a longer distance to the entrance than where currently shown.

this slope is 3% therefore this area can't be used for accessible parking

No slope in this area is more than 1%



CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 131 Rumford Avenue

Date: December 2, 2021

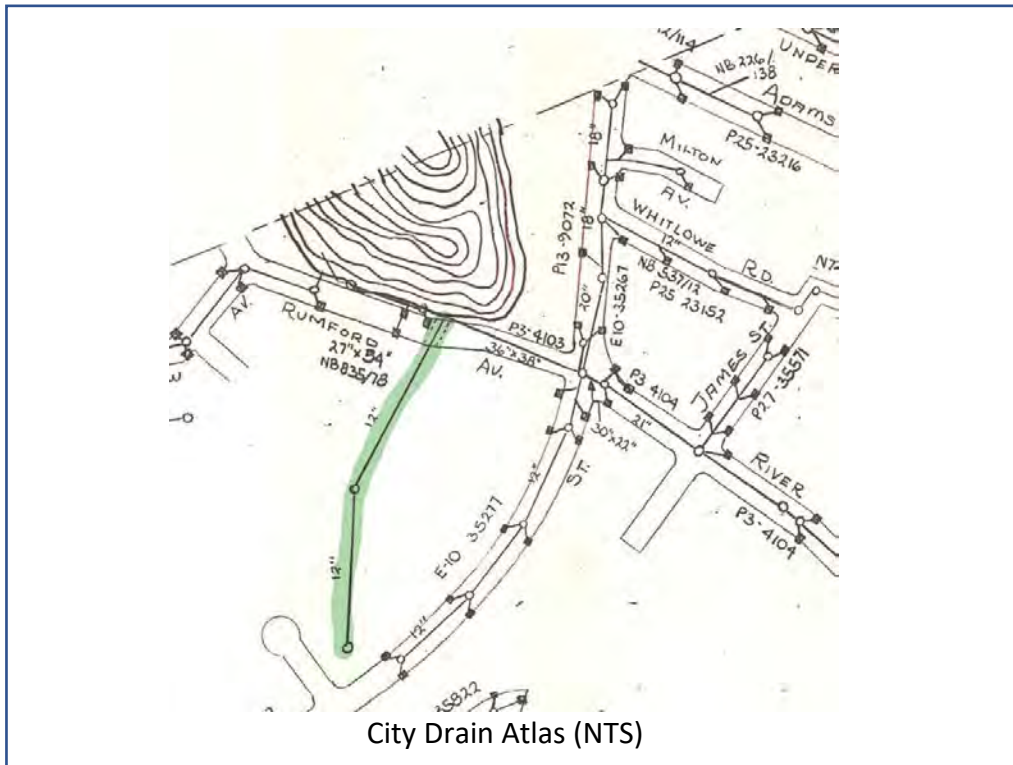
CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Lou Taverna, PE City Engineer
Ted Jerdee, Director of Utilities
Doug Valovcin Deputy Director of Utilities
Nadia Khan, Committee Clerk
Neil Cronin, Chief Planner
Michael Gleba, Sr. Planner

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

131 Rumford Cannabis Dispensary
131 Rumford Avenue
Permitting Plans & Response Letter
Prepared by: Fuss & O'Neil
Dated: July 2, 2021
Revised: November 9, 2021

Executive Summary:

The engineer of record has responded to all of my concerns of my September 24th memo; except that the City owned 12" Ø reinforced concrete pipe as shown on the Drain Atlas and design plans has not been confirmed if the pipe has been relocated. The proposed plan and our City records indicate the 12" Ø reinforced concrete drainpipe traverses the site from south to north (essentially in the middle of the lot, the proposed building is to be sited directly over this pipe which will not be permitted. According to the plan this pipe is abandoned, however DPW has no record of this.



I recommend test pits and or Closed-Circuit Television (CCTV) be performed to confirm the assumption of the pipe being abandoned.

The proposed (shared with #137 Rumford Avenue) Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities is acceptable for the design intent. The O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

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.