

DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON
Massachusetts

INTER-OFFICE CORRESPONDENCE

DATE: December 2, 2022

TO: All Members, City Council

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

SUBJECT: **Petition #254-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retail marijuana establishment, to allow parking within the side setback, to waive perimeter screening requirements, to waive lighting requirements, to waive the 500 ft. buffer for an existing kindergarten, and to waive the 25% façade transparency requirement at 1185 Chestnut Street, Ward 5, Newton, on land known as Section 51 Block 45 Lot 09, containing approximately 17,091 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, 5.1.8.A.1, 5.1.13, 5.1.9.A, 5.1.13, 5.1.10, 6.10.3.F.1, 6.10.3.F.15 of the City of Newton Rev Zoning Ord, 2017.

Petition #254-22 was placed on second call at the September 13th Land Use Committee hearing on the condition that the Petitioner provide the City with the information requested from the transportation peer reviewer including existing traffic counts, crash data, level of service analysis and more. At the September 19th City Council meeting, the item was remanded back to the Land Use Committee with no discussion or issues identified, however the peer review and traffic engineers were still going back and forth on the data and items needed to close out the petition.

On November 18, 2022, the City's peer reviewer, BSC, issued the attached memorandum (**Attachment A**) indicating they are satisfied with the Petitioner's responses and their review is complete. Also attached is the Council Order initially reviewed at the September 13th Land Use Committee hearing (**Attachment B**).

Attachment A: BSC Memorandum, dated November 18, 2022

Attachment B: Council Order #254-22



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NOVEMBER 8, 2022

Michael Gleba
Senior Planner
City of Newton
Planning and Development Department
1000 Commonwealth Avenue
Newton, MA 02459

RE: Transportation Peer Review – 1185 Chestnut Street

Dear Mr. Gleba,

As requested, BSC Group, Inc. (BSC) conducted a peer review of the Traffic Impact Statement prepared by Hayes Engineering, Inc. dated April 21, 2021, revised March 25, 2022 for the proposed 4,988 sf Nuestra, LLC marijuana establishment proposed at 1185 Chestnut Street in Newton, MA. The peer review that BSC conducted is dated May 3, 2022 and included recommendations and clarifications for the Hayes Engineering, Inc. report, most notably to produce a traffic report that includes existing traffic counts, safety analysis, and operational analysis.

Hayes Engineering, Inc. issued a response dated September 7, 2022 to BSC's May 3, 2022 review. The letter responded to Comment's 1 to 10, inclusive, generally stating that a full traffic study was not warranted based both on trip generation criteria and City of Newton requirements.

Since that time, Fuss & O'Neill has prepared a full traffic study that addresses the initial recommendations and clarifications included in the May 3, 2022 peer review. BSC issued a review, dated October 18, 2022, of the Fuss & O'Neill traffic study dated October 7, 2022.

The purpose of this final review is to ensure that the comments submitted by BSC have been addressed. Only comments that required a response have been included.

The key findings of our review of the Traffic Impact Evaluation are presented in the following sections. BSC's comments are presented in normal font, Fuss & O'Neill's responses are presented in **bold**, and BSC's final comments are presented in *italics*.

Crash Data and Safety Within the Study Area

3. BSC Comment: BSC agrees with the methodology to collect the historical crash data from the MassDOT website. BSC recommends cross-checking the crash data with the City of Newton crash data, as the MassDOT website explains that data after 2019 should be considered incomplete. Additionally, BSC recommends calculating a crash rate for the segment of Chestnut Street between Pennsylvania Avenue and Oak Street, as this was an area of concern for residents based on comments at the Land Use Committee meeting on September 13, 2022.

Fuss & O'Neill Response: The crash rate for the 0.25 mile segment is 4.51, which exceeds the statewide average crash rate for an urban collector roadway of 3.33. None of the collisions that occurred during the study period resulted in injury. Sight lines at the site driveway were found to be clear and unobstructed, and measured intersection sight distance at the driveway was adequate. Therefore, we do not expect the development to exacerbate the existing crash frequencies.

Fuss and O'Neill reached out to the City of Newton to obtain crash reports to supplement the available data for 2020 and 2021 on the crash portal. No additional crashes were identified.

BSC Final Comment: BSC acknowledges the collisions along Chestnut Street between Pennsylvania Avenue and Oak Street result in a calculated crash rate that is greater than the statewide average. However, BSC acknowledges that zero (0) of these reported crashes involved a pedestrian or bicyclist, which was a concern of the neighbors. Given the estimated number of vehicle-trips to the area, BSC is in agreement that the development will not exacerbate existing crash frequencies. As such, Comment #3 is satisfied, and no further action is required.

Sight Distance

4. BSC Comment: BSC agrees with the methodology for calculating the intersection sight distance at the site driveway, measured 15-feet from the edge of traveled way. BSC notes that the sight distance looking west (left) from the driveway could potentially be impeded by vegetation in front of the site.

BSC recommends the Applicant commit to continued maintenance of any vegetation, as well as the clearing of all snowbanks, that may impact sight lines.

Fuss & O'Neill Response: The applicant agrees to maintain vegetation and clear snowbanks that may impact sight lines.

BSC Final Comment: BSC is in agreement with Fuss & O'Neill's response. As such, Comment #4 is satisfied, and no further action is required.

Design Year Traffic Volumes

9. BSC Comment: BSC agrees with the methodology to project the existing traffic data seven (7) years to 2029 using a growth rate of 0.5 percent per year. BSC recommends consultation with the City of Newton Planning Department to determine if there are any other projects in the area that could contribute to an increase in traffic at the study intersections and if needed, include the background traffic data in the No-Build condition.

Fuss & O'Neill Comment: The Northland Newton Development, located on the corner of Oak Street and Needham Street was identified as a development that is expected to generate additional traffic through the study area. The full build-out of this development is expected to be completed in 2026.

The addition of site generated traffic from the Northland development results in some additional delay on the southbound approach at the intersection of Elliot Street and Chestnut Street. Signal re-timing at this intersection has been previously recommended to mitigate impacts of the Northland Development. The impact of the dispensary traffic and the additional traffic from the Northland development will not be realized until after the full build-out of the Northland development is complete and all of the units are occupied. At that time, an assessment and determination should be made of how the signal should be re-timed.

As indicated in the previously submitted memorandum, impacts to the intersection without the addition of the Northland traffic are de minimis.

Please see the attached memorandum for the revised capacity analysis.

BSC Final Comment: BSC has reviewed the revised capacity analyses presented in the attached memorandum. BSC acknowledges the increase in delay for both the northbound and southbound movements at the intersection of Chestnut Street at Elliot Street during the Weekday PM peak hour, resulting in degradation of level of service. BSC acknowledges that signal timings at this intersection had previously been recommended to mitigate the impacts of the Northland development and VHB will reassess the intersection when the Northland development is fully occupied to determine if signal timing changes are required.

As such, Comment #9 is satisfied, and no further action is required.

Operations Analysis at the Study Area Intersections

10. BSC Comment: BSC agrees with the methodology and the use of the Synchro software to perform the capacity analyses at the study intersections. BSC notes that although Synchro 11 is the newest of the Synchro versions, version 10 will provide similar results.

BSC agrees that the LOS will not be negatively impacted with the addition of the proposed vehicle-trips when comparing to the No-Build condition. Additionally, BSC agrees that the degradation of the LOS for the southbound movement at Chestnut Street at Elliot Street during the Weekday PM peak hour (LOS D to LOS E) and Saturday Midday peak hour (LOS B to LOS C) will not have significant impact.

BSC recommends the Applicant provide both the existing signal timing data sheets and the proposed signal timing data sheet (for Chestnut Street at Oak Street) to ensure that the intersections were analyzed with the correct signal timings.

Fuss & O'Neill Comment: Signal timing data sheets have been included as an attachment to this letter.

BSC Final Comment: BSC has reviewed the attached signal timing data sheets for both signalized intersections and compared them to the updated capacity analyses worksheets. BSC notes that some of the signal timings are inconsistent between the signal timing data sheet from the City of Newton and the data sheet produced by VHB (for the intersection of Chestnut Street at Oak Street). However, BSC agrees with Fuss & O'Neill for the use of the signal timings on the VHB data sheet, as this was produced using timings directly observed in the traffic control cabinet. As such, Comment #10 is satisfied, and no further action is required.

BSC is satisfied with the responses and revisions that have been provided by Fuss & O'Neill for the proposed project at 1185 Chestnut Street. Please do not hesitate to contact our office with any inquiries you may have.

Sincerely,

BSC Group, Inc.



Wayne Keefner, PE, PTOE
Senior Project Engineer

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 a marijuana retailer, allow parking within the required side setback, waive perimeter screening requirements, waive the lighting requirements, waive the 500 foot buffer for an existing kindergarten, and to waive the 25% façade transparency requirement 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 and it is replacing a previous retail use. (§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 Chestnut 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 (§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.H.1.a)
6. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.H.1.b)
7. The Marijuana Retailer is designed to minimize any adverse impacts on abutters with fencing, landscaping and reduced lighting (§6.10.3.H.1.c)
8. The Marijuana Retailer is designed to minimize any adverse impacts on the abutting existing private day care facility that includes kindergarten students (§6.10.3.H.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 as stated by the petitioner's

transportation analysis and as confirmed by the City's on-call consultant and because of the appointment only system set forth in Condition #2. (§6.10.3.H.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.H.2.c)
11. The building and site are accessible to persons with disabilities. (§6.10.3.H.2.d)
12. 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.H.2.e)
13. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.H.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 surrounding area along Chestnut Street and presence of commercial uses nearby that operate during similar hours. (§6.10.3.H.2.g)

PETITION NUMBER: #254-22

PETITIONER: Nuestra LLC
198 Tremont Street, Suite 228
Boston, MA 02116

LOCATION: 1185 Chestnut Street, on land known as Section 51 Block 45
Lot 9, containing approximately 17,091 square feet of land

OWNER(S): 1185 Chestnut St. Trust
Kegagioglu Panagiotis, Trustee

ADDRESS OF OWNER(S): 1185 Chestnut Street
Newton, MA 02464

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 within the required side setback (§5.1.8.A.1, §5.1.13)
- waive perimeter screening requirements (§5.1.9.A, §5.1.13)
- To waive the lighting requirements (§5.1.10, §5.1.13)

- waive the 500 foot buffer for an existing kindergarten (§6.10.3.F.1)
- waive the 25% façade transparency requirement (§6.10.3.F.15)

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 “Site Plan, Proposed Marijuana Retailer, 1185 Chestnut Street, MA,” dated December 23, 2021, as revised through July 20, 2022, prepared by Hayes Engineering, Inc., comprised of the following sheets:
 - i. Cover Sheet and Index (C1)
 - ii. Existing Conditions (C2)
 - iii. Site Preparation (C3)
 - iv. Proposed Site Plan (C4)
 - v. Landscape Plan (C5)
 - vi. Lighting Plan (C6)
 - vii. Details (C7)
 - b. Architectural plans and drawings, entitled “Boston Garden, Newton, MA, ” prepared by BKA Architects, comprised of the following sheets:
 - i. Floor Plan (A-1), dated November 9, 2021
 - ii. Street Elevation Transparency (*sic*),(A-2), dated October 7, 2021
 - iii. View 1- Chestnut Street Approach (A-3), dated July 21, 2021
 - iv. View 2- Main Entrance (A-4), dated July 21, 2021
 - v. Exterior Elevations (A-2B), dated May 13, 2021
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 right (west) side of the property and must not form along Chestnut Street.
 7. The Marijuana Retailer may not have more than six points of sale.
 8. There shall not be more than nine (9) 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 be responsible for securing and paying for any and all police details that may be necessary, as determined by the Police Chief, for traffic control at such times when the nearby seasonal farmers market is in operation.

11. 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 "Transportation Demand Management Plan, The Boston Garden- Proposed Retail Dispensary, 1185 Chestnut Street, Newton, Massachusetts," from Anthony M. Capachietti, PE, to Newton City Council, dated July 18, 2022, 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 public transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare and ridesharing. 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.
Further, in the event that it is determined by one or more relevant City departments (i.e. the Newton Police Department, Planning Department and/or Public Works) and/or third party engineers designated by mutual agreement of the petitioner and one or more of said relevant City departments, that the parking provided onsite is insufficient and additional parking is required, petitioner shall timely obtain rights for off-site parking at such location(s) where said use is permitted either by-right or pursuant to a special permit so as to cure the identified parking deficiency.
12. Security lighting shall be in accordance with the standards imposed by the Cannabis Control Commission. 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.
13. 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.
14. Maintain plantings to ensure sight distance.
15. 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.
16. Snow shall not be stored on site.
17. 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.

18. 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.
19. 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.
20. 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.
21. 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.

22. 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.
23. 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.

24. 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.
25. 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.
26. Prior to the issuance of any occupancy certificate, the petitioner shall conduct pre-demolition and post-construction closed-circuit television inspections 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.
27. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
28. 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, 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. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
29. 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 Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. 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.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
30. 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 building permit record statements by a registered architect and a professional land surveyor certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. 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.
 - e. 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.
31. Notwithstanding the provisions of Condition #30 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.