

October 28, 2019

*via email*

Councilors Gregory Schwartz, Richard Lipof, Maria Greenberg, Jacob Auchincloss, Andrea Kelly, Christopher Markiewicz, Deborah Crossley, and Marc Laredo

Land Use Committee  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

*Re: Petitions #425-18 & 426-18*

***Schlesinger Memorandum Dated October 23, 2019 to City Council President Marc C. Laredo. Re: Northland Newton Development***

Dear Councilors Schwartz, Lipof, Greenberg, Auchincloss, Kelly, Markiewicz, Crossley, and Laredo,

Right Size Newton hereby submits the following comments regarding certain misleading claims and arguments made in the October 23 Memorandum submitted by Alan J. Schlesinger on behalf of Northland. To make it easier to follow, particular claims/arguments are followed by our comments (in [blue](#) and *italics*).

#### A. Memorandum Statement

In contrast to your suggestion, Northland , with the guidance of a nationally recognized TDM expert, has adopted the City's peer reviewer's recommendations that:

1. For the first time ever in Newton, a TDM plan be measured by results and not by input or resources applied; and
2. The TDM plan be focused on program elements which are controllable such as residential and office uses where TDM can be effective and not focused on retail/public uses where (i) it is likely to be ineffective and (ii) it could, in turn, threaten the placemaking objective of the development.

*Right Size Comment: Attorney Schlesinger did not annotate his claim that the City's peer reviewer, BETA, made the recommendation to **monitor** and **enforce** only residential and office related vehicle traffic. To our knowledge, BETA has never made this recommendation (see Beta Memorandum dated February 14, 2019; BETA Memorandum dated March 6, 2019; BETA Memorandum dated March 7, 2019; and BETA Memorandum dated April 3, 2019 (Attachment C*



to Planning Department Memorandum, dated April 5, 2019).

Indeed, the Planning Department's Memorandum of April 5 (available at: <http://www.newtonma.gov/civicax/filebank/documents/96257>) notes that "the **performance standard** that Northland is held to may differ depending on the type of trips: 'One question that remains is whether the performance standard is adjusted to just apply to residential and office trips, as retail trips are difficult to influence.' ...

Northland should be required to stand behind **both** their projected traffic reduction goals (for residential and office uses) and the total projected traffic generated, which includes adjusted residential and office uses and **unadjusted** retail uses....

## B. Memorandum Statement

Northland has agreed to a trip reduction program as shown on Exhibit A which shows the "unadjusted" numbers for office and residential and the resulting numbers after TDM. The TDM program includes regular monitoring and reporting including, in Draft Condition 63 (f), biennial counts of total trips. You have asked why Northland should not use a metric of calculating total trips including retail and public trips with a cap on traffic generation. There are several reasons:

1. The total counts are not a reflection of the effect of NND. The pass-by trips from shoppers on Needham Street, the parkers for the splash park or the open spaces, the people who drive in to look around or turn around would all be counted but should not be. It is a core objective of NND to create a lively and active destination with a blend of private and public uses. Efforts or resulting penalties to curtail public (including retail patronage) uses will most certainly hurt the success of the project and not produce the desired benefit for the community as expressed in the Needham Street Vision. Having a good traffic count because of vacant retail space is bad, and at various times a particular use might have a different effect on different days or different times of the day.

*Right Size Comment: Planning, in its memorandum dated June 14, 2019, actually suggested monitoring all traffic entering and exiting the site with "continuous permanent trip counting stations at every curb cut location," (available at: <http://www.newtonma.gov/civicax/filebank/documents/98144>). Such monitoring would **not** count any pass-by trips, as vehicles associated with pass-by trips, by definition, neither enter nor exit the Northland site.*

*Suggesting that Northland should not be responsible for traffic generated by the site's amenities (e.g. the splash park or open space), or for "people who drive in to look around or turn around" is unreasonable and illogical – the Northland project will be directly responsible for the additional traffic from these uses.*

*Since no reduction in the mode split was projected by Northland’s consultants for retail vehicle trips, no reduction is being suggested by Right Size Newton’s proposed Board Order language. Northland is simply being held to the standard they themselves project based on their “Robust Shuttle Service”: 60% vehicle mode split for residential and office uses (down from 82% for residential and 88% for office use currently) and a 90% vehicle mode split for retail use, which is **exactly the same** as the existing mode split (please see Table 4 of VHB memorandum dated March 28, 2019, available at: <http://www.newtonma.gov/civicax/filebank/documents/96175>).*

*If Northland is unwilling to commit to its project not generating more retail-related traffic than its projections, then perhaps Northland itself is not even confident in those projections.*

### C. Memorandum Statement

2. The gross count metric is not a measure of the effect of the TDM plan which is better measured by the effect on the target audience.

*Right Size Comment: Of course, the TDM purposefully seeks to only impact residential and office vehicle trips. However, the gross count metric is the **only** true measure of the impact of the project as a whole on Needham street and the surrounding area.*

### D. Memorandum Statement

3. TDM will be effective as to commercial and residential tenants, but not as to retail users. The owner does not have direct relationships with retail/restaurant customers, and based on the assessments of our consultants and the peer reviewer retail customers are unlikely to participate significantly in TDM measures. Northland does have direct relationships with the office tenants, and their employees and with residential tenants, all of whom will use transponders for garage access. Entry and exit data from the transponders will be available to track office and residential traffic patterns, and Northland can communicate with the office tenants and residents and balance the TDM elements as needs arise. That is not true of either the retail or the public uses.

*Right Size Comment: As noted above, since traffic is one of the main neighborhood concerns, Northland should stand behind their total traffic projections. The language proposed by Right Size Newton does not penalize Northland for failing to reduce the percentage of retail users that drive to the site, it penalizes Northland only for exceeding the projected vehicle trips for those users.*

### E. Memorandum Statement

4. Gross traffic generation is not an appropriate metric where trip generation

for the proposed project is smaller than a project which could be built as a matter of right. Whether the property is in the current MU-1 District or the proposed BU District, in either district about 1,479,000 s.f. of building is allowed on the site. This project is 1,403,000 s.f., so no matter what use is made, the building mass and the resulting generation are less than what is allowed, and no TDM is mandated for an “as right” development.

*Right Size Comment: It is our understanding that, per Section 4.2.2.B.1 of Newton’s Zoning Ordinance, any development exceeding 20,000 square feet would require a special permit. As such, a “by right” development would be subject to City Council approval and thus a TDM could be mandated for a “by right” development, as well.*

#### F. Memorandum Statement

5. NND is not the source of the existing Needham Street traffic congestion. Councilor Kalis cited the MAPC study that about 70% of the Needham Street traffic is cut-through traffic to Needham. The site currently holds 193,000 s.f. of vacant office to be occupied and 70,000 s.f. of retail/commercial to be replaced by 115,000 s.f. The 45,000 s.f. of additional retail/commercial space is the equivalent of one more Marshalls store – 40,000 s.f. There are 800 housing units, but we refer to Exhibit B attached from the Planning Department presentation and to the traffic reports and peer review showing that the AvalonBay property driveway is operating at LOS A. NND adds the units, which simply are not a problem, and one store the size of a junior retail box.

*Right Size Comment: Even if true that 70% of Needham street traffic is pass-through traffic (and that no amount of road improvements will change this) that traffic, by definition, does not terminate at any retail, office, or residential building along Needham street. This is precisely why a project as large as Northland’s requires careful monitoring and restrictions on the total amount of traffic it generates. Northland’s proposed development will add local traffic that originates or terminates at its site. All that Northland is being asked to do is to ensure that this traffic does not exceed the projections that it provided as part of the review process.*

*If Northland thinks that adding 40,000 square feet of retail will not materially change the amount of traffic generated by the currently provided retail on the site, then it should have no problem committing not to exceed the ITE-derived projections it provided for such use.*

*The Avalon Bay property consists of 295, not 800 units and the presence-tripped signal at its entrance should be expected to operate at LOS A. Once again, if Northland is sure that the 800 units will not add significant traffic to Needham street, it should stand behind its projections.*

### G. Memorandum Statement

6. Northland intends to implement an expensive, targeted and effective TDM program unprecedented in Newton in order to reduce trips with a mandatory target of high effectiveness. Northland is proposing a dual counting system with both transponder and intercept surveys , so they will be able to use each method to determine the accuracy of the information and fine-tune the data over time.

Northland is dramatically addressing off-site issues by agreeing to payment of \$5,000,000 to the City specifically targeting area traffic issues. Working inside the project and outside in the neighborhood is will provide substantial mitigation of existing conditions in addition to mitigating effects of the project.

You asked whether the counts would consider employees or residents who might be using TNC's (UBER). Those people, either residents or workers, would not appear in the transponder count since they do not leave the garage, but they would appear in the intercept data. The intercept survey method has been successfully used in other projects and together with the transponder counts will provide an accurate overall picture.

The Council has pressed Northland to provide the absolute minimum of parking spaces which can serve the community, and we must all recognize that to some extent, on some days in some seasons, that will increase the use of UBER. Maybe on rainy days there are more vehicle trips, and maybe on sunny days there are fewer.

*Right Size Comment: Intercept surveys are a poor tool for collecting vehicle-trip data. Privacy concerns discourage drivers from divulging information about their destination or origin. Additionally, our busy lives tend to encourage us to walk past anyone holding a clipboard and asking questions. As Northland notes in its response, the use of TNCs (Uber and Lyft) is unavoidable and likely to increase due to the limited parking that Northland is providing on-site. TNC use is **predominantly** tied to residential and restaurant use. Very few people would commute to work by TNC and fewer still would use TNCs to access retail. It can be said with absolutely certainty that not very many people getting in or out of a TNC would stop to discuss their destination with a surveyor. These vehicle trips, which have the potential to be quite substantial as Northland concedes, would go uncounted.*

### H. Memorandum Statement

Most importantly Northland has taken significant steps and made substantial changes to minimize traffic impacts including:

- (i) Reduce commercial space. We are aware this is not your first choice, but the effects are dramatic. Again, Exhibit B from the Planning Department presentation shows the

comparative effects of residential and commercial uses. 800 units of housing has the same vehicle generation as 350,000 s.f. of office and under 100,000 s.f. of retail. By reducing the retail from 237,000 s.f. in 2018 to the current 115,200, *unadjusted* retail PM traffic was reduced in the VHB reports from 1564 trips to 603 trips. The unadjusted numbers do not account for “internal” generation or “pass-by”, but as raw data the 900 vehicle difference is significant;

*Right Size Comment: Northland likely, and realistically, made its own determination that it could not successfully rent 237,000 s.f. of retail space and then here, attempts to make the traffic reduction resulting from the smaller retail size greater than it actually would be. The proposed TDM plan concentrates on the weekday morning and afternoon “peak hours.” Here, however, Attorney Schlesinger uses unadjusted numbers for “PM traffic.” According to Table 2 from VHB’s memorandum dated February 14, 2019 (available at: <http://www.newtonma.gov/civicax/filebank/documents/95497>), the “peak hour” reduction in vehicle trips associated with the reduction in the size of the project is: 50 for the morning peak hour, 251 for the evening peak hour and 333 for the Saturday midday peak hour. These are reductions, as would be expected from a smaller project, but they are not anywhere near as dramatic as Attorney Schlesinger makes them seem.*

#### I. Memorandum Statement

- (ii) Mix the uses. The reduction in traffic generation is achieved by mode share, i.e. the ability for people to connect by bicycle or transit or walking or by not having to leave at all, and by internal capture, residents who can shop at the stores and restaurants, office workers shopping and eating, and pass-by trips – people coming who are already on Needham Street and making NND one stop among others;

*Right Size Comment: If Northland is confident in its mode share projections, Northland should stand behind them.*

#### J. Memorandum Statement

- (iii) Reduce the onsite parking. The reduction in onsite parking is intended and expected to encourage a car-free or “car-lite” lifestyle. On balance and in the longer run the limited onsite parking will reduce traffic.

*Right Size Comment: As Northland noted earlier, this reduction in parking could have the unintended consequence of increasing the use of TNCs, which actually generate more traffic (a TNC is usually occupied in only one direction; once a passenger is dropped off, the TNC leaves “empty” to go its next pickup). It is also likely that overflow parking from the site will end up on neighboring city streets. Making sure that the hard-fought reduction in parking negotiated by the city council is meaningful requires holding Northland to its traffic projection numbers.*

#### K. Memorandum Statement

- (iv) Aggressive TDM Plan. TDM measures are proven effective for office and residential users, and according to Nicole Friedman, the part that works is paying people in one form or another not to drive. Northland is proposing an enormous allocation of resources to achieve a goal.

*Right Size Comment: Northland has been asked, repeatedly, to identify any other development of this size, and in this type of location (i.e. not a TOD), where the vehicle mode share was reduced to the levels Northland is projecting with the use of measures proposed by Northland; Northland has been unable to identify any such development.*

#### L. Memorandum Statement

In summary – you have asked why Northland does not simply count the drivers going in and out of NND and agree to a cap. Our response is that:

1. It is the wrong thing to measure, providing misleading information on the wrong question.

*Right Size Comment: It is not wrong to measure the overall traffic impact of a project on the surrounding area; the fact is that traffic is traffic – no one sitting in gridlock thinks that the traffic is acceptable because it is “retail” traffic and not “residential” traffic.*

#### M. Memorandum Statement

2. The worst case traffic generation scenario for the City is the as-right development.

*Right Size Comment: As noted above, this is simply not the case, since a special permit would be required for any development the size of which would dramatically impact traffic.*

#### N. Memorandum Statement

3. The City’s peer reviewer and Planning Department have proposed an innovative, targeted TDM plan with a concrete objective and concrete results, without any cap on the developer’s obligation to perform.

Northland's TDM program includes frequent free shuttle service and offers both significant financial incentives to residents and employees.

*Right Size Comment It is incorrect to say that the Planning Department and the peer reviewer recommended this TDM; Northland proposed it; see above. In fact, the Planning Department initially suggested precisely the kind of monitoring that Right Size Newton is calling for: In its June 14, 2019 memo (available at:*

*<http://www.newtonma.gov/civicax/filebank/documents/98144>), Planning recommends: "holding the project to a maximum number of driving trips rather than conditioning specific shuttle service" and "conditioning the project to a maximum number of trips based on ITE estimates for trip generation of the proposed onsite uses and requiring compliance with this maximum in perpetuity with mitigation payments required when it is exceeded." In the same memo, Planning recommends that TDM Monitoring include: "continuous permanent trip counting stations at every curb cut location with manual counts done for verification at the end of each reporting period."*

#### O. Memorandum Statement

4. Targeting or attempting to control the retail customers and public visitors to the site will be ineffective and counter-productive to the activity which NND wants to generate.

*Right Size Comment: As noted above, there is no attempt to control the retail customers or public visitors; only an attempt to count them and make sure that the projections provided by Northland today match the reality of the impact once the project is built.*