

October 25, 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*

***DRAFT BOARD ORDER – CONDITIONS RELATED TO TRAFFIC***

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

The surrounding neighborhoods continue to have significant concerns about the size of this proposed development and its impact on traffic, parking, schools, and other infrastructure. We respectfully submit the following comments regarding the Conditions Related to the Traffic portion of the draft Board Order provided by Newton’s Legal Department on October 11, 2019<sup>1</sup>. Our suggested changes to the draft Board Order, as described in more detail below, are being separately transmitted to you contemporaneously herewith.

**Total Traffic**

Northland has stated that “Ultimately Northland views the primary metric of success to be trip generation.”<sup>2</sup> We agree. Therefore, trip generation metrics should measure the total trips generated onto Needham Street by the project once built not, as has been suggested, only residential and office trips. As Ms. Cairra of the City’s planning Department most appropriately explained at the April 30, 2019 Land Use Committee hearing:

We had what I think was a **productive meeting with Northland** and their consultant as well as Beta our peer reviewer last week to talk about this issue to come to a consensus on what the projected traffic will be and trip generation rates. **We are all in agreement** about what numbers those numbers will be and what we need to focus on. ... Our **focus is on total trips coming from the project once it is built**, regardless of what is there today, what was there several years ago, or what could be built there. Our focus is purely on the total number of trips coming from the project because that’s what we can count and measure to insure that they’re in compliance with any conditions that are based around that. So, the actual

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<sup>1</sup> See Draft Board Order available at <http://www.newtonma.gov/civicax/filebank/documents/99509>

<sup>2</sup> See **Metrics/Post Occupancy Review** section of Summary of TDM Provisions dated 3/28/2019, available at: <http://www.newtonma.gov/civicax/filebank/documents/96176>

numbers for that which we've reviewed, Beta has reviewed, and **everyone agrees on the methodology**, and those numbers is 396 total trips in the weekday morning, 487 total trips in the weekday evening, and 558 trips Saturday midday. So those are the numbers we're comfortable with and we've discussed with the Petitioner going forward. (emphasis supplied)<sup>3</sup>

The Land Use Committee, and the City Council as a whole, should reject Northland's argument that only residential and office traffic should be measured because the TDM measures will be primarily successful at changing the behavior of residents and employees<sup>4</sup>. Too great an increase in traffic along Needham Street, and on streets in adjacent areas, will doom this project and nearby neighborhoods, regardless of whether the traffic results from residential, office, or retail use. Moreover, Northland has even claimed that the multi-use design will result in some retail users coming from the project itself or nearby residents walking or biking to use the retail facilities, which is key to their traffic reduction projections.

The 115,000 square feet of retail included in the project is substantial, and will generate a large portion of the additional traffic coming from, and going to, the site during the peak traffic hours (see Figure #1 below): approximately 33% of the weekday morning total (134/396), 60% of the weekday evening total (289/487) and a whopping 70% of the Saturday midday total (395/558)<sup>5</sup>. Indeed, even Northland acknowledges that "the disproportionate impact [on traffic] which commercial uses have relative to residential uses"<sup>6</sup>. Furthermore, the "total" numbers that the Planning Department originally referred to as an appropriate metric, are adjusted for the projected reduction in residential and office vehicle trips resulting from the TDM measures. As the Planning Department stated in its June 14, 2019 Memorandum to the Land Use Committee:

Based on the ITE generations rates for the proposed project with the 40% vehicular trip reduction the peak hour trips would be 396 in the weekday AM, 487 in the weekday PM, for a total of 883 weekday peak hour trips. The Saturday peak hour trips would be 558. If the actual count on a particular weekday was 400 AM trips and 500 PM trips, for a total of 900 weekday peak hour trips, the project would have exceeded the maximum by 17 trips (900-883=17).

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<sup>3</sup> This explanation was provided after Northland had already reduced the number of residential units to 800 and reduced the retail space to 115,000 square feet.

<sup>4</sup> Northland's argument has, somewhat confusingly, been accepted by the Planning Department. Though Planning, throughout the hearing process, continued to speak in terms of "total" vehicles, it then sometimes only referenced vehicle numbers related to residential and office uses. As late as its June 14, 2019 Memorandum, the Planning Department referred to the total vehicle counts that everyone earlier had agreed should be used.

<sup>5</sup> See Amended Table 8, VHB Memorandum dated April 16, 2019, "Response to Transportation Peer Review Memo Dated April 3, 2019), p. 2, available as Exhibit D at <http://www.newtonma.gov/civicax/filebank/documents/96743>. Interestingly, the numbers in Amended Table 8 are the numbers which were then referenced by Ms. Caira on April 30.

<sup>6</sup> See September 5, 2019 Letter from Schlesinger and Buchbinder to Land Use Committee, available at <http://www.newtonma.gov/civicax/filebank/documents/98810>.

And, recognizing that the only sure way to capture all trips, in the same Memorandum, the Planning Department states that “continuous permanent trip counting stations” are to be placed “at every curb cut location.”

Moreover, were only “residential and office” vehicle trips used as the metric, traffic generated by ride-share services, delivery trucks, visitors to the residential and office portions of the proposed project, and other visitors to the site, such as shuttle bus patrons that live off-site and users of the splash park, would not be counted. It is therefore imperative to monitor both the total traffic generated by the site overall (to determine whether the site is matching the projected traffic impact) and the traffic generated by the residential and office components of the project (to determine whether the TDM Work Plan is working).

Our suggestion: Revise Condition #59 of the Order so that there is both a limit on the number of residential and office vehicle trips (as adjusted for the robust mode share)(Maximum Residential and Office Trip Count) **and** a separate limit on overall trip generation (Maximum Total Trip Count), not to exceed the sum of the residential, office, retail, and, implicitly, visitor traffic, and include the Saturday midday peak period. See Conditions Related to Traffic as Proposed by Right Size Newton submitted contemporaneously herewith.

### **Total Trip Reduction Inconsistency**

Northland promised<sup>7</sup> a 22% reduction in residential vehicle use and a 28% reduction in office vehicle use with the implementation of their “robust shuttle” service (see Figure #2 below). Yet Condition #59.b.i, apparently adopted from Northland’s proposed draft dated July 26, 2019, requires Northland to meet only a 20% reduction for these vehicle trips across the board<sup>8</sup> (see Figure #3). Further, while Amended Table 8 (see Figure #1 below) from VHB’s April 16, 2019 Memorandum shows projected Vehicle Trips by use with *Robust Shuttle Service* (which indeed contained the vehicle trip numbers identified by Ms. Caira as referenced hereinbefore), Northland used numbers from VHB’s Table 6 from its March 28, 2019 Memorandum, which are for projected vehicle counts with “existing mode share”, as the base for acceptable traffic generation prior to applying a 20% reduction, thereby creating the inconsistency between what was promised to what is required by the Board Order.

Our suggestion: Use the proper “Robust Shuttle” projections to adjust the Maximum Residential and Office Trip Count and the Maximum Total Trip Count to reflect the reductions promised by Northland with the Robust Shuttle Service that Northland is relying on as the lynchpin of the TDM Work Plan. See Conditions Related to Traffic as Proposed by Right Size Newton submitted contemporaneously herewith.

### **Monitoring Issues - Timing**

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<sup>7</sup> See Transportation Impact and Access Plan dated October 19, 2018, available at: <http://www.newtonma.gov/civicax/filebank/documents/92313> and VHB Memorandum dated March 28, 2019 (available at: <http://www.newtonma.gov/civicax/filebank/documents/96175>).

<sup>8</sup> See Exhibit A to Draft Transportation Demand Management Plan, available at: <http://www.newtonma.gov/civicax/filebank/documents/98207>

Condition #59.b defines Maximum Trip Count as applicable only during the morning and evening peak hours and Condition #63.b requires trip counts to only be collected at these times. However, it is undeniable that the true impact of traffic from this proposed development will be felt at all hours of the day and all days of the week, especially the impact from residential and **retail** portions of the proposed development.

Our suggestion: Require Northland to, at a minimum, meet trip generation limits for all “peak hours,” including weekday and weekend times. See Conditions Related to Traffic as Proposed by Right Size Newton submitted contemporaneously herewith.

### **Monitoring Issues – Frequency**

Condition #61.b.ii requires monitoring reports to be submitted every six months and further states that compliance with the Maximum Trip Count for two consecutive six-month reporting periods following 80% occupancy of the residential and office buildings reduces the reporting requirements from every six months to once per year. Further, Condition #61.b.iii contemplates reporting requirements being eliminated at some point in time. At the same time, Condition #63.g requires Northland to collect real-time vehicle data and make it available to the Director of Planning and Development upon request. Six-month reporting periods are too infrequent, especially at the beginning of the project, to adequately monitor and correct any traffic issues that arise. Given the requirement to collect data in real time, there is no reason not to require report submissions more frequently, at least initially. Further, any reduction in reporting requirements should contain a mechanism for reversal if future reports show non-compliance.

Our suggestion: Reduce the Reporting Period to three months initially, increasing to six months after a period of compliance, and increasing further to once a year upon continued compliance. The Reporting Period should be reduced back to the original length if non-compliance re-appears after the period has been extended. The reporting requirements should remain in perpetuity, so that the city can continue to monitor compliance and can collect useful data for other projects of this size. See Conditions Related to Traffic as Proposed by Right Size Newton submitted contemporaneously herewith.

### **Monitoring Issues – Methodology**

Using transponders attached to cars that belong to residents or office users to distinguish them from other users of parking at the site will be inaccurate and overly intrusive. Since Northland has repeatedly stated that its garage spaces will be shared use between retail, office, and residential users, and that it “will not sell any reserved parking spots in the main garage,”<sup>9</sup> it is therefore unlikely that Northland will have limited-access sections of the garage dedicated to one particular use which would *require* a transponder to access. Without a transponder being required to gain access, a resident could therefore simply fail to attach their transponder to their car (which is likely, since no resident likes their movements to be monitored by their landlord) and this car would not be monitored. Similarly, intercept surveys, as contemplated by Condition

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<sup>9</sup> See Letter from Lawrence Gottesdiener to Jennifer Caira, dated April 11, 2019, p.1, available at <http://www.newtonma.gov/civicax/filebank/documents/96765>.

#63.e are an inefficient and inaccurate way to monitor traffic. Frankly, it is inconceivable that users of the site will interrupt their shopping or dining trips to stop to answer questions about their driving and parking patterns.

Additionally, gathering the trip counts over only a three-day period, per Condition #63.e, is insufficient. It is not clear from the draft Board Order whether it is the Planning Department that picks the days to conduct the counts or Northland. It is also not clear whether Northland would be given advance notice of the counts being conducted, but given the use of intercept surveys, it is likely that advance notice would be required. These limitations are inconsistent with Condition #63.g, which states that Northland shall continuously track real-time entry and exit data.

Our suggestion: Simplify data collection by monitoring every vehicle that enters and leaves the site, which will provide a true measure of the traffic impact of this project. The simplest and most accurate way of monitoring traffic is to count the numbers of cars; any other solution is bound to be less accurate and less effective. The trip counts should be collected in real-time, every day, as per Condition #63.g, at every curb cut, and the respective maximum Trip Counts shall be considered exceeded if they are exceeded for **any** three day period during the Reporting Period. See Conditions Related to Traffic as Proposed by Right Size Newton submitted contemporaneously herewith.

### **Insufficiency of Enforcement Options**

As currently drafted, exceeding the Maximum Trip Generation numbers requires nothing more than spending additional money on the TDM plan. Even though Northland's additional investment is uncapped, in practical matters, there is, of course, a limit on how much traffic any project generates, so there is a practical ceiling on Northland's liability. When the penalty for non-compliance is limited to a financial penalty, especially one that Northland would not be required to pay to a third party, the penalty is insufficient.

Our suggestion: Once the TDM Work Plan obligations commence, condition the issuance of any building permit or subsequent Certificate of Occupancy on continued compliance with the Maximum Residential and Office Trip Count and the Maximum Total Trip Count (as adjusted for the lower number of units and square footage) in addition to the financial penalties already outlined in the draft. See attached Conditions Related to Traffic as Proposed by Right Size Newton.

Thank you,

Geralyn Coticone  
Paula Kelleher  
Leon Schwartz  
Alan Kovacs

on behalf of rightsizenewton.org

cc: Nadia Khan



**Figure 1:** Table 8 Net New Vehicle Trip Generation, from 4-16-2019 VHB Memo

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**Table 8 Project-Generated Peak-Hour Vehicle Trips by Use – Build Condition with Robust Shuttle Service**

	Residential <sup>a</sup>	Office <sup>b</sup>	Retail <sup>c</sup>	Pass-By <sup>d</sup>	Total Net Vehicle Trips <sup>e</sup>	Existing Vehicle Trips <sup>f</sup>	Total Net New Vehicle Trips
<b>Weekday Morning</b>							
Enter	40	95	89	22	224	221	3
Exit	<u>115</u>	<u>12</u>	<u>45</u>	<u>22</u>	<u>172</u>	<u>56</u>	<u>116</u>
Total	155	107	134	44	396	277	119
<b>Weekday Evening</b>							
Enter	63	10	140	75	213	120	93
Exit	<u>46</u>	<u>79</u>	<u>149</u>	<u>75</u>	<u>274</u>	<u>248</u>	<u>26</u>
Total	109	89	289	150	487	368	119
<b>Saturday Midday</b>							
Enter	55	20	216	70	291	186	105
Exit	<u>67</u>	<u>21</u>	<u>179</u>	<u>70</u>	<u>267</u>	<u>163</u>	<u>104</u>
Total	122	41	395	140	558	349	209

Note: Table 8 only presents the Project-generated vehicle trips. The Project-generated transit trips and walk/bike trips are presented in Table 7.

- a New vehicle trips with internal capture and mode share credits applied.
- b New vehicle trips with internal capture and mode share credits applied.
- c New vehicle trips with internal capture, mode share, and pass-by credits applied.
- d Pass-by Credits of 25%, 34%, and 26% applied to weekday morning, weekday evening, and Saturday midday peak hour retail trip generation, respectively.
- e Sum of columns a through c.
- f Net vehicle trips that can be generated by the Site under existing conditions (from Table 3).

**Figure 2:** Table 4 Project Mode Share, from VHB 03-28-2019 Memorandum

<b>Use</b>	<b>Vehicle</b>	<b>Transit</b>	<b>Walk/Bike</b>
<b>Build Condition with Robust Shuttle Service <sup>a</sup></b>			
Residential	60%	30%	10%
Office	60%	30%	10%
Retail	90%	5%	5%
<b>Build Condition with Existing Mode Share <sup>b</sup></b>			
Residential	82%	13%	5%
Office	88%	7%	5%
Retail	90%	5%	5%

a Peak hour/peak direction mode share estimates developed with the assumption that there will be a strong usage (expected) of the shuttle system

b Peak hour/peak direction mode share estimates based on Journey to Work data from the 2010 US Census data for the City of Newton

**Figure 3:** Trip Reduction Percentage, from 7-26-2019 Draft TDM Plan proposed by Northland

7/9/2019 EXHIBIT A **425-18/426-18** 9.00

**Northland Needham Street  
Trip Reduction Metrics**

**NND Office and Residential Trip Generation**

Peak Hour	Unadjusted ITE Volumes <sup>a</sup>	Projected Trip	
		Generation Volumes <sup>b</sup>	20% Total Trip Reduction <sup>c</sup>
Weekday Morning	459	361	289
Weekday Evening	525	275	220

a - Raw unadjusted trips for residential and office land uses independent from any external forces - from Table 2 in the 3/28/19 memo by VHB.  
 b - Adjusted for trip reduction credits for internal shared trips (mixed-use development) and existing mode share characteristics in the City of Newton (88% vehicle share for office, 79% vehicle share for residential) - from Table 6 in the 3/28/19 memo by VHB.  
 c - 20% trip reduction from the projected driveway volumes.