



**TOWN OF DURHAM**  
15 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064 603/868-8065  
FAX 603/868-8033  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

**Notice Of Decision**  
**APPROVAL OF SITE PLAN**

**Project:** Site Plan and Conditional Use for 142-unit/460 bed apartment-style housing development.  
**Applicant:** Peak Campus Development, LLC, applicant  
**Engineer:** Joseph Persechino, Tighe & Bond  
**Property Owners:** Chet Tecce Jr., John & Patricia McGinty, and UNH  
**Assessor's Map:** Tax Map 13, Lots 6-1, 10-0, 3-0 UNH and 4-0 UNH  
**Zoning:** Office Research/Light Industry Zoning District  
**Date of approval:** November 28, 2012

---

December 3, 2012

Mr. Jeff Githens  
Vice President of Development  
Peak Campus Development, LLC  
2970 Clairmont Rd., Suite 310  
Atlanta, GA 30329

Dear Jeff,

I am pleased to inform you that the Durham Planning Board approved the above referenced application at its meeting on November 28, 2012. The terms of this approval follow.

"Applicant," herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns. All of the conditions below - Precedent Conditions and Subsequent and General Terms and Conditions – must be met, as specified.

**PRECEDENT CONDITIONS**

[Office use only. Date certified: \_\_\_\_\_; CO signed off \_\_\_\_\_; As-built's received? \_\_\_\_\_;  
All surety returned: \_\_\_\_\_]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Planning Board chair. Certification of the plans is required prior to issuance of a building permit or performing any significant site work. Once these precedent conditions are met and the plans are certified the approval is considered final. Note that no precedent conditions involve actual construction. All work shall be completed prior to issuance of a certificate of occupancy unless otherwise specified.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by May 28, 2013 (or as extended) - the board's approval will be considered to have lapsed. Extension(s) shall be granted by the Planning Board for reasonable cause. It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline. See RSA 674:39 on vesting.

### **Plan modifications**

- 1) Plan modifications. Make the following modifications to the plan drawings (Items do not need to be physically constructed as a precedent condition):
  - a) Easements. Show all easements on the plans, including:
    - i) access through UNH property from Mast Road to the Project entrance.
    - ii) access corridors for all Town owned stormwater, water, and wastewater infrastructure with maintenance easements as stipulated by the Town Engineer.
  - b) Limits of construction. Clarify how limits of construction will be marked on site, whether with orange construction fence or other method.
  - c) Handicap units. Identify handicap units.
  - d) Multiuse Path. The applicant shall submit detailed plans for the multi-use path as generally depicted on the November 1, 2012 plan set, consistent with the intent of discussions held with the Planning Board, as reasonably determined by the Town Planner. (See General Condition regarding the Multiuse Path.)
  - e) Crosswalks. Show two crosswalks crossing Mast Road, one in front of the development linking to the Bryant driveway entrance, as appropriate, and one linking the new path on the northerly side of Mast Road to the existing end of the path on the southerly side of Mast Road. Installation of these crosswalks is subject to approval of NHDOT and will not be required if not approved by NHDOT.
  - f) Pedestrian signal(s). Show pedestrian activated signal at the new Bryant driveway crosswalk. Installation of these signals is subject to approval of NHDOT and will not be required if not approved by NHDOT.
  - g) Right turn lane. The applicant shall prepare detailed plans for a right turn lane leading from Mast Road onto Main Street. If NHDOT stipulates a right turn lane here then the lane shall be as

designed by NHDOT. If NHDOT does not require a right-turn lane then the lane shall be as approved by the Town Engineer and/or NHDOT, as appropriate. A right turn lane shall not be required if NHDOT does not permit this improvement.

- h) Intersection signs. Show one or two standard intersection signs on Mast Road warning of the driveway at Peak if such sign(s) meet(s) the MUTCD warrants.
- i) Hydrants. Finalize locations on the plans of the fire hydrants as stipulated by the Fire Department. Per the Town Engineer, fire hydrants and associated isolation valves shall be installed at the entrance to the development, and at the end of a branch provided for a future extension located near the existing west driveway entrance to the residential property called Tax Map 13 Lot 10-0.
- j) Irrigation. Show information for irrigation or hose bibs.
- k) Porous pavement. Show porous pavement signs at appropriate locations, which shall read as follows, or equivalent: "Porous asphalt pavement for stormwater management. Semi-annual vacuuming is required. The following are prohibited: winter sanding, seal coating, tractor trailers/heavy load vehicles, and handling of hazardous waste."
- l) Sewer line. Show a capped stub of sewer main extending from proposed sewer manhole PSMH9 appropriate for a future sewer force main extension and terminating near the existing west driveway entrance to the residential property known as Tax Map 13 Lot 10-0. The configuration of PSMH9 shall be appropriately designed and constructed to accommodate this future extension.

#### Notes on plans

2) Notes on plans. Add the following notes on the plans:

- a) Inspections. "All inspection/observation services for all water, wastewater and stormwater management infrastructure installations associated with the development shall be performed by authorized representatives of the Town of Durham as deemed necessary by the Durham Department of Public Works and the Developer shall reimburse the Town for all associated inspection/observation costs."
- b) Architecture. "The architectural drawings for the exteriors of the buildings are approved as part of this site plan/conditional use approval. Peak shall submit proposed changes to the architectural designs to the Planning Department. The Planning Department may approve any changes that it determines are clearly consistent with the intent of the approved plans (such as minor changes in color, trim details, window details, and entrance designs). Significant changes will be presented to the Planning Board for review and approval."
- c) Road maintenance. "The use of sodium chloride based materials for winter road maintenance shall be the minimum necessary for roadway safety. Since the development calls for the use of

porous asphalt, sand should not be used in those areas. However, sand may be used in other areas not using porous asphalt to cut down on the amount of sodium chloride based materials used.”

- d) Underground utilities. “All utility piping and wiring shall be located underground.”
- e) Natural features. “Preservation of Natural Features and Amenities. Grading and clearing should be minimized so as to avoid creating undue erosion or interruption of natural drainage ways. Particular attention should be given to natural features suitable as buffer strips. The applicant shall use construction methods which cause the least disturbance to the environment possible. Clearing limits shall be established in the field and approved by the Tree Warden prior to commencement of clearing.”
- f) Debris. “No cut trees, stumps, debris, junk, rubbish, or other waste materials shall be buried in the land, or left or deposited on site at the time of the certificate of occupancy or after that.”
- g) Fertilizer. “Low phosphorus/slow release nitrogen fertilizers for landscape stock shall be used.”
- h) Fire access. “Access into the site for fire apparatus must be maintained at all times during the construction process. This is the sole responsibility of the applicant/developer to maintain this access. Please contact the Fire Department at 868-5531 with any questions about access requirements”.
- i) Off-site improvements. “All off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an appropriate surety is placed.”
- j) Improvements. “All improvements shown on the approved site plan must be properly completed prior to issuance of a certificate of occupancy, unless appropriate surety (sufficient to cover the cost of outstanding items, in accordance with surety standards for the Town of Durham) is placed with the Planning Department.”
- k) Building Code. “Note that this approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time.”
- l) Stormwater infrastructure. “All stormwater management infrastructure shall be designed and installed in accordance with Design Standards of the Durham Site Plan Review and Subdivision Regulations, and shall be owned, operated and maintained accordingly by the property owner to protect the quality of existing onsite and offsite water resources and wetland habitat.
- m) Buffer. “The portion of the existing vegetative buffer along Route 155A/Mast Road - which is depicted as remaining after construction per the site plan - shall be preserved to the extent possible with the exception of dead, diseased, or invasive vegetation.”

**Other precedent conditions**

- 3) Other permits. All required state and federal permits, plus the dredge and fill permit and conditional use approval for the multiuse path (See condition for Multiuse Path, below, for exception), shall be obtained with copies of permits or confirmation of approvals delivered to the Planning Department.
- 4) Deeds and easements. Submit all draft deeds and easements to the Town for review and approval.
- 5) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments (The system will likely not rely upon names for the streets).
- 6) Lot combination. The two lots shall be combined (merged) in conformance with RSA 679:39a and Town policy.
- 7) NHDOT Driveway permit. Obtain driveway permit from NHDOT. Any significant changes to the plans as approved by the Planning Board shall be submitted to the Planning Board for review. No notices or public hearing shall be required.
- 8) NHDES Alteration of terrain. Obtain approval from NHDES. Any significant changes to the plans as approved by the Planning Board shall be submitted to the Planning Board for review. No notices or public hearing shall be required.
- 9) NHDES Sewer Connection Permit. Submit permit to the Planning Department.
- 10) ADA parking. Confirm that number of handicap spaces is sufficient for ADA requirements.
- 11) Fees for Traffic Study Peer Review. Pay traffic study peer review fees if any are outstanding and above the \$2,500 paid to date.
- 12) Construction guarantee. The applicant shall post an acceptable financial surety to be approved by the Planning Board. The financial surety shall be in an amount sufficient to ensure the completion of all roads, water service, sewage disposal, drainage, erosion control, and other infrastructure/improvements. The financial surety shall be effective until work is completed by the applicant. The financial surety shall be approved by the Town Business Manager as to the form and type. The construction guarantee may be released in phases as the portions of the secured improvements or installations are finalized. A cash deposit or letter of credit is an acceptable method of providing the guarantee.
- 13) Maintenance Guarantee. A financial surety shall be submitted to guarantee that all site work is installed in a correct and workmanlike manner. The guarantee shall be in an amount of two percent of the estimated site improvement costs and shall remain in force for two years after site improvements are completed. If repairs are subsequently needed and are not satisfactorily

installed by the developer, then such guarantee shall be used to complete and/or install such improvements. A cash deposit or letter of credit is an acceptable method of providing the guarantee.

- 14) Landscaping guarantee. A guarantee must be posted in an amount equivalent to 100% of the installed cost for all of the landscaping to ensure satisfactory completion of the landscaping plan. The guarantee shall be for a period of two years commencing from the time the certificate of occupancy is issued or installation of the landscaping materials, whichever occurs later. If replacements of any materials are subsequently needed and are not satisfactorily installed by the developer, then such guarantee shall be used to complete and/or install such improvements. This guarantee and/or those stipulated above may be combined at the discretion of the Business Manager. A cash deposit or letter of credit is an acceptable method of providing the guarantee.
- 15) Lighting. Clarify which LCSC light will be used. Provide information on wall packs. They must be shielded/dark sky compliant.
- 16) Water and sewer permits. Water and sewer permits must be approved by the Town Council.
- 17) Utility connection. A utility connect permit application with necessary plans and specifications shall be submitted to DPW for their review and approval and subsequent consideration by the Durham Town Council. The Durham Town Council will consider this application only after the necessary approvals are granted by the New Hampshire Department of Environmental Services.
- 18) Architectural plans. Submit one final 11x17 set of approved architectural elevations in color.
- 19) Final plans. Submit final set of approved plans – one full set of full-size mylars, one full set of full-size paper copies, one full set of 11x17 paper copies, and one electronic version.
- 20) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

---

Jeff Githens

Peak Campus Development LLC

---

Date

### **SUBSEQUENT AND GENERAL TERMS AND CONDITIONS**

- 1) Site work. No significant site work or ground disturbance may occur/be undertaken until: a) all of the precedent conditions are met; b) the preconstruction meeting with Town staff has taken place; and c) all appropriate erosion and sedimentation control structures are in place. These erosion and sedimentation control measures and any required orange fencing must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting. Contact the Planning Department to arrange for the preconstruction meeting. In addition, mature trees

along Mast Road shall be physically protected from damage during site work, as determined by the Tree Warden.

- 2) Preconstruction meeting. A preconstruction meeting shall be held prior to any significant ground disturbance. The number and schedule of trucks during earthwork and construction will be discussed as part of the preconstruction meeting. It shall be determined by applicant at or by the preconstruction meeting whether or not existing apple trees on site will be transplanted as depicted on the landscape plan, based upon the condition of those trees and the viability of transplanting them. If new trees are to be used, then an equivalent number of a comparable trees, the species to be approved by the Public Works Director, shall be planted. A revised landscaping plan shall be promptly submitted showing either a detail for transplanting the apple trees or identifying new trees that will be planted.
- 3) Multiuse Path. The following terms apply to the multiuse path:
  - a) The path, to be situated off site, as depicted in the plans, is required as an element of this project.
  - b) A conditional use approval from the Town of Durham and a dredge and fill approval from NHDES are necessary, for the path as presently configured. Additionally, easements, including a temporary construction easement, may be required from UNH.
  - c) In the event that either or both of these approvals are not granted, or in the event that UNH does not grant any easements necessary, such that the path cannot be constructed as proposed, or with minor modifications acceptable to both the Town and the applicant (such acceptance not to be unreasonably withheld), then construction of the multiuse path shall not be required.
  - d) In this case (condition c, immediately above), the applicant shall be required as a backup project to pave the shoulders on Mast Road. The purpose of this backup project is to provide reasonable pedestrian and bicycle access from the Peak project to the UNH campus (Acceptable access is already in place along Main Street).
  - e) For this backup Mast Road project, the gravel shoulders shall be paved to a minimum width of four feet, on both sides of Mast Road, from the intersection of Mast Road with Main Street to the location of the driveway into the Peak project.
  - f) For this backup Mast Road project the applicant shall prepare drawings and a complete set of plans acceptable to both the Town Engineer and NHDOT (including any elements that may be integral to paving the shoulders, such as installation of appropriate base materials, regrading, restriping, etc.)
  - g) The plans may be certified, building permit(s) may be issued, and site work may commence even if the approvals for the path are denied or delayed, provided the applicant pursued the approvals expeditiously (as reasonably determined by the Town Planner).
  - h) The final certificate(s) of occupancy shall not be issued unless the path (or paved shoulders) is/are properly installed or an acceptable surety is in place.

- i) In the event that the applicant cannot obtain all necessary approvals to pave the shoulders despite all reasonable efforts then there shall be no further requirements regarding this item.
- 4) Right Turn Lane. The applicant shall construct the right turn lane (from Mast Road to Main Street) if all approvals are granted. If the right turn lane approvals are not granted, this condition is void and does not invalidate the site plan or conditional use permit.
- 5) Bus shelter. There will be auxiliary seating in the clubhouse with a view to the shelter and a door and sidewalk leading directly to the shelter. There will be a digital real time display inside the clubhouse of buses . This assumes that UNH provides this real-time application to the applicant. Otherwise, the real time display is not a requirement.
- 6) Transit. The applicant shall ensure that adequate transit is provided for the occupants of the development travelling to and from the University Campus. If UNH is the provider of such transit, then applicant shall submit a letter to the Planning Board from UNH Transportation Services indicating that the proposed transportation schedule is adequate for occupants of the development. If the applicant provides such transit, then the applicant will determine a proposed transportation schedule and adequacy for occupants of the development.
- 7) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 8) Natural gas. If natural gas will be used, provide a letter of approval from Unitil. (Should be a subsequent condition)
- 9) Easements. Prior to issuance of a certificate of occupancy, evidence of recording of all easements at the Registry shall be provided (Easements should also be shown on the plans, above).
- 10) Wastewater. All public wastewater system infrastructure extensions shall be designed and installed at the expense of the developer in accordance with Town Sewer Ordinance Chapter 106 and applicable State regulations. Once installed and approved by the Town representatives this infrastructure shall be owned and operated by the Town of Durham including all sewer mains, sewer manholes, and associated appurtenances. Sewer service lines and waste lines internal to each structure shall be owned and maintained by the property owner.
- 11) Radio coverage. The requirements of the Durham Public Safety Amplification ordinance shall be satisfied.
- 12) Staffing. At least one full-time staff member and at least one courtesy officer shall reside on-site. There shall be somebody on site overseeing the operation, 24 hours a day, 7 days a week.



- 14) Property and security management plan. The Property and Security Management Plan shall be submitted to include, but not limited to, the following: Rules and regulations of Peak Campus Development; 24 hour/7 day a week primary contact person to resolve security or other issues in a timely and appropriate manner; a secondary contact person in case the primary contact person is not available; all contact information updated with the Police Department, Fire Department, and Code Enforcement Department on an as-needed basis; and night time security for the site from Thursday night through Saturday night from 9 PM - 2AM. If problems persist on the property, as determined by the Police Chief, full time security will be needed 7 days a week from 8 PM - 6 AM until the problems are rectified to the satisfaction of the Police Chief. The plan shall be approved by the Town Planner with the advice and consultation of the Police, Fire, and Code Enforcement Departments and can be reviewed, modified, and updated by the owner with the approval of the above departments.
- 15) Moped parking. Peak, at its option, may redesignate and restripe parking spaces for mopeds in the future provided they do not go below the required 460 car spaces.
- 16) Solar panels. Peak will incorporate thermal solar panels on the clubhouse to generate a significant percentage of hot water in the clubhouse.
- 17) Solar conduit and electrical panel spacing. Peak shall provide conduit and electrical panel spacing in the buildings [now as part of building construction] to prepare the project to accept photovoltaic solar panels if/when it becomes cost effective to do so. This applies to the type 200, 200A, and 300 buildings.
- 18) Waste management. The property owner's waste management hauler's name, account number, and phone number shall be provided to the Durham Health Officer (DHO) so the DHO can call and order an emergency pick up if necessary. The DHO is authorized to request this service at Peak's expense should it be deemed necessary. The DHO is only authorized to contact the waste management hauler after first contacting the property owner and allowing the property owner to order a pick up. The applicant shall provide the opportunity for the residents to use single stream recycling.
- 19) Waste material. The leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material) and the applicant shall allow the Code Enforcement Officer the ability to enforce this provision within the development.
- 20) Amenity inspections. The clubhouse, pool/spa, and other common amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.
- 21) Inspection of units. Tenant leases shall include notice that Durham Town Officials may randomly inspect any residential units annually. Five percent of the units, or as determined by the Town, shall be inspected annually. Inspections shall be randomly selected by the Durham Health Officer (DHO) and may be scheduled with minimum notice as stated in the lease.22) Inspection of stormwater and other infrastructure. The Durham Public Works Department, or another party

selected by the Department, shall inspect the installation of the stormwater drainage systems, the erosion and sedimentation control measures, the porous pavement during its installation, and other appropriate infrastructure. The erosion and sedimentation control measures shall be monitored by applicant on a periodic basis during construction and any deficiencies shall be corrected as soon as possible. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Public Works Department in its inspection of this project.

- 23) Utility inspections. The Town of Durham engineer, or designee, shall perform on-site inspections during the installation of the water and sewer utilities. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Public Works Department in its inspection of this project.
- 24) Building inspections. The Town of Durham Building Official, or designee, shall perform on-site inspections during building construction. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Building Department in its inspection of this project.
- 25) Fire inspections. The Town of Durham Fire Code Official, or designee, shall perform on-site inspections during fire code and life-safety matters. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Fire Department in its inspection of this project.
- 26) Parking permits. The applicant shall not sell or otherwise provide parking permits to non-tenants other than employees or courtesy officers.
- 27) Sprinklers. All buildings within the development shall have sprinkler systems as approved by the Durham Fire Department.
- 28) Minor changes. Minor changes to the approved plans may be approved by the Code Enforcement Officer, Town Engineer, or Town Planner, as appropriate. Staff shall inform the Planning Board of all such approved changes.
- 29) Logging. RSA Chapter 79 - Forest Conservation and Taxation specifies requirements for the removal of timber or wood from a property. The applicant shall contact the Town of Durham Assessing Office at 868-8064 if Chapter 79 applies to any intended cut. It is the property owner's responsibility to ensure compliance with Chapter 79. RSA 79.1 II. (b) (5) states "The following persons shall not be required to file an intent to cut or be subject to the tax imposed by this chapter...[a] person who cuts or causes to be cut, within the tax year, up to 10,000 board feet of logs and 20 cords of wood or the equivalent in whole tree chips, from the person's own land within a municipality, for land conversion purposes other than timber growing and forest uses, provided that those persons intending to convert the use of the land have secured all required permits including, but not limited to, building permits, subdivision or zoning permits, excavation permits, or site plan approvals, as necessary for the use to which the land will be converted, and are able to furnish proof of such permits."

- 30) Erosion control. All erosion and sedimentation control structures must remain in place and be maintained until vegetation is established or ground surface is suitably stabilized.
- 31) Water infrastructure. All public water system infrastructure extensions as depicted on the plans shall be designed and installed at the expense of the developer in accordance with Town Water Ordinance Chapter 158, AWWA guidelines and applicable State regulations. Once installed and approved by the Town representatives this infrastructure shall be owned by the Town of Durham and operated by the UNH/Durham Water System including all water mains, valves, fire hydrants, water meter assemblies (1 per each building), and master meter (prior to water main branch at entrance), and associated appurtenances. Water service lines and plumbing internal to each structure shall be owned and maintained by the property owner.
- 32) As-built drawings. As-built drawings of all infrastructure, utilities, drainage structures, roads, parking areas, buildings and other pertinent elements shall be provided prior to certificate of occupancy (unless a surety to cover the cost of the as-built drawings is given).
- 33) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town as provided in this document (See Minor Changes provision herein).
- 34) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
- 35) Violations. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation control, wetlands, stormwater management, and general site development standards – the Town reserves the right to take any appropriate permissible action, including, but not limited to, withholding of building permits, withholding of certificates of occupancy, withholding of driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of bonds.
- 36) Waivers. A waiver was granted from the school impact fees (Ordinance 75-9 B) as specified immediately below.
- 37) School impact fee. The appropriate fee(s) shall be paid for any grade school students who live at Peak for whom the Town must provide educational services.
- 39) Findings of fact. a) The applicant submitted an application, supporting documents, and plans for the project; b) The Planning Board held a number of continuous public hearings on the application; c) The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group, and

other Town boards and committees; d) The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements; e) the Planning Board found that the eight criteria for conditional uses outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use (dated August 22, 2012); and f) The Planning Board duly approved the application as stated herein, including the conditional uses. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.

Jeff, thank you for your cooperation in the review process. Please feel free to contact me with any questions or concerns. I wish you the best of luck with your project.

Sincerely yours,

Michael Behrendt, AICP  
Director of Planning and Community Development

cc. Chet Tecce Jr.  
John A. & Patricia J. McGinty  
Via email below  
Joseph Persechino, P.E.  
Doucet Survey  
Doug Bencks, UNH  
Steve Pesci, UNH  
Dave Cedarholm, DPW  
Tom Johnson, CEO  
Dave Kurz, PD  
John Powers, FD