



TOWN OF DURHAM
 8 NEWMARKET RD
 DURHAM, NH 03824-2898
 603/868-8064
www.ci.durham.nh.us

NOTICE OF DECISION

Project Name: 121 Technology Drive – Various Site Improvements
Action Taken: APPROVAL
Project Description: Various site improvements including drainage, utilities, parking, loading, paving, pedestrian ways, landscaping, and lighting.
Address: 121 Technology Drive
Property Owner: R. J. Kelly Company, Inc./121 Tech Owner LLC
Applicant: Shawn Smith, R. J. Kelly
Engineer: Earle Blatchford, Hayner Swanson
Map and Lot: Map 204, Lot 2
Zoning: Office Research Light Industry District
Date of approval: August 23, 2023

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

“Applicant,” herein refers to the applicant and his/her/their/its agents, successors and assigns.

PRECEDENT CONDITIONS

All of the conditions below must be met by the applicant prior to the plans being certified by the Town Planner. Certification of the plans is required prior to performing any significant site work. Once these precedent conditions are met and the plans are certified the approval is considered final.

Please note. If all of the precedent conditions are not met within one year to the day of the board’s approval - by August 23, 2023 (or as extended) - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline. No changes to the plans (dated August 9, 2023) that were reviewed and approved by the Planning Board may be made except for the specific required modifications that follow.

Plan Modifications

Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board (Items do not need to be physically constructed as a precedent condition):

- 1) Propane tank. Add notes from email to the Town Planner of August 14, 2023 to the plan set about treatment of the existing propane tank on site (There are plans to bring natural gas to the site).
- 2) Rooftop solar. The applicant is encouraged (but not required) to wire the roof for potential future solar. If able to incorporate, show details on the drawings.
- 3) Approval block. Add/change the approval block on each page of drawings to read:
 “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner _____ Date _____”

Notes on Plans

Add the following notes on the plans/plan set that were reviewed and approved by the Planning Board:

- 4) “Stormwater infrastructure. All stormwater management infrastructure shall be designed and installed in accordance with Design Standards of the Durham Site Plan Review Regulations. The infrastructure shall be operated and maintained by the property owner to protect the quality of on-site and off-site water resources and wetland habitat.
- 5) “Additional information. For more information about this site plan, or to see the complete plan set, contact the Town of Durham Planning Department, 8 Newmarket Road, Durham, NH 03824. (603) 868-8064.”
- 6) “Site plan approval. “It is the responsibility of the applicant and site contractor to follow all requirements related to this site plan approval and to develop and maintain the site consistent with this approval. Please review the plans and this Planning Board Notice of Decision carefully. Contact the Durham Planning Department at (603) 868-8064 with any questions or concerns.”
- 7) SWPPP. "This project will disturb over one acre of ground or meets other thresholds related to permit criteria for EPA National Pollutant Discharge Elimination System (NPDES) compliance. The site contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of Termination (NOT) to EPA. The site contractor is also responsible to comply with all other Federal, State and Local stormwater or NPDES requirements."
- 8) Erosion and sedimentation. “All erosion and sedimentation control structures shall remain in place and be maintained until vegetation is established and the ground surface is stabilized. Erosion and sedimentation control measures shall be monitored by the applicant on a periodic basis during construction and any deficiencies shall be corrected as soon as possible.”

Other Precedent conditions

- 9) **LTOMP Modification.** Given the proximity to the nitrogen impaired Oyster River and the drainage patterns associated with the property and consistent with Good Housekeeping and Pollution Prevention, as contained in the Town's federal NPDES Municipal Separate Storm Sewer System (MS4), the applicant will add to the Long Term Operations and Maintenance Plan, a section highlighting the proper use, storage and disposal of pesticides, herbicides and fertilizers including minimizing the use of these products and using them only in accordance with manufacturer's instruction while evaluating lawn maintenance and landscaping activities to ensure practices are protective of water quality. (Also see condition 24, below.)
- 10) **Recycling.** The applicant shall work with the Public Works Department and the Integrated Waste Management Advisory Committee for an ongoing recycling plan for the building.
- 11) **Construction Guarantee.** The applicant shall post a surety in the amount of \$50,000 to ensure completion of the stormwater improvements, installation of other required improvements, installation of landscaping, and final stabilization of the site. A cash deposit, bond or letter of credit is an acceptable form.
- 12) **Final drawings.** Include all drawings in one plan set – stormwater, master plan, topographic, construction, etc. The following sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of black line drawings (plus a second set if the applicant wants a signed set); b) one set of 11"x17" drawings; plus c) one electronic version by pdf. Each individual sheet in every set of drawings must be stamped and signed by the engineer responsible for the plans.
- 13) **Signature.** Signature by the applicant at the bottom acknowledging all terms and conditions of this approval herein.

SUBSEQUENT CONDITIONS AND GENERAL TERMS

All of the conditions below are also attached to this approval. All work shall be completed and all required conditions shall be met prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted.

Conditions to be met prior to commencing site work

- 14) **Site work.** No significant site work (including any significant clearing of the site) or ground disturbance may be undertaken until:
 - a) all of the precedent conditions are met;
 - b) the preconstruction meeting with Town staff has taken place (Contact Michael Behrendt, Town Planner, to arrange for the meeting);

- c) the applicant has coordinated with the Fire Department about access into the site during construction (use of knox box, etc.); and
- d) all appropriate erosion and sedimentation control structures are in place and are reviewed and approved by the Department of Public Works.

15) EV Charging Stations. Provide final details for the 6 EV charging stations.

Conditions to be met prior to return of the construction guarantee

- 16) As-built drawings. One electronic copy of as-built drawings of all changes in utilities on the site, including the new gas line.
- 17) Improvements. Completion of the stormwater improvements, installation of other required improvements, and final of stabilization of the site
- 18) Landscaping. Installation of landscaping. The applicant shall provide a detailed landscaping plan to the Planning Department consistent with the intent of the approved plan prior to planting.
- 19) Land Use Tracking Form. Applicant shall complete Land Use Development Tracking Form, most recently revised version, utilizing the online Pollution Tracking and Accounting Pilot Project (PTAPP) portal: <https://www.unh.edu/unhsc/ptapp>.
- 20) Propane tank. The existing propane tank on site will be decommissioned as follows (unless otherwise approved by the Fire and Building Departments). The applicant will coordinate with the Fire Department before starting this work. These tasks were provided to the applicant by Eco Environmental Contracting:
 - a) Foreman, 2-Field tech will evacuate remaining propane from 1-18000 gallon propane tank.
 - b) ECO will have confine space gear to enter tank if needed (Should not need to enter tank).
 - c) ECO will continually test air quality.
 - d) ECO will break line from tank to isolate tank from lines.
 - e) ECO will vent tank with blower.
 - f) ECO will dry ice tank for transit.
 - g) ECO will load tank with crane.
 - h) ECO will dispose of tank at a certified tank yard

Other Terms and Conditions

- 21) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 22) Gas line. A conditional use approval is needed for the gas line as a portion lies within the Wetland Conservation Overlay District. The portion of the gas line within the WCOD cannot be installed until the conditional use is obtained. A section of the gas

line within the WCOD is located off the site, within the Technology Drive right of way. Adjustments will be made in the field as needed to avoid trees.

- 23) Development of Regional Impact. This project is not a development of regional impact.
- 24) Maintenance of drainage structures. The applicant submitted a Long-Term operations and Maintenance Plan (LTOMP) for all drainage structures and all treatment and conveyance systems. Records of the maintenance of the stormwater system shall be submitted to Durham Public Works to the attention of the Town Engineer at 100 Stone Quarry Drive Durham NH 03824 by December 15th of each year. The LTOMP shall include at a minimum: a) Responsible party for continuing LTOMP; b) Annual maintenance cost for the plan; c) The person(s)/entity responsible for financing maintenance and emergency repairs; d) A plan outlining location of and access points to all BMPs proposed. The plan shall also depict/describe the woody and herbaceous vegetative stabilization utilized within the stormwater design; and e) A chart outlining the type and frequency of maintenance work required for all stormwater BMPs proposed on site, including any landscaping required.
- 25) Green Snowpro practices. The owner has committed to using NH Certified Green Snowpro contractors and winter maintenance practices that minimize use of de-icing agents. The owner shall report annual salt usage within the municipal boundary to the Town or using the UNH Technology Transfer Center:
<https://sso.roadsalt.unh.edu/Authorization/Register>.
- 26) Energy Checklist. The applicant is encouraged (but not required) to meet the items included in the Energy Considerations Checklist completed by the applicant on February 16, 2023 and to follow up with discussions with the Energy Committee as desired.
- 27) Wastewater permit. New or revised local and state wastewater permits, including pretreatment requirements, shall be obtained, prior to issuance of a certificate of occupancy for Brazonics or any other new tenant(s) for which it is determined by local or state agencies that a new or revised permit is required. In accordance with Site Plan Regulations Section 15.9 the applicant shall reimburse the Town for expenses related to review of documents and other matters that may be required for any industrial discharge permits.
- 28) Changes to plans. Changes to the approved plans may be approved as described in the Planning Board's Rules of Procedures, including minor changes which may be approved administratively.
- 29) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town.
- 30) Waivers. The following waivers were applied for and granted: a) showing buildings and use on abutting properties; b) showing the aquifer overlay district; c) full drainage

analysis subject to providing necessary information to Public Works for their review and approval; d) landscaping plan provided it is submitted prior to installation; e) signage (any signage will be presented to the Code Administrator); f) lighting (exterior lighting is presently shielded; the only new exterior lights are low-impact bollard lights); and g) showing types of existing trees and vegetation. (Several other waivers were requested but the applicant subsequently provided the relevant information.) These waivers were granted upon a finding that specific circumstances relative to the site plan indicate that the waivers will properly carry out the spirit and intent of these regulations.

In accordance with the Town's Site Plan and Stormwater Regulations Section 15.10 - Waivers & Exceptions, the Department of Public Works found that the applicant satisfied the criteria for a waiver of Stormwater Regulations Section 15.4.1, specifically a waiver of the requirement for a Pre- and Post- Development Drainage Analysis of the entire development.

- 31) Tax Implications. It is recommended that the applicant contact Jim Rice, Durham Tax Assessor, to learn about any tax implications of this project. You can contact Mr. Rice at (603) 868-8064 or jrice@ci.durham.nh.us.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting *documents*, and plans for the project; **B)** The Planning Board *accepted* the application as complete; **C)** The Planning Board held two continuous *public hearings* on the application; **D)** The applicant revised and *updated the plans* and other documentation several times pursuant to comments from the Planning Board, public, and Town staff; **E)** The applicant met with the *Technical Review Group*; **F)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, and the Durham Site Plan Regulations and found that the application *meets all requirements* (except where waivers were granted); and **G)** The Planning Board duly *approved the application* as stated herein. 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.

Signature(s). As the applicant(s), I/we accept and acknowledge all of the terms and conditions of this approval herein.

Signature of applicant

date

Printed name of applicant

Signature of applicant

date

Printed name of applicant

Signature of Planning Board Chair

date

Printed name of Planning Board Chair