



BOXBOROUGH PLANNING BOARD
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Mark Barbadoro, Chair Cindy Markowitz, Clerk Kathleen Vorce Rebecca Verner Mark White

TOWN CLERK
OF BOXBOROUGH

Filed with the Town Clerk

**DECISION AND CERTIFICATE OF CONDITIONAL APPROVAL
SITE PLAN APPROVAL & EARTH REMOVAL PERMIT
CAMPANELLI-TRIGATE BOXBOROUGH SUB, LLC
400 Beaver Brook Road**

DECISION of the Planning Board (the Board) on the application of Campanelli-Trigate Boxborough Sub, LLC (the Applicant) for Site Plan Approval and an Earth Removal Permit to construct a 64,000 square foot Research and Development (R&D) facility located on a 9.2-acre parcel of land known and numbered as 400 Beaver Brook Road within the Park at Beaver Brook Office Park (the "Application"). The Application was filed with the Planning Board on July 11, 2022.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed as required by law, the public hearing was conducted on August 29, 2022, continued to October 3, 2022, October 17, 2022 and November 7, 2022. The Planning Board deliberated on the proceedings on November 7, 2022. The following members of the Planning Board were present throughout the proceedings: Chair Mark Barbadoro, Cindy Markowitz, Rebecca Verner, Kathleen Vorce and Mark White. Associate Planning Board Member Janet Connolly was also present throughout the hearings.

After due consideration of the application, the record of the proceedings, the exhibits, the Town Planner's reports, and based upon the findings set forth herein, the Board voted 5 to 0 to **APPROVE WITH CONDITIONS** the Site Plan Approval on November 7, 2022 and voted 5 to 0 to **APPROVE WITH CONDITIONS** the Earth Removal Permit on November 14, 2022, pursuant to the following findings:

The following were tendered as exhibits:

- a. "Site Development Plans for The Park at Beaver Brook, building 400" Sheets 1-10, by Kelly Engineering Group, Inc., dated July 1, 2022, revised through August 18, 2022;
- b. Landscape Plans (4 sheets) by Hawk Design, Inc. dated July 6, 2022, revised through August 22, 2022;
- c. Architectural Floor Plans and Elevations sheets 7.0-7.2 by RKB, dated July 8, 2022 ;
- d. Site Photometric Plan by LED Lighting Supply, dated July 7, 2022;
- e. "2022 Master Plan", dated July 1, 2022;
- f. Stormwater Management Report, by Kelly Engineering Group, Inc., dated July 1, 2022;
- g. Traffic Summary Memorandum by MDM Transportation, dated July 11, 2022, amended August 1, 2022;
- h. Traffic Impact Assessment by MDM Transportation, dated August 16, 2022;
- i. Report to Accompany Planning Board Applications, by Kelly Engineering Group, Inc., dated July 11, 2022;

- j. LED light cut sheet, dated June 30, 2022;
- k. Site Plan and Special Permits Peer Review by PLACES Associates, Inc., dated August 5, 2022;
- l. Response to Peer Review, by Kelly Engineering Group, dated August 18, 2022;
- m. MassDEP Letter Approval of Onsite Wastewater Treatment Facility, dated January 20, 2022;
- n. Stormwater Drainage Reports for Beaver Brook Road and 400 Beaver Brook Road, prepared by CSW Solutions, dated September 8, 2022;
- o. Building 400 Zoning Compliance Chart (undated);
- p. OSCD Permit Conditions Compliance Chart (undated);
- q. Graphic entitled, "The Park – Permitted Land Use", submitted by Campanelli (undated);
- r. Legal Memorandum of Hemenway & Barnes, dated September 26, 2022 with attached spreadsheet "Zoning Requirements – Lot 400.pdf";
- s. MassDEP Groundwater Discharge Permit;;
- t. Memorandum by Onsite Engineering regarding MassDEP PFAS mitigation project, dated October 28, 2022 and submitted November 3, 2022;
- u. Letter to Planning Board from Campanelli re Progress to Date, dated November 3, 2022;
- v. Letter to Planning Board from Campanelli re Design Review Board Memorandum, dated November 3, 2022;
- w. Hawk Design Letter re Landscaping, dated October 25, 2022, submitted November 3, 2022; Supplemental letter dated November 16, 2022
- x. MassDOT Highway Division Functional Design Report for Bridge Replacement over I-495, dated May 2022;
- y. Transportation Peer Review by Green International Affiliates, Inc., dated November 3, 2022, and Response from MDM Transportation, Inc., dated November 8, 2022;
- z. Architectural Design Modifications Presentation by Campanelli, submitted November 3, 2022.

BACKGROUND

In 1997, the Planning Board issued Open Space Commercial District (OSCD) Special Permit 97-01, which allowed the construction of 900,000 square feet of office and R&D space (Phase I). In 2000, the Planning Board in Decision 00-01 granted Site Plan Approval for the construction of seven principal buildings within The Park at Beaver Brook (the "Park"). This included approval of a 152,853 square foot office/research and development building known as Building 400.

In 2001, by OSCD Permit 01-01, OSCD Permit 97-01 was amended to allow a second phase of development, comprised of an additional 500,000 square feet (Phase II), ultimately allowing up to 1.4 million square feet of office and R&D space in the Park. (OSCD Special Permit 97-01, as amended by OSCD Special Permit 01-01 shall hereinafter be referred to as the "OSCD Special Permit".) To maximize open space and protect Riverfront and wetland areas, most development for Phase I was clustered on the southern end of the property, with certain restrictive covenants recorded to preserve open space. Overall, the Park as approved would provide 106 acres of developed area and 235 acres of conservation/open space (30% and 70%, respectively).

The OSCD Special Permit allowed (a) a reduction in the required parking stall dimensions from 10 feet x 20 feet to 9 feet x 18 feet with a 24-foot aisle lane; and (b) a reduction in the parking ratio from 4 spaces per 1,000 square feet of floor area to a minimum of 3.3 spaces per 1,000 square feet (provided that 4 spaces per 1,000 could be provided in the future if required). The

OSCD Special Permit also allowed certain dimensional modifications for the development, including with respect to lot area, frontage, height, setbacks, lot coverage and floor area ratio.

The OSCD Special Permit contemplated that all work permitted thereunder would be completed within a specified 15-year “Commercial Development Period”, commencing on the date on which the restrictive covenants were recorded. Such Commercial Development Period lapsed in 2015.

Buildout of Phase I commenced in 2000. Between 2000 and 2001, three of the seven approved buildings (#200, #300 and #500) were constructed. Buildings 400 and 600 were not completed, but foundations were installed in the locations approved by the Planning Board. Building 100 was never started. All infrastructure necessary to support buildings 200 through 600 was fully installed. That infrastructure included parking, loading, landscaping, stormwater management systems, water and sewer and other utilities. In addition, the open space covenants and restrictions associated with Phase I were recorded. None of Phase II was constructed.

FINDINGS OF FACT

1. The Applicant has also applied for a modification to the OSCD Special Permit to permit an extension of the Commercial Development Period defined thereunder. In a separate decision, this Board has approved an extension to December 31, 2025 with respect to Building 400 only.
2. Building 400, which currently consists of a poured concrete foundation, is located on an approximately 9.2-acre parcel delineated as Lot 4.2. Access to Lot 4.2 is via a two-way driveway off Beaver Brook Road. Lot 4.2 contains approximately 494 parking spaces, landscaping and other site features. All utilities and storm drainage necessary to serve Lot 4.2 are in place. Sewer from Lot 4.2 is connected to the Park-wide sewer system that flows to the previously constructed wastewater treatment plant, located on Lot 6.2. Water for Lot 4.2 is provided via the Park-wide water system, which consists of a series of wells, fire ponds and pumps. The storm drainage system on Lot 4.2 consists of a number of best management practices; including deep sump catch basins, grassed channels, off-line oil grit separators, and recharge/detention basins.
3. As detailed in the Application, the Applicant proposes to remove the existing Building 400 foundation and the associated grassed areas beyond the initial foundation footprint and replace it with a 64,000 square foot single-story Research and Development facility (the “Project”). The site layout will be modified from what was approved by the Board’s 2000 Site Plan Decision in an effort to accommodate a new tenant’s specific needs and reducing impervious area on Lot 4.2 as a result. There will be no change to the limit of previous development. The northerly line of Lot 4.2 will be adjusted to accommodate the proposed development through the submittal of an Approval Not Required (ANR) Plan. Lot 4.2 will be reduced to approximately 8.34 acres as a result of the adjusted lot line. The areas within the Park that were previously restricted as conditions to the OSCD Special Permit governing Phase I will also remain the same.

4. The Project will be substantially compliant with the requirements of the current Town of Boxborough Zoning Bylaw. The only areas of noncompliance are with respect to Floor Area Ratio (FAR), lot coverage, and side yard setback, as identified in the Zoning Requirements spreadsheet attached to Exhibit r. The FAR and lot coverage nonconformities are a direct result of the Park's original approval as an OSCD, which established lot coverage and density limitations based on the overall Park area, rather than on a lot-by-lot basis. The side yard setback nonconformity is necessary to provide life safety access to the Building 500 lot; although it does not comply with the requirements of the current Zoning Bylaw, it provides a greater setback than what is required under the OSCD Special Permit.
5. Only those parking spaces necessary for the Project will remain, such that the Project will result in the removal of approximately 230 parking spaces, allowing a reduction of approximately 33,000 square feet of impervious area.
6. The transportation study submitted with the Application indicates that the traffic impacts of the Project will be less than what was approved by the Board in the OSCD Special Permit. Additionally, MassDOT has communicated to the Applicant its position that the Project will not have an adverse impact on the transportation system, due to a less traffic-intensive proposed use of the building and the fact that all previously required transportation infrastructure mitigation for the Park was completed in the early 2000s.
7. The stormwater report submitted by the Applicant indicates that by reducing 33,000 square feet of impervious surface and creating an onsite subsurface recharge system, the Project will result in less stormwater runoff than the previously approved project.
8. Construction of the Project will require removal of approximately 4,700 cubic yards of material, which will be hauled off site in accordance with the Town's Earth Removal Bylaw and Earth Removal Rules and Regulations.
9. The Project is located within the Town's Aquifer Protection District. The project as proposed will reduce impacts to the aquifer by increasing pervious area on the site by 33,000 sf and by implementing a roof recharge system that will increase groundwater recharge thereby benefiting the aquifer.

COMPLIANCE WITH SECTION 8007 SITE PLAN APPROVAL (DECISION)

Per Section 8007 of the Zoning Bylaw, "[s]ite plan approval shall be granted upon determination by the Planning Board that new buildings or other site alterations have been designed in the following manner, after considering the qualities of the specific location, the proposed land use, the proposed building form, grading, egress points, and other aspects of the development." The Planning Board has reviewed the proposed project for consistency with the site plan approval requirements of the Zoning Bylaw, as denoted below, and makes the following findings:

(1) The proposal shall comply with the purpose and intent of the Zoning Bylaw and with existing local and regional plans.

Building 400 is located in the Office Park zoning district. Within the Office Park District, office and R&D are allowed uses. Building 400 is part of the overall project approved by the OSCD Special Permit, which explicitly allows the development of office/R&D uses in a clustered manner. The Project is consistent with the Purpose of the Open Space Commercial Development section of the zoning bylaw, by encouraging the preservation of open land, preservation of the natural environment and promoting more sensitive siting of buildings and overall site planning. Moreover, the Project will be substantially compliant with the Dimensional Requirements of the current Town of Boxborough Zoning Bylaw. The only areas of noncompliance are with respect to FAR, side yard setback and lot coverage. These nonconformities are a direct result of the Park's original approval as an OSCD, which established lot coverage and density limitations based on the overall Park area, rather than on a lot-by-lot basis.

(2) The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. To the extent possible, building sites shall be designed to minimize the use of wetlands, steep slopes, floodplains, hilltops; minimize obstruction of scenic vistas from publicly accessible locations; preserve unique natural, scenic and historic features; minimize tree, soil and vegetation removal; and maximize open space retention.

The Park at Beaver Brook in its entirety has been designed with consideration for clustering development and maximizing green areas on the site. Large portions of the 350-acre parcel are permanently protected open space and the Park includes a recreation field for public use. The Park includes walking trails for occupants and the public to enjoy. The Building 400 site was initially designed to provide large landscaped areas and interior landscaping to ensure no impact to nearby wetland resource areas. The Project removes the existing building foundation, constructs a new building in generally the same location and reconfigures parking and driveways to accommodate the building; it will maintain the landscaping generally as it exists. Additional landscaping, including drought tolerant and native species, will be planted proposed around the new building and in areas of the reconfigured parking areas.

(3) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in the roof and wall lines, and other architectural techniques. Proposed buildings shall relate harmoniously to each other.

The proposed building 400 has been designed to be consistent with many of the existing architectural elements and details of the existing office buildings in the Park. The Applicant attempted to address the Board's stated concerns regarding the size and scale and aesthetic of the proposed building. A majority of the Board was satisfied that the proposed building meets this criterion; however, a minority of the Board did not feel that the proposed building adequately met this criterion.

(4) Adequate measures shall be proposed to prevent pollution of surface and ground water, to minimize erosion and sedimentation, to prevent changes in groundwater levels, to minimize potential for flooding, and to provide for stormwater drainage consistent with the functional equivalent of the Planning Board's Subdivision Rules and Regulations.

The Park-wide stormwater management system includes a fully developed management system that includes peak mitigation, recharge and water quality. Stormwater recharge from Lot 4.2 will be further enhanced by reducing impervious area and by constructing a subsurface recharge system that will provide for another 0.5" recharge from roof areas.

(5) Roadways and circulation system shall be designed to promote convenience and safety for both pedestrians and vehicles. Access roads by which the proposed development is reached shall be adequate in width, grade and construction to carry, without danger or congestion, the additional traffic that is generated from the development.

Roadways and circulation in the Park are fully developed and consist of Beaver Brook Road, a subdivision roadway designed for the needs of the Park. The Building 400 site circulation has been designed to provide safe and efficient access for both vehicles and pedestrians and truck access to the dock areas.

(6) Adequate buffers shall be provided to protect abutting properties from lighting, sight, sound, dust, and vibration.

The Park contains generous buffers to protect abutting properties for existing and proposed uses. The redevelopment of the Building 400 site maintains those buffers and enhances them with supplemental landscaping. Lighting on the site is downward facing in order to limit light spill and will be compliant with the outdoor lighting requirements of the zoning bylaw. As noted on the photometric plan produced by LED Lighting Supply, dated 7/7/22, twenty-one existing parking pole lights and fixtures are to remain in place, five are to be relocated and re-used, and three new lights are to be installed as part of the Building 400 redevelopment.

(7) Adequate facilities shall be provided for water supply and for handling and disposal of waste and other production by-products.

The Park includes a wastewater treatment facility designed pursuant to a DEP groundwater discharge permit. The 5-year permit (GW#645-4), issued on December 28, 2021 allows for flows of 40,000 gallons per day with specified effluent limitations and monitoring requirements. The facility is in the process of being upgraded to current DEP requirements. The facility is designed to accommodate all existing and proposed development throughout the Park, including Building 400. Water supply is from an onsite well system; fire protection is provided by onsite fire ponds and fire pump systems. The Applicant is participating in a pilot program with MassDEP regarding PFAS filtration, to ensure that potable water for the Project and other buildings in the Park meets all state standards.

(8) Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment.

The Building 400 site has been designed to provide for safe access by fire apparatus, reflecting consultation with the Fire Department.

(9) Architectural Standards in the Town Center District Only. Materials shall be harmonious with existing buildings. In the interest of maintaining a sense of history, vertical siding shall be discouraged and synthetic siding shall imitate the character and dimensions of traditional clapboards. Masonry block buildings should be faced in an appropriate material, such as horizontal wooden siding or brick of a traditional red color. Buildings shall fit in with existing architecture in terms of height, massing, roof shapes, and window proportions.

This section is not applicable, as the Park is not located within the Town Center District.

COMPLIANCE WITH PROVISIONS OF EARTH REMOVAL BYLAW

The Project will be required comply with all provisions of the Earth Removal Bylaw, other those specifically waived by the Planning Board. The Board grants a waiver from Section V.A of the Earth Removal Bylaw to allow excavation closer than 50' from the lot line since the Applicant owns and controls the adjacent lot.

CONDITIONS

General Conditions

1. Approval is made in reliance upon the following Plans and Documents:
 - a. "Site Development Plans for The Park at Beaver Brook, building 400" Sheets 1-10, by Kelly Engineering Group, Inc., dated July 1, 2022, revised through August 18, 2022;
 - b. Landscape Plans (4 sheets) by Hawk Design, Inc. dated July 6, 2022, revised through August 22, 2022;
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 - y. Transportation Peer Review by Green International Affiliates, Inc., dated November 3, 2022, and Response from MDM Transportation, Inc., dated November 8, 2022;
 - z. Architectural Design Modifications Presentation by Campanelli, submitted November 3, 2022.
2. Prior to application for a building permit the Applicant shall file an Approval Not Required plan with the Planning Board adjusting lot 4.2 as shown in the Plans and Documents. The plan shall show all utilities, drainage and necessary cross easements.
3. Regular hours of operation shall be from 6:00 AM to 10:00 PM. Occasional business operations before or after such hours shall be limited to 20% of the workforce.

4. Regular truck deliveries shall not be scheduled between the hours of 7:00 PM and 7:00 AM.
5. The site shall be in compliance with the Stormwater Bylaws of the Town of Boxborough.
6. Stormwater drainage structures for the Project shall be as shown in the Plans and Documents.
7. The facility shall comply with Massachusetts Department of Environmental Protection (DEP) noise policy (DAQC 90-001) and DEP Air Pollution Control Regulations 310 CMR 7.10.
8. There shall be no exterior product testing.
9. Irrigation wells for the Project shall be in compliance with the Town of Boxborough Board of Health Well Regulations and the Nashoba Associated Boards of Health (NABOH) well regulations.
10. If installed, an irrigation system shall contain the appropriate backflow preventers and rain sensors for water conservation. The Applicant/Owner shall provide the irrigation system plan, including backflow devices, as part of the well application to the Board of Health with a copy to the Planning Board. Testing to ensure the backflow preventers and rain sensors are functioning appropriately shall be conducted annually by the system operator or other qualified professional with the results submitted to the Town Planner and Board of Health.
11. On-street parking within the Project is not permitted on the sides of the roadways. Following construction, appropriate signage restricting parking shall be provided if deemed necessary by the Zoning Enforcement Officer or public safety officials.
12. All utilities for the Project shall be located underground to the greatest extent feasible and at the discretion of the utility provider, only at the point of connection.
13. Prior to granting any easement for a water line or other utilities proposed within Beaver Brook Road to serve other properties, the Applicant shall notify the Planning Board.
14. All exterior lighting shall be "Dark Sky" compliant and be confined to the subject property, cast light downward at least 15 degrees below horizontal, and shall not intrude, interfere, or spill onto neighboring properties. All outdoor lighting shall comply with Section 6204 of the Zoning Bylaw (Outdoor Lighting).
15. Where feasible, the Owner/Applicant/Tenant shall use of timers and or motion sensors for security lighting to reduce unnecessary light pollution.
16. Where practical, indoor lighting for the Project shall be LED and energy-efficient.
17. All existing and proposed landscaping shown on the Landscaping Plan shall be maintained in a healthy state. Any dead or damaged plant material shall be promptly replaced in kind.

18. The Applicant shall minimize water consumption for landscaping by use of drought tolerant vegetation and other sustainable practices. Applicant shall not use chemical fertilizers on site. The Applicant shall replace 30% of the existing lawn with drought resistant native ground covers.
19. Applicant shall provide to the Board an updated landscape memorandum indicating the replacement of white pine trees shown on the landscape plans with Norway Spruce trees. The applicant shall reduce maintained lawn area by 30%, replacing the lawn with Sweet Fern (*Comptonia peregrina*). Final landscape plans reflecting such changes shall be provided to the Town Planner prior to the start of construction.
20. The Applicant shall apply for a sign permit and all signage shall comply with Section 6300 of the Zoning Bylaw (Signage), as applicable.
21. The Applicant shall provide a minimum of (2) two dual electric vehicle (EV) charging stations on site, providing charging capacity for at least four (4) vehicles. Applicant shall install infrastructure sufficient to accommodate additional EV charging stations, up to 10% of the total parking spaces, to be brought online as demand requires.
22. The Applicant has an executed lease with a tenant who has committed to installing a rooftop solar array on Building 400 and is currently in the process of working with consultants to finalize plans for this solar array. The tenant shall have three (3) years from Substantial Completion of Building 400 to install this solar array. When installed, the tenant shall notify the Planning Board that installation is complete and shall provide the Board with the amount of solar energy (kw/kwh) that the array will generate for use at the site. If such array cannot be installed within said three year period, the Applicant shall return to the Board for a modification of this Decision. Solar panels shall be screened to the extent feasible without impairing the functionality of the installation.
23. The Project shall comply with the most current Building Stretch Code, 225 CMR 23.00, for commercial buildings. In the event that the Specialized Code is adopted by the Town and becomes effective prior to the Applicant submitting an application for a building permit for the Project, the Applicant shall either incorporate the requirements of said Specialized Code into the building or provide to the Board in writing documentation regarding how the building compares to the definition of a "net-zero building" set forth in such Code.
24. The Applicant shall provide to the Board documentation, prior to the issuance of a certificate of occupancy, of the building's LEED certification level or equivalent rating (provided, however, that the Applicant shall not be required to seek LEED or other certification).
25. The Project shall not use natural gas to power the building nor will it connect to any existing natural gas pipeline infrastructure. The Applicant or any future owner (or tenant) will notify the Planning Board of any natural gas connections.
26. The Applicant shall notify the Planning Board of any backup/emergency generators installed at the Project in the future. Any backup emergency generation requiring diesel or other fuel shall be

permitted by the appropriate state and/or local entities and shall meet applicable state or local regulations for air quality, noise, odor, or other emissions.

27. No sodium-based deicers shall be used for onsite snow/ice management.
28. Any on-site snow storage shall be limited to the locations shown on the Site Development Plans referenced in Condition 1(a) above. Snow shall not be stored in or over stormwater management infrastructure on the site.
29. A stormwater management Operation and Maintenance plan shall be prepared that documents the existing and proposed stormwater infrastructure applicable to Building 400 and the maintenance of that infrastructure. The Operation and Maintenance plan shall be reviewed by and approved by Places Associates, Inc. or other peer reviewer designated by the Town Planner prior to its implementation.
30. The Project sanitary system shall comply with all Board of Health requirements. Appropriate drains to separate any industrial process water from the sanitary waste stream shall be identified in the Project plumbing plans and reviewed by the Board of Health. With the exception of any bathroom floor drains, all floor drains within the Project shall be connected to a tight tank for offsite disposal. Appropriate containment structures (e.g., double walled containment) and other measures including oil/water separators, etc. shall be in place in areas where any process water is being used to ensure any process water does not enter the groundwater or the sanitary system.
31. Per the Board of Health, any non-sanitary wastewater shall require the installation of a wastewater tank (the "Industrial Wastewater Tank") in compliance with MassDEP's requirements under 314 CMR 18.00 (Industrial Wastewater Holding Tanks and Containers). Verification that the Compliance for Certification for the new tank(s) has been received from MassDEP shall be provided to the Planning Board. No industrial process water shall be discharged from the Project into the wastewater treatment system. Process wastewater (if any) shall be tight-tanked in the Industrial Wastewater Tank and disposed offsite by a licensed waste disposal contractor.
32. The Applicant shall notify the Planning Board of any approved modifications to the MassDEP Ground Water Discharge Permit, including without limitation, changes in the effluent limits or volumes of wastewater from the Project.
33. Information regarding any pilot programs that the Applicant is participating in with MassDEP regarding PFAS filtration, PFAS treatment or identification of the source of the PFAS that is being transmitted to the Applicant's wells, shall be provided to the Planning Board and Town Water Resources Committee.
34. The Applicant (or its tenant) shall notify the Planning Board in writing of any sustained increase of water usage at the Project in excess of 25% of the 2,063 gallons per day projected in the Site Plan

Application. For purposes of this condition, a "sustained increase" shall be an increase in water usage in excess of 25%, or 2,579 gallons per day, of the projected usage that persists for a period of more than six months.

35. No chemical or biological or radioactive materials shall be tested or generated at the site. Any acoustical, electromagnetic or geophysical testing shall be conducted solely within specially designed and accredited test cells located within the building. Applicant shall demonstrate that such acoustical and/or electromagnetic and/or geophysical testing does not leave the site and is not detrimental to other persons or property. Such demonstrations shall be provided to the Town Planner and the Building Inspector prior to, and during such testing to verify compliance for the duration of operations. ,.
36. Any hazardous materials used in connection with onsite research and development uses shall comply with the limitations set forth Section 7004 of the Zoning Bylaw (Aquifer Protection District – Use Regulations), as amended, including prohibitions on storage of hazardous wastes and on application, production, storage or use of hazardous materials in quantities greater than associated with normal cleaning or maintenance procedures and in no case totaling more than 20 kilograms.
37. The Project shall comply with the Board of Health's Groundwater Protection Regulations for storage of hazardous materials.
38. Applicant shall maintain an up-to-date hazardous materials plan for this site on file with the Fire Chief or their designee. Such plan shall include a listing of all hazardous materials in use or storage at the site, and for each material shall list probable maximum monthly use, the probable maximum amount stored at the site and method and location of storage, the manner of delivery or generation of such materials, the method of disposal of such materials, and the plan of action to be followed in the event of a spill, discharge, or other disposal of such material not in accord with the planned method of disposal. Such plans must specify that the financial burden and responsibility for any cleanup required of such hazardous materials shall be jointly and severally the responsibility of the Applicant and tenants (if different). If the Fire Chief or their designee notifies the Applicant within 60 days of receiving a new or modified hazardous materials plan that the plan for specified materials is unacceptable, then the Applicant and tenants shall not use or store such specified materials, except as approved in the Hazardous Materials Plan, at the site until a new plan is accepted in writing by the Fire Chief or their designee. Applicant shall furnish to the Planning Board written acknowledgment from any tenant of the Building that it is bound by this condition and all hazardous materials plans.
39. Project operations and design shall comply with the Aquifer Protection District requirements set forth in Sections 7004 and 7007 of the Zoning Bylaw (Aquifer Protection District - Use Regulations; Design Requirements), as amended.
40. Outside Consultants for the Planning Board: The Applicant/Owner shall pay all outstanding fees incurred for the Planning Board's consultants including the Consulting Engineer/ Landscape Architect and an Outside Consultant Building Inspector for the performance of any of the review and inspection services contemplated herein and including any such fees incurred prior to the date of this Decision.

- a. An Outside Consultant Building Inspector may assist the Building Department with inspections, as needed, during the construction and occupancy process.
 - b. The Consulting Engineer shall act as the Construction Site Inspector for the Project until the Certificate of Occupancy is issued. Inspections shall be in accordance with those required in the Rules and Regulations Governing the Subdivision of Land, Section VI.C. Inspections (not including number 7, which does not apply to this Project.)
 - c. Prior to the commencement of any site work, the Applicant/Owner shall provide a deposit under MGL Chapter 44, Section 53G in an amount reasonable to be determined by the Planning Board.
 - d. Outstanding balances for all of the Planning Board's outside consultants shall be paid within 30 days of receipt of invoice and prior to the issuance of a final Certificate of Occupancy.
41. Violation of any of the conditions of this Decision, as acknowledged by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.
42. All site work must be completed in accordance with the plans listed in Condition #1 of this Decision unless a change is requested in writing by the Applicant/Owner and is subsequently approved by the Planning Board.
43. The Applicant shall notify the Planning Board of any changes in tenant or use of the facility. A change to a new use substantially different from the use described in the Plans and Documents may require a modification of this Site Plan Approval.
44. Applicant shall provide the Planning Board with any correspondence with the MEPA Office regarding Building 400, including any Notice(s) of Project Change.
45. Applicant shall provide to the Planning Board a site plan showing: (a) the sight distance lines demonstrating safe sight distances at the Site driveways; and (b) heavy and emergency vehicle site circulation and access. Applicant shall implement the traffic monitoring measures in the MassDOT March 27, 2002 Section 61 finding and report any results of such monitoring to the Planning Board.
46. Minor modifications resulting from scrivener's error or items not addressed in the approved plans or unforeseen field conditions, may be approved by the Building Inspector, upon consultation with the Planning Board's Consulting Engineer, if they do not alter the nature, intensity or visual impact of the approved plans and conditions outlined in this Decision. Landscape substitutions may be allowed if healthy specified plant materials are not readily available only with the review and approval of the Planning Board's Consulting Landscape Architect. Any Modifications that are not deemed minor by the Building Inspector shall be presented to the Planning Board for their review and approval. The

Planning Board shall determine whether the requested modification requires an amendment to this Approval.

Construction Conditions

1. Prior to the commencement of construction, Applicant shall:
 - a. Record this Decision with the Middlesex South Registry of Deeds and provide verification of recording to the Town Planner.
 - b. Submit a Construction Management Plan that includes the following information:
 - i. Hours of construction;
 - ii. Anticipated number of construction workers and any car-pooling/shuttle efforts to reduce construction worker trips to the site;
 - iii. Identification of construction worker parking areas;
 - iv. Construction vehicle access routes;
 - v. Timeline for construction;
 - vi. Plans for dust suppression, noise management, and road sweeping;
 - vii. Safety measures to protect pedestrians on adjacent sidewalk.
 - c. Provide the Town Planner with the name, address, and telephone number of two 24-hour contact people who will be primarily responsible for all construction activities on the site.
 - d. Submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) and the National Pollution Discharge Elimination Systems (NPDES) permit number to the Town Planner. An electronic copy of all required reports (inspections, remedial action, etc.) shall be forwarded to the Town Planner.
 - e. Provide the Board with confirmation that all local, state and federal permits and approvals have been received.
 - f. Notify the Planning Board as to the time and place for pre-construction meeting with the Building Inspector, Town Planner and Consulting Engineer to review pre-construction activities, including the Stormwater Pollution Prevention Plan (SWPPP) and other items as appropriate.
 - g. Apply for a Stormwater Management Permit from the Planning Board, if required.
 - h. Verify compliance with Wetlands Protection Act by providing to the Planning Board any Orders of Conditions or Determinations received from the Conservation Commission.
2. Site work and construction involving the operation of heavy construction equipment at the subject property shall only occur Monday through Friday between the hours of 7:00 AM and 6:00 PM, and 8:00 AM and 6:00 PM on Saturdays. No site work or construction is permitted on Sundays and legal state holidays. Hours of construction shall be posted on site.
3. All catch basins and detention basins shall be maintained during construction and cleaned at the end of construction. Catch basins shall be functional at the binder pavement and shall be raised

- to the finish elevation no more than one (1) month before final paving. Evidence of cleaning shall be provided to the Consulting Engineer in writing.
4. On-site construction trailers shall comply with Section 7402 of the Zoning Bylaw (Construction Trailers), as amended.
 5. Applicant/Owner shall comply with all requirements of the Town of Boxborough Earth Removal Bylaw and Earth Removal Rules and Regulations, including all Operational and Restoration Standards and Requirements as set forth in Section V of said Bylaw. The Applicant shall provide documentation of compliance with such requirements to the Town Planner and Consulting Engineer, who shall provide such report to the Planning Board. Any requests for additional waivers (beyond those granted by this Decision) from provisions in the Earth Removal Bylaw and/or Rules and Regulations, including without limitation from the excavation limits of Section V.A.1 of the Bylaw, shall be made in writing to the Planning Board.
 6. To the extent feasible, the Applicant shall remove as little material as possible from the site and materials will be recycled off-site and reused on site. All topsoil shall remain on site.
 7. Any hazardous materials/wastes from construction shall be handled in accordance with all Local, State, and Federal laws.
 8. Wood waste (stumps/slash) generated from the Project shall be handled in accordance with the Massachusetts Department of Environmental Protection's (MassDEP) Wood Waste Policy and Site Assignment regulations and shall not be disposed of on-site, with the exception of stump grindings for soil stabilization.
 9. Existing pavement removed during construction shall be milled and grindings reused on site to the maximum extent practicable.
 10. All fill brought to the site must be clean. The Applicant shall provide certification that the fill does not contain any demolition debris or hazardous materials.
 11. The Applicant shall implement the construction period tree protection measures shown on Sheet D-2 of the Landscape Plan and in the Landscape Memo referenced in Condition 1(b), above. All other existing landscaping shall be protected to the maximum extent feasible during construction.
 12. The Applicant shall make provisions for dust suppression and noise mitigation during construction (including rock crushing if applicable), so as not to adversely impact pedestrians and abutters.

13. Upon completion of construction, the Applicant shall submit to the Planning Board documentation of the amount of overall impervious area reduction achieved.

Prior to the Issuance of a Certificate of Occupancy

1. Prior to the issuance of a final Certificate of Occupancy, the Applicant shall provide to the Building Inspector and the Planning Board in hard copy and electronic format final As-Built plans showing the location of all buildings and structures, edges of pavement, driveways, utilities, and drainage facilities. Such As-Built plans shall be accompanied by a Certificate of Construction signed by the design engineer (Registered Professional Engineer of Record).
2. The Applicant shall obtain approval from the Fire Chief or his/her designee approval for a fire protection plan and an Emergency Management/Response Plan for the Project.
3. Prior to the issuance of an occupancy permit, the Owner and/or Applicant shall provide to the Planning Board via the Town Planner a written acknowledgement from its tenant of the site plan conditions applied to the Applicant as a result of this Site Plan Approval, including a prohibition on the discharge of any industrial and hazardous wastewater effluent from the onsite sanitary wastewater treatment and disposal system.
4. Prior to the issuance of an occupancy permit, the Owner and/or Applicant shall describe in writing to the Fire Department and the Board of Health with notification to the Planning Board via the Town Planner the safety measures regarding how haulers will connect and disconnect to the Industrial Wastewater Holding Tank.
5. Prior to the issuance of a final Certificate of Occupancy, Applicant shall provide to the Planning Board evidence that drinking water at the facility complies with all applicable state and local drinking water standards and requirements.
6. Prior to the issuance of a final Certificate of Occupancy, Applicant (or its tenant) shall provide to the Planning Board a written estimate of the quantities of water (if any) anticipated to be used specifically for process purposes, the size of the tight tank, and the anticipated frequency of trips for licensed haulers to remove any process water from the site.
7. Prior to the issuance of a Certificate of Occupancy, the Applicant (or its tenant) shall submit to the Planning Board a mutually agreeable Transportation Demand Management Plan, which includes measures addressed to reducing the number of single occupancy vehicle trips to the site and location and number of bike racks.
8. Prior to the issuance of the final Certificate of Occupancy, the Town Planner or his or her designee shall conduct a site visit to ensure that the Project has been constructed in strict accordance with the plans listed in Condition # I, or are consistent with any changes to these plans approved by the Planning Board and/or the Building Inspector in coordination

with the Consulting Engineer per Condition #40 of this Decision during the course of construction. A report shall be filed with the Building Inspector confirming this compliance.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing of the above referenced Decision with the Town Clerk.

SUBSTANTIAL CONFORMANCE: Subject to the conditions contained herein, the project shall be undertaken and operated in substantial conformance with the Record documents and plans, including but not limited to the Site Plan Approval Application form and accompanying submittals by the Applicant and the plans made a part thereof, as revised through the date hereof. The determination of substantial conformance with these documents and plans shall be made by the Board in its sole discretion. Any material deviation shall require review by and approval of the Board, i.e., through an amendment of the within approval or a new site plan approval, as appropriate.

APPLICABILITY OF SITE PLAN APPROVAL: This Site Plan Approval applies only to the Subject Land. All work undertaken on the Subject Land and subsequent operation of the project shall be in accordance with the terms of this decision and shall be limited to the improvements shown on the Plans and Documents. Any expansion of the gross floor area or footprint of the Project as shown on the Plans and Documents shall require a modification of this Site Plan Approval or a new Site Plan Application.

OTHER PERMITS OR APPROVALS: This decision applies only to the requested Site Plan Approval and Earth Removal Permit. Other permits or approvals required by the Boxborough Zoning or General Bylaws, and from any other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision, and the Applicant shall be required to seek and obtain the same, and notify the Planning Board upon receipt.

BYLAW COMPLIANCE: The foregoing conditions are stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Boxborough Zoning Bylaw.

ACCESSIBILITY: The Applicant is required to comply with all pertinent regulations of the Americans with Disabilities Act, 42 USC 12101, et seq., the Massachusetts State Building Code, 780 CMR, and the Architectural Access Board's Rules and Regulations, 521 CMR, all as amended, insofar as the same apply to the project or any component of the Subject Land's redevelopment or reuse.

CONSTRUCTION ACTIVITIES: During construction, renovation or redevelopment of the Subject Land (or portion thereof) as contemplated herein, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, dust and blocking of any roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents and businesses in the general area, as applicable.

RIGHT OF ACCESS: The Board, the Town's Building Commissioner and their respective agent(s) may enter onto, view and inspect the Subject Land from time to time, without notice, so as to ensure compliance with the terms and conditions listed herein, subject to applicable safety requirements as established by the Applicant and/or its contractor(s). Enforcement authority shall

expressly be vested in the Board but also in said Building Commissioner and in the Boxborough Police Department, as may be necessary or appropriate.

COMPLIANCE REQUIRED: No work shall commence nor shall any building permit or occupancy permit issue hereunder unless and until the Applicant is in full compliance with all permits, licenses, approvals, orders and agreements of any kind issued by or entered into with any official, board, commission or committee of the Town of Boxborough.


OUTSTANDING INVOICES: All invoices generated by the Board's consultants during review of the project, if any, shall be paid within twenty (20) days of filing hereof with the Town Clerk, whether this decision is appealed or not. No post-permit reviews of documents or plans shall be conducted nor shall a building permit or occupancy permit be issued until all such invoices have been paid in full.

AMENDMENT OF THIS DECISION: The Board hereby reserves its powers to modify or amend the terms and conditions of this decision upon its own motion with consent from the Owner, or on the application of the Owner. The Board further reserves its powers to amend this decision without a new public hearing provided that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw or with the terms of this decision.

LAPSE OF THIS DECISION: This Site Plan Approval shall lapse two years from the date this decision is filed with the Town Clerk unless a substantial use thereof has not sooner commenced except for good cause. Any request for an extension of the time limitation set forth herein shall be made in writing to the Board at least 30 days prior to expiration and the Board reserves its rights and powers to grant or deny such request without a public hearing.

The Applicant by acceptance of this decision and recording thereof acknowledges the binding effect of the conditions of this decision.

ON BEHALF OF THE BOXBOROUGH PLANNING BOARD:

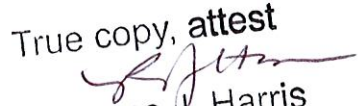

Mark Barbodero, Chair

11/30/2022

Received:


Rebecca Harris, Town Clerk

11/30/2022
Date

True copy, attest

Rebecca D. Harris
Boxborough Town Clerk

I, Rebecca Harris, Clerk of the Town of Boxborough, Massachusetts, hereby certify the notice of approval of this Site Plan and Earth Removal Permit by the Boxborough Planning Board has been received and recorded at this office, and no appeal was received during the twenty (20) days next after such receipt and recording of said notice.

 12/20/2022