

**Record of Decision
Bristol-Myers Squibb
CMB Cell Bank Loading Dock
38 Jackson Road (9-4-200)
Devens MA
Unified Permit
February 28, 2017**

1. Applicant:

The Applicant and landowner are Bristol-Myers Squibb Company (BMS), 38 Jackson Road, Devens, MA 01434

2. Premises and Proposed Project:

BMS is seeking Unified Permit for site plan approval for the proposed construction of a 665 square foot loading dock. The project includes the external loading dock, cutting in the driveway to access it, relocating a water line (BMS internal fire loop), relocating secondary electric for lighting and rerouting the underdrain around the bump out addition. A small retaining wall is also proposed to accommodate the loading dock driveway. Primary access to the Project Site will continue to be provided from Jackson Road and Queenstown Street. The project is located within the Innovation and Technology Business District, Viewshed Overlay District and Watershed Water Resources Protection Overlay District.

3. Submission:

The following is a list of exhibits included as part of the record for this Application:

1. Unified Permit Application - Level 2 Submittal package entitled: "Bristol-Myers Squibb Devens Facility: Re: Cell Bank Fit-out in Clinical Manufacturing Building Level II permit application. Application, dated January 9, 2017; cover letter from Anthony Haskell, BMS to Peter Lowitt, DEC Director dated January 9, 2017; certified abutters list; site cost estimate and fee calculation and site plan consisting of the following sheets prepared by CE &IC, two Teri Lane, Burlington, NJ 08016 and presented by VHB, Watertown, MA
 - 210-10C-000 Cover Sheet and Notes dated 1/03/2017
 - 210-10C-100 Layout and Materials Plan "
 - 210-10C-500 Erosion and Sedimentation Control Plan "
2. Determination of Completeness Issued January 17, 2017.
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated January 17, 2017, Subject: Level 2 Unified Permit Application – Bristol-Myers Squibb CMB Loading Dock;
4. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt, dated January 17, 2017 – to be published January 27, 2017 and February 3, 2017.
5. Copies of Legal notices from January 27, and February 3, 2017 from Nashoba Publications.
6. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated January 17, 2017;
7. Memo dated January 17, 2013 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Level 2 Unified Permit (notification of Public Hearing on February 28, 2017 at 6:45PM);

8. Memo dated January 17, 2017 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – Bristol-Myers Squibb CMB Loading Dock;
9. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated January 17, 2017;
10. Certified Mail Return Receipts for application and plan deliveries to Ayer, Harvard and Shirley, received by towns on January 18, 2017. Certified Mail return receipts for public hearing notices to all abutters – various dates.
11. Staff Report dated 02-09-17 Re: Bristol-Myers Squibb CMB Loading Dock Unified Permit Project, prepared by Peter Lowitt (2 pages);
12. Certified List of Abutters from Devens Board of Assessors, dated January 17, 2017;
13. Plan Circulation memo from Peter Lowitt to MassDevelopment, Re: Bristol-Myers Squibb Unified Permit CMB Loading Dock Request -dated 1/17/17;
14. Email from Mark Cohen, Devens Utilities to Peter Lowitt, DEC dated 1/19/2017 regarding coordination with Devens utilities during construction of the project.
15. Email to Chief LeBlanc from Peter Lowitt concerning application and exterior nitrogen storage and licensing questions dated 1/17 and 2/13, 2017.

4. Unified Permit Components and Actions:

The Unified Permit components include site plan approval and a building permit to construct a loading dock and elevator addition to the CMB building on an existing +/- 89 acre parcel (9-4-200) at 38 Jackson Road.

5. Process:

The application was submitted on January 17, 2017 and the Determination of Completeness was issued on January 17, 2017. Copies of the application were received by the surrounding Towns on January 18, 2017. Legal notices were placed in Nashoba Publications on January 27 and February 3, 2017. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on February 17, 2017. No comments were received. The public hearing opened on February 28, 2017 and closed on the same date.

6. Waivers

The Applicant requested a waiver of all submission requirements except those included in the plan set because of the minor nature of the site plan amendment (665 sf) for the CMB building including a loading dock and elevator:

The LUA administratively approved the waiver of the submission requirements.

7. Findings

The DEC made the following findings:

1. The proposed use (lab/office and clinical manufacturing) is consistent with the development goals and permitted uses within the Innovation and Technology Business (ITB) District and the requirements of the Watershed Water Resources Protection District.
2. A substantial canopy of trees exists between Prospect Hill and the buildings. The height, location and situation of the new structure on the north side of the CMB, will conform to the viewshed requirements as set forth in the by-laws and rules and regulations.

3. The preexisting lot and building have more than 100 feet of frontage on Jackson Road and the lot is well over 2 acres in area and is therefore in compliance with the minimum lot requirements as per the Devens Bylaws.
4. The facility operates 24 hours a day, 7 days a week and therefore, requires lighting between 11:00PM and 7:00AM for facility operations. A previously granted waiver for lower site lighting intensities will minimize the amount of light pollution created by this project.
5. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site Plan, with conditions and waivers, complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
 - (b) The development lies on a lot that is recorded at the Registry of Deeds;
 - (c) The application is Complete.
 - (d) All drives, parking lots, loading areas, paths, sidewalks, and streets are designed to provide for safe vehicular and pedestrian travel.
 - (e) Access and site circulation will enable prompt fire, police, and emergency response.
 - (f) Adequate capture, treatment, infiltration and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan", has been included in the design.
 - (g) Connections with utility, power and communication systems available in the abutting infrastructure currently exist and new connections will be approved by the Mass Development Managers of Engineering and Utilities.
 - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
 - (i) The plans are in compliance with the Landscaping Design Standards for plant materials, planting strips, screening, and preservation of existing specimen trees and wooded areas.
 - (j) A Wetlands Order of Conditions is not applicable for this project.
 - (k) Industrial Performance Standards will be adhered to as per the final plans and the conditions of approval.
 - (l) Sufficient parking for current needs is being provided.
 - (m) Traffic control measures are adequate for this project.
 - (n) The proposed development will participate in the Devens traffic management association.
 - (o) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
 - (p) Connection to sanitary sewers has been authorized by Devens Utilities.
 - (q) Building design will meet the minimum standards as established by Mass Development for the district in which the lot is located.

8. Conditions:

The DEC voted to impose the following conditions:

1. Wherever "Applicant" is referenced in the Conditions set forth herein, it refers to the Applicant, its successors and assigns. Wherever "DEC" is referenced, it shall refer to the Devens Enterprise Commission, its successors and assigns.
2. Jackson Gate from Route Two shall be the primary means of truck access to and from the site on a permanent basis, with other gates to be used only in emergency situations or during protracted construction when the Jackson gate is unavailable. The Applicant shall post signs that all trucks must enter and exit Devens via the Jackson Gate at Route 2 on the exit gate of the facility.
3. The Applicant shall take appropriate measures to encourage all automobile traffic associated with this project to use Jackson Gate to the maximum degree feasible. In addition, the Applicant and its lessees shall participate in the Devens Transportation Management Initiative. When transportation/ trip reduction/ public transit options become available in the future, the applicant shall be obligated to advise the building occupants to make their employees aware of such transportation alternatives and help to facilitate connections to these programs for those who are interested.
4. In accordance with the Devens By-Laws, Article III, Section K 1. a., no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with the Devens Soil Management Policy and approval from the DEC.
5. Prior to commencing any intrusive earth work within Devens (due diligence, construction of otherwise) all personnel to be on site shall view an Unexploded Ordinance/Munitions of Explosive Concern (UXO/MEC) video briefing provided by the Devens Fire Department.
6. The waivers granted shall be listed on the plans.
7. Once the appeal period has expired, the Applicant shall submit final approved plans to the DEC for endorsement. The Applicant shall file the endorsed plans and the final Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC prior to the issuance of a building permit.
8. All applicable federal, state, and local permits necessary for the construction and operation of the facility (including, but not limited to any necessary tank permits from the Devens Fire Department) must be obtained prior to the issuance of a Certificate of Occupancy. Copies of permits issued by those other than the DEC must be filed with the DEC.
9. The Applicant shall provide As-Built Plans and accompanying information for all site improvements in accordance with the DEC As Built Policy, prior to issuance of a final Certificate of Occupancy.
10. There is no approval of signs implicitly or explicitly granted in this Unified Permit and any erection of signs of any type will require subsequent approval.

11. Outdoor Storage is only permitted in areas designated on the approved plans. No open or exterior storage is permitted in undesignated locations.
12. The facility shall comply with the Massachusetts Anti-Idling law (5 minute restriction). The Applicant shall post signage at all loading docks notifying drivers of this requirement.

9. Decision:

The public hearing closed on February 28, 2017. The DEC voted on February 28, 2017, to grant the waivers requested, to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the site development plan for BMS CMB Loading Dock and elevator at 38 Jackson Road, Devens, MA (9-4-200).

10. Building Permit

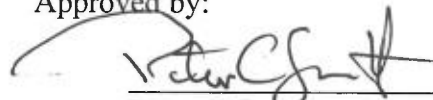
The Building Commissioner, along with the Electrical and Plumbing Inspectors, must review architectural/structural drawings and specifications and approve them in writing, prior to issuance of a building permit. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and those of the Devens Fire Chief must be met. When these approvals are obtained, the building permit may then be integrated with this Site Plan Record of Decision. Together they will constitute the Unified Permit for BMS CMB Loading Dock and elevator at 38 Jackson Road, which will, in turn, allow construction to commence.

11. Permit Duration

In accordance with 974 CMR 1.10, unified permits shall remain in effect so long as the approved activities are commenced within six months of the date of the DEC or the LUA produces a written decision and completed within two years. It is further noted that a thirty-day "reconsideration period" during which an applicant, a Town, or an aggrieved person may request the DEC reconsider its action (By-Laws, Article IV, Sections C through F). Work performed during this period, which begins on March 1, 2017 and terminates March 30, 2017, is "at risk". Final plans must be submitted for endorsement by the Commission by August 28, 2017.

Approved by:

Date: March 1, 2017



 Peter C. Lowitt, FAICP, Director
 Devens Enterprise Commission

Certification

Middlesex, SS

I certify the above is a true action and record of the Devens Enterprise Commission and that Peter C. Lowitt, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

Date 3-1-2017


 Kathryn Clisham, Notary
 My Commission expires 3-16-2018

