

**Devens Enterprise Commission
DEC Public Hearing & Meeting
December 3, 2020**

Members: Duncan Chapman, Dix Davis, Melissa Fetterhoff, Christopher Lilly, Robert Markley, William Marshall, Marty Poutry, Paul Routhier

Staff: Peter Lowitt, Neil Angus, Kate Clisham

Absent: Jim DeZutter, Robert Gardner, Jim Pinard, Debra Rivera

This meeting was held virtual via Zoom Meeting in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A. s.20.

W. Marshall called the meeting to order at 7:32 AM and read the agenda. W. Marshall took roll call and went over the virtual meeting procedures. The following individuals were also in attendance: Jim Moore, Lucas Anthony, Jim Cray, Kyle Hay, Blake Martin

W. Marshall reported M. Fetterhoff has submitted two Mullin Rule Affidavits noting she has reviewed the November 17, 2020 meeting recording so that she can participate and make an informed decision on both the Patton Well and MacPherson Water Treatment Facility hearings.

M/S/V D. Davis, P. Routhier to approve November 7, 2020 minutes as written; approved unanimously.

7:39 AM Continued Public Hearing: Level 2 Unified Permit application submitted by MassDevelopment Finance Agency for Site Plan Approval and Wetland Request for Determination of Applicability related to the construction of a new water treatment plant, including parking, emergency generator, associated drainage, and utilities.

Project located on portions of 150 and 168 Patton Road (Parcel ID#: 10-9-200 and 11-99-204), as well as utility connections within the Patton Road Right of Way, Devens, MA in the Open Space and Recreation Zoning District.

P. Lowitt reported since our last meeting the applicant has redesigned and moved away from the conservation restriction. L. Anthony indicated they worked with MassDevelopment and the DEC to modify the site plan and move the building closer to Patton Road and away from the conservation area. He noted they will still have minor grading and the swale on the backside which has been approved by the Trustees of Reservations. He indicated the excess soil area has been reduced and pulled away from the slope. L. Anthony reported they worked with N. Angus to adjust and blend the grade to look more natural. He noted the waiver requests for no installation of a bike rack as the site will only be visited by employees not the public. He reported the second waiver requesting relief from connecting to public sewer as there is no public sewer in this location so they plan to use a tight tank to store the sewerage onsite and pump as needed. L. Anthony noted there are some minor stormwater comments from Nitsch that we are working to address. P. Lowitt reported those are minor and can be addressed. He indicated there have been no comments received and recommends closing the public hearing. Public comment: none. **M/S/V** P. Routhier, D. Davis to close the public hearing; approved unanimously by roll call vote. P. Lowitt reviewed the Wetland RDA. **M/S/V** D. Davis, M. Fetterhoff to issue the Negative Wetland RDA; approved unanimously by roll call vote. **M/S/V** M. Poutry, M. Fetterhoff to approve the waivers; approved unanimously by roll call vote. P. Lowitt reviewed the Conditions and reported staff recommends approval. **M/S/V** M. Fetterhoff, C. Lilly to approve the Unified Permit; approved unanimously by roll call vote.

8:07 AM Continued Public Hearing: Level 2 Unified Permit Application including site plan review and a Wetland Notice of Intent, submitted by Massachusetts Development Finance Agency for the construction of new water treatment facility for removal of PFAS compounds. Property located at 44 MacPherson Road, Devens, MA (Parcel ID#035,0-0000-0700.0), in the Open Space and Recreation Zoning District.

J. Moore introduced Blake Martin and Kyle Hays. B. Martin reported they have pulled back the limit of work and there is no change to the grading plan. He noted the DEP has requested no porous pavement as its excluded in Zone 1. They will modify the plans once we get DEP approval. B. Martin reported they've also minimized the impacts to the larger trees onsite and eliminated the downspouts and included a gravel drain. N. Angus reported the USFWS is happy with the reduced impacts. He indicated the project will need to adhere to the NHESP habitat protection plan as there are three species on this site. N. Angus noted they have requested a waiver from the side yard and rear yard setbacks as this site is very tight. Since the property is completely surrounded by USFWS land there is no issue. The 30-day comment period has expired with no other comments received besides USFWS approval. N. Angus noted there are no special conditions as part of the Wetland Order of Condition. R. Markley asked if the hunting plan had been expanded on the wildlife refuge. N. Angus indicated no expansion has taking place. Public comment: none. **M/S/V** D. Davis M. Poutry to close the public

hearing; approved unanimously by roll call vote. **M/S/V** P. Routhier, D. Davis approve the Wetland Order of Condition; approved unanimously by roll call vote. **M/S/V** D. Davis, M. Fetterhoff to approve the waivers; approved unanimously by roll call vote. N. Angus noted the special Findings with the allowed use in the Open Space Zone 1 Water Resource Protection district as well as the allowed site lighting 11PM – 7AM with motion sensors. N. Angus went over the Conditions noting the Wetland Order of Conditions, MA Division of Fisheries and US Fish & Wildlife approvals are all part of this approval. **M/S/V** C. Lilly, D. Davis to approve the Unified Permit; approved unanimously by roll call vote.

8:12 AM Nashua, Squannacook, and Nissitissit Rivers Wild & Scenic Stewardship Council Update

N. Angus reported he and P. Lowitt have been participating with the Stewardship Council and helped get the rivers designated as Wild & Scenic. Currently they are developing plans and bylaws and they've formed a council to provide updates of the Stewardship plan to be implemented. N. Angus indicated they've conducted some great education sessions and information sessions. They have budgeted to include more education and outreach programs as well as stream improvements along the corridor. He indicated they are also planning community grants and noted they have done great work protecting river resources. W. Marshall reported he received an email from Chair Lucy Wallace the DEC has unanimously been approved to become a voting member of the Stewardship Council and we'll need to appoint a representative. P. Lowitt reported he'd like to recognize N. Angus and the tremendous amount of work he's put in. He noted L. Wallace also recognized N. Angus for all his work and how much they've benefited from his input. **M/S/V** P. Routhier, C. Lilly to appoint N. Angus as the DEC representative to the Stewardship Council with P. Lowitt as the alternate; approved unanimously by roll call vote.

8:18 AM Old Business:

Shirley Meadows Variance Request – 27 Hospital Road

P. Lowitt reported Shirley Meadows has submitted a variance request to the State Architectural Access Board for variances from the hallway and stairwell handrail requirements. We received a copy of their submittal on November 30, 2020 and P. Lowitt spoke with Gabe Vellante. We were copied because they assumed the DEC was the local commission on disability but we are not. The Town of Ayer has a commission on disability but no jurisdiction here. P. Lowitt indicated he would like to send notice to the AAB the DEC is not the local commission on disability and we have no comment on the variance. **M/S/V** M. Fetterhoff, D. Davis to approve recommendation to notify the AAB; approved unanimously by roll call vote.

8:22 AM New Business:

Devens 2021 Liquor License and Common Victualler's License renewals

M. Poutry recused himself as his Dad holds interest in Red Tail Golf Club. He exited the meeting.

P. Lowitt reported these are the annual license renewals with four Liquor Licenses and ten Common Victualler's Licenses up for calendar 2021 renewal. As you recall the Devens Grill has closed. Since there is no renewal application that license reverts back to the DEC. We did hear there was interest in the property so we may have a new license request in the coming months. P. Lowitt indicated we have not had any complaints on any of the licensees and staff recommends granting all 2021 renewals. **M/S/V** P. Routhier, M. Fetterhoff to approve four Liquor License renewals and ten Common Victualler's License renewals for calendar 2021; approved unanimously by roll call vote.

8:26 AM Public Comment: None

W. Marshall noted the next public hearing will take place December 15, 2020 at 6:45 PM, a week earlier than normally scheduled due to the holidays.

P. Lowitt noted there are three big projects coming up so please let us know if you have any date conflicts.

8:27 AM **M/S/V** M. Fetterhoff, D. Davis to adjourn approved unanimously by roll call vote.

List of Exhibits –

- Agenda, Draft Minutes 11/5/20
- Patton Well Revised Plans
- Patton Well Wetland RDA
- Patton Well Staff Report
- Patton Well Draft Record of Decision
- MacPherson Well Revised Plans
- MacPherson Staff Report

- MacPherson Well Wetland Order of Conditions
- MacPherson Well Draft Record of Decision
- Devens 2021 Liquor License and Common Victualler's License Renewals Report
- Nashua, Squannacook and Nissitissit Rivers Wild & Scenic Stewardship Council Update
- Memo Re: Shirley Commons Variance