

**Devens Enterprise Commission  
(DEC) Public Hearing and Regular Meeting  
Minutes June 16, 2022**

**Members Present:** Duncan Chapman (joined at 7:51 AM), Melissa Fetterhoff, Robert Gardner, Christopher Lilly, William Marshall, Martin Poutry, Deb Rivera, Deb Seeley

**Staff:** Peter Lowitt, Neil Angus, Dawn Babcock

**Guests:** Larry Maglin (Health & Safety Engineer at VulcanForms), Mike Mahonski (GM VulcanForms), David Clermont (Property Manager for 112 Barnum Rd), John Marc-Aurele (Director of Engineering for MassDevelopment), Daniel Post (BMS) Curt Quitzau (VHB/BMS), Martha Twomey (Marty's Corner Café & Deli)

**Members Absent:** Dix Davis, James DeZutter, Jim Pinard, Paul Routhier

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**(7:30 AM) Chairman William Marshall called the meeting to order**

Mr. Marshall noted that this Devens Enterprise Commission Regular Meeting and Public Hearing is being held virtually in accordance with the Act (Senate Bill #2475) relative to extending certain COVID-19 measures adopted during the state of emergency. Interested individuals can listen in and participate by phone and/or on-line by. Persons with disabilities or requiring interpretation wishing to listen or participate should contact 978.772.8831 x3334. In accordance with the State's Open Meeting Law, Mr. Marshall informed all attendees that this meeting is being recorded by the Devens Enterprise Commission.

**(7:33 AM)** Mr. Marshall noted before starting the meeting the commissioners will need to elect Ms. Rivera as a representative from the region. Mr. Gardner made the motion to elect Ms. Rivera and the motion was seconded by Mr. Lilly. The motion was **Approved unanimously by a roll call vote.**

**(7:37 AM) Chairman Reviewed Agenda.**

**(7:40 AM) Review Minutes: May 31<sup>st</sup> Minutes** were discussed, and Mr. Marshall asked if anyone had any edits or concerns. None were noted. Mr. Marshall then asked for a motion to accept the minutes as written and the motion was made by Ms. Seeley and seconded by Mr. Poutry. The Motion to approve the May 31<sup>st</sup> minutes was **Approved unanimously by a roll call vote. Ms. Fetterhoff and Ms. Rivera abstained from voting due to not attending the May 31<sup>st</sup> meeting.**

**Public Hearings: Continued from the May 31<sup>st</sup> Meeting and June 9<sup>th</sup> Meeting**

**(7:41 AM)** The Chairman read the legal notice. **Level 2 Unified Permit Application for the construction of a +/- 154,000 sq.ft. new industrial building, with associated grading, landscaping, parking, stormwater, and utility improvements. Property located at 35 Saratoga Boulevard (Parcel ID #021.0-0-0013-01600.0) in the Rail, Industrial, Trade-Related Zoning District.**

Mr. Lowitt asked Mr. Angus to read the email sent from Mr. Sullivan (35 Saratoga Blvd) which stated *"On behalf of 35 Saratoga Property Owner, LLC, we herein request a continuance of the public hearing for the above referenced property until June 28th, 2022. We also request an extension of the 75-day review period. Thank you and let me know if you need anything else."* Mr. Angus also noted that there are a few exhibits that will be added to this file. The Mullin Rule for Ms. Rivera and the Disclosure of Appearance of Conflict of Interest for Ms. Seeley. Mr. Marshall asked for a Motion to Continue this topic to the June 28<sup>th</sup> 6:45 PM Meeting and the motion was made by Mr. Gardner and seconded by Mr. Lilly. The motion to continue to June 28<sup>th</sup> at 6:45 PM was **Approved unanimously by a roll call vote.**

**(7:44 AM)** The chairman read the legal notice. **Level 2 Unified Permit Application by MassDevelopment for a Wetland Notice of Intent for bridge and road repairs and drainage improvements to Lovell Road within 100 feet of wetlands and Catacoonamug Brook. Project located in the Lovell Road Right-Of-Way in Devens (Shirley), MA, off of Hospital Road.** Mr. Angus noted that DEC has been working with MassDevelopment and then turned the discussion over to Mr. Marc-Aurele of MassDevelopment. Mr. Marc-Aurele noted that His team is in agreement

with the Conditions established by DEC. He also wanted to note that his team will be returning in the near future with a full replacement application of this bridge. This project could be a 1-to-1.5-year project. Mr. Angus reviewed the 7 special conditions noted on this project. Mr. Marshall asked the Commissioners if there were any questions. None were asked. Mr. Marshall then asked if there were any questions from the public and none were asked. Mr. Angus suggested closing this hearing. The motion to close the public hearing was made by Ms. Seeley and seconded by Mr. Chapman. The closing of this hearing was **Approved unanimously by a roll call vote**. Mr. Angus then reviewed the Wetland Order of Conditions, Mr. Marshall asked if there were any questions from the Commissioners or Public, none were asked. Mr. Marshall then asked for a motion to endorse the Wetland Order of Conditions. The motion was made by Mr. Gardner and seconded by Mr. Lilly. The Motion to endorse the Wetland Order of Conditions was **Approved unanimously by a roll call vote**. Mr. Angus finished by reviewing the Draft Record of Decision. Mr. Angus also noted that there will be an exhibit added to this file. The Mullin Rule for Ms. Rivera. Mr. Marshall then asked for a motion to approve the ROD once the dates of the meetings have been corrected. The motion was made by Mr. Gardner and seconded by Mr. Lilly. The motion to approve the ROD was **Approved unanimously by a roll call vote**.

**(7:58 AM)** The Chairman read the legal notice. **Level 2 Unified Permit application submitted by VulcanForms Inc., on behalf of PPF Industrial 112 Barnum, LLC (property owner) for a License to store flammables, combustibles, and explosives in accordance with 974 CMR 4.09(6). Property located at 112 Barnum Road (Parcel ID # 027.0-0017-0500.09-4-500) in the Rail, Industrial and Trade-Related Uses District.** Mr. Lowitt noted that this request goes with the property and not the business. Mr. Marshall asked if there are any questions from the Commissioners or Public and no questions were asked. Mr. Lowitt noted that we will be entering the Mullin Rule for Ms. Rivera into the exhibits for this topic. Mr. Marshall asked for a motion to close the hearing and the motion was made by Ms. Seeley and seconded by Mr. Gardner. The motion to close the hearing was **Approved unanimously by a roll call vote**. Mr. Lowitt went over the conditions and noted that the Devens Fire Department has had their own Fire safety review and has issued their permit for storage of flammables in accordance of the National and States Fire Code Standards & Regulations. Mr. Marshall asked the commissioners and public if there were any questions regarding the conditions and hearing none requested a motion to approve the permit. The motion was made by Mr. Gardner and seconded by Mr. Poutry. The motion to approve the permit was **Approved unanimously by a roll call vote**.

#### **Public Hearing: New**

**(8:05 AM)** The Chairman read the legal notice. **Level 2 Unified Permit Amendment to add an additional cooling tower to their campus to accommodate the recently approved Cell Therapy Facility. Property located at 38 Jackson Road (Parcel ID #9-4-200) in the Innovation & Technology Business Zoning District.** Mr. Angus introduced Mr. Quitzau of VHB who gave an overview of the project. Mr. Quitzau noted that Cooling Tower was put in place with the approval of the Clinical Therapy Facility and it was decided then that the cooling tower was not warranted at that time. So, this application is to erect the tower on the existing foundation/pad as there is now a need to another cooling tower. Mr. Angus did comment that they will need a plan should complaints arise regarding noise levels. But based on the location it is unlikely that this would surface. But Mr. Quitzau did note that they do have a plan to bring the towers into compliance should that be called for. Mr. Marshall asked the commissioners and public for any questions. Hearing none he then asked for a motion to close the hearing. The motion was made by Mr. Gardner and seconded by Ms. Seeley. The motion to close the hearing was **Approved unanimously by a roll call vote**. Mr. Angus then read the Draft Record of Decision and Mr. Marshall asked if there were any questions from the Commissioners and Public on the Draft ROD. Hearing none, Mr. Marshall asked for a motion to approve the permit as submitted. The motion was made by Mr. Gardner and seconded by Mr. Poutry. The motion to Approve this permit was **Approved unanimously by a roll call vote**.

#### **New Business:**

**(8:15 AM) 176 Jackson Rd – Marty’s Corner Café and Deli Carry-In Application.** Mr. Lowitt said we have had this option available since 2010 but this is the first time, we have had an establishment submit one. Mr. Lowitt then read the staff report and went through the Requirements and Conditions for the establishment. Mr. Angus added that with this establishment only being open for Breakfast and Lunch as well as having only 4 tables inside and 4 tables outside they don’t see any issues moving forward. Ms. Twomey commented that she has been working

with DEC and will continue to do so. Ms. Twomey also noted that she has spoken with the Fire and Police, and they see no issues. Mr. Marshall asked for questions from the commissioners and public. Mr. Gardner asked if Ms. Twomey has spoken with her insurance company and if so, did they have any issues or concerns? She noted that she hasn't but will do so and thanked Mr. Gardner for the suggestion. Ms. Seeley asked if a patron doesn't finish their bottle is there a procedure you need to follow allowing them to take the open container with them? Ms. Twomey has spoken with other establishments that have Carry-In as well as the Fire Chief and Police and believes they will have a process for that shortly. Mr. Marshall asked if there are any more questions. Mr. Lowitt noted that Mr. Gardner and Ms. Seeley have asked some great questions with this being the 1<sup>st</sup> application here in Devens we welcome all questions. No other questions were asked. Mr. Marshall asked for a motion to approve this application. The motion was made by Mr. Lilly and seconded by Ms. Seeley. The motion to approve the permit for yearly carry-in license with the conditions presented in the staff report was **Approved unanimously by a roll call vote.**

**(8:27 AM)** Brownfields Conference Report out. Mr. Chapman attended the conference at the Devens Conference Center last Month not only was this the 1<sup>st</sup> in person Brownfields Conference since Covid but it was also not only a Mass conference but a New England Conference. Mr. Chapman noted that the conference was very well attended. The main topic of conversation was the increase in dollars for Brownfields and that towns need to capitalize on this as soon as possible. Mr. Chapman closed by saying this was an excellent conference and he was very glad he attended.

Mr. Marshall asked if there was any other new business which Mr. Lowitt noted there was none.

#### **(8:30 AM) Old Business:**

Development Cap: Mr. Lowitt Commented on the meeting held on Tuesday (6/14) with Mr. Rivera (MassDevelopment) regarding the Commercial Development Cap, Mr. Lowitt said they have set up meetings with each of the towns to inform them that Devens is getting close to reaching the Commercial Development Cap. the three meeting are scheduled for June 26<sup>th</sup>, July 13<sup>th</sup> and July 19<sup>th</sup>. The Legislative session is scheduled to close the 31<sup>st</sup> of July. He hopes they will be open to advising the legislature to take timely action to remove the commercial development cap during this legislative session. Mr. Lowitt also attended a meeting on the 15<sup>th</sup> of June in Framingham "495/MetroWest Partnership "State House Day...in the District!" and was able to get the ear of a number of people who attended. Mr. Chapman suggested once the initial meeting with Shirley takes place this topic will be more public knowledge and maybe we should draft a press release to lead the charge. Mr. Lowitt agreed and has started on a press release. Mr. Marshall feels that we do need to take the lead as MassDevelopment seems to have stepped aside on this.

**(8:35 AM) Public Comment** - Mr. Marshall asked if there were any questions or comments from the public. There were no comments or questions at this time.

**(8:36 AM)** Mr. Marshall asked for a motion to adjourn the meeting. The Motion to Adjourn was made by Mr. Gardner and seconded by Mr. Poutry and was **Approved unanimously by a roll call vote.**

#### **List of Exhibits:**

- Agenda
- Meeting Minutes
  - May 31<sup>st</sup>
- 35 Saratoga Boulevard
  - Mullin Rule Affidavit for Deb Rivera
  - Sight Dist. Report.
  - Staff Report
- 112 Barnum Road
  - Flammables and combustibles Record of Decision Draft
  - Mullin Rule Affidavit for Deb Rivera
- 38 Jackson Road
  - BMS Approval of CUB Cooling Towers 5-20-2022

- BMS Cooling Tower Noise Assessment
- BMS Cooling Tower Unified Permit Amendment Record of Decision Draft
- Response to Tech Env. Comments
- Sound Barrier CSP 1.1
- Staff Report
- 176 Jackson Road (Marty's Corner Café & Deli)
  - 176 Jackson Carry-In Permit
  - Policy – Carry-In Liq.
  - Staff Report
- Lovell Road
  - Lovell Road Plan – NOI – R1
  - Mullin Rule Affidavit for Deb Rivera
  - Record of Decision Draft
  - Special Conditions for Lovell Road Resurfacing Project - Updated
  - WPAFORMS5 – Lovell Road