

**Devens Enterprise Commission
Meeting and Public Hearing Minutes
May 6th, 2021 – 7:30 AM**

7:30 AM Meeting started with Roll Call:

Commissioners: Mr. Davis, Mr. DeZutter, Mr. Lilly, Ms. Fetterhoff, Mr. Markley, Mr. Poutry, Mr. Marshall; Mr. Chapman joined @ 7:40 AM

Staff: Mr. Lowitt, Mr. Angus, Ms. Clisham

Applicants/Neighbors / Guests:

7:40 AM Prior Meeting Minutes

- February 23rd Ms. Clisham noted there are no minutes to review at this time

Continued Public Hearing: Continued from April meeting

- **7:42 AM US Fish & Wildlife Services Level 2 Unified Permit:** Mr. Angus took lead on this agenda item. US F&W S is seeking a wetlands Order of Conditions to allow a boardwalk extension providing ADA accessibility to the canoe launch. A number of Conditions have been given and with only 18 square feet of wetlands being affected and the work being done by hand and the agency has a plan in place regarding invasive species. This plan will actually improve the area for more natural vegetation to take hold. We did have a few trees that are marked for removal by Mr. Angus and Mr. Eagle of US Fish and Wildlife. So no real concern of negative impact as no heavy machinery will be used. Mr. Marshall asked if there are any questions from the Commission, no response. Then he asked if there were any questions for the other attendees and public, no response.

Mr. Markley did sign a Mullen rule affidavit for this permit so Mr. Angus would like the Mullin Rule put into record, stating that Mr. Markley has reviewed the records from the last hearing on this topic.

Mr. Angus than requested that we close the public hearing and act on the wetland order of conditions and unified permit application.

The motion was made to close the hearing to vote and seconded. The Unified Permit for the US Fish & Wildlife Services was **approved unanimously by a roll call vote.**

Mr. Angus reviewed the Wetland Order of Conditions. A motion was made to move on the conditions and seconded a vote was taken via roll call and **unanimously approved by a roll call vote.**

Motion to approve the Level 2 permit was made and seconded as well as unanimously approved by a roll call vote.

- **7:56 AM Scannell Properties #460 LLC** Mr. Lowitt took the lead on this agenda topic. Staff has met with the Applicant and there have been plan revisions and peer reviews since the last meeting and a number of outstanding items from the last hearing have been addressed. Mr. Lowitt would like to start by noting Mr. Markley did sign a Mullen rule affidavit for this permit as well, and would like that put into record as well. The outstanding items from the prior hearing are the Parking, Buffers, Expansion area of soil stockpiles, Access Service Drive Width, Noise Issues, Public Trail Connections, Sidewalks, Peer Review Comments.

Mr. Lowitt recommends closing the hearing and fielding any questions from the commission and public at this time. Mr. Marshall asked if the Commissioners had any questions and with none brought forward asked if the public had any questions. No Questions heard from the public as well.

Motion was made and seconded to close the public hearing. And was unanimously approved by a roll call vote. The Record of Decision was then discussed for 16 Bulge Road in Devens MA. The Applicant has asked for a waiver as part of their application and the staff recommends granting the waiver. *A waiver from 974 CMR 3.04(3)(a)(1) to allow more than 10% of the required parking within the front setback..*

The building is located to the rear of the lot so as not to adversely impact the neighboring golf course per MassDevelopment's request. In order to provide distance from the abutting golf course and to address having two frontages on Bulge and Patton the Applicant requests this waiver.

The motion to approve the waiver has been made and seconded and this was unanimously approved by a roll call vote.

Mr. Lowitt reviewed the Conditions for this Permit (24 items) Mr. Marshall asked for any questions from the Commission hearing none Mr. Marshall asked for a motion to approve the level 2 permit. Motion was made and seconded and the approval of permit was **unanimously approved by a roll call vote.**

- **8:30 AM King Devens LLC** Mr. Angus took lead on this project. At the last hearing there were a number of open items for the detailed buildout of building 3 at 33 Jackson Road. As with their other projects, the initial site plan will allow construction under a Core and Shell permit. Once a tenant is brought on board by King Street Devens, then the interior of the facility will be fit up. The Site Plan presented addresses the building footprint, parking, drainage, landscaping and utility work as shown in the plans and permit application per the DEC's Rules and Regulations. Seeing there are no current tenants, when they are identified, the use of the buildings will need to be approved by the Commission. The Applicant will need to create the parcel on which the facility is located through a level one lotting plan. There were some issues with respect to the orientation of the lot frontage the applicant has submitted justification for the Jackson Road street address. But the ultimate parcel boundary fronts on Lake George where the 100 foot of frontage will be so there is no need for frontage on Jackson. Because of the Phased Master Plan

for this property (with the total property stretching from Givry St. to Mt Wachusett College) the applicant has asked that the commission make a finding that although the frontage is on Lake George Street with the building being orientated to Jackson Rd they would like the DEC to make a decision on recognizing the current side yard as their rear yard. The plans have been updated to address a number of issues and there are still a number of issues to be addressed. The offsite improvements will need to be coordinated with Mass Development and make sure that they update their Traffic study as there are minor issues that will need to be addressed. Tenants have not been named yet. Once they are named we will need to insure they comply with the industrial performance standards. The Applicant will need to ensure the tenants have all the required safety plans in place. The property is in an area that requires a lot of fill due to the grading of the property. The plan for grading will actually improve the land allowing a number of the trees to remain which will help the buffer between properties. The applicant needs to do some additional buffer planting as well as it is within the Viewshed. Site lighting needs to be addressed to ensure it complies with the regulations. The applicant is looking for approval to be given down the road administratively to build a parking garage should the need arise based on the Campus development. The property will be tied into the current storm water system and the applicant has actually over engineered their system so we see no issues. Coordinate with Devens Utilities to relocate existing Public Utilities. The Lake George Trail will need to be relocated to connect the trail with the Lake George ROW. No Tree and Slope Disturbance is permitted. An issue was raised during the last meeting about a stone wall that exists on the property. The Applicant will need to confirm that this wall is not part of the Historic Preservation Plan. There are a number of small revisions that need to be made to the plans and there a number of comments that need to be addressed from the Peer Reviewers. There are a number of Waiver requests, the first two waivers (planting requirements). Staff strongly recommends we not approve these as we have never approved them and we need to ensure the sight line guidelines are met. The 3rd waiver is groundplane treatment due to the grade of the property and after speaking with our landscape architect, staff recommends approving this waiver. The Town Comment time has expired and we have not received any comments/questions or concerns so Mr. Angus believes it is time to move forward on this decision should there be no questions from the Commissioners or Public today. Mr. Marshall asked the Commissioners if there are any questions, Mr. Chapman would like more clarification on the ViewShed issue. He would lean towards supporting the waiver request as is. He would also like to understand the impact to the viewshed and the compromise proposed. Mr. Angus responded to the concerns Mr. Chapman raised. The plantings are more where they will be planted and not the number or types. Mr. Reynoso from King Street LLC asked if he is allowed to speak and Mr. Marshall allowed it. He would like more detail on the Viewshed and the placement of the trees. Mr. Angus responded with the two Landscape Architects (the DEC's peer review LA and the Applicant's LA) will need to work together to determine the placement as the planting time gets closer. Mr. Chapman would like to understand why the Waiver allowing the Applicant to plant 3' bushes is not recommended to be granted. Mr. Angus noted that the better option would be larger/taller trees to work with the Viewshed rather than low bushes as the pedestrians can look under the high canopy rather than looking at bushes. Mr. Marshall came back with a request for staff to work the applicant on the compromise and if needed, the commission can look at it again. He does agree with Mr. Angus that if we have

never approved a waiver in the past we shouldn't approve one now. Mr. Marshall asked if there are any other questions and Mr. Lilly had one. He was wondering about the re-designation to the side and rear lots and how that is an advantage to the applicant and is it a disadvantage to anyone else? Mr. Angus noted that he doesn't believe there would be any negative impact to anyone. They are mainly asking as the neighboring property it is their Side lot which has a 10' setback limit while it is was labeled rear for them it would require 20' setback limits. Mr. Lowitt also noted that the main reason for the request was for the parking garage should they ever put that in. Mr. Marshall asked if the Public has any questions, hearing None Mr. Marshall requested the hearing be closed.

Mr. Lowitt brought up that before closing we note that Mr. Markley did sign a Mullen rule affidavit for this permit as well, and would like that put into record as well.

Mr. Marshall made a motion to close the hearing. Motion was made and seconded and was **unanimously approved by a roll call vote.**

Mr. Marshall noted that there are 2 waivers that are being recommended against and 1 for. Motion to vote on the 3 waivers (2 landscape and 3rd is for groundplane) at once was made and seconded. Mr. Marshall just asked that if you agree with the recommendation you vote Yes otherwise you note which one you are not in agreement with. The vote was taken and there were 2 that were not in favor of the denials of the landscape waivers (Ms. Fetterhoff and Mr. Chapman) and the rest were in favor of the vote as originally noted. Mr. Marshall noted that the vote be added to the final Record of decision and the motion passed.

Record of Decision Mr. Angus reviewed a few findings have been noted and acted on, and conditions have been noted. There are a number of conditions (33 Conditions) due to the short turn around on this project. But they are also minor and Mr. Angus feels they can all be addressed in a short period of time. The 1st 13 conditions are the standard conditions. They will need to supply a Storm Water plan before the can proceed. Any additional modifications to the master plan will need to be brought forward to the Commission. They will need to provide a lotting plan. The commission is in agreement the finding to change the Northerly property boundary to the side yard and Westerly property boundary to the rear yard. Improvements off of the property need to be worked with Mass Development and brought forward in the final plans (including the right of way improvements for Jackson Road). Traffic Study to be updated with the minor changes noted. No irrigation plan for this approval. Once tenants are identified building permits will be obtained and then we will be able to ensure all the regulations are met based on the tenants operations. Review a number of Peer Review Comments. Mr. Davis asked if the company is in agreement with these conditions Mr. Angus suggested we ask the team on the call from King Street LLC that are on the phone and Mr. Hartnett responded yes they do believe they can met all the requirements. Mr. Marshall asked if there are any more questions before closing the hearing. Hearing none he asked for the motion to approve the Permit to King Street LLC . Mr. Davis made the motion and Ms. Fetterhoff seconded, **unanimously approved by a roll call vote. Mr. Marshall welcomed them back to Devens.**

New Business:

- 9:00 AM YMC 8 Charlestown Street – Request for Raised Garden Beds; Mr. Lowitt lead this topic. Mr. Diamond (CEO Of YMC) reached out about adding a community garden at their

location on 8 Charlestown Street. Mr. Lowitt suggested raised beds due to the soil concerns here. YMC is supporting a nonprofit "Growing Places .org" and a lot of their employees grow vegetables during the growing season and donate them to Growing Places.org group and they have a shuttle that brings a number of Growing Places community to Devens to grow their own food. Mr. Lowitt has suggested that this is keeping with our sustainable issues and would like to recommend we waive the permit fee of \$50. Mr. DeZutter asked if these will all be raised beds and Mr. Lowitt confirmed they will. Mr. Marshall then asked is YMC will be building the beds and others will do the planting. He then asked for a motion regarding the waving of the permit fee. Mr. David made the Motion and Ms. Fetterhoff seconded it. **Unanimously approved by a roll call vote. The fee waved has been waived**

- 9:10 AM Another topic was added Mr. Lowitt would like to request an extra week of vacation be allowed to be rolled over due to COVID. Mr. Lowitt noted the amount of work Mr. Angus and Ms. Clisham have been doing and have not been able to take their vacation. With the current policy of time allowed to carry over Mr. Lowitt would like to see if it could be increased this one time. Mr. Marshall confirmed that this is to allow 3 weeks be allowed to roll over to Fiscal year 2020 only Ms. Fetterhoff made the Motion to approve this seconded by Mr. Davis. The request to allow the roll over increase was **approved unanimously**.

Old Business

- None

Public comment

9:25 AM Mr. Marshall asked the Public on the call for any question. None were brought forward

Adjournment

9:28 AM Meeting was adjourned

Exhibits:

- Draft Record of Decision USFWS Boardwalk
- Wpaform5 – order USFWS Boardwalk 2021
- YMC Growing Memo
- Location of Raised Gardens YMC
- YMC Level 1 Permit Application
- Mullin Rule Affidavit for DEC Hearing 4/27/21