

Record of Decision
King 33 Jackson LLC License for Electric Hydrogen
33 Jackson Road (Parcel #013.0-0021-1000.0)
Devens (Harvard), MA
Unified Permit
April 30, 2024

1. Applicant:

The Applicant is Electric Hydrogen and owner is King 33 Jackson LLC. The property is located at 33 Jackson Road, Devens (Harvard), MA 01434 (Deed Reference: Bk 66481/Pg 74).

2. Premises and Proposed Project:

The owner, in association with their tenant Electric Hydrogen, is seeking a Level 2 Unified Permit application for a License to store up to 3,750 lbs. of solid flammable materials and 960 gallons of flammable liquids. The materials to be stored in quantities requiring licensure are solids, Titanium Powder and Platinum on Carbon Black, and liquids Isopropyl alcohol (IPA) and Ethyl acetate. Combustible storage cabinets will be utilized within a portion of the building that is properly designed to accommodate such materials, with smoke and heat detection as well as water fire suppression systems. The building is located within the Innovation and Technology Business District and Viewshed 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 for License to Store Flammables, including the following:
 - Application for License to store flammables, combustibles, or explosives (FP-002A);
 - Completed Level 2 Unified Permit Application form (D24-005) dated March 7, 2024;
 - Cover Letter, 3 Jackson Road = - Flammable License Submission Supporting Documents, dated March 6, 2024, prepared by ARUP Associate Principal, Jonathan Eisenberg;
 - Corrective Level 1, Lotting Plan, dated August 25, 2023;
 - As-Built Survey of General Property, dated December 16, 2023;
 - Hazardous Material Section 414 Report;
 - Phase 0 Chemical Inventory;
 - Facilities Action Plan, Emergency Response Guide, Version 2, dated March 6, 2023;
 - EH2-EHS Powdered Metals Handling Guidance, dated March 4, 2023;
 - Devens Fire Department Combustibles in Storage Cabinets Permit;
 - Devens Fire Department Hazardous Processing Permit ;
 - Completed Industrial Performance Standards Checklist;
 - Certified Abutters List.
2. Determination of Completeness Issued March 8, 2024;
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated March 8, 2024;
4. Public Hearing Legal Notice e-mail to Nashoba Publications, from Neil Angus and Dawn Babcock, dated March 8, 2024 – to be published March 29 and April 15, 2024;
5. Copies of Legal notices from March 29 and April 15, 2024 from Nashoba Valley Voice;
6. Public Hearing Notice emailed to Community Service Cable Committee, from Neil Angus/Dawn Babcock, dated March 8, 2024;

7. Memo dated March 8, 2024 from Neil Angus to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board; Subject: Level 2 Unified Permit Application – 33 Jackson Road Flammable Storage Request (notification of Public Hearing on April 30, 2024 at 6:45PM), including return receipts;
8. Memo dated March 8, 2024 from Neil Angus to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – 33 Jackson Road Flammable Storage Request, including return receipts;
9. Public Hearing Notice to Secretary of State, from Neil Angus, dated March 8, 2024;
10. Staff Report dated April 26, 2024 Re: 33 Jackson Road, King Street Properties and Electric Hydrogen - request for license to store flammables and combustibles, prepared by Beth Suedmeyer and Neil Angus (1 page);

11. E-mail correspondence as follows:

Date	From	To	Subject
3/8/24	Beth Suedmeyer	Victoria Grimes	RE: EH2 / KSP Flammable License Submission for 33 Jackson Rd.
3/8/24	Victoria Grimes	Beth Suedmeyer	RE: EH2 / KSP Flammable License Submission 33 Jackson Rd.
3/8/24	Ken Jones	Neil Angus	EH2 Emergency Procedures for License
3/28/24	Ken Jones	Neil Angus	Public version of the EH2 Devens application
4/19/24	Beth Suedmeyer	Victoria Grimes	RE: EH2 / KSP Flammable License Submission 33 Jackson Rd.

4. Unified Permit Components and Actions:

The Unified Permit includes a license to store Flammables and Combustibles inside the building located at 33 Jackson Road in Devens (Harvard), MA.

5. Process:

The application was submitted on March 7, 2024. A Determination of Completeness was issued on March 8, 2024. Copies of the application were received by the surrounding Towns on March 12, 2024. Legal notices were placed in Nashoba Publications on March 29 and April 15, 2024. Certified Mail notice was sent to all abutters on March 8, 2024. The 30-day Town comment period expired on April 12, 2024. No comments were received. The Public Hearing opened on April 30, 2024 and closed at that same meeting.

6. Waivers

No waivers were requested or granted as part of this Unified Permit Amendment.

7. Findings

The DEC made the following findings:

1. The storage of flammable solids will be entirely within the building, thereby minimizing any concern for release into the environment.
2. The Devens Fire Department has reviewed the materials and storage requirements with the Applicant and has and will issue permits for storage in accordance with National and State Fire Code Standards and Regulations
3. The proposed research and development processes are an allowed use within the Innovation and Technology Business District.
4. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Plan 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 were approved by Devens 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 974 CMR 3.04(8).
- (j) A Wetlands Order of Conditions is not required for this project.
- (k) The Devens Fire Department has reviewed the application.
- (l) The project is in compliance with the Devens Industrial Performance Standards.
- (m) Sufficient parking for current needs exists.
- (n) Traffic control measures are adequate for this project.
- (o) The development is required to participate in the Devens traffic management association.
- (p) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
- (q) Connection to sanitary sewers has been authorized by Devens Utilities.
- (r) There are no new buildings as part of this application and therefore no requirement to meet any design standards as established by Mass Development for the district in which the lot is located.
- (s) There is no soil disturbance proposed.
- (t) The development has been designed with due consideration for public health.
- (u) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been incorporated in accordance with 974 CMR 4.11.

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. Once the appeal period has expired, the Applicant shall file the Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC.

3. All applicable federal, state, and local permits necessary for the construction and operation of the facility (including, but not limited to those required by the Devens Fire Department) must be obtained prior to completion of the project. Copies of permits issued by those other than the DEC must be filed with the DEC.
4. All materials shall be stored inside the building within the flammable storage cabinets and in accordance with NFPA 30, NFPA 55, NFPA 400 and 527 CMR14.03. No exterior storage of flammables and combustibles is permitted.
5. The existing Facility Safety Plan shall be updated to include the additional flammable solids and hazardous materials being used as part of this process, along with safe storage, handling and disposal procedures and any emergency response procedures, including, as appropriate, the Combustible Dust Program. An updated plan shall be submitted to the DEC and the Devens Fire Department any time a change occurs.
6. The Applicant is responsible for submitting annual registrations to the DEC to maintain this license. Failure to do so could result in the expiration of the license.

9. Decision:

The DEC closed the hearing on April 30, 2024 and voted to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the License to store Flammables and Combustibles at 33 Jackson Road (Parcel #013.0-0021-1000.0) with conditions.

10. Building Permit

No building permit is required.

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’s 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).

Approved by:

Date: _____

 Neil Angus, 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 Neil Angus, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

 Date

 Dawn Babcock, Notary
 My Commission expires _____