

Record of Decision
Bristol-Myers Squibb (ER Squibb & Sons, LLC.)
Cell Therapy Facility
38 Jackson Road (9-4-200)
Devens (Harvard), MA
Unified Permit Amendment
November 5, 2020

1. Applicant:

The Applicant is Bristol-Myers Squibb Company (BMS) and landowner ER Squibb & Sons, LLC., 38 Jackson Road, Devens (Harvard), MA 01434 (Deed Reference: Bk 40684 pg. 172).

2. Premises and Proposed Project:

The Applicant is seeking an amendment to their April 9, 2020 Level 2 Unified Permit application for the construction of a new Cell Therapy Facility (CTF), expansion to the existing central warehouse building, and a new 600 space, 3-story parking structure. The amendment includes the construction of 421 surface parking spaces, loading dock modifications to the CTF loading docks, and associated grading, drainage, utility and landscaping improvements. 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 – #D20-078, dated September 14, 2020, received September 15, 2020 (1 page);
2. Application Cover letter from Curtis Quitzau, VHB, Inc., to Peter Lowitt, Re: Bristol Myers Squibb Cell Therapy Facility, dated 9/15/20 (2 pages);
3. Plans entitled “BMS Devens Cell Therapy Facility, 38 Jackson Road, Devens, MA dated September 15, 2020; prepared by Vanasse Hangen Brustlin, Inc., 1 Cedar Street, Suite 400, Providence, RI 02903, for Property Owner/Applicant Bristol-Myers Squibb, 38 Jackson Road, Devens, MA 01434; including the following sheets:
 - 100-10C-000.2 – Cover Sheet
 - 100-10C-001.2 - Legend and General Notes
 - 100-10C-100.2 - Layout and Materials Plan 1
 - 100-10C-200.2- Grading and Drainage Plan 1
 - 100-10C-300.2 - Utility Plan 1
 - 100-10C-500.2 - Erosion and Sedimentation Control Plan 1
 - 100-10C-600.2 – Site Details 1
 - 100-10C-601.2 - Site Details 2
 - 100-10C-602.2 - Site Details 3
 - 100-10C-603.2 - Site Details 4
 - 100-10C-400.2 – Planting Plan 1
 - 100-10C-401.2 – Planting Plan 2
 - 100-10C-402.2 – Planting Details
 - 100-10C-403.2 – Photometric Plan 1
 - 100-10C-405.2 – Lighting Cut Sheets
 - 100-10C-700.2 – Existing Conditions Plan of Land
4. Memo from Curt Quitzau, VHB, Inc., to Devens Enterprise Commission Re: Bristol-Myers Squibb Company Cell Therapy Facility Phase 1 Drainage Memorandum, dated September 15, 2020 (78 pages);

5. Determination of Completeness issued September 18, 2020;
6. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated October 5, 2020, Subject: Level 2 Unified Permit Amendment Application – Bristol-Myers Squibb;
7. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt, dated September 18, 2020 – to be published October 2 and 9, 2020;
8. Copies of Legal notices from October 2 and 9, 2020 from Nashoba Valley Voice;
9. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated October 5, 2020;
10. Memo dated September 21, 2020 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board; Subject: Level 2 Unified Permit Application – Bristol Myers Squibb – CTF Amendment (notification of Public Hearing on October 27, 2020), including return receipts;
11. Memo dated October 1, 2020 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – Bristol-Myers Squibb – CTF Amendment, including return receipts;
12. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated October 5, 2020;
13. BMS Phase 3 CTF Plan Circulation memo dated 9-18-2020 from Neil Angus to MassDevelopment, Nitsch Engineering.
14. Staff Report dated 10/23/20 Re: Level 2 Unified Permit –Cell Therapy Facility Interim Parking and Loading Dock Modifications, prepared by Neil Angus and Peter Lowitt (3 pages);
15. Certified List of Abutters from Devens Board of Assessors, dated 9/8/20;
16. Plan Circulation memo from Neil Angus to MassDevelopment, dated 9-18-20;
17. Peer Review letter from Paige Simmons, PE; Nitsch Engineering to Neil Angus, DEC regarding stormwater and general review comments dated 10/26/20.
18. Review Comments to Applicant dated 10-16-2020 from Neil Angus to Curtis Quitzau, VHB.
19. Responses to Devens Enterprise Commission comments October 16, 2020 Responses dated 10-21-2020 from Curtis Quitzau.
20. FAR Summary Chart (updated PDF) submitted 10/21/20;
21. Zoning Summary Chart (updated PDF) submitted 10/21/20;
22. Photometric Plan provide by VHB, Inc entitled: 2020-10-20_Photometrics 20200915 BMS CTF - UPA Level 2 Submission-comment 3 (PDF);
23. E-mail correspondence as follows:

Date	From	To	Subject
10/8/20	Paige Simmons	Neil Angus	RE: BMS CTF Loading Dock & Parking Modifications - Peer Review
10/22/20	Curt Quitzau	Neil Angus	RE: [External] BMS CTF Parking Modification1
10/21/20	Curt Quitzau	Neil Angus	RE: [External] BMS CTF Parking Modification4
10/27/20	Jennifer Johnson	Neil Angus	RE: [External] BMS CTF Parking Modification3
10/21/20	Neil Angus	Jennifer Johnson	FW: [External] BMS CTF Parking Modification
10/21/20	Curt Quitzau	Neil Angus	RE: [External] BMS CTF Parking Modification

24. DEC Staff Report dated 11/4/20, from Peter Lowitt and Neil Angus, to the Devens Enterprise Commission (3 pages);
25. Draft Record of Decision.

4. Unified Permit Components and Actions:

This Unified Permit request includes Site Plan Approval to amend the April 9, 2020 Cell Therapy Facility Unified Permit to include the construction of 421 surface parking spaces,

loading dock modifications to the CTF loading docks, and associated grading, drainage, utility and landscaping improvements within an existing +/- 89 acre parcel located at 38 Jackson Road in Devens (Harvard), MA.

5. Process:

The application was submitted on September 15, 2020 and a Determination of Completeness was issued on September 18, 2020. Copies of the application were received by the surrounding Towns on September 22, 2020. Legal notices were placed in Nashoba Publications on October 2 and 9, 2020. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on October 23, 2020. No comments were received. The Public Hearing opened on October 27, 2020 and was continued to November 5, 2020 and closed at that same meeting.

6. Waivers

The following waiver was requested as part of this Unified Permit Amendment:

- 974 CMR 3.04(6)(a)3.a. - access road/driveway and parking lot lighting shall be a minimum of 0.5 footcandles.

Minor areas around the perimeter of the new parking and walkway areas do not meet this requirement however all critical areas still have some level of lighting for safety.

The Commission voted _____ to grant the requested waiver.

7. Findings

The DEC made the following findings:

1. The proposed modifications to the Cell Therapy Facility project are consistent with the allowed uses and minimum requirements for development within the Innovation and Technology Business District.
2. The proposed regular and heavy-duty pavement details are sufficient based on previous geotechnical investigations and are consistent with the rest of the BMS campus.
3. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site Plan, with conditions, 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) Industrial Performance Standards will be adhered to as per the final plans.
- (l) Sufficient parking for current needs will be provided with the new surface parking and the parking garage as future reserve parking if needed.
- (m) Traffic control measures are adequate for this project.
- (n) The proposed development is required to 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) The new facilities meet the design standards as established by Mass Development for the district in which the lot is located.
- (r) Soil investigations indicate that the soils are capable of supporting proposed development.
- (s) The development has been designed with due consideration for public health.
- (t) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been incorporated in accordance with 974 CMR 4.11 with the condition of approval providing for a new vegetated roof.

8. Conditions:

The DEC voted to impose the following conditions in addition to the 18 conditions listed in the Bristol-Myers Squibb (ER Squibb & Sons, LLC.) Cell Therapy Facility Unified Permit Record of Decision dated April 9, 2020:

- 19. The existing Stormwater Management Plan for the campus shall be updated to include all new surface and sub-surface drainage structures and low-impact development landscape islands to ensure ongoing maintenance and compliance with DEC annual Stormwater Management Reporting requirements. A copy of the updated plan shall be provided prior to issuance of a Certificate of Occupancy.
- 20. Site plan approval for the 3-story 600-space parking structure and the 44,850 square-foot expansion to the existing warehouse building remains valid. Prior to proceeding with any future development in these areas, the Applicant shall provide full details for the warehouse expansion and parking garage for review by DEC Staff for consistency with the approved BMS CTF Unified Permit Record of Decision dated April 9, 2020. If the building permit plans and supporting information vary significantly from what is shown on the previously approved plans, a site plan modification (Level 2) would be required.

Both structures will require building permits and be required to meet the current building codes at the time of construction.

21. Prior to DEC endorsement, the final plans shall be revised to include the following:
- Bioretention detail to include the impermeable liner.
 - Catch basin and manhole details to note these will be pre-cast structures.
 - The two central/intermediate landscape islands in the new parking lot to the north of the Cell Therapy Facility are to be converted from raised islands to depressed biofiltration landscape islands.
 - Catch basin detail on 100-10C-603.2 updated to include the eliminator hood;
 - Temp. sed. basin locations additional controls added sheet 100-10C-500.2;
 - Updated site zoning table;
 - Loading dock building elevation.

9. Decision:

The DEC closed the hearing on November 5, 2020 and voted to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose additional conditions, and to approve the interim surface parking and loading dock site plan amendments to the April 9, 2020 BMS Cell Therapy Facility Unified Permit approval, at 38 Jackson Road, Devens (Harvard), 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 for any of the changes to the loading docks. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and those of the State Fire Marshalls office and the Devens Fire Chief must be met.

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). Work performed during this period, which begins on November 5, 2020 and terminates December 6, 2020, is "at risk". Final plans must be submitted to the Commission for endorsement by May 5, 2021.

Approved by:

Date: _____

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

Kathryn Clisham, Notary
My Commission expires _____