

4. Unified Permit Components and Actions:

The Unified Permit for this project includes Site Plan Approval 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, Devens (Harvard), MA.

5. Process:

35 Saratoga Property Owner, LLC, submitted a Level II Unified Permit application package on April 7, 2022 and the Determination of Completeness was issued on April 12, 2022. Copies of the application were received by the surrounding Towns on April 15, 2022. Legal notices were placed in Nashoba Publications on April 29, 2022 and May 6, 2022. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on May 16, 2022. No public comments were received. The Commission opened the hearing on May 31, 2022 and continued it until June 9, 2022. The June 9, 2022 meeting was postponed to June 16, 2022 at which time the Commission accepted an extension request by the Applicant and continued the hearing to June 28, 2022. The Commission re-opened the hearing on June 28, 2022 and the Applicant requested another extension to the July 26, 2022 meeting. The Commission re-opened the hearing on July 26, 2022 and accepted another extension request from the Applicant and continued the hearing to August 30, 2022. The Commission re-opened the hearing on August 30, 2022 and accepted another extension request from the Applicant and continued the hearing to September 27, 2022. The Commission re-opened the hearing on September 27, 2022 and accepted another extension request from the Applicant and continued the hearing to October 25, 2022 where the hearing was re-opened and closed.

6. Waivers:

The Applicant requested the following waivers as part of this application.

- a) *974 CMR 3.04(1)(a) Side Yard Setback of 10' - waiver for the retaining walls being located within the side yard setback.*

Partial relief requested to allow for a retaining wall within the setback between this property and 29 Saratoga Boulevard only. The site topography, in combination with soil conditions, [the majority of the site contains ledge, and design to provide a balanced site to avoid soil removal and comply with Devens Soil management Policy] impacts the development of the property.

- b) *974 CMR 3.04(8)(h)2. requires one tree per 25 lineal feet of parking perimeter plus one tree per 50 feet in areas where screening is required.*

Partial relief requested from this requirement in certain locations on the eastern and western boundaries of the property due to proposed retaining wall and slope and ledge restrictions.

- c) *974 CMR 3.04(8)(g) landscape screening requirements along eastern property line.*

To provide relief from screening requirements along the Eastern property line. Applicant is proposing to provide plantings adjacent to the retaining wall on the 29 Saratoga Property and has agreed to supplement any required screening between 29 Saratoga Boulevard and 11 Saratoga Boulevard with a vegetated wall if the existing wooded buffer is developed in the future.

- d) 974 CMR 3.04(8)(g) landscape screening requirements along western property line.

Partial relief requested from screening requirements along the eastern property line due to slope and ledge restrictions.

- e) 974 CMR 3.04(3)(a)4.d. Driveway widths no greater than 24' in width.
No justification provided.

The Commission voted XX [REDACTED] to grant waivers [REDACTED] with corresponding conditions. and deny waivers [REDACTED].

7. Findings:

The DEC finds that:

1. The proposed general use is a permitted use in the Rail, Industrial and Trade-Related Uses District as per Exhibit D of the Devens Bylaws.
2. The project is located within a Watershed and Zone 2 Water Resources Protection District. The final plans, with the conditions listed herein, comply with the Stormwater Management Provisions and Water Resource Protection District Regulations in 974 CMR 4.08 to protect the ground and surface water resources through the implementation of best management practices during construction as well as long-term.
3. The on-site Storm Water Management system has been designed so that there are no untreated discharges from the site— all runoff will be pretreated through an on-site treatment train that includes on-site infiltration, and mechanical filtration. Discharges from the site, with conditions, have been designed to meet the MA DEP SWM Standards and DEC regulations in order to satisfy EPA MS4 requirements. Discharge to the Devens Municipal Stormwater System is under the jurisdiction of and subject to the review and approval of the Devens Engineering Department.
6. 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 access is designed to provide for safe vehicular and pedestrian travel.
 - (e) Access and circulation enables prompt fire, police, and emergency response.
 - (f) Adequate capture and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan" has been achieved.
 - (g) Connections with Devens utility, power and communication systems exist and new connections will be approved by MassDevelopment.

- (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
- (i) The plans comply with Landscaping Design Standards through the preservation of existing specimen trees and wooded areas to the maximum extent feasible, with conditions.
- (j) A wetlands order of conditions is not applicable to this project.
- (k) Industrial Performance Standards will be adhered to as per the final plans.
- (l) The proposed use provides sufficient parking for the intended use;
- (m) The project will not interfere with existing traffic patterns.
- (n) The applicant will participate in the Devens Transportation Management Initiative.
- (o) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
- (p) Connection to sanitary sewers will be made for this project.
- (q) The building design, with conditions, will meet the minimum standards as established by Mass Development for the district in which the lot is located.
- (r) Soil testing indicates that the soils are capable of supporting the proposed development. Additional testing is required to confirm;
- (s) The development, with conditions, has been designed with due consideration for public health;
- (t) Adequate climate change mitigation, adaptation and greenhouse gas emission mitigation measures have been conditioned and 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” or “Commission” is referenced, it shall refer to the Devens Enterprise Commission, its successors and assigns.
- 2) In accordance with the Devens By-Laws, Article III, Section K 1. a., no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with the Devens Soil Management Policy and approval from the DEC.
- 3) Prior to commencing any intrusive earth work within Devens (due diligence, construction of otherwise) all personnel to be on site shall view an Unexploded Ordinance/Munitions of Explosive Concern (UXO/MEC) video briefing provided by the Devens Fire Department.
- 4) Once the appeal period has expired, the Applicant shall submit final approved plans to the DEC for endorsement. The Applicant shall file the endorsed plans, along with the Record of Decision, with the Registry of Deeds and proof of recordation shall be submitted to the DEC prior to the issuance of a building permit. Plans shall conform to Worcester Registry recording requirements.

- 5) All applicable federal, state, and local permits necessary for the construction and operation of the facility must be obtained, including, but not limited to, an EPA Construction General Permit and Driveway curb cut permit from MD/Devens Public Works. Copies of permits issued by those other than the DEC must be filed with the DEC prior to commencement of any operations.
- 6) There is no approval of signs implicitly or explicitly granted in this Unified Permit and any erection of signs of any type will require subsequent DEC approval.
- 7) Jackson Gate from Route Two shall be the primary means of truck access to and from the site on a permanent basis, with other gates to be used only in an emergency situations or during protracted construction when the Jackson gate is unavailable. The Applicant shall post signs that all trucks must enter and exit Devens via the Jackson Gate at Route 2 on the exit gate of the facility. The Applicant shall take appropriate measures to encourage all automobile traffic associated with this project to use Jackson Gate to the maximum degree feasible.
- 8) Prior to issuance of a building permit, the Applicant shall submit a design review approval letter from Mass Development for the project. The Project shall remain in compliance with the Devens Industrial Park Design Guidelines as may be amended (the "Design Guidelines") and/or waived. The Applicant shall adhere to any comments and conditions included in the design approval letter.
- 9) The Applicant shall file annual reports to the DEC in October of each year indicating how they are maintaining their on-site stormwater management facilities. This is an on-going condition once construction is completed.
- 10) The applicant is required to submit a letter confirming a one-year guarantee of all approved landscaping once installed. Any dead or damaged landscaping must be replaced promptly. An Irrigation system is not part of this approval. The Applicant is required to obtain administrative approval for any future proposed irrigation. Such system must comply with 974 CMR 4.08 and 8.09.
- 11) The Applicant shall provide As-Built Plans and accompanying information for all site improvements in accordance with the DEC As Built Policy, prior to issuance of a final Certificate of Occupancy.
- 12) Any proposed tenant will need to be reviewed and approved by the DEC and the Devens Public Safety Officer to ensure compliance with the Devens Bylaws and allowable uses in the Rail, Industrial and Trade Related Uses District.
- 13) Prior to a Certificate of Occupancy, the Long-Term Stormwater Operations and Maintenance Plan shall be updated to ensure compliance with the Devens Stormwater Pollution Prevention Plan and Devens Water Resources Protection Report. The Applicant shall a Spill Prevention Control and Countermeasures Plan that includes a complete listing of all chemicals to be used and accompanying MSDS reports. This plan shall be submitted for review and approval by the DEC and the Devens Fire Chief prior to issuance of a Certificate of Occupancy. The Applicant shall obtain all necessary permits from the Devens Fire Department for the storage of gasses, flammables and combustibles. Storage of flammables and combustibles shall comply with 527 CMR 14.03 and 974 CMR 4.09.

- 14) To help reduce single occupancy vehicle use and parking, The Applicant shall become members of the Devens Transportation Management Association [TMA] and implement additional traffic mitigation measures.
- 15) The facility shall continue to comply with the Massachusetts Anti-Idling law (5-minute restriction). The Applicant shall post signage at all loading docks and drop-off areas notifying drivers of this requirement.
- 16) Prior to DEC endorsement, the final plans shall be revised to include the following:
 - a) All roof leaders shall be shown as tying into the proposed 24" HDPE drainage pipe along the east side of the building.
 - b) phosphorus removal calculations shall be updated to be consistent with the methodology from the Massachusetts Small MS4 Permit requirements.
 - c) The Applicant shall perform a minimum of two (2) additional test pits in the locations of the proposed underground infiltration system and each of the porous pavement areas to confirm drainage design assumptions. Should the test pits reveal different materials, the Applicant will be required to re-design the system(s) to ensure full compliance with 974 CMR 4.08. Overblasting may be required for any proposed porous pavement areas over existing ledge that do not have sufficient depth and required permeability.
 - d) ADA parking details, including striping and signage, shall be added to the plans.
 - e) Guardrail locations shall be clarified and details added to the plans.
 - f) Tree protection details shall be added to the plans.
 - g) Provide indication on the plans where bare rock is expected to occur in relation to where screening is required.
 - h) The parking table shall be updated and in accordance with 974 CMR 304(3)(a)10., include a minimum of 5% of total parking spaces (including reserve) for EV charging, 5% of the total spaces (including reserve) for carpooling/rideshare, and 5% of the total parking spaces (including reserve) for hybrid/low-emitting vehicle parking.
 - i) Include an updated turning movement plans using the Devens Fire Department Engine 4 and Tower ladder truck turning templates. The Barnum Road access drive and adjacent paved areas shall be reduced in size to eliminate unnecessary/excessive pavement. Porous pavement or reinforced turf may be used for any extra pavement areas required only for emergency access. The paved triangle at the Barnum Road entrance shall be constructed of pervious pavement as well.
 - j) Include notes and details to ensure all slopes with a grade of 3:1 (H:V, 33.3%) or steeper, with the exception of stable exposed ledge areas, shall be reinforced with biodegradable jute mesh for stabilization control (include detail on final plans), in addition to hydroseeding with a variety of grasses that will form a strong fibrous root system as indicated in 3.04 (8) (f) 3 to hold soil in place, in addition to required understory landscape plantings that include nut caches, seedlings, saplings, and live stakes (including but not limited to a plant palette includes 1" whip native trees and shrub species appropriate to early and future successional growth for the naturally wooded slopes at Devens such as the

shrub species of blueberry, rhododendron, winterberry, bayberry, shrub dogwoods, cranberry bush, spicebush, and native viburnums.

- k) Provide additional shade tree plantings along the westerly boundary where feasible. Include a note on the plans that the Applicant will work with the adjacent property owner to the north to obtain permission to plant and maintain additional shade trees. Should the required plantings not be able to be installed, the Applicant will plant the equivalent of the additional required shade trees in another location in Devens to the satisfaction of the Commission.
 - l) Pipe length/slope on plan shall match the HydroCAD report
 - m) All existing trees and woodland to remain shall be shown on ALL site plan sheets.
 - n) Site lighting plan shall be revised to reduce lumen levels around all SL1 lighting fixtures. Typical light levels are 0.5 fc and maximum light levels should be no greater than 2.0-2.5 fc.
 - o) Landscape plans shall be revised to include native grasses, straight species (vs. hybrids and cultivars), and evergreen species appropriate to this horticultural zone.
 - p) A space for the DEC Chair signature and date to endorse shall be included on all plans
 - q) Approved waivers shall be added to the plan cover sheet.
- 17) To comply with 974 CMR 4.11 Greenhouse Gas Mitigation regulations, the Applicant shall:
- a) Join the Devens Eco-Efficiency Center and demonstrate compliance with EcoStar Standard #24
 - b) Design the building to comply with the MA Stretch Energy Code (780CMR 120AA)
 - c) Install a Vegetated roof, in accordance with the Devens Enterprise Commission's Vegetated Roof Policy, or a white roof, to reduce urban heat island impacts associated with the proposed development and assist in meeting.
- 18) Prior to issuance of a Certificate of Occupancy, the Applicant shall update the Long-Term Operations and Maintenance Plan to include details on how the proposed seeding and plantings will be established and maintained. Include temporary irrigation, required soil amendments, and additional measures to ensure successful establishment, growth, and ongoing care. This plan should also address how stabilization and maintenance of 2:1 slopes that are not ledge will be maintained (not mowable at this grade).
- 19) The Applicant shall survey locate and mark all property boundaries in the field and maintain the approved limits of disturbance. There shall be no encroachment on any adjacent properties without written permission from the property owner. Copies of any easement agreements must be filed with the DEC prior to commencement of any construction.
- 20) Should the existing landscape screening along the adjacent property line with parcel 021.0-0013-0100.0 (11 Saratoga Boulevard) ever be removed, within 12 months of

such removal, the Applicant will be required to install and maintain a vegetated wall to cover that portion of the proposed easterly building façade that is exposed. Such vegetated wall will need to be included in the facility/property operations and maintenance plan to ensure ongoing success.

- 21) Prior to any construction work or planting on 29 Saratoga, the Applicant shall provide copy of a formal binding agreement for installation and long-term maintenance for all proposed landscaping plantings.
- 22) Prior to commencement of any blasting operations, the Applicant shall obtain the necessary permits from the Devens Fire Department and comply with MGL 148 and 527 CMR requirements. Prior to issuance of a Certificate of Occupancy, all blasted ledge areas shall be stabilized to ensure there are no loose rock areas that could create hazards.
- 23) All outstanding peer review fees shall be paid prior to issuance of a building permit.

9. Decision:

The Public Hearing closed on October 25, 2022 and the DEC voted on October 25, 2022, to grant the requested waivers, issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the Site Plan for the construction of a +/-154,000 sq.ft. new industrial building, with associated grading, landscaping, parking, stormwater, and utility improvements at 35 Saratoga Boulevard, Devens (Harvard), MA

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. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and the Devens Fire Chief must be met. When this approval is obtained, the building permit may then be integrated with this Record of Decision; together they will constitute the Unified Permit for this project and in turn, allow construction to commence.

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 or the LUA produces a written decision and approved activities are completed within two years. It is further noted that there is 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 October 31, 2022 and terminates November 30, 2022, is “at risk”.

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

Dawn Babcock, Notary
My Commission expires _____

DRAFT