

**Record of Decision
KING 39 JACKSON LLC,
39 Jackson Road
Level 2 Unified Permit Signage Waiver
Devens (Harvard), MA
July 26, 2022**

1. Owner/Applicant:

King 39 Jackson, LLC., 800 Boylston Street, Suite 2400, Boston MA 02119.

2. Premises and Proposed Project:

The Applicant is seeking a Level 2 Unified Permit for a waiver request from 974 CMR 6.03(5)(b) and 6.04(5)(a) to place a second freestanding monument sign on their property located at 39 Jackson Road (Parcel ID #013.0-0021-1002.0) within the Innovation and Technology Business District, the Open Space and Recreation District, the Viewshed Overlay District and the Watershed Protection Overlay District.

3. Submission:

The application includes the following, which all become part of the record:

1. DEC Completed Level 2 Unified Permit Application Form;
2. 39 Jackson Certified Abutters list (Devens) dated 5/31/22;
3. Cover letter from Doug Hartnett, PE, to Peter Lowitt, dated June 2, 2022 Re: 39 Jackson – Waiver from Sign Control Regulations – Level 2 Unified Permit Application (2 pages);
4. Site Plans entitled: “Wayfinding and Signage” – prepared for King Street properties (Pathway by King Street), 39 Jackson Road, Devens, MA; by Omloop, 21 Bantry Road, Framingham, MA 01701, consisting of the following sheets GS.1, GS.2, and GS.3; dated June 1, 2022.
5. Public Hearing Notice to abutters and interested parties (including certified mail return receipts) dated June 15, 2022;
6. Public Hearing legal notice publication memo to Nashoba Publications, dated June 15, 2022 (publication dates July 1 and 8, 2022);
7. Public Hearing Notice to Board of Selectman and Planning Boards, Towns of Ayer, Harvard and Shirley, dated June 15, 2022 from Peter Lowitt, Director DEC.
8. Determination of Completeness, dated June 7, 2022.
9. Public Hearing Notice to Town Clerks of Ayer, Harvard, Shirley, Lancaster, MassDevelopment, dated June 15, 2022, from Peter Lowitt/Dawn Babcock.
10. Community Cable Advisory Committee notice, dated June 15, 2022, to run June 15, 2022 through July 26, 2022;
11. Public Hearing Notice to the Secretary of State, dated June 15, 2022.
12. DEC Staff Report, dated July 8, 2022 (3 Pages);
13. Draft Record of Decision – King 39 Jackson, LLC, dated July 8, 2022(4 pages);
14. Email correspondence as follows:

Date	From	To	Subject
6/9/22	Doug Hartnett	Neil Angus	39 Jackson - Level 2 sign waiver application

4. Unified Permit Components and Actions:

The Unified Permit includes Site Plan Approval and waiver request from 974 CMR 6.03(5)(b) and 6.04(5)(a) for the Applicant to place a second freestanding monument sign on their property located at 39 Jackson Road.

5. Process:

The Applicant submitted a Level II Unified Permit application package, including the application, a certified abutters list, a site plan and proposed sign renderings on June 6, 2022. The Determination of Completeness was issued on June 7, 2022. A copy of the application and plans were received by the surrounding Towns on June 15, 2022. Legal notices were placed in Nashoba Publications on July 1 and 8, 2022. Certified Mail notice was sent to all abutters within 300' on June 15, 2022. The 30-day public comment period expired on July 18, 2022. No public comments were received. The public hearing opened on July 26, 2022 and closed at that meeting. The Commission voted on July 26, 2022.

6. Waivers:

This Applicant requested the following waiver as part of this application:

Waiver from 974 CMR 6.03(5)(b) and 6.04(5)(a) to be allowed to place a second freestanding monument sign on their property located at 39 Jackson Road.

The Commission **voted X in favor and X** opposed to grant this requested waiver.

7. Findings:

The DEC finds that:

1. The placement of a second freestanding sign is unique to the location, situation and scale of this project and property.
2. The second freestanding sign will not be clearly visible from the public right-of-way.
3. The size of the sign complies with 974 CMR 6.03(5)(b)
4. The sign is not illuminated.
5. 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 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 have been approved.
 - (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 with conditions.

- (j) A Wetland Order of Conditions is not required for this project.
- (k) Industrial Performance Standards will be adhered to.
- (l) The proposed do not impact parking;
- (m) The project will not interfere with existing traffic patterns.
- (n) The applicant has agreed to 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 has been made.
- (q) The building design meets 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;
- (s) The development has been designed with due consideration for public health;
- (t) Adequate climate change mitigation, adaptation and greenhouse gas emission 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.
- 2) The sign pedestal shall be fully screened from view at all times. Plant sizes shall be adjusted to ensure screen in is achieved at the time of sign installation. Additional landscape plantings may be required.
- 3) Approval of this second freestanding sign and waiver apply to the subject parcel and specific location only. All other signage shall comply with 974 CMR 6.00.
- 4) 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.
- 5) Once the appeal period has expired, the Applicant shall file the final Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC prior to commencement of construction.

9. Decision:

The Public Hearing closed on July 26, 2022 and the DEC voted on July 26, 2022, to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve a second freestanding sign for 39 Jackson Road in Devens, MA.

10. Building Permit:

The Building Commissioner, 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 sign permit and in turn, allow the second freestanding sign 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 July 27, 2022 and terminates August 27, 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 _____