

**Record of Decision**  
**MACK DEVENS DEVELOPMENT 11, LLC.**  
**11 Grant Road (Parcel ID#0.19.0-0008-0400.0)**  
**Devens (Harvard), MA**  
**June 8, 2023**

**1. Owner/Applicant:**

The landowner is MassDevelopment Finance Agency, 99 High Street, 11<sup>th</sup> Floor, Boston, MA 02110. The Applicant is Mack Devens Development 11, LLC., 18 Independence Drive, Devens, MA 01434.

**2. Premises and Proposed Project:**

The applicant is seeking a Level 2 Unified Permit for site plan approval for the proposed development of a new 237,850 gross square foot industrial building and associated site improvements, including parking, stormwater management, landscaping, and utility infrastructure on a 13.2 acre parcel previously developed parcel of land at 11 Grant Road (Parcel ID#0.19.0-0008-0400.0), in Devens (Harvard), MA (Deed Reference: Bk: 26317 Pg. 003) in the Innovation, Technology and Business District, Open Space and Recreation Zone, and Watershed WRP Overlay District.

**3. Submission:**

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

1. In development...

2. Email correspondence as follows:

To:	From:	Date:	Subject:
In development.			

**4. Unified Permit Components and Actions:**

The Unified Permit for this project includes site plan approval for the proposed development of a new 237,850 gross square foot industrial building and associated site improvements, including parking, stormwater management, landscaping, and utility infrastructure on a 13.2 acre parcel previously developed parcel of land located at 11 Grant Road in Devens (Harvard), MA.

**5. Process:**

Mack Devens Development 11, LLC, submitted a Level II Unified Permit application package on March 2, 2023. The pre-permitting conference was completed on February 9, 2023, and the Determination of Completeness was issued on March 9, 2023. Copies of the application and plans were received by the surrounding Towns on March 13, 2023. Legal notices were placed in Nashoba Publications on April 7 and 14, 2023. Certified Mail notice was sent to all abutting property owners on March 9, 2023. The 30-day public comment period expired on April 8, 2023. No public comments were received. The public hearing opened on April 25, 2023 and was continued to May 4, 2023. The public hearing was again continued to May 30, 2023 after the Applicant requested, and

the Commission granted, an extension of the 75-day review period from May 23, 2023 to May 30, 2023. The public hearing re-opened on May 30, 2023 and was continued again to the June 8, 2023 meeting after another extension of the 75-day review period was requested by the Applicant and granted by the Commission. The hearing re-opened on June 8, 2023, and closed that same day.

## **6. Waivers:**

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

*974 CMR 3.04(3)(a)1.a. – Parking allowed in front of the building limited to 10% of the required parking spaces.*

The property fronts on 3 streets so it is impossible to not locate any parking between the building façade and a public road. The proposed grading and landscaping has been modified to screen the parking area from Jackson Road and portions of Givry and Grant Road.

*974 CMR 3.02(3)(b)6.a. – “Scattered trees to be preserved shall also be shown as well as all specimen trees (trees exceeding a minimum caliper of 12” within 100 feet of existing and proposed lot lines) have been identified and indicated on the plan.”*

The plans have been updated to clearly show the limits of disturbance and existing specimen trees within the parcel boundaries. No trees will be impacted outside of the proposed limits of work and additional tree protection fencing has been added.

The Commission voted XX to XX to grant/deny waiver requests, subject to the conditions of approval in Section 8. of this Unified Permit.

## **7. Findings:**

The DEC finds that:

1. The proposed use involves diagnostics and quality control equipment manufacturing, research and development (light industrial) used in the medical device manufacturing field. Such uses are allowed in the Innovation and Technology Business District as per Exhibit D of the Devens Bylaws.
2. The unique nature of the facility operations for the proposed tenant (Werfen), operating a single shift 5-days a week, necessitates the use of 13 loading docks with approximately 12 trucks per day. Any change in use or extension of operating hours would require an updated traffic and noise study prior to approval.
3. The project is located within a Watershed 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.
4. 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 and comply with the US EPA MS4 requirements. Any

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 will be 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 will be included as per the conditions of approval.
- (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. The addition of living walls, comprised of vines on 12-foot wide trellises, in addition to the standard plantings, will help reduce the mass and scale of the building and assist with screening.
- (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 and conditions of approval.
- (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;
- (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) Prior to commencement of construction, the Applicant shall submit a copy of all applicable federal, state, and local permits necessary for the construction and operation of the facility must be obtained, including, but not limited to, their Construction Stormwater Pollution Prevention Plan (SWPPP), EPA Construction General Permit, and Driveway curb cut permits from MD/Devens Public Works. Copies of permits issued by those other than the DEC must also be filed with the DEC prior to commencement of any construction.
- 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) 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.
- 8) The Applicant shall join the Devens Eco-Efficiency Center and demonstrate compliance with EcoStar Standard 24 – Climate Change Mitigation.
- 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) Landscaping shall be maintained in good condition in accordance with the approved landscape plan and 974 CMR 3.04(m). 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) Prior to commencement of construction, limits of disturbance shall be flagged in the field and all necessary erosion controls and tree protection shall be inspected by DEC Staff. Additional controls shall be implemented at the discretion of the DEC or its Staff. A written report documenting compliance with the approved erosion and

sedimentation controls shall be maintained by the developer and made available to the DEC for review upon request.

- 12) Jackson Gate from Route 2 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. Trucks shall be prohibited from turning left out of the Grant Road driveway. A sign shall be placed at the Grant Road exit noting “no left turns” for trucks.
- 13) The reserve parking area shown on the plans is not part of this approval. Any parking lot expansion will require separate review and approval by the DEC.
- 14) Prior to issuance of a building permit, the Applicant shall submit a final 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.
- 15) Werfen is an approved tenant. Any proposed future 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 Innovation and Technology Business District.
- 16) Prior to a Certificate of Occupancy, an updated Long-Term Operations and Maintenance Plan shall be provided that includes Long Term Pollution Prevention Plan and Stormwater Management Operations and Maintenance Plan notes on Sheet 14 of the plan set, and that addresses the requirements in:
  - a. 974 CMR 3.04(8) (Landscape Maintenance Requirements)
  - b. 974 CMR 4.08 (Stormwater Management & Devens Stormwater Pollution Prevention Plan)
  - c. 974 CMR 4.09 (Water Resource Protection District & Devens Water Resources Protection Report)
- 17) To help reduce single occupancy vehicle use and greenhouse gas emissions from transportation, the Applicant shall join the Devens Transportation Management Association [TMA] and implement additional traffic mitigation measures. The Applicant shall install electric vehicle charging stations to cover a minimum of six (6) spaces, in addition to six dedicated carpool parking spaces and six hybrid/fuel efficient vehicle parking spaces.
- 18) The facility shall 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. Shore power units shall be provided at all loading docks for refrigerated trailers, as well as auxiliary power units for truck cabs.
- 19) Due to the amount of earth work, prior to commencement of construction, a construction phasing plan shall be submitted to DEC for review and approval. Any on-site processing of materials shall be set back from Grant Road as far as possible to prevent noise and dust from impacting off-site properties. Due to the extent of

earthwork, dust control shall be maintained at all times throughout construction. This includes, but is not limited to, watering trucks, temporary seeding, and any other DEC or MassDEP approved strategies.

- 20) The proposed multi-use trail and road widening, shown on Sheet 6 of the plan set along Jackson Road, shall be the responsibility of the Applicant and coordinated with the DEC and MassDevelopment. The Applicant is responsible for sidewalk connections along Givry Street as well and shall coordinate the location and construction with the DEC and MassDevelopment.
- 21) Prior to issuance of a building permit, retaining wall and footing design specifications shall be provided. Such specifications shall include coordinated reviews with a geotechnical and structural engineer to ensure the proximity of the underground infiltration system and any associated hydrostatic pressure, are adequately factored into the wall design and construction.
- 22) Prior to DEC endorsement, the final plans shall be revised to include the following:
  - a) All remaining comments in the letter from Nitsch Engineering, RE: “Nitsch Project #9419 Site Plan and Stormwater Review, Devens, MA”, dated April 28, 2023. Updated stormwater management plan shall be submitted that addresses these remaining comments as well.
  - b) Note to be included on lighting plan that requires all proposed lighting, including wall-mounted fixtures, must be no greater than 3000K and have recessed light sources no greater than 90 degrees from the building and properly shielded to prevent off-site glare to comply with 974 CMR 3.04 and 4.04.
  - c) All remaining landscaping comments in the peer review letter from James Kros, IBI Group, to Neil Angus, dated June 6, 2023. The applicant shall coordinate with the DEC and the landscape peer reviewer to ensure all appropriate slope stabilization measures are in place.
- 23) Prior to commencement of construction, the sound study shall be updated to address the additional supporting information required on the truck use and operations for the modelling, including use-specific data from the existing Werfen facility. This study shall be reviewed and approved by the DEC’s sound consultants prior to issuance of a building permit. All required sound mitigation in the final approved sound study shall be installed prior to issuance of a Certificate of Occupancy
- 24) To comply with the DEC Industrial Performance Standards for Noise, the operations are limited to weekday daytime hours only. Applicant shall schedule all truck deliveries to occur during the daytime hours (7AM-6PM weekdays). There will be no trucking operations overnight and on weekends and statutory holidays. This shall be included in the facility O&M Plan. Any change in operations beyond this will require an updated sound study to demonstrate compliance with 974 CMR 4.05.
- 25) A revised Traffic Report shall be submitted that addresses all response comments and original comments from Nitsch Engineering, as outline in the Memo from Green International Affiliates, Inc., to Neil Angus, Subject: Response to Transportation Peer Review Comments (Green Project No.21090), dated May 16, 2023.

26) All outstanding peer review fees shall be paid prior to issuance of a building permit.

**9. Decision:**

The Public Hearing closed on June 8, 2023 and the DEC voted 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 proposed development of a new 237,850 gross square foot industrial building and associated site improvements, including parking, stormwater management, landscaping, and utility infrastructure on a 13.2 acre parcel previously developed parcel of land located at 11 Grant Road in 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 building 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 June 9, 2023 and terminates July 10, 2023, is "at risk". Final plans must be submitted to the Commission for endorsement by December 8, 2023.

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 \_\_\_\_\_