

Record of Decision
Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project
Lovell Road Right-Of-Way
Devens (Shirley), MA
Unified Permit
June 9, 2022

1. Applicant:

The Applicant and owner is MassDevelopment Finance Agency/Devens Engineering, 33 Andrews Parkway, Devens, MA 01434. Property located within the public Road Right-Of-Way along Lovell Road in Devens (Shirley), MA 01434 (Deed Reference: Bk 26317 pg. 3).

2. Premises and Proposed Project:

The Applicant, is seeking a Level 2 Unified Permit application for a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located along Lovell Road. The bridge carries Lovell Road over the Catacoonamug Brook which drains into the Nashua River. The property is located within an existing road right-of-way, Open Space Recreation District, Village Growth I District, and Aquifer 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 - Level 2 Submittal package entitled: "Temporary Bridge Repairs and Drainage Improvements, Lovell Road over Catacoonamug Brook Devens, MA, Notice of Intent Application" including the following:
 - Completed Level 2 Unified Permit Application form (D22-038) dated 4-11-22;
 - April 5, 2022 cover letter from BSC Group;
 - Completed WPA Form 3 – Notice of Intent (MA DEP File # 352-0047)
 - Project narrative
 - Site figures
 - Photographs
 - Stormwater Management Report
 - Site Plans
 - Certified Abutters List;
2. Plans Entitled: "Temporary Bridge Repairs and Drainage Improvements Lovell Road over Catacoonamug Brook, Devens, MA", dated April 2022, prepared by BSC Group;
3. Determination of Completeness Issued April 14, 2022;
4. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated April 15, 2022;
5. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt and Dawn Babcock, dated April 15, 2022 – to be published April 15 and May 31, 2022;
6. Copies of Legal notices from April 15 and May 31, 2022 from Nashoba Valley Voice;
7. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Dawn Babcock, dated April 15, 2022;
8. Memo dated April 15, 2022 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board;(notification of Public Hearing on May 31, 2022 at 6:45PM), including return receipts;
9. Memo dated April 15, 2022 from Peter Lowitt to Abutters and Interested Parties, including return receipts;

10. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated April 15, 2022;
11. Staff Report dated 5/27/22 Re: Level 2 Unified Permit – Lovell Road Resurfacing, Bridge Repair and Drainage Improvements, prepared by Neil Angus;
12. Revised Plans Entitled: “Temporary Bridge Repairs and Drainage Improvements Lovell Road over Catacoonamug Brook, Devens, MA”, dated April 2022, prepared by BSC Group;
13. Lovell Road Bridge Pan Circulation Memo, dated 5/14/22;
14. Streamlined Stormwater Management Report, prepared by Kathryn Eagan, BSC Group, dated 4/20/22;
15. BSC-Responses to Determination of Completeness-Lovell Road Bridge 4-14-22;
16. John Marc Aurele 5/27/22 Responses to Nitsch Engineering Peer Review letter dated April 28, 2022;
17. Neil Angus responses to John Marc Aurele’s 5/27/22 Responses to Nitsch Engineering Peer Review letter dated April 28, 2022;
18. Wetland Notice of Intent request for extension of timeline in which to render a decision, dated 4/19/22;
19. Revised Plans entitled: “MassDevelopment Plan and Profile of Lovell Road (Bridge No. S-13-017), in the Town of Devens (Shirley), Middlesex County, Federal Aid Project No.- 75% Submittal”, dated 6-2-22 (21 pages), prepared by BSC Group.
20. Completed MA DEP WPA Form 5 – Draft, dated June 9, 2022;
21. Draft Special Conditions for MA DEP File #352-0047;
22. Draft Record of Decision;

1. E-mail correspondence as follows:

Date	From	To	Subject
4/12/22	Neil Angus	John Marc-Aurele	RE NOI submittal for Lovell Road
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road 1
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road2
4/19/22	MA DEP	Diana Walden	eDEP Submittal Confirmation for DEP Transaction ID 1364873
4/21/22	Kathryn Eagan	Neil Angus	RE: Timeline for Lovell Rd NOI checklist 1
4/26/22	Neil Angus	Jennifer Johnson	FW: Timeline for Lovell Rd NOI checklist
4/28/22	Paige Simmons	Neil Angus	RE: Timeline for Lovell Rd NOI checklist
4/28/22	Neil Angus	John Marc-Aurele	Lovell Street Bridge NOI
4/19/22	CERO_NOI@MassMail.state.ma.us	Diana Walden	MassDEP NOI File Number
4/21/22	Kathryn Eagan	Neil Angus	RE: Timeline for Lovell Rd NOI checklist
4/14/22	Neil Angus	Jennifer Johnson	RE: Lovell Road Bridge Repair NOI
4/14/22	John Marc-Aurele	Peter Lowitt	Lovell Road NOI DOC
4/14/22	Neil Angus	John Marc-Aurele	Lovell Road NOI DOC
4/12/22	Neil Angus	John Marc-Aurele	RE: NOI submittal for Lovell Road
5/27/22	John Marc-Aurele	Neil Angus	RE: Lovell Street Project
5/27/22	John Marc-Aurele	Neil Angus	RE: Lovell Street Bridge NOI
4/11/22	John Marc-Aurele	Neil Angus	RE: NOI submittal for Lovell Road
4/26/22	Neil Angus	Jennifer Johnson	FW: Timeline for Lovell Rd NOI checklist
6/8/22	John Marc-Aurele	Neil Angus	FW: Lovell Street Bridge NOI

4. Unified Permit Components and Actions:

The Unified Permit request includes a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located along Lovell Road within an existing road right-of-way, Open Space Recreation District, Village Growth I District, and Aquifer Water Resources Protection Overlay District.

5. Process:

BSC Group, on behalf of Devens Engineering, submitted a Level 2 Permit application package, including the application, Wetland Notice of Intent, project description, stormwater

report, and plans on April 12, 2022. A Determination of Completeness was issued on April 14, 2022. Copies of the application were received by the surrounding Towns on April 19, 2022. Legal notices were placed in Nashoba Publications on April 29 and May 6, 2022. Certified Mail notice was sent to all abutters on April 15, 2022. The 30-day Town comment period expired on May 15, 2022. No comments were received. The Public Hearing opened on May 31, 2022, was continued to June 9, 2022, 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 proposed roadway and bridge improvements are required to ensure public safety.
2. The Applicant has incorporated measures to reduce pavement and improve overall water quality in Catacoonamug Brook and the Nashua River as part of this project.
3. 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 within a Road Right-Of-Way on a parcel of land that is recorded at the Registry of Deeds;
 - (c) The application is Complete.
 - (d) The road re-design will provide for safe vehicular and pedestrian travel.
 - (e) Access 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) There are no changes to utility, power and communication systems.
 - (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 has been issued 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) No parking is required as part of this project.
 - (n) Traffic control measures, with conditions, are adequate for this project.
 - (o) The Applicant is participating in the Devens traffic management association.
 - (p) There are no domestic water needs for this project.

- (q) There are no alterations to sanitary sewers as part of this project.
- (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 project is located.
- (s) The project will comply with the Devens Soil Management Policy.
- (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 this project 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. Prior to commencement of construction, the Applicant shall prepare a construction management and safety plan that includes project timing, road closure/diversion plans, and any additional information. Such plan shall be coordinated with the Devens Public Safety Officer and Army. All Devens Soil Management Policy and UXO policies and Procedures shall be included.
5. This approval is subject to the MA DEP File #352-0047 Wetland Order of Conditions and Special Conditions for the Lovell Road Resurfacing, Bridge Repair and Drainage Improvements Project, dated June 14, 2022.

9. Decision:

The DEC closed the hearing on June 9, 2022 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 Level 2 Unified Permit application for a Wetland Order of Conditions in order to construct temporary bridge deck surface repairs and stormwater and drainage improvements located within the public Road Right-Of-Way along Lovell Road in Devens (Shirley), MA.

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). Work performed during this period, which begins on June 10, 2022 and terminates July 11, 2022, is “at risk”.

Approved by:

Date: _____

Peter C. Lowitt, AICP, 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 _____