

Record of Decision
Accumet Engineering
41 Lake George Street (Parcel ID # 013.0-0021-0600.0)
Devens (Harvard), MA
August 5, 2021

1. Owner & Applicant:

The Owner of the property is Devens Lot 10A, LLC., 80 Erdman Way, Leominster, MA 01453 (“Owner”). The Applicant is Accumet Engineering, Inc., 123 Oak Hill Road, Westford, MA 01886 (“Applicant”).

2. Premises and Proposed Project:

The Applicant is seeking a Level 2 Unified Permit including Site Plan approval and a Wetland Request for Determination of Applicability to construct a +/- 40,000 square foot single-story office/industrial building and associated site improvements on a +/-3.11 acre parcel. Property located at 41 Lake George Street, Devens (Harvard), MA (Deed Reference: Bk: 42702 Pg. 154) in the Innovation Technology Business District, the Viewshed Overlay District, and the Watershed Water Resources Protection Overlay District.

3. Submission:

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

1. Unified Permit Application (#D21-064), dated May 21, 2021, submitted by Hannigan Engineering, and including the following:
 - Application Form;
 - Certified List of Abutters from Devens Assessor – dated 4/20/21
 - Drainage Calculations;
 - Wetland Request for Determination of Applicability;
 - Record Deeds and Easement;
 - Soil Suitability and Analysis
 - Industrial Performance Standards
 - Earth Removal Calculations
 - Building Elevation and Plan.
 - Landscape Plan.
2. Site Plan entitled: “ Site Development Plan Accumet Engineering, Inc. 41 Lake George Street in Devens, Massachusetts”, dated May 19, 2021; prepared by Hannigan Engineering Inc., 8 Monument Square, Leominster, MA 01453 (16 pages);
3. Drainage Analysis for Accumet Engineering, Inc., 41 Lake George Street, Devens, MA, dated May 20, 2021, prepared by Hannigan Engineering Inc., 8 Monument Square, Leominster, MA 01453 (631 pages);
4. Determination of Completeness Issued 6/4/21;
5. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated June 30, 2021;
6. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt, dated June 7, 2021 – to be published June 25, 2021 and July 2, 2021;
7. Copies of Legal notices published on June 25, 2021 and July 2, 2021 from the Nashoba Valley Voice;

8. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated June 30, 2021, to run June 30-July 28, 2021;
9. Memo dated June 7, 2021 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board; Subject: Level 2 Unified Permit Application – 41 Lake George Street, including return receipts;
10. Memo dated June 23, 2021 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – 41 Lake George Street, including return receipts;
11. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated June 30, 2021;
12. Level 1 Subdivision Plan, Lot 10A Lake George Street, prepared by Chas H. Sells, Inc., dated 3/31/08 (1 sheet);
13. 41 Lake George Accumet Eng Plan Circulation memo dated 6/4/21 from Neil Angus to MassDevelopment.
14. Letter from Christopher Anderson, PE, Hannigan Engineering, Inc., to Peter Lowitt, dated 6/18/21, re: Levels Two Development Permit, Accumet Engineering, Inc., 41 Lake George Street, Devens, MA (15 pages);
15. Accumet initial review comments from Neil Angus, dated 6/23/21;
16. DEC Review Comments to Applicant compiled - letter to Chris Anderson from Neil Angus, dated June 23, 2021, Re: Accumet Engineering – 41 Lake George Street Level II Unified Permit Application (#D21-064) (13 pages);
17. Accumet Engineering - Landscape Development Plan, by Princeton Scapes, Inc., dated 6/21/21 (5 sheets);
18. Site Plan entitled: “ Site Development Plan Accumet Engineering, Inc. 41 Lake George Street in Devens, Massachusetts”, dated May 19, 2021, revision through July 21, 2021; prepared by Hannigan Engineering Inc., 8 Monument Square, Leominster, MA 01453 (16 pages);
19. Drainage Analysis for Accumet Engineering, Inc., 41 Lake George Street, Devens, MA, dated May 20, 2021, revised 7/21/21, prepared by Hannigan Engineering Inc., 8 Monument Square, Leominster, MA 01453 (631 pages);
20. Response to DEC Comments letter from Christopher Anderson and Bill Hannigan, to Neil Angus, dated July 21, 2021 (28 pages);
21. Photometric Plan, dated 5/19/21, revised through 7/21/21; prepared by Hannigan Engineering, Inc.;
22. Staff Report dated 7/26/21 to DEC from Peter Lowitt and Neil Angus; re: 41 Lake George Street – Accumet Level 2 Unified Permit (4 pages);
23. Applicant response to IBI Group 6/22/21 Landscape comments (word file titled “DEC Response to IBI Group peer review letter”), received 7/27/21 (6 pages);
24. Peer Review Letter from Nitsch Engineering, Re: Nitsch Project #9419 41 Lake George Street Site Plan and Stormwater Review Comments; dated 7/30/21 (11 pages);
25. Peer Review Landscape Comments from IBI Group, dated 7/30/21 (8 pages);
26. Negative Wetland Request for Determination of Applicability;
27. Draft Record of Decision – 41 Lake George Street Level 2 Unified Permit (8 pages);
28. Mullin Rule Affidavit for Melissa Fetterhoff dated 8/3/21;

29. Email correspondence as follows:

To:	From:	Date:	Subject:
Legal Advertising	Kate Clisham	6/7/21	Public Notice
Kate Clisham	Legal Advertising	6/7/21	Re Public Notice 6-7-2021
Neil Angus	Ruth Loetterle	6/22/21	RE: Accumet Engineering, 41 Lake George Submittal
Neil Angus	Mark Cohen	6/14/21	RE: 41 Lake George Street Unified Permit Level II Application Package
Chris Anderson	Neil Angus	6/23/21	41 Lake George - Accumet Review Comments
Chris Anderson	Neil Angus	6/3/21	Re: Lake George-Accumet Submittal
Neil Angus	Chris Anderson	5/21/21	41 Lake George Street Unified Permit Level II Application Package
Jennifer Johnson	Neil Angus	6/4/21	FW: 41 Lake George Street Unified Permit Level II Application Package
John Marc-Aurele	Neil Angus	6/4/21	41 Lake George Street Unified Permit Level II Application Package
Neil Angus	Jennifer Johnson	6/10/21	Lake George St Task Order
Neil Angus	Chris Anderson	6/18/21	Accumet Engineering, 41 Lake George Submittal
Chris Anderson	Neil Angus	6/18/21	RE Accumet Public Hearing Processing fee I
Chris Anderson	Peter Lowitt	6/22/21	RE: Accumet Public Hearing Processing fee
Neil Angus	Chris Anderson	6/22/21	RE Accumet Public Hearing Processing fee
Chris Anderson	Neil Angus	6/22/21	RE Accumet Public Hearing Processing fee w landscape package
Neil Angus	Ruth Loetterle	7/12/21	41 Lake George - planting revision in lieu of 10' minimum distance
Neil Angus	Bill Hannigan	7/21/21	Accumet Engineering - Peer Review Updates
John Marc-Aurele	Neil Angus	7/22/21	RE: 41 Lake George
Neil Angus	Chris Anderson	7/26/21	Photometric Plan - Lake George Street
Neil Angus	Jennifer Johnson	7/30/21	41 Lake George St
Neil Angus	Chris Anderson	7/30/21	41 Lake George Peer Review Comments
Neil Angus	Ruth Loetterle	7/30/21	Devens - 41 Lake George - 2nd review

4. Unified Permit Components and Actions:

The Unified Permit for this project includes Site Plan approval and a Wetland Request for Determination of Applicability to construct a +/- 40,000 square foot single-story office/industrial building and associated site improvements on a +/-3.11 acre parcel. Property located at 41 Lake George Street, Devens, MA.

5. Process:

Hannigan Engineering, on behalf of the owner, submitted the Unified Permit Application on May 24, 2021 and the Determination of Completeness was issued on June 4, 2021. Copies of the application were received by the surrounding Towns on June 8, 2021. Legal notices were placed in Nashoba Publications on June 25, 2021 and July 2, 2021. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on July 9, 2021. No comments were received. The public hearing opened on July 27, 2021 and was continued to August 5, 2021 and closed that same date. The Commission voted on August 5, 2021.

6. Waivers:

No waivers were requested or granted as part of this Unified Permit.

7. Findings:

The DEC finds that:

1. The proposed use is a permitted use in the Innovation and Technology Business Zoning District as per Exhibit D of the Devens Bylaws.

2. The project is located with the Viewshed Overlay District. Based upon the Viewshed Analysis, the Applicant has undertaken all reasonable efforts to design the building and site to take advantage of natural screening and, with conditions, has designed the building facade treatments and colors to blend the building into the adjacent landscape and minimize significant visual impacts.
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 biofiltration, on-site infiltration, and mechanical filtration. The system has been designed to meet the MA DEP SWM Standards and DEC regulations in order to satisfy EPA MS4 requirements and Water Resource Protection District Regulations.
4. The Applicant has designed the building and site to meet the requirements of 974 CMR 3.04(8)(1)2: Landscape Treatment adjacent to buildings, and provided sufficient separation from the building to accommodate the required landscape screening.
5. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site 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 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 required for 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 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 will be made for this project.
 - (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 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.
- 2) All applicable federal, state, and local permits necessary for construction must be obtained prior to the start of construction. Copies of permits issued by those other than the DEC must be filed with the DEC, including, but not limited to, an EPA Construction General Permit, and Driveway curb cut permit from MD/Devens Public Works. Any on-site generators will require MA DEP approval.
- 3) 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, compliance with 974 CMR 407, and approval from the DEC.
- 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 submit final approved plans to the DEC for endorsement. The Applicant shall file the endorsed plans and 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.
- 6) 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. 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. The best management and maintenance practices for the Site as articulated in the Applicant’s Erosion and Sediment Control Plan and Notes and Stormwater Pollution Prevention Plan (SWPPP), shall be strictly adhered to, now and in the future. A copy of the final SWPPP shall be submitted prior to commencement of construction. Additional controls shall be implemented at the discretion of the DEC or its Staff.
- 7) No outdoor storage is permitted other than what is shown on the plans.
- 8) 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.
- 9) 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. Tree protection fences shall be installed prior to the commencement of any construction activities on site and maintained in areas where construction is being conducted. Any existing trees marked for preservation that are damaged, killed or removed shall be replaced in accordance with 974 CMR 3.04(8)(d)8.

- 10) 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. Applicant shall participate in the Devens Transportation Management Initiative. When transportation/ trip reduction/ public transit options become available in the future, the applicant shall be obligated to advise the building occupants to make their employees aware of such transportation alternatives and help to facilitate connections to these programs for those who are interested.
- 11) The facility shall comply with the Massachusetts Anti-Idling law (5-minute restriction). The Applicant shall post signage at all loading docks notifying drivers of this requirement.
- 12) There is no approval of signs implicitly or explicitly granted in this Unified Permit and any erection of signs will require subsequent DEC approval.
- 13) 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.
- 14) To comply with 974 CMR 4.11, the Applicant shall join the Devens Eco-Efficiency Center and demonstrate compliance with EcoStar Standard 24- Climate Change Mitigation.
- 15) All building finishes shall not contain any reflective materials, including but not limited to metal flashing, mechanical enclosures, window frames/treatments, doors, roofing material or building trim. Any roof top mechanicals that are not able to be non-reflective will need to be shielded with a non-reflective barrier. Building roofs and upper tiers and trim shall not be lit.
- 16) The Applicant shall utilize ultra-low-noise fans and/or sound enclosures for all rooftop mechanicals and HVAC units. Any exhaust or noise generating equipment shall be directed towards the west side of the building. Ground-mounted pumps shall be installed for all gas deliveries.
- 17) Tank permits shall be obtained from the Devens Fire Department prior to installation of any gas tanks. A Flammables and Combustibles License is required for fluids in quantities in excess of those allowed under 527 CMR 14.03. As per 527 CMR 6.08(b), propane gas stored in excess of 2,000 gal. also requires a license from the DEC.

- 18) A Hazardous Materials spill prevention control and countermeasure plan for the facility shall be prepared and submitted to the Fire Chief and DEC prior to issuance of a certificate of occupancy.
- 19) Prior to the issuance of a building permit, the Applicant shall provide a Design Review Approval letter from MassDevelopment demonstrating conformance with the Jackson Technology Park Design Guidelines.
- 20) Prior to commencement of construction, the Applicant shall provide geotechnical confirmation that the subsurface infiltration system will not negatively impact the stability of the Slope Resource Areas.
- 21) Prior to endorsement, the final plans shall be revised to include the following changes:
 - a. Include a plan showing a night-time (between 11 p.m. and 7 a.m.) program of reduced illumination. This program will designate which lights may remain on overnight to ensure safety within loading areas/open areas of the site. All lighting fixture details shall be included on plans, be properly shielded and downward directed to prevent off-site glare, and have a color temperature no greater than 3000K.
 - b. Modifications to address all remaining response to comments from Nitsch Engineering in their letter dated July 30, 2021 and all remaining response to comments from IBI Group dated July 30, 2021

9. Decision:

The Public Hearing closed on August 5, 2021 and the DEC voted on August 5, 2021, to 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 and endorse the Director's decision to issue a Negative Wetland Determination of Applicability for the construction of a +/- 40,000 square foot single-story office/industrial building and associated site improvements on a +/-3.11 acre parcel. Property located at 41 Lake George Street, Devens, 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 August 6, 2021 and terminates September 5, 2021, 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

Kathryn Clisham, Notary
My Commission expires _____

DRAFT