

**Record of Decision
Bristol-Myers Squibb
LOC Facility Expansion
38 Jackson Road (9-4-200)
Devens (Harvard), MA
Unified Permit
February 7, 2019**

1. Applicant:

The Applicant and landowner are Bristol-Myers Squibb Company (BMS), 38 Jackson Road, Devens, MA 01434

2. Premises and Proposed Project:

BMS is seeking Unified Permit for site plan approval for the proposed development of a +/- 26,500 gross-square foot building addition to the existing Laboratory/Office/Cafeteria (LOC) building. The building expansion will accommodate a mix of new office space, conference facilities, an expanded cafeteria, as well as a fitness center for employees. Construction includes associated grading, drainage, landscaping, and lighting improvements. A covered walkway will connect the new addition to the parking garage and BMS is proposing to expand their on-campus trail/walkway network with a series of walkways/trails connecting the LOC and the Large Scale Cell Culture (LSCC) Facility as well as new proposed outdoor patios on the east and west side of the new addition. The project is located within the Innovation and Technology Business District, Viewshed Overlay District and Watershed 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 (D18-100), dated December 12, 2018, received by the DEC on December 14, 2018 (2 pages);
2. Memo from Curtis Quitzau to Devens Enterprise Commission; Re: Bristol-Myers Squibb LOC Unified Permit Narrative; dated December, 2018 (22 pages) plus attachments addressing Construction Costs Breakdown, Stormwater Management Report, Soil Suitability Tests, Landscape Maintenance and Water Management Plan, Industrial Performance Criteria Checklist, and Building Elevations and Perspectives;
3. Site Plan set entitled "Lab/Office/Cafeteria (LOC) Expansion"; dated December 14, 2018 and last revised January 25, 2019; prepared by Vanasee Hangen Brustlin, Inc., 101 Walnut Street, Watertown, MA 02471 and Architectural Resources Cambridge, 501 Boylston Street Suite 4101, Boston, MA 02116; for Bristol-Myers Squibb Company, 38 Jackson Road, Devens, MA 01434; including the following sheets:
 - 131E-10C-001.1 Legend and General Notes;
 - 131E-10C-003.1 Updated Campus Site Plan;
 - 131E-10C-100.1 Layout and Materials
 - 131E-10C-200.1 Grading and Drainage
 - 131E-10C-300.1 Utility Plan
 - 131E-10C-404.1 Site Lighting and Photometrics Plan
 - 131E-10C-400.1 Planting Plan
 - 131E-10C-401.1 Planting Details
 - 131E-10C-500.1 Site Preparation, Erosion Control & Tree Protection
 - 131E-10C-600.1 Site Details
 - 131E-10C-601.1 Site Details

4. Determination of Completeness dated December 20, 2018
5. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated December 20, 2018;
6. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt, dated December 20 19, 2018 – to be published January 4 and 11, 2019.
7. Copies of Legal notices from January 4 and 11, 2019 from Nashoba Publications.
8. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated December 20, 2018;
9. Memo dated December 20, 2018 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Level 2 Unified Permit (notification of Public Hearing on January 29, 2019 at 6:45PM, including certified mail return receipts);
10. Memo dated January 2, 2019 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – BMS 38 Jackson Road (including certified mail return receipts);
11. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated January 2, 2019;
12. Plan Circulation Memo to MassDevelopment from Neil Angus; Re: BMS – Unified Permit Amendment Request – Plan Circulation; dated December 20, 2018.
13. Certified List of Abutters for 38 Jackson Road; from Devens Board of Assessors, dated November 15, 2018;
14. Plan review comment letter from Neil Angus to Curtis Quitzau, re: BMS Level II Unified Permit Application for LOC Expansion (#D18-100); dated January 10, 2019;
15. Comment letter from John Marc-Aurele MassDevelopment Engineering Manager to Peter Lowitt, DEC re: BMS Devens – LOC Expansion Site Plan Review dated 1/2/19.
16. VHB response to comments package submitted on January 25, 2019 with the following:
 - Response to comments letter from Curtis Quitzau to Neil Angus (6 pages);
 - Type III 24-hr 25 year Rainfall HydroCAD stormwater calculations (10 pages)
 - Revised Site Plans (see exhibit #3)

17. Email correspondence as follows:

Date	From	To	Subject
1/2/19	Mark Cohen	Peter Lowitt	Proposed BMS LOC Expansion
1/2/19	John Marc-Aurele	Peter Lowitt	FW BMS DEC Letter 1 2 19
1/25/19	Chief LeBlanc	Neil Angus	RE External BMS LOC Expansion Review Comments1
1/28/19	Katie Archard	Curtis Quitzau	RE External BMS LOC Expansion Review Comments2
1/26/19	Curt Quitzau	Ed Starzec	RE External BMS LOC Expansion Review Comments3
2/1/19	Scot Turner	Neil Angus	Bristol Myers Squibb
12/20/18	Kate Clisham	Curt Quitzau	DOC - LOC Expansion
1/10/19	Neil Angus	Scot Turner	RE BMS LOC project
1/10/19	John Marc-Aurele	Neil Angus	RE BMS comments
12/20/18	Neil Angus	Scott Turner	RE BMS Building Expansion
12/20/18	Curt Quitzau	Kate Clisham	RE External DOC - LOC Expansion
1/10/19	Neil Angus	Curt Quitzau	BMS LOC Expansion Review Comments
12/20/18	Neil Angus	Scott Turner	BMS Building Expansion
1/25/19	Neil Angus	Chief LeBlanc	RE External BMS LOC Expansion Review Comments (2)
1/25/19	Neil Angus	Curt Quitzau	RE External BMS LOC Expansion Review Comments (1)
2/4/19	Neil Angus	Curt Quitzau	BMS Expansion Draft Conditions
2/4/19	Ed Starzec	Neil Angus	RE External BMS LOC Expansion Review Comments
2/5/19	Curt Quitzau	Neil Angus	RE External RE BMS Draft Conditions

18. Staff Report dated 1-28-19 Re: Bristol-Myers Squibb Parking Lot Expansion, prepared by Neil Angus and Peter Lowitt (4 pages);
19. Design Review approval letter from MassDevelopment, dated February 4, 2019 (1 pg.);
20. BMS LOC Facility Expansion Record of Decision Draft, dated February 7, 2019 (6 pages).

21. Mullin Rule Affidavits from Armen Demerjian and Chris Lilly, dated 2/7/19.

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

The Unified Permit components include site plan approval for the expansion the Lab/Office/Cafeteria of 26, 200 sf on an existing +/- 89 acre parcel (9-4-200) at 38 Jackson Road.

5. **Process:**

The application was submitted on December 14, 2018 and the Determination of Completeness was issued on December 20, 2018. Copies of the application were received by the surrounding Towns on December 26, 2018. Legal notices were placed in Nashoba Publications on January 4 and 11, 2019. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on January 28, 2019 and no public comments were received. The public hearing opened on January 29, 2019 and was continued to February 7, 2019 at which time the Commission voted to close the public hearing and vote on the record of decision for this project.

6. **Waivers**

The Applicant requested the following waivers from the Commission:

974 CMR 3.04 (6)(a)3b Site Improvements – Lighting - to allow a 1' reduction in the post height for pedestrian post top lighting proposed along pedestrian walkways on the Project Site. The reduction will allow for 14' posts, which are more appropriately scaled to pedestrian areas, and for consistency with the existing pedestrian lighting posts throughout the BMS campus.

974 CMR 3.04 (6)(a)3f - Site Improvements --Lighting - to allow lights to be illuminated during night operations for staff safety. As under Phase 1 and Phase 2, the operation of the Project will be 7 days a week, 24 hours a day with a reduced staff on weekends.

The Commission voted all in favor to grant these two waiver requests.

7. **Findings**

The DEC made the following findings:

1. The proposed use (lab/office) is consistent with the development goals and permitted uses within the Innovation and Technology Business (ITB) District and the requirements of the Watershed Water Resources Protection District.
2. The project as proposed is consistent with the Viewshed Overlay Protection District as set forth in the by-laws and rules and regulations.
3. The preexisting lot and building have more than 100 feet of frontage on Jackson Road and the lot is well over 2 acres in area and is therefore in compliance with the minimum lot requirements as per the Devens Bylaws.
4. The facility operates 24 hours a day, 7 days a week and therefore, requires lighting between 11:00PM and 7:00AM for facility operations. The waivers for lower site lighting intensities will minimize the amount of light pollution created by this project.
5. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site Plan, with conditions and waivers, 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 drives, parking lots, loading areas, paths, sidewalks, and streets are designed to provide for safe vehicular and pedestrian travel.
- (e) Access and site circulation 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) Connections with Devens utility, power and communication systems exist and no new connections are proposed.
- (h) Facilities required under the Water Resources Protection Bylaw and the DEC Stormwater Design Standards have been included.
- (i) The plans are in compliance with the Landscaping Design Standards for plant materials, planting strips, screening, and preservation of existing specimen trees and wooded areas.
- (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) Sufficient parking for current needs is being provided.
- (m) Existing traffic control measures are adequate for this project.
- (n) The proposed development will participate in the Devens traffic management association.
- (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 authorized by Devens Utilities.
- (q) Existing 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. Wherever "DEC" is referenced, it shall refer to the Devens Enterprise Commission, its successors and assigns.

2. 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 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.
3. The Applicant shall take appropriate measures to encourage all automobile traffic associated with this project to use Jackson Gate to the maximum degree feasible. In addition, the Applicant and its lessees 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.
4. 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.
5. 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.
6. 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.
7. All applicable federal, state, and local permits necessary for the construction and operation of the facility (including, but not limited to a NPDES Construction General Permit) must be obtained prior to the issuance of a Certificate of Occupancy. Copies of permits issued by those other than the DEC must be filed with the DEC.
8. Prior to issuance of a Certificate of Occupancy, the Applicant shall provide updated As-Built Plans and accompanying information for all approved site improvements in accordance with the DEC As Built Policy.
9. The BMS Operations and Maintenance Plan for the campus shall be updated to include the new LOC expansion, all associated drainage structures, and landscaping/patio areas. A copy of the updated portion of the plan shall be provided to the DEC prior to issuance of a Certificate of Occupancy. Annual stormwater operations and maintenance reporting forms that are submitted to the DEC shall also be updated to include these new areas.
10. New exterior LED lighting shall be no greater than 3000K (color temperature).
11. Prior to endorsement, final plans shall be stamped and signed by the appropriate surveyor, engineer, landscape architect that prepared the plans. The following changes shall also be made:

- Pipe sizing and type for each new stormwater pipe segment (also include existing pipe size on plans). Corresponding sizing calculations shall be provided for each new segment from the building addition.
- The waivers granted shall be listed on the plans

12. Prior to commencement of construction/clearing, all erosion controls shall be installed and the limits of disturbance shall be reviewed in the field and any specimen trees that can be saved shall be protected with tree protection fencing around the drip line. Contact DEC staff for inspection.

9. Decision:

The public hearing closed on February 7, 2019. The DEC voted on February 7, 2019, to grant the waivers requested, 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 development plan for the 26,200 sf Lab/Office Cafeteria expansion at BMS, located at 38 Jackson Road, Devens, MA (9-4-200).

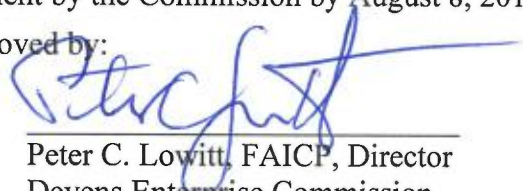
10. Building Permit

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 those of the Devens Fire Chief shall be met. When these approvals are obtained, the building permit may then be integrated with this Site Plan Record of Decision. Together they will constitute the Unified Permit for the 26,500 sf Lab/Office Cafeteria expansion at BMS (38 Jackson Road), which will 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 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 February 8, 2019 and terminates March 11, 2019, is "at risk". Final plans must be submitted for endorsement by the Commission by August 8, 2019.

Approved by:



Peter C. Lowitt, FAICP, Director
Devens Enterprise Commission

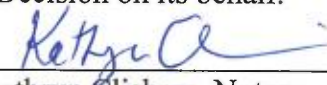
Date: 2-8-2019

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: 2-8-2019


Kathryn Clisham, Notary
My Commission expires 2-28-2025

