

Record of Decision
18 Independence Drive (Lot 140), Devens Massachusetts
Unified Permit
June 16, 2011

1. Applicant/Owner:

The owner and Applicant are CIP Independence Drive LLC c/o Cross Harbor Capital Partners, One Boston Place, Boston, MA 02108.

2. Premises and Proposed Project:

The applicant is seeking an amendment to their exiting Unified Permit to include the construction of 15 new loading docks, one compactor loading dock, truck parking, and associated drainage and landscaping improvements, in addition to relocating a section of tenant car parking. The new loading docks are proposed on a section of the existing 324,500 sq.ft. building. No new user proposed for the building at this time. The proposed modifications are not within 100 feet of any wetlands, therefore a Wetland Order of Conditions is not required. The 21.6 acre parcel is located within the Rail, Industrial and Trade Related Uses District, in addition to the Watershed and Aquifer Water Resources Protection Overlay District.

3. Submission:

The following is a list of exhibits that have been included as part of the record for this Application:

1. Application cover letter and waiver requests dated April 5, 2011, from Brandon Li of Kelly Engineering Group, Inc. (4 pages) and completed Level 2 Application Form and completed Level Two Unified permit checklist, in addition to pavement design calculations;
2. Site Plans entitled "Site Development Plans for 18 Independence Drive, Devens, Massachusetts", prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184, consisting of the following sheets:
 - Sheet 1: Cover Sheet, dated 3/30/11
 - Sheet 2: Existing Conditions Plan, dated 3/30/11, revised through 5/12/11
 - Sheet 3: Overall Layout Plan, dated 3/30/11, revised through 5/12/11
 - Sheet 4: Layout Plan, dated 3/30/11, revised through 5/12/11
 - Sheet 5: Site Plan, dated 3/30/11, revised through 5/12/11
 - Sheet 6: Detail Sheet dated 3/30/11, revised through 5/12/11
 - Sheet LT: Lighting Plan, dated 5/23/11;
3. Drainage Report entitled "Stormwater Management Report 18 Independence Drive, Devens, MA March 30, 2011"; prepared for prepared for CIP Independence Drive LLC c/o Crossharbor Captial Partners, One Boston Place, Boston, MA 02108; prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184;
4. Copy of deed, previous ROD and property easements submitted as part of application on April 5, 2011;
5. DEC Staff Review Comment letter from Neil Angus, Environmental Planner, to David Kelly, dated May 5, 2011;

6. Response to DEC Staff Review Comments dated May 23, 2011 from Brandon Li of Kelly Engineering Group, Inc. (7 pages); with the following attachments:
 - Spaulding Lighting detail spec sheets for the Cimarron LED and MSV Series light fixtures;
 - Completed MA DEP Stormwater Report Form Checklist for 18 Independence Drive, stamped and signed by David Kelly, P.E. May 23, 2011;
 - Revised Stormwater Management Report 18 Independence Drive, Devens, MA, dated May 12, 2011;
 - Report entitled "Stormwater Pollution Prevention Plan, 18 Independence Drive, Devens, MA 01434", dated May 12, 2011; prepared for CIP Independence Drive LLC c/o Crossharbor Capital Partners, One Boston Place, Boston, MA 02108; prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184;
7. Letter from John Marc Aurele, MassDevelopment Engineering, to Peter Lowitt, Devens Enterprise Commission, dated May 12, 2011, re: 18 Independence Site Plan Review comments (3 pages)
8. Letter from Edmund Starzec, MassDevelopment, to Peter Lowitt, Devens Enterprise Commission, re: Design review approval for 18 Independence Drive;
9. Handwritten notes from Neil Angus, dated 4/7/11;
10. E-mail correspondence as follows:

Date	From	To	Subject
5-31-11	John Marc-Aurele	Neil Angus; Peter Lowitt	Re: 18 Independence
5-31-11	Brandon Li	John Marc Aurele	FW: 18 Independence
5-5-11	Chief Garrity	Neil Angus	Re: 18 Independence
5-31-11	Peter Lowitt	John Marc-Aurele	Re: 18 Independence MD Enger recs
5-24-11	Dave Varga	Neil Angus	Re: Fwd: Alternate Pavement Evaluation

11. Site Plan entitled "Preliminary Layout Plan", Sheet 4, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184;
12. Plan delivery and Public Hearing Notification Memo from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; RE: 18 Independence Drive, Devens, MA; dated April 14, 2011;
13. Determination of Completeness, dated April 14, 2011, prepared by Peter Lowitt.
14. Memo from Peter Lowitt to Abutters and Interested Parties; RE: 18 Independence Drive, Devens, MA; dated April 28, 2011 (notification of Public Hearing on May 31, 2011);
15. Certified Mail return receipts for town and abutter notifications;
16. Certified List of Abutters, from Devens Assessors Office, dated April 28, 2011;
17. Memo from Peter Lowitt to CIP Independence Drive LLC; RE: 18 Independence Drive, Devens, MA; dated April 14, 2011 (notification of Public Hearing on May 31, 2011);
18. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt/Kate Clisham, dated April 15, 2011, to be published April 29, 2011 and May 6, 2011
19. Copies of Legal notices from April 29, 2011 and May 6, 2011;
20. Public Hearing E-mail Notice to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt/Kate Clisham, dated May 11, 2011

21. Public Hearing E-mail Notice to Secretary of State, from Kate Clisham, dated May 11, 2011
22. Public Hearing e-mail notification to Ayer Community Service Cable Committee, dated May 11, 2011 requesting notice to run May 11, 2011 through May 31, 2011;
23. DEC Staff Report dated 5-26-11, by Neil Angus And Peter Lowitt, re: 18 Independence loading dock expansion (2 pages);
24. Catch Basin trap detail (eliminator or equivalent);
25. Stormwater Management Report Part 5, dated March 30, 2011 (21 pages).

4. Unified Permit Components and Actions:

The project seeks to amend the existing unified permit and site plan approval for 18 Independence Drive (Lot 140) to include construction of 15 new loading docks, one compactor loading dock, truck parking, and associated drainage and landscaping improvements, in addition to relocating a section of tenant car parking.

5. Process:

Kelly Engineering Group, Inc., on behalf of CIP Independence Drive LLC c/o Cross Harbor Capital Partners, submitted a Level II Unified Permit application package, including the application, drainage report and site plans on April 8, 2011. The pre-permitting conference was held on April 7, 2011 and the Determination of Completeness was issued on April 14, 2011. Copies of the application and plans, along with the notice of public hearing, were sent to the surrounding Towns on April 14, 2011. Legal notices were placed in Nashoba Publications on April 29, 2011 and May 6, 2011. Certified Mail notice was sent to all abutters on April 28, 2011. The 30-day town-comment period expired on May 19, 2011. No public comments were received. The DEC opened the public hearing on May 31, 2011 and continued the hearing to the June 16, 2011 meeting. The hearing was closed on June 16, 2011.

6. Waivers

The Applicant requested the following waivers from the DEC Rules and Regulations:

1. 974 CMR 3.04(6)(a)5.b – Service areas, dumpsters or open storage areas shall not be located forward of the front façade of the building.

The Applicant has indicated there is not enough space on the sides of the building to accommodate the proposed compactor. The elevation change between the road and the building, coupled with the proposed landscape berms and plantings will provide adequate screening.

2. 974 CMR 3.04(6)(a)6. – Loading docks shall be located to the sides and rear of buildings and shall not be located forward of the front façade.

Waiver granted previously for this building. The Applicant has indicated there is not enough space on the sides of the building to accommodate new loading docks. The elevation change between the road and the building, coupled with the proposed landscape berms and plantings will provide adequate screening.

The DEC voted to grant both waivers requested. Waivers granted shall be included on the final plans, prior to endorsement by the Commission.

7. Findings

The DEC made the following findings:

1. The lot has a minimum of two acres and more than 75' of frontage on Independence Drive as required in the Rail Industrial and Trade Related Zoning District.
2. The DEC has determined that the number of parking spaces existing (360) and proposed (487), is reasonable for the district and building size and is consistent with zoning.
3. The lot is connected to and serviced by the Devens Stormwater System. The Applicant has demonstrated compliance with the standards of 974 CMR 3.04(4)(b)1. and received approval from MassDevelopment.
4. 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 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 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 utility, power and communication systems available in the abutting infrastructure are existing and have been previously approved by the Mass Development Manager of Engineering and Utilities.
 - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
 - (i) The plans demonstrate compliance with 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) The Applicant has indicated the project will comply with all applicable Industrial Performance Standards.
 - (l) Sufficient parking for current needs has been demonstrated.
 - (m) Traffic mitigation and control measures are not required at this time.

- (n) The Applicant agrees to participate in the Devens traffic management association.
- (o) Adequate water supply exists in terms of quantity, quality, and water pressure for commercial and/or domestic needs and fire protection.
- (p) Connection to sanitary sewers has been made.
- (q) Building design meets the minimum standards as established by Mass Development for the district in which the lot is located.

8. Conditions:

The DEC voted to impose the following conditions, in addition to the previous seven (7) conditions of approval from the April 8, 1997 Unified Permit Record of Decision for 18 Independence Dr.:

- 8. Truck traffic shall be prohibited from using residential streets in Devens and must obey truck routing signs in Devens. The Applicant shall post signs on-site notifying drivers of the primary means of truck access.
- 9. The Applicant agrees to participate in the Devens Transportation Management Initiative and when transportation/ trip reduction/ public transit options become available, the Applicant shall advise its employees of such transportation alternatives and facilitate connections to these programs for those who are interested.
- 10. All required erosion controls shall be in place prior to the commencement of construction. DEC Staff shall be contacted for inspection prior to commencement of construction. The best management and maintenance practices for the Site as required in the By-Laws and Rules and Regulations and articulated in the Applicant's final Erosion and Sediment Control Plan and Notes, shall be strictly adhered to, now and in the future. Tree protection fencing is required to protect any existing trees to remain within the limits of proposed work. Tree protection fences shall be installed prior to the commencement of any construction activities on the Site and maintained in areas where construction is being conducted. Additional controls shall be implemented at the discretion of the DEC or its Staff.
- 11. 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. This video is intended to instruct on-site personnel as to how to visually recognize UXO/MEC if found during construction activities and to provide instructions on what to do if potential/suspected UXO/MEC is observed.
- 12. The Applicant shall comply with the By-Laws, Article III, Section K 1. a., which provides that "no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with an approved Level Two Development Permit.
- 13. The Applicant shall conduct soil testing in accordance with 974 CMR 3.04(8)(e). Results shall be submitted and subject to review and approval by the DEC or its designee, prior to landscaping installation. The Landscape Maintenance Program on

Sheet 5 shall be amended to include the following statement: "Where fertilizers may be required, organic or slow-release fertilizers shall be used to help aid in additional soil and groundwater protection. No blanket fertilizer or pesticide applications are permitted."

14. Waivers granted shall be labeled as such and included on the final plans.
15. All landscaping shall be maintained in healthy condition. Any dead or damaged landscaping shall be replaced promptly. The applicant shall be required to submit a letter confirming a one-year guarantee of all approved landscaping once installed. 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.
16. The Applicant shall notify the DEC in writing seven or more days prior to the completion of the following construction milestones:
 - a) completion of the site grading and site work;
 - b) complete installation of site stormwater management facilities and other subsurface utilities;
 - c) completion of all site improvements as shown on the approved site plan;
 - d) installation of trees and other major landscaping features.The LUA shall schedule a site inspection by the DEC's consultants or allow the submission of a red-lined print stamped by a RLS or PE, as appropriate.
17. Once the appeal period has expired, the Applicant shall submit final approved plans to the DEC for endorsement. The DEC will not endorse plans until the Applicant has complied with all requirements of the DEC Rules and Regulations and Bylaws. The Applicant shall file the endorsed plans with the Registry of Deeds for Middlesex County and proof of recordation shall be submitted to the DEC prior to the issuance of a building permit.
18. 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.
19. 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.
20. Prior to any occupancy, a night-time (between 11 p.m. and 7 a.m.) program of reduced illumination must be submitted to the DEC. This program will designate which lights may remain on overnight to ensure safety within loading areas/open areas of the site. All lighting shall be directed down and properly shielded to comply with 974 CMR 4.04.
21. Any use of the reserved parking areas, even if paved areas are not proposed to be expanded, will be interpreted by the DEC to involve the "construction or expansion of a parking lot, structure or loading dock" requiring the submission of a new application for site plan approval pursuant to 974 CMR 3.02(1)(c).

22. Prior to seeking plan endorsement, the Applicant shall provide written certification that no building or structure will be placed in a reserved parking area and an executed covenant that additional parking spaces shall be built by the Applicant when the DEC determines this is required. As stated above, the DEC shall require site plan approval when and if additional parking is required, even if the existing parking lots are not expanded.
23. The following changes shall be made to the final plans prior to endorsement by the Commission:
- All existing and proposed catch basins, in addition to the DMH connected to the trench drain at the existing loading dock shall be retrofitted with oil/debris traps. The last existing manhole prior to discharging to the DSS does not require an oil/debris trap.
 - Seven additional Bradford Pear (min 3" caliper) shall be located around the new relocated parking area to comply with 974 CMR3.04(8)(h). All deciduous shade trees around parking shall be a minimum of 3" caliper.
 - Topography shall be shown for proposed landscape berms;
 - A mix of white pine and pitch pine (min. of 6 @ 8 ft height) shall be planted on the northeastern berm on the east side of the easterly access drive to provide additional screening.
 - Heavy duty pavement detail on Sheet 6 shall be revised as follows:
 1. Compacted subgrade.
 2. Compact 12" Dense-graded Crushed Stone for Sub-base, M2.01.7.
 3. 3" HMA Binder.
 4. 1.5" HMA surface course.
24. Stormwater runoff from any future additional site development will need to be properly managed on-site.
25. All uses/tenants proposed for this building shall be in accordance with permitted uses as listed in the Rail, Industrial and Trade Related Uses District. Each new tenant will be required to obtain written approval from the DEC/LUA prior to occupancy.
26. Wherever "Applicant" is referenced in the Conditions set forth herein, it refers to the Applicant, its successors and assigns.

9. Decision:

The DEC voted June 16, 2011, after the Public Hearing was closed, 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 Plan Amendment for 18 Independence Drive.

10. Building Permit

The Building Commissioner, along with the Electrical and Plumbing Inspectors, and MDFA must review architectural/structural drawings and specifications and approve them in writing, prior to issuance of a building permit. All requirements in the Massachusetts

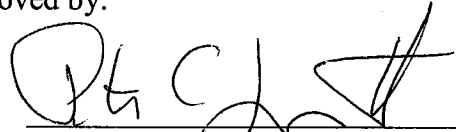
Building Code, the Massachusetts Sanitary Code, and the Devens Fire Chief must be met. When this approval is obtained, the building permit may then be integrated with this Site Plan Record of Decision; together they will constitute the Amended Unified Permit for 18 Independence Drive which will, in turn, 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 June 17, 2011 and terminates July 16, 2011, is "at risk". Final plans must be submitted for endorsement by the Commission by December 16, 2011.

Date: 6-16-2011

Approved by:



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.

6-16-2011
Date

Kathryn Clisham
Kathryn Clisham, Notary
My Commission expires March 16, 2018

