

**Record of Decision
Transformations Inc.
8 Cavite Street, Devens MA
Unified Permit
January 25, 2011**

1. Applicant:

The applicant is Transformations, Inc., 8 Coppersmith Way, Townsend, MA 01469, on behalf of the owner MassDevelopment, 160 Federal Street, Boston, MA 02110.

2. Premises and Proposed Project:

The applicant is seeking Unified Permit in order to facilitate the construction of eight highly energy efficient homes and associated site improvements to provide as a model for sustainable housing. Lots range in size from 15,409 sq.ft. to 25,075 sq.ft. – in compliance with the DEC’s minimum lot size requirements for this district. The Applicant is utilizing the Innovative Development Residential II regulations which allow for decreased lot frontage (50-100 feet) if the development is built to higher energy efficiency standards [974 CMR 5.02(2)]. Lot frontages range from 58 -150+ feet on existing roadways. The Applicant is proposing 6 optional housing types ranging in size from 1500-1800 sq.ft.. Building orientation and layout on the lots have been designed to provide maximum southern exposure to take full advantage of passive and active solar strategies. Additional green building techniques will be used to produce a highly energy efficient building.

3. Submission:

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

- a. A completed Level Two Unified Permit Application package entitled: “Application in Support of Level II Unified Permit for Devens Sustainable Housing Cavite Street and Adams Circle”, dated November 1, 2008 (DEC No. D10-074) prepared by Hancock Associates, 315 Elm Street, Marlborough, MA 01752. Package includes application form, certified list of abutters, request for determination of applicability, soil test results, narratives, traffic data, LEED sustainable sites checklist and stormwater pollution prevention plan.
- b. “Stormwater Report in Support of Level II Unified Permit for Devens Sustainable Housing Cavite Street and Adams Circle”; dated November 1, 2010, revised January 14, 2011, prepared by Hancock Associates, 315 Elm Street, Marlborough, MA 01752. ;
- c. Site Plan package entitled “Level Two Definitive Subdivision; Devens Sustainable Housing, Lot BV-2, Residential II, Cavite Street and Adams Circle, Devens, Massachusetts, for Transformations, Inc.”; prepared by Hancock Associates, Inc. 315 Elm Street, Marlborough, MA 01752; including the following sheets:
 - Sheet 1 of 8 entitled “Title Sheet”, scale as noted, dated 11/1/10 by Hancock Associates;
 - Sheet 2 of 8, entitled: “Existing Conditions Plan”, scale 1”=40’, dated 11/1/10;
 - Sheet 3 of 8, entitled “Level 2 Subdivision, Cavite Street and Adams Circle” scale 1”=40’, dated 9/30/10, prepared by WSP Sells, 155 Main Dunstable Road, suites 120 & 125, Nashua, NH 03060;
 - Sheet 4 of 8 entitled “Site Layout and Grading Plan”; Scale 1”=30’; dated 11/1/10 by Hancock Associates;
 - Sheet 5 of 8 entitled “Utility Plan”; Scale 1”=30’; dated 11/1/10 by Hancock Associates;

- Sheet 6A of 8 entitled "Landscape Plan"; Scale 1"=20'; dated 11/4/10; by Places Associates, Inc. 510 King Street, Suite 9, Littleton, MA 01460;
 - Sheet 6B of 8 entitled "Landscape Details Plan"; Scale 1"=20'; dated 11/4/10; by Places Associates, Inc.;
 - Sheet 7 of 8 entitled "Erosion and Sediment Control Plan"; Scale 1"=30'; dated 11/1/10 by Hancock Associates;
 - Sheet 8 of 8 entitled "Site Details"; Scale 1"=30'; dated 11/1/10 by Hancock Associates;
- d. Public Hearing Notice Fax to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt/Kate Clisham, dated December 13, 2010;
 - e. Public Hearing Legal Notice E-mail to Nashoba Publications, from Peter Lowitt/Kate Clisham, dated December 13, 2010 – to be published December 17 and 24, 2010.
 - f. Copies of Legal notices from December 17 and 24, 2010 from Ayer Public Spirit.
 - g. Public Hearing Notice Fax to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated December 10, 2010;
 - h. Memo dated November 15, 2010 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Cavite & Adam Residential Low Energy Houses (notification of Public Hearing on January 6, 2011 at 7:30AM);
 - i. Memo dated November 29, 2010 from Peter Lowitt to Abutters and Interested Parties; Subject: Cavite and Adam Residential Low Energy Houses (notification of Public Hearing on January 6, 2011 at 7:30AM);
 - j. Certified Mail Return Receipts for application and plan deliveries to Ayer, Harvard and Shirley, received by towns on 11-16-10. Certified Mail return receipts for public hearing notices to all abutters – various dates.
 - k. Staff Report dated December 29, 2010 Re: Eight-Lot Sustainable Housing Project – Cavite and Adams
 - l. MassDevelopment letter dated November 4, 2010 to Peter Lowitt, from George Ramirez, re: Residential Development Cavite Street and Adams Circle;
 - m. Transformations Inc. letter dated January 4, 2011, to Neil Angus, from Carter Scott, re: Extension on Adams and Cavite Street Project (75-day Unified Permit extension request);
 - n. Transformations Inc. letter dated December 21, 2010, to Neil Angus, from Carter Scott, re: Extension on Adams and Cavite Street Project (21-day Wetlands RDA extension request);
 - o. Proposed Deed Restriction for Lots 1,2,3,5,6 (1 sheet);
 - p. Devens Fire Department letter to Peter Lowitt, from Chief Garrity, dated November 22, 2010, re: Emergency Access for proposed subdivision;
 - q. Waiver Request list dated January 5, 2011, from Hancock Associates, Inc.;
 - r. Revised waiver request list dated January 14, 2011, from Hancock Associates, Inc.;
 - s. MA DEP Letter dated February 22, 2007 to BRAC Environmental Office, from Lynn Welsh, re:RTN 2-0662 Final RAM Completion Report;
 - t. Revised Site Plan package entitled "Level Two Site Plan; Devens Sustainable Housing, Lot BV-2, Residential II, Cavite Street and Adams Circle, Devens Massachusetts, for Transformations, Inc."; prepared by Hancock Associates, Inc. 315 Elm Street, Marlborough, MA 01752; including the following sheets:
 - Sheet 1 of 8 entitled "Title Sheet", scale as noted, dated 11/1/10, revised through 1/14/11 by Hancock Associates;
 - Sheet 2 of 8, entitled: "Existing Conditions Plan", scale 1"=40', dated 11/1/10, revised through 1/14/11;

- Sheet 3 of 8, entitled “Level 2 Subdivision, Cavite Street and Adams Circle” scale 1”=40’, dated 9/30/10; prepared by WSP Sells, 155 Main Dunstable Road, suites 120 & 125, Nashua, NH 03060 (revised Level 1 Lotting Plan dated 9/30/10 submitted 1/21/11);
 - Sheet 4 of 8 entitled “Site Layout and Grading Plan”; Scale 1”=30’; dated 11/1/10; revised through 1/14/11 by Hancock Associates;
 - Sheet 5 of 8 entitled “Utility Plan”; Scale 1”=30’; dated 11/1/10; revised through 1/14/11 by Hancock Associates;
 - Sheet 6A of 8 entitled “Landscape Plan”; Scale 1”=20’; dated 11/4/10; revised 1/20/11; by Places Associates, Inc. 510 King Street, Suite 9, Littleton, MA 01460;
 - Sheet 6B of 8 entitled “Landscape Details Plan”; Scale 1”=20’; dated 11/4/10, revised 1/20/11; by Places Associates, Inc.;
 - Sheet 7 of 8 entitled “Erosion and Sediment Control Plan”; Scale 1”=30’; dated 11/1/10, revised through 1/14/11; by Hancock Associates;
 - Sheet 8 of 8 entitled “Site Details”; Scale 1”=30’; dated 11/1/10; revised through 1/14/11; by Hancock Associates;
- u. Determination of Completeness dated 11/15/10
 - v. Devens Marketing Drawings (elevations of proposed House types), from Transformations, Inc., dated 9-16-10;
 - w. Phasing Plan, dated November 18, 2010;
 - x. Rain Garden Maintenance Guide for Homeowners. Transformations, Inc. for Devens, dated November 2010, prepared by Places Associates, Inc.;
 - y. Unit variations by lot, dated November 18, 2010, by Carter Scott;
 - z. Project Peer Review Comments from BSC Group, dated December 15, 2010
 - aa. Staff Review Comments, dated December 20, 2011;
 - bb. Hancock Engineering Response to Staff and BSC Comments, dated January 14, 2011
 - cc. Staff Report dated 12-29-10;
 - dd. Meeting notes from 1-11-11 meeting with Hancock;
 - ee. Wetland Determination of Applicability Form (unsigned);
 - ff. Appendix J- Typical Homeowners Manual for 20 Coppersmith Way; dated 2008;
 - gg. Staff Report dated 1-20-11;
 - hh. Draft of proposed Deed Restriction for open space, utility and rain gardens;
 - ii. BSC Peer Review Response Comments dated 1/21/11;
 - jj. No Illicit Discharge statement dated 1/19/11 from Carter Scott;
 - kk. Mullin Rule Affidavit from Dix Davis, dated 1/25/11;
 - ll. E-mail correspondence as follows:

Date	From	To	Subject
1-10-11	Neil Angus	John Boardman	Re: BSC Drainage Comments
12-15-10	Carter Scott	Neil Angus	Re: List of Additional Items needed
12-21-10	Peter Lowitt	Neil Angus	Re: Cavite Adams Subdivision
12-21-10	John Marc-Aurele	Peter Lowitt	Re: Staff Review 12-20-10
12-29-10	Peter Lowitt	Neil Angus	Re: Sustainable Housing Staff Report
12-29-10	Neil Angus	Neil Angus	Cavite Adams Meeting Notes

4. Unified Permit Components and Actions:

The Unified Permit request includes Site Plan approval for the development of eight single-family residential lots under 974 CMR 5.02(2) - Innovative Development Residential II, and associated site improvements.

5. Process:

The application was submitted on November 8, 2010 and a Determination of Completeness was issued on November 16, 2010. Copies of the application were received by the surrounding Towns on November 16, 2010. Legal notices were placed in the Public Spirit on December 17 and 24, 2010. Certified Mail notice was sent to all abutters on November 29, 2010. The 30-day Town comment period expired on December 17, 2010. No comments were received. The Applicant submitted extension requests for both the 21-day Wetland Determination of Applicability and the 75-day Unified Permit decision timeframes. The hearing opened on January 6, 2011 and was continued to and closed on January 25, 2011.

6. Waivers

The Applicant requested the following waivers:

974 CMR 3.04(3)(a)2. Driveway Construction Standards

To allow for a residential driveway composed of 8" of compact gravel base with 1.5" of binder coarse and 1" of finish coarse bituminous pavement. Regulations require an additional 4" of compacted gravel base, and a 2" binder and 1.5" finish course, however this standard is for commercial driveways and parking lots.

974 CMR 3.04(7)(d) All proposed utilities shall be underground.

To allow for the use of existing overhead wires along Cavite and Adams Circle with the addition of one new pole location and overhead wire across Adams Circle to provide service to the front of lots 5 and 6. All utilities from the street to the proposed houses will be placed underground.

974 CMR 4.08.3.b The post-development peak rate of stormwater discharge off-site shall not be greater than the pre-development peak rate of stormwater discharge for the 2, 10, 25, 50 and 100-year storm events from any point of discharge on the site.

To waive the requirement for peak rate attenuation for the 50 and 100-year storm events.

The DEC voted all in favour to grant waivers for 974 CMR 3.04(3)(a)2. and 974 CMR 3.04(7)(d). The waiver for 974 CMR 4.08.3.b. was denied. Waivers granted as part of this Record of Decision shall be included on the final plans.

7. Findings

The DEC made the following findings:

1. The proposed lot sizes are in accordance with the minimum required lot size for new development in the Residential II District. The Applicant has agreed to comply with the increased energy efficiency requirements of Innovative Development Residential II under 974 CMR 5.02(2), allowing for reduced lot frontage.
2. The applicant has proposed voluntary deed restrictions to preserve the rain gardens for stormwater management and also preserve portions of land on lots 1,2,3,5,6 in their natural state for passive open space purposes.
3. MassDevelopment has agreed in writing to maintain the existing ways (Cavite Street and Adams Circle) as public ways and upgrade the existing stormwater management

system to include hooded outlets in the existing catch basins and an appropriately sized hydrodynamic separator to treat all runoff from Adams Circle prior to discharging to Willow Brook.

4. The site is a previous developed site that has been remediated to residential unrestricted development standards as per the MA Department of Environmental Protection.
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 will be recorded at the Registry of Deeds (Level 1 Lotting Plan administratively approved by the Land Use Administrator);
 - (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 achieved.
 - (g) Connections with utility, power and communication systems available in the abutting infrastructure have been shown and approved by the Mass Development Managers 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 with the waivers granted.
 - (j) A Wetlands Order of Conditions is not required for this site. A negative Determination of Applicability was endorsed by the DEC.
 - (k) Industrial Performance Standards do not apply to this site.
 - (l) Sufficient parking for current needs has been provided.
 - (m) Traffic control measures have been proposed.
 - (n) The Applicant is not required to 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 will be made.

- (q) Building designs will meet the minimum standards as established by Mass Development for the district in which the lots are located.

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. 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.
3. 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.
4. Waivers granted as part of this project shall be included on the final plans, prior to DEC endorsement.
5. 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.
6. 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.
7. The Applicant shall submit final as-built plans in accordance with the DEC As-Built policy, prior to the issuance of a Certificate of Occupancy for each lot.
8. For each lot, a compliance report which includes a Home Energy Rating System (HERS) index rating of sixty (60) or less, a description of the building's energy features, and a statement that the rating score is "based on plans", shall be submitted to the DEC prior to issuance of a building permit.

9. For each lot, compliance with the requirements of the Energy Star Qualified Homes Thermal Bypass Inspection Checklist, as demonstrated by submission of a completed copy of the Checklist endorsed by a RESNET certified HERS rater (and the builder if required) to the DEC, prior to obtaining a Certificate of Occupancy.
10. For each lot, final verification of the HERS index rating of sixty (60) or less verified by a RESNET certified HERS rater shall be submitted to the DEC prior to the issuance of a certificate of occupancy.
11. Innovative Development Residential II energy efficiency requirements shall be memorialized in the deeds for each new lot to ensure any expansion and/or redevelopment of the lots complies to the increased energy efficiency requirements under 974 CMR 5.02(2). Each lot will be required to be recorded in the registry of deeds prior to issuance of building permits for any lots.
12. Copies of the deed restrictions for the rain gardens and open space shall be submitted for review prior to issuance of any certificates of occupancy.
13. Plans shall be revised to comply with the requirements of 978 CMR 4.08.3.b (post-development peak rate of stormwater discharge off-site shall not be greater than the pre-development peak rate of stormwater discharge for the 50 and 100-year storm events from any point of discharge on the site).
14. All required erosion controls and tree protection fencing shall be installed prior to the commencement of any construction activities on the Site and maintained in areas where construction is being conducted. Contact DEC Staff for inspection. Additional controls shall be implemented at the discretion of the DEC or its Staff.
15. Electric, water and sewer connections shall be provided to each unit. All existing utilities within the proposed lots that are not being reused shall be properly abandoned or removed.
16. Mass Historic Commission approval is required prior to issuance of any building permits.
17. The Applicant shall submit a design review approval letter from MassDevelopment prior to the issuance of any building permits.
18. Street lighting conforming to 974 CMR 2.07 shall be provided at the intersections of Cavite and Adams and Adams and Adams, as well as stop signs and historic ovals, in addition to street signs prior to the issuance of a certificate of occupancy.
19. All required street improvements as listed in the November 4, 2010 letter from MassDevelopment shall be completed prior to the issuance of any certificates of occupancy.
20. The Homeowners Manual shall be updated for this development and a copy submitted to the DEC prior to issuance of a certificate of occupancy. Final copies shall be provided to each lot owner.

- 21. Porous walkway details shall be provided on the final plans prior to endorsement.
- 22. The Applicant is required to pay the necessary DEC building, plumbing, electrical and gas permit fees for development of each lot, prior to issuance of a building permit.

9. Decision:

The DEC voted January 25, 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 eight lot site development plan for at 8 Cavite Street, Devens, MA (Transformations, Inc.).

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 for each lot. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and those of 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 and Level One Lotting Plan; together they will constitute the Unified Permit for 8 Cavite Street (Transformations, Inc.), 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 January 26, 2011 and terminates February 25, 2011, is "at risk". Final plans must be submitted for endorsement by the Commission by July 26, 2011.

Approved by:



Peter C. Lowitt, AICP, Director
Devens Enterprise Commission

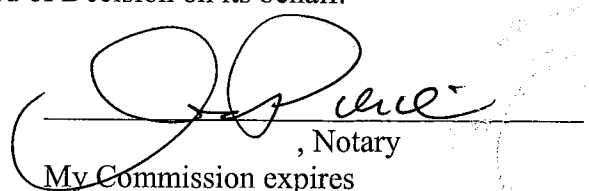
Date: 1-26-2011

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.

1/29/11
Date



, Notary
My Commission expires

Ann M. Pierce
My Commission Expires
December 17, 2015