

**Record of Decision  
AD Barnum Owner, LLC  
Loading Dock Expansion  
112 Barnum Road (Parcel #027.0-0017-0500.0)  
Devens (Harvard), MA  
Unified Permit  
September 29, 2020**

**1. Applicant/Owner:**

The Applicant and owner is AD Barnum Owner, LLC, Property located at 112 Barnum Road, Devens (Harvard), MA 01434 (Deed Reference: Bk. 48805 pg.112).

**2. Premises and Proposed Project:**

The Applicant submitted a Level 2 Unified Permit application for two (2) new loading docks on the south side of the existing building and a new pervious pavement driveway leading to an existing roll-up door on the front (north) side of the building, and associated drainage, landscaping and lighting improvements to accommodate Vulcan Forms – a new tenant occupying the second half of this existing building. Property located at 112 Barnum Road in the Rail, Industrial and Trade Related Uses District & Zone 2 Water Resources Protection Overlay District.

**3. Submission:**

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

1. Completed DEC Unified Permit Application (D20-062), dated August 14, 2020 (1 pg.)
2. Site Plan set entitled “Site Plan for Redevelopment of 112 Barnum Road, Devens MA Lot 027.0-0017-0500.0”; prepared by RJ O’Connell & Associates, Inc., 80 Montvale Ave., Suite 201, Stoneham, MA 02180; dated August 13, 2020 including the following sheets:
  - CO – Cover Sheet
  - OS-1 – Overall Site Plan
  - C-1 - Demolition and Erosion Control Plan
  - C-2 - Grading and Drainage Plan
  - C-3 - Parking and Traffic Control Plan
  - C-4 - Miscellaneous Details – I
  - C-5 - Miscellaneous Details – II
  - TT-1 - SU-30 Truck Turning Plan
  - TT-2 - WB-67 Truck Turning Plan
  - TT-3 - WB-67 Truck Turning Plan
  - A201 - Partial West Elevation and Wall Section (prepared by CI Design Inc.)
3. Letter from RJ O’Connell dated August 14, 2020 to Peter Lowitt, From Brian McCarthy, re: Level II Unified Permit Application, 112 Barnum Road, Devens, MA (2 pgs.)
4. Level 2 Unified Permit Application, 112 Barnum Street, Devens, Massachusetts; prepared for AD Barnum Owner LLC, c/o Seyon Management, LLC., 43 Broad Street, Suite C404, Hudson, MA 01749; prepared by RJ O’Connell & Associates, Inc., 80 Montvale Ave., Suite 201, Stoneham, MA 02180 (131 Pgs.), including the following:
  - Permit Form and DOC;
  - List of Abutters;
  - Drainage Calculations and Compliance with MA DEP SWM Standards;
  - Copies of Existing Easements, Covenants & Restrictions;
  - List of Requested Waivers;
  - Estimated number of truck trips and employees.

5. Determination of Completeness dated August 24, 2020.
6. Public Hearing Notice e-mail Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt/Kate Clisham, dated Sept.10, 2020;
7. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt/Kate Clisham, dated August 25, 2020 – to be published September 4 and 11, 2020.
8. Copies of Legal notices from September 4 and 11, 2020 from Nashoba Publications.
9. Public Hearing Notice email to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated September 10, 2020;
10. Memo dated August 25, 2020 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board; Subject: Level 2 Unified Permit Application – 112 Barnum Road (notification of Public Hearing on September 29, 2020 at 6:45PM, including certified mail return receipts);
11. Memo dated August 31, 2020 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – 112 Barnum Road (including certified mail return receipts);
12. Public Hearing e-mail notice to Secretary of State, from Peter Lowitt, dated September 10, 2020;
13. Plan Circulation Memo dated August 28, 2020 to MassDevelopment and Nitsch Engineering from Neil Angus; Re: 112 Barnum Road Loading Dock Expansion - Plan Circulation (1 pg.);
14. Certified List of Abutters for 112 Barnum Road; from Devens Board of Assessors, dated August 24, 2020;
15. Peer Review Engineering Letter from Paige Simmons and Jennifer Johnson, Nitsch Engineering, dated September 15, 2020 (4 pages), Re: Nitsch Project #9419 112 Barnum Road, Devens, MA Stormwater Review Comments, Devens, MA;
16. September 9, 2020 Revised Submittal from RJ O’Connell including the following:
  - Revised plan sheets C-2, C3, C-4, and C-6;
  - Wall pack light fixture detail;
  - Revised Drainage Section – Level II Unified Permit Application Report 09-09-20 (130 pgs.);
  - Letter response to initial comments (2 pgs.)
17. DEC Staff Report Re: Level 2 Unified Permit – 112 Barnum Road Unified Permit Application; dated September 24 (9 pages);
18. E-mail correspondence as follows:

Date	From	To	Subject
9/9/20	Jennifer Johnson	Neil Angus	RE: Pervious pavement in Zone 2 and recharge requirements
9/9/20	Brian McCarthy	Peter Lowitt	RE: Devens, MA 112 Barnum Road.
9/9/20	Brian McCarthy	Peter Lowitt	RE: Devens, MA 112 Barnum Road.(1)
9/8/20	Neil Angus	Jennifer Johnson	RE: Pervious pavement in Zone 2 and recharge requirements
9/24/20	NeilAngus	Brian McCarthy	RE: 112 Barnum Project Review Comments
9/24/20	Brian McCarthy	Neil Angus	RE: 112 Barnum Project Review Comments
9/16/20	NeilAngus	Brian McCarthy	112 Barnum Project Review Comments
8/25/20	Kate Clisham	Brian MCCarthy	RE: 112 Barnum Road - DOC
9/29/20	Brian McCarthy	Neil Angus	RE: 112 Barnum Project Review Comments

19. Geotechnical Engineering Report: Proposed Loading Docks Additions, 122 Barnum Road, Devens, MA; Prepared For: RJO’Connell & Associates, Inc., 80 Montvale Avenue, Suite 201 Stoneham, MA 02180; Prepared By: Northeast Geotechnical, Inc. 166 Raymond Hall Drive, North Attleborough, MA 02760 (35 pgs.);
20. Letter from Brian McCarthy to Neil Angus, dated September 24, 2020 Re: Response to Comments, Level II Unified Permit Application, 112 Barnum Rd, Devens, MA (72 pgs.)

21. Draft Record of Decision: AD Barnum Owner, LLC Loading Dock Expansion, 112 Barnum Road (Parcel #027.0-0017-0500.0) Devens (Harvard), MA Unified Permit, September 29, 2020 (6 pgs.);

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

The Unified Permit components include site plan approval for the proposed construction of two (2) new loading docks on the south side of the existing building and a new pervious pavement driveway leading to an existing roll-up door on the front (north) side of the existing building, and associated drainage, landscaping and lighting improvements at 112 Barnum Road, Devens, MA.

**5. Process:**

The application was submitted on August 14, 2020 and the Determination of Completeness was issued on August 25, 2020. Copies of the application were received by the surrounding Towns on August 28, 2020. Legal notices were placed in Nashoba Publications on September 4 and 11, 2020. All abutting property owners were duly notified by certified mail. The 30-day Town comment period expired on September 28, 2020. No comments were received. The public hearing opened on September 29, 2020 and was closed that same meeting. The Commission voted on the record of decision at the September 29, 2020 regular meeting.

**6. Waivers**

Administrative waivers requested by the Applicant were granted by the Director as part of the Determination of Completeness process. The Applicant did not request any waivers from Design Standards as part of this application.

**7. Findings**

The DEC made the following findings:

1. The proposed use is consistent with the development goals and permitted uses within the Rail Industrial Trade Related uses District and the requirements of the Zone 2 Water Resources Protection District.
2. The preexisting lot has more than 100 feet of frontage on Barnum Road and is over 2 acres in area and is therefore in compliance with the minimum lot requirements as per the Devens Bylaws.
3. The existing drainage system, with proposed pervious pavement and sub-surface infiltration system meet the DEC's Greenfield and Low-Impact Development technique requirements under 974 CMR 4.08.
4. The heavy-duty pavement detail (compacted subgrade; compact 12" dense-graded crushed stone sub-base, M2.01.7.; 3" HMA binder, and; 1.5" HMA surface course is suitable for the proposed loading docks.
5. Regarding the approval criteria listed in 974 CMR 3.03(2):
  - (a) The Site Plan, with conditions, 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 and conditions of approval.
- (l) Sufficient parking for current needs exists and adequate reserve parking is available if needed in the future.
- (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 exists.
- (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 and drainage;
- (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 2 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.
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 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. Sheet Index shall be revised to reflect only plans being recorded. 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 issuance of a building permit.
6. All applicable federal, state, and local permits necessary for the construction and operation of the facility 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.
7. 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.
8. The Facility Operations and Maintenance Plan and DEC annual stormwater operations and maintenance reporting forms shall be updated to include the new drainage structures. Updated plan shall be provided prior to issuance of a certificate of occupancy.
9. Prior to commencement of construction, all erosion controls shall be installed. Contact DEC staff for inspection.
10. Prior to issuance of a building permit, the Applicant shall submit a design review approval letter from Mass Development for the Addition.
11. Prior to installation of any argon gas tank, the Applicant shall obtain the necessary building permit from the DEC Building Commissioner, as well as a tank permit from the Devens Fire Department. All gas deliveries shall be required to use the ground-mounted pumps on-site to reduce truck idling and engine noise. Gas deliveries shall also be restricted to weekday daytime hours (7AM-6PM) only.
12. Any roof-top mechanicals or ventilation equipment installed will need to be properly screened and directed away from the Devens boundary.
13. Prior to endorsement, the plans shall be revised to address the requirements listed in the August 24, 2020 Determination of Completeness, as well as the September 15, 2020 letter from Nitsch Engineering to Neil Angus (4 pages) and the e-mail from Neil Angus



to Brian McCarthy sent on 9/16/20 at 4:18PM, listing 12 open items. The heavy-duty pavement detail shall also be revised to the following:

- Compacted subgrade.
- Compact 12" Dense-graded crushed stone for Sub-base, M2.01.7.
- 3" HMA Binder.
- 1.5" HMA surface course.

**9. Decision:**

The public hearing closed on September 29, 2020 and the Commission voted that same day to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), impose conditions, and to approve the site development plan for two (2) new loading docks and a new pervious pavement driveway leading to an existing roll-up door on the existing building at 112 Barnum Road, 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 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 AD Barnum Owner, LLC Loading Dock expansion at 112 Barnum 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 September 30, 2020 and terminates November 1, 2020, is "at risk". Final plans must be submitted for endorsement by the Commission by March 29, 2020.

Date: 9.30.2020

Approved by:

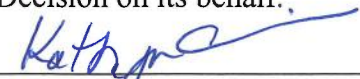
  
Peter C. Lowitt, FAICP, Director  
Devens Enterprise Commission

**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: 9/30/2020

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

