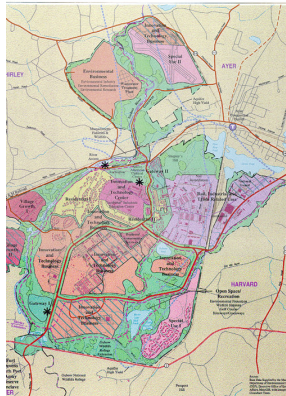


TRI-TOWN FIVE-YEAR REVIEW OF THE DEVENS REUSE PLAN

Phase I Report



prepared for the

**JOINT BOARDS OF SELECTMEN OF
AYER, HARVARD, AND SHIRLEY,
MASSACHUSETTS**

by

Community Design Partnership, Inc.
Boston, MA

in association with

Bennett Associates
Norwell, MA

May 2001

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Executive Summary

Part One: Project and Process

Fort Devens was carved out of four Massachusetts towns many decades ago. In the transition from a military post to a civilian community, new activity has focused on the part of Devens in three of those communities: Ayer, Harvard, and Shirley. Through state legislation in 1993 and town votes in 1994 on a Reuse Plan and a Zoning By-law, it was agreed that the state would buy Fort Devens from the federal government. The agency now known as MassDevelopment became the owner of Devens in 1996 and a new unified permitting agency, the Devens Enterprise Commission (DEC), became the regulatory body. The Army continued to have responsibility for remediation of contaminated sites created by its activities. The By-Law mandates a review of implementation by these two agencies and by the host communities after five years. Although the three towns each have active five-year review committees, the Joint Boards of Selectmen (JBOS) contracted with Community Design Partnership, Inc., (CDP) to assist them and the committees in preparing a joint five-year review document. The review process included meetings with each of the three committees separately, a joint meeting of the committees, meetings with the JBOS, and a public meeting.

Part Two: Tri-Town Five-Year Review

The Reuse Plan offered many benefits to the host communities, some of which have been realized and some of which remain potential. Hundreds of acres of environmentally-sensitive areas have been protected from development. The Town of Shirley gained land for a library, town offices, and a school, and the other towns may also take advantage of similar opportunities for municipal buildings. Lands have been preserved for active and passive recreation. Through Devens development the towns can expand their housing stock, including affordable housing. And with the potential return of town jurisdiction, Devens development may broaden the tax base of the host communities.

However, the implementation of the Reuse Plan has occurred far more rapidly than expected, with nearly two-thirds of the buildout allowed under the building cap in the Zoning By-Law already in place or

committed. The Town Committees are concerned that distribution and warehouse facilities have dominated this phase of Devens development. These kinds of enterprises tend to have a low number of jobs per square foot and many of the jobs do not require a high skill level. In addition, it has not yet been demonstrated that at buildout there will be sufficient revenue to pay for the services required by Devens businesses and residents. At the same time, many committee members see an emphasis on short-term economic viability obscuring other important elements of the Reuse Plan, such as technological innovation, environmental remediation, and environmental sustainability.

The Reuse Plan envisioned a business and industrial park within an open space framework, providing for small enclaves of housing and other uses. Now the first new residents are moving into Devens housing. MassDevelopment is creating a new school district at Devens. The regional housing shortage makes more residential development attractive both to the state government and to many in the Towns. The creation of a new residential community at Devens has many implications -- financial, political, educational -- which must be worked out sooner rather than later, and the host communities must be directly involved in this process. Moreover, through implementation of the Reuse Plan, the need for enhanced overall planning and site design has become evident, both within Devens and in relation to adjoining neighborhoods in the towns.

The results of implementation so far and all the changes underway at Devens require new mechanisms for collaboration and exchange of information between the JBOS and MassDevelopment and the DEC. Revisions of the legislation, the Reuse Plan, and the Zoning By-Law are necessary. In addition, the town committees and the participants in the public meeting agreed that it is essential that the Towns and the Devens implementation agencies begin planning now for the final disposition of Devens. The rapidity of the buildout in five years and the imminent changes in the character of Devens as a physical place and as a human community require decisions on the ultimate jurisdiction and administration of Devens. A policy of improvisation and responding to contingencies, which increasingly seems the case at Devens, may shape and predetermine a final outcome without a thorough understanding of consequences, benefits, or costs.

Part Three: Agency Five-Year Reviews

During the course of this project, the DEC and MassDevelopment issued their own five-year reviews of the Reuse Plan. The consultant prepared brief summaries and analyses of these reports for the town five-year review committees, but the committees themselves did not study them.

DEC's review identified and made recommendations on many of the same issues that have concerned the host communities including environmental analysis and master planning of the North Post; allowing more housing on Devens; improved buffering standards; planning for ultimate disposition; and more rigorous use of sustainability criteria and concepts in the Devens development process.

As a result of its five-year review, MassDevelopment's Board of Directors adopted a set of strategies to guide future development. These strategies distinguish between "core" areas and peripheral areas. In their definition, the "core" includes everything at Devens except the North Post, the Davao Housing area and the Special Use District also known as Salerno Circle. MassDevelopment proposes to spend the next seven years focusing remaining buildout of the 8.5 million square feet of development allowed under the Zoning By-Law in the core areas; planning development in the peripheral areas in collaboration with the host communities; exploring creation of more housing; creating a mixed-use center in "downtown" Devens; and moving towards an annual balance of municipal services costs and revenues.

Part Four: Recommendations

These recommendations were prepared by the consultant and supported by the three town committees.

- The Towns must have independent and ongoing professional advice, monitoring, coordination, grant proposal preparation, and planning expertise in relation to activities at Devens and their impacts on the host communities. This will require a regular funding source independent of MassDevelopment. One possibility is a small addition to the municipal service fees charged to nonresidential property owners at Devens, which would require a change to Chapter 498, the enabling legislation for the Devens Regional Enterprise Zone.
- The Towns must negotiate with MassDevelopment to have more influence on the continuing development and buildout of all areas of

Devens. MassDevelopment is making many decisions in Devens that will shape the character of the entire subregion and the range of possible disposition options. MassDevelopment hopes to complete the 8.5 million square feet of buildout by FY 2008 -- approximately seven years from now. The way that buildout occurs, as well as any residential construction, will profoundly shape the character of Devens and its relationships to the Towns. An official Advisory Committee with defined responsibilities and regular reporting by MassDevelopment could be created through amendment of the legislation and the Reuse Plan. Subcommittees on Open Space, Transportation, and Housing, and a new Subcommittee on Disposition could operate under this Committee. Working on current development issues will give the Towns and MassDevelopment a better understanding of what should happen in areas that have not yet been developed and in what sequence. Planning should capitalize on the relationships among the various parts of Devens, the towns, and the region as a whole.

- The Towns and MassDevelopment must develop and agree to a Disposition Plan within the next five years. The basic elements of the Disposition Plan should be in place even earlier, ideally within the next two years. The towns should create acceptance criteria for the return of jurisdiction. In order to make informed decisions on development and disposition steps, the Towns will need more, and more complete information from MassDevelopment on a range of issues
- Revisions to the legislation, the Reuse Plan, and the Zoning By-Law should be made to refine and update these documents in light of the Five-Year Review process.

Legislation:

- Funding for JBOS planning in relation to Devens
- Refine DEC appointment process and requirements
- Creation of Town Advisory Committee to work with MassDevelopment and DEC on development planning and disposition planning and to receive MassDevelopment financial reports regularly
- Possible change in what constitutes a major amendment so that planning can be more flexible (but only if it is also more democratic and transparent)
- Explicit provision and funding for creation of a Disposition Plan

Reuse Plan:

- Revise plan to reflect current uses where their continuation is desired
- Revise plan for more housing, designing for a sense of community and connection
- Revise plan to include benchmarks and monitoring criteria
- Revise plan to strengthen overall harmonious distribution of uses and linkages with host communities
- Include a School Plan to include agreements on reimbursement, school building needs, population projections, plans for where new schools will be built and for which grades
- Revise plan where needed to better protect open space values in undeveloped areas, e.g., Shirley North Post and Barnum Road adjacent to Cold Spring Brook

Zoning By-Law:

- Refine zoning to give better guidance for preferred uses
- Permit mixed uses in areas such as Vicksburg Square
- Require submittal of open space/conservation subdivision alternative for all housing subdivision projects
- Give incentives for adaptive reuse of existing buildings and for “green” buildings
- Strengthen landscape and buffer standards
- Require river and stream setbacks
- Prohibit detention basins and utilities in currently forested buffer areas
- Require developers to respect and/or incorporate trail segments into their projects where properties lie along the open space linkage zones.

PART ONE: THE PROJECT AND THE PROCESS

When the Massachusetts legislature created the Devens Regional Enterprise Zone in 1993, it envisioned the possibility that the transition might take forty years. Today, five years after the state bought Devens from the army, over 50 percent of the allowable buildout has occurred, new jobs have been created, hundreds of acres of natural landscape have been preserved, substantial areas of hazardous materials contamination have been remediated, and new residents are moving into housing on Devens. Compared with expectations in the dark days of the recession in the early 1990s, the Devens story looks like a big success.

As is so often the case, this success has created new circumstances and raised new questions. It makes the first Five-Year Review a critical opportunity for the Devens host communities.

- *How should the remaining buildout of Devens occur and what should be its character?*
- *How will new homeowners change Devens and require new adjustments?*
- *What should the process be to decide on final disposition and jurisdiction of Devens?*

These three questions are central to the Five-Year Review, a key turning point in determining what kind of community and what kind of place Devens will be in the future.

The Devens By-Laws mandate a five-year review of the implementation of the Devens Reuse Plan by the host communities as well as by MassDevelopment and the Devens Enterprise Commission. The towns of Ayer, Harvard and Shirley organized committees to evaluate the results of the plan after five years as they affected the individual communities, but the Joint Boards of Selectmen (JBOS) also realized that development of a common approach to Devens issues was essential to effective representation of the host communities' concerns and interests in the further development of Devens. The town Five-Year Reuse Committees began meeting in 2000 and held several joint meetings. However, they came to the conclusion that they needed assistance in crafting a joint strategy for the Five-Year Review.

The JBOS contracted with Community Design Partnership (CDP), in association with Bennett Associates, in February 2001 to assist in the preparation of the JBOS Five Year Review. CDP reviewed relevant documents, met with each of the town's Five-Year Review Committees individually and as a group, interviewed MassDevelopment and Devens Enterprise Commission (DEC) staff by telephone or in person, organized and facilitated a public meeting on the Five-Year Review on March 8, 2001, and met with the Steering Committee of the JBOS. At the request of town committee members, State Senator Pam Resor attended the Tri-Town Five-Year Review Committee meeting and the public meeting. Approximately 30 people attended the public meeting. The DEC Five-Year review was complete and available at the beginning of this project. During the course of the project, MassDevelopment released its own Five-Year Review.

The present report is based on the meetings and interviews described above, a review of documents, including the enabling legislation, Chapter 498, the Devens Reuse Plan and Zoning By-Law, Devens Annual Reports and lists of Town concerns, the DEC and MassDevelopment Five Year Reviews, and on a brief review of information on other base reuse plans and implementation. Part One explains the elements of the Devens redevelopment effort and the five-year review process. Part Two contains a compilation and integration of the results of the reviews by the three town Five-Year Review Committees, individually and jointly. Part Three is a brief summary and analysis by the consultant of the Five-Year Review reports issued by the DEC and MassDevelopment. The town committees did not review these agency five-year reports. Finally, Part Four contains recommendations emerging from the tri-town review of the Reuse Plan. These recommendations were prepared by the consultant and endorsed by the three committees.

THE CONTEXT OF THE FIVE-YEAR REVIEW

When the federal government decided to decommission Fort Devens in the early 1990s, Massachusetts was in a deep recession. The host communities, especially Ayer and Shirley, were concerned about the effect of the closure on their economies. Fort Devens in 1990 had nearly 7,000 residents and supported 7,000 to 8,000 military and civilian jobs both on and off the base. Ayer and Shirley in particular were worried about loss of jobs, loss of customers for local businesses, and impacts of the base closing on the local housing market during a deep real estate recession.

Through negotiations with the federal government, the state agreed to take on the transformation of "Fort Devens" into "Devens" - first called a "planned industrial park" and now called a "planned community." In late 1993, the legislature passed M.G.L. Chapter 498 creating the Devens Regional Enterprise Zone to be administered by the state through the then Massachusetts Land Bank (now MassDevelopment) and a new entity called the Devens Enterprise Commission. Written in the depths of a recession and with few encouraging models of speedy military base redevelopment, Chapter 498 provided for a possible 40 years of jurisdiction by the state. The legislation simply required that, at some point before July 1, 2033, the host towns and the state submit a report to the legislature on final disposition.

In 1993, a community charrette sponsored by the Boston Society of Architects set planning directions for Devens. A more detailed master plan was then developed for the JBOS and the Land Bank by consultants. The Devens Reuse Plan was completed in 1994, as was a Zoning By-Law. The Reuse Plan and the Zoning By-Law were accepted by the four host communities (Ayer, Harvard, Shirley, and Lancaster) in town meeting votes in December 1994. By voting for the Reuse Plan and the Zoning By-Law, the host communities delegated their municipal jurisdiction over Devens in land use and some other matters to MassDevelopment and the DEC. At the same time, they were no longer responsible for municipal services and costs in Devens land.

The three institutions most directly involved in implementing the Reuse Plan are MassDevelopment, the Devens Enterprise Commission, and the U.S. Army.

- MassDevelopment purchased most of Fort Devens' land from the Army and has jurisdiction over Devens much like a town government. However, it also acts as a real estate developer and a provider of many municipal services.
- The DEC administers and enforces the Zoning By-Law, develops associated Regulations, and exercises the functions of municipal boards, such as the Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, and Board of Health. This allows the DEC to provide one-stop, unified permitting to potential new landowners and developers. The Commissioners are appointed by the Governor. However, each of the host communities proposes candidates for two positions on the DEC and the Governor chooses from the

nominees for these positions. The Commissioners are required to have expertise of some kind in the matters that come before the DEC, but there is no requirement for a distribution or balance of expertise among the Commissioners as a group. Although they "represent" the host communities, in practice they typically do not see themselves as representing the interests of their towns in any direct way. They are perceived by the towns as giving their primary loyalty in Devens matters to the DEC itself.

- The Army remains an important player in implementation of the Reuse Plan because it is responsible for remediation of the many contaminated sites left at Devens after decades of military use. In addition, the Army retains several facilities at Devens.

The Reuse Plan articulated the goals and objectives of the redevelopment of the army base, and the Zoning By-Law was the regulatory structure organized to promote the goals and objectives. Both MassDevelopment and the DEC see themselves as working to achieve the goals and objectives of the Plan.

WHY IS THE FIVE-YEAR REVIEW IMPORTANT?

This is the first opportunity to evaluate whether the Reuse Plan is working as all the original stakeholders hoped it would and to decide if adjustments or changes are necessary to make it function well in the future. Because all of the stakeholders are completing Five-Year Reviews - MassDevelopment, the DEC, each town separately, and the three towns jointly (JBOS) - the process will result in discussion and negotiation about potential changes and future directions and most likely in updating of zoning, the Reuse Plan, and the legislation. This is also a key opportunity to establish criteria for future evaluations and for setting expectations in planning for the final disposition of Devens.

Among the possible changes are the following:

- *Municipal Services Fee* - MassDevelopment will consider a readjustment of the fees starting July 2002 as a result of the Five-Year Review.
- *Zoning By-Law* - The type, amount, size, and location of different land uses could be changed. For example, more residential districts or more square feet of development could be allowed.

- *Environmental Impact Statement (EIR)* - Changes in the amount or type of development allowed may require changes to the EIR
- *Reuse Plan* - The Reuse Plan should be updated to reflect new land use and management goals as well as acceptable variations from the Plan that have already taken place during implementation.
- *Legislation* - Some changes may require amendment of the legislation, for example, changes to the roles and responsibilities of implementation agents, and articulation of a specific framework for final disposition.

PART TWO: **TRI-TOWN COMMITTEE FIVE-YEAR REVIEW** **OF THE DEVENS REUSE PLAN**

ACHIEVING THE GOALS OF THE REUSE PLAN

The Reuse Plan states its overarching goals in the following language:

- *Sustainable development, which means achieving a balance of economic, social, and environmental needs, while maintaining and enhancing the natural resource base.*
- *Provide a diversity of uses to avoid dependence on one type of use, and to provide employment opportunities for a range of skill and experience levels.*
- *Achieve success. Demonstrate the interdependence of economic development and environmental protection and the symbiosis of public and private uses.*
- *Balance local, regional, and state interests.*

How has implementation of the Reuse Plan achieved these goals in the first five years? MassDevelopment understandably emphasizes the success of Devens, as evidenced by the unforeseen rapidity of the buildout, preservation of hundreds of acres of natural landscape, substantial improvements to infrastructure, and considerable progress towards remediation of contamination. Both MassDevelopment and the DEC point to the implementation of environmental best practices in stormwater management and aquifer protection. To many in the host communities, however, the first five years of implementation of the Reuse Plan have revealed flaws in the plan. There is a sense among many that the spirit of the Plan has not been effectively realized during the first five years of implementation.

ECONOMIC DEVELOPMENT

Buildout and Type of Development

The Zoning By-Law capped development at 8.5 million square feet of commercial and industrial development and 282 housing units, although the zoning without the cap would permit 15.3 million square feet. The

original Environmental Impact Statement approved by the state's MEPA Unit contained three buildout scenarios based on different levels of traffic generation, water usage, wastewater flows, and air emissions.

Current actual and projected nonresidential development at Devens is 5.375 million square feet in reused buildings, new construction or committed new construction. This represents the following proportion of potential buildout under the restrictions and conditions noted above:

- 70 percent of the 7.7 million square feet allowed in a "mid-use" scenario under the Environmental Impact Statement
- 64 percent of the 8.5 million square feet allowed by the buildout cap in the Zoning By-Law
- 35 percent of the 15.3 million square feet theoretically allowable under current zoning without the cap

These numbers mean that more than half of the buildout expected to take twenty or thirty years when Chapter 498 was written has been captured in the first five years of the Reuse Plan because of the extremely favorable economic conditions of the second half of the 1990s. Moreover, only 10 percent of that 5.4 million square feet consists of reused military buildings. Thirty-two percent is new construction already built, and another 21 percent is accounted for by current prospects and potential expansions, most of which would also consist of greenfield development rather than adaptive reuse of existing buildings.

MassDevelopment concentrated its early recruitment on what it now calls West Rail Industrial Park. Although there is some manufacturing, distribution and warehouse facilities have dominated early development. These kinds of uses tend to have a low number of jobs per square foot, and the jobs themselves often do not require a high skill level. The West Rail Industrial Park is now almost built out with more than 2 million square feet of building on 192 acres for companies such as Southern Container, Parker Hannifin, Gillette, North American Logistics and Anheuser Busch. Attention has turned to attracting more technology-intensive firms to sites in Jackson Technology Park. By early 2001, seven companies had purchased 82 acres and built some 650,000 square feet there. In addition to the industrial buildout, the Town of Shirley has built a new Library and town office building on Devens land and recently voted to build a new school on an adjacent parcel.

**Tri-Town Common
Issues: Development**

- Lower value development has taken up much of the buildout under the Reuse Plan
- Desire for higher value and diverse business development and higher-skill jobs
- Little town input on business recruitment and development decisions
- More emphasis needed on rehabilitation of existing buildings
- Guidelines needed for due diligence to analyze previous performance of project proponents before accepting projects (sludge plant experience)
- Clearer definition of "environmental business"
- Potential for additional nonresidential development
- Potential for more housing units
- Evaluation of impacts of additional development or housing

Jobs

One of the primary economic goals of the Reuse Plan in 1994 was to create enough jobs at Devens to make up for the loss of jobs because of the departure of the Army. At the time of closure, Fort Devens provided 2,176 civilian jobs. In March 2001 there were 2647 employees at Devens, including federal and military personnel, and MassDevelopment projected a total of 3171 in 2001. The number of jobs has fluctuated somewhat, and MassDevelopment projections, as shown in annual reports and on the Devens Commerce Center web site, have tended to be over-optimistic. Because of the low unemployment rate during this period, there has not been pressure to increase the number of jobs, though there is criticism that the jobs created are not sufficiently skilled. On the other hand, back in 1994 there was concern that the blue-collar workforce would suffer the most because of the base closure and creation of a diverse job base was an explicit objective of the Plan.

"Environmental Business"

An "Environmental Business" zone was created in the Shirley section of the North Post, west of the Nashua River. The definition of "environmental business" in the Reuse Plan is rather vague, though a range of uses is defined in the Zoning By-law. The By-law distinguishes between process-based enterprises in which waste or raw materials are used to create another product or those in which processes are directly applied for environmental remediation purposes. The other type of environmental enterprise has an environmental component but is not primarily process-based. The By-law provides a number of examples of different types of environmental business. In the towns, the term has now come to imply remediation technologies or use of industrial wastes to create new products (otherwise known as industrial ecology systems). Unfortunately, the attempt to site a sludge plant company with a poor track record alarmed residents in the host communities and gave the concept of environmental business or industrial ecology a bad name. MassDevelopment does not appear to making efforts to recruit environmentally innovative businesses.

The Environmental Business zone on the Shirley half of the North Post (the land between Walker Road and the Nashua River) was not studied in depth during the development of the Reuse Plan. Most of the area is forested, except for the wastewater treatment plant and an old gravel pit containing a landfill which is being removed. Lacking sufficient information at the time, the original Reuse Plan consultants incorrectly concluded that there were no wetlands, rare wildlife, or other significant

natural resources of concern on this parcel. More recent information about natural resources and infrastructure constraints demonstrates the need for a more thorough review and a master plan.

Much of this parcel lies over a major aquifer that provides existing and potential future water supplies to Shirley and Devens. The site contains a complex of four certified vernal pools and possibly other undocumented wetlands. The parcel is mapped by the state as rare species habitat, and it forms a natural link between the Oxbow Refuge and Shirley's town forest and water supply lands across Walker Road. None of these planning issues was addressed in the Reuse Plan. In addition, Walker Road is a narrow residential roadway, raising concern about traffic capacity for the large numbers of vehicle trips that would be generated by development of the Shirley North Post.

Tri-Town Common Issues - Environment

- Effective remediation of contaminated sites with clear timetables
- Potential for discovery of new contamination without clear assignment of clean up responsibility, as has already happened (pesticide contaminated soils, undocumented underground storage tanks, asbestos in the school building)
- Effective protection of aquifers and all other water resources
- Implementation of passive recreation, trail network, and planning for maintenance
- Natural resources study needed for the North Post area

ENVIRONMENT

The Devens Reuse Plan emphasizes the themes of environmental resource protection and open space preservation. In the creation of the Plan, sensitive resource areas were identified early and set aside to be protected from development. A JBOS Open Space Committee was established and has worked with the agencies on open space planning for Devens. Implementation of the environmental elements of the Reuse Plan include the following:

- Conveyance of 830 acres by the Army to the US Fish and Wildlife Service for incorporation in the Oxbow National Wildlife Refuge
- Creation of an Open Space and Recreation Plan and a Devens Regional Trails Initiative Plan
- Designation of potential trail corridors on the Main Post to provide links for pedestrians, cyclists, and equestrians between surrounding communities and Devens open space, housing, athletic fields, schools and businesses. Final trail designs will be developed pending public review and detailed site surveys.
- Development of conservation restrictions to be conveyed to the Trustees of Reservations for Mirror Lake, the Eskers, Robbins Pond, and Cold Spring Brook lands

Protection of water resources is critical to Devens and the host communities, all of which depend on groundwater supplies. There are numerous potential sources of groundwater contamination within Devens dating from the poor environmental practices of the Army. Nonetheless, current monitoring data indicate that aquifers near wells meet drinking

water standards. Elements of the Reuse Plan designed to protect water supplies include the Water Resources Protection Overlay district, with stringent requirements, and the requirement that all facilities meet EPA Phase II Stormwater regulations to control nonpoint source pollution. Ayer and Harvard residents in particular continue to be concerned about industrial development over their high yield aquifer and about potential pollution of Cold Spring Brook.

Devens is a Superfund site because of the seven army landfills and other hazardous waste contamination resulting from military use. The Army is responsible for remediating pollution caused by its operations at Fort Devens. It has expended \$75 million of the \$77.5 million spent so far on environmental remediation. Of the 686 acres retained by the army pending clean up in 1996, 485 acres have been remediated and transferred to MassDevelopment. After considerable negotiation between MassDevelopment and the Army, it was decided to consolidate four of the seven landfills on Devens, rather than simply capping them all in place. This was done despite objection by the Harvard Board of Selectmen and DEC who wanted off-site disposition. The Army has also agreed to remove the pesticide-laden soils found under housing units slated for redevelopment. In addition, underground storage tanks and asbestos in the school building have been removed.

Many residents are concerned about remaining hazardous waste, for example the pollution plume from the Airfield to the Nashua River and leakage from the Shepley's Hill land fill. Harvard and Ayer residents also desire more thorough cleanup than has been proposed by the Army of AOC 57 (Cold Spring Brook). Acceptable remediation plans with clear timetables are needed to reassure the towns that action will be taken in a timely manner.

COMMUNITY DEVELOPMENT

Housing

The Devens Reuse Plan provides for 282 housing units, even though some 7000 people lived at Fort Devens when it was an army base. This number of housing units in the Reuse Plan resulted from the fear in 1994 that the base closing would create a big housing surplus in the towns of Ayer and Shirley during a period when Massachusetts still had a depressed real estate market. Under those conditions, there was no desire for more housing on Devens. Six years later, Massachusetts has a housing shortage and the potential for more housing on Devens land is under

discussion. The JBOS has not yet established the Housing Committee mentioned in the Reuse Plan.

***Tri-Town Common
Issues – Community
Development and
Design Character***

- Provision of housing, including affordable housing, for town residents
- Protection of Ayer and Shirley Village commercial districts from excessive competition from “downtown Devens” development
- Existing educational institutions at Devens are not catalysts for high-value development
- Siting decisions within Devens and in relation to the host communities
- Adaptive reuse of historic buildings, such as Vicksburg Square
- Appropriate buffering between sites and activities at Devens and between Devens and host community neighborhoods
- Access and linkage to Devens while protecting existing neighborhoods

The 282 housing units were to be created by rehabilitating existing housing at Devens. After a developer was chosen in 2000, it was found that 180 of those units had been constructed on slabs atop soil drenched in pesticides. Housing development was therefore divided into two phases. Phase I housing consists of 102 ownership units, with the first sales expected in spring 2001. The Army has agreed to remediate the contaminated soil, and the Phase II housing will be all new construction.

Twenty-five percent of the housing created at Devens will be deed-restricted for households with less than 80 percent of median household income. The first lottery for the affordable units is scheduled for spring 2001. The host communities would like to give local residents preference in this and subsequent affordable housing lotteries.

Other housing at Devens serves special populations. Sylvia's Haven provides 50 units of transitional housing for homeless and battered women and their children. In addition, the Central Massachusetts Shelter for Homeless Veterans has leased two townhouses and four bungalows in order to provide 40 beds of transitional housing for employed, formerly homeless veterans.

"Downtown Devens"

The Business Services Center, often referred to as “downtown Devens,” is intended to serve employees at Devens businesses and, eventually, the residents of the new housing district. Although a preliminary physical master plan was prepared, questions about market support remained and a market study is now underway. Merchants in downtown Ayer and Shirley village are concerned that new consumer retail and services in Downtown Devens could rob them of customers. The Town of Shirley was recently advised by a consultant that its village retail survives precariously and might not fare well if a new retail center were to be created on the Devens land identified as a village business center in the Reuse Plan. Shirley now has its town offices and library on that land. On the other hand, some residents of Harvard have expressed interest in seeing an area that includes consumer retail and services that Harvard lacks.

Education and Training

During the charrette and in the initial planning for the reuse of Devens, there was considerable discussion about recruiting educational institutions that could act as catalysts to attract and incubate innovative technology businesses. This aspect of the Reuse Plan vision has not materialized. The education programs at Devens tend to be focused on rehabilitative and vocational education.

After losing its contract with the Ayer school system, MassDevelopment decided to create a Devens School District to be operated on contract. The system will serve children in the new housing district and in Sylvia's Haven starting in September 2001. The state will pay for the school costs for an unknown period.

Design Character

The Reuse Plan envisions a large industrial and office park threaded with conservation and recreational open space and containing small pockets of housing, adaptive reuse of historic military buildings, and business-serving retail and services. After five years of implementation, the need for more detailed planning principles and planning standards has emerged. The new facilities built at Devens are at best inoffensive from a design point of view. Neighborhoods in the host communities want substantial buffers between them and the industrial sites. A related issue is the need for better internal planning and design standards within Devens.

The Barnum Road area is a particular focus of concern over buffering of industrial uses from residential neighborhoods in Harvard and Ayer. MassDevelopment in fall 2000 hired a consultant to work with the towns to develop a plan for a buffer zone in the Barnum Road area and flag Cold Spring Brook wetlands in the area. Issues include visual and noise buffering, traffic, and impacts on Cold Spring Brook. Harvard would like MassDevelopment to respect the 200-foot buffer required by the Rivers Protection Act, but the agency says the Act does not apply in Devens.

Because of the desire to demonstrate the economic viability of Devens, there was no detailed master planning of the industrial park zones delineated in the Reuse Plan. The DEC developed standards for individual site planning, but the overall aesthetic character and design functionality of new development and associated landscapes as an ensemble has not

been taken into account. Guidelines and requirements are needed for more harmonic visual relationships among the different land uses at Devens, including enhanced buffers between zones as appropriate. The imminent arrival of new residents is beginning to focus more attention on the need for a well-designed community that is more than a collection of industrial and office parks, recreation sites, and conservation land. In addition, improved directional signage is needed.

Another aspect of the community character issue is the fate of historic sites and buildings, particularly Vicksburg Square. The emphasis on new construction on greenfield sites has raised the concern that not enough effort is being put into finding uses for the Vicksburg Square buildings. MassDevelopment says that a market study is being done and a Request for Proposals issued, but it has not yet had serious expressions of interest in the buildings.

***Tri-Town Common
Issues – Infrastructure***

- Condition of infrastructure now and condition at time of disposition
- Future maintenance and capital requirements for Devens infrastructure and town funding capacity
- Possible regional solutions and special districts for future administration

INFRASTRUCTURE

When it acquired Fort Devens, MassDevelopment also acquired all the Army's infrastructure. The Towns need to have independent professional engineering evaluations of each of the infrastructure systems in order to evaluate current capital and maintenance plans and possible options for the future.

Utilities

MassDevelopment sells electricity to customers in Devens. Rates are said to be competitive, but they provide MassDevelopment with its the largest single source of revenue in Devens (nearly \$5 million in FY 99). This situation raises the possibility that MassDevelopment would have an interest in attracting high users of electric power. This, of course, would be counter to the spirit of sustainability and environmental protection that is an important part of the Reuse Plan. Upgrades of the electrical system and the natural gas system are underway or planned.

Wastewater System

MassDevelopment has signed a design-build-operate contract for the extension and upgrade of the Devens wastewater treatment facility. The Town of Shirley, MCI-Shirley, and possibly Ayer will also use the system. The length of the operation contract is 20 years.

Roads and Transportation

The transportation element of the infrastructure section of the Reuse Plan includes a number of proposed road improvements and transportation elements in order to enhance access to and within Devens without overburdening roads in the host communities. The JBOS Transportation Committee has not yet been established. Improvement projects underway or completed include:

Tri-Town Common Issues – Traffic and Transportation

- Better control of truck traffic and truck routes
- Appropriate road improvements and access where needed
- More subregional public transportation options available to Devens and to the Towns, such as shuttle buses
- Retain Ayer and Shirley train stations and commuter rail service

- Reconstruction of Jackson Road/Route 2 interchange funded and underway
- Road and utility work in Jackson Technology Park
- Conceptual design for Jackson Boulevard to provide through access from Jackson Gate to Verbeck Gate
- Conceptual design for improvements to Patton Rd to provide direct access from Route 2 to Devens Industrial Park as the primary truck route
- Rail intermodal facility opened 1998

The Reuse Plan also identified several other important transportation issues that have not yet been addressed. These include improvements to the Carleton Rotary and Barnum Gate area and to the Park and West Main Street intersection in downtown Ayer. The Reuse Plan states that the use of MacPherson Road should be encouraged. Acknowledging the difficulties caused by a low bridge height clearance and seasonal flooding, the Plan includes a commitment to a detailed engineering study of the MacPherson Road corridor.

Traffic Impacts

One of the biggest concerns for the host communities is traffic. Truck traffic is perceived as particularly burdensome, though information on the amount of traffic that can be ascribed to Devens is not yet available. Improvements to the Devens exit on Route 2 and to Patton Road are intended to provide the primary truck entrance to the West Rail Industrial Park, where distribution and warehousing centers are located.

Most Devens employees commute in single-occupancy vehicles. In 1999, 40 percent of respondents to an employee survey said they use the Jackson entrance and 96 percent drive to work alone. (Although the survey was limited, there is no reason to assume that this commuting profile is incorrect.) At present levels of employment, commuter traffic impacts are not perceived as burdensome by the host communities. In the

future however, the organization of a Transportation Management Association and shuttle service within Devens and to the train stations could also provide needed subregional public transportation for residents of the host communities, while mitigating peak hour congestion.

Results of a traffic study undertaken in 2000 by MassDevelopment will soon be released. It is unfortunate that the JBOS Transportation Committee mentioned in the Reuse Plan was never formed because it could have been active during this study period. The study should provide a wealth of information on traffic generated by Devens including:

- traffic counts
- vehicle classification counts (trucks, cars, etc.)
- intersection turning movement counts
- truck origin and destination data
- background (non-Devens) traffic growth trends
- trip generation projections based on land use zones
- traffic distribution at selected off-Devens intersections
- capacity analysis based on several different buildout scenarios

One of the most important elements of this study is a comparison of projections based on data collected for Devens' existing development and the projections made for the Environmental Impact Report. The average daily trip projections made for the EIR on the basis of low, medium, and high-impact development according to the Reuse Plan and Devens Zoning are among the key criteria used for issuing the MEPA certificate and are tied to buildout numbers. MassDevelopment staff have stated that the traffic study found that, based on current and expected uses, and on the highest traffic-generating uses under zoning for vacant parcels and buildings, a buildout at 8.5 million square feet will not bring traffic impacts above the EIR ceiling of approximately 50,000 average daily trips. This would mean that a buildout of 8.5 million square feet would be possible without reopening the environmental permitting process.

Public and Semi-Public Transportation

During the first five years of the Reuse Plan there was discussion about creating a Devens commuter rail station with an associated 500-car garage near the present Shirley Town Offices site in Devens and closing the Ayer and Shirley stations. Both of these communities are vehemently opposed to these proposed closures and, at present, the idea seems to have been abandoned. However, as employment grows at Devens, management of commuter traffic through promoting use of commuter rail will become

important. MassDevelopment has applied to MassHighway to fund a Transportation Management Initiative. Creation of a Transportation Management Association, including shuttles to the commuter rail stations, as well as other routes, could be organized in such a way as to provide some public transportation within the host communities.

MUNICIPAL SERVICES

MassDevelopment is responsible for the public works, police, fire, and school services traditionally provided by municipalities. In some cases it has contracted out these services and in other cases has its own staff.

Public works responsibilities include maintenance of:

- 92 miles of roadway and 5 miles of sidewalk
- 330 acres of improved grounds and sports fields
- 525,000 sf of leased and vacant buildings
- operational responsibility for water
- fleet of more than 49 vehicles and pieces of equipment

Through a contract with the State Police, 13 state troopers patrol Devens. The 1998 cost was \$792,000 per year. The Fire Department has 22 employees, a truck and five pieces of equipment.

The only schoolchildren living at Devens since the base closure are living at Sylvia's Haven and MassDevelopment contracted with the Ayer Schools to educate them. Ayer opted not to renew the contract this year. Now that the Phase I housing units are expected to be occupied in the spring and summer of 2001, more schoolchildren may be arriving at Devens. MassDevelopment has decided to create a Devens School District, opening in September 2001, to accommodate elementary-age children. The agency issued an RFP to run a school and is choosing the operator. The state will pay the costs for an undetermined period.

Occupation of the housing units will also require arrangements to provide other town services, such as voting, for which MassDevelopment will reimburse the towns. These considerations all flow from the changes that will come to Devens when people begin living there. The relationship of the new residents to MassDevelopment, to the host communities, to school systems, and to other institutions of governance and citizenship have not yet been worked out, yet they may have critical

Tri-Town Common Issues -- Municipal Services

- How do the municipal service fees compare with real estate taxes?
- Are there any deed restrictions or other covenants on future fees or taxation by the towns?
- What are the long-term financial and other implications of the decision to create a new school district ?

consequences for the future disposition and shape of Devens. Further discussion of these issues can be found later in this report.

FINANCES

The financial situation of Devens is difficult to parse. From year to year in its annual reports on Devens, MassDevelopment provides different kinds of financial information and different levels of information, making it difficult to make comparisons and understand trends. The assumptions underlying certain figures are rarely explained.

- In 1998, land sale prices were set at \$65,000 to \$95,000 per acre for prepared sites.
- Through FY 1999, total investment in Devens by MassDevelopment has been \$84 million (\$32 million in capital expenses and \$42.4 million in operating expenses) and revenues from land and building sales has been \$10.5 million. Other revenues, such as rents, utility income, and government grants totaled \$20.6 million.
- Municipal service fees (equivalent of real estate taxes) are levied on the basis of building and lot size rather than value. FY 95-99 fee collections totaled \$1 million, which is a very small percentage of the \$20.6 million in revenues and an even smaller percentage of the \$42.4 million in operating expenses. MassDevelopment says it has determined that the municipal service fees are comparable in revenue generation to local real estate taxes. The basis for this determination has not been shared with the host communities.

The municipal service fee structure is subject to a one-time readjustment effective July 1, 2002. Thereafter, the MassDevelopment Board has decided that the fee will only be adjustable according to the Consumer Price Index and may not exceed more than four percent in a single year. The reasons for choosing the CPI as the benchmark and four percent as the annual increase limit has not been revealed. MassDevelopment is now estimating rate increases of 2.5 percent per year without giving a reason for that estimate. It may simply be based on a decision to abide by the Proposition 2-1/2 limits under which municipalities currently operate.

COMMUNICATIONS AND OVERSIGHT

The host communities gave up direct jurisdiction over land use decisions in Devens when they voted for the Reuse Plan and the Zoning By-law. However, because jurisdiction may return to the towns in the future and because they are inevitably affected by development decisions made at Devens, the towns have often felt that they lack accepted mechanisms for making their concerns known. MassDevelopment, because it is acting as a real estate promoter and developer, likes to keep negotiations with potential buyers confidential, for obvious reasons. Town residents who appear before the DEC at public hearings have perceived the DEC as often dismissive of public testimony. There is a sense among many that the decisions are pre-determined by the time of the hearing. Devens' promise to potential businesses of a streamlined 75-day permitting process clearly reduces the time available for changes and negotiation resulting from public concerns.

Although each town has two commissioners and an alternate who are perceived on the DEC as being the "representatives" of that town, they are not perceived in the towns as functioning that way. There are no prescribed reporting requirements, for example, to Town Meeting. Moreover, the legislation does not require balanced representation of specific kinds of expertise on the DEC. Town Five-Year Review committees would like to see more Commissioners with knowledge of planning, environmental issues and public health, to balance the overwhelming business-orientation of the DEC up to the present.

There are some efforts being made to improve relationships. MassDevelopment, which had let its Community Liaison department fall below full strength, has now appointed new leadership for that department. The DEC has taken steps to provide more timely information and create a more transparent process. Agendas, meeting minutes, and DEC documents are now available on the DEC web page.

Although these are steps in the right direction, they do not resolve the structural problems inherent in the relationship between the Towns and the Devens agencies. The Towns feel that they are always put in a reactive position and have little opportunity to participate in forward planning. In some cases, such as the unsuccessful attempt to locate a sludge plant in the Shirley section of the North Post, strenuous opposition from the Towns resulted in changes in planned development. Residents in the Shirley neighborhood adjacent to the North Post, as well as residents in Harvard, say that MassDevelopment now contacts them before taking any actions. This kind of ad hoc recognition of the interests of the host communities tends to create a climate of suspicion rather than

cooperation, because residents feel they must monitor activities, ferret out information, and make loud complaints in order to get the attention of MassDevelopment. Adding to these problems is the fact that there is only one full-time municipal planner, who has many other responsibilities, among these three communities. It is extremely difficult for the town administrations to keep abreast of events at Devens and evaluate their impacts on the town.

JURISDICTION AND DISPOSITION

The most important question looming over the Devens Reuse Plan Five-Year Review is the most difficult to answer. What should ultimately happen to Devens? Should jurisdiction return to the towns? Should Devens become a separate municipality? When should a decision about this be made? What decisions are being made right now that may lead to one or the other result without an explicit choice being made? What do the towns need to know in order to make informed choices? For many people, it is difficult to make some of the smaller decisions without knowing whether Devens jurisdiction will return to the towns or not. Whatever happens, Ayer, Harvard and Shirley will need to pay attention to changes at Devens.

The final disposition question emerged over and over in town Five-Year Review Committee discussions and at the public meeting. At the public meeting, the consultant team suggested that the next five years should be spent on crafting a Disposition Plan as a companion to the Reuse Plan. This suggestion resonated with the participants at the meeting and there was general agreement that it should be the central recommendation of this report. Revisions to the Reuse Plan and other documents, procedures, and plans will also be needed, but clarification of the disposition process and its goals is essential.

PART THREE: **THE DEC AND MASSDEVELOPMENT** **FIVE-YEAR REVIEWS**

During the period that the town Five-Year Review Committees were working with each other and the consultant, the MassDevelopment and DEC Five-Year Reviews were released. The committees did not review these documents. The summary and analysis that follows reflects the consultant's response to these documents in light of the town committees' views and concerns about implementation of the Reuse Plan.

THE DEC FIVE-YEAR REVIEW

The Devens Enterprise Commission regulates land use and development in Devens through a unified permitting system. As a permitting agency, the DEC tends to focus on specific parcels and their layout rather than overall planning initiatives. Currently dependent on annual appropriations for its operations, the DEC is seeking a regular revenue stream through a small per square foot fee on Devens development effective July 1, 2002. Ongoing funding will permit the DEC to continue its regulatory activities and to take a stronger overall planning role for the future of Devens, as seen in its Five Year Review.

DEC's Review identified and made general recommendations on some of the same issues that have concerned the host communities. The DEC is also working on ways to incorporate a more rigorous use of sustainability criteria and concepts in the Devens development process. The main recommendations of the DEC Five-Year Review are:

- Prepare a master plan, including a detailed analysis of the environmental resources and constraints, for the North Post prior to and as a condition for any development scenario for this zone.
- Given the regional housing scarcity, consider allowing more housing on Devens.
- Refine the overall master plan to include better buffering standards both for areas bordering Devens and between lots inside Devens.
- Phase in development at a more measured pace.
- Form a Transportation Management Association to deal with the growing employment base at Devens.

- Start planning for disposition and the end of Chapter 498, including an understanding of how infrastructure operations and continued debt assignments will be worked out.
- Give sustainability a more prominent role in the development and evaluation of projects through providing incentives for green building design using the standardized LEED system developed by the U.S. Green Building Council; use the Sustainability Indicators developed by the DEC in future evaluation efforts; and support the Industrial Ecology Project begun by the DEC.
- Prepare zoning bylaw regulations within the next five years under section II.F. Innovative Development Options, which is currently open, for downtown development, possibly for corporate campuses, and for open space housing subdivision development options.
- Develop a prototype Integrated Pest Management Program for herbicide and pesticide use.

The DEC seems to be positioning itself to remain as a subregional planning and permitting entity for Devens. The Towns must decide what role, if any, they want the DEC or a successor organization to play after buildout.

THE MASSDEVELOPMENT FIVE-YEAR REVIEW

As a result of MassDevelopment's Five-Review, the Board of Directors adopted six "strategies" to guide future development at Devens:

- Focus the 8.5 million square feet of non-residential, non-federal buildout in an area they call the "core areas" of Devens, which they define as all those areas except the North Post, the Davao Housing area between Patton Drive and Robbins Pond, and the Special Use District also known as Salerno Circle.
- Future development of those areas that MassDevelopment defines as being "non-core" or peripheral areas "should be planned through a collaborative effort with the host communities." MassDevelopment staff have suggested that the agency would make the needed infrastructure investments and recruit appropriate phased development, the towns could regain municipal jurisdiction, and then MassDevelopment and the towns could share the revenue that was

generated from the new development. Development in the non-core areas is envisioned as additional to the 8.5 million square feet in the core, potentially bringing Devens buildout to much more than the current by-law cap permits, exclusive of housing. The impacts of that development and the pros and cons of a continued MassDevelopment presence would have to be evaluated.

- MassDevelopment and the host communities should explore expanding housing on Devens beyond 282 units and maximize the development of affordable housing. The agency is being charged by the governor with helping to alleviate the housing shortage in Massachusetts. The impacts and consequences of increased housing and a new planning approach to housing at Devens will need study.
- Downtown Devens development should include a mixture of uses including retail, office, residential, hospitality, and cultural and civic activities. Coordinating to mitigate negative impacts on Ayer and Shirley village centers and on Harvard, while providing beneficial opportunities, will be important.
- Municipal services costs and revenues should break even on an annual basis. How this will be calculated and needs for capital reserves met must be clarified.
- MassDevelopment should analyze its Devens investments from the point of view of a real estate developer seeking return on investment. This strategy implies that MassDevelopment may not see itself as having any special role in bringing innovative development to Devens.

The MassDevelopment Review is explicit about the need to create a sense of community at Devens. The desire for more housing, the creation of a Devens School District, planning for a mixed-use downtown district, and the focus on a core area all imply the creation of a potentially self-sustaining community. By saying that the host communities should collaborate in planning for the non-core areas, MassDevelopment implies a lesser role for the towns in influencing the core areas. At present, MassDevelopment leaders say that there has been no decision to try to create a new municipality. The new strategies noted above, however, would make a the possibility of a new town credible, particularly if more housing were to be allowed. The towns should be discussing the implications of these strategies openly and early with MassDevelopment.

DEVENS AND SUSTAINABILITY

The Reuse Plan repeatedly uses the language of sustainability, which it defines as "achieving a balance of economic, social and environmental needs, while maintaining and enhancing the natural resource base." In practice however, MassDevelopment's primary focus in the early years of the Reuse Plan has been on economic viability. It was critical to demonstrate that the agency could attract businesses and jobs to Devens. From the viewpoint of MassDevelopment, the preservation of hundreds of acres of open space combined with strong regulatory protections for water resources has shown their commitment to sustainability. The towns' Five-Year Committees, however, expressed continuing concern about the effects of as-yet unremediated contamination, as well as continued development, on critical drinking water aquifers.

The DEC proposes to clarify the sustainability goals of the Reuse Plan and give them more specificity and visibility by monitoring development through sustainability indicators, providing incentives for green building, and promoting industrial ecology. If done well, these proposals could help realize the innovative and distinctive vision for Devens contained in the Reuse Plan. The Sustainability Indicators report prepared by the DEC, however, needs substantial revision and improvement in order to be worthwhile. At present it is too general and subjective, lacking measurable indicators and explicit relationships between the indicators and desired outcomes. It is also unclear who would be making the evaluations and how they would be made.

In order for the green building and industrial ecology proposals to be effective, MassDevelopment has to be persuaded that it is worthwhile to make extra efforts to recruit businesses that fit into this vision. Leading-edge businesses in our region are now constructing buildings, both commercial and residential, that will incorporate green building and operations practices, meeting the high standards of the LEED certification process. MassDevelopment's Five-Year Review gives short shrift to environmental innovation and sustainability. If the Towns were to make this an active part of their vision, Devens could become a truly innovative business and residential community, attracting high value businesses while maintaining a very high quality of life.

DEVENS AND COMMUNITY

This spring the first new homeowners are expected to move into neighborhoods at Devens. The arrival of a residential population will raise many questions and may have unforeseen effects. The military populations that once lived at Devens were part of a community - the Army - that gave them a sense of identity within a physical place organized to reflect that military community.

The Reuse Plan was not focused on creating a viable residential community and did not emphasize the development of a physical plan that makes sense for a residential community. The small amount of housing, 282 units, was envisioned as an enclave within the industrial-commercial orientation of most of the planned development. If the Towns and MassDevelopment agree that more housing should be part of Devens, much more attention will have to be paid not only to the physical design of residential areas and mixed-use areas, but to the way that they fit into Devens and the Towns as a whole. The new residents of Devens will want to feel that they are part of a wider community, not just a minority land use in an industrial park. Planning and design decisions might be somewhat different depending on whether jurisdiction over Devens will be returned to the Towns or whether Devens (or its "core" areas) will become a separate municipality. Because of Devens' history as a military enclave, its physical organization does not facilitate linkages with the host communities. The preferred location of new housing depends on choices about linkage, access, and the future identity of Devens neighborhoods. Neighborhood and "downtown" planning decisions to be made in the near future may end up predetermining certain disposition outcomes.

Care must also be taken to integrate subsidized affordable housing into residential neighborhoods. More affordable housing is needed in all the host communities and MassDevelopment has been charged by the Governor with creating more housing in order to expand affordability throughout the state. It is important that subsidized affordable housing in Devens neighborhoods be mixed randomly with market rate housing and be otherwise indistinguishable from market rate housing. It has been shown many times that this kind of "scattered site" affordable housing is extremely successful and avoids the possibility that certain neighborhoods, or all of the Devens housing areas, might be stigmatized in comparison to housing in other parts of the host communities.

Many school issues will also arise. MassDevelopment is moving ahead with the creation of a new school district and plans to create a K-8

charter school that might have a special science and engineering focus. The assumption is that students will go to one of the host community high schools thereafter. However, there are many complexities that have yet to be explored, let alone resolved: election of a School Committee, involvement of towns where students reside, relationships among school systems, integration of resources, high school capacity, flexibility of school buildings if jurisdiction changes, continued state funding of a Devens school system, and so on.

Finally, the new residents of Devens will be creating a civic community as well as a physical community. What will be the consequences of the fact that MassDevelopment will be providing municipal-type services while the residents will vote in one of the Towns? Will they look on MassDevelopment as the equivalent of the operator of a gated community? What will their expectations be about their right to have a say in how their community develops and how their school system is operated? The civic identity of Devens residents will be tied to the host communities in which their homes are located. As MassDevelopment and the Towns begin to work together to revise the Reuse Plan and to create a Disposition Plan, the new residents of Devens must be invited into the process.

PART FOUR: RECOMMENDATIONS

RECOMMENDATIONS

The following specific recommendations were prepared by the consultant and endorsed by the three town Five-Year Review Committees. They revolve around three fundamental ideas:

- *The Towns must have independent and ongoing professional advice, monitoring, coordination, grant proposal preparation, and planning expertise in relation to activities at Devens and their impacts on the host communities.* Without this kind of professional assistance, the Towns will always be in a reactive position and dependent on MassDevelopment and the DEC. Funding for a staff position or a consultant retainer should be continuing and independent of MassDevelopment. We recommend seeking an addition to the municipal fees on nonresidential property (current and future) at Devens that will be readjusted effective July 1, 2002 in the amount of approximately \$0.02 per square foot. Provision of this funding to the Towns will require amendment of Section 21 of Chapter 498 which states: "The Towns shall not be entitled to assess any fees or taxes on property, persons or businesses located in Devens." If at all possible, it would be preferable for the Towns to begin receiving this funding before July 2002 because regular planning assistance will be needed very soon for the proposed Disposition Plan and other initiatives. Perhaps an advance payment from the state could be arranged, subject to repayment from the funding stream beginning in July 2002.
- *The Towns must negotiate with MassDevelopment to have more influence on the continuing development and buildout of all areas in Devens.* This includes the "core" as well as the "outparcel" areas that MassDevelopment designated in its Five-Year Review, but which have not been accepted as categories by the towns. Although it is not explicit, the tone and underlying implications of the MassDevelopment Five-Year Review include the following:

MassDevelopment is not inviting collaboration from the Towns in its goal of completing the 8.5 million square foot buildout of the "core" areas of Devens by 2008, though certain of its currently desired initiatives, such as more housing, would require town approval of changes to the Reuse Plan and the Zoning By-law.

MassDevelopment is willing to let the "outparcels" wait because of the high financial cost of infrastructure investment necessary before development and because of the high political cost of negotiating with the Towns about areas perceived as having more direct impact on existing town neighborhoods than the core. In addition, it believes that the 8.5 million square feet of buildout can be accomplished within the impact limits set by the EIR. Development of the so-called outparcels would require new EIRs.

Depending on the overall economic and political circumstances, MassDevelopment might find that, after completing the 8.5 million square feet in the Devens core, it has less interest in the outparcels after FY2008. The Towns must determine what land uses they want on those parcels and gain commitments from MassDevelopment before FY2008. The towns must be assured that the municipal fee revenues from a completion of the 8.5 million square foot buildout will be sufficient to pay for education and other services. The towns must also consider if they want to wait till 2008 for development of the peripheral parcels at Devens.

MassDevelopment is improvising as it deals with contingencies and complications, such as the end of the school contract with Ayer and the desire to create more housing. A Devens School District will solve the immediate problem of where to school the children of Devens residents, but it also raises many short- and long-term questions. Similarly, because MassDevelopment has been charged with creating housing on state-owned land in order to alleviate the state's housing shortage, it now has more interest in building housing at Devens and creating a viable downtown district. The implications of these decisions for the creation of community and civic identity were discussed earlier.

Because MassDevelopment will be making many decisions in the next few years that will shape the character of the entire subregion and the range of possible disposition options, it is important that the Towns be part of the decision making process. In some cases the law will require town action - such as changes to the Reuse Plan and the Zoning By-Law to permit more housing - but in other cases MassDevelopment is not required to seek Town approval to implement some of the agency's proposed actions described in its Five-Year Review. An official Advisory Committee with defined responsibilities and regular meetings with MassDevelopment could be created through amendment of the legislation and the Reuse Plan. Subcommittees on Open Space,

Transportation, Housing, and Disposition could operate under this committee. Working more closely together on current and imminent development issues will give the Towns and MassDevelopment a better understanding of what should happen in the remaining undeveloped areas and in what sequence. Planning should capitalize on the relationships among all the areas within Devens and between Devens and the host communities. For example, creation of a Transfer of Development Rights (TDR) program could help the host communities preserve open space and rural character while directing development to infrastructure-rich Devens.

- *The Towns and MassDevelopment must develop and agree to a Disposition Plan within the next five years.* The basic elements of the Disposition Plan should be in place even earlier, ideally within the next two years. MassDevelopment hopes to complete the 8.5 million square feet of buildout in the central parts of Devens by FY 2008 -- approximately seven years from now. Development from now on may prove more complex and difficult than during the last five years (when the agency concentrated on gathering the "low-hanging fruit"), but it is not inconceivable that the 8.5 million square-foot buildout could be complete in less than seven years. The way that buildout occurs, as well as any residential construction, will profoundly shape the character of Devens and its relationships to the Towns. This is why the Towns must have more influence over the development of all areas in Devens as they work with MassDevelopment to craft a Disposition Plan. The Towns will also need more, and more complete information from MassDevelopment in order to make informed decisions on development and disposition steps and to craft acceptance criteria for return of jurisdiction.

DETAILED RECOMMENDATIONS

Within 18 months:

<i>Action</i>	<i>Responsible Entity</i>
Seek a continuing, independent revenue source as soon as possible to fund ongoing planning assistance under the direction of the JBOS – for example, a \$0.02 per square foot payment on nonresidential development at Devens	JBOS seek state legislative action: amendment to Ch. 498
Seek requirement that MassDevelopment report to towns on current revenues and expenses with future projections and underlying assumptions and on any agreements that may constrain the future exercise of governmental powers by the Towns	JBOS seek state legislative action: amendment to Ch. 498
Perform tax assessments on sample properties and compare fee revenue to property tax revenue; project the outcome into the future; evaluate if the CPI is the most appropriate index for change in fees	JBOS
Seek agreement on establishment of a disposition planning process	JBOS with MassDevelopment and DEC; legislative action if necessary
Establish a JBOS Devens Advisory Committee to work with MassDevelopment and DEC on preparing revisions to the legislation, Reuse Plan and Zoning By-Law to reflect current conditions and future plans	JBOS with MassDevelopment and DEC
Establish the JBOS Transportation and Housing Committees as subcommittees of Advisory Committee (along with Open Space Subcommittee)	JBOS
Develop a scope for creation of a Disposition Plan	JBOS with Disposition Subcommittee
Make sure that each BoS has designated a town official to submit town requests for reconsideration of any determinations made by the DEC (see Section IV.B of the Zoning Bylaws)	Boards of Selectmen
Change the DEC appointment process to require a balance of expertise on the Commission to reflect knowledge in environmental affairs, planning, housing, and design, as well as economic development	JBOS seek state legislative action: amendment to Ch. 498
Prepare North Post environmental resource inventory, assessment and plan	MassDevelopment, DEC, towns
Master Plan for North Post Airfield with cost estimates, timelines, and commitment of resources for implementation	MassDevelopment, DEC, towns

Action	Responsible Entity
Support the creation of more housing units at Devens after revision of Reuse Plan	Towns vote on Reuse Plan and Zoning By-Law
Support housing as a possible adaptive reuse for Vicksburg Square	JBOS, agencies
Support incentives for “green building” to enhance the Devens environment after revision of Reuse Plan	Towns vote on Reuse Plan and Zoning By-Law
Establish civic identity of Devens residents – e.g., where do they vote – and invite them to participate in planning process	JBOS and MassDevelopment
Determine state funding commitment to Devens school district costs. Seek legislative commitment in exchange for expanding housing?	Legislature Towns
Update Open Space Management Plan and begin implementation of Trails Plan	Open Space Committee with MassDevelopment
Transfer conservation restrictions to TTOR	MassDevelopment
Engineering evaluations of infrastructure systems	JBOS
Consider revision of method for amending the Reuse Plan to make planning more flexible – as long as towns are given real participation	JBOS, agencies

Medium to Long-Term Planning:

Action	Responsible Entity
Develop a Transfer of Development Rights program linking open space preservation in the host communities and development in Devens	Towns, MassDevelopment, DEC
Create a Transportation Management Association open to regional residents	MassDevelopment, Towns
Revise Reuse Plan to include Shirley municipal uses and consider transfer of land to Shirley	agencies and Towns
Implement an integrated pedestrian, bicycle and open space plan linked with the towns	agencies, Open Space Committee and Towns
Towns decide on lands they want for municipal uses	Towns
More detailed physical planning for the different land uses at Devens and to create a harmonious relationship among land uses	agencies and Towns
Develop a comprehensive plan and schedule for contaminated sites	Army, DEP, MassDevelopment, with Town input

Revisions to Legislation

- Funding for JBOS planning in relation to Devens
- Refine DEC appointment process and requirements
- Creation of Town Advisory Committee to work with MassDevelopment and DEC on development planning and disposition planning and to receive MassDevelopment financial reports regularly
- Possible change in what constitutes a major amendment so that planning can be more flexible (but only if it is also more democratic and transparent)
- Explicit provision and funding for creation of a Disposition Plan

Revisions to Reuse Plan

- revise plan to reflect current uses where their continuation is desired
- revise plan for more housing and design for community creation or connections
- revise plan to include benchmarks and monitoring criteria
- revise plan to strengthen overall harmonious distribution of uses and linkages with host communities
- include a School Plan to include agreements on reimbursement, school building needs, population projections, plans for where new schools will be built and for which grades
- revise plan where needed to better protect open space values in undeveloped areas, e.g., Shirley North Post and Barnum Road adjacent to Cold Spring Brook

Revisions to Zoning By-Law

- refine zoning to give better guidance for preferred uses
- permit mixed uses in areas such as Vicksburg Square
- require submittal of open space/conservation subdivision alternative for all housing subdivision projects
- give incentives for adaptive reuse of existing buildings and for green buildings
- strengthen landscape and buffer standards
- require river and stream setbacks
- prohibit detention basins and utilities in currently forested buffer areas
- require developers to respect and/or incorporate trail segments into their projects where properties lie along the open space linkage zones, avoiding fragmentation of the proposed trail network by access ways and other development features

Issues for Disposition Planning:

Jurisdiction

- Return of jurisdiction according to historic town boundaries or with adjusted town boundaries (avoid split buildings)
- Return of jurisdiction in part to some or all of the towns
- Creation of new municipality from existing Devens or viable portion of existing Devens
- Zoning control transferred to towns subject to agreements that provide stability for those on site or locating on site.
- Create a sub-regional, tri-town planning entity?
- Continuing federal enclaves (prison; army)

Land Ownership

- Buildable land remains in state ownership for development? With continuation of the DEC?
- Buildable land transferred to municipalities?
- Open space and recreation land: ownership by state? transfer to municipalities? transfer to nonprofits? maintenance plan?
- Recreational land in a Town to be owned by that Town: e.g. Willard Park Complex and fields adjacent to Ayer housing on Bates
- Roads and other infrastructure to state? towns? regional district?
- Determine ownership of properties and develop a plan so towns can assess and tax in accordance with current operations
- Land must be available free and clear of contamination for town needs, and operation including: for Harvard, schools, public works, public safety, playing fields, etc.; for Ayer, McPherson Well and DCC transfers permit rights to Ayer
- Ownership of all structures and parcels clearly established and agreed to
- Unused structures not identified or funded for reuse must be removed
- Current landowners must be appropriately informed of transition to new systems of operations
- Phasing in developed or reuse parcels only upon agreement by towns

Environment

- Sites requiring remediation must have plan, timetable, and guarantee of funding to complete remediation
- Determination that remaining contaminated sites could have no adverse (legal, operations or other) impact on the Town
- Agreement to protect town from liability if contamination is identified in the future
- Recreation and natural resource areas must have a plan for long-term management and maintenance in place, funding and responsibility clearly identified and secured
- Free recreational use rights for passive or open space lands that do not return to Towns' jurisdiction

Financial viability

- All Devens revenues and expenses must be balanced and include capital plan, administrative, public service, and educational costs.
- Taxes/fees of all activities on Devens must raise revenues as above and generate enough to develop a capital and stabilization fund for each town and to maintain infrastructure and other site related expenses
- User fees must be comparable to levied taxes
- Each Town receives in-lieu-of taxes payments made by any governmental entity owning real estate in that town's portion of Devens.

- How will a transition from user fees to real estate assessment and taxation be accomplished?
- Are there any commitments about fees or taxes contained in deeds or other agreements with Devens landowners?

Infrastructure

Maintenance and capital plan

- Plan for maintenance of roads, recreation areas, and public facilities
- Necessary equipment, buildings and yard facilities transitioned in good operating condition
- Ownership of all public facilities to be maintained by a town must be transferred to that town
- Adequate equipment, facilities, and access must be in place to provide public services to the site

Sewer, water, waste disposal

- Regional districts established for sewer and water, and for the operation and maintenance of necessary regional facilities
- Sewer and water facilities in good operating condition and adequately capitalized to make needed improvements
- Self-supporting plan for trash disposal

Transportation

- Road access predetermined and constructed for all functions and circles of interaction
- Truck routes established and monitored away from housing areas and local access roads
- Commuter rail station planning
- Traffic calming, noise abatement and other measures in place to mitigate increased traffic impacts
- TMA – transportation management association with opportunities to provide transportation to town residents
- North Post Airfield: environmentally clean; appropriate infrastructure to facilitate/handle development
- Roadway infrastructure improvements and for mitigation including: McPherson Road, Park and West Main, Bishop Road and Park Street, Tiny's Corner, Verbeck Gate

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