



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION OFFICE OF TRANSACTIONS AND PUBLIC LAND ADMINISTRATION

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February 29, 2024

VIA EMAIL AND REGULAR U.S. MAIL

Bernadette P. McPherson, Esq.
Director of Outreach
Millenium Strategies
60 Columbia Road
Building B, Suite 230
Morristown, New Jersey 07960

RE: Applications to Divert Parkland

School Trailers at James L. Braddock County Park
Block 437.02, part of Lot 1
Township of North Bergen, Hudson County
Applicants: County of Hudson and Township of North Bergen
Our File # SHC 0900005

North Bergen EMS South Facility
Block 103, part of Lots 107 and 127
Township of North Bergen, Hudson County
Applicant: Township of North Bergen
Our File # SHC 0908003

Authorization to Proceed to Final Applications

Dear Ms. McPherson,

I am writing regarding the Department of Environmental Protection's review of the above-referenced diversion pre-applications originally filed on March 8, 2021 by your clients, the County of Hudson and the Township of North Bergen, and further supplemented by the applicants' responses to the Department's October 5, 2021, and January 31, 2023 comments (collectively the "pre-applications"). After review of the pre-applications, and pursuant to N.J.A.C. 7:36-26.9(g), the applicants are now authorized to submit the final application documentation required by N.J.A.C. 7:36-26.11(b)1 through (b)8. Pursuant to N.J.A.C. 7:36-26.11(a), this information is to be submitted within 180 days of receipt of this letter. Please note that, in accordance with N.J.A.C.

7:36-26.9(j), this authorization to proceed does not constitute an approval of either application, but rather a determination as to the administrative completeness of the pre-applications.

Under N.J.A.C. 7:36-26.11(b), the applicants must submit various technical documents, including surveys and appraisals (not older than a year) for both the diversion and compensation properties, and title work and preliminary assessment reports (PARs) for all compensation properties. PARs and surveys previously submitted to and approved by the Department do not have to be redone. However, all technical requirements set forth in N.J.A.C. 7:36-26.11(b)1 through (b)6 must be met for any replacement properties offered by the applicants to supplement the March 2021 preliminary compensation proposal. Once submitted, the Department will review and approve any technical documents under current Department standards (as detailed on the Department's Green Acres Program website at <https://dep.nj.gov/greenacres/technical-and-financial-services/>). These reviews and approvals must be complete before the Department will authorize the applicants to schedule and conduct public hearings on the final applications.

In preparing the final applications, in addition to the information required to be submitted under N.J.A.C. 7:36-26.11(a) and (b), the applicants must address the following items in the final application submittals:

- As part of the May 3, 2023 response to the Department's January 31, 2023 comments on the Braddock Park pre-applications, the applicants offered an additional 0.355-acre parcel of replacement land located at 34th Street and Liberty Avenue. On September 1, 2023, after additional investigation found this parcel to be infeasible as replacement land, the applicants offered a different 0.355-acre parcel of replacement land. The alternative replacement land parcel consists partly of land owned by the Township at 32nd Street and Columbia Avenue and partly of land owned by the North Bergen Board of Education on the adjacent McKinley School site. However, our review has determined that the proposed new replacement parcel is not reasonably equivalent or superior to the proposed diversion area as required under N.J.A.C. 7:36-26.10. The parcel, a small area of land adjacent to a major highway (Route 495) and industrial area containing a bridge embankment and sidewalk, would not be suitable for recreation purposes.

Notwithstanding this determination, since only a preliminary compensation proposal was required as part of the pre-application, the applicants still have the opportunity to identify a different replacement property, or propose additional monetary compensation, as part of the final compensation proposal required under N.J.A.C. 7:36-26.11(b)5.

- The Department requires additional specificity in the final application with regard to the proposed diversion areas. While N.J.A.C. 7:36-26.1(a) strongly discourages the diversion of parkland, the Department must also ensure that the proposed diversion area is adequately sized for its intended use to avoid future inconsistent uses of the surrounding parkland and determine the receipt of adequate compensation. More specifically, applicants should ensure that the proposed Braddock Park diversion area of 1.477 acres is adequate for the intended preschool project, including necessary accessory structures or equipment, parking sufficient for a school of this size, adequate outdoor play area and, as discussed further below, any buffer or access areas required to meet New Jersey Department of Education

(DOE) standards. The school building plans presented in the pre-application lack sufficient detail for the Department to accurately assess total space requirements. Please note that any increase in the size of the proposed diversion area must be reflected in the final compensation proposal (as to the corresponding amount of replacement land and/or monetary compensation proposed as compensation). Applicants are strongly encouraged to address any issues affecting the size of the proposed diversion prior to engaging any professional services for appraisals, surveys, hazard review or title work.

- The applicants' May 1, 2023 submission to the Department states that the proposed preschool complies with Department of Education (DOE) regulations and current guidance for new school construction. While DOE has separate regulatory oversight here, because the Department is interested in ensuring that the proposed diversion area is adequate for its intended purposes, the Department requests that applicants specifically explain how the proposed diversion area is sufficient to comply with DOE requirements for school perimeter buffers, the width of access drives (for safe ingress and egress of school buses), playground space, handicapped parking and access, and any other relevant factors that would affect the size of the proposed diversion area. However, nothing in this paragraph should be construed as a determination regarding compliance with DOE statutes or regulations applicable to either the existing or proposed educational structures.
- In determining the final proposed diversion footprint for the Braddock Park application, applicants must assess any potential tree loss under the basal area replacement requirements at N.J.A.C. 7:36-26.10(c)4 and the associated compensation requirements (through tree planting, monetary compensation for tree planting, or acquisition of wooded replacement land as part of the final compensation proposal).

If you wish to meet with our staff to review these additional concerns before proceeding with the remainder of the application process, please contact Nancy Lawrence, the manager of our Public Land Compliance Section at Nancy.Lawrence@dep.nj.gov. Please note that Maude Snyder, the Compliance Officer previously assigned to these applications, retired on February 1, 2024. Ms. Lawrence will be the point of contact for these applications until further notice.

Sincerely,



Judeth Piccinini Yeany
Assistant Director