

Hudson County, North Bergen Township
Braddock Park Pre-K School Trailers (Block 437.02 Lot 1) and EMS Building (Block 103, Lots 107 & 127) Diversion of Green Acres-Encumbered Parkland
State House Commission (SHC) File #s 0900005, 0908003 Pre-Application Completeness Review

The New Jersey Department of Environmental Protection (DEP), Office of Transactions and Public Land Administration, Public Land Compliance Section, has reviewed the “Response to Green Acres’ October 10, 2021 Completeness Review on Behalf of Hudson County and Township of North Bergen” (Applicants), dated April 5, 2022 (April 2022 Response) for the Braddock Park and Emergency Medical Service (EMS) diversions.

In accordance with N.J.A.C. 7:36-26.9(f)2ii, DEP is requesting the following final clarifications and information so that the pre-application process can be completed. Please provide this information by **March 31, 2023**.

I. Alternatives Analysis (N.J.A.C. 7:36-26.9(d)2)

The Applicant must identify alternatives and address the specific criteria in N.J.A.C. 7:36-26.9(e)1 to 3 to show why an alternative is not feasible, not reasonable, and/or not available. As discussed below, please provide any additional information you have to support the position that Braddock Park is the appropriate alternative site for the Township’s Pre-K program.

A. Alternatives Analysis – Specific Issues cited in DEP’s Green Acres’ Completeness Review, dated October 5, 2021 (Completeness Review)

- 1. Pre-K Requirements:** In the Completeness Review, DEP cited public comments questioning the need for the diversion. In its pre-application submittals, including the April 2022 Response, the Applicants have cited State requirements for a full-day Pre-K program as part of the public need for the diversion. Please provide additional factual information to identify what the specific State requirements are for full-day Pre-K, and how those requirements support or are relevant to the subject application.
- 2. Description of Methods and Explanations for Rejecting Alternatives:** Please provide a more detailed description of the methods employed and explanations for how Applicants identified, analyzed, and rejected each alternative as set forth in N.J.A.C. 7:36-26.9(d)2iii and -26.9(d)2iv. Specifically include an assessment of condemnation or eminent domain acquisition options, and whether land adjacent to an otherwise available site can be acquired to provide suitable space for the necessary Pre-K capacity. In addition, please indicate whether the analysis looked at all properties classified in the Townships tax records as 1 (Vacant Land), 15A (Public School), 15C (Public Property) and 15F (Other Tax Exempt). Please also address the feasibility, and any associated adjustments to the proposed diversion area under the two following scenarios: (1) if a building were constructed with a second floor, and (2) dividing the Pre-K program into the three schools.

B. Alternatives Analysis – Issues Relating to Specific Properties

- 1. Replacement Property at 64th Street (Block 205, Lot 30):** Please explain in more detail why a smaller school site, or specific Temporary Classroom Units (TCUs), cannot be located adjacent to the private day care or around (or in place of) the recreation offices. Evaluate an alternative in which the recreation offices may be moved to adjacent parkland or another park or even onto Braddock Park, as an allowable use under the Green Acres Rules at N.J.A.C. 7:36-25.7(a).
- 2. Properties Considered and Criteria used by the Board of Education in the Applicants' April 2022 Response:** Please provide documentation, including but not limited to correspondence with current property owners, surveys, appraisals, findings of contaminants, meeting minutes from public meetings, financial documents, traffic studies and photos, demonstrating why the following four alternative properties, which were previously considered by the Board of Education as set forth at page 15 of Applicants' April 2022 Response, did not prove to be feasible, reasonable, or available as set forth in N.J.A.C. 7:36-26.9(e).
 - Site near Franklin School and 53rd Street
 - Site on 16th Street
 - Temple Beth El Site
 - "Hudson News" Properties
- 3. Alternative Properties for Potential Use as a School:** The following properties have been identified as potential alternatives, which, at a minimum, must be evaluated:
 - Community centers or other public facilities in the Township.
 - The Township's recently-purchased property located at 4201 Kennedy Blvd., (Block 134, Lot 10) adjacent to the municipal building.
 - Under a scenario in which the Pre-K program may be divided into multiple school locations, identify and assess smaller properties, including the 2020 Patterson Plank Road property (Block 40, Lot 15.01), that could cumulatively serve to address Applicants' proposed Pre-K school needs.

Please provide documentation why these sites did not prove to be feasible, reasonable, or available under N.J.A.C. 7:36-26.9(e). Also explain the reasons for rejecting each alternative as required by N.J.A.C. 7:36-26.9(d)2iv.

II. Other Requests for Information

A. Enrollment Figures

Please provide any and all Pre-K enrollment data that supports Applicant's statements made in the pre-application that the only reasonable, feasible, or available option to meet State requirements is to use the proposed diversion area as a school site for Pre-K students enrolled at the Robert Fulton and Horace Mann Schools, and the Adverse Childhood Experiences (ACEs) Program.

Specifically, please provide numbers for the 2021-2022 and 2022-2023 school years:

- The number of students enrolled in the elementary schools
- The total capacity of North Bergen's elementary schools
- Pre-K students enrolled at the Braddock Park Pre-K location
- Pre-K students located in other schools
- Pre-K students enrolled at Horace Mann, Robert Fulton, and ACEs Program proposed to be located at Braddock Park
- All students that are currently at the Braddock Park site

B. The Township's 2018 Long Range Facilities Plan: The April 2022 Response indicates that continued use of the Fulton Annex is anticipated. If use of the Fulton Annex is expected to continue, please provide a full explanation as to why it is not feasible, reasonable, or available to be used in lieu of the diversion area.

C. Footprint of the disposal area: The current configuration of the proposed disposal area appears to follow the layout of the trailers. Explain whether the proposed permanent location will have the same footprint as the trailers. Explain whether the trailers will continue to serve as the school facility, or if there will be a permanent building constructed on the site. If a permanent building will be constructed, submit a set of plans and specifications for the construction as part of the pre-application pursuant to N.J.A.C. 7:36-26.9(d)1vii.

III. Preliminary Compensation Proposal (N.J.A.C. 7:36-26.10)

DEP's Completeness Review: The Green Acres regulations at N.J.A.C. 7:36-26.10(g) under Table 1, and N.J.A.C. 7:36-26.10(j), require a minimum 5:1 compensation ratio for "after the fact" diversions that are classified as public diversions, absent mitigating circumstances. The pre-application has proposed a 3:1 compensation ratio. DEP agreed to consider a 3:1 compensation ratio for the permanent use of Braddock Park by the Board of Education upon a showing of mitigating circumstances in accordance with N.J.A.C. 7:36-26.10(j)3ii. Please provide any additional justification available, including but not limited to citations to the record to support a finding of mitigating circumstances.

In the alternative, the Applicants can propose an additional 0.355 acre of replacement land or money compensation to meet the 5:1 ratio. As indicated in the April 2022 Response, with the 64th Street parcel, the combined total of the currently proposed replacement land is 7.03 acres, which is slightly less than a 5:1 replacement ratio (based on size) for a diversion area of 1.477 acres (for both Braddock Park and the EMS building).

IV. Resolutions (N.J.A.C. 7:36-26.9(d)11)

Please provide an executed copy of North Bergen Township's Superseding Amended Resolution, which was on the agenda for the Township's Council Meeting on April 6, 2022.