

The Department of Environmental Protection (DEP), Green Acres Program, has reviewed the pre-application submitted to our office for the Braddock Park and Emergency Medical Service (EMS) diversions. At this time, the pre-application remains incomplete. In accordance with N.J.A.C. 7:36-26.9(f)2ii, we require the following items to be addressed before Green Acres can make a determination that the pre-application is complete:

Scoping Hearing (N.J.A.C. 7:36-26.8)

- For the August 11, 2020 scoping hearing, please provide proof of display advertisement, the posting of a sign on the proposed diversion parcels, notice to government agencies and property owners within 200 feet, and a list from the tax assessor of the properties within 200 feet, as required by the Green Acres rules. Please also provide evidence that the County placed an advertisement for the scoping hearing on its website.
- We received complaints that preference was given to North Bergen residents and elected officials during the scoping hearing, allowing them to speak first. This resulted in the exclusion of other Hudson County residents and all non-County residents, even though the park is County-owned and subject to Green Acres restrictions for the benefit of all New Jersey residents. Why was this decision made and, when it became clear that time was running out, why was that restriction not lifted and/or the hearing time extended to accommodate more speakers?
- Please note that for any future public hearings on this application or other Green Acres matters, we will expect the County and the Township to allow adequate time for public comment and to not give preference to Township or County residents at the hearing.

Public Comments (N.J.A.C. 7:36-26.8(e)3)

- Since the August 2020 scoping hearing, Green Acres has received hundreds of written comments on the proposed diversions. Green Acres forwarded all of the comments it received to the applicants. The summary of public comments in the pre-application does not address many of these comments.
- Please delete the word “final” from the header of the public comments response since this is not yet a final application.
- We have reviewed the response to comments submitted by the applicants as part of the pre-application. Several issues raised by the commenters are already raised above. However, a more detailed response to the following comments should also be submitted as part of the response to this letter:

- Commenters asked why the application proposes to allow the trailers to remain in the park even though (1) there was a prior referendum to put a high school in Braddock Park, and that referendum was rejected, and (2) one of the stated purposes of the approved \$65 million bond referendum was to remove the trailers from the park.
- Why is it appropriate for a portion of a County park to be diverted to serve the school needs for one Hudson County municipality?
- Will the proposed diversion area need to be expanded in the future to accommodate future expansion of the pre-K program or address other educational needs in the Township or County?
- In general, why is the County proposing to divert parkland when there is not adequate parkland in the County?

Description of Proposed Diversion (N.J.A.C. 7:36-26.9(d)1)

- The Green Acres Program cannot make a determination about the Braddock Park diversion's compelling public need without the Pre-K enrollment data requested below in the Alternatives Analysis section.
- The EMS is situated on Block 103, Lots 127 and 107. However, Lot 107 is not included in the application materials, nor are there maps associated with the EMS. Because of this, the extent of the area sought to be diverted is unclear.
- Please confirm whether the EMS diversion is for a lease or in fee. If a lease is sought, please include the draft lease.

Lease (N.J.A.C. 7:36-26.9(d)1vi)

- Please provide copies of all leases between Hudson County and North Bergen and/or the North Bergen Board of Education for the proposed diversion area in Braddock Park.
- Please provide documentation that the lease payments required by the October 29, 2011 lease between the Township/BOE and the County, and any subsequent addenda to that lease, were made by the Township/BOE and received by the County. Further, please document that North Bergen Township used the lease payments for recreational purposes as required by the Green Acres Rules.

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

The Green Acres program has received numerous comments regarding alternatives, as the regulations require applicants to consider available alternatives. As a general matter, the alternatives analysis is inadequate because it included many park properties that are also ineligible for use as a school and contained few privately owned properties. This analysis must be expanded to include other properties, which must include properties that could be acquired, including other properties that could be used as a school and privately owned properties. The costs and feasibility of each alternative must be analyzed.

- Please explain why the \$65 million Bond for the purchase of the Hi-Tech High School cannot be used to implement the publicly shared plan to re-locate the entire Pre-K to a location outside of Braddock Park, including but not limited to a new or existing structure on the Hi-Tech High School grounds.
- We have been provided with copies of student enrollment information submitted by the Township to the New Jersey Department of Education that appear to be potentially inconsistent with statements made in the preapplication. Please provide the 2021-2022 numbers for:
 - 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. Specifically, explain why the students proposed to remain enrolled at the Braddock Park Pre-K cannot be enrolled in North Bergen's other elementary schools, as had been the justification for the bond referendum.
- The Township's 2018 Long Range Facilities Plan, filed with the New Jersey Department of Education, references the "Fulton Annex" and states: "Should enrollments continue to decrease as projected, the NBBOE will be able to terminate its lease of the Fulton Annex." Does the proposed new plan include continued use of the Fulton Annex?
- Please explain why the footprint of the area sought to be diverted has not been reduced even though the pre-application states that most Pre-K children will be attending their home schools instead of the Braddock Park Pre-K.
- Also, if the number of Pre-K students to be located on Braddock Park will be reduced, the alternatives analysis should evaluate properties based on the smaller area needed for a permanent Pre-K, not the current size of the Pre-K trailers and associated parking. This may allow an alternative location for the Pre-K on a non-parkland site previously deemed too small.
- Is the current configuration and placement of the diversion based upon the layout of the trailers, and, if that is the case, will that same configuration be required for a new permanent school building?
- Please explain why the \$10 million line item in the FY22 State Budget for North Bergen to acquire property for schools cannot be used to re-locate the entire Pre-K to a location outside of Braddock Park.
- Please explain why each property North Bergen offered as a replacement property in the pre-application could not instead be used to build a Pre-K building for the students enrolled at the Braddock Park Pre-K location.
- Please analyze whether land adjacent to the proposed alternatives could be acquired or condemned to, together with the proposed alternative parcel(s), create a space large enough to build a Pre-K building.
- Please include 6217 Meadowview Avenue in the alternatives analysis, as requested by the Green Acres Program in November 2020.
- The pre-application states that certain privately owned parcels are not available because the owner is unwilling to sell or lease them. Pursuant to N.J.A.C. 7:36-26.9(e)1ii, if a seller

is unwilling, the applicant must demonstrate that condemnation would not be reasonable (as that term is defined in N.J.A.C. 7:36-26.9(e)2ii). Please supply this required information.

- The pre-application's Description of the Proposed Disposal/Diversion references a property the Township purchased next to Lincoln Park School on which to locate the Pre-K, that was later found to be contaminated. Has that property been remediated? If so, can the Pre-K be located there? If not, can it be remediated for that purpose, thus avoiding the diversion?
- It is unclear if any of the alternative sites listed in the pre-application were considered to accommodate the relocation of the EMS.
- The pre-application lists a 20 acre privately owned parcel at 1 Daffy's Way/2701 Rt. 3 East, Block 451.05, Lot 14.011 as an alternative, but states that it is "not available" because it was recently acquired in 2020 for commercial development. Please state whether North Bergen has inquired with the owner about whether the parcel is available for sale or lease.

Environmental Assessment Report (N.J.A.C. 7:36-26.9(d)3)

- N.J.A.C. 7:36-26.9(d)3 and the Green Acres Environmental Assessment Report Outline require an environmental assessment report describing the environmental features of the land proposed for diversion and the replacement land, both as existing and after the proposed diversion. For both the Braddock Park and the EMS diversions, the environmental assessment report is a cursory review rather than the required detailed analysis.
- The Environmental Assessment Report Outline requires a description of the natural resources of the diversion site and surrounding area, as well as an explanation of consistency with State and local plans. For both the Braddock Park and the EMS diversions, the soil analysis, geological discussions and natural heritage program responses are missing, as is the section regarding consistency with State and local plans.
- Under N.J.A.C. 7:36-26.9(d)3, the environmental assessment report is to be prepared using an outline provided by Green Acres. Item III.E.3 of the Environmental Assessment Report Outline at https://www.nj.gov/dep/greenacres/pdf/MajorPre-Application_2014-2.pdf (Attachment 1) requires applicants to discuss how environmental justice was considered during the environmental decision-making process for a proposed diversion. Please address this requirement, in detail, for both the Braddock Park and EMS diversions.

Land Valuation Forms (N.J.A.C. 7:36-26.9(d)4)

- There are no land valuation forms for the EMS property.
- The "Highest and Best Use" section of the land valuation form for the Braddock Park diversion is not completed.
- The proposed diverted acreage for the Braddock Park Pre-K is 1.339 acres, and not 1.1 acres as stated on the land valuation form for the Braddock Park diversion.

Maps (N.J.A.C. 7:36-26.9(d)9)

- Please provide the County road map, aerial maps, reference map, and park facilities map for the EMS diversion.
- Please provide the park facilities map showing removed facilities for the Braddock Park diversion site.
- Tax maps for the diversion areas and compensation parcels, with the exception of the 64th Street Parcel, were not provided.
- A Green Acres-funded softball field was removed to accommodate the Pre-K trailers. The site plan for the replacement of the softball field and any other replacement recreational facilities is missing.
- Please note that although the pre-application contained a map titled “Survey Diversion Site”, a survey that meets our survey specifications will still need to be submitted as part of the final application submittal.

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

- The Green Acres regulations at N.J.A.C. 7:36-26.10(j) require a minimum 5:1 compensation ratio absent mitigating circumstances. The pre-application has proposed a 3:1 compensation ratio. Please provide an explanation of the mitigating circumstances, or identify additional compensation lands sufficient to meet the 5:1 ratio.
- For major diversion applications involving the loss of recreational facilities, applicants are required to submit a plan of the proposed replacement facilities, if available. The plan should include a detailed description of the type, cost, location, intended use of improvements and timetable for construction. Please provide information regarding how the Green Acres funded softball field displaced by the trailers will be replaced.
- To ensure that the proposed replacement properties are eligible as replacement land pursuant to N.J.A.C. 7:36-26.10(d)2i-iii, please provide a letter from the Chief Financial Officer of the County or Township (depending on which entity paid for the property) accompanied by supporting documentation that shows that the funding used to acquire all proposed replacement properties was other than dedicated open space funding sources as defined in N.J.A.C. 7:36-26.10(d)ii(4)). Please note that lands that are designated, accepted for, and/or required as open space (as a condition of a development approval or permit) are ineligible for the replacement of parkland.
- North Bergen Board of Education-owned parcels at 64th Street (Block 205, Lots 22 and 30) are offered as compensation. Based on the presumption that the Township will need a smaller area to accommodate the smaller number of students once the realignment is completed, please re-evaluate whether this property could accommodate the Pre-K proposed for Braddock Park.

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

The resolutions required by N.J.A.C. 7:36-26.9(d)11 contain certain errors and omissions. Since we are not yet able to deem the pre-application complete, we would like the applicants to correct these errors and omissions, and submit updated resolutions as part of the response to this letter.

- Block and Lot information is missing for Braddock Park.
- Because the resolutions submitted by the Township and the County are identical, the Township's resolution does not state that the Township's interest in the proposed diversion area is a leasehold and not a fee interest.

Dated: October 5, 2021