



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION

January 18, 2006

Jim Taylor
McBride & Ziegler, Inc.
2607 Eastburn Center
Newark, DE 19711

RE: PLUS review – PLUS 2005-12-11; Family Foundation Academy

Dear Mr. Taylor:

Thank you for meeting with State agency planners on December 28, 2005 to discuss the proposed plans for the Family Foundation Academy project to be located in the City of New Castle, on the north side of Delaware Route 9 (Delaware Avenue) between the Carrie Downie Elementary School and the New Castle Middle School.

According to the information received, you are seeking site plan approval for a 38,520 square foot charter school, serving grades 1 through 4, on a 3.01-acre parcel.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as the City of New Castle is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. *Our office*

notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.

State Strategies/Project Location

The project is located in Investment Level 1 according to the Strategies for State Policies and Spending, and as such the State supports development in this area.

Street Design and Transportation

There is a crosswalk located about 50 feet west of the site, serving the Carrie Downie Elementary School. DeIDOT will want any children walking to and from the proposed school to use that crosswalk, rather than creating a separate crosswalk.

Natural and Cultural Resources

PLUS materials indicate the presence of palustrine wetlands on this parcel. These wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. Although the developer maintains a 100-foot buffer from Spring Branch an additional 100-foot vegetated buffer should be implemented from the edge of the wetland complex.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Herb Inden 302-577-5188

The proposed charter school is located in a Level 1 area according to the Strategies for State Policies and Spending. Level 1 areas are where growth is expected and where services such as schools should be located.

With that said, John DiMondi, Councilman from the City of New Castle attended the PLUS meeting and voiced serious concerns regarding the proposed location. (copy attached). These comments do not change our recommendations regarding this project; the developer should meet with the City of New Castle to address their concerns.

Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685

The Division of Historical and Cultural Affairs has no concerns about the location of the Family Foundation Academy on this site in New Castle and its impact on historic properties.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The proposed driveway must be signed and striped for one-way operation, in at the east entrance, out at the west entrance.
- 2) There is a crosswalk located about 50 feet west of the site, serving the Carrie Downie Elementary School. DelDOT will want any children walking to and from the proposed school to use that crosswalk, rather than creating a separate crosswalk.
- 3) There is a presently unused railroad right-of-way running along the east boundary of the school. No action is required by the school, but they should be aware of the following facts:
 - a) In the next few years, Delaware Greenways and DelDOT seek to develop a rail-trail facility on this right-of-way, extending the existing facility that is south of Route 9. The rail-trail will allow public access on the right-of-way, so the school may want to address that with screening vegetation or by increasing the setback from that property line.
 - b) This right-of-way is rail-banked, which means that it is being held in reserve and could be reactivated someday, probably for light rail passenger service or a busway. In reactivating the rail line, DelDOT would have to rebuild the Route 9 overpass. Rebuilding the overpass would at least require a significant change in the school's access and leave the school facing a retaining wall. It might be necessary to relocate the school but they cannot be certain now. There are no active plans to reactivate the rail line but if the school views this site as a permanent or long-term location they should consider the potential for it in their planning.
- 4) At the PLUS Meeting, Councilman DiMondi expressed concerns that the school would worsen peak period congestion, associated in part with several other schools in the area. While DelDOT does not have recent traffic counts in the immediate area, they accept his statement that the subject section of Route 9 is congested during the morning peak hour.

However, DelDOT estimates that the school would generate about 495 vehicle trip ends per day, about 150 of them in the morning peak hour. In their judgment, that is not a great enough impact to warrant a traffic impact study. If the City finds it appropriate to require a traffic impact study, DelDOT would be willing to

assist in the scoping and review of that study, but we do not recommend that one be required.

If the City approves the plan for this project, DelDOT cannot deny access to the site.

- 5) The developer's site engineer should contact Mr. Richard Woodhall, Subdivision Manager for New Castle County, regarding specific requirements for access. He may be reached at (302) 760-2262.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Soils

According to the New Castle County soil survey mapping, Othello was mapped in the immediate vicinity of the proposed project. Othello is a poorly-drained wetland associated (hydric) soil that has severe limitations for development.

It should also be noted that siting a facility in naturally wet soils – such as proposed in this project - is likely to leave property owners of adjacent parcels significantly more susceptible to flooding events – especially during extended periods of high intensity rainfall events associated with tropical storms/hurricanes or “nor’easters.” It is strongly recommended that the applicant avoid development on hydric soil mapping units as a means to prevent future flooding problems.

Wetlands

PLUS materials indicate the presence of palustrine wetlands on this parcel. These wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife.

Although the developer maintains a 100-foot buffer from Spring Branch an additional 100-foot vegetated buffer should be implemented from the edge of the wetland complex. The developer should note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

Wetland Permitting Information

PLUS application materials indicate that wetlands have been delineated (presumably a field delineation). This delineation should be verified by the Army Corps of Engineers through the Jurisdictional Determination process. Please note that impacts to palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In situations where the applicant believes that the delineated wetlands on their parcel are nonjurisdictional isolated wetlands, the Corps must be contacted to make the final jurisdictional assessment. They can be reached by phone at 736-9763.

In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-9943 to schedule a meeting.

Impervious Cover

Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline. Since the amount of imperviousness generated by this project (approximately 53%) will far exceed the desirable watershed threshold of 10 percent, the applicant is strongly advised to pursue best management practices (BMPs) that mitigate or reduce some of the most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover via preservation or additional tree plantings – are examples of practical BMPs that could easily be implemented to reduce surface imperviousness.

TMDLs

A Total Maximum Daily Load (TMDL) is the maximum level of pollution for which a water quality limited water body can assimilate without compromising use and recreational goals such as swimming, fishing, drinking water, and shell fish harvesting. Although TMDL development has not been scheduled for this watershed to date, it is still recommended that the applicant employ best available technologies (BATS) and/or best

management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts that might be associated with this project.

Reducing imperviousness, planting/preservation of trees, and maintaining 100-foot minimum upland buffers from wetlands and streams - are some examples of proactive mitigative strategies that will help reduce excessive nutrient runoff from this development and its impacts on water quality, while ensuring State compliance with imminent Federal TMDL regulatory requirements.

Water Supply

The project information sheets state that the City of New Castle Water System will be used to provide water for the proposed project. Records indicate that the project is located within the public water service area granted to New Castle County Water & Light Co. under Certificate of Public Convenience and Necessity number 88-WS-05. It is recommended that the developer contact the New Castle County Water & Light Co. to determine the availability of public water. Any questions concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction

inspection will be coordinated through New Castle Conservation District. Contact New Castle Conservation District at (302) 832-3100, Ext. 3 for details regarding submittal requirements and fees.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre-development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique. Green Technology BMPs must be given first consideration for stormwater quality management. Each stormwater management facility should have an adequate outlet for release of stormwater.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

Forest Preservation

There are very few trees on the lot in the rear of the site. The building(s) should be located in such a way that the trees remain intact.

Underground Storage Tanks

There are two inactive LUST site(s) located near the proposed project:

Bantom Market, Facility # 3-000284, Project # N9807101

New Castle Middle School, Facility # 3-000781, Project # N0402029

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas.

Site Investigation and Restoration

The above referenced site has 4 SIRB sites within a half-mile radius of it:

- New Castle Steel plant Deemer (DE-45) is located southwest of the proposed site. It is a 3-acre disposal landfill. The disposed waste consisted of metal scrap and other waste material from the carbonization of coal. It was placed on the NPL due to potential groundwater contamination, but was later de-listed after further investigation revealed minimal contamination. No apparent threat to the humans or the environment was found and no further action was taken. Therefore, DNREC-SIRB does not foresee any negative impact to the proposed site.
- Deemer Steel (DE-45) is located southwest of the proposed site. The COCR was signed in August 17, 2005. All cleanup actions have been implemented; therefore, DNREC-SIRB does not foresee any negative impact to the proposed site.
- Abex Corporation (DE-65) is located southwest of the proposed site. It is an industrial landfill used for the disposal of inert solid waste. A Preliminary Assessment (PA) conducted in 1983, revealed a slight contamination of groundwater with metals. However, the contaminants were not considered toxic.

No further action was taken. DNREC does not foresee a negative impact on the proposed site.

- New Castle Gas Company (DE-67) is located southeast of the proposed site. It was used to produce gas through the carbonization of coal from 1857 to 1914. A preliminary assessment was performed in 1987 and no further action was recommended. The site was later referred to the solid waste branch for possible further action. DNREC-SIRB foresees no negative impact to the proposed site due this site. If you have any question regarding these comments, please contact me at 302-395-2600.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

Family Foundation Academy is in the City of New Castle. Comments should come from the City of New Castle Fire Marshal.

Department of Agriculture - Contact: Milton Melendez 698-4500

The Delaware Department of Agriculture has no objections to the Family Foundation Academy. The site is located in a long-range designated controlled development area.

The *Strategies for State Policies and Spending* encourages responsible development in areas within a Growth Level 1 Zone.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Tree Mitigation

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community’s forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of

the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: City of New Castle