



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
Budget Development, Planning and Administration
State Planning Coordination

October 20, 2009

Mr. Gregory Swift
McBride & Ziegler, Inc.
2607 Eastburn Center
Newark, De 19711

RE: 2009-09-02; Family Foundation Academy Addition

Dear Mr. Swift:

Thank you for meeting with State agency planners on September 23, 2009 to discuss the proposed plans for the Family foundation Academy project to be located on the north side of Route 273, 1800 feet east of Route 141 in the City of New Castle.

According to the information received, you are seeking site plan approval for an additional 73,157 sq. ft. to be added to the existing Family Foundation Academy.

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

- This project is located in Investment Level 1 according to the *2004 Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no opposition to the proposed Charter school expansion noting that there are other agency issues that should be addressed.

Street Design and Transportation

- DelDOT will require a traffic impact study if one is warranted, but they believe that a detailed examination of the trip generation associated with the proposed additions may show that such a study is not warranted.
- The plan shows a sidewalk running along the south edge of the proposed two-story library addition. Who would use this sidewalk and how frequently would they do so? DelDOT asks because it ties into the perimeter sidewalk in a busy location, relatively close to the street and at the start of the parking lot. If the door on that side of the building is primarily a fire exit, the sidewalk should pose no problem. However, if students would enter and exit that door on a regular basis, DelDOT foresees a significant safety concern where the sidewalk reaches the parking lot and possibly some congestion at the site entrance at the beginning and end of the school day.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Herb Inden 739-3090

This project is located in Investment Level 1 according to the *2004 Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed Charter school expansion noting that there are other agency issue that should be addressed.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

There are no historic property, archaeological sites, or listed National Registered property on or within this parcel (project area), and the Division of Historical & Cultural Affairs has no objection with this particular development project. If you have any questions or concerns, please contact Mr. Terrence Burns at (302) 736-7404.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Family Foundation Academy presently operates an elementary school, serving grades 1 through 3, in a 38,520 square foot building on a 2.864-acre parcel (Tax Parcel 21-010.00-072). They propose to add 73,157 square feet of additional floor space, including a gymnasium, a library and classrooms sufficient to add a middle school and serve grades 1 through 8.

The land is located in the City of New Castle on the north side of Frenchtown Road (New Castle Road 55 a.k.a. Delaware Street a.k.a. Delaware Routes 9 and 273) between the Carrie Downie Elementary School and the New Castle Middle School. The land is zoned R-3 and no rezoning would be needed to permit the development.

- 1) Preliminarily, the proposed addition may warrant a traffic impact study. DelDOT regulations include warrants of 50 peak hour trips and 400 daily trips, and the Institute of Transportation Engineers' (ITE) Trip Generation report includes rates based on floor area that show the proposed additions would meet those warrants. In that regard, the 200 trips per day indicated on the PLUS form seems low.

However, DelDOT is also aware that the ITE rates are based on a relatively small sample of schools, which may not represent the Family Foundation Academy, and the proposed gymnasium and library will add considerable floor area without adding significantly more traffic. DelDOT will require a traffic impact study if one is warranted, but they believe that a detailed examination of the trip generation associated with the proposed additions may show that such a study is not warranted.

Therefore DelDOT asks that the Academy have their engineer supply them with more information on the traffic that the proposed addition would generate in the morning peak hour and over the course of the school day. As necessary, they may contact Bill Brockenbrough to discuss this matter in more detail.

- 2) The plan shows a sidewalk running along the south edge of the proposed two-story library addition. Who would use this sidewalk and how frequently would they do so? DelDOT asks because it ties into the perimeter sidewalk in a busy location, relatively close to the street and at the start of the parking lot. If the door on that side of the building is primarily a fire exit, the sidewalk should pose no problem. However, if students would enter and exit that door on a regular basis, DelDOT foresees a significant safety concern where the sidewalk reaches the parking lot and possibly some congestion at the site entrance at the beginning and end of the school day.
- 3) The proposed additions constitute a change in use, such that a new entrance plan and changes to the existing entrance could be required. After the site's trip generation has been agreed upon, they request that the Academy have their engineer contact the DelDOT Subdivision Manager for the east part of northern

New Castle County, Mr. Richard Woodhall, to determine what, if anything, they will require in this regard. Mr. Woodhall may be reached at (302) 760-2262.

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

Fish and Wildlife

The Division scientists have not surveyed this project area; therefore, it is unknown if State-rare or federally listed plants, animals or natural communities occur at this project site. However, according to our GIS database and aerial imagery, habitat that could support rare species is unlikely to occur on this property. *Edna Stetzar - (302) 653-2880, Edna.Stetzar@state.de.us*

Soil and Water

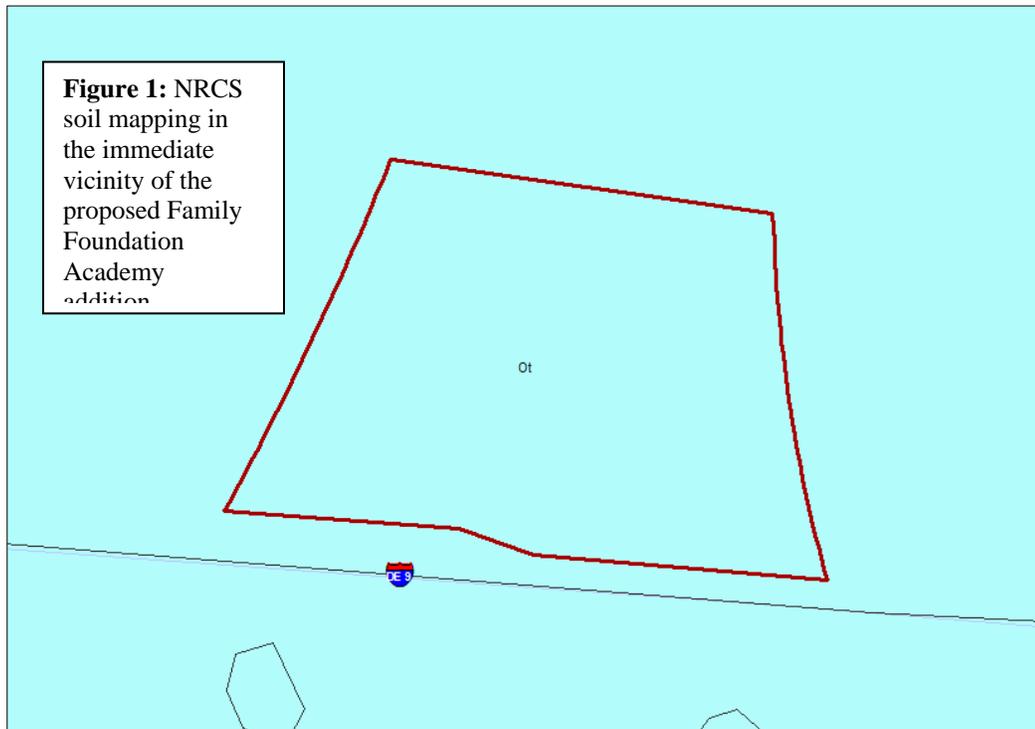
Sediment and Stormwater Program. A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. 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. The plan review and approval as well as construction inspection will be coordinated through New Castle Conservation District. Contact the New Castle Conservation District at (302) 832-3100, Ext. 3 for details regarding submittal requirements and fees.

James Sullivan - (302) 739-9921, James.Sullivan@state.de.us

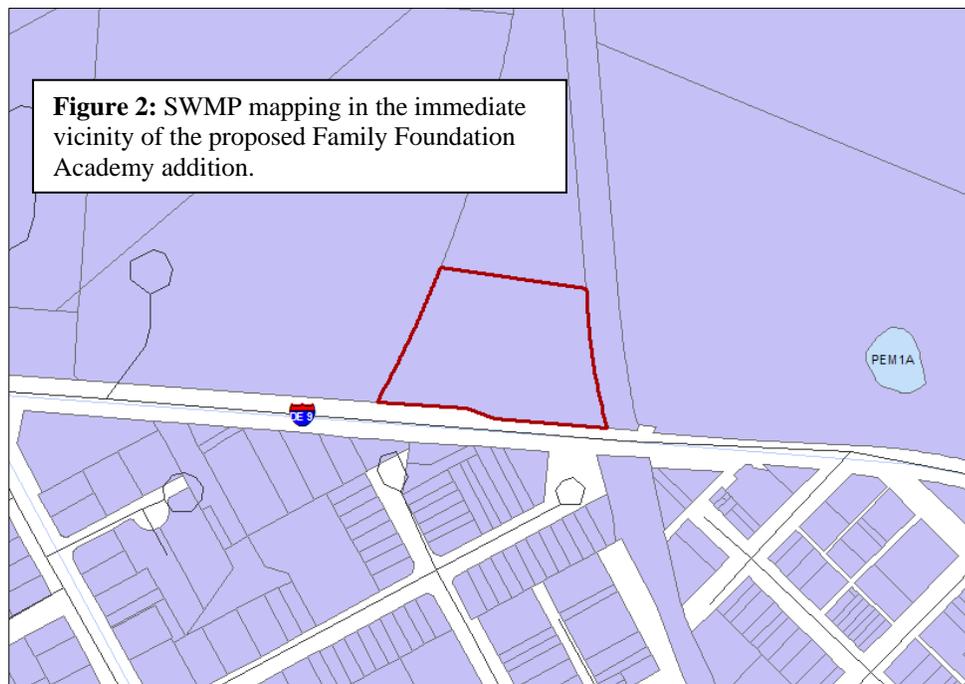
Flood Management. The site is not located in a Special Flood Hazard Area. DNREC did notice that the site plan (under #7 of the Plan Data) references an old FEMA map. The current effective maps for New Castle County are dated January 17, 2007. The current effective map should be used for any new construction or a substantial improvement of an existing building. *Gregory Williams - (302) 739-9921, Gregory.Williams@state.de.us*

Water Resources

Soils Assessment. According to the New Castle County soil survey, Othello (Ot) was mapped over the entire parcel. Othello is a poorly-drained wetland associated (hydric) soil that has severe limitations for development and should be avoided (Figure 1).



Wetlands. Based on Statewide Wetlands Mapping Project (SWMP) mapping, no wetlands were mapped in the immediate vicinity of the proposed project (Figure 2).



Impervious Surfaces and Best Management Practices. Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall

water quality. It is strongly recommended that the applicant implement best management practices (BMPs) that reduce or mitigate some of its 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 preservation or additional tree plantings are some examples of practical BMPs that could easily be implemented to help reduce surface imperviousness. A rain garden is another practical BMP that could be employed on this site to mitigate surface imperviousness.

Since post-construction impacts realized from this project are likely to render much, if not all, of land area proposed for construction mostly impervious, pervious paving materials are strongly recommended in lieu of conventional paving materials for at least 50% of the paved surface(s) area(s).

TMDLs. Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Red Lion Creek watershed. No TMDL has developed to date for the C&D canal. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are required by federal law, states are charged with developing and implementing standards to support these desired use goals. In the Red Lion Creek watershed, a post-development TMDL reduction level of 40 percent will be required for both nitrogen and phosphorus. Additionally, a 38% reduction in bacteria will also be required.

The Department developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional reductions may be possible through the implementation of Best Management Practices as, reducing surface imperviousness, increasing passive wooded open space, employing a rain garden(s), and the use of green-technology stormwater management treatment trains. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Soils, wetlands, subaqueous lands and TMDL comments provided by John Martin, Watershed Assessment Section, (302) 739-9939, John.Martin@state.de.us

Water Supply. The project information sheets state that public water will be provided to the project by the City of New Castle via a public water system. DNREC records indicate that the project is located within the public water service area granted to NCC Water & Light Company under Certificate of Public Convenience and Necessity (CPCN) 88-WS-05. It is recommended that the Academy contact NCC Water & Light Company to determine the availability of public water. Any public water utility providing water to the site must obtain a CPCN from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at 302-739-4247.

Should an on-site Public/Miscellaneous Public well be needed, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area, and it must also be located at least 150 feet from the outermost boundaries of the project. 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 wells.

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. *Ricardo Rios - (302) 739-9944, Ricardo.Rios@state.de.us*

Air and Waste

Hazardous Waste Sites. DNREC's Site Investigation and Restoration Branch (SIRB) has reviewed the proposed project. Seven (7) SIRB sites were found within a ½-mile radius of the proposed development; Deemer Steel-OU1, OU2, OU3 (DE-1243,1244,1245) all located 0.20 miles south, Deemer Steel- 9th and Washington Site (DE-1087) located 0.13 miles south, Deemer Steel-New Castle Plant (DE-0045) located 0.26 miles south, New Castle Gas Company (DE-0167) located 0.44 miles south, and Abex Corp Landfill (DE-0065) located 0.41 miles south of the proposed project.

The contaminants of concern in the Deemer Steel area came from the operations of a foundry that was previously located in the area. Some of the contaminants found were TCE, PAH, and high levels of metals such as arsenic. The Deemer sites have since been remediated by excavating the soil and capping the property. There are currently town homes and apartments on the sites, and plans for development will begin soon for Deemer Steel-New Castle Plant Site. All of the Deemer sites were given Certification of Completion of Remedy (COCR) between 2002 and 2005. The sites are still undergoing yearly monitoring as part of the Operations and Maintenance plan. Abex Corp Landfill Site was closed in April of 1986. No information is available for New Castle Gas Company.

Based on the previous manufacturing and industrial use of the proposed project site, which may have involved the use of hazardous substances, SIRB recommends that a Phase I Environmental Site Assessment be performed prior to development. In addition, should a release or imminent threat of a release of hazardous substances be discovered

during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRB should also be contacted as soon as possible at 302-395-2600 for further instructions. *Krystal Stanley - (302) 395-2644, Krystal.Stanley@state.de.us*

Tank Management Branch. There are eight (8) inactive LUST project sites located within a quarter mile from the proposed project:

Name: Carrie Downie Elementary School (Inactive)
Facility ID: 3-000778
Project: N0402030

Name: Former Bantam Market (Inactive)
Facility ID: 3-000284
Project: N9807101

Name: Getty Service Station 08635 (Inactive)
Facility ID: 3-000403
Project: N9201002
Project: N9502054

Name: Wilsons Radiator Shop (Inactive)
Facility ID: 3-001123
Project: N9006042

Name: Deemer Steel Casting Co (Inactive)
Facility ID: 3-001557
Project: N9504086

Name: New Castle Middle School (Inactive)
Facility ID: 3-000781
Project: N0402029
Project: N9610172

Should any underground storage tanks or petroleum contaminated soil be discovered by any person during construction, the DNREC-TMB at (302) 395-2500 and the DNREC Emergency Response Hotline at (800) 662-8802 must be notified within 24 hours.

Should any contamination be encountered, PVC pipe materials will have to be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

Also, please note that if any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB. *Elizabeth Wolff - (302) 395-2500, Elizabeth.Wolff@state.de.us*

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

No comments regarding this project were received.

Department of Agriculture - Contact: Scott Blaier 739-4811

The Delaware Department of Agriculture has no objections to the proposed project. The project is located within the City of New Castle, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 1 areas.

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. To further support this concept the Delaware Forest Service does not recommend the planting of the following species due to the high risk of mortality from insects and disease:

Callery Pear

Ash Trees

Leyland Cypress

Red Oak (except for Willow Oak)

If you would like to learn more about the potential problems or impacts associated with these trees, please contact the Delaware Forest Service for more information at (302) 698-4500.

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.

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.

Delaware Economic Development Office – Contact: Jeff Stone 672-6849

No comments regarding this project were received.

Delaware Division of Public Health- Health Promotion Bureau- Contact: Michelle Eichinger (302) 744-1011

No comments were received regarding this project.

Delaware State Housing Authority – Contact Valerie Miller 739-4263

No comments were received regarding this project.

Department of Education – Contact: John Marinucci 735-4055

1. The DOE supports locating school facilities on parcels with existing or reasonable access to civil infrastructure to include but not limited to:
 - Roads, pedestrian walkways and shared use paths
 - Waste water/sewerage and domestic water
 - Electric, and telecommunications
 - Storm water drainage and conveyanceSchool sites with public water and sewer utilities or access to public water and sewer utilities are recommended by DOE over sites requiring on-site facilities.

Because this is an expansion to an existing facility, this school campus site appears that it has access to adequate civil utilities.

2. The DOE supports the State Strategies for Policies and Spending. When considering school facility locations, the DOE considers proximity and access to basic support services as a high priority.

Because this is an expansion to an existing facility, this school campus site appears that it will have reasonable proximity to support services.

3. The DOE supports locating school facilities strategically within the geographic region and/or community the facility is intended to serve in order to:
 - Encourage non-student pedestrian access to the school facility in an effort to reduce vehicle miles traveled to the extent practical
 - Encourage student pedestrian access to the school facility, in order to contain the school's life-cycle operating costs associated with student transportation, as practicable
 - Create education campuses by co-locating educational facilities and services in an effort to reduce life-cycle costs as a result of the co-located schools sharing common spaces, facilities and services.

Because this is an expansion to an existing facility, this school campus site appears to be located geographically in close proximity to many of the residents and much of the community it is intended to serve.

4. As a result, the DOE supports this site as an expansion site for the Family Foundations Academy Charter School with the following issues/concerns:
 - Of most significant concern is the lack of adequate outdoor playground space. The long, 25 foot section of property identified for playground space behind the school is problematic for several reasons.
 - It is isolated,
 - The actual dimensions of the land may be less than 25 feet wide from the edge of the rear of the building to the drop-off into the wet area,
 - The ground is wet and soggy with considerable insects,
 - The space is too narrow to reasonably accommodate playground equipment and associated clear-zones in compliance with ASTM Designation F-1487 and CPSC PUB 325.
 - The DOE support for this site as an expansion site for the FFA shall not be construed as an approval of the Application for Major Modification of FFA's Charter or Charter renewal application. The Charter Renewal process and Major Modification application approval process are separate from this PLUS process. The PLUS process, comments and results are subordinate to the results of the Charter Renewal process and Major Modification process.

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,



Constance C. Holland, AICP
Director

CC: City of New Castle