



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

December 20, 2012

Mr. Michael Riemann
Becker Morgan Group, Inc.
309 S. Governors Avenue
Dover, De 19904

RE: PLUS review – 2012-11-04; Red Clay Consolidated School District

Dear Mr. Riemann:

Thank you for meeting with State agency planners on November 28, 2012 to discuss the proposed plans for a new elementary school located on Graves Road near Newport Gap Pike within the Red Clay Consolidated School District.

According to the information received, you are seeking site plan approval through New Castle County for a 69,552 sq. ft. elementary school with the associated amenities.

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 New Castle County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

Strategies for State Policies and Spending

This project is located in Investment Levels 1 & 2 according to the *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. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known historic or cultural resources, such as an archeological site or National Register listed property on this parcel. However, if there is going to be any kind of development or construction project on this parcel, the developer should definitely be aware of Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.
- Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural areas or open space lands, near an historic farm site, within it, or very close it. Disturbing unmarked graves or burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Delaware Code Title 7, Chapter 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, in order to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemetery on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you need or would like to read more information in reference to unmarked human remains, burials or cemeteries, please go to the following websites for additional information: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml
- Prior to any demolition or ground disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for potential historic or cultural resources, such as a potential archaeological site, a cemetery or unmarked human remains. Furthermore, if there is any federal involvement with the project, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic

properties. Any preconstruction activities without adherence to these stipulations may jeopardize the issuance of a permit or receipt of funding if it is determined that such opportunity to comment has been foreclosed. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role, please review the Advisory Council's website at www.achp.gov.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access must be designed in accordance with DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, which is available at http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Manual_Revision_1_proposed_060110.pdf.
- From the information provided in Item 25 on the PLUS application, the subject development meets DelDOT's volume-based criteria, found in Section 2.3.1 of the Standards and Regulations, for recommending that a Traffic Impact Study (TIS) be required. While the project would otherwise qualify to pay an Area Wide Study Fee in lieu of doing a TIS, we understand that New Castle County requires a TIS based on their criterion of 50 or more vehicle trips per hour. DelDOT anticipates requiring completion of a TIS prior to our issuing a Letter of No Objection. A TIS was scoped on November 15, 2012.

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

TMDLs

- Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Christina River watershed. 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 State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; *State of Delaware Surface Water Quality Standards, as amended July 11, 2004*) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting.

TMDLs are required by federal law (Section 303(d) of the 1972 Clean Water Act), and the states are charged with developing and implementing specific land use practices that support these desired use goals. The project is located in the greater Christina River Basin, specifically within the Red Clay Creek watershed. In the Red Clay Creek watershed, post-development nitrogen and phosphorus loading must be capped at the pre-development or baseline loading rate (or a 0% post-construction increase in N & P in Delaware's portion of the Christina River Basin) to meet the required TMDL for each nutrient. Moreover, bacteria must be reduced by 29-95% (depending on location) to meet the required TMDL. The specific required nutrient and bacterial requirements and background information is in the report entitled "*Christina River Basin High-Flow*

TMDL” by the EPA. This report can be retrieved from the following weblink: http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/ChristinaMeetingTMDL/index.htm

- A nutrient management plan is required under the *Delaware Nutrient Management law (3 Del. Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project’s open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at 739-4811 for further information concerning compliance requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

Water Supply

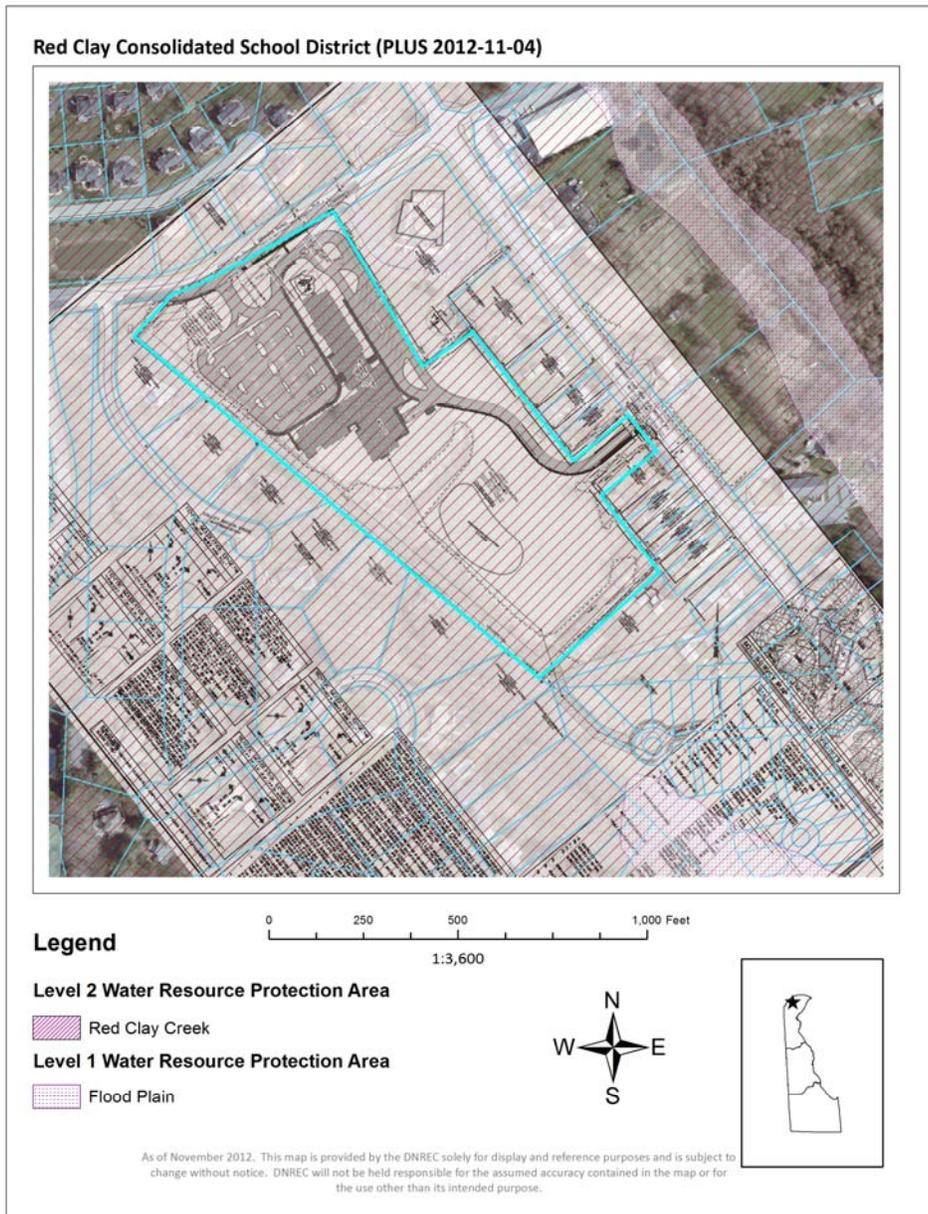
- The project information sheets state water will be provided to the project by Artesian Water Company via a public water system. Our records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity 85-WS-03.
- 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.

Water Resource Protection Areas

- The DNREC Ground-Water Protection Branch (GPB) has determined that the project does not fall within any wellhead protection or excellent groundwater recharge potential areas. However, the parcel falls entirely within the Red Clay Creek Drinking Water Watershed. This area is a Level 2 Source Water Protection Area for New Castle County (see map).

Level 1 Source Water Protection Areas are defined as flood plains. Land Use or Land Activity within this area has the potential to influence water quality or quantity to the system.

- GPB recommends referring to NCC Unified Development Code for regulations regarding development in these areas.



Sediment and Stormwater Program

- A Sediment and Stormwater Management Plan must be approved for this project prior to beginning construction. The DNREC Sediment and Stormwater Program will be the reviewing agency for this project. A Notice of Intent for Stormwater Discharges Associated with Construction Activity must be submitted prior to construction beginning on the site. The NOI fee of \$195 must be submitted as well. Green Technology BMPs must be considered first for quality management. The project site's location requires management of stormwater volume. The owner representative and designer have already

held a preliminary meeting with the Sediment and Stormwater Program prior to beginning the design. The proposed post construction BMPs shown on the conceptual plan are in accordance with the design concept discussed at the preliminary meeting.

Bog Turtle

- A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. There is a wetland that has the potential to support the federally listed bog turtle (*Glyptemys muhlenbergii*) on a property that abuts the project area in the vicinity of the proposed infiltration pond. Restoration efforts were undertaken recently to increase the habitat value of this wetland for bog turtle and other wetland dependent species. While this wetland will not be directly impacted by this project, it is important that indirect impacts from run-off and stormwater inputs be avoided. The site engineer/developer should ensure that this project does not result in hydrological changes to offsite areas adjacent to this project.

Hazardous Waste Sites

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C., Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware Regulations Governing Hazardous Substance Cleanup shall be followed. There are no SIRS sites or salvage yards found within a ½-mile radius of the proposed project.

Tank Management Branch. Please be aware:

- If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C., Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware *Regulations Governing Underground Storage Tank Systems* (the UST Regulations) is required.
- The following confirmed leaking underground storage tank (LUST) project is located within a quarter mile from the proposed project area:
 - Coffee Run Condominium Council, Facility: 3-000893, Project: N9511271 (Inactive)
- Per the **UST Regulations: Part E, § 1. Reporting Requirements:**
 - Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility

companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:

- The Department's 24-hour Release Hot Line by calling 800-662-8802; and
- The DNREC, Tank Management Branch by calling 302-395-2500.

Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- **Fire Protection Water Requirements:**
 - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
 - Where a water distribution system is proposed for educational sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
- **Fire Protection Features:**
 - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
 - Buildings greater than 10,000 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
 - Show Fire Department Connection location
 - (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
 - Show Fire Lanes and Sign Detail as shown in DSFPR
- **Accessibility:**
 - All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the facility from Graves Road and from Newport-Gap Pike must be constructed so fire department apparatus may negotiate it.
 - Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
 - The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
 - The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

- **Gas Piping and System Information**
 - Provide type of fuel proposed, and show locations of bulk containers on plan.
- **Required Notes:**
 - Provide a note on the final plans submitted for review to read
 - “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
 - Proposed Use
 - Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
 - Square footage of each structure (Total of all Floors)
 - National Fire Protection Association (NFPA) Construction Type
 - Maximum Height of Buildings (including number of stories)
 - Note indicating if building is to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
 - Provide Road Names, even for County Roads

Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- In accordance with recommended practice, the developer’s site engineer had a Pre-Submittal Meeting with DeIDOT staff on November 5, 2012. While it was a productive meeting, the nature of the plan review process is such that we anticipate having further comments when plans are submitted for review and when our review of the TIS is complete.

Delaware State Fire Marshall’s Office – Contact Duane Fox 739-4394

- Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

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

Additional information on TMDLs and water quality

- The applicant is strongly urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:
 - DNREC strongly recommends that the applicant calculate post-construction surface imperviousness with all forms of created surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation.
 - Since this project will create additional impervious surface that will increase the probability for increased pollutant load runoff to adjoining streams and wetlands, we strongly encourage the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate these impacts.
 - DNREC strongly encourages the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to reduce nutrient pollutant impacts. Green technologies, including green-technology storm water management structures, can be used as educational opportunities.
 - DNREC strongly encourages the applicant to voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) that result from the conversion of individual or combined land parcels to a different land use(s), while providing applicants with quantitative information about their project’s impact(s) on baseline water quality. We strongly encourage the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact Lyle Jones at 302-739-9939 for more information on the protocol.

Additional information on hazardous waste sites

- SIRS strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (**including a title search to identify environmental covenants**) in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

Additional remediation may be required if the project property or site is re-zoned by the county or state.

- 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.

Additional information on tank management

- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.
- If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

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, Office of State Planning Coordination

CC: New Castle County