

September 2, 2010

Constance C. Holland, AICP
State of Delaware
Planning and Coordination
Haslet Armory – Third Floor
122 William Penn Street
Dover, DE 19901

RE: PLUS 2010-06-04 Response Letter
**CAPITAL SCHOOL DISTRICT / DISTRICT OFFICE AND
MAINTENANCE FACILITY**
Dover, Delaware
2010053.00

Dear Ms. Holland:

Below you will find the required response to your PLUS comment letter dated July 14, 2010 in reference to Capital School District project to be located at 196 Commerce Way in Dover. Each State comment is listed with the associated response in italics below.

Strategies for State Policies and Spending

This project is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in within the City of Dover. 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 supports the proposed purchase of this property for school district use. Please be aware that any additional development activities must comply with City codes and ordinances. If any new structures are proposed on the site, and additional PLUS review may be required once a concept site plan has been developed. Please contact David Edgell for further guidance once a concept plan is available.

Response: It is our understanding that you have agreed that an additional PLUS review is not required for this project since many of the State agencies that provided comments during the PLUS process belong to the City of Dover Development Advisory Committee. Therefore, these agencies (DelDOT, DNREC, Fire Marshal, etc) will have several opportunities to review and comment on this project as part of the city's development review process.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terence Burns

- There are no known historic or cultural resources, such as an archaeological site or listed National Registered property on this parcel (property). However, it is important that the developer be aware of the Delaware Unmarked Human Remains Act of 1987, outlined in Chapter 54 of Title 7 of the Delaware Code, which pertains to the discovery and disposition of such remains. The unexpected

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discovery of unmarked human remains during construction can result in significant delays while the process is carried out.

Prior to any demolition or ground-disturbing activities, the developer may want to consider hiring an archaeological consultant to examine the parcel for archaeological sites, including a cemetery or unmarked human remains.

Response: Capital School District and their consultants are aware of the Delaware Unmarked Human Remains Act of 1987. Capital School District has decided not to hire an archaeological consultant at this time.

- 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 or in reference to historic or cultural resources.

Response: If there is federal involvement in this project, then the project will comply with the requirements noted above.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Because the proposed development would access City of Dover streets, DelDOT has no requirements with respect to the development of this site.

Response: No response is required.

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

- **TMDLs.** The project is located in the greater Delaware River and Bay drainage area, specifically within the St. Jones River watershed. In this watershed, the State of Delaware has developed specific Total Maximum Daily Load (TMDL) pollutant reduction targets for nitrogen, phosphorus, and bacteria (under the auspices of Section 303(d) of the Clean Water Act). 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. The TMDL for the St. Jones River watershed calls for a 40 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 90 percent reduction in bacteria from baseline conditions. *John Martin, Watershed Assessment Section, (302) 739-9939, John.Martin@state.de.us*

Response: The Capital School District Office and Maintenance Facility will comply with the State's requirement for reductions in nitrogen, phosphorus, and bacteria. We will contact John Martin to discuss specific requirements during the design phase.

- **Water Supply.** Our records indicate that the project is located within the public water service area granted to the City of Dover under Certificate of Public Convenience and Necessity (CPCN) 90-CPCN-07. It is recommended that the developer contact the City of Dover to determine the availability of public water.

Response: The City of Dover Department of Public Utilities will review the water requirements for this project as part of the city's development review process.

- 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*

Response: Proper permits will be obtained should dewatering be necessary.

- **Sediment and Stormwater Program.** If there will be any land disturbing activity or construction that will take place on this site as part of this project, a detailed Sediment and Stormwater Management Plan would need to be reviewed and approved by DNREC prior to construction. DNREC Sediment and Stormwater Program is not aware of any existing problems or issues with this site; however if construction is proposed on the site, the project may be subject to over-management requirements due to its location in the Puncheon Run watershed. *Elaine Webb, (302) 739-9921, Elaine.Webb@state.de.us*

Response: Detailed Sediment and Stormwater Management Plans will be provided to DNREC Sediment and Stormwater Program for the project. It is understood that over-management may be required due to its location in the Puncheon Run watershed.

- **Tank Management Branch.** 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.

There is one LUST project located within a quarter mile of the School Feasibility site:

- Scott Paper Company, Facility: 1-000434, Project: K9203054

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."

Response: If a release of regulated substance is discovered at this site, DNREC will be notified by calling the above contacts.

Department of Education – Contact John Marinucci 735-4199

- While this property acquisition is not for the specific purpose of carrying out school construction, pursuant to 29 Del. C. § 7525, it is recommended by the DOE that the Capital School District follow the existing authorization process in place to approve the acquisition and use of lands for school construction.

Response: The Capital School District will follow the existing authorization process in place to approve the acquisition and use of lands for school construction.

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 October 2008, DelDOT reviewed a plan for 216 apartments on the property immediately north of the subject land. They understand that this plan is likely to expire soon. However, if it does not, DelDOT would recommend that the District consider how the need to buffer the apartment residents from any noise and odors associated with the bus lot and maintenance facility might affect the usability of the site.

Response: The City of Dover requires visual and sound screening on non-residential use when abutting a residential use. The screening will consist of an opaque barrier at least 6 ft. in height and landscaping. Our design will comply with the city's requirements.

- While DelDOT could not require a traffic impact study for this facility, previously the City of Dover has looked to the DelDOT regulations for guidance in this regard. According to DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, a TIS would be warranted for any

development generating more than 400 trips per day or 50 trips in the peak hour. DeIDOT would need more detailed information on the use of the site to determine whether one would be warranted in this instance.

Response: Trip generation data will be provided to the city if requested.

- From their comments at the PLUS meeting, DeIDOT understands that the City is concerned about the lack of turning lanes at the intersection of Commerce Way and Hazletville Road and the lack of a traffic signal on Hazletville Road at Commerce Way or Enterprise Place. Without information on the amount of traffic that would be generated by this site, DeIDOT cannot assess the need to add turning lanes or a signal.

Response: Trip generation data will be provided to the city if requested.

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

- **Additional information on TMDLs.** A pollution control strategy (PCS) is the regulatory directive requiring the implementation of various best management practices (BMPs) that help reduce transport of nutrient and bacterial pollutant runoff from all waters draining into a “greater” common watershed, with the ultimate objective of achieving the obligatory TMDL reduction requirements for that watershed. However, the PCS for the St. Jones watershed has not been formally completed to date. In absence of a final PCS, the applicant is strongly urged to reduce nutrient and bacterial pollutants through the voluntary commitment to the implementation of the following recommended BMPs:
 - Please maximize open space by establishing more tree cover on this parcel.
 - We encourage the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate impacts from surface imperviousness. We also encourage the replacement of existing paved surfaces with pervious paving materials wherever practicable.
 - Much of this parcel is has been rendered largely impervious through past development. They strongly encourage the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as a “retrofit strategy” to implement BMPs that reduce nutrient pollutant impacts.

The Department has also developed an assessment tool to evaluate how your proposed development may reduce nutrients and bacteria to help meet the TMDL requirements. Please contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Response: Our stormwater management design will comply with current regulations. The above recommendations will be considered during our design phase for this project.

- **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 TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB.
 - Should the municipality anticipate being more restrictive than Delaware's Regulations Governing Underground Storage Tank Systems or Delaware's Regulations Governing Aboveground Storage Tanks, please be aware that the municipality shall be responsible for enforcing the more restrictive rules.

Response: Noted.

- **Hazardous Waste Sites.** SIRB strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Assessment 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.
 - There is one SIRB site found within a ½-mile radius of the proposed project:
 - Scott Paper Company (DE-0060) located directly south of the plant.
 - The site was addressed under the PA/SI program. The site was given a No Further Action designation in May 1996 due to the lack of risk to human and environmental health.

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

Response: This recommendation will be discussed with Capital School District representatives for their direction.

Department of Education – Contact John Marinucci 735-4199

- It is the recommendation of DOE that the Capital School District initiate planning meetings with DelDOT, DNREC, as well as the City of Dover as required in order to ascertain any constraints/requirements that may affect the acquisition.

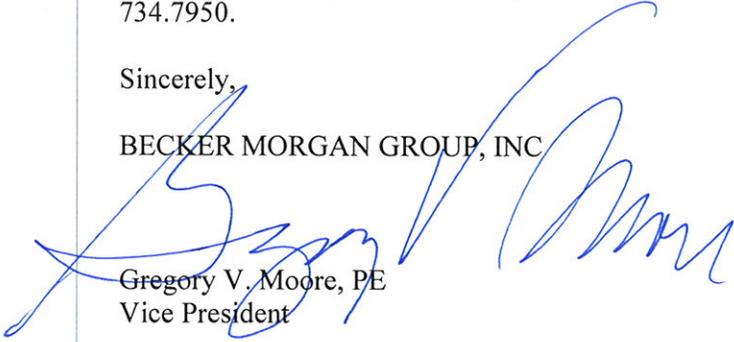
Response: Planning meetings will be held with applicable agencies.



If you have any questions or require additional information, please contact me at (302) 734.7950.

Sincerely,

BECKER MORGAN GROUP, INC



Gregory V. Moore, PE
Vice President

GEJ/rlh

CC: Dr. Michael Thomas
Sean Sokolowski

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