



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

April 23, 2013

Ms. Phyllis Kohel
Milford School District
906 Lakeview Avenue
Milford, DE 19946

RE: PLUS review – 2013-03-01; Milford School District

Dear Ms. Kohel:

Thank you for meeting with State agency planners on March 7, 2013 to discuss the proposed plans for the expansion of the Morris Elementary Property within the Milford School District for a septic expansion.

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 Sussex County as 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 Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but please be advised that the State has other priorities for the near future.
- The State has no objection to the purchase of this parcel by the Milford School District. The purpose of the purchase is to allow for a future expansion of the septic system should the current system ever fail. There is no public sewer service in this area, nor is there room on the current site to build a replacement septic system. This would be a prudent purchase in order to ensure the long term viability of this school facility.

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 archaeological site or National Register-listed property on this parcel. However, if any development project does proceed on this parcel, it is still important that the developer be aware of the Delaware 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 or open space areas, and sometimes near or within the boundary of an historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the 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, 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 cemeteries or any burials 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 would like to know more information that pertains to unmarked human remains or cemeteries, please check 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. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. 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

- If construction access is needed from Greely Avenue, then in accordance with Section 8.4 of the Standards and Regulations for Subdivision Streets and State Highway Access, the School District should contact DelDOT's South District Public Works Manager, Mr. Marvin Roberts to obtain a construction entrance permit. Mr. Roberts can be reached at (302) 853-1341.
- DelDOT understands that the District intends to resell the portion of the property where the existing house is located, possibly through a lot line adjustment. Regardless, DelDOT anticipates treating the project as a minor subdivision plan in accordance with Section 3.2 of the Standards and Regulations. In that regard, the District's engineer or surveyor should submit a plan to Mr. John Fiori of this office to obtain a Letter of No Objection. Mr. Fiori can be reached at (302) 760-2260.

Department of Natural Resources and Environmental Control – Contact Bahareh van Boekhold 735-3495

TMDLs

- The project is located in the greater Delaware River and Bay drainage, specifically within the Mispillion 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 Mispillion River watershed calls for a 57 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for an 87 percent reduction in bacteria from baseline conditions.

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.

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 tanks (LUST) project is located within a quarter mile of the project boundary:
 - Mesick Property, Facility: 9-000099, Project: S0208067 (Active)
- 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 Section by calling 302-395-2500.

Delaware Department of Education – Contact Despina Wilson 735-4199

- This project is subject to the requirements of Title 29, § 7525 of the Del. C., *Procedures for the Review and Approval of New School Sites*.
- The DOE supports this project and will continue to work with the district, architect, site engineer, Municipal government and various state agencies regarding the project. The DOE reserves the right to provide continued and on-going comments and input as the project develops.
- In order to further process the approval of the potential site, the district shall send a letter requesting approval of the site to the Department of Education. The letter should be directed to Despina Wilson, the Education Associate responsible for School Construction Project Management. The letter should contain a tax parcel ID #, PLUS review #, and all relevant information regarding the site and the proposed school.

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 Natural Resources and Environmental Control – Contact Bahareh van Boekhold
735-3495

Soils Assessment

- Based on soils survey mapping update, Ingleside (IeA) was mapped on subject parcel. Ingleside is a well-drained upland soil that, generally, has few limitations for development.

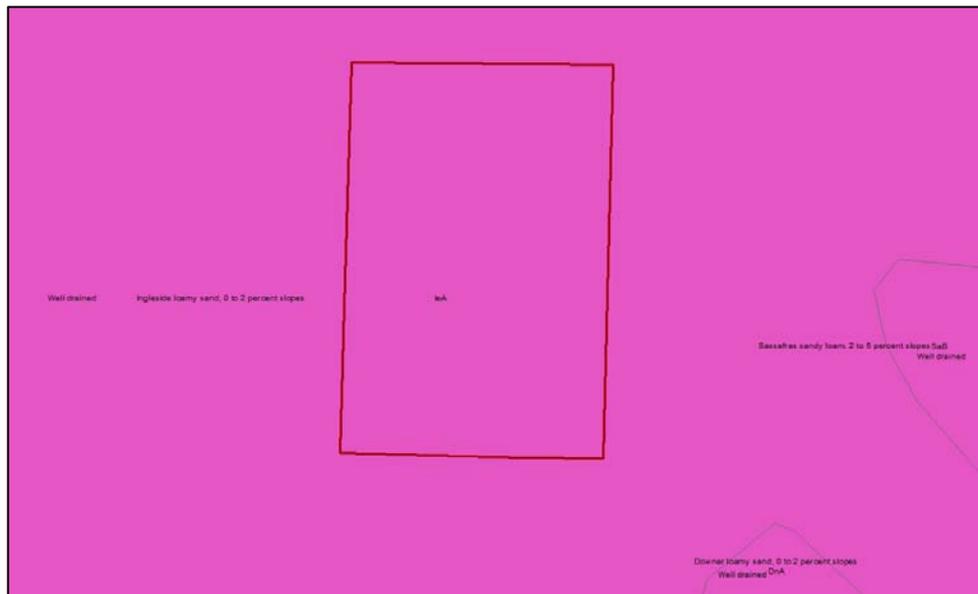


Figure 1: NRCS soil mapping update mapping in the immediate vicinity of the proposed project

Additional information on TMDLs and water quality

- The applicant should 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 Watershed Assessment Section at 302-739-9939 for more information on the protocol.
- In response to concerns about the need for reducing nonpoint source nutrient (nitrogen and phosphorus) and bacterial pollutants to levels sufficient to meet the prescribed TMDL reduction requirements in the Mispillion River Basin, a multifaceted and

comprehensive process known as a Pollution Control Strategy (PCS) has been developed to enable such reductions. Specifically, a PCS is a combination of best management practices and control technologies that reduce nutrient and bacterial pollutant runoff loading in waters of a given watershed to level(s) consistent with the TMDL(s) reduction levels specified for that watershed. We encourage the applicant reduce nutrient and bacterial pollutants through voluntary implementation of the following recommended BMPs:

- DNREC 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 the adjoining stream and wetlands, we strongly encourage the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate the negative impacts from pollutant runoff.
- 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 are highly encouraged for this project.

Additional information on hazardous waste sites

- The Site Investigation and Restoration Section (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.
- 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). SIRS 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.
- 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.

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: Sussex County