



TOWNSHIP OF NORTH BERGEN

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CHRISTOPHER PIANESE
TOWNSHIP ADMINISTRATOR

April 18, 2011

Robert W. Rodriguez
State of New Jersey
Department of Environmental Protection
Green Acres Program
Mail Code: 501-01
PO Box 420
Trenton, NJ 08625-0412

Re: Green Acres Site Restoration: James Braddock County Park
Project #0908-88-059, 0908-83-068, 0908-02-026, 0908-91-059

Dear Mr. Rodriguez:

I truly appreciate your recent visit to North Bergen and your good counsel on the steps we should follow to rectify the compliance issues in Braddock Park. Although a number of our administrative personnel took no part in the actions that led to these issues, we all recognize the gravity of the violation and are committed to expediting restoration of this encumbered parkland. The following proposal outlines the Township's plan for removal of the preschool trailers and full restoration of the site, as well as an overview of an alternative course of action, should we -- despite our best efforts -- fail to relocate the preschool.

- 1) We will work with County officials and come to agreement on a short-term lease for the parkland in question by May 31, 2011. The lease will cover the Township's sublet of the site to the North Bergen Board of Education for a term not to exceed 24 months, beginning July 1, 2011 and expiring July 1, 2013. This agreement will also include a more detailed timetable of expected progress in the removal and restoration process.
- 2) Simultaneously, we will begin the pre-application process for major diversion of local parkland. The goal here is to complete pre-application, including the requisite on-site meeting and scoping hearing by 12/31/2011.
- 3) We have already begun the evaluation of prospects for relocating the preschool. The options we are considering include the following:
 - existing privately-owned school buildings that would require renovation and/or construction;
 - the rehabilitation/repurposing of non-school facilities; and
 - empty lots for the installation of trailers
- 4) With the identification of a new site, we will begin restoration of the encumbered parkland before July 1, 2013.

Ex. C

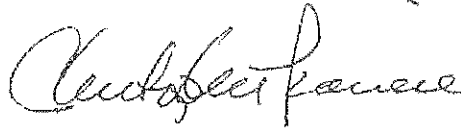
Robert W. Rodriguez

Page 2

April 18, 2011

In alignment with the preferences of the Green Acres administration, our aim is to remove the trailers in question from their current site and restore the parkland as expediently as possible. We believe the multi-faceted approach as indicated within this letter of intent will allow all parties concerned to realize such goal. Finally, we thank you for the time you have taken to assist us in this process, and we hope you will see this letter, our outlined relocation prospects, the forthcoming short-term lease agreement, and the pre-application for diversion as adequate commitment on the part of the Township and the County to follow an appropriate course of action that will rectify this situation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Christopher Pianese". The signature is fluid and cursive, with the first name "Christopher" being more prominent than the last name "Pianese".

Christopher Pianese
Township Administrator

cc: Thomas Stevens, Compliance Inspector, Bureau of Legal Services & Stewardship
Michelle Richardson, Director, Dept. of Parks & Community Services, Hudson County Park
Lori Cotter, Deputy County Administrator, Hudson County
Thomas McCann, Division Chief, Hudson County Park

Hudson County, North Bergen Township
Braddock Park (Block 437.02 Lot 1)
Pre-K School Trailers Diversion of Green Acres-Encumbered Parkland
State House Commission (SHC) #s 0900005, 0908003
Pre-Application Completeness Review, Part 1

The Green Acres Program staff has completed an initial review of the Diversion Pre-application concerning the existing Pre-K school trailers and future proposed permanent modular school facility on a portion of Braddock Park (Block 437.02 Lot 1), located in North Bergen Township, Hudson County. The diversion Pre-application is being jointly submitted by Hudson County and North Bergen Township. At this time, the Pre-application has been deemed incomplete. We are directing the applicants to provide additional information as documented below. Upon receipt and review of your response, we will itemize any remaining information that must be submitted to deem the application complete.

1. Existing and proposed diversion – The diverted area as mapped appears to consist of approximately 1.17 acres, comprising exclusively the existing Pre-K school trailers. However, there are several other areas of concern that may increase the size of the diversion, as noted herein:
 - a. Tot Lot – There is a fenced off tot lot, immediately adjacent to the parking lot closest to the school trailers, which we understand is used for school purposes. If it is unavailable for general public use, it must be considered part of the diversion and justification must be provided as to why it cannot be a shared park facility.
 - b. Septic holding tank and future sewer connection – The Pre-application references a septic holding tank serving the school trailers and located outside of the diverted property. (Environmental Assessment Report, Diverted Property, p. 2 of 28) Please submit information showing the location of the holding tank. It appears that this tank must be included as part of the diversion, unless there is official documentation that the tank is used not only for school purposes, but also park purposes. The Pre-application makes reference to shared use of the tank being the intent in the future, but we need more information before making a determination about this structure. Similarly, the application notes that future plans are to make a direct connection to the North Bergen MUA sewer system, to benefit both the Pre-School facility and the track and field facility adjacent to it. Please provide official documentation (such as, for example, an adopted wastewater management plan) demonstrating that the septic holding tank and any future sewer connection located outside of the diverted area will benefit not only the school facility but also park facilities. Otherwise, these areas must be included in the application for a diversion (and the Land and Water Conservation Fund conversion application).

Ex. H

alternative, documenting why it is neither feasible, reasonable, nor available today (again, in the context of how those terms are defined in our rules.)

- d. Hudson County High Tech High School properties, Block 458.01, Lot 1 and Block 458 Lot 1 – Please provide information on the scheduled relocation of the Hudson County High Tech High School to Secaucus and analyze the alternative of relocation of the Pre-K school to a portion of the current properties associated with the Hudson County High Tech High School in N. Bergen (or alternatively, relocating other school children there and moving the Pre-K school into newly available space at one or more of the existing school facilities).
- e. Dispersing Pre-K school children amongst the existing North Bergen Township grammar schools and high school – Please analyze the availability of space within the existing school facilities and/or grounds to accommodate the pre-school children.
- f. Properties proposed in response to the RFQ/RFP previously issued by the BOE – It appears that the RFQ/RFP calling for the lease of a full Pre-K facility, issued by the BOE in 2012 requested construction/leasing not only for a school but also for a library and community center. Please explain why the BOE cannot issue a revised RFQ limiting the proposal to a Pre-K school. In addition, please document whether the responders provided cost/lease payments based on a Pre-K school without the library and community center, or for just the school.
- g. 54th & Tonnelle Avenue – Please provide detailed information obtained through the feasibility study leading to the conclusions that this site was neither feasible, reasonable or available (as those terms are defined in our rules.)
- h. Additional sites raised by the public following the Scoping Hearing public comment period – Please analyze the possibility of relocating the Pre-K school facility to 1706 Paterson Plank Road and 1 Daffy's Way, both presumably for sale.
- i. Proposed replacement land – Please analyze the alternative of relocating the Pre-K school facility to the proposed replacement properties in North Bergen Township.
- j. NJSDA Funding - It is our understanding that there are \$12.6 million in NJSDA funds for grants offered to but not yet executed by North Bergen Township, as well as \$2 million associated with already-executed grants. Please indicate whether the Township BOE intends to accept these grant funds and if so, how much if any will go toward offsetting the more than \$8 million in capital funds needed to address existing health/safety

**5-26-16 Phone Meeting with Hudson County
Braddock Park School Trailers
North Bergen Twp, Hudson County
8437.02 Li
Meeting Summary for the File**

In attendance:

GAP: Caroline Armstrong, Judeth Yeany, Martha Sapp

Hudson County: Sue McCurrie, Asst County Counsel, Wanda Monahan, Special Outside Counsel

Purpose of meeting was to try to convince County to relocate school trailers by end of September 2016. Judeth/Martha explained the issues primarily from standpoint of federal conversion including:

- 1. NJ at risk of losing nearly \$9 million in federal funding unless conversion is addressed expeditiously.**
- 2. NPS indicated that if school trailers are removed by September 2016, they will terminate the conversion and all necessary compensation requirements — this is a first, to our knowledge, as they've never done that in NJ before. GAP would likely use discretionary ability to terminate diversion as well (though JY feels we could be subject to lawsuit on procedural grounds).**
- 3. Even if Twp and BOE decide to retain the trailers beyond September and file the conversion, no guarantee the NPS will approve it. If it isn't approved, will need to remove the trailers in the end anyway (and will end up spending a lot more \$ than they already have on the diversion process and on replacement land acquisition).**
- 4. NPS will thoroughly scrutinize alternatives and replacement land. S Jandoli has expressed concerns that NPS may take issue with one or two of the proposed replacement sites.**
- 5. While NPS requires 1:1 replacement land, GAP requires 5:1. Applicants have not demonstrated mitigating circumstances warranting less than 5:1.**
- 6. GAP believes there are viable alternatives, including but not limited to High Tech High School and 64th Street sites.**
- 7. Cost is not a sufficient justification for an alternatives analysis.**

County has not yet heard back from N. Bergen on its site visit with BOE, State DOE etc of the High Tech High School site. Sue/Wanda believe interest in that site is to relocate existing students elsewhere in town and then perhaps move pre-k kids to other existing plant. Martha said that is a local decision and we're not involved, our only concern is to relocate trailers off of the park.

County will reach out to Twp and BOE by early next week on where things stand, convey our concerns and discuss the idea of removing trailers by September. As follow up to meeting, I sent email to Sue/Wanda indicating that we have a mtg with the DEP Commissioner's office next Tuesday and would appreciate word back before then as to whether Tp/BOE would consider relocation of school trailers by September a possibility.

/Prep'd by CArmstrong

Ex. I

TO: Caroline Armstrong, Green Acres Program

DATE: August 19, 2016

RE: Hudson County, North Bergen Township
Braddock Park (Block 437.02, Lot 1)
Pre-K School Trailers Diversion of Green Acres-Encumbered Parkland
State House Commission (SHC) #s 0900005, 0908003
Response to "April 12, 2016, Pre-Application Completeness Review, Part 1"

This response to the Green Acres Program staff's initial review of the application SHC # 0900005 and SHC # 0908003 has been prepared jointly by Hudson County and North Bergen Township. The applicants have been requested to provide additional information as documented below. We understand that Green Acres Program staff will review the enclosed response with the original pre-application, and identify any remaining information that must be submitted to deem the application complete.

Responses follow Green Acres Program staff's format, with Green Acre's comment list in *italics*.

1. *Existing and proposed diversion – The diverted area as mapped appears to consist of approximately 1.17 acres, comprising exclusively the existing Pre-K school trailers. However, there are several other areas of concern that may increase the size of the diversion, as noted herein:*

RESPONSE: The diverted area, consisting of 1.17 acres, is comprised of the existing Pre-K school trailers and the existing paved access way in front of the Temporary Classroom Units (TCUs). More information clarifying each of the areas of concern raised is detailed in the responses that follow.

- a. *Tot Lot – There is a fenced off tot lot, immediately adjacent to the parking lot closest to the school trailers, which we understand is used for school purposes. If it is unavailable for general public use, it must be considered part of the diversion and justification must be provided as to why it cannot be a shared park facility.*

RESPONSE: The Tot Lot, identified on the Diversion Site Survey submitted with the original application as "Play Area," is a fenced-off area measuring approximately 0.086 acres. The Tot Lot has been and will continue to remain available for general public use as a shared park facility when preschool is not in session, and therefore, it should not be considered part of the diversion. Current access to the Tot Lot is consistent with other amenities within the Township's lease hold at Braddock Park, such as the athletic field and spectator viewing stands. The Tot Lot was built and equipped by the North Bergen Board of Education (hereinafter referred to as the "Board"). The Board has maintained and improved the play equipment on the parcel and will continue to do so to ensure park amenities remain in a good state of repair for preschool and general public use. The Board provides for general public use of the Tot Lot as a shared park facility.

- b. *Septic holding tank and future sewer connection – The Pre-application references a septic holding tank serving the school trailers and located outside of the diverted property. (Environmental Assessment Report, Diverted Property, p. 2 of 28) Please submit information showing the location of the holding tank. It appears that this tank must be included as part of the diversion, unless there is official documentation that the tank is used not only for school purposes, but also park purposes. The Pre-application makes reference to shared use of the tank being the intent in the future, but we need more information before*

ownership of property (which at the time consisted of today's Block 205, Lots 1, 22, 30 and 622.07) from North Bergen Township to the BOE (DB 3179 PG 973), only a building and the underlying land (corresponding either to the Recreation Center or else to the adjacent building) were excepted out. That same deed also reserves the rights of public ingress and egress through today's Block 205 Lots 1 and 622.07, both of which were additionally listed on numerous Township ROSIs, as well as Lot 22. Assuming the Township could successfully pursue a ROSI amendment for Lots 1, 22, and 622.07 (exclusive of the building on Lot 22 that was excepted out if used for public recreation/conservation purposes) as it did for Lot 30, please provide an alternatives analysis demonstrating whether use of Block 205, Lots 30 and 22 and if needed, Lots 1 and 622.07, is a feasible, reasonable or available alternative, including taking into account whether the loss of a ballfield (serving the Lincoln School?) could be offset by the existing fields across the street on property held by the Township (Block 221 Lot 10). Please be sure to take into consideration whether acquisition of Lots 25, 78 and 81 (which was considered by the BOE prior to submission of the diversion Pre-application) in conjunction with Block 205 Lot 30 or any other parcel could be avoided by pursuing this alternative. To this end, a prior concept plan, prepared by Grace Lynch and dated 12-29-11, shows a layout consisting of Lots 30, 22, along with a portion of Lot 81 and part of Lot 67 as a possible alternative. Please re-analyze this alternative, documenting why it is neither feasible, reasonable, nor available today (again, in the context of how those terms are defined in our rules.)

RESPONSE: The ballfield located at 64th Street (Block 205 Lot 30) is not a reasonable alternative. Block 205 Lot 30 is not reasonable as per NJAC 7:36-26.9(e)2v as it would create unique problems, specifically the loss of irreplaceable community resources. The field at Block 205 Lot 30 and the fields across the street at Block 221 Lot 10 are heavily utilized by the North Bergen Parks & Recreation Department as the site of regularly scheduled practices and games necessary for organized youth athletic programming. The field at Block 205 Lot 30 and fields across the street at Block represent half (3 of 6) baseball/softball fields located within North Bergen and half (1 of 2) soccer fields located within North Bergen. There are more than 8,000 children ages 5 to 16 in North Bergen that are eligible to participate in Township recreation programs who would be negatively impacted by the reduction in public health benefits resulting from removal of the athletic fields. Other park features located at Block 205, including a play area and dog run, are frequented by many of the more than 62,000 residents of North Bergen Township. Removal of this heavily utilized and fully developed community facility would result in an adverse impact of an extraordinary magnitude on public health, especially for the 24% of North Bergen youth who live below the federal poverty line. Construction of a preschool at this location would constitute an extraordinary burden to the community.

- d. Hudson County High Tech High School properties, Block 458.01, Lot 1 and Block 458 Lot 1 – Please provide information on the scheduled relocation of the Hudson County High Tech High School to Secaucus and analyze the alternative of relocation of the Pre-K school to a portion of the current properties associated with the Hudson County High Tech High School in N. Bergen (or alternatively, relocating other school children there and moving the Pre-K school into newly available space at one or more of the existing school facilities).

RESPONSE: The HCST campus located at 85th Street and Tonnelle Avenue in North Bergen is in full operation and it was not available as an alternative at the outset of the Diversion Pre-Application process in 2013. Since that time, HCST initiated a design/build contract for a new facility at a site in neighboring Secaucus, with occupancy anticipated by September 2018. This timeline is dependent upon construction requirements for the new facility.

Since the filing of the Pre-App, the Board Initiated negotiations with the HCST, with the support of the County of Hudson, to investigate and review the HCST North Bergen site and facilities to

evaluate the appropriateness of a lease and/or acquisition of all or part of the site, in recognition of its potential home for North Bergen High School serving students enrolled in grades 10 through 12. The goal of this alternative would be to renovate the existing HCST building in a more cost effective and timely manner than undertaking new construction. If relocation of the 10 to 12 grade population to the HCST is feasible, the existing North Bergen High School facility could serve as a middle school serving students in grades 6 through 9 and the early childhood population could be housed throughout other facilities owned and operated by the North Bergen School District (the District), subsequent to the relocation of middle and high school students. Renovations to the HCST site will be required as part of this alternate plan. This alternative is consistent with the Board's Long Range Facilities Plan as submitted and accepted by the NJ DOE. Any amendments would be subject to review by the NJ DOE.

- e. Dispersing Pre-K school children amongst the existing North Bergen Township grammar schools and high school – Please analyze the availability of space within the existing school facilities and/or grounds to accommodate the pre-school children.

RESPONSE: The District currently operates at a deficit with respect to available classroom space. Dispersing Pre-K school children amongst the existing North Bergen Township grammar schools and high school is not a feasible alternative as it would bring about unresolvable logistical problems as per NJAC 7:36-26.9(e)1ii Space is not available within the existing school facilities and grounds that could accommodate preschool children without vacating K-12 students to other facilities not currently owned or leased by the District.

To address the deficit of classroom space, the District has sought to acquire available properties adjacent to its existing facilities and has added to their plant through construction and leased facilities. The District has recently constructed major additions at or directly adjacent to four elementary schools (Lincoln Early Childhood Annex, Franklin Annex, Kennedy School and McKinley) and leased a third facility as an annex to Fulton School at Polk Street. Concurrent to the establishment of kindergarten programming at Lincoln Annex, the District renovated classrooms in each existing elementary school for kindergarten use.

The Board has investigated use of properties and facilities adjacent to schools as they become available, such as the house of worship located at 300 75th Street, directly across from Fulton Elementary School, and the "Crib World" property on 53rd Street near Franklin School. The house of worship property is not available as it was recently acquired by a new owner for religious purposes. Also, the house of worship site is not feasible as per NJAC 7:36-26.9(e)1i due to the size of existing rooms, layout of the interior spaces, and extensive renovations that would be required to comply with state regulations for educational facilities (NJAC 6A:26-6.4). The "Crib World" property is not feasible as per NJAC 7:36-26.9(e)1i due to the size of the property, which would not provide for construction compliant with NJAC 6A:26-6.4.

Further additions or expansion will require substantial costs incurred by the District for land acquisition.

- f. Properties proposed in response to the RFQ/RFP previously issued by the BOE – It appears that the RFQ/RFP calling for the lease of a full Pre-K facility, issued by the BOE in 2012 requested construction/leasing not only for a school but also for a library and community center. Please explain why the BOE cannot issue a revised RFQ limiting the proposal to a Pre-K school. In addition, please document whether the responders provided

On Jun 8, 2017, at 11:41 AM, Sapp, Martha
<Martha.Sapp@dep.nj.gov> wrote:

Bernadette,

Both Caroline and I are available to meet the mornings of Wednesday (6/14) and Thursday (6/15). That said, I don't believe the meeting will be productive unless you provide the response document, either in advance or at the meeting, so we can move this forward. If there are any responses that are not yet complete, you can provide those later, but I need Caroline to start reviewing the document. The sooner we can authorize the Township/County to submit the final application, the better.

Also, although you don't control the message, please let the Township know that we were concerned by the newspaper article below.

While we know that they can't yet guarantee the acquisition of the High Tech high school, please know that we are not entertaining a back-up plan. Removing the trailers as quickly as possible is the only scenario we are considering, and is what the Township has assured us will happen. Allowing the trailers to remain permanently is not an option.

Please let me know if you would still like to meet, what you would like to discuss, and if either of those days/times work for you. I look forward to hearing from you.

Thanks.

Martha

From DEP OPRA # 258231

Ex. K

TO: Caroline Armstrong, Green Acres Program

DATE: August 25, 2017

RE: Hudson County, North Bergen Township
Braddock Park (Block 437.02, Lot 1)
Pre-K School Trailers Diversion of Green Acres-Encumbered Parkland
State House Commission (SHC) #s 0900005, 0908003
Response to "December 19, 2016, Pre-Application Completeness Review, Part 2"

This response to the Green Acres Program staff's secondary review of the application SHC # 0900005 and SHC # 0908003 has been prepared jointly by Hudson County and North Bergen Township. The applicants have been requested to provide additional information as documented below. We understand that Green Acres Program staff will review the enclosed response with the original pre-application, and identify any remaining information that must be submitted to deem the application complete.

1. Description of the Proposed Diversion/Disposal

- a. Acreage of the parkland proposed for disposal or diversion (N.J.A.C. 7:36-26.9(d)1ii): Please revise the acreage of parkland comprising the diversion based on the below analysis.

Based on review of the analysis provided by Green Acres Program staff on December 19, 2016, the acreage of the parkland proposed for diversion is amended to 1.25 acres, inclusive of the footprint of the TCUs as well as the Tot Lot and "Parcel 4" immediately adjacent to the Tot Lot.

i. Tot Lot and Parcel Immediately Adjacent to the Tot Lot

The acreage of the parkland proposed for diversion is amended to 1.25 acres to include the Tot Lot and "Parcel 4" immediately adjacent to the Tot Lot.

ii. Pump Station Wet Well and Future Sewer Connection

The pump station wet well predates the placement of temporary classroom units at Braddock Park and is used for park purposes. The "Pre-Application Completeness Review, Part 2" requested the County and Township to "reference the section of the Wastewater Management Plan and/or language in the Resolution that addresses this issue." After further review, the Hudson County Wastewater Management Plan does not provide specific information as to the dual use of the pump station wet well for school and park purposes, as inclusion of this information would be overly specific and go beyond the scope of the Wastewater Management Plan.

The County and Township have revisited the original request made in the April 12, 2016 Pre-Application Completeness Review, Part 1: *"It appears that this tank must be included as part of the diversion, unless there is official documentation that the tank is used not only for school purposes, but also park purposes. The pre-application makes reference to shared use of the tank being the intent in the future, but we need more information before making a determination about this structure...Please provide official documentation (such as, for example, an adopted wastewater management plan) demonstrating that the septic holding tank and any future sewer*

Ex. L

property did not seek diversion approval due to lack of awareness of such requirement at the time the extremely time sensitive decision to place TCUs in Braddock Park was made.

Extraordinary measures have been made to comply with the Green Acres after the fact diversion process, as can be shown at <http://www.nj.gov/dep/greenacres/notices.html>. In the ensuing years since the process begun, difficult obstacles in relocating the TCUs from Braddock Park have been overcome in what is geographically the smallest and most densely populated county in the State of New Jersey. By its very nature, identifying and acquiring property in Hudson County comes at a greater cost and length of time than in more rural or suburban communities. While technically a "Diversion after the fact," the TCUs currently housing North Bergen's Pre-K will be removed by the start of the 2019 school year and the area restored to recreational usefulness at Braddock Park. This is possible due to the innovative, long-term, cost effective solution presented by the shared acquisition of the current site of the Hudson County Schools of Technology (HCST) located in North Bergen.

The HCST site will be vacated within the next two years when the HCST moves to its new location in Secaucus, NJ. Using the HCST site, the North Bergen Board of Education will then have the classroom space necessary to accommodate the Pre-K program in their existing facilities and relocate the Pre-K program out of Braddock Park. It is unlikely that this positive outcome could be achievable under any other circumstances in such time without the cooperative efforts of all involved. While significantly less than the construction of a new pre-school facility, the HCST site presents additional tax dollars to be expended by the involved entities (County, Township, and Board) at this time, plus those already expended in compliance with the diversion process.

The HCST site presents a better outcome than any alternative sites previously explored or suggested. Further, in the end, neither a true conversion nor diversion will be necessary as a result of the efforts of the County, Township, and Board to find a long-term solution that results in the removal of TCUs from Braddock Park and restoration of the 1.25 site to recreational usefulness. If a 5-1 replacement ratio is imposed it would appear to be punitive and create an unfair and severe hardship to the taxpayers and residents, who have already been penalized significantly to comply with state and federal mandates regarding education and land use.

In light of these mitigating circumstances, the County, Township and Board respectfully request the NJDEP to honor its original commitment to consider a reduction in the ratio of required replacement land, with the argument for mitigating circumstances summarized as follows:

- (1) The TCUs will be removed from the 1.25 acre diversion parcel
- (2) The 1.25 acre diversion parcel will be restored to full recreational usefulness
- (3) The County, Township and Board have/will expend over \$22 million to comply with state education mandates and completion of the after the fact diversion and conversion
- (4) The County, Township and Board have cooperated in good faith to advance a mutually agreeable resolution
- (5) The original placement of TCUs was a decision made in desperation, after substantial efforts to locate the preschool were met by unforeseen circumstances
- (6) Acquisition of additional replacement land acreage would result in additional cost to local, county and statewide taxpayers and significantly prolong the diversion process substantially due to the difficulty in identifying available AND cost effective land, followed by lengthy environmental review and property acquisition processes in one of the most cost prohibitive and densely populated real estate markets in the world
- (7) The original decision to locate TCUs at Braddock Park was not a deliberate violation of Green Acres rules, but rather the result of lack of awareness of Green Acres rules



OFFICIAL SPECIAL BOARD OF EDUCATION ELECTION MAIL-IN BALLOT
BOLETA OFICIAL DE LA ELECCIÓN ESPECIAL DE LA JUNTA DE EDUCACIÓN VOTO POR CORREO

Township of North Bergen

December 11, 2018/11 de diciembre del 2018

HUGO D. CABRERA

Board of Education Secretary
Secretario de la Junta de Educación

"IT IS AGAINST THE LAW FOR ANYONE
EXCEPT YOU THE VOTER TO MARK OR
INSPECT THIS BALLOT."

"ES ILEGAL QUE OTRA PERSONA
EXCEPTO USTED, EL VOTANTE, MÁRQUE
O INSPECCIONE ESTA BOLETA."

**PUBLIC QUESTION TO BE VOTED UPON
PREGUNTA PÚBLICA A SELECCIONAR**

PROPOSAL

The Board of Education of the Township of North Bergen in the County of Hudson, New Jersey is authorized: (a) to acquire real property formerly known as the Hudson County Technical High School, located at Tonnelie Avenue and 85th Street, in North Bergen and described on the Township tax map as Block 458, Lot 1 and Block 458.01, Lots 1 and 6.01 (High School West), and to provide for additions, renovations, alterations and improvements thereto and also to the existing North Bergen High School facilities (High School East), including fixtures, furnishings, equipment, site work and related work; (b) to appropriate \$64,958,000 for such purposes, including \$4,958,000 from capital reserve; and (c) to issue bonds of the school district in the principal amount of \$60,000,000.

The final eligible costs of the projects approved by the Commissioner of Education are \$52,331,912 (with \$37,087,622 allocated to High School West and \$15,244,290 allocated to High School East). The proposed improvements include \$12,497,548 allocated to High School West and \$0 allocated to High School East for elements in addition to the facilities efficiency standards developed by the Commissioner of Education or not otherwise eligible for State support pursuant to N.J.S.A. 18A:7G-5(g). The State debt service aid percentage will equal 48.894% of the annual debt service due with respect to the final eligible costs of the projects. The Board of Education is authorized to transfer funds among the projects approved at this special election.

PROPUESTA

La Junta de Educación del Municipio de North Bergen en el Condado de Hudson, Nueva Jersey, está autorizada a: (a) adquirir bienes inmuebles anteriormente conocidos como la Escuela Secundaria Técnica del Condado de Hudson, ubicada en la Avenida Tonnelie y la calle 85, en North Bergen y descrito en el mapa de impuestos del Municipio como Bloque 458, Lote 1 y Bloque 458.01, Lotes 1 y 6.01 (High School West), y para proporcionar adiciones, renovaciones, modificaciones y mejoramientos al mismo y también a las instalaciones existentes de la Escuela Secundaria de North Bergen (High School East), incluyendo accesorios, muebles, equipo, trabajo en el sitio y trabajo relacionado; (b) para asignar \$64,958,000 para tales propósitos, incluyendo \$4,958,000 de la reserva capital; y (c) emitir bonos del distrito escolar en la cantidad principal de \$60,000,000.

Los costos finales elegibles de los proyectos aprobados por el Comisionado de Educación son \$52,331,912 (con \$37,087,622 asignado a High School West y \$15,244,290 asignado a High School East). Las propuestas de mejoramientos incluye \$12,497,548 asignados a High School West y \$0 asignados a High School East para los elementos en adición a los estándares de eficiencia de las instalaciones desarrolladas por el Comisionado de Educación o si no son elegibles para recibir ayuda estatal de acuerdo con N.J.S.A. 18A:7G-5(g). El porcentaje de la ayuda del servicio de la deuda estatal será igual al 48.894% del servicio anual de la deuda con respecto a los costos finales elegibles de los proyectos. La Junta de Educación está autorizada para transferir fondos entre los proyectos aprobados en esta elección especial.

YES/SÍ NO

IMPORTANT INSTRUCTIONS TO VOTERS

1. Please fill in the name of the person you are voting for in the Public Question to be voted upon.
2. Mark your answer to the Public Question to be voted upon by writing YES or NO.
3. If you are voting for the person you are voting for, please mark YES or NO.
4. If you are voting for the person you are voting for, please mark YES or NO.

INSTRUCCIONES IMPORTANTES A LOS ELECTORES

1. Por favor, rellene el nombre de la persona por la que está votando en la Pregunta Pública a ser votada.
2. Marque su respuesta a la Pregunta Pública a ser votada escribiendo SÍ o NO.
3. Si está votando por la persona por la que está votando, por favor, marque SÍ o NO.
4. Si está votando por la persona por la que está votando, por favor, marque SÍ o NO.

Ex. N



NJ DEPARTMENT OF EDUCATION
SCHOOL FACILITIES
WELCOME FORM

STATE PROJECT# :

Parent	3610-050-18-1000
Land	0
Temporary	0
Feasibility	0
Emergent	0

Welcome to the NJDOE's School Facilities Project Application with Guidance Documents

Before using this application, read the various steps outlined on sheet entitled "Process-010"

1

Provide Basic District Information:

A. Select County:

B. Select District:

County Name: HUDSON
County Code: 17
District Name: NORTH BERGEN TWP
District Code: 3610
School Name: East Sr High School - Kennedy Boul
School Code: 050
Current District Aid% (DAP): 50.82%

Type of District:

SDA District

- ☒ Regular Operating District
☐ Private School for Disabled
☐ Level II

CHECK BOX BELOW and explain, if other category(s) apply:

Other:

6

To Obtain a State Project Number:

To obtain a State Project Number: (1) Complete Welcome Form-001; Transmittal Form-100A or B; & Project Application Form-120 or Pre-Development Request-110; (2) email app. to project.app@doe.state.nj.us

For DOE Use Only

(N## = New or Replacement Schools)
(X## = Non-Ed. Facility Or Other Facilities)

Project Assignment:

Date: 02-Nov-17

(Private schools have even City Codes)

Land Project 1100
Temporary Facilities 1200
Emergent Projects 1400
Private Schools 1010

DOE Manager: Cathy Bravo

Phone: (609) 943-5887

7

If SDA District - explain scenario:

This Appl'n submitted by SDA; work performed by A/E who was hired by the SDA to perform work on behalf of School District.

This Appl'n submitted by School District personnel Requesting Pre-Development services to be performed by SDA.

This Appl'n submitted by A/E who was hired by the District under 13A Grant.
This Appl'n submitted by A/E who was hired by the District, for Other Capital Project

2

Components of the Project:

Check all components that apply:

a) Type of Project (if "Pre-Development Ap," see Item 4 below):

- School Facilities Project
Other Capital Project (no state funding)
Emergent Project

School Facilities Project Requested as Demonstration Project
Land Acquisition
Disposal of Land Request
Closing of School Facility Request
Energy Service Project

b) New Construction Component (if applicable):

New School (if also Land Purchase, see also 2d below)
Replacement School (w/ disposal/demolition of existing school)
New Wing or Bldg Add'n, and/or Partial Demolition/Replacement
Acquisition of Existing Educational Facility
Acquisition of, Construction of, or Add'n to a Non-Educ'l Facility
(This Project Requires Final Ed. Adequacy Review & Review Fee)

c) Renovation/Alteration Construction Component (if applicable):

Educational: Alteration of any educational space
Non-Educational: Impacts only Non-Educ'l space/system/site
Educational: Change-of-Use that requires Alterations, or that requires Mech. or Elec. changes per NJAC 5:23 or NJAC 6A:26.
Site or Facility Change or other Alteration For Barrier Free, per NJAC 5:23, Sec. 504 of Federal Rehabilitation Act and ADA Act.
(This Project Requires Final Ed. Adequacy Review & Review Fee)

d) Land Acquisition Component (if applicable):

Acquire new site or additional parcels to expand an existing site

e) Temporary Space Component (if applicable):

For Educational Purposes
For Non-Educational Purposes

3

Phase of this Project Submission (Pre-Dev't Apps-See #4):

To Request a State Project # Schematic Submission
Final Submission Update to Existing Application
Project Close-out Other:

NOTE: Once assigned, the State Project # must show on all DOE Forms or project application will be rejected!

Applicant is requesting these, also:

- Request for Educational Variance
Request for Change Order
Request for Pre-Development Services

5

Is Project or Pre-Development Request consistent with District's

Approve

8

Explanation/Uses of Forms Pertinent to this Request or Application:

Form	Notes (a ✓ indicates signature(s) required on this form)
N/A Index-002	District or A/E use: Review carefully for critical information & assistance, including funding possibilities
N/A Process-010	District or A/E use: Review carefully for critical info.
S/F/C 001	Welcome: Required with All Project Applications ("Project Apps") and all Pre-Development Requests ("Pre-Dev't Reqs")
S/F/C 100 ✓	Use Transmittal 100A or 100B; Required with All Project Apps
S/F/C 120	Project Application: Required for all Project Applications (NOT Pre-Development Request.)
S/F/C 121	Various Project Submission Checklists - Your guide to exact submission requirements. For all Project Apps.
S 122	Project Schedule. Required for all Project Apps
F 123	DOE Final Review Fee Schedule - BOTH schedule & Fee are Required with ALL Final [Educational] Project Apps
S or F 124 ✓	Request for Local Release of Plans Form - required when UCC review of Project is requested to be undertaken by Local Code Official. Applies to Non-SDA managed projects only
S/F 130 ✓	Project Cost Estimate Summary Form [For both New Construction or Rehabilitation] - Required for all Project Apps
S/F 131	Rehabilitation Detailed Cost Estimate Form [Rehab Only] - Required in addition to DOE-130 for All Rehab Projects
C 170 ✓	Payment Voucher Form - For non-grant projects only
C 171 ✓	Contract Procurement Compl. Cert. - For non-grant projects only
C 172 ✓	List of Executed Contracts Form - For non-grant projects only
C 173 ✓	Construction Plan Compl. Cert. Form - For non-grant projects only

KEY:

I Form required at Project Initiation (Request for SP#)
ic Project Ap Submission

Ex. 0

If NO, submit an Amendment Request Form, found at
<http://www.nj.gov/education/facilities/lrhp/>
under separate cover as instructed.

Yes No LRFP not Required

F Form required at Final Project Ap Submission
C Form required at Close-out

For Additional Information - Click on DOE link at top of sheet!

WELCOME FORM, PAGE 1 OF 3

Land	0
Temporary	0
Feasibility	0
Emergent	0

Essential Details:**9. More Project and Contact Information:**

Project Title: East High School Media Renovation
 Project Street Address: 7417 Kennedy Boulevard
 Lot / Block: _____
 Municipality: North Bergen
 Zip Code: 07047

A/E Firm: GRACE LYNCH AIA PP / L+C Design
 A/E Contact & Title: Grace Lynch AIA PP
 A/E Telephone #: 201 866 7171
 A/E Fax #: 201 866 7395
 A/E E-Mail: GLYNCH@mlalc.com

District Contact: Grace Lynch AIA PP
 Contact Title: District Architect (principal architect)
 Contact Telephone #: 201 866 7171
 Contact Fax #: 201 866 7395
 Contact E-Mail: glynch@mlalc.com

To be Completed by SDA for SDA-Managed Projects Only:

SDA Division: _____
 SDA Contact: _____
 SDA Phone #: _____
 SDA Fax #: _____
 SDA E-Mail: _____

10. Brief Description of Project:

North Bergen proposes, as part of the District re-alignment, gut renovation of the existing "relocatable" building, and addition/ renovation of the adjacent Stair #2, to provide Media facilities, improved circulation, a new Reading Room/ Quiet Room, and a new secure vestibule for approximately 1,800 students in 10th through 12th grades. Existing rooms at one story modular/relocatable building are deteriorated and out dated. The existing Library / Media Room on the 2nd floor is undersized and outdated. (previously, a project at the same location "Media Addition" under 3610-050-10-1000).

11. Detailed Scope of Work (including list of program spaces proposed to be constructed new or renovated for existing schools):

The proposed renovation consists mainly of the Media Center; renovations include improvements to an adjacent stair and corridor, and a new Reading Room / Quiet Room where the Media Center meets the existing building. The project and program will address immediate need to provide updated and appropriate Media services at the existing High School, through a more appropriately sized and improved core facilities (Media), and will serve programming needs after District wide re-alignment.

The NBBOE seeks to create a comprehensive East Campus / West Campus High School program for grades 7-12, utilizing existing High School facilities and site at Kennedy boulevard as well as (through acquisition) the existing HCST "High Tech High School" facilities and Site, at 85th Street. The District's Long Range Facilities Plan, now amended to reflect the existing facilities and site to be acquired, has long proposed new facilities for High School students to open up much needed space for unhoused students. The plan now proposed will realize this goal and will result in District wide re-alignment for Pre-Kindergarten through 6th grade students at existing Elementary Schools.

12. Estimated New Construction: 1,200 Gross Square Feet

13. Referendum information, if applicable: **Proposed Year:** 2018
 January (4th Tuesday) September (Last Tuesday)
 March (2nd Tuesday) December (2nd Tuesday)
 April (3rd Tuesday) None

14. APPLICATION FOR GRANT FUNDING

Complete this section only if you are a Regular Operating District requesting consideration for grant funding. The previous process for grant funding allocations has changed significantly. **For a school facilities project to be considered for grant funding, the proposed scope of work must be 100% eligible for State support and be included in one of the priority "levels" described in Section 12B.** If the project scope is not 100% eligible for State support and/or the scope of work is not included in one of the three prioritization levels, the project will not be considered for grant funding. However, a district may request debt service aid if the proposed scope of work, or a portion of the proposed scope of work, is eligible for State support. Please review the grant funding information available on the Office of School Facilities web page at <http://www.nj.gov/education/facilities> for additional information, including the application process, eligibility, and critical deadlines.

A. Grant Funding Priority Levels and Proposed Scope of Work: Indicate the proposed project scope of work in accordance with the three grant funding prioritization levels. If the proposed scope of work is not applicable to any of the prioritization levels and/or is not 100% eligible for State support, the project does not qualify for grant funding. If the project has work applicable to more than one level, the project will be prioritized in the lower level. Please note that the Department will not confirm the district's priority level selection or make a final determination concerning priority level prior to grant approval or rejection notification.

LEVEL ONE**Critical capital maintenance needs and program mandates**

Upgrades to essential building systems (Structural, HVAC, electrical, plumbing systems; Includes required refinishing work.)
 Building skin (Repair or replacement of roof, windows, masonry, etc.)
 Building code issues
 ADA upgrades (incl. site and building access, toilet room renovations.)
 Hazardous materials abatement
 Security and communications systems (incl. essential systems such as public address, telephone, security; Excludes program space relocation.)
 Site drainage (To remediate an existing problem; Not in conjunction with new construction.)
 Elementary school playgrounds (Upgrades to existing playgrounds only; Not applicable for new playgrounds.)
 Renovated or new early childhood classrooms (See Grant Funding Guidelines at <http://www.nj.gov/education/facilities>)
 Special population needs (See Grant Funding Guidelines at <http://www.nj.gov/education/facilities>)

LEVEL TWO

Renewal of existing buildings, overcrowding, and improving quality of instructional spaces

Repair/replacement of existing building systems and components not included in Level One.

Existing site upgrades, excluding athletic fields and tracks *(incl. upgrades to paving, sidewalks, fencing, security lighting)*

Renovation and/or new construction of capacity-generating classrooms *(Must pertain to at least 75% of impacted square feet)*

Technology infrastructure upgrades *(Per Department's Technology Plan; Does not include equipment)*

WELCOME FORM, PAGE 2 OF 3

STATE PROJECT#:	
3610-050-18-1000	
Land	0
Temporary	0
Feasibility	0
Emergent	0

14. CONTINUED

LEVEL THREE

Major school facilities projects involving renovation and new construction

Projects will be ranked in accordance with various educational criteria. Grant allocations will depend upon demand.

Renovation and/or new construction project (Proposed new square feet must be 100% eligible for State support.)

General Description: _____

Proposed Grades: _____

B. Proposed Funding of Local Share: Select one below. (Status of local share does not impact grant eligibility or prioritization.)

Pending referendum (Complete Item 13 on page 2.)

Local share funded in current budget.

Local share to be funded in next budget.

15. District, BOE and A/E Contact Information (THIS MUST BE COMPLETED FOR ALL PROJECTS):

District Chief School Administrator:

Name: George J. Solter Jr. EdD , Superin
Phone: 201 868 1000
Fax: 201 295 2747
Email: GSOLTER@northbergen.k12.nj.us

CSA Mailing Address:

North Bergen Board of Education
7317 Kennedy Boulevard
North Bergen, NJ
07047

A/E Firm Mailing Address:

Grace Lynch AIA PP
One Marine Plaza, Suite 205
North Bergen NJ
07047

District Business Administrator:

Name: Steven Somick
Phone: 201 295 2740
Fax: 201 295 2747
Email: ssomick@northbergen.k12.nj.us

BA Mailing Address:

North Bergen Board of Education
7317 Kennedy Boulevard
North Bergen, NJ
07047

District Board President:

Name: Sai Rao
Phone: 201 868 1000
Fax: 201 295 2747
Email: ssomick@northbergen.k12.nj.us

Bd. Pres. Mailing Add's:

North Bergen Board of Education
7317 Kennedy Boulevard
North Bergen, NJ
07047

IN THE CASE OF A PRIVATE SCHOOL FOR THE DISABLED:

"Chief School Administrator" shall be the Executive Director & BOE shall be the Board of Trustees, & All Projects shall be "Other Capital" and include all requirements for an "Other Capital" Project - except these items are not required: Cohort-Survival Enrollment, Room Inventory, and Feasibility Study.

16. Send electronic files to DOE at the following email address:

project.app@doe.state.nj.us

NOTE: THIS ELECTRONIC APPLICATION MUST BE E-MAILED TO DOE IN ADVANCE OF ANY "PAPER" PROJECT APPLICATION SUBMISSION. ANY SUBSEQUENT CHANGES TO THE APPLICATION MUST ALSO BE TRANSMITTED ELECTRONICALLY.



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

LAMONT O. REPOLLET, ED.D.
Commissioner

October 5, 2018

Dr. George Solter, Superintendent
HUDSON COUNTY
North Bergen Township School District
7317 Kennedy Boulevard
North Bergen, NJ 07047

Re: Approval of Long-Range Facilities Plan Amendment
(Major Amendment; Enrollment and Educational Adequacy Impact)

Dear Dr. Solter:

The Department of Education (Department) has completed its review of the proposed amendment to the approved Long-Range Facilities Plan (LRFP or Plan) submitted by the **North Bergen Township School District** (District) pursuant to the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72 (N.J.S.A. 18A: 7G-1 *et seq.*), as amended by P.L. 2007, c. 137 (Act), N.J.A.C. 6A:26 -1 *et seq.* (Educational Facilities Code), and the Facilities Efficiency Standards (FES). The amendment includes the following changes to the LRFP previously approved on **January 15, 2010**,

- **Enrollment Projections**
- **Grade Realignment**
- **Inventory Changes**
- **System Improvements**
- **Additions and Alterations**

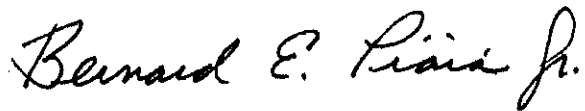
The amendment submission includes updates to the Department's LRFP website and the submission of required supporting documentation, including a Board of Education resolution authorizing the amendment.

The Department has approved the District's LRFP amendment submission, which is reflected in the attached "Summary of the Long-Range Facilities Plan, as Amended". **The approved LRFP amendment fulfills LRFP reporting requirements for a period of five years from the date of this letter per N.J.S.A. 18A: 7G-4 (a) unless the LRFP needs to be further amended to address a proposed school facilities project that is inconsistent with the approved Plan.** The approval of the LRFP amendment, and thus the approved amended LRFP, supersedes all former LRFP approvals and replaces all prior versions of the LRFP. Unless and until a new amendment is submitted to and approved by the Department pursuant to N.J.S.A. 18A:7G-4(c), this approved LRFP shall remain in effect.

Approval of the LRFP, and any projects and costs listed therein, does not imply approval of an individual school facilities project or its corresponding costs and eligibility for State support under the Act. Similarly, approval of the LRFP does not imply approval of portions of the Plan that are inconsistent with the Department's FES and proposed building demolition or replacement. Determination of preliminary eligible costs and final eligible costs will be made at the time of the approval of a particular school facilities project pursuant to N.J.S.A. 18A:7G-5. The District must submit a feasibility study as part of the school facilities project approval process, pursuant to N.J.S.A. 18A:7G-7b, to support proposed building demolition or replacement. The feasibility study should demonstrate that a building might pose a risk to the safety of the occupants after rehabilitation or that rehabilitation is not cost-effective.

Please contact Anthony Brun at the Office of School Facilities, at telephone number (609) 376-3669 or email at anthony.brun@doe.nj.gov with any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Bernard E. Piaia Jr." in a cursive script.

Bernard E. Piaia, Jr.
Director, Office of School Facility Projects

BEP:ab:

c: Lamont O. Repollet, ED.D., Commissioner
Kevin Dehmer, Division of Finance
Melissa Pearce, Executive Hudson County Superintendent
Steven Somick, North Bergen School District Business Administrator
Grace Lynch, L & C Design Consultants
Susan Kutner, Deputy Director, Office of School Planning
Anthony Brun, Office of School Facility Projects

Division of Finance
Office of School Facilities
State of New Jersey
Department of Education, PO Box 500
Trenton, New Jersey 08625-0500

OFFICE OF SCHOOL FACILITIES
2018 AUG 20 P 12:51

Attention: Anthony Brun, NJDOE Hudson County Manager

August 2018

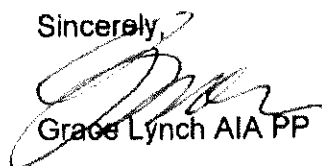
Re: North Bergen Board of Education Critical Proposed Actions-
revised OVERVIEW OF PROPOSED LRFP and RELATED PROJECTS

Dear Mr. Brun,

Following is an overview of the proposed North Bergen Long Range Plan, and the relate proposed projects.

This description is a revised version of the correspondence provided to Catherine Bravo in October 2017.

Sincerely,



Grace Lynch AIA PP

c: George J. Solter Jr., Ed.D, Superintendent of Schools
Melissa Pearce, Interim Executive County Superintendent, Hudson Co. Office of Education
Hugo Cabrera, Board Secretary
Steven Somick, Business Administrator

Ex. P1

DISTRICT OVERVIEW: The North Bergen Board of Education (NBBOE) proposal for expansion of the District plant, described in this narrative and attached documentation, remains generally consistent with the District's Long Range Facilities Plan (LRFP) 2010, now in place, which proposed the construction of a new High School; use of the existing High School as a middle School; and related district realignment to address unhoused students. In absence of funding, the District has utilized creative use of space, increased hours of operation in the High School, and leased facilities, to house its students.

At this time, the Hudson County Schools of Technology (HCST), which has operated a High Tech High School program on 85th Street in North Bergen, has relocated to new facilities in Secaucus. The opportunity to acquire an established, approved and operational high school educational facility cannot be underestimated. The acquisition of HCST facilities will provide critically needed classroom space and core facilities for the North Bergen District.

Current planning, incorporating acquisition of HCST facilities, proposes a 7th-12th grade High School program that will utilize the HCST facilities and the existing High School. This allows for a District wide re-alignment, as classrooms opened up by removing 7th and 8th grades from the Elementary Schools are critically needed for unhoused students. The NBBOE, Township of North Bergen, and County are cooperative partners in advancing the plan.

The NBBOE District Plant

Currently, facilities owned by the NBBOE include a 9th-12th grade High School and 6 Elementary Schools sited in fully developed urban settings, in addition to leased facilities located on 2 sites. Three Elementary schools have additions or annexes constructed more than 15 years ago at the onset of the District's Full day Kindergarten/Half day Pre-Kindergarten program.

Leased premises include a Pre-K to 8th grade school, formerly a parochial school, on Polk Street in North Bergen, which serves as an annex to Robert Fulton School. Educational spaces in the Fulton Annex, housing 173 students, includes 9 classrooms, a gymnasium, support spaces, and an on-site TCU. In addition, the Board utilizes Temporary Classrooms Units - 16 independent classrooms, each 1000 SF +/- with bathrooms, configured for Early Childhood Use, as well as an office unit. These TCUs, which house Pre-Kindergarten students, are located in North Bergen Township's leasehold in Hudson County Braddock Park; the leasehold area is also used by the NBBOE for athletics and recreational programs. Leasehold area includes a soccer field, a football field and track, a tot lot with age appropriate play equipment, parking, and other service areas. TCUs are located on a small corner of the leasehold.

Should enrollments continue to decrease as projected, the NBBOE will be able to terminate its lease of the Fulton Annex. Further, based on the proposed LRFP, Bond funding will be sought for site acquisition and designated improvements associated with re-alignment. On realization of re-alignment, Pre-K classes located in TCUs at Hudson County Braddock Park will be returned to District schools.

The Board has been subjected to intense pressure from the NJDEP Green Acres program to remove the temporary Pre-K units from the Park and has incurred significant expense in its efforts to comply. Despite exhaustive property searches and alternate proposals and strategies studied in detail, no suitable solution could reasonably be found within the municipality to house the temporary classrooms or construct facilities for the Pre-K program. Proposed Long Range Plan and

District realignment will result in a permanent solution consistent with the current plan.

As noted, NBBOE proposes the creation of a comprehensive Junior/Senior High School with robust Career Technical Education program, with specialized educational opportunities for District students. Program will utilize two sites, each to their greatest potential, creating a 'West Campus' at 85th Street (HCST site) and an 'East Campus' at Kennedy Boulevard (site of existing High School). The new West Campus at 85th Street proposes to house 7th, 8th and 9th grades and will also share specialized educational clusters with 10th, 11th, and 12th grade students, primarily for CTE programs in appropriate spaces previously created by the HCST program. Culinary Arts (hospitality cluster); Audio Visual Technology and Film; and Journalism and Broadcasting can be utilized immediately. Renovations are planned to revitalize and improve basement CTE areas for programs in Architecture and Construction (including Carpentry, metalwork, masonry, and MEP/HVAC); and Facility and Mobile Equipment Maintenance (Automotive Technology cluster).

Under Superintendent Solter, the District has been expanding opportunities for career technical education. An established Business CTE program cluster (including Marketing and Accounting) will continue and a new Medical Arts CTE (in the Health Sciences cluster) will be established at the existing High School - 'East Campus'. Most after-school programs for North Bergen High School students will continue to take place at the 'East Campus' (which is on Kennedy Boulevard, served by NJ Transit, and more centrally located than the West Campus) to reduce student busing, support student safety, and maximize use. Shared after-hours use with the County for their evening programs and local community programs is under review.

In general terms, requirements to realize the plan include:

- New North Bergen High School West Campus

Acquisition of vacated Hudson County Schools of Technology facilities encompassing three parcels: Parcel One- The Main Academic Building and Site; Parcel Two - Academic and Recreational Facilities and Site; and Parcel Three- Car Parking lots.

Construction/ Renovation at the new West Campus for North Bergen's 7-12 grade program will include: a new Auditorium and support spaces; additional Classrooms; additional Bathrooms; Building Systems improvements and replacements including new RTUs, new Boilers, new HVAC including specialty ventilation and exhaust improvements to lower level Shop areas for expanded CTE programs; Roofing and building façade and signage improvements; interior signage; conversion of obsolete County offices for new Media/Library; expanded Cafeteria; improved Resource Room to accommodate increase in student population and new block scheduling; improved Nurse's Room; limited renovation of Administrative and Guidance offices; improved Bathrooms for shop area use; Site improvements including a new artificial turf play field and exercise area; circulation improvements including an ADA compliant covered walkway and, subject to feasibility and PSEG requirements, a protected street bridge crossing for secure student circulation between Main Building(at parcel 1) and parcel 2 athletic facilities and classrooms at Mazzoni Place (public street between parcel 1 and parcel 2); a security office and full time security officer(s) will be posted to monitor all student movement on the site.

- East Campus, North Bergen High School (existing High School)

Renovation and limited new Construction at the new East Campus (existing NBHS) of North Bergen's High School new 9-12 grade program including:

Renovation of existing so-called "relocatable addition" to provide a new first floor Media/Library Center; renovation and new construction to create a new secure vestibule entry and improved circulation; creation of a new Classroom for collaborative learning and instruction through the re-configuration of obsolete Media Center (2nd floor); creation of a Medical Arts Room for CTE; creation of a Court-Sports Team Room adjacent to the Gymnasium (through reconfiguration in Girls Locker Room area); Improvements to Boys and Girls Locker Rooms and Bathrooms; Improvements to the Field-Sport Team Room and Weight Rooms; Improvements to Building Systems including AC in Classrooms; lighting and ceiling upgrades; Interior Door and Hardware upgrades; improved accessible vertical circulation and elevator; Windows and Roofing upgrades and replacements; limited improvements to existing classroom space; etc.

District is continually upgrading facilities. Recent work at the HS includes a new Guidance Suite; Practice Field upgrades; Cafeteria air conditioning, lighting and ceilings; Boiler replacements; Exterior door replacements; security upgrades; Gym floor improvements, etc.,.

- District Wide Re-Alignment

Departure of 7th and 8th grade students from District Elementary Schools will allow reassignment of much needed classroom space in overcrowded elementary schools. Accordingly, NBBOE anticipates all Pre-Kindergarten students, currently housed in Temporary Classroom Units (TCUs), to return to District Elementary Schools. Pre/K and K students from Horace Mann School would continue to populate Lincoln School's Early Childhood Annex. 6+ Classes of Pre-K and K from Robert Fulton would utilize available classroom space in JF Kennedy School.

- Projects to address realignment in the elementary schools will include: the addition of in-classroom bathrooms in early childhood rooms; improvements for ADA compliance; dedication of play areas for Pre-K and K; and related general improvements for expanded Early Childhood use.

- Demographics/Enrollments

The North Bergen District, a Regular Operating District, has seen steadily increasing enrollments historically through the 2013/14 school year, with coincident increase in unhoused students. Since the time of the last LRFP amendment, enrollment projections for the first time indicate a slightly decreasing student population. Current enrollment projection (attached) based on NJDOE format indicates slight decreases and overall stabilization.

North Bergen's demographics and student profiles reflect those of adjacent communities within Hudson County, with approximately 70% of students eligible for free or reduced lunch. Special Education students make up approximately 15% of the student population.

Increases in housing costs and decreased job opportunities, as local industry continues to decline, may be contributing to the decrease in enrollment. At the same time, the number of local housing, typically one bedroom units, has increased in response to development pressure, the impact of which cannot be determined. NJDOE Cohort Survival Enrollment Projection form has been updated, reflecting 5 year projected student enrollments based on recorded data (attached); As noted, projection indicates a slight decrease in students

for the first time in recent (40+ years) history.

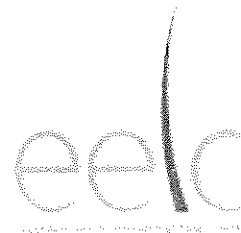
In conclusion, while NJDOE data indicates a slight reduction in student population, census indicates 3% increase in general population. A relatively stable student population can be anticipated.

Unhoused Students and District Practices

Analysis of existing space related to assessing unhoused students is based on District Practices. East Campus (existing HS) typically utilizes 24 students per regular classroom for 10 through 12th grades, and West Campus (HCST) utilizes 23 students per regular classroom for 7-8th grades and 24 students per regular classroom for 9th grade. District practice assigns capacity to Core Facility rooms based on scheduling and rotational use for dedicated Art rooms, Labs, etc..

Student counts in smaller classrooms are assigned based on space to student ratio.

The District plant currently accommodates numerous un-housed students. The proposed plan addresses, with consideration of District practices, a fully housed student population. Proposed student distribution and unhoused students clearly support the acquisition of the HCST facilities, as well as the limited new construction and renovations proposed. On realization of proposed plan, District practices will move closer to or fully comply with NJDOE FES classroom standards.



June 2, 2020

Via email and certified mail

Attorney General Gurbir Grewal
Richard J. Hughes Justice Complex
8th Floor, West Wing
25 Market Street
Trenton, NJ 08625-0080
Gurbir.Grewal@njoag.gov

Hudson Cty. Exec. Tom DeGise
Office of County Executive
John Brennan Courthouse
583 Newark Avenue
Jersey City, NJ 07306
vparks@hcnj.us

Mayor Nicholas Sacco
Township of North Bergen
4233 Kennedy Boulevard
North Bergen, NJ 07047
nbhelpdesk@northbergen.org

Martha Sullivan Sapp, Chief
DEP, Green Acres Program
501 East State Street
Station Plaza Bldg. 5, Ground Fl.
Trenton, NJ 0860
Martha.Sapp@dep.nj.gov

New Jersey Appleseed
Public Interest Law Center of New Jersey
50 Park Place, Suite 1025
Newark, New Jersey 07102

Phone: 973.735.0523 Fax: 973-710-4653
Email: renee@njappleseed.org
Website: www.njappleseed.org

Ex. R

Re: N.J.S.A. 2A:35A-11 Notice of 19-year Continuing
Impairment and Illegal Diversion of Block 437.02,
Lot 1 of Braddock Park for non-recreational use

Dear Attorney General Grewal, Mayor Sacco, County Exec. DeGise
and Section Chief Sapp:

We are writing to you on behalf of the New Jersey Conservation Foundation ("NJCF"), the League of Women Voters of NJ ("LWVNJ"), the Sierra Club-NJ and "Save Braddock Park-Safe Schools," an unincorporated membership organization whose members include North Bergen residents and taxpayers, to demand that Hudson County and North Bergen cure, as soon as possible, the ongoing unlawful diversion of a significant area of James J. Braddock Park for non-recreational purposes in violation of N.J.S.A. 13:8C-32(a)&(b) (1) and N.J.A.C. 7:36-25.2. Hudson County and North Bergen have usurped Green Acres dedicated parkland for approximately **19 years** without receiving prior approval from the Commissioner of the Department of Environmental Protection ("DEP") and the State House Commission ("SHC"); and their deliberate indifference to satisfying their statutory mandate must come to an end. Hudson County/North Bergen must expeditiously move to: complete their diversion pre-application and the final application; facilitate, not stymie, a final agency decision; and remove the 17 admittedly "antiquated" trailers currently sitting on the former softball field. Further they must also prepare to house by this Fall their pre-school children in safer, more appropriate facilities given the current pandemic and the concomitant need for social distancing and properly functioning HVAC systems that should provide ventilation with the outside air.

A concise review of the timeline of events constituting the unlawful diversion indicates a continuing effort on the part of Hudson County (and its lessee, North Bergen) to subvert the law or, at best, avoid their legal obligations, as recipients of Green Acres funding for the adversely impacted area of Braddock Park (Green Acres Project #0908-88-059; 0908-83-068; 0908-02-026 and 0908-91-059).

In 1998, the New Jersey Supreme Court issued a remedial order requiring that the 31 Abbott school districts provide pre-school education for all 3- and 4-year olds. North Bergen was not an Abbott district, but received Early Childhood Program Aid (N.J.S.A. 18A-7F-16), enabling it to provide such educational programs in the 2001-2002 school year. In preparation for use as a pre-school, North Bergen commenced building an addition to its

Lincoln Elementary School. When it became apparent that such annex would not be completed in time, the Township leased 16 (now 17) extra wide trailers to serve as a pre-school and placed them on a fully functioning softball field in Braddock Park. At the time, then and now Mayor Sacco (who also served, as North Bergen's Director of Primary and Secondary Education until the end of 2016 and is a State Senator) told the public that this use of parkland was temporary, and would continue for no longer than the 2001-2002 school year. The municipality's stated intention was to use the expanded Lincoln Elementary School for pre-school purposes starting in the 2002-2003 school year; but that never happened. At the time, it appears that Hudson County did not enter into a formal legal agreement with North Bergen to use funded parkland for public, educational purposes, and, for sure, neither Hudson County nor North Bergen notified DEP, nor sought prior authorization for such temporary use in violation of N.J.A.C. 7:36-25.14 (requiring submission of a lease at least 45 days prior to intended execution date, and making sure, *inter alia*, that displaced recreational use is available at other facilities). In 2011, Hudson County and North Bergen did have a long-term lease permitting North Bergen to develop and use a softball field on County parkland.

Approximately **ten years later**, and after the completion of at least three Green Acres inspections of the program's Hudson County parkland (including an inspection held on November 18, 2010), Green Acres sent a violation notice to Hudson County and North Bergen, respectively, dated March 16, 2011. Both letters stated in part:

It appears that seventeen (17) trailer units serving as a North Bergen-run preschool are located on the County Park. During the inspection it was also found that the parking area adjacent to the football field and school trailers are used for teacher and North Bergen Parking Authority parking. Our records do not indicate North Bergen Township or Hudson County ever making application or receiving prior approval to remove the Green Acres-funded field and place school trailers on the park property. . . . The placement of school trailers and other parking uses on Green Acres-encumbered parkland is a violation of the Green Acres regulations.

DEP went on to state that in order to "resolve this compliance issue," North Bergen and Hudson County needed to submit to the Green Acres program "a plan that includes a **reasonable timetable for the removal of the school trailers** from the Green Acres-funded property and restoration of the site to its preexisting park condition. . . ." For the **next nine years**, that timetable has continued to shift, and today rests at September 2021 (but has yet to be memorialized in a final agency decision).

In accord with conversations held primarily between Green Acres personnel and North Bergen administrators, who in a letter dated April 18, 2011, "recognize[d] the gravity of the violation," Mayor Sacco and Hudson County Executive DeGise entered into a 24-month lease dated October 19, 2011 (running from July 1, 2011 to June 30, 2013) for use of "a portion of Braddock Park which includes a parking area in the Township of North Bergen." North Bergen was to pay Hudson County \$10,000 annually (to be paid quarterly) for use of the encumbered property for educational purposes, and there was a commitment that a submission of a diversion pre-application to DEP, including the holding of a public scoping hearing, would be completed by December 31, 2011. That deadline was not satisfied, nor is there any evidence that North Bergen paid Hudson County the full \$10,000 annually during the term of the lease, which could then be used by Hudson County for maintenance of its recreational programs, as required by N.J.A.C. 7:36-25.14(g).

The parties entered into a First Addendum, dated October 2011, to alter several deadlines set forth in the lease. The addendum indicated a commitment, which proved to be nominal in nature, to remove the trailers by July 2013, and to complete restoration of the property by September 2013. Both the Mayor and the County Executive signed this agreement. A Second Addendum was dated June 25, 2013; it extended the term of the "temporary" lease for an additional six months (which is permitted pursuant to N.J.A.C. 7:36-25.14 (b)(2(i))), and again made a commitment to remove the trailers and complete restoration, now by February 2014. If any deadline was not met, the parties agreed that a pre-application, including scoping hearing, would have to occur by April 1, 2014--**a date that was more than two years later than that set forth in the initial lease.** North Bergen also committed that it would give the County and DEP monthly progress reports on removal of the trailers. Again, there is no evidence that these monthly updates occurred, that the full amount of the lease payments were made by North Bergen or received by Hudson County during the time period of the lease, and that alternative recreational facilities were provided to North Bergen residents. The Second Addendum was not signed by any North Bergen official and was signed by the Hudson County Administrator, not Mr. DeGise.

Pursuant to resolution, dated September 11, 2014, Hudson County authorized its officials to proceed with the Green Acres "major" diversion process. One month later, on October 28, 2014, it entered into a Memorandum of Understanding with North Bergen allocating responsibilities, liabilities, and costs with respect to the diversion of the portion of Braddock Park leased by North Bergen--which we understand to be the land on which the trailers sit; the adjacent gated, and occasionally locked, parking lot is

located; and the land on which the "tot" play area was developed by the North Bergen Board of Education.

During this period, a member of Save Braddock Park--Safe Schools complained about the County/Township's proposed diversion plans for Braddock Park. In a letter dated, October 31, 2014, Laurie Cotter, Hudson County Deputy Administrator, Christopher Pianese, Township Administrator and Dr. George Solter, North Bergen Bd. of Educ. Superintendent, assured this resident that "No additional parking, building, or any other form of coverage would be brought to this location or any other location within the park." On November 5, 2014, the required public "scoping hearing" was held. Individuals from each of the groups, on whose behalf this demand letter is written, spoke or submitted comments protesting the diversion of the softball field and parking lot for non-recreational purposes. Several speakers noted that there were alternative properties on which the pre-school facilities could be located. And while a few parents of pre-school children stated that they were glad that their children were able to attend the program in a park setting, the general consensus of the attending public was that trailers were neither appropriate nor safe for such young children; and, for sure, should not replace valuable recreational parkland in what is a highly dense urban community.

Following the scoping hearing, a member of Save Braddock Park--Safe Schools asked Caroline Armstrong, Green Acres Program Specialist, how long the diversion process typically takes. In an email dated November 21, 2014, Ms. Armstrong noted that major diversions "typically" take "anywhere from 9 months to a year (or longer) before obtaining a determination from the NJDEP Commissioner and State House Commission." She additionally noted that a second public hearing is required at the time of final application, and that the SHC "usually meets only four times per year." At the time this e-mail was written, **approximately 3-½ years had passed since DEP notified Hudson County and North Bergen** that they needed to seek approval for their after-the-fact diversion.

More than one year after Hudson County resolved to proceed with the diversion process (which occurred on September 11, 2014), it passed a resolution dated November 8, 2015, approving the pre-application that North Bergen had approved on August 19, 2015. The pre-application, however, was not filed with the DEP Green Acres program until January 28, 2016 - over **fifteen years after the North Bergen Board of Education first placed the trailers on encumbered parkland**. To everyone's surprise, the pre-application called for a new, more permanent modular structure to be built on the property, a 19-year lease for \$1.00 per year, and improvements to the property that include lighting, landscaping, protective fencing and proposed changes to the "existing parking area" to create a more permeable surface. Despite the documented diversion

of the parking lot, North Bergen officials started to insist that the parking lot was open to the public and should not be included in the replacement property acreage calculation. In a letter from Mr. Pianese, to Caroline Armstrong, dated March 7, 2016, Mr. Pianese reported that all parking lot restriction signs that had existed on the property since 2001 had been removed (indirectly admitting that they had existed), and that the parking lot was open to the public. However, a photograph as late as January 6, 2017, revealed that a restrictive parking sign that Mr. Pianese had said was taken down was still posted, indicating that the parking lot adjacent to the school was still severely limited. Moreover, to date, there is a fence and a gate with a lock at the entrance to the pre-school parking lot (that do not exist at the other two parking lots in the Park), which is sometimes closed rendering the lot inaccessible to the public.

On April 12, 2016, Green Acres notified North Bergen/Hudson County that their pre-application was incomplete, noting several significant deficiencies. DEP's response noted, *inter alia*, that the Township/County must supply a justification for lowering the replacement acreage ratio of 5:1 otherwise applicable to an after-the-fact diversion, that the applicants had the burden to prove that no alternative site is feasible, reasonable or available, and that the Township's budget surplus casts doubt on any claim of financial distress. One month later, in a phone meeting with Hudson County officials, Green Acres officials, including Ms. Sapp, tried to get the County to commit to removing the trailers by September 2016 and told them that the applicants had "not demonstrated mitigating circumstances warranting less than 5:1" replacement property and that the program believes that there are viable alternatives to diverting Braddock Park. By August 19, 2016, when the applicants made a second submission to the Green Acres program, they had taken the construction of a permanent modular school off the table, tried to argue that the Township was under court order to commence the pre-school program by September 2001, no longer requested a 19-year lease, and simply said that North Bergen was an "expensive market" and everything that was available "was polluted."

Four months later, Green Acres issued their second completeness review on December 20 2016. The applicants came up empty-handed once again; Green Acres required the lease to be modified with a termination date of no later than August 31, 2021, at which time the trailers were to be removed and the property restored; required lease payments to be made and structured to reflect market value; and noted that signage at the parking lot adjacent to the trailers indicated that this area was not open to the public. Comments were also addressed to the qualification of replacement properties that were proposed by the applicants.

Approximately eight months later, on August 25, 2017, the Township made its third submission. A lease that still has not been executed was proposed; it had a termination date of August 31, 2021, and a lease payment structure that was separated into three periods (July 1, 2011-December 31, 2013; January 1, 2014-December 31, 2017; and January 1, 2018-August 31, 2021), with the rent payments blank for the latter two periods. Replacement property was proposed and an environmental analysis for such properties was provided.

Nonetheless, on October 31, 2017, Green Acres notified North Bergen that the pre-application was still incomplete. For the first time, in this response, Ms. Armstrong noted that the DEP Commissioner had decided that the Township had shown some mitigating circumstances warranting the replacement property ratio to be lowered to 3:1. However, the replacement property was insufficient and there were deficiencies in the environmental analysis. Over one year later, on December 19, 2018, North Bergen made a fourth submission, which on its face acknowledged that the applicants' pre-application was still incomplete. Additional replacement property had not yet been located and secured, the environmental analysis had not been redone (and would not be until the additional property was purchased), proof of payment of lease payments had not been provided, and no lease from January 1, 2018 until August 31, 2021 had been executed.

Since December 2018, the applicants have not taken any further action necessary to comply with Green Acres regulations governing major diversions, N.J.A.C. 7.36-26.1 and 26.7 to 26.11. Indeed, it does not appear that lease payments have ever been fully paid in accordance with the lease and two addendums that DEP did approve with respect to the former's use of Braddock Park for educational purposes, nor that such payments, when made, were properly used only for recreational purposes. In response to an OPRA request made by New Jersey Appleseed to Hudson County, Asst. County Counsel Aurelio Vincitore responded on November 25, 2019, as follows: "I have received a response from our Finance Department that the County does not have any receipts from lease payments from North Bergen relating to leasing part of Braddock Park." Accordingly, the County did not have any documents establishing how such lease payments they said had not been received had been allocated. A similar but not identical document request was submitted to North Bergen. The Township, in an e-mail dated April 14, 2020, produced three documents indicating that \$5,000 was paid to Hudson County on November 22, 2011 and again on April 25, 2012 for the Braddock lease, and \$10,000 was paid for such lease on 9/20/2017 (which was reimbursed by the North Bergen Board of Education). These contradictory and haphazard responses indicate that neither local entity appears to be taking Green Acres regulations seriously with regard lease payments (which are required to be made when a

temporary lease to use dedicated property for non-recreational use is involved).

This long-standing abuse of the Green Acres Program's requirements can no longer continue. Hudson County and North Bergen must promptly and urgently comply with these mandatory obligations under the law. Unless appropriate action is promptly and urgently taken to fully cure the ongoing statutory violations and protect the ongoing impairment of dedicated parkland, we intend to take any appropriate action against Hudson County and North Bergen to compel compliance with Green Acres statutes and regulations, and seek further equitable relief pursuant to the Environmental Rights Act, N.J.S.A. 2A:35A-6.

Thank you for your anticipated consideration of our demand for immediate action to cure the ongoing violation. If you have any questions, do not hesitate to contact either of us at 212-254-6996 (RS) or daniel.greenhouse@easternenvironmental.org.

Respectfully,

NEW JERSEY APPLESEED PUBLIC
INTEREST LAW CENTER

/s/ Renee Steinhagen_____
Renée Steinhagen, Ex. Dir.

EASTERN ENVIRONMENTAL LAW CENTER

/s/ Daniel Greenhouse_____
Daniel Greenhouse, Sr. Atty.

RESOLUTION

AMENDING RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION PRE-APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR THE DIVERSION OF AN AREA WITHIN THE JAMES J. BRADDOCK NORTH HUDSON COUNTY PARK TO AMEND THE PARK AREA TO BE DIVERTED AND TO INCLUDE THE TOWNSHIP OF NORTH BERGEN PROPERTY LOCATED AT 1814 43rd STREET COMMONLY KNOWN AS THE EMS SOUTH BUILDING

WHEREAS, pursuant to the regulations of the New Jersey Department of Environmental Protection Green Acres Program (herein referred to as "NJDEP") the County of Hudson (herein referred to as the "County") and the Township of North Bergen (herein referred to as "North Bergen") commenced the regulatory process of diverting an area within James J. Braddock North Hudson County Park (herein referred to as "Braddock Park") due to the placement of school trailers for North Bergen pre-k students and students with special needs, said use being in violation of NJDEP Green Acres Program regulations N.J.A.C. 7:36 (the regulatory process is referred to herein as a "Diversion"); and

WHEREAS, in furtherance of the NJDEP Diversion process the Township of North Bergen authorized by Resolution dated August 19, 2015 support of the State House Commission Preapplication for the Diversion of the pre-k school trailer area within Braddock Park; and

WHEREAS, North Bergen owns the property located at 1814 43rd Street (Block 103, Lot 127), North Bergen, which is commonly known as North Hudson EMS South Building (herein referred to as the EMS South Building"), said property on which the building sits has been found to be subject to NJDEP jurisdiction due to receiving Green Acres funding for a prior recreational use; and

WHEREAS, although North Bergen's current use is a public use providing to a segment of the County's residents public safety services which include fire and ambulance services and emergency relief services through North Bergen C.A.R.E.S (Community Assistance Relief Events & Support), said public use is non-recreational and therefore, in violation of NJDEP regulations subjecting the property to Diversion; and

WHEREAS, since the County and North Bergen have jointly commenced the Diversion of Braddock Park, NJDEP has requested that any and all applications, hearings and regulatory compliance requirements include the EMS South Building as an additional property subject to the Diversion; and

WHEREAS, North Bergen finds there is an important public purpose in the use of the EMS South Building as set forth herein and supports the inclusion of the EMS South Building in the Diversion Application; and

WHEREAS, further since the adoption of Resolution dated August 19, 2015, the County and North Bergen, pursuant to review by NJDEP, have amended the Braddock Park area to be diverted to include, space such as parking to the Pre-K School Trailer area; and

WHEREAS, North Bergen shall amend any and all applications, documents and filings related to the NJDEP Diversion to include the additional Braddock Park area as set forth herein and the EMS South Building, and to take any other actions pursuant the rules and regulations of NJDEP in furtherance of the Diversion; and

WHEREAS, North Bergen wishes to apply for approval for the Diversion of land within Braddock Park for the continuing occupation of the North Bergen pre-k school and further supports the Diversion of the land on which the EMS South Building sits, each Diversion to be considered as a major disposal or diversion of Parkland under N.J.A.C. 7:36-26; and

WHEREAS, as required by N.J.A.C. 7:36-8, the County and North Bergen held a scoping hearing on August 11, 2020 to solicit public comment on the Diversion of parkland 1) from Braddock Park in connection with the continuing operation of the North Bergen pre-k school and 2) the EMS South Building non-recreational public safety use; and

Ex. S

WHEREAS, the next step in the application process for approval of a major disposal or diversion of parkland is the filing of a pre-application under N.J.A.C. 7:36-26.9; and

WHEREAS, in accordance with N.J.A.C. 7:36-26.9(d)11, it is necessary for the Township of North Bergen to submit as part of the pre-application a Resolution endorsing the application to divert or dispose of parkland.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Township of North Bergen, County of Hudson, State of New Jersey, that:

1. The Township of North Bergen endorses the filing of a pre-application for the Diversion of land 1) within the James J. Braddock North Hudson County Park for the continuing occupation of the North Bergen Pre-K School and 2) the property located at 1814 43rd Street, North Bergen (Block 103, Lot 127) commonly known as EMS South Building pursuant to N.J.A.C. 7:36-26.
2. The Township of North Bergen hereby finds that the Diversion of land within the James J. Braddock North Hudson County Park for the continuing occupation of the North Bergen Pre-K School and the EMS South Building for its public safety use would meet the minimum substantive criteria at N.J.A.C. 7:36-26.1 (d) which required the following: a) fulfilling a compelling public need by mitigating a hazard to public health, safety or welfare, b) provide a significant benefit by improving the delivery of essential services to public or a segment of public with special needs and c) providing for the expanded recreation and conservation benefits and offerings far exceeding the benefits of the previous recreation facilities.
3. The Township of North Bergen acknowledges that in order to obtain the approval of the Diversion of land within the James J. Braddock North Hudson County Park for the continuing occupation of the North Bergen Pre-school and the EMS South Building for its public safety use, all substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A.C. 7:36-26.10.
4. The Board of Commissioners further authorizes the Mayor or Township Administrator, to execute any and all documents necessary for the purpose of performing or carrying out any studies, surveys, tests, soundings, borings, appraisals, title searches and title reports, as necessary to determine the value, boundary, ownership, interests or environmental condition of the Parcel, and as required by NJDEP regulations for the diversion of the Parcel.
5. The Board hereby authorizes the Mayor or Township Administrator to execute any and all documents and take any and all actions necessary to complete and realize the intent and purpose of this Resolution.
6. The aforesaid recitals are incorporated herein as though fully set forth at length.
7. This Resolution shall take effect immediately.

Date: November 4, 2020

	YES	NO	NOT VOTING
Cabrera	✓		
Marenco	✓		
Gargiulo	✓		
Pascual	✓		
Sacco	✓		
(President)			

to be a
passed
County
Jersey, at a
Township Clerk





November 10, 2020

Via email and certified mail

Attorney General Gurbir
Grewal
Richard J. Hughes Justice
Complex
8th Floor, West Wing
25 Market Street
Trenton, NJ 08625-0080
Gurbir.Grewal@njoag.gov

Hudson Cty. Exec. Tom DeGise
Office of County Executive
John Brennan Courthouse
583 Newark Avenue
Jersey City, NJ 07306

Mayor Nicholas Sacco
Township of North Bergen
4233 Kennedy Boulevard
North Bergen, NJ 07047

Martha Sullivan Sapp, Chief
DEP, Green Acres Program
501 East State Street
Station Plaza Bldg. 5, Ground
Fl.
Trenton, NJ 0860
Martha.Sapp@dep.nj.gov

Re: N.J.S.A. 2A:35A-11 Notice of 19-year Continuing
Impairment and Illegal Diversion of Block 437.02,
Lot 1 of Braddock Park for non-recreational use

Dear Attorney General Grewal, Mayor Sacco, County Exec. DeGise
and Section Chief Sapp:

We are writing to you (collectively) again (and re-submitting
our letter dated June 2, 2020), on behalf of the New Jersey
Conservation Foundation ("NJCF"), the League of Women Voters of NJ
("LWVNJ"), the Sierra Club-NJ and "Save Braddock Park-Safe
Schools," an unincorporated membership organization whose members
include North Bergen residents and taxpayers, to demand that Hudson
County and North Bergen cure, as soon as possible, the ongoing
unlawful diversion of a significant area of James J. Braddock Park
for non-recreational purposes in violation of N.J.S.A. 13:8C-
32(a)&(b)(1) and N.J.A.C. 7:36-25.2.

Ex. T

As we stated in that first letter and hereby repeat: Hudson County and North Bergen have usurped Green Acres dedicated parkland for approximately **19 years** without receiving prior approval from the Commissioner of the Department of Environmental Protection ("DEP") and the State House Commission ("SHC"); and their deliberate indifference to satisfying their statutory mandate must come to an end. Since we wrote you last, the matter has simply gotten worse, rather than better. Instead of completing their *temporary* diversion pre-application initially filed on January 28, 2016, and moving that application through the well-established diversion process toward a final agency decision, Hudson County/North Bergen have decided to re-file their request to *permanently* divert, hold a second scoping hearing and commence the process anew. What have they achieved by this?

Ostensibly, they have **started the clock ticking again**, delayed the legalization process for another number of years, continued to unlawfully use the diverted property for non-recreational purposes without making proper lease payments, and perhaps have rendered a temporary use permanent in the minds of the public. For certain, it appears that they are intent upon refusing to use bond money, municipal surpluses and other revenues that have been available at various times since 2001 to give North Bergen pre-school children a proper educational home.

Specifically, as they abandoned their plans to use the refurbished Lincoln Elementary School Annex to house the pre-schoolers in 2001-2002, they now appear similarly inclined to abandon their plans to use the retrofitted High Tech High School facility and campus to house such children or to enable the reorganization of other schools to enable their placement in **already built elementary or middle schools**. Review of the materials distributed at the scoping hearing indicates that Hudson County/North Bergen are intent on keeping the trailers in Braddock Park contrary to commitments made to the public when asked to approve a bond referendum. See Peter D'Auria, "North Bergen school realignment delayed again; trailers to remain in Braddock Park until 2022," Jersey Journal, (April 18, 2020) at <https://www.nj.com/hudson/2020/02/north-bergen-school-realignment-delayed-a-year-trailers-will-remain-in-braddock-park-until-2022.html>.

We trust that the Attorney General and the Green Acres Program will not permit them to continue to avoid legal obligations, and drag this matter out for another nineteen years. Though North Bergen and Hudson County may believe that their decision to file

a new diversion application has defeated our demand to cure the ongoing impairment of valuable recreational parkland, it has not. We still demand that the Green Acres program ensure that North Bergen and Hudson expeditiously move to: complete their diversion pre-application and the final application; facilitate, not stymie, a final agency decision; and remove the 17 admittedly "antiquated" trailers currently sitting on the former softball field.

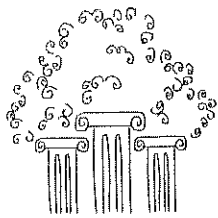
We reserve all our rights to take any appropriate legal action.

Thank you for your anticipated consideration of our demand for immediate action to cure the ongoing violation. If you have any questions, do not hesitate to contact either of Renée Steinhagen at 917-771-8060 or Daniel Greenhouse at 609-405-1047.

Respectfully,

/s/ Renee Steinhagen
Renée Steinhagen, Ex. Dir.
New Jersey Appleseed Public
Interest Law Center

/s/ Daniel Greenhouse
Daniel Greenhouse, Sr. Atty.
Eastern Environmental Law Center



New Jersey
Appleseed

March 19, 2021

Martha Sullivan Sapp, Chief
DEP, Green Acres Program
501 East State Street
Station Plaza Bldg. 5, Ground Fl.
Trenton, NJ 0860
Martha.Sapp@dep.nj.gov

Re: 20-year Unlawful Diversion of Block 437.02,
Lot 1 of Braddock Park for non-recreational use

Dear Ms. Sapp:

We are writing to you on behalf of the New Jersey Conservation Foundation ("NJCF"), the League of Women Voters of NJ ("LWVNJ"), the Sierra Club-NJ and "Save Braddock Park-Safe Schools," an unincorporated membership organization whose members include North Bergen residents and taxpayers to submit our alternative analysis prior to the anticipated submission by North Bergen of its second pre-application. Since the holding of the August 11, 2020 scoping hearing, we have been investigating the education side of this diversion application. Attached hereto is a report written by Robert Walden, a member of Save Braddock Park-Safe Schools that sets forth our assertion that North Bergen has had sufficient time and financial resources to ensure that all its pre-school children would be housed in appropriate facilities, obviating the need to make this 2001 "major" diversion permanent. Not only has North Bergen bypassed alternative properties that it could have purchased, but once it purchased the Hi-Tech site, a review of North Bergen's Long Range Facilities Plan (which was approved by the Department of Education in 2018) indicates that there will be sufficient room for all pre-school children in the existing elementary schools upon completion of the anticipated reorganization.

We understand that N.J.A.C. 7:36-26.1(a)(2) and 26.9(d)(2) set forth the Department's rules governing the applicant's alternative analysis. These rules provide that "the Department's presumption [shall be] that there is a feasible, reasonable and available alternative..." and "[t]he applicant must rebut this presumption through the alternatives analysis...." N.J.A.C. 7:36-26.1(a)(2). In addition, "the analysis shall include each alternative which is feasible, reasonable and available...." N.J.A.C. 7:36-26.9(d)(2). In this case, the applicant may try to convince you

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Website: www.njappleseed.org

Ex. 4

there is no feasible, reasonable or available alternative. The applicant's alternative analysis will likely be limited to what properties are currently available for sale. However, in this case, we believe that the Department's analysis should not be so narrowly focused only on the current availability of alternative properties; primarily because the applicant has had a hand in creating the current situation in 2021 – twenty years after the proposed diversion actually commenced.

The Green Acres laws were not intended to allow a permanent diversion based on an alternatives analysis that ignores the applicant's own fault in creating the need for the diversion itself, as is the case here. Such a narrowly focused review would be against public policy and it would be a clear violation of the legislative intent behind the entire Green Acres Program. "In evaluating and determining whether to approve a diversion application, as part of its analysis, DEP must weigh the competing public interests presented by the proposed diversion against preservation of the parkland in its natural state." In re Dep't of Env'tl. Prot., No. A-2316-10T2, 2017 N.J. Super. Unpub. LEXIS 1935, at *37 (App. Div. July 31, 2017). In addition, "the same regulation appellants cite also requires DEP to 'carefully weigh the competing public interests presented by the project.'" Melvin v. Seaside Heights Borough (In re Seaside Heights Borough Pub. Beach), Nos. A-4585-15T3, A-5372-15T3, A-0557-16T4, 2018 N.J. Super. Unpub. LEXIS 1820, at *19 (App. Div. July 30, 2018). The public's interests in this matter weighs heavily against the applicant because it created its own hardship over the course of decades. The Department ordinarily denies hardship waivers when "...the difficulties were self-created...." Asdal Builders, LLC v. N.J. Dep't of Env'tl. Prot., No. A-2392-10T1, 2012 N.J. Super. Unpub. LEXIS 1487, at *20 (App. Div. June 25, 2012).

In light of these precedents, we believe that the analysis set forth in N.J.A.C. 7:36-26.1(a)(2) and 26.9(d)(2) has to be applied more broadly than is typically the case, given the length of time the proposed diversion has existed (i.e., since 2001) and the nature of the public use for which the property is proposed to be used on a permanent basis (i.e., education: pre-school facility). Specifically, the Department must evaluate North Bergen's reasons for insisting on diverting Braddock Park in light of several factors including the fact that they have had twenty-years to find an alternative site, the Department of Education ("DOE") requires the municipality to engage in long range facility planning, the number of children in the North Bergen school system has been declining, North Bergen has deliberately decided to bypass the opportunity to purchase various sites when they were available, and North Bergen made a commitment to the public and the DOE upon approval of the bond referendum authorizing the purchase of the Hi-Tech site to place all pre-school children in its existing elementary schools. These factors, among others, must inform the Department's evaluation of the applicant's alternative analysis, which cannot be limited to one point in time or even one-year. The general sentiment of the broader North Bergen and Hudson County community that the trailers must be removed should also be heeded. See Jersey Journal editorials urging the removal of the trailers from Braddock Park.¹

¹ <https://www.nj.com/opinion/2020/11/restore-field-in-park-do-better-than-old-trailers-for-preschoolers-jersey-journal-editorial.html>

<https://www.nj.com/opinion/2020/11/we-stand-by-our-editorial-on-pre-k-trailers-in-county-park-jersey-journal-editorial.html>

As indicated in the attached report, upon completion of the reorganization facilitated by the purchase of Hi-Tech, there will be sufficient room for number of pre-school children in the current elementary schools. Although the plan indicates that 50.08 pre-school children would remain "unhoused" after the realignment is completed, that number was projected based upon a projected enrollment of 383. However, enrollment in the North Bergen school system has been declining generally, and in the entire history of the pre-school program, enrollment has never even reached 300. In 2019-2020 there were 293 children; and in 2020-2021 there were 248 number of children enrolled.

Moreover, even if North Bergen were to persuade Green Acres that an additional facility must be created, there is no credible reason why North Bergen and its Board of Education ("BOE") cannot work with the BOE's property at 64th street, where an adjacent piece of property is currently for sale. In addition, there is a 2-acre property for sale adjacent to the Hi-Tech site located at 2100-2126-83rd St. that may also be used.

We understand that you have recently received North Bergen's pre-application that Green Acres permitted it to re submit again despite the fact that this diversion process commenced over 6 years ago when the first scoping hearing was held on November 5, 2014. Upon review of that pre-application, we anticipate submitting additional comments on all matters implicated in the diversion process.

Respectfully

NEW JERSEY APPLESEED

/s/ Renée Steinhagen
Renée Steinhagen, Ex. Dir.

EASTERN ENVIRONMENTAL LAW CENTER

/s/ Daniel Greenhouse
Daniel Greenhouse, Sr. Atty.

MT CF

170 Longview Rd. 07931

204 West 8th St. 08608

GAP believes there are viable alternatives, including but not limited to High Tech High School and 64th Street sites...our only concern is to relocate trailers off of the park." - Green Acres memo of its 05-26-16 phone meeting with Hudson County.

NORTH BERGEN'S 25 YEAR FAILURE TO BUILD A FACILITY FOR PRESCHOOLERS

North Bergen knew in 1996, upon acceptance of ECPA (Early Childhood Program Aid), that it would need to have a preschool program up and running in time for the opening of the 2001-2002 school year. But construction didn't begin on a Lincoln Elementary School early childhood annex until around the beginning of 2001.

In what he called an emergency measure, North Bergen Mayor/Assistant Superintendent of Schools/State Senator Nicholas Sacco moved 16-17 trailers (TCUs) into Braddock Park in 2001, telling the public this preschool would be a temporary situation for one-year, until the Lincoln Annex was completed.

The Lincoln Annex was not completed until during the 2005-2006 school year, and it was never used for preschool.

<https://archive.hudsonreporter.com/2000/04/14/make-way-for-new-school-nine-homes-to-be-torn-down-for-new-lincoln-school-additions/>

<https://archive.hudsonreporter.com/2005/09/27/open-for-business-lincoln-school-extension-finally-welcomes-kindergarteners-work-continues/>

ECPA (Early Childhood Program Aid) To North Bergen: (Source: NJ DOE)

1996-97	\$ 3,265,312
1997-98	5,475,470
1998-99	5,475,470
1999-00	5,881,172
2000-01	6,010,669
2001-2007	5,933,180 (yearly)

ALTERNATIVE PRESCHOOL SITE-NORTH BERGEN BOE OWNED LAND ON 64th ST.

North Bergen erroneously placed the Board of Education ("BOE") owned 64th Street land on its ROSI, thereby removing it from consideration as an alternative site for the preschool, during Green Acre's consideration of Hudson County/North Bergen's first diversion application; a process that was initiated at a scoping hearing dated November 5, 2014, and was abruptly ended during the pre-application process on August 11, 2020 (at which time a second scoping hearing was held.)

After the error was acknowledged, North Bergen sold some of the previously available land and claimed there was not enough room on the 64th Street parcel for the preschool.

Currently, there are 4.76 acres of BOE owned land on 64th St., and .57 acre of land is for sale adjacent to it. Eminent Domain could be utilized to acquire that adjacent additional land to enable the preschool to be located at the 64th Street site.

A school parking garage could be built on the 64th St. BOE land, or across the street on land currently owned by the Township. That parking garage could incorporate the Parks Dept. garage currently situated on the BOE's 64th St. land.

Alternatively, the Parks Dept. garage, etc. could be moved to the Township's property on Tonnelle Avenue, where in 2016, the Township bought 1.5 acres of land next to its DPW land (Green Acres was notified of this land purchase several years ago.)

<https://www.northjersey.com/story/news/2016/01/28/north-bergen-introduces-5m-bond-ordinance-to-fund-upcoming-projects/94439428/>

The playground area on the BOE's 64th Street land could be utilized by both the preschool and the public, as North Bergen claimed (though inaccurately), that the preschool tot lot next to the TCUs in Braddock Park has been used. That tot lot was not open to the public.

The ballfield currently on 64th St. could perhaps be reconfigured to make more room for the preschool. Or, the ballfield could be removed entirely, enabling the preschool to be only steps away from the Lincoln Elementary School (which administers the preschool), and the Lincoln School Early Childhood Annex. The ballfield that North Bergen illegally removed in Braddock Park could be rebuilt and used for the games that are currently held on 64th Street.

North Bergen has previously stated that the Braddock Park ballfield was not full-sized; it could be made full-sized if a few trees were removed from behind where the preschool TCUs are currently situated.

Over the past few years, several homeless people have died while camping in this wooded area, just a few feet behind the TCUs.

It would also make sense to replace the BOE 64th St. ballfield with one in the North Bergen Recreation Complex, because the Township and BOE already have other ballfields, spectator stands and recreational facilities situated there. The Township has another ballfield on 64th St., across from the BOE owned land, for neighborhood residents.

Another alternative would be for North Bergen to lease an existing ballfield in Braddock Park for its games.

ALTERNATIVE PRESCHOOL SITES-NORTH BERGEN ELEM. SCHOOLS OR HI TECH

NB's Long Range Facility Plan ("LRFP") application documents directly link its LRFP realignment plan to the special 12-11-2018 North Bergen bond referendum in which voters approved \$65 million to purchase and renovate the former Hudson County Hi Tech High School and improve the current North Bergen High School.

North Bergen's LRFP realignment plan for the following 7 North Bergen schools was approved by NJ DOE on 10-05-2018:

Current High School: Grades 10-12

Franklin Elementary School: Pre-K to 6 grade

Mann Elementary School: 1 to 6 grade

Kennedy Elementary School: Pre-K to 6 grade (a)

Lincoln Elementary School: Pre-K to 6 grade (b)

McKinley Elementary School: Pre-K to 6 grade

Fulton Elementary School: Pre-K to 6 grade

<https://www.nj.gov/education/facilities/lrpf/fdl/hudson/amend1/3610.pdf>

The LRFP also states:

- (a) "Kennedy School early childhood rooms may serve both the Kennedy School neighborhood zone, as well as the early childhood population from other North Bergen School zones".
- (b) "Lincoln School early childhood rooms may serve both the Lincoln School neighborhood zone, as well as the early childhood population from other North Bergen School zones".

At the 08-11-20 Diversion Scoping Hearing, North Bergen officials contradicted the LRFP, saying Fulton School will not house Pre-K students.

The NJ DOE LRFP approval letter states that *"the LRFP needs to be further amended to address a projected school facilities project that is inconsistent with the approved Plan."*

North Bergen BOE's decision to not remove all the preschoolers from Braddock Park is inconsistent with its state approved LRFP, and it disregards the mandate voters gave North Bergen in a special 2018 referendum, and the directives NJDEP gave North Bergen to remove the school from Braddock Park no later than 09-01-2021.

NORTH BERGEN'S DECREASING SCHOOL ENROLLMENTS

1- Pages 4-5 of NJ DOE's 10-15-18 LRFP amendment approval letter state *"The District is planning for decreasing enrollments."*

2- North Bergen's declining total school enrollment:

10/14/2012 actual. 8095

10/15/2013 actual 7777

10/15/2014 actual. 8068

10/15/2015 actual. 7874

10/14/2016 actual 7735

10/13/2017 actual. 7664

10/15/2018 actual 7528

10/15/2019 actual 7528

10/15/2020 estimate 7484

https://www.nj.gov/education/finance/fp/ufb/2020/reports/17/3610/UFB21_3610.pdf

https://www.nj.gov/education/finance/fp/ufb/2018/reports/17/3610/UFB19_3610.pdf

https://www.nj.gov/education/finance/fp/ufb/2017/reports/17/3610/UFB18_3610.pdf

https://www.nj.gov/education/finance/fp/ufb/2016/reports/17/3610/UFB17_3610.pdf

https://www.nj.gov/education/finance/fp/ufb/2015/reports/17/3610/UFB16_3610.pdf

https://www.nj.gov/education/finance/fp/ufb/2014/reports/17/3610/UFB15_3610.pdf

3- On page 31 of the preschool Alternatives Analysis that North Bergen sent to NJDEP on 08-19-16, it stated there were 2900 high school students.

https://www.nj.gov/dep/greenacres/pdf/N_Bergen_Alternatives_Analysis.pdf

North Bergen reported that for the 2018-2019 school year, there were 2376 high school students, **an 18% drop in enrollment:**

https://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&DistrictID=3411460&ID=341146002882

NORTH BERGEN PRESCHOOL ENROLLMENTS (2010-2019 data is from
<https://www.nj.gov/education/data/enr/> and 2019-2021 data was supplied by NB BOE)

2010-11:

262 1/2 day students

1 full day student

263

2011-12:

231 1/2 day students

12 full day students

243

2012-13:

235 1/2 day students

1 full day student

236

2013-14:

235 1/2 day students

none listed - full day students

235

2014-15:

276 1/2 day students

3 full day students

279

2015-16:

255 1/2 day students

31 full day students

286

2016-17:
 203 1/2 day students
 none listed - full day students

203

2017-18:
 234 1/2 day students
 none listed - full day students

234

2018-19: No DATA

2019-20:
 271 1/2 day students
 22 full day students

293

2020-21:
 229 1/2 day students
 19 full day students

248

SUMMARY: North Bergen Pre-K enrollment has fluctuated up and down since 2010, but it has not exceeded 293.

NORTH BERGEN ELEM. SCHOOLS' REALIGNMENT PLAN ACCORDING TO THE 2018 LONG RANGE FACILITY PLAN ARCHITECTURAL DRAWINGS APPROVED BY NJ DOE

	PRE-K	K	1	2	3	4	5	6	TOTAL SEATS
Mann	0	0	126	147	147	138	105	138	801
SCSE			(Room 308 - grades K-5 - 7 more students)						12 19
SGL: Rooms B10, B14, B16, - B17 - doesn't say grades or # students									?
SCI/STEM: Room B6 - doesn't say grades or # students									?
McKinley	30	42	42	42	42	40	40	40	318
SCSE	12	(12 more - doesn't say for what grade - Room B1 bsmt.)							24
SCI/STEM: Room B9 - doesn't say grades or # students									?
Lincoln	120	231	105	84	84	80	80	80	864
SCSE	24	12	12		12	12		12	84
SGL: Room B5 - doesn't say grades or # students									?
SGL: Room 158 - doesn't say grades or # students									?

SGI: Room 235 - doesn't say grades or # students ?
 SGI: Room 258 - doesn't say grades or # students ?
 SCI/STEM Room 230 - doesn't say grades or # students ?

Kennedy	60	126	63	42	42	40	40	60	473
SCSE	48			12	12	12	12	12	108
SGI: Rooms 208, 214, 310, 319 - doesn't say grades or # students									?
PEAK: Rooms 320 and 321 - doesn't say grades or # students									?
SCI/STEM: Room 204 - doesn't say grades or # students									?

Fulton	30	63	120	126	105	115	100	116	775
SCSE:	(24 students, grades 1 – 5 room 204 & bsmt room B9)								12
SGI:	8 students in room B9 (bsmt.) – doesn't say for what grade								8
SCI/STEM: Doesn't say how many students in room B10-2 (bsmt.) or in what grades									

Franklin	30	63	84	84	63	60	60	40	484
SCSE					5	9	12	12	38
SCI/STEM								20	20
SGI: Rooms B7 and B9 - doesn't say grades or # students									?

Pre-K: 270
Pre-K SCSE: 84 (possibly 96)

Grades Pre-K thru 6: 3715
Grades Pre-K thru 6 SCSE: 309
 SGI: 8+ ?
 SCI/STEM: 20+ ?

354 – 366+ Pre-K Seats

4052 Pre-K thru 6 seats

SUMMARY: The LRFP shows sufficient room for ALL the Pre-K students in the elementary schools. The highest Pre-K enrollment since 2010 was 293 (2019-2020), and currently (2020-2021), it is 248.

The LRFP architectural drawings show 354-366+ seats in the classrooms for Pre-K students. This number may be even higher; the drawings do not list the numbers of seats in numerous SCI/STEM/SGI classrooms (see above.)

SCHOOL ENROLLMENTS & VIABILITY OF HI TECH AS AN ALTERNATIVE SITE

North Bergen school enrollments have declined every year (but one), since 2012, and even though its schools are reported to be overcrowded, North Bergen did not make any public attempt to acquire the soon-to-be vacated, 10 acre Hi Tech HS campus until after Robert Walden notified Green Acres on 11-17-2015, about its impending availability and its usefulness in solving both the illegal preschool diversion and school overcrowding.

On 04-12-2016, NJDEP ordered North Bergen to *"analyze the alternative of relocation of the Pre-K school to a portion of the current properties associated with the Hudson County High Tech High School in N. Bergen (or alternatively, relocating other school children there and moving the Pre-K school into newly available space at one or more of the existing school facilities)."*

Page 5: https://www.nj.gov/dep/greenacres/pdf/NBergen_DEP_Completeness_Review.pdf

On 12-20-2016, Green Acres/NJDEP gave North Bergen almost 5 years, a firm deadline of September 1, 2021, to remove the preschool from Braddock Park, even *"should the High Tech High School alternative not come to fruition."*

Page 4: https://www.nj.gov/dep/greenacres/pdf/N_Bergen_Pre-app_Completeness_Review_Pt_2.pdf

On 08-25-17, North Bergen assured Green Acres/NJDEP that it would acquire Hi Tech HS and remove the preschool from Braddock Park, placing the preschoolers into *"existing facilities"* by *"the start of the 2019 school year."*

Page 7: https://www.nj.gov/dep/greenacres/pdf/NBergen_Diversion-PreApp-Response-2-Aug25_2017.pdf

In 2018, North Bergen amended its 2010 LRFP with its realignment plan, telling NJ DOE that the plan proposed *"will result in District wide realignment for Pre-Kindergarten through 6th grade students at existing Elementary Schools"*; and North Bergen proposed a public bond referendum, seeking approval for monies needed to enable the realignment. On 10-11-2018, NJ DOE approved this amended LRFP.

The LRFP reorganization was designed to free up classroom space in elementary schools for the preschoolers by moving their 7th and 8th graders into Hi-Tech, which would become North Bergen's middle school (NB didn't previously have a middle school.) The elementary schools currently serve K-8.

The LRFP shows classroom space to accommodate 354 (possibly 366 or more), preschoolers in the elementary schools, well exceeding North Bergen's 2019 actual preschool enrollment of 293, and large enough to accommodate its then predicted enrollment of 347 for 2020-2021 (an 18.4% increase.) However, only 248 pre-schoolers are actually enrolled this 2020-2021 school year (a 15% decrease.),

North Bergen held a referendum on December 11, 2018 in which voters approved the expenditure of \$65 million to put the LRFP into effect.

North Bergen then acquired Hi Tech; the Notice of Settlement is dated 03-04-2020.

Hi Tech HS accommodated 2468 students.

At this time, the public does not know what North Bergen's justification is for not moving ALL of the preschoolers out of their temporary classrooms and into permanent classrooms, now that the Hi Tech acquisition added new permanent classroom space for 2468 students and 10 acres of land to the BOE's inventory.

https://en.wikipedia.org/wiki/Hudson_County_Schools_of_Technology

In a 03-02-2016 memo, a NJDEP Green Acres official stated that the approximately 2.5 acre parking lot next to the building *"could accommodate trailers or a school if need be."*

On 08-11-2020, at the Diversion Public Scoping Hearing, North Bergen reneged on all its previous commitments made to NJDEP, North Bergen referendum voters and NJ DOE, to remove the preschool from Braddock Park. It announced its intention to submit a new, second diversion application to Green Acres/NJDEP, for permission to keep the preschool in Braddock Park permanently.

Between the acquisition of Hi Tech and the 2 acres of land currently for sale adjacent to it,** the 4.7 acres of land the BOE owns on 64th Street, as well as the .57 acres of land currently for

sale adjacent to it,** and the decreasing school enrollments, a school realignment should be devised to remove the preschool from Braddock Park, where it has been sitting "temporarily" and unsafely for now 20 years, in violation of NJDEP regulations.

** <https://www.loopnet.com/Listing/2100-2126-83rd-St-North-Bergen-NJ/21686575/>

(Robert Walden notified NJDEP about this on 08-12-20 – the day after the public scoping hearing.)

*** https://www.zillow.com/homedetails/6217-Meadowview-Ave-North-Bergen-NJ-7047/38928657_zpid/
(I notified NJDEP about this on 11-26-20.)

"Upon review of the resubmitted alternatives analysis, the Green Acres Program reserves the right to engage an expert to evaluate the alternatives analysis, if deemed necessary, in accordance with N.J.A.C.7:36-26.9(f)."

https://www.nj.gov/dep/greenacres/pdf/N-Bergen_Response_to_Diversion_PreApplication_Review.pdf

An expert should be requested to evaluate the Hi Tech and 64th Street alternative locations and to understand the education facilities planning aspect of this proposal.

PREVIOUS VIABLE ALTERNATIVE SITES AND NORTH BERGEN POOR EXCUSES

1305, 1407, and 1717 Paterson Plank Road (Block 27, Lots 1, 2, 16.01, 16.02, 21, 22, and 23.01)

"Hudson News" The old "Hudson News" property, now under development by Hudson Mews is not reasonable as per NJAC 7:36-26.9(e)2v as it would create unique problems, specifically the retroactive cancellation of an approved multifamily residential development."

Page 11: https://www.nj.gov/dep/greenacres/pdf/N_Bergen_Alternatives_Analysis.pdf

It is our position that cancellation of this project should have occurred.

The property was never seriously considered as an alternative site, likely because the Freeholder's brother-in-law had a stake in the ownership/development of the Hudson News properties, which had more than enough room for the preschool. The Freeholder also worked for the North Bergen Mayor.

The Hudson Mews Apartments were built on the Hudson News 10.76 acres of land:

https://njpropertyrecords.com/property/0908_27_1

Aerial photo showing the apartments:

<https://www.google.com/maps/place/Hudson+Mews/@40.765664,-74.0449696,302m/data=!3m1!1e3!4m5!3m4!1s0x89c25761f20243cf:0xabbb32fd0962853e!8m2!3d40.7658143!4d-74.0448355?hl=en>

Braddock Park and much of North Bergen/Hudson County also have contaminated soil.

2819 Kennedy Blvd. (4.8 acres)

"The property is not available as per NJAC 7:36-26.9(e)3i as the owner is unwilling to allow the Board to lease or utilize the land for the purposes of operating a preschool.

The site is also not reasonable as per NJAC 7:36-26.9(e)2ii as it would result in the incurring of additional construction costs of an extraordinary magnitude.

Occupancy of the retail building currently used as a grocery store would require extensive interior and exterior renovations and creation of safe play space."

Page 17: https://www.nj.gov/dep/greenacres/pdf/N_Bergen_Alternatives_Analysis.pdf

Eminent Domain could have been used to acquire the land; cost alone is not justification for dismissal.

5711 Kennedy Boulevard (Block 195, Lot 68, 68B)

"The "North of Avalon Cove" site is 2.26 acres of cleared open land.

The property is not reasonable as per NJAC 7:36-26.9(e)2v as it would create unique problems as the site was approved by the North Bergen Zoning Board of Adjustment for residential development in October 2015.

It is not reasonable for the Township to consider retroactively canceling the approved housing development in the specially designated zone."

Page 19: https://www.nj.gov/dep/greenacres/pdf/N_Bergen_Alternatives_Analysis.pdf

It is our position that it was reasonable for the Township to consider canceling development plans. For example, 7903-7909 River Road was approved by the North Bergen Planning Board for a commercial building**, then Hudson County bought it, using Eminent Domain, to use it as Diversion replacement land.

** NBPB Resolution No. 2015-11, Case No. 4-15.

4828 Tonnelle Avenue – formerly the "Manhattan Mobile Home Park."

This 5+ acre parcel was never considered as a Preschool alternative site, most likely because the Freeholder's brother-in-law's business associates wanted to/and did develop it for residences.

North Bergen's Problematic RFQ/RFP

North Bergen issued a RFQ/RFP calling for the construction/leasing of a preschool, a library and a community center, so it could remove the preschool from Braddock Park.

North Bergen abandoned the idea, stating *"Costs submitted in response to the RFQ/RFP were far in excess of estimated construction costs"* and *"The responses received proposed leases at excessive rates."*

Page 10: https://www.nj.gov/dep/greenacres/pdf/N-Bergen_Response_to_Diversion_PreApplication_Review.pdf

Page 22: https://www.nj.gov/dep/greenacres/pdf/NBergen_Diversion-PreApp-Response-2-Aug25_2017.pdf

Green Acres suggested North Bergen issue a revised RFQ, limiting the proposal to a Pre-K school.

Page 5: https://www.nj.gov/dep/greenacres/pdf/NBergen_DEP_Completeness_Review.pdf

North Bergen didn't follow-up on Green Acres suggestion.

North Bergen has inappropriately eliminated alternative sites because of their costs.

"the incurring of increased costs alone shall not disqualify an alternative from consideration."

N.J.A.C. 7:36-26.4(e)2ii and 26.9(e)2ii

North Bergen's responses regarding the above alternative properties indicates its unwillingness to relocate the preschool, and to find one excuse after another. It seems that Mayor-State Senator Sacco wants the preschool in Braddock Park and he is going to do everything to have his way.

NORTH BERGEN SHOULD PROVIDE REPLACEMENT LAND FOR ILLEGALLY DIVERTING THE DRIVEWAY TO THE PRESCHOOL

There is a driveway leading from JFK Boulevard East to the preschool parking lot.

The parking lot couldn't have been diverted without also diverting the driveway to the parking lot. Next to the entrance of the parking lot is a short, not well maintained gravel road (more like a path), which leads to the walkway around the lake; this road/path is not open to the public – it is only usable by emergency vehicles.

Part of this road/path can be seen here, between the trees:

<https://www.google.com/maps/@40.8042819,-73.999247,302m/data=!3m1!1e3?hl=en>

NORTH BERGEN FINANCES

North Bergen, despite numerous documented cases of no-show jobs and exorbitant Township legal expenses (including a no-show attorney), had/has money available for education:

Pages 16-24: https://www.nj.gov/comptroller/news/docs/report_local_government_legal_fees.pdf

1- In 2000, North Bergen planned on spending \$60 million to build a new high school (approximately \$93 million in 2021 dollars.) <https://www.saving.org/inflation/inflation.php?amount=60,000,000>

2- In the latest year North Bergen posted its budget (2019), North Bergen had its biggest budget surplus in many years (approximately \$15 million.)

<https://www.northbergen.org/Content/pdf/budgets/2019-Budget-Presentation.pdf>

3- In its previous diversion application, North Bergen hoped to receive NJ SDA grants for its preschool.

4- Since 1996, North Bergen has received millions of dollars yearly in NJ ECPA (early childhood) funds.

5- For many years North Bergen did not consider feasible alternative preschool sites, because it instead preferred to approve these sites for developers (with close relationships to North Bergen-Hudson County officials), for residential and commercial development.

These developers received PILOT incentives from North Bergen, which took away revenue from the North Bergen BOE.

7- *"Thanks to the leadership of Mayor Sacco and the commissioners, North Bergen has never been in better shape in terms of its finances, services, facilities and more."*

<https://www.nj.com/hudson/2021/02/health-officer-castro-to-make-history-as-next-north-bergen-business-administrator.html>

8- At the end of 2020, North Bergen announced it will reassess every property in the township.

<https://hudsonreporter.com/2020/12/22/north-bergen-moves-to-begin-property-tax-revaluation/>

9- On 03-11-21 Governor Murphy announced North Bergen is getting \$17,755,220.29 from the \$1.9 trillion Covid relief law.

<https://patch.com/new-jersey/montclair/see-how-much-each-nj-town-will-get-coronavirus-relief-plan>

BAMBOO BROOK
170 LONGVIEW ROAD
FAR HILLS, NJ 07931
908-234-1225
908-234-1189 (FAX)
info@njconservation.org
www.njconservation.org



December 2, 2014

Caroline Armstrong
NJ Department of Environmental Protection
Green Acres Program
Bureau of Legal Services and Stewardship
PO Box 412
Trenton, New Jersey 08652-0412

Re: Proposed diversion of 1.1 acres of James J. Braddock North Hudson County Park

Dear Ms. Armstrong:

The Township of North Bergen and the County of Hudson have requested that the New Jersey Department of Environmental Protection, Green Acres Program, consider their proposal to divert approximately 1.1 acres of the James J. Braddock North Hudson County Park in order to permanently locate a preschool in that area. Braddock Park currently serves residents in a densely populated area of the state of New Jersey, as of the 2010 United States Census; there were 60,773 people residing in the township with a population density of 11,838 per square mile. New Jersey Conservation Foundation is committed to upholding the public trust in protecting lands that have been preserved in perpetuity for the benefit of all New Jersey residents and would like to make a request in this matter.

While we are aware that the comment period on this proposal has been completed we respectfully request that the Green Acres take action regarding the alternative analysis that is required under Subchapter 26: 7:36-26.9 Section 2 of the Green Acres rules on disposals and diversions. We respectfully suggest that the alternatives analysis is insufficient under the rules and ask, as part of the official record, that Green Acres engage an expert to evaluate the analysis consistent with:

Subchapter 26: 7:36-26.9 (f) 2. iii requires the Department to engage one or more experts to evaluate the alternatives analysis submitted by the applicant.

Ex. V

We believe this analysis would be helpful in reviewing the proposed diversion and its consistency with the rules. The residents of the area would be well served by a full analysis of alternatives and the possibility of a more sustainable approach to meeting the needs of the school population while protecting lands that were preserved to serve all residents.

We would appreciate being apprised of your decision in regard to this request.

Thank you for your consideration,

Sincerely,

Michele S. Byers
Executive Director



New Jersey Conservation F O U N D A T I O N

October 10, 2018

Martha Sapp
Director
NJ Green Acres Program
NJ Dept. of Environmental Protection
Mail Code 501-01, PO Box 420
Trenton, NJ 08625-0420

Re: Green Acres Diversion Issue
James J. Braddock County Park, North Bergen, Hudson County

Dear Ms. Sapp:

New Jersey Conservation Foundation, League of Women Voters of New Jersey, and Friends of Liberty State Park remain concerned about the Hudson County Park System's ongoing and unresolved Green Acres diversion at James J. Braddock Park. As you know, the diversion is approximately 17 years old, and has been under review by the NJ DEP Green Acres program since 2010.

We understand that Hudson County is trying to find an alternate location for the pre-school that was created within the park, but we believe Green Acres should be asking the County for a plan, including details on replacement land, and a timeline with a deadline of one year, for resolving the diversion. With all of the competing priorities county governments have to juggle, a plan and time horizon for identifying an alternative site should make it more likely that the matter will get the attention needed to come to a resolution.

We are concerned that such a significant and obvious diversion of parkland has been allowed to persist unresolved for such a long time. As New Jersey reaches buildout, especially in the urban areas, parkland will come under increasing pressure to be used for other purposes. Allowing diversions of this magnitude to go on indefinitely may make parks greater targets for competing uses. As long as this diversion remains unresolved, the public remains uncompensated for the significant loss of parkland use that has accrued since 2002.

Our organizations are also in receipt of compelling evidence gathered by a local citizen, Mr. Robert Walden, which indicates that the 0.54 acre parking lot should be considered part of the diverted land.

We strongly urge the Green Acres Program to request a formal plan from the County that includes a timeline and deadline for resolving the diversion, and we urge Green Acres to obtain for the public full compensation for *all* the loss of public use that has occurred and continues to occur.

Thank you for your attention to this important matter and your consideration of our request.

Sincerely,

Alison Mitchell, Policy Director, New Jersey Conservation Foundation

Jesse Burns, Executive Director, League of Women Voters of New Jersey

Sam Pesin, President, Friends of Liberty State Park

Cc: Judeth Yeany, Bureau Chief, Legal Services and Stewardship



New Jersey Conservation F O U N D A T I O N

January 8, 2019

Commissioner Catherine R. McCabe
New Jersey Dept. of Environmental Protection
401 East State Street, 7th floor, East Wing
PO Box 402, Trenton, NJ 08625-0402

(also via e-mail to: catherine.mccabe@dep.nj.gov)

Re: Green Acres Diversion Issue
James J. Braddock County Park, North Bergen, Hudson County

Dear Commissioner McCabe:

New Jersey Conservation Foundation, League of Women Voters of New Jersey, and Friends of Liberty State Park remain concerned about the Hudson County Park System's ongoing and unresolved Green Acres diversion at James J. Braddock Park. The diversion is approximately 17 years old, and has been under review by the NJ DEP Green Acres program since 2010.

We understand that Hudson County is trying to find an alternate location for the pre-school that was created within the park, but we believe Green Acres should be asking the County for a plan, including details on replacement land, and a timeline with a deadline of one year, for resolving the diversion. With all of the competing priorities county governments have to juggle, a plan and time horizon for identifying an alternative site should make it more likely that the matter will get the attention needed to come to a resolution.

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We strongly urge the Green Acres Program to request a formal plan from the County that includes a timeline and deadline for resolving the diversion, and we urge Green Acres to obtain for the public full compensation for *all* the loss of public use that has occurred and continues to occur.

We would be happy to meet with you to discuss this important issue. Thank you for your attention and consideration of our request.

Sincerely,

Michele S. Byers, Executive Director, New Jersey Conservation Foundation

Jesse Burns, Executive Director, League of Women Voters of New Jersey

Sam Pesin, President, Friends of Liberty State Park

Cc: Debbie Mans, Deputy Commissioner NJDEP
Ray Bukowski, Assistant Commissioner for Natural and Historic Resources
Martha Sapp, Administrator, Green Acres Program
Judeth Yeany, Bureau Chief, Legal Services and Stewardship