



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES PROGRAM
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BOB MARTIN
Commissioner

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

October 15, 2015

Michael Reina, Mayor
Township of Jackson
95 W. Veterans Highway
Jackson, NJ 08527

Re: Township of Jackson, County of Ocean

Vista Center Acquisition (Block 2201, Lot 2)
Composting and Recycling Operation and Jackson Soccer Club Lease

Camp Joy Property (Block 5806, Lot 4)
Legalizing Past Diversions--School Encroachment and Road Widening

Dear Mayor Reina:

The Green Acres Program is in receipt of Jackson Township's (Township's) request to process an outstanding reimbursement of \$487,500 for the acquisition of the Sambol-Vista Center property. Attached with your request, dated April 22, 2015, was an updated Recreation and Open Space Inventory (ROSI) for the Township which is required by this office in order to reimburse the municipality. However, please be advised that the Green Acres Program cannot disburse any additional funds to the Township at this time due to various outstanding stewardship issues that remain unresolved and incomplete. In order to receive even partial reimbursement on this request, the Township must make substantial progress in complying with the Green Acres rules and its Green Acres contractual conditions.

The outstanding stewardship issues concern two Township-owned properties: the Vista Center Acquisition (Block 2201, Lot 2) and the Camp Joy property (Block 5806, Lot 4.) We also have concerns about three Township-owned properties that appear to have been omitted from the ROSI. A summary of each issue follows.

1. Vista Center Acquisition (Block 2201, Lot 2)
Composting and Recycling Operation

Since November 2009, Jackson Township has been using Green Acres encumbered parkland at the Vista Center property for its municipal composting and recycling operations. On March 10, 2009, Jackson Township requested our approval to create a temporary compost/recycling facility on a portion of the Vista Center acquisition until an alternate site could be located. *N.J.A.C. 7:36-25.14* allows for the temporary use of parkland for public purposes other than recreation and conservation for a period of up to two (2) years. On April 7, 2009, we approved the temporary composting/recycling facility for a two year term beginning on November 1, 2009.

On June 29, 2011, the Township sent us a letter describing its efforts to relocate the composting/recycling facility to another location and the difficulty in finding an appropriate permanent site. The Township requested a six month extension of the two year temporary approval (as allowed under *N.J.A.C. 7:36-25.14* for "good cause" shown.) We granted the six month extension on October 18, 2011 (effective November 1, 2011) through a telephone conversation between David Smith of our staff and then-Township Administrator Torres. The Township also requested guidance from Green Acres about preparing an application for the permanent diversion of parkland in order for the composting/recycling operation to continue at its current location.

After a meeting between Green Acres, the Township and the Township's consultant, the Township filed a diversion pre-application on January 27, 2012. Although the pre-application originally characterized the area to be diverted as approximately two (2) acres, after Green Acres required the Township's consultant to obtain a more precise measurement of this area, it was later determined the actual area occupied by the compost/recycling facility (and associated access road) is approximately 8.391 acres.

As part of the January 2012 diversion pre-application, the Township proposed to offer as replacement a 40.12-acre property (Block 15701, Lot 22.) Appraisals prepared by Henry J. Mancini & Associates, the Township's selected appraiser, established the value of Block 15701, Lot 22 (\$140,000) as being well below the value of the composting facility site located on the Vista Center tract (\$365,000.) There have been numerous meetings and communications between Green Acres, Jackson Township and the Township's consultant in an attempt have other properties proposed as compensation so that the Township can complete its diversion application. The Township did consider using Block 16601, Lot 9.02, known as the Boehm property, as additional replacement land. However, we were informed that the Township was concerned that acquiring this privately owned parcel would delay the application process. Although there has been some progress in completing the pre-application and final application requirements for this diversion, the Township has been unable to identify other suitable replacement land that satisfies the Green Acres rules in order to receive final approval of the

diversion request from the Commissioner of the Department of Environmental Protection and the State House Commission.

At this point, the use of the Vista Center property for composting/recycling operations has been ongoing since at least November 2009 (almost 6 years) under a Green Acres rule that allowed a maximum temporary approval of up to 2 ½ years. Out of a good faith belief that Jackson Township would follow through on its commitment to seek final approval of its diversion application in a timely fashion, we did not require the Township to cease the composting/recycling operation while the remaining pre- and final application requirements were being prepared. However, the pre-application was filed over three years ago and the Township has still not identified suitable replacement land for the proposed diversion.

2. Vista Center Acquisition (Block 2201, Lot 2)
Jackson Soccer Club Lease

On August 20, 2014, David Smith of this office sent an email to you advising that the lease agreement between the Township of Jackson and the Jackson Soccer Club (JSC), dated March 28, 2005, violates the Green Acres rules. The lease with JSC is on a portion of the Green Acres funded Vista Center acquisition. *N.J.A.C. 7:36-25.13* states that the initial term of any leases of funded parkland shall be no more than five (5) years, or for good cause shown (such as the proposed construction of substantial capital improvements by the lessee), provide for a longer initial term of less than 25 years. The current lease with JSC is for a term of 50 years and does not seem to involve any substantial capital investment by the JSC.

Under *N.J.A.C. 7:36-25.13*, any leases of funded parkland that are executed without the Department's approval are void and of no legal effect. The Township never submitted this lease to Green Acres for review and approval as required by the Green Acres rules. (Although we do request copies of leases for funded parkland as part of our regular inspection of Green Acres funded parkland, we were not provided with a copy of this 2005 lease until 2014.)

In 2014, Green Acres received a complaint from a soccer group alleging that the soccer fields at the Vista Center were being scheduled and managed by the JSC in a manner that resulted in the group being denied reasonable access to the fields. In April 2015, we again received a complaint that reasonable public access to this facility is not available.

In order to investigate these complaints, we recently inspected this parkland. Our inspector reported that a sign is posted at the entrance along Jackson Mills Road that restricts the use of the soccer complex from 4:00 PM to dusk on weekdays and from 8:00 AM to dusk on weekends.

We recognize that we are not the day to day manager of this parkland, and that accommodating all requested uses of athletic fields is sometimes an impossible task. However, both the Green

Acres funding contract and our rules require the Township to provide reasonable public access to properties that were purchased or developed with Green Acres bond funds.

In order to determine whether the complaints are valid and/or whether the lease with the JSC can be amended to comply with our rules, we will need the Township to supply the following information:

- An explanation of why the public cannot gain access to the soccer fields before 4:00 on weekdays.
- An explanation of how these fields are scheduled for use by the public. Does the JSC have exclusive use of the fields? Is the Jackson Township Recreation Department responsible for the programming of the soccer complex?
- An explanation of what action(s) the Township will take to correct the defective lease agreement with the JSC.

3. Camp Joy Property (Block 5806, Lot 4)
Legalizing Past Diversions--School Encroachment and Road Widening

On December 17, 1998, the State House Commission approved Jackson Township's application for an exchange of land between the Camp Joy property (Block 5806, Lot 4, a Township-owned, Green Acres funded property) and an adjacent property owned by the Jackson Township Board of Education. The purpose of the land exchange was to facilitate the construction of the Crawford-Rodriguez elementary school on the Board of Education property. The school opened in 2001.

Subsequent to the completion of the school, a routine Green Acres inspection revealed that the school project encroached on the remaining Camp Joy area by approximately 0.447 acre. The Green Acres inspector also observed that, at some point, New Prospect Road, which serves the school, was widened onto the Camp Joy property by 0.062 acre without the necessary approvals. The area of Camp Joy that was encroached upon by the Jackson Township Board of Education at the time of the construction of the new Crawford-Rodriguez school and the widening of the right-of-way of New Prospect Road onto parkland totals approximately 0.510 acre and has been valued at \$15,000.

Although we are willing to resolve the Camp Joy issues as part of the pending diversion application for the Vista Center composting operation, our efforts to resolve the Camp Joy issues date back to at least 2008.

At this time, we will not consider the vacant first aid building that is located on a portion of Camp Joy to be part of the area of diversion if the building will be used for recreation and conservation purposes. It is our understanding that the Township's Pathfinders organization is interested in using the building. Confirmation from the Township will be needed that grants permission for this use.

4. Omissions of Parkland from the Township's ROSI

Three times over the past several months, Jackson Township has proposed to use municipally-owned properties that are held by the Township for recreation and conservation purposes as replacement land for the Camp Joy and/or Vista Center diversions. These parcels are:

- Block 1402, Lot 5 is a developed park with ballfields and is known as Bartley Road Recreation Area.
- Block 2201, Lot 1 was accepted as a gift from Vista Center Associates by deed dated October 31, 2008. On September 17, 2002, the Township and Vista Center Associates entered into a Deed of Easement for Conservation and Recreation on the same property (formerly known as Block 147.02, Lot 1.) The October 31, 2008 deed states, "The Easement granted to the Township of Jackson by Vista Center Associates dated September 17, 2002 and recorded in the Ocean County Clerk's Office on October 21, 2002 in Book 11046, Page 0221, et seq. hereby merges and terminates by this Deed to the Grantee. Since releases of conservation easements require the approval of the NJDEP Commissioner under the New Jersey Conservation Restriction and Historic Preservation Restriction Act, *N.J.S.A. 13:8B-1 et seq.*, it is our position that this property continues to be held for conservation and recreation purposes despite the Township's attempted extinguishment of the easement.
- Block 3401, Lot 58 (formerly Block 3, Lot 28H) was accepted by Jackson Township under Ordinance No. 64-76 to "be used as and for the objectives of the Francis Mills Recreation Area."

Eligible replacement land can be property held by the municipality for general municipal purposes, vacant land for which there is no evidence of intended use by the Township for open space/parkland or any other land that is not deed restricted or encumbered by another legal instrument for recreation and/or conservation purposes. Existing parkland and open space owned by Jackson Township is not eligible.

None of the three properties appears on Jackson Township's updated ROSI as submitted to this office on April 22, 2015. Obviously, we must question the accuracy of this document. Before future funding is released to Jackson Township, a new ROSI must be submitted to this office in conformance with the instructions for the listing of all properties held by the municipality for

recreation and conservation purposes. These instructions and the proper forms can be found on our website at www.njgreenacres.org. Please be aware that, should lands held by the municipality for public recreation and conservation purposes be, by mistake or inadvertence, omitted from the inventory submitted by Jackson Township, such lands are still deemed to be subject to the terms and conditions of the Green Acres Project Agreement and Declaration of Encumbrance to the same extent as though they had been included.

Please note that further review of the ROSI as part of the Township's reimbursement request may reveal additional errors and omissions.

Summary

At this time, the Township has several major outstanding stewardship issues: (1) the now-unauthorized use of the Vista Center property for composting/recycling operations, (2) an illegal lease of soccer fields on the Vista Center property to the Jackson Soccer Club and (3) the encroachments onto the Camp Joy property by the neighboring elementary school and the right of way for New Prospect Road. While there have been some steps taken by the Township to resolve these issues, it has taken more than three years to identify suitable replacement land for the proposed diversions. Moreover, the Township has not been responsive on the soccer club lease issue.

N.J.A.C. 7:36-26.10 (g) establishes the minimum amount of compensation that must be provided by a Local Unit for a major diversion of parkland. For a diversion of parkland for public purposes, the minimum ratio based on acreage is 2:1 for land for which appraisals are obtained. This ratio is currently being applied to the proposed composting/recycling operation diversion. For legalizing past diversions of parkland for a public purpose, the minimum ratio is increased to 5:1. This ratio is being applied to the proposal to legalize the diversions at Camp Joy. In addition, the replacement land must be of at least equal value as the parkland to be diverted (and of comparable natural resource value and usefulness to the public.)

Although the 40.12-acre proposed replacement property is large enough to satisfy the replacement ratios based on size, there remains a deficiency of at least \$240,000 in land value that must be replaced through the dedication of additional land for recreation and conservation purposes.

If the Green Acres Program is not in receipt of a completed major diversion of parkland application by January 15, 2016 (including surveys, appraisals, public hearing requirements, etc.) this office will have no choice but to classify the operation of the composting facility as legalizing a past diversion and increasing the replacement land ratio. Also, this office will be contacting the Department's Solid and Hazardous Waste Program for further discussions in order to resolve this matter.

The Green Acres Program has been more than patient with the Township on these matters. Enough time has elapsed that a complete application for these diversions could have been submitted if Jackson Township seriously wanted to prioritize this matter. Please note that this office will not grant any time extensions beyond the January 15, 2016 deadline date.

We believe the lease between Jackson Township and the JSC can be easily remedied to provide for reasonable public access and comply with the other requirements of our rules. This office has on file approved lease language between a municipality and an athletic organization that complies with *N.J.A.C. 7:36-25.13* that we can provide the township if you so choose to enter into a new lease arrangement with JSC or another athletic organization.

Until we see substantial progress on the above matters, we will not be able to advance any funds under the Township's reimbursement request.

We are willing to meet with Jackson Township if you feel it would be helpful in moving these matters to closure. Please do not hesitate to contact David R. Smith of my staff at 609-984-0622 should you have any questions or to arrange a meeting.

Sincerely,



Martha S. Sapp
Acting Administrator

Attachments

c: Jean Cipriani, Esq. Township Attorney
Ann-Marie Eden, RMC, Township Clerk
Helene Schlegel, Township Administrator
Kathi Croes, Green Acres Program
David R. Smith, Green Acres Program
Judeth Piccinini Yeany, Esq., Green Acres Program
Patrick Jeffery, T&M Associates