

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 30, 2019

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 32.07-1-1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 6/7/2019

Date Review Received: 8/13/2019

Item: *KCE NY3 LLC - LANDS N/F ORANGE & ROCKLAND UTILITIES INC (R-1990F)*

Variations to permit the construction of an unmanned battery energy storage facility located contiguous to the existing Orange & Rockland substation. It will consist of six 40-foot battery energy storage system containers, and related equipment. The parcel is located on 28.64 acres in the RR-80 zoning district. The variations required include side setback and maximum development coverage.

Encompassing both sides of Diltz Road at the terminus, 1,050 feet southwest of Mountain Road

Reason for Referral:

Mahwah River, Harriman State Park, Town of Haverstraw, State and Federal Wetlands

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

- 1 An updated review must be completed by the Rockland County Drainage Agency. In addition, The applicant must comply with the conditions of their letter dated January 23, 2019.
- 2 The applicant must comply with the conditions of the New York State Department of Environmental Conservation's letter of March 26, 2019. An updated review must be completed by this department once the licensed monitor is selected.
- 3 The designated floodplain administrator for the Town of Ramapo shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.
- 4 A review must be completed by the Palisades Interstate Park Commission, and their comments or concerns addressed.

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- 5 A review must be completed by the United States Army Corps of Engineers for the wetlands on site, and all required permits obtained.
- 6 The Town of Haverstraw is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 400 feet north of the site. As required under Section 239nn of the State General Municipal Law, the Town of Haverstraw must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Town of Ramapo.
- 7 An updated review must be completed by the Rockland County Health Department. In addition, the applicant must comply with the condition of their letter dated February 5, 2019.
- 8 A review must be completed by the County of Rockland Sewer District #1, any comments or concerns addressed, and all required permits obtained.
- 9 The proposed battery energy storage facility must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 10 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Moleston-Hillcrest Fire District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 11 Pervious pavers should be used where possible to reduce the extent of the development coverage variance.
- 12 Since the side setback is deficient, a landscaping plan shall be provided which includes supplemental plantings along the property line to buffer the view of the battery storage facility from Harriman State Park. This will help to alleviate the impact of the project on the users of the parkland.
- 13 The site plan shall contain map notes that list all appropriate information, including district information.
- 14 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 15 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas V. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Health
Moleston/Hillcrest Fire District
New York State Department of Environmental Conservation
New York State Department of State
Palisades Interstate Park Commission
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services

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Rockland County Sewer District #1
United States Army Corps of Engineers
Federal Emergency Management Agency

Maser Consulting P.A.
Town of Haverstraw
Young/Sommer LLC

KCE NY3 LLC

Mona Montal, Chief of Staff

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

