



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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C. SCOTT VANDERHOEF
County Executive

April 16, 2013

Stony Point Zoning Board of Appeals
74 East Main Street
Stony Point, NY 10980

Tax Data: 20.02-11-25

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

Map Date:

Date Review Received: 3/22/2013

Item: *TOWN OF HAVERSTRAW - GASIFICATION PLANT (SP-790D)*

Interpretation of the zoning ordinance and appeal of the building inspector's determination that the proposed gasification facility, located in the LI zoning district on 12.35 acres, is a permitted use.

East side of the CSX Railroad right-of-way, approximately 30 feet north of the Town of Haverstraw town line, and approximately 2,000 feet east of Route 9W. The site is accessed from Holt Drive.

Reason for Referral:

Town of Haverstraw, Village of West Haverstraw, Cedar Pond Brook, Stony Point Marsh County Park

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:

***Approve**

1 We leave the decision of the interpretation of zoning ordinance and the appeal of the building inspector to the Town of Stony Point Zoning Board of Appeals. However, if it is determined that the proposed gasification facility will need a use variance, then we request the opportunity to review the application when it appears before the Zoning Board of Appeals for that requirement. If a use variance will be required, the applicant must meet all of the conditions using the Otto test:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.

TOWN OF HAVERSTRAW - GASIFICATION PLANT (SP-790D)

D. The alleged hardship is not self-created.



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Geoffrey Finn, Stony Point
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
Town of Haverstraw
Village of West Haverstraw

Steven Silverberg

**The proposed action is deemed to have no significant negative impact on nearby municipalities, County or State roads or facilities, County Parks or Drainage Systems or the surrounding Neighborhood Character and, therefore, the ACTION IS FOR LOCAL DETERMINATION. Approval does not necessarily mean we endorse this subject action as desirable from the viewpoint of your municipality.*

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.