



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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County Executive

January 24, 2013

Stony Point Planning Board
74 East Main Street
Stony Point, NY 10980

Tax Data: 20.02-11-25

THOMAS B. VANDERBEEK, P.E.
Commissioner

ARLENE R. MILLER
Deputy Commissioner

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

Map Date: 10/4/2012

Date Review Received: 12/13/2012

Item: HUDSON RIVER VIEW INDUSTRIAL PARK BLDG D (HOUSEHOLD WASTE TO ENERGY) (SP-790B)

Site plan to place a new tenant in an existing 74,100 sq. ft. multi-section building to operate a waste-to-energy facility, capable of disposing municipal (household) solid waste at a rate to start at 1,000 tons per day. It is proposed to use heat, partial combustion and chemical processes to produce electricity or liquid fuels. The site is proposed to be altered by removing a concrete slab and repaving and re-designing portions of the parking of the industrial park. A 19% reduction from the required number of parking spaces is also requested as a waiver in order to provide 62 spaces rather than 77. The building to be occupied was formerly used for paint manufacture and is located on the site of a 12.35-acre industrial park in a Light Industrial (LI) zoning district.

East side of the CSX Railroad right-of-way, approximately 30 feet north of the Town of Haverstraw town line; approximately 2000 feet east of Route 9W; accessed from Holt Drive with an address of 50 Holt Drive.

Reason for Referral: Village of West Haverstraw, Town of 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:

****Recommend the following modifications***

The following recommended modifications are provided in response to the materials sent to our department with a postmark of October 17, 2012 and with postmarks during the month of December 2012. They are also based upon the site plan map and truck stacking plan map dated October 4, 2012 since these maps are the most recent maps received to date.

1. According to the Town of Stony Point zoning code regulations for the Light Industrial (LI) zoning district, for any industrial use proposed, the applicant must provide a detailed description of mechanical, compressive and chemical processes with the corresponding OSHA 2206 code requirements and the applicant's proposed means of meeting those criteria. This required information must be submitted in order for a proper review to be completed.
2. The revised EAF indicates that there will be 58 parking spaces, while the site plan indicates that there will be 62 spaces. A clarification must be provided.

3. It is our understanding that facilities such as the one proposed, have one or more air emission points and, therefore, air emission information must be provided. Typically, when actions are evaluated under the SEQRA process, the question of whether the proposed action will impact air quality is answered. In those instances, such information allows the Lead Agency to complete Part II (project impacts) and Part III (evaluation of the importance of impacts) of the SEQRA process.
4. A traffic study may be warranted due to the rail/vehicular traffic coordination issues, high anticipated traffic volumes, varying types of traffic anticipated, and potential impacts on Route 9W.
5. The application materials do not describe a process of separation or sorting of the municipal solid waste feedstock prior to gasification. However, within the five page document that the Town transmitted to us on October 12, 2012, entitled "Syngasification: How it Works," it is noted that the technology involves careful separation and sorting of the feedstock materials. Will this be necessary at the proposed facility? If so, how will the materials that cannot be placed in the gasification unit be disposed? Is there any possibility that there could be odors from municipal solid waste at the site that has not yet been sorted?
6. When the applicant and their representatives met with our staff on October 18, 2012, it was noted that, in addition to ethanol, an expected product of the gasification process is potash, which can be used as a part of asphalt mixtures. If this will be a product of the gasification process, the application materials should be revised to note this, and whether or not the maximum expected generated vehicle trips of 10 trips per hour includes transport of this product.
7. It is our understanding that the traditional circulation pattern for accessing the site has been incoming traffic across the north (at-grade) rail crossing, and exiting traffic through the south (underpass) rail crossing, though at times traffic has passed going both directions using the north crossing. The site plan must be revised to indicate the traffic circulation pattern and to specify if it will be a one-way loop.
8. We recommend the one-way loop design for vehicle traffic circulation entering and exiting the site be considered since this would limit the possibility of train/vehicle collisions to occurring from vehicular traffic coming from one direction only.
9. CSX Railroad has a double track at the private at-grade crossing, consisting of a main line and a passing siding. The east track is the main line that carries both north and south bound trains. The west track is a passing siding that is used when CSX has an express train coming through. Between the main line track and Building D are the remnants of a rail spur track that connects to Building D and could provide future rail service for the building.

Two scenarios illustrate safety issues of the at-grade crossing. Eastbound vehicular traffic could have the site distance blocked by trains stored on the passing siding south of the crossing. In order to know whether a train is approaching from the south, vehicle drivers would have to rely on the sound warnings of the train-warning bell at the crossing and the train whistles that are required to be sounded starting $\frac{1}{2}$ to $\frac{1}{4}$ mile away from the crossing. Also, westbound vehicular traffic may have their site distance blocked to the south by train cars stored on the spur track. In that case, in order to know whether a train is approaching from the south, vehicle drivers would have to rely on only the sound warnings of the bell at the crossing and the whistle of the approaching train. These dangerous situations in the anticipated environment of 24-hour usage with many vehicle trips generated from the site per hour, combined with the lack of protective safety features such as active warning gates and flashers, increase the likelihood of train/vehicle collisions.

Therefore, a written statement should be obtained from the CSX Transportation company indicating what rail crossing protective measures must be implemented under the anticipated number of vehicles for the waste-to-energy facility operation. As appropriate, at the time of issuance of a Certificate of Occupancy, a timetable of safety feature implementation should be developed that correlates with operating conditions of the facility.

10. It is our understanding that no improvements are proposed to the southern rail crossing serving the

site, which is a railroad underpass crossing. On August 16, 2010, when this Department reviewed a proposal by KBT Properties for use of the parcel to the east, certain improvements were proposed for the railroad underpass, which this Department endorsed. The recommended upgrades included: (a) posting of clearance height signs, (b) repaving and upgrading of the pavement section to eliminate current drainage problems and to support the anticipated vehicle trips, and (c) installing a traffic signal (two phase operation) with signal heads located on either side of the underpass and supplemental signage indicating "wait for green signal" on both approaches.

We continue to recommend these modifications to the railroad underpass crossing. The site plan details must show any improvements to be provided and documentation must be provided to the Town indicating that these have been reviewed and approved by the CSX Transportation company.

11. It is our understanding that a one to two-week study was underway in October 2012 using a camera to record the frequency and duration of trains that block the at-grade track crossing into the site. When the study is completed, we request a copy of the results.
12. Information regarding a timetable for reactivating the spur track to Building D must be provided.
13. A review shall be completed by CSX Transportation company and any concerns addressed.
14. A review shall be completed by the Stony Point fire district and any concerns addressed.
15. The fire zones must be clearly marked on the site plan. Access to the fire zones shall be unimpeded by other parking areas and maneuverability on the site feasible.
16. The application materials must be revised to indicate the status of utilities for the site. Are all utilities existing? Are there plans to add or upgrade utilities?
17. All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.
18. Lighting for the site should be shown and verification should be provided that there will be no glare onto adjacent properties.
19. The concern expressed in the October 1, 2012 letter from Scott McKane, P.E., of the Environmental Health Program of the Rockland County Health Department, must be addressed and any required permits obtained.
20. With regard to the Environmental Assessment Form submitted, Question 7, on page 9 of 21, requests the predominant land uses(s) and zoning classifications within a 1/4-mile radius of the site. The response provided is: "LI, landfill." However, in the Town of Stony Point portion of this area, significant land uses include single-family residential, multi-family residential, senior multi-family housing, a manufactured housing community, general business uses such as a shopping center, special recreation use and parkland, with corresponding zoning classifications. In the Town of Haverstraw, a portion of the land uses includes a multi-family senior housing development, in addition to the landfill use noted that is in a planned industrial office zoning classification. In the Village of West Haverstraw a public elementary school is the predominant land use. The response to this question should be expanded to more completely describe the mixture of uses in the area.
21. The Town of Haverstraw and the Village of West Haverstraw are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Town of Haverstraw lies 30 feet to the south of the subject property and the municipal boundary for the Village of West Haverstraw lies approximately 95 feet to the southwest of the subject property. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare

facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was recently enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

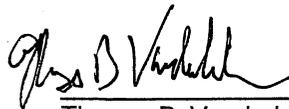
The Town of Haverstraw has expressed its concerns in a December 7, 2012 letter from the Town's attorney, Steven Silverberg, to the Town of Stony Point Planning Board. Mayor John Ramundo, Jr. of the Village of West Haverstraw has expressed his concerns in a January 15, 2013 letter to William Janeway of the New York State Department of Environmental Conservation with copies to Town of Stony Point officials. The expressed concerns must be addressed. The opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, storm water runoff and sanitary sewer service must continue to be provided to these municipalities. The areas of countywide concern noted above that directly impact the Town of Haverstraw and/or the Village of West Haverstraw must be considered and satisfactorily addressed, as well as any additional concerns about the site plan.

22. The following additional comments are offered strictly as observations and are not part of our review pursuant to the New York State General Municipal Law (GML). The board may have already addressed these points or may disregard them without any formal vote under the GML process.

22.1 A clarification is requested regarding the degree to which the facility will be experimental. The Town planning consultant's review describes the proposed facility as a "Pilot Plant." In addition, it is our understanding that the applicant has informally discussed that the operator may consist of a joint venture between New Planet Energy and INEOS Bio, which we understand recently received a Certificate of Occupancy to operate a vegetative waste to energy facility in Florida, with a permit that allows experimentation with municipal solid waste feedstock up to 30 days per year. Therefore, in the case of the New Planet Energy/INEOS Bio joint venture, it would appear that they might be looking to have their next facility use municipal solid waste as feedstock. It also appears that there may be few, if any, gasification facilities in existence that use municipal (household) solid waste feedstock that have positive net energy production from the process. In consideration of these phases of development in waste-to-energy, the place of the proposed facility in the development of a facility capable of using municipal (household) solid waste should be clarified and whether it will be the first of its kind should be noted.

22.2 A quality of life and safety program (Quiet Zone) exists that allows, where adequate safety features have been installed at rail crossings, discontinuance of the sounding of the 95-110 decibel train whistles upon approach to the crossings. Should adequate protective features be installed at this site's at-grade crossing in the future, the benefit of the Quiet Zone program may be available to the residents of the area.

22.3 In order to make the site more aesthetically attractive, supplemental landscaping should be considered.



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

cc: Supervisor Geoffrey Finn, Stony Point
Town of Haverstraw
Village of West Haverstraw
John Petronella, Permits, NYS Department of Environmental Quality
CSX Transportation, Inc.
Rockland County Drainage Agency
Rockland County Division of Environmental Resources
United States Army Corps of Engineers
Daniel Whitehead, Permits, New York State Department of Environmental Conservation
Rockland County Department of Health
Stony Point Fire District
Rockland County Office of Fire and Emergency Services

New York State Department of Transportation
Dave Zigler, Atzl, Scatassa & Zigler PC (CONFIR)
James Cervino, PhD, Visiting Scientist, WHOI (CONF)
Steven Silverberg, Esq.
Haverstraw Joint Regional Sewer District
James Boyle, MBC Contractors, Inc.

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

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.

