



**COUNTY OF ROCKLAND**  
**DEPARTMENT OF PLANNING**

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County Executive

DOUGLAS J. SCHUETZ  
Acting Commissioner

December 8, 2014

ARLENE R. MILLER  
Deputy Commissioner

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

**Tax Data:**

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

**Map Date:**

**Date Review Received:** 11/7/2014

**Item:** *MBC HOLDING LLC (SP-813)*

Zoning Code Amendments to provide clarification and to permit uses that entail "Green Industries" such as "gasification" or "pyrolysis" in the LI and LI-2 zoning districts.  
Throughout the Town of Stony Point

**Reason for Referral:**

State and County roads, State and County parks, County streams, Town of Haverstraw, Village of West Haverstraw

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 proposed Zoning Code Amendments are being written to allow one specific use on parcels of interest. The problem with changing the zoning ordinance in this manner, is that it can become undermined in that uses not wanted in other locations become allowable. We caution the Town of Stony Point that in making the changes to the zoning ordinance, undesirable uses will not become allowable in the other zoning district locations.

1 The zoning code amendments are proposing to allow the reduction and processing of wood pulp and fiber. However, by completely eliminating this prohibition, the town would be allowing paper mill type operations. The prohibited use as it relates to paper mill operations must remain in the Town Zoning Ordinance.

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2 The amendments are proposing to allow bulk or wholesale storage of gasoline above the ground in the Town. Is this type of use one that the Town wants to be allowed in other locations? Locations, particularly along the riverfront or that have access to the State highway, could also decide to have above ground storage tanks. If this is a use not wanted in other locations, then this use should remain as a prohibited use, or the language changed in subparagraph E. to only allow this use with specific associated criteria. In addition, height and maximum size measurements must be added to the regulations.

3 The amendments are proposing to allow freestanding water towers and water tanks located below, on, or above the ground in the Town. Is this type of use one that the Town wants to be allowed in other locations? If this is a use not wanted in other locations, then this use should remain as a prohibited use, or the language changed in subparagraph J. to only allow this use with specific associated criteria. If freestanding water towers or tanks become permitted, then height limitation parameters must be provided in the zoning ordinance.

4 The additional conditions for the proposed new Green Industrial Facility use, under Item 2.(a) in the text, seems to be missing a word. The text states "all permitted accessory uses for the are to be carried..." The sentence must be corrected so it is clear as to what is meant by this subparagraph.

5 It is proposed to add a new Section, 215-21A. Designation of this new Section as such will be confusing as there is already a Section 215-21.A. Manufactured housing communities... in the code. Instead it might be better to add a new Section 215-21.1 to the zoning ordinance. This change must also be reflected in the two tables of general use regulations for the LI-2 (Columns A and F) and LI (Columns D and F) zoning districts.

6 One of the permitted accessory uses to be allowed is a wood chipping facility. The New York State Department of Environmental Conservation's Noise Policy indicates that a wood chipper has a decibel level of 89; which is considered to be over "annoying" and just under "Very Annoying." As this use can produce high levels of noise, mitigation measures must be required as part of this permitted accessory use. This must include such factors as 1) reducing noise frequency; 2) reducing noise duration by limiting hours of operation; 3) reducing noise sound pressure level; and 4) providing some other type of noise buffering requirements.

7 Subparagraph 2.(a) lists accessory uses that are permitted outside of a building. Since an earlier section of the code, which prohibited freestanding water towers or tanks, is proposing to now allow that use under these proposed zoning code amendments, should this accessory use also be listed in this subparagraph? This must be clarified.

8 The zoning code amendments are allowing solid waste to be temporarily stored outside for a period not to exceed one week. How will this be monitored by the Town? No limit is given as to how much can be stored, and where it will be stored on the sites. Will the waste be loose on site, with the potential to be scattered or to cause litter offsite? Will the waste be accessible to wildlife? Are there any health concerns associated with the storage of this material outside?

Specific storage bins or areas must be required to be shown on a site plan during the review process, and a finite limit specified in the zoning code on the amount that can be stored at any given time. Other criteria must also be added to the code, such as maximum pile size, distance of area to the property boundary, buffering requirement such as fencing or screening, visual mitigation measures, etc., so that the storage of the solid waste does not pose any health, odor, or visual issues.

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9 Subparagraph 2.(f) indicates that vehicles transporting solid waste to the facility must be offloaded within thirty days. This seems like a long time period. Where will these trucks be stored on site; inside the facility? If outside, they must be considered part of the outside storage and be factored into the amount of stored materials on site at any given time. In addition, if stored outside, they must be included in the temporary storage of outside material, which is not permitted to exceed one week. This must be clarified.

10 Subparagraph 2.(g)1. states that all noise shall conform to all applicable regulations of the New York State Department of Environmental Conservation. As most people are unfamiliar with these standards, or where to find them, the specific standards must be listed, or a reference as to where they can be found provided.

11 Other words that should be defined in the code include: consumptive water rate, and gray water.

12 There is no #4 use in Column B for the LI-2 zoning district of the Table of General Use Regulations submitted with the application. This table differs from that available online in that the freight and truck transfer terminals has been eliminated. Was this intentional? If not, then this use must be added back to the table. If it is meant to be eliminated, then the Additional Regulations, Column G, that are proposed to be changed must be deleted. In addition, if this use is to be eliminated as a permitted use, then the list in Column B must be renumbered.

13 A new Use Group, "O" was provided for the Green Industrial Facility, however no changes are being proposed to the Table of Bulk Requirements, Part II. Bulk standards must be provided to the Table of Bulk Requirements for this new use group. These bulk requirements must include floor area ratio, maximum development coverage, height restrictions, as well as the standard yard and land requirements.

14 The Table of General Use Regulations, for both the LI-2 and LI zoning districts, Column E lists twelve uses that are allowed as accessory to Green Industrial Facilities. However, the text amendments do not list all of these uses as permitted accessory uses. The table and text amendments must be consistent. Parking standards for these accessory uses must also be provided in the table. In addition, an explanation as to what these uses entail must be provided, especially since some of these accessory uses seem to be of the type that would occur outdoors. If these accessory uses are to be located outside, the zoning ordinance must be modified to permit these accessory uses "not to be required to be carried out within a building."

15 As mentioned in #14 above, several accessory uses are listed in the Table of General Use Regulations for the LI-2 zoning district. Are all of these uses be to located within a building, except for the three singled out in the text amendments? This must be clarified.

16 Column F of the Table of General Use Requirements for the LI-2 zoning district provides parking standards. Standards are provided for some of the uses permitted by right, conditional uses by the planning board, and special permit uses permitted by the town board. However, parking standards have not been provided for many of the uses, or references to where the standards are provided in other sections of the Zoning Ordinance. The Town Board must review this table, and provide parking standards for all allowable uses, and provide references for uses with parking standards in other sections of the code. This must also be done for the LI zoning district Table of General Use Regulations.

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17 Column G of the Table of General Use Regulations for the LI-2 zoning district has been amended to substantially decrease the required distance separation of a dock for a freight and/or truck transfer terminal to a residential use to only 100 feet. This proposed use will have significant noise and odors, and is an intense use, so it is unclear why this distance has been reduced. A more substantial buffer area must be provided, as well as supplemental buffering techniques required to reduce the detrimental impacts to the adjacent residential areas.

18 The proposed changes to the O and LI Districts Table of General Use Regulations has added the text for the Green Industrial Facility to the O portion of the Table, not to the LI table which is on page 2. This must be corrected.

19 Green Industrial Facility was added to Column D in the LI zoning district, but no Use Group was listed. This must be provided. If this use will be an "O" as in the LI-2 zoning district, then the Town must add this Use Group to the Table of Bulk Requirements, Part II. These bulk requirements must include floor area ratio, maximum development coverage, height restrictions, as well as the standard yard and land requirements.

20 Column G of the Table of General Use Regulations for the LI zoning district has been amended to substantially decrease the required distance separation of a dock for a freight and/or truck transfer terminal to a residential use to only 100 feet. This proposed use will have significant noise and odors, and is an intense use, so it is unclear why this distance has been reduced. A more substantial buffer area must be provided, as well as supplemental buffering techniques required to reduce the detrimental impacts to the adjacent residential areas. In addition, changes proposed for #6 must be re-reviewed, as this is the text for the O zoning district and not the LI district. The specific changes to the correct Column G in the LI district must be submitted for another review.

21 The zone amendments are proposing to change allowable uses in the LI-2 zoning district. The Town of Stony Point's adopted zoning map has not been revised with this zoning district, that appears to have been adopted on October 8, 2013, based on the date on the Table of General Regulations. The Town's Zoning Map must be updated to reflect this new zoning district. In addition, it seems, that in searching through our files, that this zoning code amendment was not sent to the Rockland County Planning Department for their review, under the State General Municipal Law. As a reminder, all zoning code, zoning map, zone changes, or comprehensive plan amendments must be sent to our office for review.

22 No buffer requirements are required for this new proposed use. Since many properties surrounding the LI and LI-2 zoning districts are comprised of uses and zoning districts which are less industrial in nature, such as residential or waterfront/recreational uses, buffering, berms, and/or screening requirements must be added to the code. This buffering, which can consist of landscaping, fencing, walls, etc., will not only aid in reducing visual impacts from the proposed use, but could also help lessen noise impacts.

23 A review must be completed by the New York State Department of Environmental Conservation and any concerns or comments addressed.

24 A review shall be completed by the New York State Department of Transportation and any concerns or comments addressed.

25 A review must be completed by the Palisades Interstate Park Commission and any concerns or comments addressed.

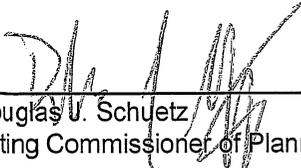
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- 26 A review must be completed by the County of Rockland Department of Highways and any concerns or comments addressed.
- 27 A review must be completed by the County of Rockland Drainage Agency and any concerns or comments addressed.
- 28 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.
- 29 A review must be completed by the County of Rockland Department of Health and any concerns or comments addressed.
- 30 A review must be completed by the County of Rockland Office of Fire and Emergency Services and any concerns or comments addressed.
- 31 An updated review shall be completed by the United States Army Corps of Engineers and any concerns or comments addressed.

32 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 zoning code amendments impact is along the southern boundary of the LI-2 zoning district parcels on Holt Drive, directly adjacent to the site. In addition, the Town of Clarkstown may be impacted by increased traffic that will most likely traverse through the Town boundaries, due to the new permitted use of green industrial facilities with these zoning code amendments. 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 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 Towns of Haverstraw and Clarkstown, and the Village of West Haverstraw must be given the opportunity to review the proposed zoning code amendments and their impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Towns of Haverstraw and Clarkstown, and the Village of West Haverstraw must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 33 A review must be completed by the Joint Regional Sewer Authority and any raised concerns or comments addressed.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Geoffrey Finn, Stony Point  
New York State Department of Transportation  
New York State Department of Environmental Conservation

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Rockland County Department of Highways  
Rockland County Drainage Agency  
Rockland County Division of Environmental Resources  
Palisades Interstate Park Commission  
Rockland County Office of Fire and Emergency Services  
Rockland County Department of Health  
Rockland County Planning Board  
Joint Regional Sewerage Board  
United States Army Corps of Engineers  
Town of Haverstraw  
Village of West Haverstraw  
Town of Clarkstown

*\*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.*