



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

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December 9, 2014

ARLENE R. MILLER  
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Stony Point Planning Board  
74 East Main Street  
Stony Point, NY 10980

**Tax Data:** 20.02-11-28    20.02-11-25    20.04-11-3

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

**Map Date:** 10/9/2014

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

**Item:** *NEW PLANET SUSTAINABLE FUELS (SP-790F)*

Conceptual site plan for a proposed "green industrial facility" on a total of 44.63 acres in the LI-2 and R-1 zoning districts. A total of 283,600 sq. ft. are proposed for the processing component of the facility; 64,000 sq. ft. for warehouse; 18,000 sq. ft. for maintenance, 7,200 sq. ft. for industrial purposes, 25,000 sq. ft. for terminal use, and 20,000 sq. ft. of office space, for a total of 417,800 sq. ft. Three additional parcels are illustrated for future site expansion purposes.

East end of Holt Drive, east and west side of the Consolidated Rail tracks, south side of the Cedar Pond Brook; east end of Hoke Drive

**Reason for Referral:**

Cedar Pond Brook, Stony Point Marsh, Town of Haverstraw, Village of West Haverstraw, NYS DEC 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***

We are in receipt of a conceptual site plan for a proposed green industrial facility. The submission of the site plan at this time seems to be premature since the zone change and zoning code amendments have not been finalized or adopted; and since the Environmental Impact Statement (EIS) has not been completed or distributed for review. As is, the site plan is being reviewed for a use that is not yet technically permitted. Until these zoning actions are undertaken, and the EIS submitted, the site plan cannot be approved. It is also our understanding that fill is currently being brought to the site. What is not known, is what portion of the properties are being filled. A site plan should have been submitted for review showing the areas to be filled. Under no circumstances can the New York State Department of Environmental Conservation (NYS DEC) wetlands be filled until a site plan has been submitted, showing the areas to be filled, and the parcels to be used for the creation of new wetlands to mitigate the filling of the existing wetlands. This will also require review by NYS DEC and all applicable permits obtained. With this

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knowledge, we have undertaken a very preliminary review of the site plan, and offer the following conditions:

- 1 The bulk table for the site plan uses the requirements for use group "I." It is our understanding that the proposed use is not permitted in the LI-2 zoning district, which is why the zoning code amendments are being proposed. Therefore, this is not the appropriate use group for the green industry facility. As indicated in our comments to the Town Board in our review dated December 8, 2014, a new use group, "O" is being proposed for the "green industrial facilities" use. However, no associated zoning code amendments were proposed to the Table of Bulk Requirements with these zoning code amendments, so no specific standards are yet in place to use for the bulk criteria. Until the zoning code amendments for the Table of Bulk Requirements are revised to add the new Use Group "O" it is impossible to determine whether the site plan conforms to the new use group requirements. These amendments must be first put in place before the site plan can be reviewed and approved.
- 2 Only one access is being proposed to the site from US Route 9W, via Holt Drive. If an emergency were to arise, and this one road was blocked, how would emergency vehicles access the site? A secondary emergency access to the site should be considered.
- 3 The sloped area along the periphery of the site shows areas to be at or just over 30 feet in length. What is the slope of these areas? Topography must be provided for the site plan, and specifically for these areas. In addition, it is not clear if a wall is being proposed along these sloped areas. If so, the wall elevations must be provided. This information is critical to have, especially along the sloped areas that are adjacent to the Cedar Pond Brook.
- 4 It seems that the sloped area, directly adjacent to the Gypsum property, will encroach onto their property, as no fencing or walls are proposed down slope. If the sloped area will encroach onto the adjacent property, has the applicant obtained permission from Gypsum Company? This must be clarified.
- 5 Text in the proposed zoning code amendment stated that wood chipping would become an allowable accessory use, and that it could operate not within a building. Other uses were also listed in the Table of General Use Requirements under the accessory uses in the LI-2 zoning district. Some of these accessory uses include yard waste, c & d processing facility, and waste tire storage processing. If any of these uses are to be located outdoors, then the site plan must show a dedicated location where these products will be stored. This is especially critical to know since some of the site is adjacent to residential uses, and additional features may need to be added to the site, such as berms, landscaping, etc., to protect these residences from any industrial impacts.
- 6 The Zoning Code Amendments indicate that vehicles transporting solid waste to the facility are allowed to remain on site with their load for up to thirty days. Will these trucks be stored inside the buildings, or outside on the premises? If outdoors, then the location for truck storage must be provided on the site plan.
- 7 The site plan illustrates that three new town roads are being proposed, Town Road A, B, and C. Do these right-of-ways conform to all Town of Stony Point public road standards? This must be clarified.
- 8 No driveway access is shown for how trucks will enter Building "A." The location of the access point for the loading/unloading area must be depicted on the site plan.
- 9 How will Building "D" be accessed? Will the material be sent from Building "C" to Building "D" directly? If not, access must be shown to this building.

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10 A new railroad crossing bridge is proposed to the north end of the site. Has CSX agreed to this additional crossing? Will the bridge be constructed as an overpass or an underpass? These questions must be addressed.

11 Since a new road bridge is being proposed along Town Road "A", and there is an exit only road with an underpass under the CSX railroad tracks, the Town should consider the discussion of closing Town Road "B." This would eliminate the need for trucks and other vehicles from having to cross seven (7) tracks. Currently Town Road "B" is an at-grade crossing, which can result in significant back-ups when trains are active on the rail and be a safety issue. Sight distance along this stretch of rail is limited, and with an increase in the number of spurs, especially with parked rail cars, sight distance will be even more hindered. Is there sufficient room along the town roads for numerous trucks to sit idly while the trains are passing through the site, or loading/unloading the raw materials/products/by-products? If Town Road "B" is not eliminated then we request that a four-quadrant gate system/lights/bell be installed at this railroad crossing.

12 The height of the product storage buildings, towers, tanks, or other similar features must be provided on the site plan.

13 The tax lot lines for the individual parcels should be combined into one lot, as each of these parcels is necessary for the proposed use.

14 How will the by-product materials be transported from the bio-fuel production area to the product storage area? Will trucks transport the products, or a conveyor system? This must be clarified.

15 The parking table indicates that 168 parking spaces are being provided. A cursory review of the parking areas seems to illustrate more than that. The actual number being provided must be stated correctly on the plans.

16 There are varying shapes and sizes of storage tanks proposed on the site plan. However, no indication is provided as to what materials will be stored in these tanks. The type of product to be stored in these proposed tanks proposed should be labeled on the site plan.

17 Drawing #6 shows what features are proposed in the future on the two tax lots west and south of the subject sites. The existing buildings on tax lot 20.04-11-5.2 are located approximately 75 feet from the property line, which is adjacent to a residential area in the Village of West Haverstraw. The proposed storage tanks are shown to be only about 50 feet from the property, and will most likely be significantly higher in elevation. Given that no buffer, berm or other type of buffering mechanism is shown on the site plan to help shield this new and closer use from the existing residences, we are concerned that the two uses are incompatible to each other. As indicated above, it is not known what will be stored in these tanks. If these tanks are to contain flammable material, then a greater distance must be proposed to the residential area, to help protect them in the event of an emergency situation.

18 New York State Department of Environmental Conservation (NYS DEC) wetlands are depicted on the site, with buildings and storage areas built within these areas. Has the NYS DEC granted permission to fill these wetlands, and have the required permits been granted? If so, has an area been identified for the new wetland construction? This issue must be clarified, and the new wetland construction area included as part of the site plan application. In addition, as indicated in our comments for the Full Environmental Assessment Form, the amount of fill needed for the site must be provided, and the amount of truckloads required to fill the wetlands provided. This fill process cannot be permitted until all of these issues have been addressed.

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19 A review must be completed by the New York State Department of State, Division of Coastal Zone Management, and all required permits obtained.

20 Given the number of trucks that are being proposed to supply the raw materials to the site, and to export the by-products and recyclables from the site, all of which will have to traverse the State highways, a review shall be completed by the New York State Department of Transportation and any concerns addressed, and any required permits, such as for hauling purposes, must be obtained.

21 As indicated in the November 25, 2014 letter from the County of Rockland Drainage Agency, the subject site is located within their jurisdiction. All required permits must be obtained from them. In addition it appears that the Cedar Pond Brook delineation is proposed to be changed, with the filling of the State wetlands and construction of the new road and buildings. The Drainage Agency must approve any encroachments into the County stream.

22 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.

23 A review must be completed by the County of Rockland Department of Health and all required permits obtained.

24 Given the nature of the materials to be stored on site, a review must be completed by the County of Rockland Office of Fire and Emergency Services (RCOFES) so that they are knowledgeable about the site layout, in the event of an emergency situation. In addition, the RCOFES should review the site plan for emergency ingress/egress for the facility.

25 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 site plan review is along the southern boundary of the site. In addition, the Town of Clarkstown may be impacted by increased traffic that will most likely traverse through the Town's boundary, if the use for this site is approved. 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 Town of Haverstraw and the Village of West Haverstraw must be given the opportunity to review the proposed site plan and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The Town of Clarkstown must be given the opportunity to review the traffic study and any impacts on the increased truck traffic to their municipality. 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.

26 A review shall be completed by the United States Army Corps of Engineers and all required permits obtained.

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27 A review must be completed by CSX Transportation, Inc. and any concerns addressed. Has the applicant contacted CSX about what is entailed in constructing additional rail spur lines, and re-activating the spurs so that the raw materials and products/by-products can be transported by rail? Is this location a feasible site for disengaging/connecting the rail cars to the freight trains? These issues must all be addressed.

28 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

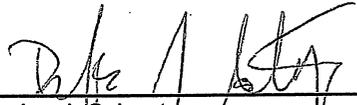
29 There shall be no net increase in the peak rate of discharge from the site at all design points.

30 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.

31 A landscaping plan must be provided for the site. Evergreen landscaping, and/or a berm must be provided in the area of the site that is proposed to be rezoned, and which is adjacent to the existing residential areas west of the site. In addition, the future expansion area must have a dense vegetation buffer shown next to the existing residential area in West Haverstraw.

32 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.

33 The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Geoffrey Finn, Stony Point  
Rockland County Drainage Agency  
Rockland County Division of Environmental Resources  
New York State Department of State  
Rockland County Planning Board  
Rockland County Office of Fire and Emergency Services  
New York State Department of Environmental Conservation  
New York State Department of Transportation  
Rockland County Department of Health  
CSX Transportation, Inc.  
United States Army Corps of Engineers  
Atzl, Nasher & Zigler P.C.  
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.*

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*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.*