

WM RENEWABLE ENERGY, LLC (WMRE) RENEWABLE NATURAL GAS (RNG)
FACILITY SPECIAL USE PERMIT

RESOLUTION APPROVING A SPECIAL USE PERMIT
FOR THE PROPOSED WMRE RNG FACILITY

WHEREAS, WM Renewable Energy, LLC (WMRE) has applied to the Town of Macedon for approval to construct a Renewable Natural Gas (RNG) Facility on the High Acres Landfill property, west of Wayneport Road;

AND WHEREAS, the Proposed Action was determined by the Town Board to be an Unlisted Action;

AND WHEREAS, Macedon Town Board declared its intent to be lead agent on the Proposed Action on May 9, 2024;

AND WHEREAS, a coordinated review was conducted with NYSDEC as an “involved agency”, and the Town of Perinton as an “interested agency”;

AND WHEREAS, the application was referred to the Town of Macedon Planning Board and Wayne County Planning Board for advisory reviews;

AND WHEREAS, the Wayne County Planning Board recommended approval of the Proposed Action at their April 24, 2024 meeting;

AND WHEREAS, the Town of Macedon Planning Board recommended approval of the Proposed Action at their August 5, 2024 meeting;

AND WHEREAS, the Town Board held a public hearing on the application at their regular meeting on September 12, 2024;

AND WHEREAS, the Town Board has considered all comments received from the Town and County Planning Boards as well as the comments received at the Public Hearing in their review of the Proposed Action;

AND WHEREAS, the Town Board has adopted a Negative Declaration resolution relative to the SEQRA review on the Proposed Action.

NOW THEREFORE BE IT RESOLVED, that the Macedon Town Board does hereby make the following findings and approves the Special Use Permit for WMRE to permit construction of the RNG Facility as proposed in their application to the Town Board subject to the conditions set forth herein.

Section 300-52 of the Town Code provides that all subdivision, site development plans and land use changes require public hearing by the Planning Board.

FINDING AND CONDITION: This special use permit shall be subject to approval by the Town of Macedon Planning Board for site plan approval.

300-14 of the Town Code provides that upon written direction of the Town Board, the Zoning Officer is hereby empowered to issue a special use permit as provided for by this chapter.

FINDING AND CONDITION: The Town Zoning Officer is directed to issue the conditioned special use permit contained herein upon satisfaction of the conditions attached thereto.

A. 300-14 provides: Uses permitted by special permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article XXI in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

B. 300-14 (B) provides: A special use permit shall authorize only one particular special use. The special use permit shall expire if the use shall cease for more than one year for any reason.

C. 300-14(C) provides: No person shall be issued a special use permit for a property where there is an existing violation of this chapter.

D. 300-14 (D) provides: Before any special use permit shall be issued, the Town Board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provisions and arrangements have been made concerning the following, where applicable:

(1) Ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

(2) Off-street parking and loading areas where required, with particular attention to the items in Subsection D(1) above, and the noise, glare or odor effects of the special permit use on adjoining properties and properties generally in the district and the economic impact of the proposed special permit use.

(3) Refuse and service areas, with particular reference to the items in Subsection D(1) and (2) above.

(4) Utilities as appropriate, with reference to locations, availability and compatibility.

(5) Screening and buffering, with reference to type, dimensions and character.

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.

(7) Required yards and other open space.

(8) General compatibility with adjacent properties and other property in the zone district.

E. All applications for special use permits shall be made in quadruplicate to the Zoning Officer on forms provided by him.

F. The Zoning Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Town Planning Board and Town Engineer for review and recommendation. The Town Planning Board and the Town Engineer shall review the application and submit a written report to the Town Board within 45 days following the receipt of the proposal.

G. The Zoning Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under § 239-m of the General Municipal Law. Neighboring municipalities shall also be notified in accordance with General Municipal Law § 239-nn.

H. The application shall include a site development plan of the special permit use and subject parcel division to scale, which includes all of the data specified in § 300-17 of this chapter.

I. If the Town Board determines that a public hearing would serve no community benefit, it shall render a decision on the proposal within 45 days of the receipt of written reports from the Town Planning Board and Town Engineer. If the application was transmitted to the County Planning Board under Article 12-B, § 239-m of the General Municipal Law, the Town Board cannot act within the first 30 days following the referral of the application to the County Planning Board unless said Board provides a written reply to the Town within the thirty-day period. The time period to make a determination may be extended by mutual agreement of the applicant and the Town Board.

J. If the Town Board determines that the public benefit would be served by a public hearing, said hearing shall be conducted within 45 days following the receipt of a written report from the Planning Board. Within 30 days from the date of such public hearing, the Town Board shall, by resolution, either approve or disapprove the application so heard. The thirty-day period available to make a determination may be extended by mutual agreement of the applicant and the Town Board.

K. In approving an application, the Town Board may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the Town's Master Plan and its principles of land use and development and to protect the health, safety or general welfare of the public.

L. If an application is approved by the Town Board, the Zoning Officer shall be furnished with a copy of the approving resolution of the Town Board and he shall issue the permit applied for in accordance with the conditions imposed by the Board.

M. If any application is disapproved by the Town Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Zoning Officer. The Zoning Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.

N. The Zoning Officer shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use

is being operated consistent with the terms and conditions established by the Town Board in approving the permit. If the Zoning Officer shall determine that the conditions are not in compliance with the permit, the Zoning Officer shall nullify the special use permit and set forth the procedures and requirements for reestablishing the use. The use may not be operated until a new application is submitted and approved.

O. The Town Board may waive any requirements for the approval, approval with modifications or conditions or disapproval of any special use permit in the event any such requirements are found not to be required in the interest of the public health, safety or general welfare or are inappropriate to the particular special use permit.

FINDING: The Board finds this provision applicable to the Action and compliance therewith is a condition of this Special Use Permit.

§ 300-16 Certificates of compliance.

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefor by the Zoning Officer stating that the proposed use of the building or land conforms to the requirements of this chapter.

B. Failure to obtain a certificate of compliance shall be a violation of this chapter and punishable as provided by Article XXIV.

C. Within seven days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Zoning Officer, by registered mail, stating that such action has been completed. Within 15 days of the receipt of this letter, the Zoning Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this chapter. If the Zoning Officer determines that said building or use complies with the provisions herein, he shall issue a certificate of compliance. If it is determined that the provisions specified herein are not fully complied with, the Zoning Officer shall specify the violations and the terms and conditions for remedying these violations. A certificate of compliance shall not be issued until such violations are corrected.

D. No nonconforming building or use shall be maintained, renewed, changed or extended without a certificate of compliance having first been issued by the Zoning Officer. The certificate of compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter.

FINDING: The Board finds this provision applicable to the Action and compliance therewith is a condition of this Special Use Permit.

§ 300-17 Application details.

Each application for a site development permit, special use permit and temporary use permit shall be accompanied with a site plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. The application shall include the following information and plans for both "before" and "after" conditions:

- A. The location, design, dimensions, use and height of each proposed building and yard area.
- B. Property boundaries as shown on an accurate map drawn to scale, including the precise location of the center line of the road, dimensions, North arrow, date.
- C. A general location map showing the location of the property in relation to adjacent parcels and total holdings of the applicant.
- D. The location and arrangement of vehicular accessways and the location, size and capacity of all areas to be used for off-street parking.
- E. Information to describe topography and natural grades.
- F. Provisions for water supply, sewage disposal and storm drainage.
- G. The location of fire hydrants.
- H. The location and design of outdoor lighting facilities.
- I. The location and design of construction materials of all proposed signs.
- J. The location and capacity of all areas to be used for loading and unloading and the distance to the nearest intersection.
- K. The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
- L. The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
- M. The location of fire and other emergency zones.
- N. A stormwater pollution prevention plan consistent with the requirements of Chapter 255, Stormwater Management and Erosion and Sediment Control, and § 300-45 of this chapter shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in § 300-45. The approved site plan shall be consistent with the provisions of Chapter 255 and § 300-45.

O. Other elements integral to the proposed development as considered necessary by the Zoning Officer, Planning Board or Town Board, including a property survey, any and all requirements to comply with the State Environmental Quality Review regulations (SEQR), other community impacts and the identification of any state or county permits required for the execution of the project.

FINDING: The Board finds this provision applicable to the Action and compliance therewith is a condition of this Special Use Permit.

§ 300-18 Fees.

Each application for a permit provided for by this chapter shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney. Fees shall be established annually by resolution of the Town Board.

FINDING: The Board finds this provision applicable to the Action, that the Applicant has established an escrow with the Town and compliance therewith is a condition of this Special Use Permit.

BE IT FURTHER RESOLVED that the Town Board does hereby approve a special use permit for the Applicant to build and operate a renewable natural gas facility (the facility) thereon as proposed in this Action, subject to the previous and following conditions that shall apply to and govern each such lot individually and the facility associated therewith:

1. The Special Use Permit approved under this Action for the Action is valid only upon all the conditions set forth herein if, and as long as, all such conditions are met by Applicants and System Operators on their associated lots as determined by the Town, and so long as the facility continue to exist on their lots and comply with all conditions of approval for each respective lots, as may be amended with Town approval, and with these Special Use Permit conditions.

2. Each Special Use Permit applies to and is valid only for an individual lots shown in the Application and to the respective proposed facility as permitted on the site plans and subject to the conditions of the Special Use Permit. .

4. The Special Use Permit for the Action shall remain valid for so long as the facility is used to produce renewable natural gas in conformance with the terms and conditions of the Town Code, this Special Use Permit and site plan approvals for such lots.

5. As a condition of this Special Use Permit approval, the facility shall adhere to the sign requirements for the zoning district in which it is located.

6. As a condition of this Special Use Permit approval, any wetlands boundaries as identified on the site plans and within the Wetland Delineation Report are to be delineated in the field and no disturbance is permitted within these boundaries unless authorized by Army Corps of Engineers and the associated approval letter forwarded to the Town of Macedon.

7. As a condition of this Special Use Permit approval, no permits shall be issued until the NYSDEC Acknowledgment letter has been received by the Town of Macedon.

8. As a condition of this Special Use Permit approval, after completion of construction and prior to being operational, the Applicant shall provide to the Town of Macedon a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and will operate according to the approved design plans.

9. As a condition of this Special Use Permit approval, all consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits or 30 days after billing by the Town, whichever occurs first.

10. The Special Use Permit is conditioned on the approved site plans and any changes to the site plans or special use permit shall require reissuance of the Special Use Permit.

11. As a condition of this Special Use Permit approval, any diseased, damaged or failing plantings required for the facility discovered by the Applicants, System Operator or Code Enforcement Officer shall be replaced, in kind, within two months of discovery if found during the planting season between May 1 and November 1 of such year, otherwise not later than May 31st of the following year.

12. As a condition of this Special Use Permit approval, Applicants and/or System Operators shall provide the Town with an annual report regarding the facility's operations beginning a year following the Certificate of Compliance with the final site plan issued by the Code Enforcement Officer. Such annual report shall be in writing and show the methane treated by the facility.

13. As a condition of this Special Use Permit approval, significant physical changes made to the lot or significant equipment modifications made to the facility that differ from the final site plan without prior Town approval is unauthorized and shall authorize the Town to revoke the Special Use Permit after notice and hearing if requested; provided, however, that significant equipment modifications shall not include replacement of damaged, nonfunctioning or underperforming equipment if notice thereof is included in the annual report for that period.

14. As a condition of this Special Use Permit approval, upon request by the Code Enforcement Officer and within 48 hours thereof the Facility Operator shall provide a person authorized to accompany the Code Enforcement Officer and/or Town staff, Town Engineer or Town consultant or contractor to enter the facility consistent with law in order to conduct official duties, monitor the facility site for continuing compliance with the final site plan, Special Use Permit and Town Code, and/or conduct operations under such authorities or take emergency or urgent actions to remediate problems existing.

15. In the event any condition specified herein is violated or not met as required, in addition to any other actions the Board or Town may be authorized to take in such

circumstances, the Board is authorized to revoke the Special Use Permit granted hereunder after notice of the proposed action to Applicants and System Operator and a hearing if requested. If the Special Use Permit is revoked for noncompliance with a condition, the Town may require cessation of the facility operation for noncompliance with law, and in the absence of a new special use permit grant under the law and Town Code then existing, further find the unpermitted facility abandoned, and invoke associated requirements and rights, along with other actions that may be warranted, consistent with the Town Code and Special Use Permit. This provision may be superceded by an independent compliance agreement between the Town and facility operators which agreement must be in writing and specifically reference this provision.

16. As a condition of this Special Use Permit approval, if the permittee of the facility changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor permittee assumes in writing all of the obligations of the special use permit, site plan approval, decommissioning plan, and the Host Community Benefits Agreement. A new permittee of the facility shall notify the Code Enforcement Officer of such change in ownership or operator no less than 30 days prior to the ownership change.

17. Prior to issuance of any building permit the owner and/or operator of the facility are required to enter into a Host Community Benefits Agreement (HCBA) with the Town of Macedon Town Board for payment by the owners, developers or landowners to the Town of Macedon of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential impacts that may be associated by the facility.

18. All contact information for the applicants, developers, and land owners are to be provided to the Town of Macedon CEO prior to issuance of a permit.

19. A preconstruction meeting with the Town of Macedon, once all conditions of Special Use Permit, Subdivision, and Site Plan approvals have been met, is required to be held prior to issuance of any building permit and prior to construction beginning. All conditions contained herein must be complied with for the life of the project. Failure to comply with any or all of the conditions outlined in this resolution or as part of any agreements with the Town of Macedon shall result in the revocation of the Special Use Permits and all approvals shall be rendered null and void.

BE IT FURTHER RESOLVED that the Clerk of the Board is hereby directed to provide by U.S. Mailing, a certified copy of this resolution to the Involved and Interested Agencies and to the Town Clerk.

BE IT FINALLY RESOLVED that the Clerk of the Board is to provide copies of this resolution to the Applicant and the engineers and attorneys of the Applicant.

The above resolution was offered by _____ and seconded by _____ at a meeting of the Town Board held on _____, 2025. Following discussion thereon, the following roll call vote was taken and recorded:

Kim Leonard	Aye or Nay
David Maul	Aye or Nay
David McEwen	Aye or Nay
Diane Dorfner	Aye or Nay
Bruce Babcock	Aye or Nay

I, *Karrie Bowers*, Town, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Macedon Town Board for the March 27, 2024, meeting.

Karrie Bowers, Macedon Town Clerk