

# DRAFT SCOPING DOCUMENT

FOR

PROPOSED AMENDMENTS TO TOWN CODE CHAPTERS 177 AND 322  
TO ALLOW ORGANIC WASTE PROCESSING FACILITIES

Prepared for:

TOWN OF SMITHTOWN



99 West Main Street  
Smithtown, New York 11787

Prepared by:

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September 2019

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## 1.0 Introduction

The Smithtown Town Board is proposing to amend Chapters 177 and 322 of the Town Code to add organic waste processing facilities as a special-exemption permitted use in the Community Facility (CF) zoning district, and to establish licensing, design and operational requirements for such facilities. The proposed code amendments are based on detailed information obtained by the Town regarding these facilities, and are intended to ensure that such facilities would not result in significant adverse impacts to Town residents or the environment.

The Town is acting as Lead Agency for the environmental review required by the 6NYCRR Part 617 regulations, more commonly known as the State Environmental Quality Review Act (SEQRA). Accordingly, the Town's Department of Planning & Community Development commissioned a detailed study of organic waste processing facilities nationwide, which was then independently reviewed. Town personnel also conducted site tours at three organic waste processing facilities to gain first-hand knowledge of their operations and potential environmental impacts, and those findings were incorporated into the final report, which is dated May 1, 2019 and available online at: <https://www.smithtownny.gov/551/Studies-and-Reports>. On September 13, 2018, the Town held a community outreach and coordination meeting on organic waste processing facilities. A copy of that meeting's presentation slides is also available at the above link.

On August 29, 2019, the Town Board issued an initial disposition document classifying its proposed code amendments as an "Unlisted Action" under SEQRA, thereby requiring an appropriate level of review to determine the potential environmental impacts. On August 30, 2019, the Town's Department of Environment & Waterways (DEW) issued a memorandum to the Town Supervisor recommending that the Town Board issue a positive declaration, determination of significance for the proposed action, citing seven specific reasons for doing so. Also on August 30, 2019, the Town Board, based on DEW's recommendation, issued Resolution RES-2019-891 specifying a SEQRA positive declaration, determination of significance for the proposed code amendments and indicating that an environmental impact statement (EIS) is necessary. Copies of these three Town decision documents are provided in Attachment 1.

In compliance with the 2018 SEQRA amendments, effective January 1, 2019, the Town has prepared this draft scoping document for the draft EIS (DEIS) based on 6NYCRR Part 617.8(f). The purpose of this scoping document is to focus the issues to be addressed in the DEIS to make it a concise, accurate and complete document suitable for public review. The Town is making this draft scoping document available to the public for review and comment to ensure public involvement in the EIS process, allow open discussion of the issues of public concern, and permit inclusion of the substantive public issues in the final EIS scoping document.

## 2.0 Background Information on Organic Waste Processing Facilities

Organic waste is comprised of both food wastes, and yard trimmings such as leaves. Currently, food wastes are incinerated as solid waste at a facility in the Town of Huntington, and yard trimmings are shipped to a composting facility in the Town of Islip. The cost of organic waste disposal is included in residents' property tax bills. The Town's proposed code amendments to allow organic waste processing facilities within the Town would offer a privately-funded alternative to the current disposal methods and costs. Based on the findings of the independently-reviewed study commissioned by the Town, and its own findings from the site tours, such facilities are a viable alternative and potential environmental impacts associated with them can be mitigated.

Organic waste processing facilities are indoor operations at which organic waste is converted into useable products, such as natural gas and soil-amendment products, using one of several available technologies. To mitigate potential odor-related impacts, these facilities are equipped with negative-pressure ventilation systems with exhaust treatment, and are large enough to enable wastes to be unloaded indoors. The fact that they are indoor operations also serves to mitigate most potential noise-related impacts. Property-line setbacks and the use of vegetated buffers further mitigate potential noise-related impacts associated with outside storage of finished products, as well as potential visual impacts. To mitigate potential water-quality impacts, these facilities are equipped with impervious floor surfaces and drainage collection systems.

## 3.0 Overview of the Proposed Town Code Amendments

The proposed amendments to Chapters 177 and 322 of the Town Code are provided in Attachments 2 and 3, respectively; and are indicated by underlined text. Both chapter amendments include a definition of organic waste processing facility, and the definition in Chapter 322-3 stipulates that organic wastes must be received, composted and digested entirely within a building.

The proposed Chapter 322 amendments also state that facilities will only be permitted in the Community Facility (CF) zoning district via a special exemption that promotes public health and safety, does not constitute a nuisance, and complies with applicable laws and regulations. Accordingly, the proposed Chapter 322 amendments include a list of 15 special conditions that organic waste processing facilities will be required to meet, including operational requirements, minimum site area and street frontage requirements, a vegetated buffer requirement, and stringent setback and minimum-distance-to requirements. These requirements will serve to mitigate potential environmental impacts associated with organic waste processing facilities.

The proposed amendments to Chapter 177 include requirements specific to licensing of organic waste processing facilities, including providing detailed information such as engineering, process and business plans; as well as operational, financial assurance, and maintenance-of-license requirements. These requirements will ensure that organic waste processing facilities are licensed and operated in a professional, enforceable manner, thereby minimizing their potential for nuisance-related impacts on neighboring properties and the Town in general.

It should be noted that although the proposed amendments to Chapters 177 and 322 of the Town Code will technically be applicable Town-wide, there are currently only four locations within the Town that are in the CF zoning district, and only one of them potentially meets the proposed facility siting requirements. The other three locations are parkland or nature preserve, and two of them contain surface water bodies and wetlands.

The four CF-zoned locations are numbered on the copy of the Town's June 26, 2012 Building Zone Map provided in Attachment 4, and are identified below:

1. Town of Smithtown Sanitation Facility, 85 Old Northport Road, Kings Park, NY
2. Hoyt Farm Nature Reserve, 200 New Highway, Commack, NY
3. Hunts Pond Preserve, Bow Drive, Hauppauge, NY
4. Walter S. Commerdinger, Jr. County Park, 2 Edgewood Drive, Nesconset, NY

The Town currently has no plans to lease a portion of its sanitation facility for development of an organic waste processing facility. Therefore, unless the Town rezones property to CF as part of its new Comprehensive Plan, which will itself be subject to an EIS, to develop an organic waste processing facility in the Town an applicant will first have to petition the Town Board to rezone property to CF and then apply for a special exemption, permit and license, as per the proposed code amendments.

To date, only one potential applicant has expressed interest in constructing an organic waste processing facility within the Town. Specifically, Mr. Toby Carlson is interested in constructing such a facility on his property at 140 Old Northport Road in Kings Park. A copy of the zoning map of the Carlson Property is provided in Attachment 5. As shown, the western portion is in the light industrial (LI) or heavy industrial (HI) zoning districts and the central and eastern portions are in the R-43 residential zoning districts.

Since there are currently no CF-zoned properties within the Town that could serve as potential sites for organic waste processing facilities, Mr. Toby Carlson is the only applicant who has expressed interest in constructing an organic waste processing facility within the Town, and any future proposed sites will likely be a similar scenario, the EIS will discuss the Carlson Property.

#### 4.0 Potential Environmental Impacts of Organic Waste Processing Facilities

In addition to being a new land use within the Town, the following six reasons for issuing a positive declaration, determination of significance were identified in DEW's August 30, 2019 memorandum to the Town Supervisor, and constitute the potential environmental impacts that could be associated with organic waste processing facilities in the Town:

1. Noise-related impacts.
2. Air-quality impacts.
3. Water-quality impacts.
4. Traffic-related impacts.
5. Proximity-related impacts
6. Neighborhood, quality-of-life and property-value impacts.

It is anticipated that any organic waste disposal facilities within the Town would be constructed on previously developed property that has been rezoned to CF, as would be the case for the Carlson Property. Therefore, they are not expected to result in direct environmental impacts to rare, threatened or endangered species, or archeological resources. Accordingly, the EIS should focus on assessing the six types of potential environmental impacts listed above.

#### 5.0 Recommendations for Assessing and Mitigating Potential Impacts

As a first step in assessing potential environmental impacts, it is recommended that a conceptual site plan for a "typical" organic waste processing facility be developed by applying the siting requirements in the proposed code amendments (e.g., minimum lot size, street frontage, vegetated buffer, and building distance to nearest residential lot) to the Carlson Property. This conceptual site plan should then be used to assess, and if necessary develop additional mitigation measures for, the above-listed types of potential environmental impacts. The plan should be in the form of a scaled schematic diagram, which can be utilized in computerized noise-level, air-emission, and traffic-flow models. Alternatively, if Mr. Carlson submits a proposed site plan for his property, then it should be used for the EIS and related modeling.

##### 5.1 Noise-Related Impacts

Most of the noise-generating activities at organic waste processing facilities will take place indoors and will not impact surrounding properties. As such, sources of outdoor noise will primarily be limited to organic waste-containing vehicles as they enter and leave a facility, and other vehicles that move and load finished products that may be stored outside. Both of these potential sources of noise will be intermittent and temporary at a facility. To assess their potential impacts, it is recommended that the number, type(s) and times of

vehicles entering and leaving, and moving and loading finished product onsite, be estimated for a “typical” facility. That information should then be used to model potential noise impacts at the property lines based on either the conceptual site plan or, if available, the Carlson Property site plan. The modeling will also take into account significant non-site noise sources in the vicinity such as the Long Island Railroad branch that borders the site on the north side. The results should be units of A-weighted decibels, and compared to daytime background levels for the surrounding land use type(s).

## 5.2 Air-Quality Impacts

Most of the odor-generating activities at organic waste processing facilities will take place indoors, and facilities will be equipped with negative-pressure ventilation systems with exhaust treatment. As such, sources of outdoor odors will primarily be limited to vehicles entering and leaving the facility, and will be in part temperature-dependent and therefore seasonal. The finished products that may be stored outside do not emit odors and per the proposed code amendments must be covered or packaged. It is recommended that assessment of odor-related impacts be based on the odor-related information contained in the final report on organic waste processing facilities commissioned by the Town, and local climatic conditions. In particular, attention should be paid to the exhaust treatment technology proposed, and it will be the limiting factor controlling odor impacts. It is also recommended that potential outdoor odor impacts be mitigated proactively by requiring delivery vehicles to not uncover loads until they are inside a facility, and then cover their empty trailers again prior to exiting a facility.

In addition to odors, dust and bio-aerosols have been identified as potential environmental issues associated with organic waste processing facilities. However, they are mainly a concern for workers inside a facility, and their exposure can be mitigated by the facility design and operation, and/or by the use of personal protective equipment. The exhaust treatment systems used to control odors, also control dust and bio-aerosols. Moreover, the 500-foot minimum building distance to residential lots in the proposed code amendments will be sufficient to prevent transfer of bio-aerosols to residential receptors. Moreover, the proposed code amendments to Chapter 322 will require facilities to have an air-monitoring system.

## 5.3 Water-Quality Impacts

Although the potential for water-quality impacts has been associated with organic waste processing facilities, the types of facilities allowed by the proposed code amendments are unlikely to result in such impacts because: 1) activities will occur indoors on impervious surfaces equipped with drainage systems, and 2) finished products stored outside will be required to be either covered or packaged, and be kept on impervious surfaces equipped with drainage systems. Moreover, the proposed code amendments to Chapter 322 will require facilities to have a water-monitoring system.

Nevertheless, the EIS should provide basic information on the water resources in the Town in general and at the Carlson Property in particular, such as the locations and classifications of the key surface water bodies, the average depth to groundwater and its flow direction(s), the locations of public supply wellfields, etc. This type of information is publicly available from sources such as the United States Geological Survey (USGS), the New York State Department of Environmental Conservation (NYSDEC), and the Suffolk County Water Authority (SCWA). The EIS should also include an evaluation of potential impacts on these resources although it is anticipated that they will not be significant.

#### 5.4 Traffic-Related Impacts

Traffic-related impacts have typically not been a significant concern for organic waste processing facilities due to the relatively small number of deliveries daily. However, the EIS should include a qualitative assessment of potential traffic-related impacts for the Carlson Property location, based either on a “typical” facility or a site-specific plan, if available. Due to the relatively small number of daily deliveries, and the fact that the general location already experiences commercial truck traffic, a detailed, quantitative traffic study is not warranted. The EIS should also recommend basic traffic-mitigation measures such as signage, scheduled deliveries during operating hours, and defined routes on local streets.

#### 5.5 Proximity-Related Impacts

Potential proximity-related impacts associated with organic waste processing facilities may include exposure to additional noise, odors, dust, bio-aerosols and vehicle traffic, and, as stated above, will be evaluated and assessed during the EIS. Since the EIS will focus on the Carlson Property location, this evaluation will take into consideration the variations in surrounding land use. Specifically, as shown on the aerial photograph of the Carlson Property and vicinity in Attachment 6, the Carlson Property is comprised of larger western and eastern portions connected by a smaller central portion, and residential lots border only the north side of the eastern portion, across the Long Island Railroad tracks. The western portion of the property is bordered primarily by commercial use. It is therefore recommended that choice of location for a facility on the Carlson Property be addressed in the EIS.

Although, as stated previously, it is anticipated that organic waste processing facilities will be located on previously-developed properties, as would be the case for the Carlson Property, and as such would not impact rare, threatened or endangered species and/or archeological resources, for the purpose of thoroughness it is recommended that the EIS include a basic review and assessment of potential impacts to these types of resources. It is also recommended that the EIS include an assessment of potential impacts on historic and cultural resources that may be present in the vicinity of the Carlson Property.

## 5.6 Neighborhood, Quality-of-Life and Property-Value Impacts

Based on the information contained in the final report on organic waste processing facilities commissioned by the Town, these facilities should have negligible impacts on the neighborhood, quality of life and property values where they are located if they are designed, constructed and operated in accordance with the proposed code amendments, and then properly regulated. It is recommended that the EIS evaluate these types of potential impacts based on Town-specific conditions, such as the fact that is relatively densely populated, has limited land area available for development and preservation, and has relatively high property values. However, it is also recommended that the EIS take into account that given current conditions at the Carlson Property, an organic waste processing facility may serve to mitigate these types of impacts.

## 6.0 Recommended Sources of Information

Detailed information specific to organic waste processing facilities is contained in the final report commissioned by the Town, and in presentation slides for the community outreach and coordination meeting, which are available at the link provided in Section 1.0. The final report also contains potential mitigation measures for organic waste processing facilities.

Information resources for assessing potential noise-related impacts include:

1. Assessing and Mitigating Noise Impacts, NYSDEC Document DEP-00-1 (2000).
2. The Environmental Manual, Section 4.4.18, NYSDOT (2010).
3. Guidelines for Community Noise Impact Assessment and Mitigation, International Institute of Noise Control Engineering, Publication 11-1 (2011).
4. FHWA Roadway Construction Noise Model (RCNM), Version 1.1, FHWA.

Information resources for assessing potential air-quality impacts include:

1. Policy DAR-1: Guidelines for the Control of Toxic Ambient Air Concentrations NYSDEC Division of Air Resources (2016).
2. The Environmental Manual, Section 4.4.16, NYSDOT (2010).

Information resources for assessing potential water-quality impacts include:

1. Long Island Depth to Water Viewer, USGS (2013).
2. Online Mapper for Water-Table Altitude, and Potentiometric Surface of the Magothy, Jameco, Lloyd, and North Shore Aquifers on Long Island, USGS (2013).
3. Groundwater Watch, Suffolk County, New York, USGS Interactive Viewer.

Information resources for assessing potential proximity-related impacts:

1. Environmental Resource Mapper, NYSDEC.
2. Cultural Resource Information System, NYSOPRHP.

It is recommended that the above information resources, as well as other resources as appropriate, be consulting during preparation of the EIS.

#### 7.0 Recommended Components of the EIS

It is recommended that the EIS contain the following basic components:

1. Executive Summary.
2. Statement of Purpose, Scope of and Need for the Propose Action.
3. Description of the Environmental Setting of the Proposed Action.
4. Statement and Evaluation of Potential Significant Environmental Impacts, if any.
5. Discussion of Key Findings, as appropriate.
6. Discussion of Recommended Mitigation Measures, as appropriate.
7. Consideration of Alternatives, as appropriate.

ATTACHMENT 1 – TOWN DECISION DOCUMENTS

1. Initial Disposition, dated August 29, 2019
2. Memorandum, dated August 30, 2019
3. Resolution RES-2019-891, dated August 30, 2019

## **INITIAL DISPOSITION**

**DATE:** August 29, 2019

**PROJECT:** Proposed Amendments to Chapters 177 and 322 of the Smithtown Town Code regarding Organic Waste Processing Facilities

**AGENCY:** Smithtown Town Board

**ADDRESS:** 99 West Main Street  
Smithtown, NY 11787

**SUFFOLK COUNTY TAX MAP PARCEL #:** N/A

**LOCATION:** N/A

**DESCRIPTION OF PROJECT:** Town Board's own motion to adopt amendments to Chapters 177 and 322 of the Smithtown Town Code so as to add Organic Waste Processing Facilities as a permitted use in the CF (Community Facility) zoning district and to establish licensing, design, and operational requirements for such use.

### **SEQRA CLASSIFICATION:**

THE ABOVE ACTION IS AN "UNLISTED ACTION" PURSUANT TO 6NYCRR PART 617, THE IMPLEMENTING REGULATIONS OF THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT, ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW. **THIS ACTION MUST BE REVIEWED TO ASCERTAIN IF THE PROPOSAL SHOULD BE THE SUBJECT OF AN ENVIRONMENTAL IMPACT STATEMENT.**

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CC: Edward R. Wehrheim, Town Supervisor  
Thomas J. McCarthy, Councilman  
Lynne C. Nowick, Councilwoman  
Lisa M. Inzerillo, Councilwoman  
Thomas W. Lohmann, Councilman  
Peter Hans, Planning Director  
Matthew V. Jakubowski, Town Attorney

MEMO TO: Edward R. Wehrheim, Town Supervisor

FROM: Howard Barton 3<sup>rd</sup>, Assistant Environmental Protection Director

RE: Recommended SEQRA Positive Declaration for Proposed Amendments to Chapters 177 and 322 of the Smithtown Town Code regarding Organic Waste Processing Facilities

DATE: August 30, 2019

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It is recommended that the Town Board, after due study and deliberation of the subject record, issue a SEQRA Positive Declaration, Determination of Significance (an Environmental Impact Statement is required), in the matter of the Town Board's own motion to adopt amendments to Chapters 177 and 322 of the Smithtown Town Code regarding Organic Waste Processing Facilities, for the following reasons:

- A. The proposed amendments would allow Organic Waste Processing Facilities as a new land use in the Town of Smithtown. The reported and potential adverse environmental impacts associated with such facilities must be fully documented, evaluated, and subject to public review;
- B. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse noise impacts associated with Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review;
- C. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse air quality impacts, such as odors and fugitive dust, associated with Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review;
- D. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse water quality impacts associated with Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review;

- E. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse truck traffic-related impacts associated with Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review;
- F. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse impacts upon public health, safety, and general welfare associated with proximity to Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review; and
- G. Mitigation measures contemplated by the proposed amendments to minimize or prevent adverse impacts upon neighboring community character, quality of life, and property values associated with proximity to Organic Waste Processing Facilities must be fully documented, evaluated, and subject to public review.

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Howard Barton 3<sup>rd</sup>,  
Assistant Environmental Protection Director

HB:hb

cc: Thomas J. McCarthy, Councilman  
Lynne C. Nowick, Councilwoman  
Lisa M. Inzerillo, Councilwoman  
Thomas W. Lohmann, Councilman  
Peter Hans, Planning Director  
Matthew V. Jakubowski, Town Attorney



**Town of Smithtown  
Smithtown NY**

**Adopted**  
Sep 3, 2019 2:00 PM

**Resolution  
RES-2019-891**

**In the matter of the Town Board's own motion to amend Smithtown Town Code Chapters 177 and 322 regarding Organic Waste Processing Facilities, dated August 30, 2019.**

Information

**Department:** Environment and Waterways  
**Category:** SEQRA - Positive Dec  
**Sponsors:** Councilman Thomas J. McCarthy

Financial Impact

As per the previously approved and accepted OWPF grant.

Body

The following resolution was offered by the Town Board en masse:

BE IT RESOLVED, that the Town Board, after due study and deliberation of the subject record, hereby issues a SEQRA Positive Declaration, Determination of Significance (preparation of an EIS is necessary) in the matter of the Town Board's own motion to amend Smithtown Town Code Chapters 177 and 322 regarding Organic Waste Processing Facilities, for the reasons as stated in a memorandum from Howard Barton 3rd, Assistant Environmental Protection Director, dated August 30, 2019.

Dated: September 3, 2019.

Meeting History

**Sep 3, 2019 2:00 PM Video** **Town Board** **Regular Meeting**

**Draft**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Edward R. Wehrheim, Supervisor  
**SECONDER:** Thomas J. McCarthy, Councilman  
**AYES:** Edward R. Wehrheim, Thomas J. McCarthy, Lynne C. Nowick, Lisa M. Inzerillo, Thomas W. Lohmann

Discussion

Add Comment

ATTACHMENT 2 – PROPOSED AMENDMENTS TO TOWN CODE CHAPTER 117

## **Proposed Amendment to Chapter 177 for Indoor Organic Waste Processing Facilities**

Chapter 177 of the Code of the Town of Smithtown shall be amended to add the following

Article X, §§177-26 through 177-34.

### ARTICLE X INDOOR ORGANIC WASTE PROCESSING FACILITIES

#### §177-26 Applicability

This article shall apply to the operation of all Organic Waste Processing Facilities located within the Town of Smithtown.

#### §177-27 Definitions

Director – either the Environmental Protection Director or the Director of Environment and Waterways, if there is no Environmental Protection Director.

Organic Waste Processing Facility – a facility that processes the organic components in waste through composting, vermiculture, anaerobic digestion, fermentation or other process to produce biogas or a mature product for use as a source of nutrients, animal feed, organic matter, liming value, or other essential constituent for a soil to help sustain plant growth. An organics waste processing facility also includes processes to convert biodegradable organic components in waste to produce animal feed. The product no longer has the visual appearance of the waste from which it was produced.

#### §177-28 License Required

It shall be unlawful for any person to operate an Organic Waste Processing Facility within the Town of Smithtown without first having secured a license pursuant to this Article from the Town Clerk.

#### §177-29 License Requirements

In order to obtain a license to operate an Organic Waste Processing Facility within the Town of Smithtown, a verified application shall be made to the Department of the Environment and Waterways setting forth the following information:

##### A. Personal and Business Information

- 1) The name and residence address of the applicant. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the name and address thereof and the names and residence addresses for all principals, officers, directors, partners and members.
- 2) The residence and business addresses of the applicant during the past five years. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the business and residence addresses for all principals, officers, directors, partners and members.
- 3) The applicant's business(es) for the past five years. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the business(es) for all principals, officers, directors, partners and members for the past five years.

##### B. Proposed Facility Information

- 1) Engineering Plan. The submission shall describe

- i) The physical size and location of all key components of the process to be utilized, including scales, receiving area, processing area and storage areas for finished product.
- ii) A description of the nature, volume and anticipated sources of all feedstock to be accepted at the facility.
- iii) A description of the processing system and all key components to be utilized to produce the recycled product, with minimum, maximum and optimum capacities at each processing stage.
- iv) A description of the methods and equipment to be utilized to control odors and any other noxious byproducts of the process.
- v) A description of the storage and/or curing areas and capacities to be employed for finished product before shipment to market, with anticipated curing and storage times expected before sale.
- vi) A description of the waste products expected to be generated at the facility, including the nature, quantities, methods of management, transportation and place of disposal of all such wastes.
- vii) The maximum combined tonnage of all combined feedstock, materials in process, finished product and waste product to be present on site at any time.
- viii) Such other information as the Director may reasonably require to evaluate the engineering of the facility.

2. Business Plan. The submission shall describe

- i) A description of the sources from which feedstock or raw materials are to be obtained.

- ii) A description of the markets in which the finished product or products are expected to be sold.
- iii) A description of any and all financial markets in which environmental credits, benefits, certificates or other intangible assets generated through operation of the facility are expected to be marketed or sold.
- iv) Such other information as the Director may require to evaluate the Business Plan of the Facility.

#### §177-30 Issuance of License and Appeals

A. The Department of Environment and Waterways, in order to establish the truth or accuracy of the information contained in the application, may request any information pertinent to the processing of said application and may, as necessary, request any additional information during the application process and for the entire term of said permit. If the Department cannot confirm the truth or accuracy of said material contained in the application; or if it determines that a material misrepresentation is contained therein; or if the applicant shall have been convicted of a misdemeanor or felony which is determined to render the applicant unfit to carry on the aforesaid operation; provided, however, that proper consideration is given to New York State Correction Law §§ 701 through 703-b and §§ 751 through 753 in making any such determination; or if it determines the applicant to be unfit or incapable of properly conducting the aforesaid operation, it shall issue a report to the Town Clerk, who shall deny said application. The Town Clerk shall notify the applicant within 30 days after receipt of a completed application as to whether the application shall be approved or denied. If the application is

denied and the applicant has been operating within the Town prior to the denial, then the applicant shall discontinue all operations within the Town of Smithtown within 15 days of such notification. An applicant who is denied a permit hereunder may request a review by the Town Board, which shall, upon such request, review the basis for such denial and shall determine whether such denial shall be affirmed or reversed.

- B. The Town Clerk shall keep a record of all licenses issued.

#### §177-31 Operational Requirements

- A. The applicant shall obtain, as applicable, a registration or permit for the operation of a Composting and Other Organics Recycling Facility pursuant to 6 NYCRR 361-3.
- B. The applicant shall obtain, as applicable, any required permits or approvals for air, water, wastewater, or other emissions as may be required by applicable law and regulation.
- C. The facility shall comply with all applicable zoning, building, fire and safety codes of the Town of Smithtown and the State of New York.
- D. The Town may condition the license issued pursuant to this section upon compliance with any operational parameters consistent with findings made under the State Environmental Quality Review Act (SEQRA).
- E. The operator of the Facility shall, not later than sixty (60) days prior to the commencement of operations at the facility, provide to the Director an Operations and Maintenance Plan for the facility, which shall describe the procedures to be followed for the receipt of feedstock and raw materials, processing of feedstock and raw materials, storage and protection of finished product, segregation and disposal of waste, control of odors, control of process liquids and storm water, control of litter, facility security,

equipment maintenance and other essential tasks. The Operation and Maintenance plan shall be updated upon any major change in operations and not less than annually. The Facility shall at all times comply with the most recent Operations and Maintenance Plan.

F. The Town shall have the right to inspect the facility for purposes of ensuring compliance with the license issued hereunder and the most recent Operations and Maintenance Plan at any time during regular business hours.

G. Copies of any and all regulatory sampling and report submittals made in connection with this facility to other local, State or Federal regulatory agencies shall be submitted to the Director

H. Any finished product that is stored outdoors shall be bagged or covered.

#### §177-32 Financial Security

The facility operator shall provide to the Town a Performance Bond, Letter of Credit or other security acceptable to the Director in an amount sufficient to ensure the removal of all feedstock, materials in process, finished product and waste materials and restoration of the facility site in the event that the license granted pursuant to the Article is revoked or otherwise terminated.

#### §177-33 Term of License.

A license issued pursuant to this section shall be valid for 10 years from the date of issuance. A license issued hereunder may be renewed after submission of an application for renewal submitted not less than one hundred eighty (180) days prior to the expiration date of the current license.

§177-34 Revocation or Suspension of License

- A. Suspension. A license issued pursuant to this section may be suspended for failure to maintain Financial Security or a failure to adhere to the filed Operation and Maintenance Plan. A Notice of Suspension setting forth the grounds for suspension may be issued by the Director upon not less than thirty (30) days prior notice to the Operator. Upon issuance, the facility shall be prohibited from receipt of feedstock and raw materials until the reason for the suspension has been cured.
- B. Revocation. A license issued pursuant to this section may be revoked upon the occurrence of any of the following events:
- 1 Failure to maintain or termination of any required NYSDEC permit or registration.
  - 2 Failure to comply with operational conditions contained in the license or any covenants and restrictions contained in any zoning approval for the facility site.
  3. Operation of the facility in a manner that constitutes a public nuisance.
  4. Operation of the facility in a manner that causes substantial adverse impact upon the environment.
- C. Effect of Termination or Revocation. Upon the termination of the license term without renewal, or the termination of the license term by revocation, the facility operator shall immediately cease operations, and within sixty (60) days thereof, remove all stored feed stock, raw materials, processed materials, finished product and waste materials from the facility site. In the event that such materials are not so removed, or at any time in the event of an immediate threat to public health and safety, the Town may enter upon the facility site to remove such materials, and may call upon the financial security posted by the operator pursuant to this section for reimbursement of costs in so doing.

D. Enforcement The Town Attorney shall be authorized to enforce the terms and conditions of the license, any notice of suspension or revocation, any covenants and restrictions running with the land, and to secure any and all rights of the Town and the public through actions at law and equity in any court of competent jurisdiction.

ATTACHMENT 3 – PROPOSED AMENDMENTS TO TOWN CODE CHAPTER 322

Chapter 322 section 3 of the Code of the Town of Smithtown shall be amended to add the following definition;

322-3 ORGANIC WASTE PROCESSING FACILITY

Includes a lot, land or structure at which organic waste materials are received, composted and/or aerobically or anaerobically digested entirely within a building to produce a recycled product which may include natural gas, soil and other byproducts for sale or for use on-site. This term shall not include a transfer station as defined herein.

Chapter 322 section 7 (A)(1) of the Code of the Town of Smithtown shall be amended as follows

A. Special purpose districts

(1) CF District (Community Facility) The regulations set forth in this section or set forth elsewhere in this chapter and applicable to the CF district are intended to provide for adequate area for religious, educational, recreational, institutional, agricultural, environmental and municipal facilities to serve the present and future needs of the community and the region. Subject to the criteria governing the issuance of a special exception from the Town Board pursuant to Article XIV of this chapter, an Organic Waste Processing Facility shall be a permitted use in a CF zone.

Chapter 322 section 7 (A)(1) of the Code of the Town of Smithtown shall be amended as follows

322-102.2 Organic Waste Processing Facility

A. The Town Board may, upon application and after a public hearing on notice, as provided in §322-94 for special exception uses, authorize a special exception for an Organic Waste Processing Facility in a CF District if said Board shall find that the proposed facility is desirable for service to the residents of the Town of Smithtown, the proposed location is appropriate for the size and operation of said facility, gives due consideration to the character of the surrounding neighborhood, and that the proposal is in keeping with the purposes of this Chapter as stated in §322-2 and Chapter 177 Solid Waste Management as stated in §177-2.

(1.) Purpose. The purpose of this special exception is to promote the public health safety and welfare and to provide suitable locations for the construction and operation of facilities designed to receive and process source separated organic materials in accordance with the Solid Waste Management Plan of the State of New York and the Local Solid Waste Management Plan of the Town of Smithtown.

(2.) Objectives. The objective of this special exception is to assure that Organic Waste Processing Facilities are constructed at sites of a suitable size and location, and operated in a manner that does not constitute a nuisance to neighboring properties or the public generally, or operate in violation of law or regulation.

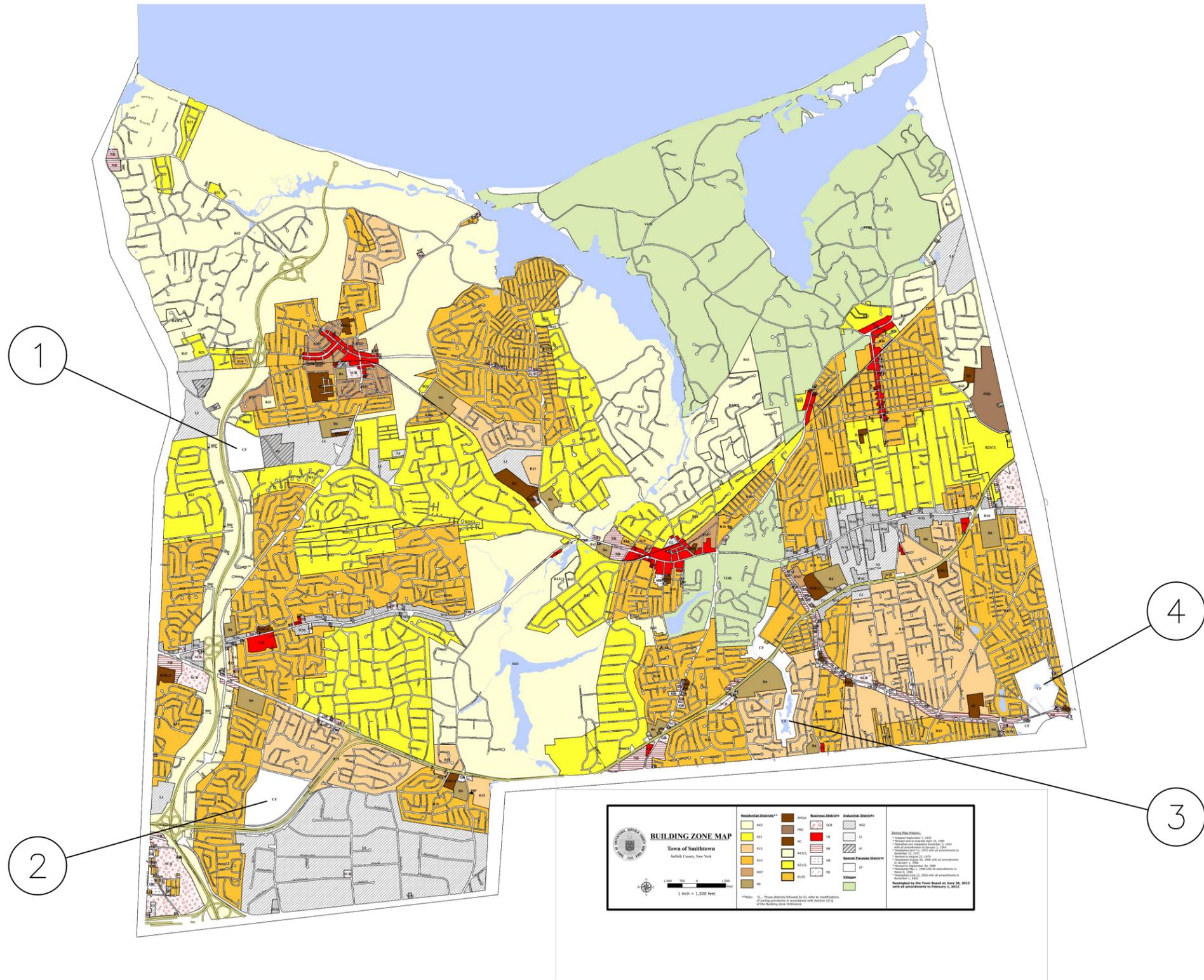
B. Before approving such special exception, and in addition to such conditions and safeguards as may be imposed by other review agencies, the Town Board shall determine that the following minimum conditions are provided:

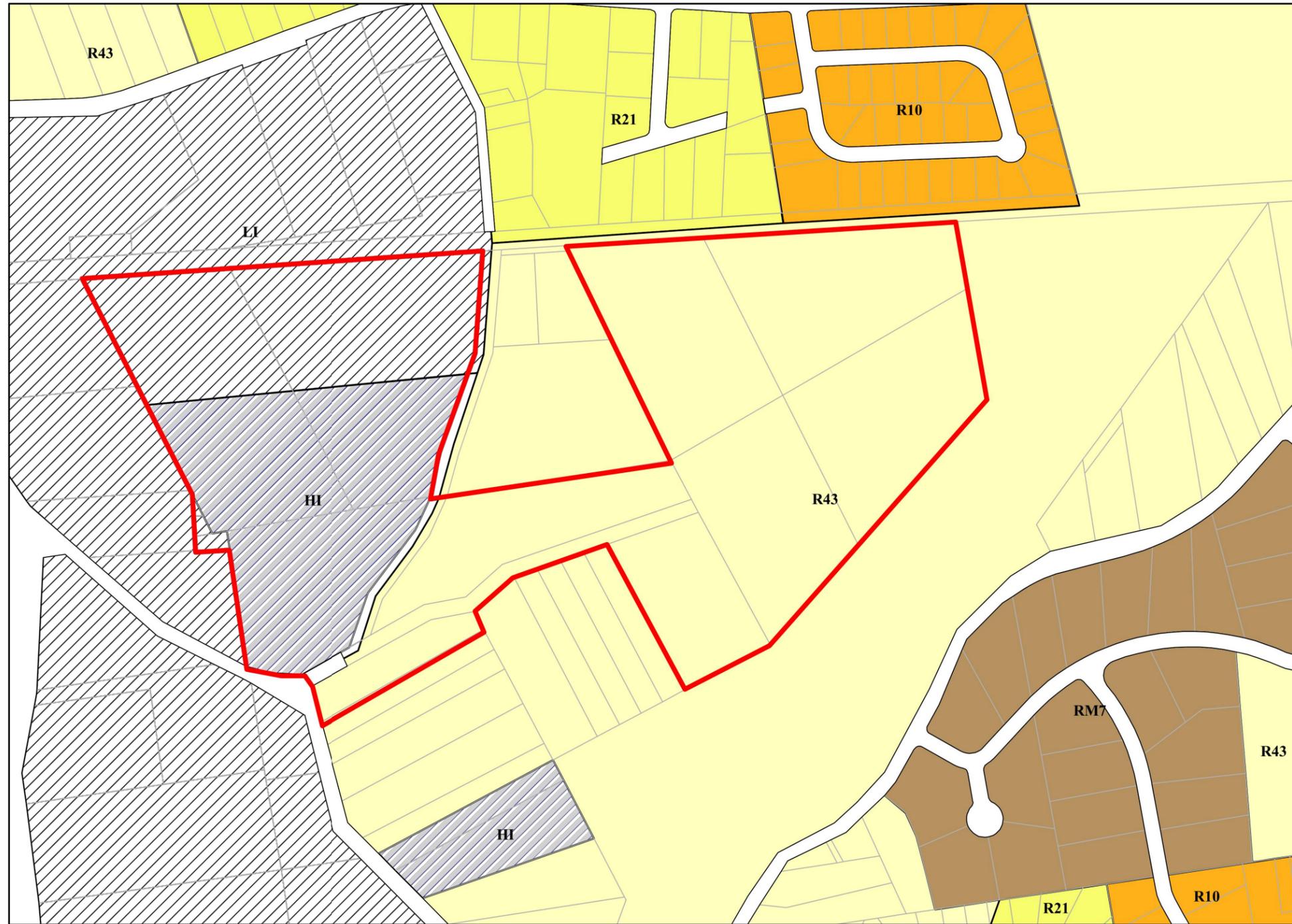
(1.) The applicant shall obtain a license to operate an Organic Waste Processing Facility pursuant to chapter 177 of the Smithtown code.

- (2.) All receiving and processing of feedstock shall be undertaken within a building constructed with an impermeable floor surface and equipped to achieve a negative air pressure to prevent escape of noxious odor.
- (3.) All curing of finished product shall be undertaken within a building constructed with an impermeable floor surface and equipped to achieve a negative air pressure to prevent escape of odor.
- (4.) All outdoor storage shall be limited to designated areas constructed with an impermeable surface and containing only fully cured finished product in rows or piles not more than 15 feet in height.
- (5.) All entry, exit, access and internal roadways and vehicle parking areas shall be paved and drained in accordance with an approved site plan.
- (6.) The site shall not be less than 10 acres in area, with not less than 200 feet of frontage on a public street
- (7.) A vegetated buffer of not less than 100 feet shall be maintained along the boundary lines of the site with any neighboring property.
- (11.) The facility shall be at least 200 feet from the nearest surface water body, potable water well and state-regulated wetland, unless provisions are implemented to prevent leachate from leaving the boundaries of the site, in a manner acceptable to the Department of Environment and Waterways and/or State or County agency of competent jurisdiction.
- (12.) The receiving and processing building must be at least 500 feet from the nearest residentially-zoned lot, lot used for a residence, or place of business. This

requirement does not apply to any place of business located on the same site or built after the facility begins operation.

- (13.) The maximum height of any building or structure constructed on the property shall not exceed 35 ft., except air pollution or environmental control structures required by permit or regulation.
- (14.) The facility shall be constructed with air and water monitoring systems.
- (15.) No outdoor storage of any bulk materials shall be permitted.





TOWN OF SMITHTOWN  
Carlson property

Prepared by Town of Smithtown Planning Department  
January 2012



APPROXIMATE  
PROPERTY  
BOUNDARY