

TOWN OF SARDINIA
PLANNING BOARD MEETING MINUTES

July 19, 2023

The Planning Board of the Town of Sardinia was scheduled for Wednesday, July 19, 2023, and was called to order at 7:00 PM by Chairman Nancy Spink.

Members Present:

Nancy Spink (Chair)
Keith Reynolds
Aaron Root
Steve Salmon
Dan Szustakowski

Absent:

Attendees

Becky Burke, ZBA and Planning Board Secretary
David DiMatteo, Esq., Town of Sardinia Attorney
Michael Mahar, Waste Management
Charles Grieco, Esq., Waste Management Attorney
Jonathan Rizzo, Waste Management

Correspondence: none

Old Business:

1. Nancy asked for a motion to approve the minutes from the June 14th Planning Board Meeting. Motion was made by Dan Szustakowski, seconded by Aaron Root to approve the June minutes. Vote was 5-0 Aye.
2. Waste Management, LLC has received the SEQR from the DEC. Nancy led the review of the Waste Management request for approval of their Site Plan, Special Use Permit and Rezoning. She requested the Waste Management representatives give a brief overview of the project for the two new members of the Planning Board. Charles Grieco went over the steps that have taken place, the plans for the project, including modifications that had already been made in response to requests by the Planning Board for fire protection and traffic protection.
3. David DiMatteo read the Exhibits A-D, explaining the Resolutions related to the Site Plan Approval, Special Use Permit, and Recommendation to the Town Board for Approval of

the Findings and Rezoning of one section from AR to BL, and full approval. See Appendix for Exhibits.

4. Nancy asked the board if the members had any questions. Dan Szustakowski asked how much dirt will be removed from the Borrow Pit. Jonathan Rizzo commented it is variable for each area, the deepest could be approximately 20 feet. There were no other questions and the board moved onto the resolutions.

Resolution #1 – 2023 (Findings Statement acceptance)

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed Area 7/8 Development at its current landfill property located at 10860 Olean Road, Sardinia, New York, 14030 in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, Section 115-75 of the Town Zoning Code requires Site Plan review and approval prior to the development of individual parcels for commercial activities; and

WHEREAS, Section 115-87(A) of the Zoning Code requires that applications for a new or modified Special Use Permit be accompanied by an application for Site Plan approval; and

WHEREAS, Section 115-77 of the Zoning Code provides that the Planning Board review all site plans in compliance with Article IX of the Zoning Code; and

WHEREAS, in 2019, WMNY submitted an application to the New York State Department of Environmental Conservation (“NYSDEC”) to modify its 6 NYCRR Part 360 Solid Waste Management Permit and included a Full Environmental Assessment Form with respect to the Project; and

WHEREAS, the Town, as an involved agency, consented to NYSDEC acting as lead agency for the purposes of conducting a coordinated environmental review of the Project pursuant to the State Environmental Quality Review Act (“SEQRA”), and

WHEREAS, on January 8, 2020, NYSDEC adopted a SEQRA positive declaration with respect to the Project requiring the preparation of a Draft Supplemental Environmental Impact Statement (“DSEIS”); and

WHEREAS, on January 15, 2020, NYSDEC, as lead agency, distributed a Public Scoping Document to all interested and involved agencies; and

WHEREAS, on January 30, 2020, a public scoping meeting was held at the Town of

Sardinia Town Hall to receive public comments; and 7/18/2023 15803473.1 4/13/2023

WHEREAS, public comments were received by NYSDEC through March 17, 2020; and

WHEREAS, on July 1, 2020, NYSDEC issued a final scope for the DSEIS; and

WHEREAS, on July 24, 2020, WMNY submitted a DSEIS to NYSDEC; and

WHEREAS, WMNY made subsequent revisions to the DSEIS and submitted the revised DSEIS to the NYSDEC in July 2022; and

WHEREAS, in May 2022, WMNY submitted an “Application for Re-Zoning Classification” of the Borrow Areas from AR to BL pursuant to Article XIII of the Zoning Code (“Re-Zoning Application”) and an “Application for Town Board Special Use Permit” pursuant to Article X of the Zoning Code with respect to the Project (“Special Use Permit Application”), along with the required Site Plan Approval request; and

WHEREAS, on September 7, 2022, NYSDEC issued a Notice of Acceptance of the DSEIS, Notice of Complete Application, and Notice of Public Hearing (collectively, “Notices”); and

WHEREAS, on September 14, 2022, NYSDEC published the Notices in the Environmental Notice Bulletin (“ENB”); and

WHEREAS, on September 28, 2022, NYSDEC held a virtual duly noticed public hearing on the DSEIS, at which WMNY appeared and commented, but no other person or party commented; and

WHEREAS, on January 17, 2023, WMNY submitted additional information to the Town in support of its Site Plan Review Application and Special Use Permit Application; and

WHEREAS, in April 2023, WMNY submitted to NYSDEC for its review a Final Supplemental Environmental Impact Statement (“FSEIS”); and

WHEREAS, on April 19, 2023, NYSDEC accepted the FSEIS with respect to the Project and published notice of the same in the ENB; and

WHEREAS, on May 3rd, 2023, NYSDEC issued its SEQRA Statement of Findings (the “NYSDEC Findings”) with respect to the Project, determined that the Project is consistent with social, economic and other essential considerations and that, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating, as conditions to the decision, those mitigative measures which were identified as practicable; and

WHEREAS, on May 5th, 2023, NYSDEC issued to WMNY its 6 NYCRR Part 360 Solid Waste Management Permit and Title V Air Permit;

Now on Motion OF Aaron Root, which has been duly seconded by Dan Szustakowski,

BE IT RESOLVED, to ADOPT THE FINDINGS OF THE TOWN OF SARDINIA PLANNING BOARD PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE WASTE MANAGEMENT OF NEW YORK, LLC CHAFFEE LANDFILL AREA 7/8

Duly Adopted, this day of July 19th, 2023 by the following vote: Spink, aye, Reynolds, aye, Root, aye, Salmon, aye, Szustakowski, aye. So resolved, 5 ayes, 0 noes.

Resolution #2 – 2023 (Zoning change recommendation)

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed expansion and modification of its current landfill property in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet, and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, the Project requires rezoning portions of the parcels on which the proposed Borrow Areas are located from AR (Agricultural-Residential) to BL (Business-Light Industrial) (“Re-zoning”), a modification of WMNY’s Special Use Permit (“Special Use Permit Modification”) and Site Plan approval for the construction of the proposed modifications (“Site Plan Approval”); and

WHEREAS, the Re-zoning will require adoption of a local law by the Town Board amending the Town Zoning Map and the Special Use Permit Modification will require approval of the Town Board; and

WHEREAS, pursuant to Zoning Code § 115-107(B), the Planning Board is tasked with making an advisory report to the Town Board on the proposed amendment to the Zoning Code, including any amendment to any zoning district as designated on the Town Zoning Map; and

WHEREAS, pursuant to Zoning Code § 115-87(B), the Planning Board is tasked with making a recommendation to the Town Board on any application for a Special Use Permit; and

WHEREAS, the Planning Board has reviewed the Project, including the applications for Re-zoning, Special Use Permit Modification and Site Plan Approval at numerous meetings over an approximately one-year period; and

WHEREAS, the Project has also been subject to extensive review by the New York State Department of Environmental Conservation (“NYSDEC”), as lead agency pursuant to the State Environmental Quality Review Act (“SEQRA”), the Erie County Department of Environment and Planning, pursuant to General Municipal Law § 239-m, and MRB Group (collectively, “Reviews”), and the Planning Board has reviewed and duly considered the comments and recommendations made as part of such Reviews;

Now on Motion OF Dan Szustakowski, which has been duly seconded by Steve Salmon;

BE IT RESOLVED, that, pursuant to Zoning Code § 115-107(B), the Planning Board hereby recommends to the Town Board that it adopt a local law re-zoning the Borrow Area parcels from AR to a BL for the following reasons:

- The parcels, or portions of parcels, to be rezoned, while currently zoned AR, are currently owned by WMNY and are not used for either agricultural or residential purposes;
- The Borrow Areas are a necessary component of the proposed Project to provide a source of clean soil cover for the ongoing and expanded Landfill operations;
- The utilization of these areas to provide such soils is a low-intensity use that will allow these parcels to be put to productive use while not negatively impacting surrounding properties;
- WMNY has made requested modifications to the northern borrow area to relocate the location of dry hydrants along Hand Road and provided a Maintenance and Traffic Plan for the crossing between the existing Landfill and the northern Borrow Area;
- The re-zoning of the Borrow Areas is consistent with the Town's Comprehensive Plan, which recognizes that the Landfill is an established permitted land use within the Town and, as most recently amended in 2021, acknowledges the proposal to re-zone the borrow areas as part of the planned expansion and modification of Landfill;

Duly Adopted, this day of July 19th, 2023 by the following vote: Spink, aye, Reynolds, aye, Root, aye, Salmon, aye, Szustakowski, aye. So resolved, 5 ayes, 0 noes.

Resolution #3 – 2023 (Special Use Permit Recommendation)

Now on Motion OF Steve Salmon, which has been duly seconded by Dan Szustakowski;

BE IT FURTHER RESOLVED, that, pursuant to Zoning Code § 115-87(B), the Planning Board hereby recommends that the Town Board approve the Special Use Permit Modification application as submitted by WMNY for the Project, as said Project conforms to standards for issuance of a Special Use Permit for a Municipal Solid Waste Landfill set forth in Zoning Code § 115-62 and § 115-86(B), specifically:

- The expansion and modification of the Landfill, which will not increase the volume of waste deposited annually over present levels and has received all necessary approvals from NYSDEC following an extensive environmental review, will not pose a threat health, safety or general welfare of the community as required by Zoning Code § 115-62(B)(1)-(2) and § 115-82(B)(1);

- The Landfill will continue to conform to all of the dimensional requirements set forth in Zoning Code § 115-62(B)(3)-(5);
- The Landfill will continue to recapture methane gas for beneficial reuse as required by Zoning Code § 115-62(B)(6);
- The operation of the Landfill will remain subject to terms of the [reviewed and revised] Host Municipality Agreement (“HMA”) required by Zoning Code § 115-62(B)(7);
- The Landfill will continue to be operated by WMNY, an entity with an established history of satisfactorily operating the Landfill and providing the financial security required by Zoning Code § 115-62(B)(8);
- The Project will not reduce the existing workforce levels at the Landfill and thus will not impact the requirements of Zoning Code § 115-62(B)(9);
- The Landfill will continue to operate pursuant to the NYSDEC approved Facility Manual which addresses the requirement for an adequate management plan required by Zoning Code § 115-62(B)(10);
- Visual impacts related to the Project were thoroughly evaluated, as required by Zoning Code § 115-62(B)(11), as part of the SEQRA review process, including the completion of a visual resource assessment, which concluded that the relatively modest proposed expansion of the existing Landfill will not cause a significant change in the visual impacts of the Landfill;
- The Property Protection Plan included in the HMA will continue to ensure that any potential diminution of property values are mitigated as required by Zoning Code § 115-62(B)(12) and § 115-86(B)(2);
- The relatively modest expansion and modification of the existing Landfill, will remain compatible with existing use of the Landfill and surrounding properties as required by
- Zoning Code § 115-86(B)(3) and adequate buffering and landscaping will continue to be maintained as required by Zoning Code § 115-86(B)(4);
- Overall truck traffic will not significantly increase as a result of the Project, WMNY has provided an adequate Maintenance and Traffic Plan, and adequate off-street parking and loading will continue to be provided as required by Zoning Code § 115-86(B)(5).

Duly Adopted, this day of July 19th, 2023 by the following vote: Spink, aye, Reynolds, aye, Root, aye, Salmon, aye, Szustakowski, aye. So resolved, 5 ayes, 0 noes.

Resolution #4 – 2023 (Site Plan Approval)

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed Area 7/8 Development at current landfill property located at 10860 Olean Road, Sardinia, New York, 14030 in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet, and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, Section 115-75 of the Town Zoning Code requires Site Plan review and approval prior to the development of individual parcels for commercial activities; and

WHEREAS, Section 115-87(A) of the Zoning Code requires that applications for a new or modified Special Use Permit be accompanied by an application for Site Plan approval; and

WHEREAS, Section 115-77 of the Zoning Code provides that the Planning Board review all site plans for compliance with Article IX of the Zoning Code; and

WHEREAS, in May 2022, WMNY submitted a Site Plan Approval request (the “Site Plan Application”) pursuant to Article IX of the Zoning Code with respect to the Project as part of an application to modify its current Municipal Solid Waste Landfill permit pursuant to § 115-62 of the Zoning Code (“Special Use Permit Application”); and

WHEREAS, on November 30, 2022, the Town referred a full statement of the Project, including the request for Site Plan approval, to the Erie County Department of Environment and Planning (“ECDEP”) pursuant to General Municipal Law § 239-m, which returned certain comments to the Town on December 30, 2022; and

WHEREAS, on December 14, 2022, at the request of the Planning Board, WMNY submitted a revised drawing depicting temporary and final location of the dry hydrant well as a Maintenance and Traffic Plan for Hand Road for consideration at the Planning Board’s December 21, 2022 meeting; and

WHEREAS, on January 17, 2023, WMNY submitted additional information to the Town of Sardinia in support of its Site Plan Application and Special Use Permit Application; and

WHEREAS, on March 9, 2023, WMNY submitted responses to ECDEP’s comments to the Town; and

WHEREAS, the Project was reviewed by the Planning Board over the course of numerous meetings; and

WHEREAS, the Planning Board has reviewed the Site Plan Application as well as the Draft Supplemental Environmental Impact Statement (“DSEIS”), Final Supplemental Environmental Impact Statement (“FSEIS”), the NYSDEC Findings Statement, ECDEP’s comments and WMNY’s responses thereto, analysis of the Town’s consulting engineer, and other relevant documents and information concerning the Project and, on July 19, 2023, adopted its own Findings Statement pursuant to SEQRA concluding that the Project is consistent with social, economic and other essential considerations and that, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating, as conditions to the decision, those mitigative measures which were identified as practicable; and

WHEREAS, on July 19, 2023, the Planning Board adopted a resolution recommending to the Town Board that the Borrow Areas be re-zoned from AR – Agricultural-Residential to BL – Business-Light Industrial and it approve the Special Use Permit Application;

Now on Motion OF Aaron Root, which has been duly seconded by Keith Reynolds;

BE IT RESOLVED BY THE MEMBERS OF THE PLANNING BOARD AS FOLLOWS:

Section 1: Based upon review of the Site Plan Application and its related materials, the Planning Board hereby determines that all of the provisions of the Zoning Code have been complied with in regard to said application.

Section 2: The Planning Board has reviewed the Standards for Issuance of a Site Plan approval contained in § 115-80 of the Zoning Code and the Town Planning Board bases its decision to APPROVE the Site Plan Application based on the following FINDINGS which address the applicable factors as enumerated in the Zoning Code:

A. *Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.* With the exception of the Borrow Areas (discussed below), the WMNY property on which the Project is located has long been utilized as a municipal solid waste landfill, and the Project will not change that use. No additional buildings, lighting or signage is proposed. Rather, the site changes proposed will expand the existing use of the property as a landfill and are thus consistent with that existing use. With respect to the Borrow Areas, subject to those parcels being re-zoned as recommended by the Planning Board, those parcels will be properly zoned. Moreover, the use of the Borrow Areas, which are currently unimproved, will be limited to the excavation of soil for use on the Landfill, and no buildings or other improvements are proposed to be constructed. Overall, the Planning Board finds that the Site Plan as designed will utilize the Project site resources in the most appropriate manner under the circumstances.

B. *Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.* Potential transportation and traffic impacts resulting from the construction and operation of the Project were evaluated in the DSEIS (incorporated into the FSEIS) and thoroughly addressed in the Planning Board's SEQRA Findings Statement. As noted therein, there will be increased truck traffic crossing Hand Road from the proposed northern Borrow Area to the Landfill. However, the number of trucks hauling solid waste to the landfill is not expected to increase compared to those historically entering the site since the approved design capacity of the landfill is not changing. WMNY will continue to limit truck traffic and has provided the Town with a satisfactory Maintenance and Transportation Plan to ensure truck traffic crossing Hand Road will be conducted safely. The Planning Board, as well as the Town Highway Superintendent, finds that, with these measures, the proposed Site Plan adequately and appropriately addresses traffic and circulation on the Project site.

C. *Location, arrangement, appearance and sufficiency of off-street parking, loading and drive-through lane stacking.* Based upon review of the Site Plan Application and related materials, no changes are being proposed with respect to parking or loading on the Project site, and therefore the Planning Board concludes that approval of the Site Plan satisfies this criteria.

D. *Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walks and walkway structures, control of intersections with vehicular traffic and overall pedestrian mobility and convenience.* The Project is not anticipated to impact pedestrian traffic access and circulation to the surrounding area. The nature of the existing and proposed expanded Landfill operations do not generate pedestrian traffic, and the area surrounding the Project site is not characterized by significant pedestrian activity. Nevertheless, as noted above, WMNY will continue to limit truck traffic entering and exiting the Landfill and has provided a Maintenance and Transportation Plan to ensure safe crossings of Hand Road from the northern Borrow Area to the Landfill, which measures will help ensure that what little pedestrian activity may exist may safely continue.

E. *Adequacy of stormwater and drainage facilities.* As addressed in the Planning Board's SEQRA Findings Statement, the Project has potential to cause increased runoff and erosion on the Project Site, but such impacts will be minimized due to the Project's adherence to WMNY's SPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activities ("SPDES Permit") and its Stormwater Pollution Prevention Plan ("SWPPP").

F. *Adequacy of water supply and sewage disposal facilities.* No issues with water supply or sewage disposal are anticipated with the Project.

G. *Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between adjoining lands, including the maximum retention of existing vegetation.* As analyzed in the Planning Board's SEQRA Findings Statement, the Project is not expected to result in any significant impacts to visual or aesthetic resources, and adequate buffering and landscaping will be put into place to minimize any such impacts.

H. *Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.* WMNY has addressed the Planning Board's comments concerning the potential impacts of the development of the northern Borrow Area on the existing fire water pond on that by confirming that that area will revert to being a pond upon completion of reclamation and agreeing to relocate the fire water pond standpipe on the parcel. The Planning Board, as well as the Fire chief, are satisfied that this condition is satisfied.

I. *Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.* As noted above, the Project has the potential to cause increased runoff and erosion, but such impacts will be minimized by adherence to WMNY's SPDES Permit and SWPPP. During the construction, operation and closure phases of the Project, erosion and sediment control techniques and procedures will be employed to reduce and control erosion and the transport of sediments from excavated areas or stockpiles. The proposed landscaping, and interim grading, to be utilized will help reduce erosion, and where appropriate, sediment control devices, such as sedimentation basins, silt fences, and rock dams in drainage channels, will be installed to control sediment transport. The Planning Board is satisfied that this provision has been adequately addressed.

J. *Overall impact on the neighborhood, including compatibility of design considerations.* The WMNY property on which the Project has long been utilized as a municipal solid waste landfill, and the Project will not change that use or otherwise introduce any incompatible development to this area of the Town.

K. *The provision of open space within multifamily and manufactured home parks for the recreational needs of the residents of such developments.* This criteria is not relevant to the Project.

Section 4: Based upon the above Findings, the Planning Board hereby APPROVES the Site Plan Application of Waste Management of New York, LLC for the Project as presented.

Duly Adopted, this day of July 19th, 2023 by the following vote: Spink, aye, Reynolds, aye, Root, aye, Salmon, aye, Szustakowski, aye. So resolved, 5 ayes, 0 noes.

5. Discussion was held regarding copies of zoning regulations from the Town of Java on their property maintenance and Town of Ithaca on Food trucks. Nancy asked the board to review these and the previous materials provided and suggest language at the next month's meeting.
6. Motion was made by Keith Reynolds, seconded by Steve Salmon to adjourn. Vote was 5 to 0 approving this motion. Meeting was closed by Chairman Nancy Spink at 8:12 PM.

Next scheduled meeting is August 16, 2023 at 7pm.

Submitted by: Becky Burke, Town of Sardinia Planning Board and Zoning Board of Appeals Secretary

APPENDIX –

EXHIBIT A

Town of Sardinia Planning Board
_____, 2023
Waste Management of New York, LLC
Chaffee Facility Area 7/8 Development

DETERMINATION AND FINDINGS OF THE TOWN OF SARDINIA PLANNING BOARD PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE WASTE MANAGEMENT OF NEW YORK, LLC CHAFFEE LANDFILL AREA 7/8 DEVELOPMENT.

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed Area 7/8 Development at its current landfill property located at 10860 Olean Road, Sardinia, New York, 14030 in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, Section 115-75 of the Town Zoning Code requires Site Plan review and approval prior to the development of individual parcels for commercial activities; and

WHEREAS, Section 115-87(A) of the Zoning Code requires that applications for a new or modified Special Use Permit be accompanied by an application for Site Plan approval; and

WHEREAS, Section 115-77 of the Zoning Code provides that the Planning Board review all site plans in compliance with Article IX of the Zoning Code; and

WHEREAS, in 2019, WMNY submitted an application to the New York State Department of Environmental Conservation (“NYSDEC”) to modify its 6 NYCRR Part 360 Solid Waste Management Permit and included a Full Environmental Assessment Form with respect to the Project; and

WHEREAS, the Town, as an involved agency, consented to NYSDEC acting as lead agency for the purposes of conducting a coordinated environmental review of the Project pursuant to the State Environmental Quality Review Act (“SEQRA”), and

WHEREAS, on January 8, 2020, NYSDEC adopted a SEQRA positive declaration with respect to the Project requiring the preparation of a Draft Supplemental Environmental Impact Statement (“DSEIS”); and

WHEREAS, on January 15, 2020, NYSDEC, as lead agency, distributed a Public Scoping Document to all interested and involved agencies; and

WHEREAS, on January 30, 2020, a public scoping meeting was held at the Town of Sardinia Town Hall to receive public comments; and

WHEREAS, public comments were received by NYSDEC through March 17, 2020; and

WHEREAS, on July 1, 2020, NYSDEC issued a final scope for the DSEIS; and

WHEREAS, on July 24, 2020, WMNY submitted a DSEIS to NYSDEC; and

WHEREAS, WMNY made subsequent revisions to the DSEIS and submitted the revised DSEIS to the NYSDEC in July 2022; and

WHEREAS, in May 2022, WMNY submitted an “Application for Re-Zoning Classification” of the Borrow Areas from AR to BL pursuant to Article XIII of the Zoning Code (“Re-Zoning Application”) and an “Application for Town Board Special Use Permit” pursuant to Article X of the Zoning Code with respect to the Project (“Special Use Permit Application”), along with the required Site Plan Approval request; and

WHEREAS, on September 7, 2022, NYSDEC issued a Notice of Acceptance of the DSEIS, Notice of Complete Application, and Notice of Public Hearing (collectively, “Notices”); and

WHEREAS, on September 14, 2022, NYSDEC published the Notices in the Environmental Notice Bulletin (“ENB”); and

WHEREAS, on September 28, 2022, NYSDEC held a virtual duly noticed public hearing on the DSEIS, at which WMNY appeared and commented, but no other person or party commented; and

WHEREAS, on January 17, 2023, WMNY submitted additional information to the Town in support of its Site Plan Review Application and Special Use Permit Application; and

WHEREAS, in April 2023, WMNY submitted to NYSDEC for its review a Final Supplemental Environmental Impact Statement (“FSEIS”); and

WHEREAS, on April 19, 2023, NYSDEC accepted the FSEIS with respect to the Project and published notice of the same in the ENB; and

WHEREAS, on May 3rd, 2023, NYSDEC issued its SEQRA Statement of Findings (the “NYSDEC Findings”) with respect to the Project, determined that the Project is consistent with

social, economic and other essential considerations and that, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating, as conditions to the decision, those mitigative measures which were identified as practicable; and

WHEREAS, on May 5th, 2023, NYSDEC issued to WMNY its 6 NYCRR Part 360 Solid Waste Management Permit and Title V Air Permit;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE PLANNING BOARD AS FOLLOWS:

Based upon a review of the Permit application and its related materials, the DSEIS, the FSEIS, public and legislative hearing transcripts, comments provided at the public hearings, other documents and submissions received during the public comment period, the comments of the Erie County Department of Environment and Planning and WMNY's response thereto, MRB Group, the NYSDEC SEQRA Findings Statement, [the Town Board's SEQRA Findings Statement] and its own independent review of the Project, the Town Planning Board, hereby:

- a) determines that the proceedings undertaken by NYSDEC as Lead agency with respect to the Project satisfy the requirements of SEQRA; and
- b) ratifies the proceedings conducted by the Lead Agency including the adoption of the NYSDEC Findings Statement; and
- c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to acting on the Site Plan application with respect to the application have been satisfied; and
- d) adopts the State Environmental Quality Review Act Findings Statement with respect to the Project incorporated by reference and annexed hereto.

EXHIBIT B

State Environmental Quality Review Act

Finding Statement of Planning Board of the Town of Sardinia

Pursuant to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law and 6 NYCRR Part 617, the Planning Board of the Town of Sardinia (“Planning Board”), as an Involved Agency, makes the following findings.

Name of Action Waste Management of New York, LLC (“WMNY”): Chaffee Landfill Area 7/8 Development (“Area 7/8 Development” or “Project”)

Description of Action Proposed expansion and modification of WMNY’s current landfill property in the Town (“Landfill”) to construct:

1. 19.1-acre footprint contiguous with the existing Landfill
2. 9.5-acre area over the southern side slope of the closed portion of the Landfill
3. Increase the maximum height of the Landfill by 30 feet
4. Utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations.

The Landfill is an existing municipal solid waste landfill with the capacity to receive 600,000 tons of waste per year. As presently proposed, the Project would have the same waste acceptance limits. The projected capacity of the proposed Area 7/8 Development is approximately 5.1 million cubic yards. To undertake this proposed project, WMNY must obtain the following approvals from the New York State Department of Environmental Conservation (“NYSDEC”) in order to construct and operate the Area 7/8 Development at the Landfill: (1) a modification of its 6 NYCRR Part 360 Solid Waste

Management Permit; (2) a modification of its Title V air permit pursuant to Article 19 of the Environmental Conservation Law; (3) and a modification of coverage under the State Pollutant Discharge Elimination System (“SPDES”) Multi-Sector General Permit for Stormwater Discharges from Industrial Activities (collectively, “NYSDEC Approvals”). In addition, WMNY must obtain the following approvals from the Town of Sardinia: (1) re-zoning of the Borrow Areas from AR-Agricultural-Residential to BL Business-Light Commercial by the Town Board; (2) approval of a modified Special Use Permit by the Town Board; and (3) Site Plan approval from the Town Planning Board (collectively, “Town Approvals”).

Location 10860 Olean Road, Chaffee, Erie County, New York (the “Project Site”)

Agency Jurisdiction NYSDEC is the lead agency for the proposed action. The Planning Board is an involved agency because, as noted above, it must approve the Site Plan for the Area 7/8 Development, which approval is the subject of this Findings Statement.

DSEIS Filed July 24, 2020 and revised April 29, 2022. Accepted by the NYSDEC on September 7, 2022

FSEIS Filed April 19, 2023

Section 1. Introduction. This is the Planning Board’s Findings Statement for the Area 7/8 Development, or Project, in Sardinia, Erie County, New York. The Planning Board is an involved agency for the Project with the recommendations of a Special use permit, rezone and Site Plan Approval. This Findings Statement sets forth the basis for the Planning Board’s decision with respect to the proposed Project; in this case, the Site Plan approval for the modifications to the Landfill property. SEQRA requires that the Lead Agency and each Involved Agency make findings with respect to the Project. NYSDEC is the Lead Agency of this Action. This Findings Statement contains a brief description of the Project, a discussion of the facts and conclusions as found in the Draft Supplemental Environmental Impact Statement (“DSEIS”) and Final Supplemental Environmental Impact Statement (“FSEIS”) (together, the “FSEIS”) that the Planning Board relied upon to support its decision, and a certification required by the SEQRA regulations. In making Findings, an Involved Agency is not required to find that the proposed Project will result in no environmental impacts. Rather, SEQRA requires that an Involved Agency, such as the Planning Board, engage in a balancing process whereby environmental concerns are weighed against social, economic, and other essential considerations. These Findings set forth the basis of the Planning Board’s decision.

Section 2. The Proposed Action. WMNY has applied for Site Plan approval from the Planning Board pursuant to Article IX of the Town Zoning Ordinance for the construction of an additional 28.6-acre footprint and two Borrow Areas consisting of 13.8 and 10.0 acres. WMNY has also petitioned the Town Board to re-zone certain parcels currently zoned AR, and not currently utilized as part of the Landfill operations, to BL so that such parcels may be used as Borrow Areas to provide soil for Landfill operations and requested that the Town Board modify WMNY’s current Special Use Permit issued under Article VI (§115-62) and Article X (§§115-85 – 115-90) of the Zoning Code to construct the lateral expansion of the existing Landfill as described above.

Section 3. Facts and Conclusions Relied on to Support the Decision

1. The Planning Board has reviewed and considered WMNY’s applications and related materials, the DSEIS, the FSEIS, public and legislative hearing transcripts, and the NYSDEC Findings Statement related to the NYSDEC Approvals and the Town Approvals.

2. Traffic. Potential transportation and traffic impacts resulting from construction and operation of the Area 7/8 Development were evaluated in the DSEIS (and incorporated into the FSEIS). A truck traffic assessment contained within the DSEIS indicates that the number of trucks hauling solid waste to the Landfill is not expected to increase compared to those historically entering the site since the current waste acceptance rate will not be changed as part of the Area 7/8 Development. The permitted waste disposal rate will remain at 2770 tons per day, which indicates that there will be no significant increase in the levels of truck traffic for the life of the landfill. The Project does not anticipate an increase in the rate of soil importation to the site over that currently allowed. WMNY will continue to limit truck traffic related to soil importation to 15 trucks per hour by retaining only one soil delivery contractor at one time. WMNY will design and construct the main truck crossing on Hand Road near the western end of the proposed Borrow Area C to meet Town requirements. The road crossings for soil transport

from Borrow Area C will go across Hand Road for the purposes of establishing a direct travel route to the Landfill. While the Landfill operation would be extended approximately 6 to 7 years, depending upon the waste volume received in any given year, no other new sources of traffic are expected to result from the Project. The Planning Board is satisfied that WMNY will adequately ensure that the Project will not result in any additional impacts to existing truck traffic that does not already otherwise exist in relation to current Landfill operations.

3. Noise. The Area 7/8 Development has the potential to affect noise levels in the surrounding locale, and the potential noise impacts resulting from the Project were assessed in the DSEIS (and incorporated into the FSEIS) using various procedures and criteria, including those provided in the 6 NYCRR Part 360 Regulations as well as those found in the NYSDEC Program Policy document entitled “Assessing and Mitigating Noise Impacts,” dated February 2001. A SEQRA Noise Assessment was conducted to assess potential impacts from the construction and operation activities relating to the cell development and borrow areas on Allen Road, Hand Road, and Route 16. For construction and operation activities in cell development areas, it was found that increase to noise levels at the nearest receptor locations would not be significant. WMNY will undertake a number of mitigation measures to reduce potential noise impacts, including the following: installation of noise attenuation berms (South Borrow Area and Borrow Area C) and fencing (Borrow Area C); regular maintenance of exhaust systems; and mufflers on all facility equipment and all waste delivery trucks. In addition, WMNY has purchased several residences located near the Chaffee site, and noise easements have been obtained for other nearby properties. These mitigative measures will reduce potential noise impacts.

4. Aesthetics/Landscaping. The proposed Project will not cause a diminishment of the public enjoyment and appreciation of any scenic or historic resource, or one that impairs the character or quality of such a place. A Visual Resource Assessment was performed as part of the DSEIS to determine whether the Area 7/8 Development would have a significant impact on nearby sensitive visual receptors. The assessment process included a viewshed analysis, viewshed interpretation, inventory of visual resources, field reconnaissance, photo simulations, and evaluation of the visual character of the landscape. The Project will result in an increase in the lateral extent of the cell area and a 30-foot increase in height of the completed cells. Thus, the expansion of the Landfill will increase visibility of the Landfill, but the degree of theoretical visibility will only increase from 9.0 % to 9.8 % due to the proposed Area 7/8 Development. In most areas, the effect of the proposed expansion on the surrounding landscape will be a nominal change in the degree of exposure rather than a new or visually different impact. No site listed on or determined to be eligible for listing on the State or National Registers of Historic Places will have direct visibility of the Project. Consequently, the Project will not result in any significant incremental adverse visual impact.

5. Surface Waters. The Area 7/8 Development has the potential to cause increased runoff and erosion and to impact surface water quality through leachate seeps discharging to surface water and/or through potential spills on site. As required under the 6 NYCRR Part 360 permit issued by NYSDEC, the Project is designed to meet siting and design criteria to mitigate potential surface water impacts. During the construction, operation and closure

phases of the Area 7/8 Development, erosion and sediment control techniques and procedures will be employed to reduce and control erosion and the transport of sediments from excavated areas or stockpiles. The proposed landscaping, and interim grading, to be utilized will help reduce erosion, and where appropriate, sediment control devices, such as sedimentation basins, silt fences, and rock check dams in drainage channels, will be installed to control sediment transport. The surface water management system incorporates features including: a double composite liner system, surface water diversion ditches, and sedimentation basins, the final cover system, the leachate collection and storage systems, existing low permeability soils, and the environmental monitoring system. The potential for significant storm water drainage impacts will be minimized through the surface water management system.

6. Groundwater. No adverse impacts to groundwater quality or quantity are expected to result from the Project. The DSEIS evaluated the potential impacts of the Area 7/8 Development to groundwater. While the Project has the potential to impact groundwater quality through leachate releases, landfill gas releases, and other miscellaneous releases such as releases from petroleum fuel oil spills or hydraulic oil spills, the application contains an updated hydrogeologic investigation of the site for the proposed Area 7/8 Development and surveys of 161 property owners located one mile upgradient and downgradient from the Area 7/8 Development, inclusive of existing boundaries or waste containment. The hydrogeologic information developed as part of that investigation demonstrates that Lower Silty Clay Aquitard is effective in restricting the vertical movement of groundwater between the Upper and Lower water-bearing zones, thereby isolating deeper water-bearing zones from the Upper Water-bearing zone. Low permeability glacial till soils beneath the facility will also provide a significant natural barrier to leachate migration. Any potential impacts to groundwater have been minimized through operational controls, planning, facility design features, and the original site selection. The Town concurs with NYSDEC Findings stating that no adverse impacts to groundwater quality or quantity are expected from the Project.

7. Freshwater Wetlands. A federal wetland delineation indicates that there would be no impacts to jurisdictional wetlands or to areas adjacent to New York State jurisdictional wetlands in the areas proposed to be developed as part of the Area 7/8 Development. The wetland delineation determined that twelve (12) wetlands totaling approximately 60.62+/- acres were present within the investigation area. While the delineation identified wetlands on the Landfill property, the wetlands are located outside the limits of the proposed Area 7/8 Development area. There is a potential of indirect impact to jurisdictional wetlands due to sediment transport; however, the Project will not result in any direct impacts to the construction of Landfill cells, excavation of Borrow Areas, and the construction of support facilities.

8. Dust. As described in the FSEIS, WMNY will implement measures to minimize the potential for fugitive dust impacts resulting from the Project. Construction activities, which have the potential to create dust, would not be materially different from those currently occurring at the facility. However, the total time period during which construction of cells would occur would be lengthened due to the increased life of the facility. The potential problems associated with dust will occur from soil materials becoming too dry during construction of the

new cells and/or the placement of cover material utilized during operations. Dust may also be generated during both construction and operational activities. WMNY will apply water to disturbed soils and on-site roadways during dry periods, and prompt sealing of completed soil structures will be practiced both during construction and operation of the expanded facility to control dust generation. A water truck will be used to mitigate any fugitive dust conditions. Further, the protection of any stockpiled soils with vegetative cover, binding or crusting agents, water, and other coatings will also reduce fugitive dust emissions. These mitigative measures will minimize the potential for dust related impacts.

9. Landfill Gas Emissions and Odors. Potential odor impacts from the Area 7/8 Development and Landfill operations were also considered in the DSEIS. Odor mitigation occurs through the regular placement of cover materials over the waste. Waste is covered daily with synthetic materials, soil, or other approved alternate operating cover materials. Additional soil cover will be placed over waste if typical cover techniques do not suppress odors. The design and operation of the existing Landfill and the proposed Area 7/8 Development have been developed to control the migration of landfill gas. The impacts related to landfill gas are primarily related to the potential emission of nuisance odors due to the decomposition of organic waste materials, resulting in the generation of carbon dioxide and methane, as well as small concentrations of hydrogen sulfide and traces of organic compounds. The design and operation of the existing Landfill and the proposed cell development are expected to control migration of landfill gas. The liner system prevents landfill gas from migrating laterally. Surface emissions are also limited by the application of daily cover, the construction of immediate cover, and the eventual construction of the final cover system in the areas filled to final grade. As the Area 7/8 Development progresses, an active landfill gas collection system will be expanded. The active gas collection system involves connecting the landfill gas collectors to the blower and then to the gas-to-energy plant or the flare system. Within the gas-to-energy plant and flares, the landfill gases are mixed with air and combusted. Waste materials that have the potential for being particularly odorous will not be accepted late in the day. In addition, the Landfill maintains a “Hot Line” to facilitate prompt communication of odor issues to facility management. If a problem is detected or reported, measures will be taken in accordance with established plans to correct the situation.

Upon review of WMNY’s Part 360 permit application, the NYSDEC requested revisions to the application materials. The DSEIS was modified to include an assessment in accordance with the New York State Climate Leadership and Community Protection Act (“CLCPA”). The revised DSEIS acknowledged that minor impacts were unavoidable and proposed a number of potential mitigation measures designed to reduce greenhouse gas emissions associated with the Area 7/8 Development. Condition 53 of WMNY’s Part 360 Permit has also been modified to address the CLCPA mitigation process that will be implemented as part of the Area 7/8 Development.

10. Vegetation and Wildlife. Potentially significant impacts to fish and wildlife habitat resulting from the Area 7/8 Development and mitigation measures were evaluated in the DSEIS. No unusual, significant or endangered plant species have been identified. All of the habitat types which exist in the unused portions of the Landfill site are available in abundance in the surrounding area. The property is inhabited by a variety of wildlife, but the only record of

threatened or endangered plant or animal species potentially on-site is the Northern long-eared bat. This Project will result in a temporary loss of an additional 21 acres of meadows, open fields, agricultural, and forested areas, some of which presently function as a habitat for wildlife. This loss will be mitigated by maintaining approximately 200 acres of the site as wildlife habitat during the operational period of the facility, following which closure plans call for installation of final cover on the cell areas. The temporary loss will also be mitigated by the eventual restoration of the Landfill cells and the nearby borrow areas to grassland habitat. As the Landfill will be developed in phases, it is anticipated that the revegetation of completed cell areas will be established within three months of placement of the final cover. Vegetation growth will be supported by the addition of a final 6-inch layer of topsoil. No significant impacts are expected to the aquatic ecology as they are adequately separated from Landfill activities. The existing wooded areas that will not be disturbed by Landfill construction or operation will be maintained. Post-closure landscape plans will be consistent with the future use of the site as wildlife habitat with the exception of the remaining on-site maintenance building if needed to support post-closure activities.

11. Land Use/Zoning. The Project Site is located in a primarily rural residential and agricultural area. The existing Landfill and the proposed cell development area are zoned BL, while the Project also requires the addition of two new on-site Borrow Areas of approximately 13.8 acres and 10.0 acres, from which soil would be excavated for landfill construction and operation, which areas are presently zoned AR. Section 115-62 of the Zoning Code provides that a municipal solid waste landfill regulated by the NYSDEC shall be permitted in the BL zoning district by Special Use Permit approved by the Town Board and with Site Plan approval from the Planning Board. WMNY has applied to the Town Board to obtain a modified Special Use Permit for the Project and a Zoning Amendment to re-zone the Borrow Areas from AR to BL in order to include the Borrow Areas as part of the Project. As part of this process, the Planning Board requested, and WMNY made, certain changes to proposed Site Plan for the Project to ensure that the Landfill will continue to operate in an efficient and safe manner, consistent with the Town's site plan regulations as set forth in Zoning Code § 115-80, and the Planning Board has recommended that the Town Board approve WMNY's request to re-zone the Borrow Areas and approve the modified Special Use Permit Application. Through its review of the proposed Project, the Planning Board has determined that the Area 7/8 Development will be consistent with the Town's land use plans and regulations.

12. Other Impacts. There will be no significant socio-economic impacts resulting from this proposed Project. Direct job creation will not change significantly from current levels, but jobs will be maintained for a longer period of time. Demands on local public services range from minimal (e.g., fire protection, police, emergency services) to non-existent (e.g., schools, water). WMNY has negotiated a "Host Municipality Agreement" ("HMA") with the Town, which, along with property taxes, will offset the cost of any public services associated with the Landfill. WMNY has also established a property value protection program entitled Property Protection Program for the Neighborhood of the Landfill. WMNY will employ litter management techniques such as use of daily cover composed of soil or alternative daily cover during the last hour of each business day to control odor, prevent windblown litter, and scavenging of waste from

wildlife. Litter will also be controlled pursuant to the Operation and Maintenance Plan within the Facility Manual.

13. Alternatives. In accordance with SEQRA regulations, the DSEIS contains a discussion of alternatives to the proposed Project. The principal alternatives to the cell development project considered in the DSEIS included alternative sites, alternative sizes, alternative design and layout, alternative land use, and the “no action” alternative. The alternative analysis was guided by the fact that the cell development was within an existing solid waste landfill. The potential impacts associated with the Project have been identified and when a potentially significant adverse impact was identified, reasonable mitigation measures have been incorporated into the design and operation. Alternative designs have been considered and evaluated and the alternative of developing the Project at the Project Site best meets the WMNY’s objectives and is otherwise an appropriate use of the Project Site.

14. General. The Project is appropriate for the Project Site, including for the reasons previously referenced in this findings statement, because it is an appropriate use as contemplated by the Zoning Code and the Town’s Comprehensive Plan, and because it uses Project Site resources in the most appropriate manner under the circumstances. The Board further finds as it previously indicated in this Findings Statement, that any potential adverse traffic, noise, visual, surface and groundwater, dust, landfill gas/odors, terrestrial and wetland habitat and wetland habitat and wildlife impacts have been properly addressed, including by the design features and Project operation mitigation measures proposed. The Planning Board finds that the environmental issues have been properly addressed, and that the Project has properly balanced mitigation with the potential environmental impacts.

Name of Action: Waste Management of New York (“WMNY”): Chaffee Landfill Area 7/8 development (“Area 7/8 Development)

CERTIFICATION OF FINDINGS TO APPROVE/FUND/UNDERTAKE

Having considered the DSEIS, FSEIS, public/legislative hearing transcripts, the NYSDEC Findings and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;
2. Consistent with the social, economic, and other essential considerations from among the reasonable alternatives thereto, the Project is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the DSEIS and FSEIS; and
3. Consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating mitigative measures which were identified as practicable.

Town of Sardinia Planning Board
Name of Agency

Title of Responsible Official

Name of Responsible Official

Date

Address of Agency

EXHIBIT C

TOWN OF SARDINIA PLANNING BOARD
RESOLUTION RECOMMENDING TO THE TOWN BOARD
July 19, 2023

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed expansion and modification of its current landfill property in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet, and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, the Project requires rezoning portions of the parcels on which the proposed Borrow Areas are located from AR (Agricultural-Residential) to BL (Business-Light Industrial) (“Re-zoning”), a modification of WMNY’s Special Use Permit (“Special Use Permit Modification”) and Site Plan approval for the construction of the proposed modifications (“Site Plan Approval”); and

WHEREAS, the Re-zoning will require adoption of a local law by the Town Board amending the Town Zoning Map and the Special Use Permit Modification will require approval of the Town Board; and

WHEREAS, pursuant to Zoning Code § 115-107(B), the Planning Board is tasked with making an advisory report to the Town Board on the proposed amendment to the Zoning Code, including any amendment to any zoning district as designated on the Town Zoning Map; and

WHEREAS, pursuant to Zoning Code § 115-87(B), the Planning Board is tasked with making a recommendation to the Town Board on any application for a Special Use Permit; and

WHEREAS, the Planning Board has reviewed the Project, including the applications for Re-zoning, Special Use Permit Modification and Site Plan Approval at numerous meetings over an approximately one-year period; and

WHEREAS, the Project has also been subject to extensive review by the New York State Department of Environmental Conservation (“NYSDEC”), as lead agency pursuant to the State Environmental Quality Review Act (“SEQRA”), the Erie County Department of Environment and Planning, pursuant to General Municipal Law § 239-m, and MRB Group (collectively, “Reviews”), and the Planning Board has reviewed and duly considered the comments and recommendations made as part of such Reviews;

NOW THEREFORE BE IT RESOLVED, that, pursuant to Zoning Code § 115-107(B), the Planning Board hereby recommends to the Town Board that it adopt a local law re-zoning the Borrow Area parcels from AR to a BL for the following reasons:

- The parcels, or portions of parcels, to be rezoned, while currently zoned AR, are currently owned by WMNY and are not used for either agricultural or residential purposes;

- The Borrow Areas are a necessary component of the proposed Project to provide a source of clean soil cover for the ongoing and expanded Landfill operations;
- The utilization of these areas to provide such soils is a low-intensity use that will allow these parcels to be put to productive use while not negatively impacting surrounding properties;
- WMNY has made requested modifications to the northern borrow area to relocate the location of dry hydrants along Hand Road and provided a Maintenance and Traffic Plan for the crossing between the existing Landfill and the northern Borrow Area;
- The re-zoning of the Borrow Areas is consistent with the Town's Comprehensive Plan, which recognizes that the Landfill is an established permitted land use within the Town and, as most recently amended in 2021, acknowledges the proposal to re-zone the borrow areas as part of the planned expansion and modification of Landfill; and

BE IT FURTHER RESOLVED, that, pursuant to Zoning Code § 115-87(B), the Planning Board hereby recommends that the Town Board approve the Special Use Permit Modification application as submitted by WMNY for the Project, as said Project conforms to standards for issuance of a Special Use Permit for a Municipal Solid Waste Landfill set forth in Zoning Code § 115-62 and § 115-86(B), specifically:

- The expansion and modification of the Landfill, which will not increase the volume of waste deposited annually over present levels and has received all necessary approvals from NYSDEC following an extensive environmental review, will not pose a threat health, safety or general welfare of the community as required by Zoning Code § 115-62(B)(1)-(2) and § 115-82(B)(1);
- The Landfill will continue to conform to all of the dimensional requirements set forth in Zoning Code § 115-62(B)(3)-(5);
- The Landfill will continue to recapture methane gas for beneficial reuse as required by Zoning Code § 115-62(B)(6);
- The operation of the Landfill will remain subject to terms of the [reviewed and revised] Host Municipality Agreement ("HMA") required by Zoning Code § 115-62(B)(7);
- The Landfill will continue to be operated by WMNY, an entity with an established history of satisfactorily operating the Landfill and providing the financial security required by Zoning Code § 115-62(B)(8);
- The Project will not reduce the existing workforce levels at the Landfill and thus will not impact the requirements of Zoning Code § 115-62(B)(9);
- The Landfill will continue to operate pursuant to the NYSDEC approved Facility Manual which addresses the requirement for an adequate management plan required by Zoning Code § 115-62(B)(10);
- Visual impacts related to the Project were thoroughly evaluated, as required by Zoning Code § 115-62(B)(11), as part of the SEQRA review process, including the completion of a visual resource assessment, which concluded that the relatively modest proposed expansion of the existing Landfill will not cause a significant change in the visual impacts of the Landfill;
- The Property Protection Plan included in the HMA will continue to ensure that any potential diminution of property values are mitigated as required by Zoning Code § 115-62(B)(12) and § 115-86(B)(2);
- The relatively modest expansion and modification of the existing Landfill, will remain compatible with existing use of the Landfill and surrounding properties as required by

Zoning Code § 115-86(B)(3) and adequate buffering and landscaping will continue to be maintained as required by Zoning Code § 115-86(B)(4);

- Overall truck traffic will not significantly increase as a result of the Project, WMNY has provided an adequate Maintenance and Traffic Plan, and adequate off-street parking and loading will continue to be provided as required by Zoning Code § 115-86(B)(5).

EXHIBIT D

Town of Sardinia Planning Board
_____, 2023
Waste Management of New York, LLC
Chaffee Facility Area 7/8 Development

DETERMINATION AND FINDINGS OF THE TOWN OF SARDINIA PLANNING BOARD PURSUANT TO ARTICLE IX OF THE TOWN OF SARDINIA ZONING ORDINANCE FOR THE WASTE MANAGEMENT AREA 7/8 DEVELOPMENT SITE PLAN

WHEREAS, Waste Management of New York, LLC (“WMNY”) has applied for several approvals from the Town of Sardinia (“Town”) in connection with the proposed Area 7/8 Development at current landfill property located at 10860 Olean Road, Sardinia, New York, 14030 in the Town (“Landfill”) to construct an additional 19.1-acre footprint contiguous with the existing Landfill and a 9.5 acre area over the southern side slope of the closed portion of the Landfill, increase the maximum height of the Landfill by 30 feet, and utilize certain areas adjacent to the current Landfill as borrow areas (“Borrow Areas”) to provide soil for Landfill operations (“Project”); and

WHEREAS, Section 115-75 of the Town Zoning Code requires Site Plan review and approval prior to the development of individual parcels for commercial activities; and

WHEREAS, Section 115-87(A) of the Zoning Code requires that applications for a new or modified Special Use Permit be accompanied by an application for Site Plan approval; and

WHEREAS, Section 115-77 of the Zoning Code provides that the Planning Board review all site plans for compliance with Article IX of the Zoning Code; and

WHEREAS, in May 2022, WMNY submitted a Site Plan Approval request (the “Site Plan Application”) pursuant to Article IX of the Zoning Code with respect to the Project as part of an application to modify its current Municipal Solid Waste Landfill permit pursuant to § 115-62 of the Zoning Code (“Special Use Permit Application”); and

WHEREAS, on November 30, 2022, the Town referred a full statement of the Project, including the request for Site Plan approval, to the Erie County Department of Environment and Planning (“ECDEP”) pursuant to General Municipal Law § 239-m, which returned certain comments to the Town on December 30, 2022; and

WHEREAS, on December 14, 2022, at the request of the Planning Board, WMNY submitted a revised drawing depicting temporary and final location of the dry hydrant well as a Maintenance and Traffic Plan for Hand Road for consideration at the Planning Board’s December 21, 2022 meeting; and

WHEREAS, on January 17, 2023, WMNY submitted additional information to the Town of Sardinia in support of its Site Plan Application and Special Use Permit Application; and

WHEREAS, on March 9, 2023, WMNY submitted responses to ECDEP's comments to the Town; and

WHEREAS, the Project was reviewed by the Planning Board over the course of numerous meetings; and

WHEREAS, the Planning Board has reviewed the Site Plan Application as well as the Draft Supplemental Environmental Impact Statement ("DSEIS"), Final Supplemental Environmental Impact Statement ("FSEIS"), the NYSDEC Findings Statement, ECDEP's comments and WMNY's responses thereto, analysis of the Town's consulting engineer, and other relevant documents and information concerning the Project and, on July 19, 2023, adopted its own Findings Statement pursuant to SEQRA concluding that the Project is consistent with social, economic and other essential considerations and that, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating, as conditions to the decision, those mitigative measures which were identified as practicable; and

WHEREAS, on July 19, 2023, the Planning Board adopted a resolution recommending to the Town Board that the Borrow Areas be re-zoned from AR – Agricultural-Residential to BL – Business-Light Industrial and it approve the Special Use Permit Application;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE PLANNING BOARD AS FOLLOWS:

Section 1: Based upon review of the Site Plan Application and its related materials, the Planning Board hereby determines that all of the provisions of the Zoning Code have been complied with in regard to said application.

Section 2: The Planning Board has reviewed the Standards for Issuance of a Site Plan approval contained in § 115-80 of the Zoning Code and the Town Planning Board bases its decision to APPROVE the Site Plan Application based on the following FINDINGS which address the applicable factors as enumerated in the Zoning Code:

- A. *Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.* With the exception of the Borrow Areas (discussed below), the WMNY property on which the Project is located has long been utilized as a municipal solid waste landfill, and the Project will not change that use. No additional buildings, lighting or signage is proposed. Rather, the site changes proposed will expand the existing use of the property as a landfill and are thus consistent with that existing use. With respect to the Borrow Areas, subject to those parcels being re-zoned as recommended by the Planning Board, those parcels will be properly zoned. Moreover, the use of the Borrow Areas, which are currently

unimproved, will be limited to the excavation of soil for use on the Landfill, and no buildings or other improvements are proposed to be constructed. Overall, the Planning Board finds that the Site Plan as designed will utilize the Project site resources in the most appropriate manner under the circumstances.

B. *Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.* Potential transportation and traffic impacts resulting from the construction and operation of the Project were evaluated in the DSEIS (incorporated into the FSEIS) and thoroughly addressed in the Planning Board's SEQRA Findings Statement. As noted therein, there will be increased truck traffic crossing Hand Road from the proposed northern Borrow Area to the Landfill. However, the number of trucks hauling solid waste to the landfill is not expected to increase compared to those historically entering the site since the approved design capacity of the landfill is not changing. WMNY will continue to limit truck traffic and has provided the Town with a satisfactory Maintenance and Transportation Plan to ensure truck traffic crossing Hand Road will be conducted safely. The Planning Board, as well as the Town Highway Superintendent, finds that, with these measures, the proposed Site Plan adequately and appropriately addresses traffic and circulation on the Project site.

C. *Location, arrangement, appearance and sufficiency of off-street parking, loading and drive-through lane stacking.* Based upon review of the Site Plan Application and related materials, no changes are being proposed with respect to parking or loading on the Project site, and therefore the Planning Board concludes that approval of the Site Plan satisfies this criteria.

D. *Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walks and walkway structures, control of intersections with vehicular traffic and overall pedestrian mobility and convenience.* The Project is not anticipated to impact pedestrian traffic access and circulation to the surrounding area. The nature of the existing and proposed expanded Landfill operations do not generate pedestrian traffic, and the area surrounding the Project site is not characterized by significant pedestrian activity. Nevertheless, as noted above, WMNY will continue to limit truck traffic entering and exiting the Landfill and has provided a Maintenance and Transportation Plan to ensure safe crossings of Hand Road from the northern Borrow Area to the Landfill, which measures will help ensure that what little pedestrian activity may exist may safely continue.

E. *Adequacy of stormwater and drainage facilities.* As addressed in the Planning Board's SEQRA Findings Statement, the Project has potential to cause increased runoff and erosion on the Project Site, but such impacts will be minimized due to the Project's adherence to WMNY's SPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activities ("SPDES Permit") and its Stormwater Pollution Prevention Plan ("SWPPP").

F. *Adequacy of water supply and sewage disposal facilities.* No issues with water supply or sewage disposal are anticipated with the Project.

G. *Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between adjoining lands, including the maximum retention of existing vegetation.* As analyzed in the Planning Board's SEQRA Findings Statement, the Project is not expected to result in any significant impacts to visual or aesthetic resources, and adequate buffering and landscaping will be put into place to minimize any such impacts.

H. *Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.* WMNY has addressed the Planning Board's comments concerning the potential impacts of the development of the northern Borrow Area on the existing fire water pond on that by confirming that that area will revert to being a pond upon completion of reclamation and agreeing to relocate the fire water pond standpipe on the parcel. The Planning Board, as well as the Fire chief, are satisfied that this condition is satisfied.

I. *Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.* As noted above, the Project has the potential to cause increased runoff and erosion, but such impacts will be minimized by adherence to WMNY's SPDES Permit and SWPPP. During the construction, operation and closure phases of the Project, erosion and sediment control techniques and procedures will be employed to reduce and control erosion and the transport of sediments from excavated areas or stockpiles. The proposed landscaping, and interim grading, to be utilized will help reduce erosion, and where appropriate, sediment control devices, such as sedimentation basins, silt fences, and rock dams in drainage channels, will be installed to control sediment transport. The Planning Board is satisfied that this provision has been adequately addressed.

J. *Overall impact on the neighborhood, including compatibility of design considerations.* The WMNY property on which the Project has long been utilized as a municipal solid waste landfill, and the Project will not change that use or otherwise introduce any incompatible development to this area of the Town.

K. *The provision of open space within multifamily and manufactured home parks for the recreational needs of the residents of such developments.* This criteria is not relevant to the Project.

Section 4: Based upon the above Findings, the Planning Board hereby APPROVES the Site Plan Application of Waste Management of New York, LLC for the Project as presented.