

CITY OF MASON CITY
Growth Development & Planning Department

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FOR IMMEDIATE RELEASE

ZONING BOARD OF ADJUSTMENT APPROVES CONDITIONAL USE PERMIT
FOR WASTE-TO-ENERGY PROJECT
Approval Subject to Thirty Conditions

December 21, 2011 – Mason City, IA – On December 20, the Mason City Zoning Board of Adjustment voted 5-1 to approve a Conditional Use Permit for a waste-to-energy facility slated for construction on 43rd St. SW. The plant will be operated by Energy Recovery Specialists, LLC. and will convert the municipal waste stream from the Landfill of North Iowa and tires from the LNI service area into synthetic gas using a pyrolytic process. The synthetic gas will be burned in a turbine to generate electricity for sale to Alliant Energy.

The approval of the Conditional Use Permit was subject to the thirty conditions outlined below. In addition to these conditions, the Board voted unanimously to request a consultation from the Iowa Department of Public Health regarding the public health impacts anticipated as a result of the plant. This consultation will be completed when the information resulting from Conditions 29 and 30 are provided to the Board.

The approval is subject to these conditions:

1. The Conditional Use Permit is specific to the Energy Recovery Specialists, LLC (ERS) waste-to-energy project represented in the application dated September 9, 2011 and as supplemented by additional information provided through the date of approval only, and shall not apply to any other waste transfer function, as defined in the Mason City Zoning Ordinance on the date of approval, that may seek to locate or operate on the subject property. The Conditional Use Permit is likewise applicable only to the property legally described as THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWENTY (20) TOWNSHIP NINETY-SIX (96) NORTH, RANGE TWENTY (20) WEST OF THE 5TH P.M. EXCEPT PARCEL "B" AS DESCRIBED AND DEPICTED ON THE DECEMBER 7, 2002 SURVEY SIGNED OCTOBER 9, 2002 FILED DECEMBER 3, 2002 AS DOCUMENT 2002-12865; PARCEL NO. 07-20-400-013-00. This condition is not meant to disallow any future permitted form or function that, as a result of changes in the City's Zoning Ordinance or other applicable regulations, may be permitted on this property. Any expansion or intensification of the approved function (a.k.a. Conditional Use) will require additional review and approval by the Mason City Zoning Board of Adjustment.
2. ERS shall obtain all State and Federal regulatory permits and approvals related to the construction and operation of a waste-to-energy facility utilizing the pyrolysis process on the subject property. ERS shall at all times comply with all terms, conditions, performance standards, emissions limits, etc required in any regulatory permits or approvals related to the construction and operation of the Conditional Use.

3. ERS shall operate the facility in strict compliance with all State and Federal rules and regulations and share the results of any required compliance testing with the Zoning Board of Adjustment through the Growth Development & Planning Department. Should the required interval of compliance testing be greater than quarterly, ERS shall submit third-party, independently conducted monitoring and compliance reports quarterly to the Zoning Board of Adjustment, through the Mason City Growth Development and Planning Department. This testing shall be completed at ERS's sole expense. The testing shall be completed by an independent consultant selected from a pool of consultants identified by the Growth Development & Planning Department as being qualified to perform the monitoring.
4. ERS shall provide written notice to the Zoning Board of Adjustment, through the Growth Development & Planning Department, of any request or application to modify the terms of any construction or operating permit issued by the State of Iowa or any agency of the United States. Such notice shall be made within 5 working days of such request or application and shall include the specific terms to be modified and rationale for such request or application.
5. ERS shall at all times operate all equipment in a manner consistent with the manufacturer's specifications.
6. The ERS facility shall only accept municipal solid waste diverted from the Landfill of North Iowa and scrap tires from the Landfill of North Iowa region for use as feed stock in the syngas production process. The ERS facility shall not accept any municipal solid waste, scrap tires or other waste products for use in the production process from outside the Landfill of North Iowa service region. "Landfill of North Iowa service region" shall be defined as that area served by the Landfill of North Iowa on the date the waste is received at the ERS facility.
7. The ERS facility shall not accept or process hazardous, bio-medical, radioactive, explosive or similar materials, nor any other material that could not be accepted and buried at the Landfill of North Iowa. Any such materials that inadvertently enter the facility within the otherwise acceptable municipal solid waste stream shall be handled and disposed of in accordance with all applicable regulations and may not be used in the syngas production process.
8. All loads of waste accepted at the ERS facility shall be fully enclosed or securely tarped to contain waste and debris during transit to the facility.
9. A plan for ash disposal that addresses containment, storage, transfer and final disposal destination shall be submitted to and approved by the Iowa Department of Natural Resources. ERS shall provide a copy of the plan to the Zoning Board of Adjustment, through the Mason City Growth Development and Planning Department, for comment prior to approval by the Iowa Department of Natural Resources.
10. ERS shall, at all times, keep the property and premises in a good state of repair and appearance.
11. Outdoor storage of waste materials shall not be allowed, except for those materials to be recycled requiring temporary outdoor storage. Any outdoor storage of recyclables must be

within fully enclosed and sealable refuse handling containers to reduce health, safety, pest and odor impacts. No outdoor storage of municipal solid waste is allowed.

12. Any allowed outdoor refuse handling containers shall be located at the rear of the property and shall be fully screened from eye-level view from all sides of the property by a solid fence.
13. Tires shall be stored indoors and meet all applicable requirements of City codes and the Fire Marshal.
14. Approval of a final site plan for the ERS facility is subject to the City's Development Review Committee review and approval process and shall meet all applicable City, State and Federal codes and ordinances. The site plan provided in the application is preliminary and provided as example only. The minimum front yard and rear yard building setbacks shall be 100 ft. The minimum side yard setback on the east side of the parcel shall be 70 ft. The minimum side yard setback on the west side of the parcel shall be 30 ft.
15. All parking areas, access drives, vehicular use areas and refuse handling container areas shall be paved with all-weather hard surface materials approved by the City's Development Review Committee.
16. ERS shall prepare, as a part of their site plan approval application packet, a traffic study. Specific elements to be included in the study shall be determined by the Mason City City Engineer. The traffic study will assess the impact of the facility on traffic patterns in the neighborhood and on the site. The traffic study will be utilized by City Staff to assess and guide the physical layout of the site to ensure sufficient internal stacking and maneuvering space for trucks entering and leaving the ERS facility to minimize on-street stacking of vehicles and other traffic problems.
17. Any easements required to provide public utilities or infrastructure to the property to support the ERS facility shall be conveyed to the City, at no cost to the City, prior to issuance of a building permit for the facility.
18. A plant closure plan specific to the ERS facility shall be submitted to the Zoning Board of Adjustment through the Mason City Growth Development & Planning Department prior to issuance of an occupancy permit by the Mason City Building and Neighborhood Services Department. The plan shall identify how the facility would be abandoned or dismantled and how materials and residuals would be disposed of. The plan shall anticipate and include environmental clearance testing.
19. ERS shall provide evidence of insurance that would fully remediate any future environmental contamination of the site to applicable State and Federal standards, if deemed necessary, through independent testing completed at ERS's sole expense. The City shall be named as an additional insured and the certificate of insurance shall be submitted to the Mason City Growth Development & Planning Department annually.
20. The Conditional Use Permit shall be null and void 18 months from the date of the Zoning Board of Adjustment's approval unless construction has commenced and foundations are in the ground. An extension shall be granted by the Zoning Board of Adjustment if substantial progress can be documented.

21. ERS shall employ continuous stack monitoring for toxics such as dioxins, furans, mercury and other heavy metals with monthly, versus annual, reporting to IDNR. In addition, ERS shall create and maintain a web site where the public, the City and any other interested parties can retrieve monitoring results in as near real time as is possible. The reporting system shall be designed to hold at least 5 years of monitoring records.
22. ERS shall comply with any new air or water quality standards established by the EPA applicable to this type of facility within the time frame set by the EPA for compliance. ERS shall comply with the new air or water quality standards whether or not it would be exempt as an existing facility as of the date of the enactment of the new standard.
23. Upon presentation of proper credentials, ERS shall allow any representative or agent of the Zoning Board of Adjustment or the City of Mason City to:
 - a. Enter upon the property legally described in Condition Number 1, above, or any location where records may be kept when such records are required under the conditions of this Conditional Use Permit or any construction or operations permit issued for the ERS facility;
 - b. Have access to and copy, at reasonable times, any such records; that must be kept under the conditions of this Conditional Use Permit or any construction or operations permit issued for the ERS facility;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and pollution control equipment), practices, or operations regulated or required under the conditions of this Conditional Use Permit or any construction or operations permit issued for the ERS facility;
 - d. Sample or monitor, at reasonable times, substances or operating parameters for the purpose of ensuring compliance with the Conditional Use Permit or any construction or operations permits issued for the ERS facility, or any other applicable requirements.
24. Should any construction or operating permit issued by the State of Iowa or any agency of the United States require notification of excess emissions or deviations from the terms of the permit, ERS shall provide the same notice, in the same form, to the Zoning Board of Adjustment, through the Growth Development & Planning Department of the City of Mason City, within the same timeframe established by the applicable permit.
25. Any development agreement by and between ERS and the City of Mason City shall include therewith, and be subject to, the conditions of the Conditional Use Permit as approved by the Zoning Board of Adjustment on December 20, 2011 and as may be modified in the future during the period in which the development agreement is in force.
26. The Growth Development & Planning Department shall make an annual report to the Zoning Board of Adjustment concerning the applicant's compliance with the Conditional Use Permit during the preceding year. The Zoning Board of Adjustment may modify or revoke the permit if, after a reasonable period of time, ERS has not remedied any non-compliance. The Zoning Board of Adjustment shall determine the "reasonable period of time" during the annual review and shall consider the severity of the non-compliance, the impact of the non-compliance of the community, and any other factors presented by ERS.
27. If any condition herein is in conflict with any State or Federal regulation or permit approval, other than those conditions defining additional testing and reporting requirements, ERS may request a review and modification of that condition from the ZBA.

28. If any condition herein is held to be illegal, unconstitutional, or otherwise unenforceable, the remainder of the conditions shall still apply.
29. When applying for any construction or operating permit necessary for the facility, ERS shall utilize pilot test data generated from processing waste from the LNI waste stream, mixed to reflect a representative sample of MSW and tires, to estimate criteria pollutant and HAP's air emissions levels. ERS shall provide to the Zoning Board of Adjustment, through the Growth Development & Planning Department, the results of the pilot test on or before the date such application is submitted.
30. The applicant shall prepare, at their sole expense, a dispersion model that identifies an estimate of the ambient air concentrations of contaminants in the area surrounding the proposed facility. This model shall be provided to the Iowa DNR as a part of their permitting application. The applicant shall also provide a copy to the Zoning Board of Adjustment, through the Growth Development & Planning Department at the time the permit application is submitted.

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