



For a thriving New England

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April 14, 2021

**By Email**

Department of Environmental Management  
Office of Land Revitalization and Sustainable Materials Management  
235 Promenade Street  
Providence, RI 02908  
Attention: Yan Li

Re: *MedRecycler Application for Medical Waste Treatment Facility License*

Dear Ms. Li:

Thank you for the opportunity to submit comments regarding MedRecycler-RI, Inc.'s ("MedRecycler") revised application for a medical waste treatment facility license ("Application") pursuant to R.I.G.L. § 23-18.9-9 to construct and operate a medical waste pyrolysis facility at 1600 Division Road in West Warwick ("MedRecycler Facility" or "Facility"). Conservation Law Foundation ("CLF") opposes the Application and urges the Rhode Island Department of Environmental Management ("RIDEM") to deny the Application.

CLF is a nonprofit, member-supported environmental organization working to conserve natural resources, protect public health, and build healthy communities in Rhode Island and throughout New England. CLF's Zero Waste Project aims to protect New England communities from dangerous and problematically sited waste facilities, including all facilities that process waste with high-heat technologies, including incineration, gasification, or pyrolysis.

CLF respectfully requests that RIDEM deny the Application and refuse to grant MedRecycler a medical waste treatment facility license for the following reasons:

1. The proposed MedRecycler Facility would pose unnecessary risks to public health and the environment;
2. The Application does not comply with Rhode Island Solid Waste Statutes (R.I.G.L. § 23-18.9, *et seq.*) because it does not include a certificate of final determination from the town of West Warwick or a certificate of approval from the State Planning Council;
3. The Application does not comply with Rhode Island Medical Waste Regulations (250 R.I. Code R. § 140-15-1) because MedRecycler has not proven, "on the basis of thorough tests," that the "alternative technology" the Facility will use to treat and destroy regulated

- medical waste (“Medical Waste”) will be protective of the environment or that it will ensure the health, safety, and welfare of employees and the general public;
4. The Application does not comply with Rhode Island Solid Waste Regulations (250 R.I. Code R. § 140-05-1) because there is no “buffer zone” around the proposed Facility to mitigate nuisance impacts and because the Application does not demonstrate that the proposed Facility will be designed, operated, and maintained in a manner that will protect health and safety; and
  5. All supporting documentation has not been made available for public comment.

MedRecycler has proposed to use pyrolysis to “convert” Medical Waste into fuel, oils, tars, ash, and char; and to then burn those materials to generate heat, electricity, and an additional waste product called “slag.” Despite the health and environmental hazards associated with waste pyrolysis, MedRecycler has failed to adequately test its technology or to comply with basic statutory and regulatory requirements in submitting its Application.

## **I. Background**

### **A. MedRecycler’s Application and the Proposed Facility**

On July 28, 2020, MedRecycler submitted to DEM its revised Application for a medical waste treatment facility license.<sup>1</sup> If the Application is granted, the proposed MedRecycler Facility will accept 70 tons of Medical Waste per day; heat that Medical Waste to 1,472–1,652 degrees Fahrenheit in a pyrolysis chamber to generate gaseous hydrocarbons (“syngas”), oils, tars, ash, and char; and burn each of those resulting materials.<sup>2</sup>

MedRecycler plants to accept Medical Waste in sealed containers, which MedRecycler will feed into a “shredder/macerator” without opening.<sup>3</sup> The Medical Waste accepted by MedRecycler will include cultures and stocks, pathological and anatomical waste, human waste, blood and blood products, sharps, animal waste, chemical waste, “incinerate only” wastes, unused sharps, spill cleanup material, and mixtures of Medical Waste and other non-hazardous waste.<sup>4</sup> Generally speaking, hospitals, laboratories, mortuaries, animal research centers, blood banks, and nursing homes are all significant sources of Medical Waste.<sup>5</sup> Up to eighty-five percent of

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<sup>1</sup> See Application at 1, 3, available at <http://dem.ri.gov/programs/benviron/waste/pn/pn-medrecycler-rev.pdf>.

<sup>2</sup> *Id.* at 8–10, 19–20.

<sup>3</sup> *Id.* at 14–16, 41.

<sup>4</sup> *Id.* at 46; see also 250 R.I. Code R. § 140-15-1.2(C).

<sup>5</sup> See World Health Organization, *Health-Care Waste* (Feb. 8, 2018), <https://www.who.int/news-room/fact-sheets/detail/health-care-waste>.

Medical Waste is general non-hazardous waste as opposed to infectious or toxic waste.<sup>6</sup> And about twenty-five percent of Medical Waste is plastic.<sup>7</sup>

After MedRecycler shreds the Medical Waste, it will route the shredded waste through a “thermal dryer” and then feed it into one of two pyrolysis chambers.<sup>8</sup> MedRecycler plans to generate heat for the thermal dryer and the pyrolysis chambers by burning syngas, methane gas, and/or liquified propane gas.<sup>9</sup> According to the Application, MedRecycler will heat the shredded, dried Medical Waste in the absence of oxygen in the pyrolysis chamber to generate syngas, tars and oils, and ash and char.<sup>10</sup> The syngas will be routed through coolers, tar condensers (to remove tars), oil condensers (to remove oils), scrubbers intended to remove particulate matter, and then to a storage tank.<sup>11</sup>

MedRecycler plans to burn syngas in three different locations at the Facility: burners to heat the thermal dryer, burners to heat the pyrolysis chambers, and engines located outside the facility that will burn syngas to generate electricity.<sup>12</sup> MedRecycler also plans to burn the tars, oils, ash, and char in a “vitrification furnace,” which will also supply heat to the pyrolysis chambers.<sup>13</sup> Exhaust from the thermal dryer, the pyrolysis chamber, the engines, and the vitrification furnace is sent to a “Thermal Oxidizer” where the gasses “are conditioned for release.”<sup>14</sup>

Despite MedRecycler’s repeated claims that its pyrolysis technology is a “closed system,”<sup>15</sup> the MedRecycler Facility will produce air emissions (including up to 24,585 tons of carbon dioxide per year), slag (a solid waste product generated from burning ash and char in the vitrification furnace, and which MedRecycler describes as “a glassy inert product”), waste water (which MedRecycler states it will “recycle[] through the Pyrolysis System”), and a “carbon based char.”<sup>16</sup> MedRecycler also states in the Application that after “waste is processed, treated, and destroyed, there may be small amounts of slag on the floor.”<sup>17</sup> Although MedRecycler claims in

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<sup>6</sup> *Id.*

<sup>7</sup> See Sarah Gibbens, *Can Medical Care Exist Without Plastic?*, National Geographic (Oct. 4, 2019), <https://www.nationalgeographic.com/science/article/can-medical-care-exist-without-plastic>.

<sup>8</sup> Application at 17–19.

<sup>9</sup> *Id.* at 19.

<sup>10</sup> *Id.* at 19–23.

<sup>11</sup> *Id.* at 22–24.

<sup>12</sup> *Id.* at 17–20; 26–28.

<sup>13</sup> *Id.* at 20.

<sup>14</sup> *Id.* at 26, 53.

<sup>15</sup> See, e.g., *id.* at 28, 41.

<sup>16</sup> *Id.* at 40, 54.

<sup>17</sup> *Id.* at 51.

the Application that the slag and char will be “inert,” it does not describe any testing protocol to verify the composition of the slag or char. And despite stating that the char “will be recycled in Hot Mix Asphalt,”<sup>18</sup> the Application does not provide a detailed disposal plan for the slag or char.

Technotherm, Inc. (“Technotherm”) will provide the pyrolysis equipment for the proposed MedRecycler Facility.<sup>19</sup> According to the Application, Technotherm’s technology has been used in facilities outside the U.S. that process waste from an animal slaughterhouse, plastic waste, and wood biomass.<sup>20</sup> Nothing in the Application indicates that Technotherm’s technology has previously been used to process Medical Waste or to burn syngas, tars, oils, ash, or char derived from Medical Waste.

The location for the proposed MedRecycler Facility—1600 Division Road—is a multi-tenant building in West Warwick<sup>21</sup> that houses, among other businesses, an athletic equipment company,<sup>22</sup> a craft brew supply store,<sup>23</sup> and an electronic health records service.<sup>24</sup> A childcare center is located approximately three hundred feet from 1600 Division Road at 1635 Division Road.<sup>25</sup>

## **B. RIDEM Notice of Intent**

On January 11, 2021, RIDEM issued a Notice of Intent to Approve the Application (“Notice of Intent”).<sup>26</sup> In the Notice of Intent, RIDEM communicated its “intent to approve the license pursuant to R.I.G.L. 23-18.9-9.”<sup>27</sup> The Notice of Intent describes the statutorily mandated public comment period and explains that the tentative approval is subject to a set of fourteen conditions. Those conditions include, but are not limited to, MedRecycler’s compliance with West Warwick safety and zoning requirements and state and federal regulations; the submission of a “Contingency Plan” approved by the West Warwick Fire Department; “pre-operational testing of the system to verify that treatment and containment of the waste is sufficient to protect workers as well as the general public from exposure to pathogens”; and submission of “detailed protocols

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<sup>18</sup> *Id.* at 54.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.*

<sup>21</sup> See MedRecycler, Q&A, <http://medrecycler.com/q-a/>.

<sup>22</sup> See <https://www.everythingtrackandfield.com/>.

<sup>23</sup> See <https://bsgcraftbrewing.com/CraftBrewing-Warehouse-Locations>.

<sup>24</sup> See <https://amazingcharts.com/>.

<sup>25</sup> See <http://playgroundprep.com/Contact.php>.

<sup>26</sup> See Notice of Intent, available at <http://dem.ri.gov/programs/benviron/waste/pn/pn-medrecycler-noi.pdf>.

<sup>27</sup> *Id.* at 1.

for routine testing of the system at least every 40 hours of operation.”<sup>28</sup> RIDEM also reserved the right “to issue a denial or approval of the final application.”<sup>29</sup>

### **C. Governing Law**

MedRecycler’s Application is governed by Rhode Island statutes regarding refuse disposal (“Solid Waste Statutes”), R.I.G.L. § 23-18.9, *et seq.*, Rhode Island Medical Waste Regulations, 250 R.I. Code R. § 140-15-1, and Rhode Island Rules and Regulations for Solid Waste Management Facilities and Organic Waste Management Facilities (“Solid Waste Regulations”), 250 R.I. Code R. § 140-05-1.<sup>30</sup> Under the Solid Waste Statutes, “[n]o person shall operate any solid waste management facility” without a license granted by RIDEM, and RIDEM “shall grant licenses” only to those private facilities that RIDEM “determines meet all relevant criteria established by regulation to protect human health and the environment.”<sup>31</sup> The relevant criteria applicable to Medical Waste facilities are set out in the Medical Waste Regulations and the Solid Waste Regulations. An Application to construct or operate a solid waste management facility must also satisfy Application requirements set out in R.I.G.L. § 23-18.9-9.

Medical Waste is a “special category of solid waste”<sup>32</sup> for which the general assembly has found a need for heightened regulations and “additional enforcement vehicles.”<sup>33</sup> Rhode Island Medical Waste Regulations are intended, among other purposes, to “protect the public health and the environment from the effects of improper management of medical waste through the assurance of proper, adequate and sound management of regulated medical waste.”<sup>34</sup> They apply to owners and operators of facilities that treat, destroy, or dispose of Medical Waste.<sup>35</sup>

Medical Waste facilities include “destination,” “destruction,” “transfer,” and “treatment” facilities.<sup>36</sup> Each of these facilities is subject to Rhode Island Solid Waste Regulations,<sup>37</sup> which require that a license applicant “must demonstrate their ability to comply with all General Operating Standards” set forth in the Solid Waste Regulations.<sup>38</sup>

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<sup>28</sup> *Id.* at 2–4.

<sup>29</sup> *Id.* at 5.

<sup>30</sup> See Application at 3; Notice of Intent at 1–2.

<sup>31</sup> R.I.G.L. §§ 23-18.9-8(a)(1) & 8.1(b).

<sup>32</sup> *Id.* § 23-19.12-3(7).

<sup>33</sup> *Id.* § 23-19.12-1(b).

<sup>34</sup> 250 R.I. Code R. § 140-15-1.2(A)(1).

<sup>35</sup> *Id.* § 140-15-1.15(A).

<sup>36</sup> *Id.* §§ 140-15-1.5(A)(9), (11), (41), & (46).

<sup>37</sup> *Id.* §§ 140-15-1.5(A)(9), (11), (41), & (46).

<sup>38</sup> 250 R.I. Code R. § 140-05-1.7(B).

## **II. The Proposed MedRecycler Facility Would Pose Unnecessary Risks to Public Health and the Environment.**

### **A. Waste Pyrolysis is Not “Clean” Nor Does it Generate Renewable Energy.**

MedRecycler’s proposed pyrolysis process is tantamount to burning 70 tons of Medical Waste per day. By heating Medical Waste to more than 1,400 degrees Fahrenheit in the pyrolysis chamber, MedRecycler will generate waste-derived syngas, tars, oils, ash, and char.<sup>39</sup> MedRecycler plans to then burn each of those products onsite at 1600 Division Road.<sup>40</sup> Every ton of waste that MedRecycler accepts will be pyrolyzed in the absence of oxygen, and every ton of material created by that process will be combusted in the presence of oxygen.

Despite MedRecycler’s repeated claims that this process will be “clean,”<sup>41</sup> waste pyrolysis, and the combustion of materials derived from waste pyrolysis, can generate the same toxic and climate-damaging pollutants as traditional “mass-burn” waste incineration. Pyrolyzing mixed waste, especially waste that contains significant proportions of plastic, can form persistent organic pollutants such as polychlorinated furans (“furans”), polychlorinated dibenzodioxins (“dioxins”), and polychlorinated biphenyls (“PCBs”); lead, mercury, and other heavy metals; toxic gases like hydrogen cyanide and carbon monoxide; and nitrogen oxides and sulfur dioxides.<sup>42</sup> These toxics necessarily end up in one or more of the pyrolysis outputs: the syngas, tars, oils, ash, char, and/or slag.<sup>43</sup>

Ash, char, and slag produced during waste pyrolysis usually contain toxics like mercury, lead, and dioxins.<sup>44</sup> Despite claiming that the ash, char, and slag will be “inert,” and that MedRecycler plans to “recycle” the char into asphalt, the Application does not provide any testing protocols to

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<sup>39</sup> See Application at 19–28.

<sup>40</sup> *Id.*

<sup>41</sup> See, e.g., MedRecycler, *Key Facts*, <http://medrecycler.com/overview/>.

<sup>42</sup> See Andrew Rollinson & Jumoke Oladejo, *Chemical Recycling: Status, Sustainability, and Environmental Impacts* 23–27 (2020), [https://www.no-burn.org/wp-content/uploads/CR-Technical-Assessment\\_June-2020.pdf](https://www.no-burn.org/wp-content/uploads/CR-Technical-Assessment_June-2020.pdf); Neil Tangri & Monica Wilson, Global Alliance for Incinerator Alternatives, *Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management* 9 (2017), <https://www.no-burn.org/wp-content/uploads/Waste-Gasification-and-Pyrolysis-high-risk-low-yield-processes-march-2017.pdf>; Natalia Kaminska-Pietrzak & Adam Smolinski, *Selected Environmental Aspects of Gasification and Co-Gasification of Various Types of Waste*, 12 *Journal of Sustainable Mining* 6, 7–11 (2013), available at <https://www.sciencedirect.com/science/article/pii/S230039601530063X>.

<sup>43</sup> See Rollinson & Oladejo, *supra* note 42, at 23–27; Kaminska-Pietrzak, *supra* note 42, at 7–11.

<sup>44</sup> See Tangri, *supra* note 42, at 9, Rollinson & Oladejo, *supra* note 42 at 27.

verify that these materials are non-hazardous.<sup>45</sup> Waste-derived fuels and tars and oils “scrubbed” from those fuels—all of which MedRecycler plans to burn onsite—can contain heavy metals and dioxins.<sup>46</sup> Burning these fuels, tars, and oils can emit more particulate matter, more lead, and more sulfur than burning diesel fuel.<sup>47</sup> These types of emissions are precisely why Rhode Island has a statutorily codified policy against solid waste incineration.<sup>48</sup>

MedRecycler claims that the proposed Facility will generate renewable energy.<sup>49</sup> But burning waste-derived syngas, a key element in MedRecycler’s proposal, releases climate-damaging gases, including carbon dioxide, along with particulate matter, heavy metals, sulfur, and dioxins.<sup>50</sup> Turning Medical Waste that contains up to 25% plastic into fuel, and then burning that fuel, is the functional equivalent of burning fossil fuels. More than ninety-nine percent of plastics are derived from fossil fuels.<sup>51</sup> Burning fuels derived from plastics releases the stored carbon in those fossil fuels.<sup>52</sup> And Rhode Island explicitly excludes “[w]aste-to-energy combustion of any sort or manner,” other than the combustion of eligible biomass-derived fuels, from its definition of “renewable energy resources.”<sup>53</sup>

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<sup>45</sup> See Application at 53–54.

<sup>46</sup> See *id.* at 47–48; Andrew Rollinson, *Why Pyrolysis and ‘Plastic to Fuels’ Is Not a Solution to the Plastics Problem* (Dec. 4, 2018), <https://www.lowimpact.org/pyrolysis-not-solution-plastics-problem/>; Rollinson & Oladejo, *supra* note 42, at 25–27; Tangri, *supra* note 42, at 9.

<sup>47</sup> See David Azouly, *Plastic & Health: The Hidden Costs of a Plastic Planet*, 48 (2019), <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>.

<sup>48</sup> R.I.G.L. § 23-19-3(14) (“[D]ue to the myriad of over four hundred (400) toxic pollutants including lead, mercury, dioxins, and acid gasses known to be emitted by solid waste incinerators, the known and unknown threats posed by solid waste incinerators to the health and safety of Rhode Islanders, particularly children, along with the known and unknown threats to the environment are unacceptable.”).

<sup>49</sup> See, e.g., MedRecycler, *Key Facts*, <http://medrecycler.com/overview/>.

<sup>50</sup> See Rollinson, *supra* note 46; Azouly, *supra* note 47, at 48; see also Application at 40 (MedRecycler states that the Facility has the potential to emit more than 24,000 tons of carbon dioxide each year).

<sup>51</sup> See Lisa Anne Hamilton, *Plastic & Climate: The Hidden Costs of a Plastic Planet*, 8 (2019), <https://www.ciel.org/wp-content/uploads/2019/05/Plastic-and-Climate-FINAL-2019.pdf>.

<sup>52</sup> See Rollinson, *supra* note 46; see also U.S. EPA, *Solid Waste Management and Greenhouse Gases, a Life-Cycle Assessment of Emissions and Sinks* 76 (3d ed. 2006) (“Combustion of plastics results in substantial net [greenhouse gas] emissions. . . . This result is primarily because of the high content of nonbiomass carbon in plastics.”)

<sup>53</sup> See R.I.G.L. §§ 39-26-5(a)(8) & 39-26-2(6).

Moreover, MedRecycler’s plan to use Medical Waste as the “feedstock” for its pyrolysis process carries with it unique challenges and risks that MedRecycler does not account for in its Application. Pyrolysis usually utilizes homogenous feedstock such as woodchips or other biomass, animal waste, or plastics.<sup>54</sup> MedRecycler’s pyrolysis equipment is no exception, having been designed for use on slaughterhouse waste, plastics, and biomass.<sup>55</sup> Medical Waste, however, is heterogenous, comprising varying proportions of pathological and anatomical wastes; liquids such as blood; plastics from sharps, cleanup materials, and other non-hazardous waste; chemical wastes; paper; and textiles.<sup>56</sup> The varying composition of heterogenous waste can make it difficult to maintain proper pyrolysis chamber temperatures, which can result in unstable operations and can increase the formation of toxic byproducts like dioxins.<sup>57</sup> That MedRecycler will not be opening the Medical Waste containers to verify composition<sup>58</sup> further increases these risks.

MedRecycler’s unsubstantiated claims notwithstanding, the proposed Facility poses significant risks to public health and the environment. The Application fails to take seriously, or even account for, the significant health and environmental threats posed by Medical Waste pyrolysis. RIDEM should consider these threats, and MedRecycler’s inattention to them, in deciding whether to grant the Application and issue a medical waste treatment facility license.

**B. The Proposed Facility Is Not Needed to Process Rhode Island’s Medical Waste.**

Two facilities in Rhode Island are currently authorized to treat Medical Waste: Rhode Island hospital in Providence and a Stericycle facility in Woonsocket.<sup>59</sup> MedRecycler does not claim anywhere in its Application that these facilities are unable to meet current medical waste-processing needs in Rhode Island. MedRecycler has stated that at least some of the Medical Waste treated and burned at the proposed Facility will come from out-of-state generators,<sup>60</sup> yet MedRecycler does not specify the sources of Medical Waste in the Application.

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<sup>54</sup> See Tangri, *supra* note 42, at 5; Rollinson, *supra* note 46.

<sup>55</sup> See Application at 7.

<sup>56</sup> See *id.* at 46; 250 R.I. Code R. § 140-15-1.2(C); Gibbens, *supra* note 7; World Health Organization, *supra* note 5.

<sup>57</sup> See Tangri, *supra* note 42, at 5.

<sup>58</sup> Application at 14–16, 41.

<sup>59</sup> See RIDEM, *Medical Waste and Infectious Waste Program*,

<http://www.dem.ri.gov/programs/wastemanagement/facilities/medical-waste.php>.

<sup>60</sup> See, e.g., John Howell, *Opponents Continue Push Against Medical Waste Disposal Operation*, Johnston Sunrise (Mar. 18, 2021), <https://johnstonsunrise.net/stories/opponents-continue-push-against-medical-waste-disposal-operation,159843>.

MedRecycler claims that the Facility will help extend the life of Rhode Island’s Central Landfill.<sup>61</sup> If the Facility imports a significant portion of Medical Waste from out of state, however, it may have the opposite effect. As discussed above, the ash and char generated by the Facility will likely contain toxics like lead and dioxins. It will therefore be unsuitable as aggregate, and it will need to be landfilled. If MedRecycler’s “feedstock” predominantly comes from out of state, it will not be diverting from the Landfill—the ash and char will instead be adding to the Landfill and shortening its lifespan.

**C. The Proposed Facility Will Interfere with Efforts to Reduce and Divert Medical Waste.**

In extolling the supposed virtues of the proposed Facility, MedRecycler treats Medical Waste as an inevitability—a constant supply of waste that must either be landfilled, incinerated, or pyrolyzed. MedRecycler’s assumption is inaccurate and misleading. Like all other waste, Medical Waste can be reduced and/or diverted, obviating the need to choose between burning or burying most of this waste stream.

Only about fifteen percent of the waste generated by health care facilities is infectious or toxic.<sup>62</sup> That waste will always require some manner of treatment, but much of the remaining eighty-five percent—made up of paper and plastic packaging, bedding and other textiles, food waste, single-use medical equipment and pouches, and other wastes—can be diverted, recycled, or reused if hospitals, clinics, and other facilities have the right systems and practices in place.<sup>63</sup> Rhode Island Hospital has already taken steps in this direction by collecting sterile wrap from operating rooms for recycling and reducing operating room waste by up to twenty percent in the process.<sup>64</sup> Boston area hospitals have begun sterilizing personal protective equipment like respirator masks so that they can be reused rather than thrown away.<sup>65</sup>

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<sup>61</sup> See MedRecycler, *Overview*, <http://medrecycler.com/overview/>.

<sup>62</sup> See World Health Organization, *supra* note 5.

<sup>63</sup> See *id.*; see also Gibbens, *supra* note 7; Health Care Without Harm, *Tips for Waste Reduction*, <https://noharm-uscanada.org/issues/us-canada/tips-waste-reduction>; Arlene Karidis, *How the Healthcare Industry Is Addressing the Fast-Growing Medical Waste Problem*, Waste 360 (May 17, 2018), <https://www.waste360.com/medical-waste/how-healthcare-industry-addressing-fast-growing-medical-waste-problem>.

<sup>64</sup> See Barbara Morse, *Rhode Island Hospital To Begin Recycling Blue Wrap Material Used in Operating Rooms*, NBC 10 News (Feb. 19, 2020), <https://turnto10.com/features/health-landing-page/rhode-island-hospital-to-begin-recycling-blue-wrap-material-used-in-operating-rooms>.

<sup>65</sup> See Rebecca Ostriker, *Boston Hospitals Getting ‘Game Changer’ Machine That Sterilizes 80,000 Protective Masks a Day*, Boston Glob (Apr. 2, 2020),

These source reduction and recycling efforts can significantly reduce greenhouse gas emissions compared to either landfilling or burning Medical Waste.<sup>66</sup> MedRecycler’s treatment of Medical Waste as “feedstock,”<sup>67</sup> however, would compete with efforts like these to reduce and divert waste. The World Health Organization recommends addressing Medical Waste by improving waste segregation and diversion and sterilizing, rather than burning, the remaining waste.<sup>68</sup> CLF accordingly urges RIDEM to consider the negative impact of MedRecycler’s proposal on efforts to reduce and divert Medical Waste.

### **III. MedRecycler’s Application Does Not Comply With Rhode Island Solid Waste Statutes.**

Rhode Island Solid Waste Statutes require an applicant for a license to construct and operate a “solid waste disposal facility” to submit “simultaneously with the application”: (1) “a certificate of final determination” from the host municipality “that the site conforms with all applicable local land use and control ordinances”; and (2) “a certificate of approval of the proposed site issued by the state planning council.”<sup>69</sup> MedRecycler’s Application does not comply with either of these requirements, and RIDEM should accordingly deny the Application.

#### **A. MedRecycler Has Applied to Construct and Operate a “Solid Waste Disposal Facility.”**

The host municipality and state planning council certificate requirements apply to MedRecycler’s Application because the proposed Facility is properly considered a “solid waste disposal facility” within the meaning of R.I.G.L. § 23-18.9-9(a)(1). The Supreme Court of Rhode Island has interpreted the “solid waste disposal facility” requirements of § 23-18.9-9(a)(1) to apply to any application to operate a “solid waste management facility.”<sup>70</sup> MedRecycler submitted its Application pursuant to R.I.G.L. § 23-18.9-9, governing licenses to construct or operate solid waste management facilities.<sup>71</sup> Moreover, any facility that processes, treats, or

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<https://www.bostonglobe.com/2020/04/02/metro/boston-hospitals-getting-game-changer-machine-that-sterilizes-80000-protective-masks-day/>.

<sup>66</sup> Cf. U.S. EPA, *supra* note 52, at 116–20 (comparing greenhouse gas emissions reductions potential for source reduction, recycling, composting, incinerating, and landfilling different components of municipal solid waste, including plastic)

<sup>67</sup> See, e.g., Application at 17.

<sup>68</sup> World Health Organization, *supra* note 5.

<sup>69</sup> R.I.G.L. § 23-18.9-9(a)(1).

<sup>70</sup> See *Lynch v. R.I. Dep’t of Env’tl. Mgmt.*, 994 A.2d 64, 71 (R.I. 2010) (applying § 23-18.9-9(a)(1) requirements to an application for a license to operate a construction and demolition debris processing facility).

<sup>71</sup> See Application at 3; Notice of Intent at 1.

disposes of Medical Waste is considered a “solid waste management facility” under the Solid Waste Statutes, Medical Waste Regulations, and Solid Waste Regulations.<sup>72</sup> Because the proposed Facility is a “solid waste management facility” and thus a “solid waste disposal facility,” RIDEM must deny the Application if it does not satisfy the requirements set forth in R.I.G.L. § 23-18.9-9(a)(1).

**B. The Application Does Not Include a Certificate of Final Determination from West Warwick.**

RIDEM should deny the Application because MedRecycler did not submit “simultaneously with the application a certificate of final determination from the municipality in which it is proposed to site the facility that the site conforms with all applicable local land use and control ordinances.”<sup>73</sup> Nowhere in the Application or its attachments does MedRecycler include a certificate of final determination from West Warwick. And MedRecycler says nothing in Application about whether West Warwick has made any determination as to whether the proposed Facility conforms with West Warwick land use or control ordinances.

According to the West Warwick Planning Board, the town has not yet made such a final determination. On May 15, 2019, the West Warwick Planning Board granted MedRecycler “Master Plan approval” for the proposed Facility.<sup>74</sup> Master Plan approval is the first of three steps required for a major land development like the proposed MedRecycler Facility.<sup>75</sup> MedRecycler must still apply for and be granted Preliminary Plan approval and Final Plan

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<sup>72</sup> See R.I.G.L. § 23-18.9-7(13) (defining solid waste management facility as “any plant, structure, equipment, real and personal property . . . operated for the purposes of processing, treating, or disposing solid waste”); *id.* § 23-19.12-10(a) (a license to “engage in the storage, treatment and/or destruction of regulated medical waste” is considered “a special category of license issued to solid waste management facilities”); 250 R.I. Code R. § 140-15-1.2(C) (defining Medical Waste as “a special category of solid waste”); *id.* § 140-15-1.5(9), (11), (41), & (46) (Medical Waste destination facilities, destruction facilities, transfer facilities, and treatment facilities are all subject to Rhode Island Solid Waste Regulations).

<sup>73</sup> See R.I.G.L. § 23-18.9-9(a)(1).

<sup>74</sup> See May 15, 2019 West Warwick Planning Board Decision, attached as “Exhibit A”; *see also* West Warwick Planning Board Meeting Notice for April 5, 2021, *available at* <https://clerkshq.com/westwarwick-ri>, and attached as “Exhibit B.”

<sup>75</sup> See R.I.G.L. § 45-23-39(b) (“Major plan review consists of three stages of review, master plan, preliminary plan and final plan.”); West Warwick Subdivision and Land Development Regulations § 17-13(B), *available at* [http://www.westwarwickri.org/vertical/sites/%7B7B7C7E47-F7C1-4511-8CF3-EA8EBAF7D539%7D/uploads/Subdivision\\_Land\\_Development\\_Regulations.pdf](http://www.westwarwickri.org/vertical/sites/%7B7B7C7E47-F7C1-4511-8CF3-EA8EBAF7D539%7D/uploads/Subdivision_Land_Development_Regulations.pdf).

approval.<sup>76</sup> Without Master Plan, Preliminary Plan, *and* Final Plan approval, West Warwick cannot certify, and indeed has not certified, that it has made a “final determination” that the proposed Facility conforms with all relevant ordinances.

MedRecycler did not submit with the Application the required “certificate of final determination” from West Warwick because such a final determination has not yet been made. RIDEM should therefore deny the Application for failure to comply with R.I.G.L. § 23-18.9-9(a)(1).

**C. The Application Does Not Include a Certificate of Approval from the State Planning Council.**

RIDEM should also deny the Application because MedRecycler did not submit “simultaneously with the application a certificate of approval of the proposed site issued by the state planning council.”<sup>77</sup> The State Planning Council “shall only approve a site after great weight has been afforded to the detrimental impact that the placement of such a facility shall have on its surrounding communities and only after evaluation of alternative sites and assessment of comparative environmental impact at the sites.”<sup>78</sup> Moreover, the State Planning Council “shall not issue its certificate prior to the publication of public notice and the expiration of the public comment period regarding the proposed site.”<sup>79</sup> MedRecycler does not include as a part of its Application a certificate of approval from the State Planning Council, and there is nothing in the Application or its attachments that would suggest the State Planning Council has approved the proposed site for the Facility pursuant to R.I.G.L. § 23-18.9-9(a)(1).

The State Planning Council has notified MedRecycler that the council reviewed the proposed Facility and determined that it conforms with the State Guide Plan.<sup>80</sup> This determination is, however, different than a certificate of approval under R.I.G.L. § 23-18.9-9(a)(1). The former is an exercise of power under Rule 1.3 of the Rules and Standards of the State Planning Council.<sup>81</sup> The latter takes place under Rule 1.6 of the Rules and Standards of the State Planning Council and requires not only conformance with the State Guide Plan, but also compliance with solid waste facility siting criteria and a demonstration that the “site is at least comparable to alternative

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<sup>76</sup> See R.I.G.L. §§ 45-23-39, 41, & 43; West Warwick Subdivision and Land Development Regulations §§ 17-13, 17-15, & 17-17.

<sup>77</sup> See R.I.G.L. § 23-18.9-9(a)(1).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> See Dec. 6, 2019 Letter from Meredith Brady, attached as “Exhibit C.”

<sup>81</sup> 670 R.I. Code R. § 00-00-1.3.

sites, taking into consideration comparative environmental impact and regional distribution of sites.”<sup>82</sup>

Unlike a Rule 1.6 certificate of approval, a Rule 1.3 determination does not require public notice and comment, nor does it require the State Planning Council to afford “great weight” to the “detrimental impact” that a proposed facility will have “on its surrounding community.”<sup>83</sup> Affording great weight to the detrimental impact on the nearby community is especially important here, where, as discussed above in Part II, the proposed Facility poses significant risks to public health and the environment.

MedRecycler did not submit with the Application the required “certificate of approval” under R.I.G.L. § 23-18.9-9(a)(1) because the State Planning Council has not issued any such certificate of approval. RIDEM should therefore deny the Application for failure to comply with R.I.G.L. § 23-18.9-9(a)(1).

#### **IV. MedRecycler’s Application Does Not Comply With Rhode Island Medical Waste Regulations.**

RIDEM should deny the Application because MedRecycler has not proven, “on the basis of thorough tests,” that the “alternative technology” the Facility will use to treat and destroy Medical Waste will be “protective with respect to total impact on the environment” or that it will “ensure the health, safety and welfare of both facility employees and the general public.”<sup>84</sup>

The Medical Waste regulations set out “approved” methods for Medical Waste treatment and destruction that include, but are not limited to, incineration, chemical disinfection, and steam sterilization.<sup>85</sup> When a Medical Waste facility utilizes “any other treatment, destruction and/or disposal technologies,” those technologies are considered “alternative technologies.”<sup>86</sup> RIDEM “shall not grant approval” for the use of alternative technologies “unless and until such technologies are proven, on the basis of thorough tests” to satisfy five criteria.<sup>87</sup> These criteria include that the alternative technologies are “protective with respect to total impact on the environment” and that they “ensure the health, safety and welfare of both facility employees and the general public.”<sup>88</sup>

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<sup>82</sup> *Id.* § 00-00-1.6.7.

<sup>83</sup> *Compare* 670 R.I. Code R. § 00-00-1.3, *with* R.I.G.L. § 23-18.9-9(a)(1), *and* 670 R.I. Code R. § 00-00-1.6.

<sup>84</sup> *See* 250 R.I. Code § 140-15-1.15(F)(5).

<sup>85</sup> *Id.* § 140-15-1.15(F)(3).

<sup>86</sup> *Id.* § 140-15-1.15(F)(4).

<sup>87</sup> *Id.* § 140-15-1.15(F)(5)(a).

<sup>88</sup> *Id.*

RIDEM has interpreted these provisions to require a two-step process to approve alternative technology. First, RIDEM, in consultation with the Department of Health, reviews the technology to determine if the technology “has the engineering capabilities to comply” with RIDEM’s regulations.<sup>89</sup> Second, RIDEM must review and approve a final permit application “to ensure that the proposed facility’s operational and testing protocols” using this alternative technology “satisfy all the requirements of the regulations.”<sup>90</sup>

Although RIDEM may liberally construe the Medical Waste Regulations,<sup>91</sup> it may not ignore the clear and unambiguous directive that RIDEM “shall not grant approval” to use an alternative technology “unless and until” that technology is proven, “on the basis of thorough tests,” to be “protective with respect to total impact on the environment” and that it ensures “the health, safety and welfare of both facility employees and the general public.”<sup>92</sup> MedRecycler has not included in the Application “thorough” test results—or any test results—that satisfy either of those criteria.<sup>93</sup> The lack of testing is particularly concerning given that MedRecycler’s technology has never been used on Medical Waste,<sup>94</sup> and that the use of pyrolysis on heterogenous waste presents significant challenges that can endanger public health and the environment.<sup>95</sup>

In the absence of the required “thorough tests,” MedRecycler’s proposed technology cannot be approved as alternative technology under the Medical Waste Regulations, and RIDEM should accordingly deny the Application.

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<sup>89</sup> March 16, 2020 Letter from Yan Li to Nicholas Campanella, attached as “Exhibit D.”

<sup>90</sup> *Id.*

<sup>91</sup> 250 R.I. Code § 140-15-1.2(B)(6).

<sup>92</sup> *Id.* § 140-15-1.15(F)(5)(a).

<sup>93</sup> MedRecycler has submitted to RIDEM a “Macerator Biological Testing Protocol,” designed to ensure spore destruction as a part of the Medical Waste shredding process. *See* Macerator Biological Testing Protocol (Nov. 6, 2020), available at <http://dem.ri.gov/programs/benviron/waste/pn/pn-medrecycler-testing.pdf>. This testing protocol, by its nature, does not constitute proof, “on the basis of thorough tests,” that the shredder is protective of the environment or that it ensures health and safety. Moreover, this protocol has no bearing on whether the pyrolysis chamber, syngas engines, vitrification furnace, or any other equipment that heats or combusts Medical Waste or Medical Waste-derived fuel are protective of the environment or ensure health and safety.

<sup>94</sup> *See* Application at 7.

<sup>95</sup> *See supra*, Part II.

**V. MedRecycler’s Application Does Not Comply With Rhode Island Solid Waste Regulations.**

An application for a license to construct or operate a solid waste management facility must demonstrate the applicant’s “ability to comply with all General Operating Standards” set forth in the Solid Waste Regulations.<sup>96</sup> The General Operating Standards require a solid waste management facility to “maintain a buffer zone area that serves to mitigate nuisance impacts such as dust, litter, odor, and noise from the facility to human activities,”<sup>97</sup> and to be “designed, operated and maintained in such a manner as to protect the health and safety of users of the facility and personnel associated with the operation of the facility, and persons in close proximity to the facility.”<sup>98</sup> MedRecycler’s Application does not demonstrate that the proposed Facility will be able to comply with either of these General Operating Standards, and RIDEM should therefore deny the Application.

**A. There is No Buffer Zone Around the Proposed Facility to Mitigate Nuisance Impacts.**

Rhode Island Solid Waste Regulations define a “buffer zone” as “an area of land between a . . . Solid Waste Management Facility and neighboring facilities or homes which shield these abutters from negative impacts of the . . . Solid Waste Management Facility operations.”<sup>99</sup> The buffer zone around a solid waste management facility must be either “an area of undeveloped vegetated land retained in its natural undisturbed condition, or created to resemble a naturally occurring vegetated area, or approved equal.”<sup>100</sup> The Application makes clear that there will be no buffer zone around the MedRecycler Facility sufficient to shield abutters from nuisances or other “negative impacts.”

MedRecycler plans to construct and operate its proposed Facility in a multi-tenant building at 1600 Division Road in West Warwick.<sup>101</sup> As can be seen in the “Plant Layout” included in Attachment A to the Application, the Facility will be separated from the nearest abutters by no more than an interior wall.<sup>102</sup> The engines burning Medical Waste–derived syngas will be outside the building within view of a parking lot that serves tenants at 1600 Division Road.<sup>103</sup>

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<sup>96</sup> 250 R.I. Code. R. § 140-05-1.7(B).

<sup>97</sup> *Id.* § 140-05-1.9(P).

<sup>98</sup> *Id.* § 140-05-1.9(M)(1).

<sup>99</sup> *Id.* § 140-05-1.5(A)(30).

<sup>100</sup> *Id.* § 140-05-1.9(P).

<sup>101</sup> *See* MedRecycler, *Q&A*, <http://medrecycler.com/q-a/>.

<sup>102</sup> *See* MedRecycler Plant Layout, attached as “Exhibit E.”

<sup>103</sup> *See id.*

Playground Prep, a childcare center located approximately 300 feet from the main building at 1635 Division Road, is separated from 1600 Division Road by a parking lot and a row of trees.<sup>104</sup>

There is therefore no “area of undeveloped vegetated land” or “approved equal” between the proposed MedRecycler facility and other tenants at 1600 Division Road or between the proposed Facility and Playground Prep. Neither an interior wall, nor parking lots, nor a thin row of trees will protect abutters and neighbors from potential nuisance impacts from the proposed Facility.

The need for a buffer zone is particularly acute given the public health risks explained above in Part II. Moreover, MedRecycler has stated that the engines burning Medical Waste–derived syngas will produce up to 80 decibels of noise<sup>105</sup> and that “[t]here may occasionally be unusual odors associated with the [Facility].”<sup>106</sup> Without a buffer zone, the Facility will be unable to comply with solid waste management facility General Operating Standards. RIDEM should therefore deny the Application.

**B. The Application Does Not Demonstrate That the Proposed Facility Will Be Designed, Operated, and Maintained in a Manner That Will Protect Health and Safety.**

MedRecycler also has not demonstrated in the Application that the proposed Facility will be “designed, operated and maintained in such a manner as to protect the health and safety of users of the facility and personnel associated with the operation of the facility, and persons in close proximity to the facility.”<sup>107</sup> There are significant risks associated with MedRecycler’s proposed Facility.<sup>108</sup> Among other deficiencies, MedRecycler has not included with the Application any protocols or test results that demonstrate that the ash, char, or slag produced at the Facility will not contain toxics like lead or dioxins<sup>109</sup> or that MedRecycler’s pyrolysis technology will ensure the health and safety of employees or the general public.<sup>110</sup> The lack of protocols or test results with respect to the slag is particularly concerning given that after “waste is processed, treated, and destroyed, there may be small amounts of slag on the floor.”<sup>111</sup>

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<sup>104</sup> See Google Maps screenshot of 1600 Division Road, available at <https://www.google.com/maps/@41.6642092,-71.5097454,577m/data=!3m1!1e3>, and attached as “Exhibit F.”

<sup>105</sup> Application at 27.

<sup>106</sup> *Id.* at 51.

<sup>107</sup> 250 R.I. Code. R. § 140-05-1.9(M)(1).

<sup>108</sup> See *supra*, Part II.

<sup>109</sup> *Id.*

<sup>110</sup> See *supra*, Part IV.

<sup>111</sup> Application at 51.

Moreover, in the Notice of Intent, RIDEM states that “[p]rior to acceptance of Regulated Medical Waste, Medrecycler-RI shall perform pre-operational testing of the system to verify that treatment and containment of the waste is sufficient to protect workers as well as the general public from exposure to pathogens.”<sup>112</sup> Requiring this testing only *after* RIDEM has granted a license reverses the required sequence and perverts the intent of the Solid Waste Regulations. The regulations require that an applicant for a license to operate a solid waste management facility must demonstrate its ability to comply with all General Operating Standards *in the application*—i.e., *before* the license is granted.<sup>113</sup> After-the-fact testing does not satisfy the Solid Waste Regulations.

MedRecycler has not demonstrated that the proposed Facility will be designed, operated, and maintained in a manner that will protect health and safety, and RIDEM should therefore deny the Application.

#### **VI. The Draft License Does Not Include “All Supporting Documentation” as Required By Rhode Island Solid Waste Statutes.**

Under Rhode Island Solid Waste Statutes, a draft license to construct or operate a solid waste management facility issued by RIDEM must be made available for public comment along with “all supporting documentation.”<sup>114</sup> RIDEM has not made available all necessary supporting documentation, and thus the Notice of Intent is incomplete and RIDEM cannot issue a final license to MedRecycler.

The Notice of Intent describes several pieces of supporting documentation that MedRecycler has not yet provided, and that therefore have not been made available for public comment. These include: (1) a “Contingency Plan” approved by the West Warwick Fire Department; (2) “detailed testing protocols for the pre-operational testing” of MedRecycler’s system “to verify that treatment and containment of the waste is sufficient”; and (3) “detailed protocols for the routine testing of the system at least every 40 hours of operation.”<sup>115</sup> This information is directly relevant to whether the Application complies with the Medical Waste Regulations and Solid Waste Regulations, as discussed above in Parts IV and V. Asking MedRecycler to provide this information only after a license has been granted flies in the face of the Solid Waste Statutes’ public comment requirement.

Moreover, that certain protocols have not yet been submitted necessarily means that MedRecycler has not yet tested the safety and efficacy of its proposed pyrolysis technology

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<sup>112</sup> Notice of Intent at 3.

<sup>113</sup> See 250 R.I. Code. R. § 140-05-1.7(B).

<sup>114</sup> R.I.G.L. § 23-18.9-9(a)(2)(ii).

<sup>115</sup> Notice of Intent at 2–4.

when used on Medical Waste. Test *results* are needed *before* RIDEM can grant approval to MedRecycler’s “alternative technologies,”<sup>116</sup> *before* MedRecycler can demonstrate that the Proposed Facility will be designed, operated, and maintained in a manner that will protect health and safety,<sup>117</sup> and *before* the close of the public comment period. The failure to include this necessary documentation deprives the public of a meaningful opportunity to comment on MedRecycler’s Application and the Notice of Intent.

## VII. Conclusion

For the reasons stated above—and pursuant to the Rhode Island Solid Waste Statutes, Medical Waste Regulations, and Solid Waste Regulations, and all local, state, and federal provisions germane to public health, safety, and the environment—CLF respectfully urges RIDEM to deny MedRecycler’s Application for a medical waste treatment facility license.

Thank you for your consideration.

Respectfully submitted,



Kevin Budris  
Zero Waste Project  
Conservation Law Foundation

cc: Janet Coit (by email)  
Terrence Gray (by email)  
Mark Dennen (by email)

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<sup>116</sup> See *supra*, Part IV.

<sup>117</sup> See *supra*, Part V.

# **EXHIBIT A**



Instr # 2484-2039

Pages: 2

Received in West Warwick R.I.

Date: 05/24/2019 08:36 AM

Marianne Kelly, Town Clerk

Town of West Warwick  
Planning Board  
Decision Letter

May 15, 2019

Medrecycler-RI Inc.  
215 Gordons Corner Road  
Manalapan, NJ 07726

Re: OWNER: Brookwood Warwick Investors LLC.  
c/o Brookwood Financial Partners LLC.  
LOCATION: 1600 Division Road, Tax Assessor's Plat: 30, Lot: 3  
APPLICANT: Medrecycler-RI Inc.

Dear Medrecycler-RI Inc.:

The following is the decision on your application for Master Plan approval to install a waste to energy recycling facility in an existing building located at 1600 Division Road in a Commercial Industrial (CI) zoning district in accordance with Zoning Section 5.21 "Green, renewable or alternative energy installations and facilities (green project)."

After completion of a public informational meeting for which notice was served and a record was kept, the West Warwick Planning Board, taking into consideration its knowledge and expertise and after considering all of the representations and presentations made at the public informational meeting makes the following findings of fact:

- 1) That the subject property is located at 1600 Division Road and is identified as Tax Assessor's Plat: 30; Assessor's Lot: 3 and is zoned Commercial Industrial (CI).
- 2) That the proposed use is to be installed in the existing building located at 1600 Division Road.
- 3) That the proposed use consists of installing self contained processing units which are designed to produce electrical energy from the production synthesis gas (syngas) and that the electricity will be utilized to provide electricity to the building at 1600 Division Road.
- 4) That the proposed use is an allowed use in the Commercial Industrial (CI) zoning district.
- 5) That the emissions produced from the process are well below the Air Toxic Standards regulated by the RI Department of Environmental Management.
- 6) That there will be no changes to the exterior of the property or the structure.
- 7) That there was a resident who lives on the opposite side of Division Road in East Greenwich who was concerned about increased truck traffic accessing the site.
- 8) That the facility will process approximately 70 tons of waste per day operating 24 hours and that delivery will consist of approximately 3 to 4 tractor trailer loads daily.
- 9) The Planning Office recommendation is to grant Master Plan approval with the following stipulations:
  - a. That the applicant shall provide an operation and maintenance plan for the facility which shall include measures for maintaining safe access to the facility as well as general procedures for operational

maintenance of the facility.

- b. That the owner shall be required to work with local officials (Police, Fire & Building Official) to develop an emergency response plan which shall include but not be limited to, means of emergency access to the facility, clearly defined means of shutting down the facility, and contact information for local authorities responsible for responding to inquiries and emergencies.
- c. That the owner shall provide proof of liability insurance in an amount reasonable to address any failure of the facility.
- d. That should the facility desire to sell energy to National Grid or any other energy provider, the owner shall provide to the Town written approval from the provider that the facility has been approved as an energy provider as required in Zoning Section 5.21.8.

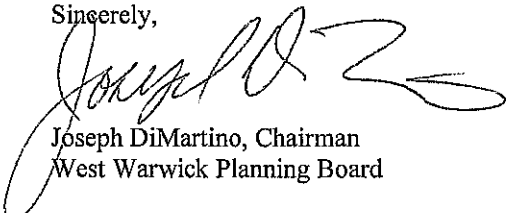
Based on the foregoing findings of fact, the Planning Board voted unanimously to grant Master Plan approval with the Planning Office recommended stipulations (a through d) presented above finding the development to be generally consistent with Section 17-5 "General Purposes" of the Towns Subdivision and Land Development regulations;

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of the Town Zoning Ordinance.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
- 5) That the proposed development possesses adequate physical access to a public street.
- 6) That the proposed development provides for the safe circulation of pedestrian and vehicular traffic, adequate detention of surface water runoff, suitable building sites, and the preservation of natural, historical and cultural features; and
- 7) That the proposed development will not result in any increased flooding and soil erosion.

The following vote on the motion to approve was cast:

Joseph DiMartino	Yes
Felix Appolonia	Yes
Joe Gardosik	Yes
Anthony Petrarca	Yes
Wayne Miller	Yes

Sincerely,



Joseph DiMartino, Chairman  
West Warwick Planning Board

c. K. Joseph Shekarchi, Attorney

# **EXHIBIT B**

## MEETING NOTICE

Town of West Warwick  
Planning Board

**Meeting Date:** Monday, April 5, 2021

**Time:** 6:00 p.m.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87432383615>

Or iPhone one-tap :

US: +13126266799,,87432383615# or +16465588656,,87432383615#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 874 3238 3615

International numbers available: <https://us02web.zoom.us/j/87432383615>

YouTube link:

<https://www.youtube.com/channel/UC8uO9wk28jKQhVlloenzovw>

### **Item 1 Approval of Minutes**

Review and approval of the December 7, 2020 meeting minutes.

### **Item 2 Public Hearing**

#### **Major Subdivision**

Applicant: Arpin Associates, LLC.  
Location: 99 James P. Murphy Highway  
Assessor's Plat: 12  
Assessor's Lot: 331  
Zoning District: Business Park (BP)  
Land Area: 10.68 acres  
Number of lots: 2  
Engineer: Ocean State Planners, Inc.

The applicant is requesting Master Plan approval to subdivide a single 10.68-acre parcel with an existing building to create two lots with a building on each lot, said buildings having less than the required setbacks and less than the required parking in a Business Park (BP) zone.

#### **Planning Office Findings**

The Planning Office finds the proposal to be generally consistent with Section 17-5 "General Purposes" of the Towns Subdivision and Land Development regulations, and:

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) Not in compliance with the standards and provisions of the Town Zoning Ordinance therefore requiring dimensional variances to create two lots with a building on each lot, said buildings having less than the required setbacks and less than the required parking in a Business Park (BP) zone.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
- 5) That the proposed development possesses adequate physical access to a public street.
- 6) That the proposed development provides for the safe circulation of pedestrian and vehicular traffic, adequate detention of surface water runoff, suitable building sites, and the preservation of natural, historical and cultural features; and
- 7) That the proposed development will not result in any increased flooding and soil erosion.

#### **Planning Office Recommendation**

After conferring with the Technical Review Committee and the Planning Board Legal Counsel, the Planning Office recommendation is to approve the Master Plan with the following stipulations:

- 1) That the applicant shall receive Zoning Board of Review approval to subdivide a single 10.68-acre parcel with an existing building to create two new lots with a

building on each lot, said buildings having less than the required setbacks and less than the required parking.

- 2) That each proposed building and lot shall have separate utility connections, including but not limited to sanitary sewer, public water, natural gas and electricity to be determined by the utility providers.
- 3) That Parcel A shall include a utility easement for the benefit of Parcel B for the existing water and sanitary sewer connections and use of the fire hydrant.
- 4) That the enclosed hallway/passageway connecting the two buildings shall be removed and the buildings shall meet existing fire codes having based on setbacks and distance between buildings including each building requiring its own separate fire alarm system and separate sprinkler system.
- 5) That the container encroachment indicated in the northeasterly corner of proposed Parcel B shall be removed /relocated to comply with the zoning requirements prior to final approval.

**Planning Board Vote**

Joseph DiMartino	Yes	No
Felix Appolonia	Yes	No
Joe Gardosik	Yes	No
Anthony Petrarca	Yes	No
Joshua Barrette	Yes	No
Jessica Rubery (Alt.)	Yes	No
Joseph Garcia (Alt.)	Yes	No

**Item 3 Public Meeting**  
**Request for Extension**  
**Medrecycler-RI Inc.**

Applicant: Brookwood Investors, LLC.  
 Location: 1600 Division Road  
 Assessor’s Plat: 30  
 Lot: 3  
 Zoning District: Commercial Industrial (CI)  
 Land Area: 34 acres  
 Number of lots: NA  
 Engineer: Millstone Engineering

The applicant is requesting a one-year extension to the Master Plan approval in accordance with the West Warwick Subdivision and Land Development Regulations Section 17-14(G)(1) and RIGL 45-23-40 (g)(1) for the establishment of a proposed waste to energy recycling facility in accordance with Zoning Section 5.21 “Green, renewable or alternative energy installations and facilities (green project)”

**Planning Office Findings**

The applicant received Master Plan approval for the project on May 6, 2019; said approval is set to expire on May 6, 2021.

**Planning Office Recommendation**

After conferring with the Planning Board Legal Counsel, the Planning Office recommendation is to grant the requested one (1) year extension to expire on May 6, 2022.

**Planning Board Vote**

Joseph DiMartino	Yes	No
Felix Appolonia	Yes	No
Joe Gardosik	Yes	No
Anthony Petrarca	Yes	No
Joshua Barrette	Yes	No
Jessica Rubery (Alt.)	Yes	No
Joseph Garcia (Alt.)	Yes	No

**Item 4 For discussion**  
**Administrative Officer Duties and Responsibilities**

Planning Board to discuss the duties and responsibilities of the administrative officer as presented in the West Warwick Subdivision and Land Development Regulations Section 17-29 “Administration – The Administrative Officer.”

**Item 5 Administrative Subdivision/Approval for Informational Purposes**

**Plan Attached**

Project name: Orchard - Overall Plan  
 Applicant: Five Five Plus, LLC.  
 Location: North Pleasant Street  
 Assessor’s Plat: 1      Lots: 85, 145 & 529

**Plan Attached**

Project name: Guertin Street Subdivision  
Applicant: KDS Investments  
Location: 3 & 7 Guertin Street  
Assessor's Plat: 5 Lots: 260 & 271

**Plan Attached**

Project name: Administrative Subdivision – 10 Guertin Street  
Applicant: Alan & Paula C. Lefebvre  
Location: 10 Guertin Street  
Assessor's Plat: 5 Lots: 277 & 616

**Plan Attached**

Project name: Administrative Subdivision – 1270 Main Street  
Applicant: Pannone Lopes Devereaux & O'Gara, LLC.  
Location: 1270 & 1272 Main Street  
Assessor's Plat: 6 Lots: 419, 420 & 1141

**Item 6 Public Comment**

# **EXHIBIT C**



*STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS*

Department of Administration  
**DIVISION OF STATEWIDE PLANNING**  
235 Promenade Street - Suite 230  
Providence, RI 02908

Office: (401) 222-7901  
Fax: (401) 222-2083

December 6, 2019

William Ash  
Managing Director of Financial Services  
Economic Development Corporation  
315 Iron Horse Way, Suite 101  
Providence, RI 02908

Subject: Determination of State Guide Plan Consistency - MedRecycler-RI Inc.

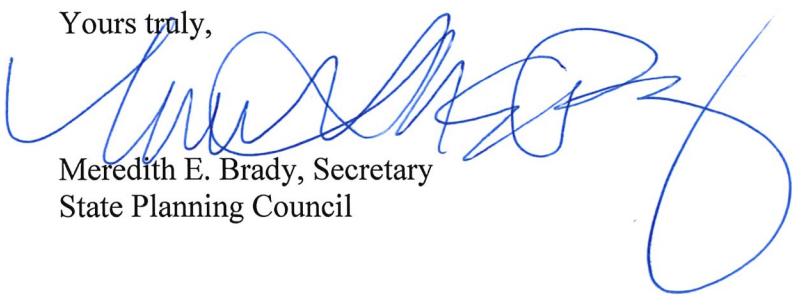
Referral Number: 19-RICC-03

Dear Mr. Ash:

Pursuant to your request, I am pleased to notify you that the State Planning Council has completed its review of the above referenced project and has determined that it conforms to the State Guide Plan. Due to a business relationship between the Rhode Island Public Transit Authority (RIPTA) and MedRecycler-RI Inc., Mr. Scott Avedisian, CEO of RIPTA, did not participate in the review of this proposal.

If you have any questions, please free to contact me at 222-6496.

Yours truly,

  
Meredith E. Brady, Secretary  
State Planning Council

cc: Kevin Nelson

# **EXHIBIT D**



**Rhode Island**  
**Department of Environmental Management**  
235 Promenade St., Providence, RI 02908-5767 TDD 401.222.4462

Nicolas Campanella  
Chairmen & CEO  
Medrecycler-RI Inc.  
215 Gordons Corner Road  
Manalapan, NJ 07726

March 16, 2020  
Certified Mail

Re: Application for a Medical Waste Treatment Facility  
1600 Division Road, West Warwick, RI

Dear Mr. Campanella,

As you know, the Department has a two-step process for approval of alternative technologies such as the one you propose. First the Department, in consultation with the Department of Health reviews a technology to determine if it has the engineering capabilities to comply with our regulations. Secondly, the Department must review and approve a final permit application to ensure the proposed facility's operational and testing protocols using said technology, satisfy all the requirements of the regulations.

The criteria for approval of alternative technologies is contained within Section 1.15(F) of the medical waste regulations (RICR 250-RICR-140-15-1) and is quoted below:

*Approval of Alternative Technologies:*

*a. The Director shall not grant approval for the use of any other combination of treatment, destruction and/or disposal technologies, unless and until such technologies are proven, on the basis of thorough tests to:*

- (1) Completely and reliably inactivate Geobacillus stearothermophilus spores or Bacillus atrophaeus spores at a 4 Log10 reduction or greater; and,*
- (2) Completely and reliably inactivate vegetative bacteria, fungi, viruses, parasites, and mycobacteria at a 6 Log10 reduction or greater [this requirement is applicable to technologies not based on thermal and chemical treatment]; and,*
- (3) Be protective with respect to total impact on the environment; and,*
- (4) Ensure the health, safety and welfare of both facility employees and the general public; and*
- (5) Ensure that the total weight and/or volume of the end product of the alternative technology does not exceed the total weight and/or volume of the regulated medical waste prior to treatment and/or destruction. Testing must*

*also demonstrate that inactivation is uniformly and within containers reasonably likely to be treated in the system.*

*b. Notwithstanding the provisions of § 1.15(F)(5)(a) of this Part, the Director may deny any application for just cause within the scope and intent of these regulations.*

The Office of Waste Management (OWM), in consultation with the Department of Health has reviewed the application and materials dated December 3 and December 19, 2019. Based on that review, it has been concluded that the pyrolysis technology, represented in your application as capable of heating the waste sufficiently to 800°F, is capable of meeting criteria 1, 2 and 5. With respect to 3 and 4, OWM has remaining concerns that need to be addressed, specifically, that shredding untreated medical waste may aerosolize pathogens that could negatively impact the health of the workers and the community at large. During our conversations with you and your technical experts it was presented that the system is physically closed and exhaust goes directly to the pyrolysis unit. In the event of system shutdown, it automatically closes. Because this technology has not been previously permitted or utilized in Rhode Island, additional testing and application details are still required for final facility permit approval.

Therefore, the Department is willing to conditionally approve the Pyrolysis Technology as an alternative treatment technology for regulated medical waste in the state of RI. However, in order to permit the system to accept regulated medical waste at the proposed location, and obtain your final facility permit approval, the following things will need to occur:

- (1) The Department will need to receive, review and approve a more detailed efficacy testing plan and related monitoring protocols. These should be prepared by an expert in the field of medical waste treatment and must include demonstration of the following:
  - a. The ability of the system to maintain, **at all times**, negative pressure and containment such that particles generated by the macerator cannot escape into the environment and do not present a risk of exposure to workers.
  - b. Testing protocols to evaluate if the decontamination procedures in the macerator as well as other equipment are sufficient to achieve 4 log 10 reduction of *Geobacillus stearothermophilus* spores or *Bacillus atrophaeus* spores throughout the system to allow maintenance that will not present a hazard to the workers of needle stick or other exposure.
  - c. Emissions and safety protocols are compliant with other RIDEM and West Warwick Fire Department requirements.
  
- (2) After the Department's review is complete, you will need to satisfy a public notice and hearing requirement outlined in the Department's Solid Waste Regulations (250-RICR-140-05-1). After approval of the permit, onsite testing will need to be completed by an expert in the field under RIDEM supervision to demonstrate a 4 Log10 reduction or greater to ensure the health, safety and welfare of both facility employees and the general public,

before the facility may begin accepting waste. Local permitting requirements will also need to be satisfied as part of the permit conditions.

We appreciate your coordination and participation on tele-conferences. If you would like to discuss this issue further, please contact me at (401) 222-2797 extension x7529.

Sincerely,



Yan Li, PE, Principal Engineer  
Department of Environmental Management  
Office of Waste Management

Authorized by:



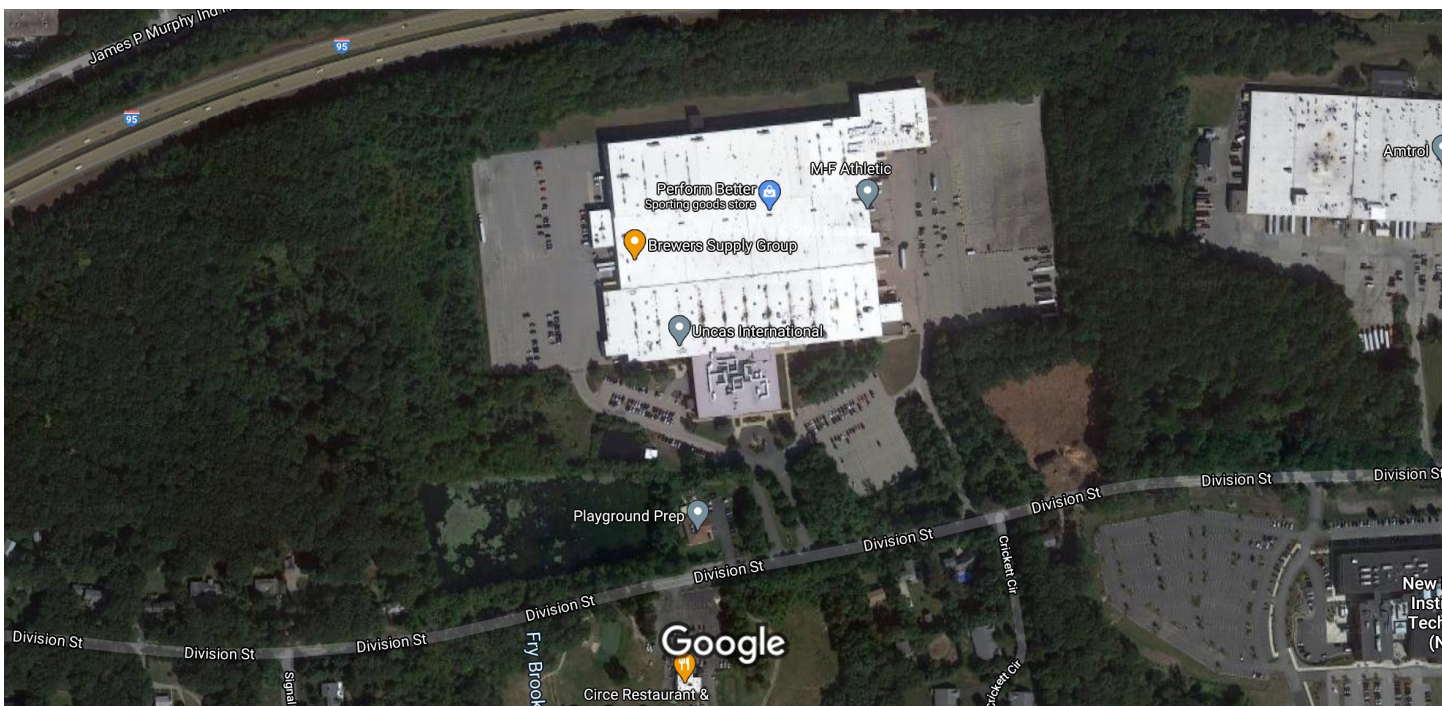
Mark Dennen, Supervising Scientist  
Department of Environmental Mgt  
Office of Waste Management

cc: Leo Hellested, P.E., Chief, RIDEM/Office of Waste Management  
Terrence Gray, P.E., Associate Director, RIDEM

# **EXHIBIT E**



# **EXHIBIT F**



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