***TO CONSERVE RESOURCES THE REFERENCED EXHIBITS ARE PROVIDED ONLY IN THE DIGITAL MEETING MATERIALS. SEE EXHIBIT C.***

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**ATTACHMENT 11**

**CITY MANAGER'S OFFICE**
4800 WEST COPANS ROAD
COCONUT CREEK, FLORIDA 33063

**KAREN M. BROOKS**
CITY MANAGER

September 15, 2022



Ms. Barbara Blake-Boy
Broward County Planning Council
115 South Andrews Avenue
Room 421
Fort Lauderdale, FL 33301

**RE: City of Coconut Creek Comments on Proposed Future Land Use Map Amendment 20-M1: Monarch Hill Landfill**

Dear Ms. Blake-Boy:

As you know, the City of Coconut Creek ("City") has suffered with the negative impacts of the Monarch Hill Landfill for years. The City also has received repeated commitments that no further expansion of the landfill, either horizontally or vertically, would be allowed. Given this backdrop, the City vigorously opposes any proposal that once again opens the door for an expansion of the landfill and/or an extension of the life of the landfill. The remainder of this letter describes the specific grounds for the City's objections.

**I. Deny the application until the County's Comprehensive Plan is updated.**

As part of the Broward Next planning process, the City expressed its concerns related to the very property that is the subject of this application. We were assured that this issue would be addressed as part of the update to the Solid Waste Element of the County's Comprehensive Plan. Based on our review of the County's website, it appears that this update is still on hold. It is unconscionable to now consider a proposal that would circumvent the very planning process that should be used to determine if an expansion of the landfill is appropriate.

The County's own staff recognized that this application should be deferred or denied. The LPA Staff Report contains the following "Findings" related to this item:

> "The proposed amendment is **not** generally **consistent** with the BCCP and BCLUP policies related to expansion of the landfill. Further, approval of landfill expansion at this time should be **deferred** until an updated Solid Waste Element is adopted by the Board of County Commissioners."

See LPA Staff Report, Section IV.B.5 at page 12 (emphasis added). The staff report went on to say that expansion of the Monarch Hill Landfill and the loss of Electrical Generation Facility use is not consistent with environmental and solid waste goals, objectives and policies of the Comprehensive Plan.

Over the last several years, a group designated as the Solid Waste Working Group was empaneled to create a governance structure for an organization that would assume the responsibility for addressing solid waste disposal needs for the entire County. This group has prepared an interlocal agreement ("ILA") for the Solid Waste Disposal and Recyclable Materials Processing Authority of Broward County ("Authority"). The ILA contains the Authority's mission statement:

> To protect the long-term public health, safety, and welfare of the residents of the Municipal Parties and County, the Parties commit to working together collaboratively through the creation of an independent legal entity known as the "Broward County Solid Waste Disposal and Recyclable Materials Processing Authority" (the "Authority"), the purpose of which is to develop and implement a long-term, environmentally sustainable, transparent, innovative, and economically efficient plan and approach to disposal, reduction, recycling, and reuse of waste generated in Broward County.

The most important work of the Authority will be the creation of a Master Plan to provide for the long-range disposal needs of the entire County. This Master Plan should logically be used as the basis for the necessary updates to Broward County's Comprehensive Plan.

The land that is subject to the proposed Future Land Use Map Amendment is currently approved for electrical generation. The subject property may be the only place in Broward County that can accommodate this use. Leaving the current land use designation in place until the details of a Master Plan are resolved is imperative. Approving additional land for the expansion of the landfill is moving in the wrong direction. It embraces an archaic method of waste disposal, rather than promoting new and innovative waste management options.

For the reasons set forth above, the City requests the Planning Council to recommend the denial of the pending application without reconsideration until the Master Plan is complete and the required Solid Waste Element of Broward County's Comprehensive Plan is updated and adopted.

**II. Deny the application because it fails to comply with the Comprehensive Plan.**

There is an overarching failure of the application to address the actual maximum development impacts of the proposed land use amendment – i.e., the impacts that will occur when the property is used as a landfill for the disposal of garbage and other waste. The applicant clearly intends to expand the landfill, not build a shopping center or an industrial complex on the subject property. The application must be reviewed for what it really is.



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The following paragraphs provide the City's comments specifically related to the inconsistency of this application to Broward County's Comprehensive Plan and the prior representations from the applicant:

**A. Under Florida law, the application must be denied because it is inconsistent with the County's Comprehensive Plan.**

Broward County's Comprehensive Plan was adopted pursuant to state law and found in compliance with all state requirements. Once adopted, a county's comprehensive plan controls and directs the use and development of property within the county and all development must be consistent with the comprehensive plan. *See, Machado v. Musgrove,* 519 So.2d 629, 631-32 (Fla. 3d DCA 1987); *Payne v. City of Miami,* 52 So.3d 707 (Fla. 1st DCA 2010). Pursuant to Section 163.3177(2), Florida Statutes, "[t]he several elements of the comprehensive plan shall be consistent." In the instant case, however, the proposed amendment conflicts with numerous goals, objectives and policies of the Broward County Comprehensive Plan. Adoption of the proposed amendment will create internal inconsistencies in the Comprehensive Plan that will violate the Community Planning Act.

**B. Analysis of Public Facilities and Services** (Section V of the application)

1) While it is now clear how the applicant intends to use the subject property, the analysis in this section of the application continues to address generic industrial/commerce uses, as opposed to a landfill use. This section of the application should address the potential impacts associated with the applicant's proposed development scenario. Particular emphasis should be given to (A.) Potable Water because of the Impacts on Natural Groundwater Aquifer Recharge and (F.) Traffic Circulation Analysis.

The applicant's response fails to address the impacts on potable water resources that will occur if the applicant is allowed to expand its landfill operations on the site. The existing landfill has degraded water quality in the aquifer beneath the site, as discussed below. Continuing and expanding the use of the site will increase the risk of additional adverse impacts on South Florida's only potable aquifer. Given the serious threat of groundwater contamination posed by the ongoing operations at the landfill, the existing conditions must be evaluated and the potential impacts of the proposed expansion must be addressed in much more detail.

Further, there are ongoing traffic concerns and impacts on residential areas from landfill users travelling to and from the existing landfill. Continuing or increasing the use of the site with the proposed land use amendment will prolong and potentially exacerbate significant traffic and safety concerns that need to be addressed. A traffic analysis should be conducted.



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**C. Analysis of Natural and Historical Resources** (Section VI of the application)

This section should address the potential for a landfill development scenario as well. Particular emphasis should be given to (H.) Wellfields, considering the serious impacts that landfill development could have on these public facilities. Consideration should also be given to (I.) Soils, because soil conditions and the local topography will be impacted by the potential use of the site as landfill. The impacts on wellfields and soils should be analyzed as part of the compatibility evaluation.

**D. Land Use Compatibility** (Section VIII of the application)

1) The applicant states that the maximum development potential ***of the site is a generic "242,000 square feet of industrial/commerce use***". Given the applicant's well-established intent to maximize its use of the existing landfill, it is clear that the application needs to analyze land use compatibility based on the use of the site under its maximum development potential ***as an expansion of the adjacent landfill.*** The application must address all of the potential impacts associated with the use of the site as a landfill for the disposal of residential and commercial garbage because these impacts will occur when the site is used as intended. Similarly, the County's analysis of this proposal must address these impacts.

2) As the applicant states, the proposed land use change will result in an effort to expand the landfill. In light of the applicant's plans to use the site for a landfill, the applicant's statement that the proposed land use designation is compatible with all of the property surrounding this site is neither sufficient nor credible. Under a development scenario where the landfill is expanded, the issue of compatibility and mitigation must be thoroughly evaluated. In addition, any such expansion must be viewed in the context of the on-going operation of the entire Monarch Hill Landfill, not just the development of the proposed site.

**E. Intergovernmental Coordination Analysis (**Section XI of the application)

1) The applicant too narrowly defines the local governments that are adjacent to the amendment site. Identifying Deerfield Beach as the only adjacent local government is disingenuous. Pompano Beach and Coconut Creek should be included in this analysis, consistent with local geography, the boundaries of the larger development site of which the application area is a part, the intent of this section, the compatibility and intergovernmental coordination comprehensive planning requirements, and the applicant's prior commitments regarding notification.

**F. Consistency with Highlighted Regional Issues and Goals, Objectives and Policies of the County Land Use Plan** (Section XIII of the application)



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1) Through the Southeast Florida Regional Climate Compact and Broward County leadership, there are demonstrated efforts underway to combat climate change through planning policy, adaptation, and resiliency. In 2021, Broward County adopted the Race to Zero resolution, which expressly states the County's desire to reduce greenhouse gas emissions by 2% annually and 80% by 2050. The County has also pledged to increase the region's resiliency to the effects of climate change with the launch of the Countywide Risk Assessment and Resilience Plan.

2) Although the North Broward Waste-to-Energy Facility has been dismantled, the proposed land-use amendment precludes this use in the future at this site. The applicant did not address this outcome in their analysis under this section. The loss of a waste-to-energy facility results in a meaningful reduction in local energy production. While the application states the site will be added to the applicant's landfill gas collection and energy generation system, there is no information or analysis explaining the net loss or gain that will occur with regard to energy generation following the loss of the waste-to-energy facility. Further, the application ignores the very significant environmental impacts of using the site for a landfill, instead citing the reduction of the carbon footprint from trucking to more remote landfills and the alleged increase in housing options due to the availability of additional solid waste disposal space. Both of these "benefits" would be obtained, in addition to numerous others, with the restoration of the existing waste-to-energy facility or the development of a new facility that uses innovative technologies to recycle or process solid waste. A much more detailed energy analysis is needed to address the requirements of this section.

3) The applicant has failed to demonstrate consistency with the County Land Use Plan. The two policies cited by the applicant do not provide support for the application. To the contrary, there are numerous policies in the County's Land Use Plan that demonstrate an inconsistency. Please refer to the policies listed below under the Plan's Land Use Element, Solid Waste Element, and Climate Change Element.

**G. Land Use Element**

1) **Policy 2.11.9** Broward County shall encourage power generation facilities and power transmission infrastructure be sited and designed in a manner which takes into consideration impacts from climate change, including increasing winds, storm surge, ambient temperatures and sea level rise.

2) **Policy 3.4.2** Sites for landfills, incinerators, recycling plants, or other major public facilities should be made available and property zoned in anticipation of future needs.



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**H. Solid Waste Element (It should be noted that the Solid Waste Element of Broward County's Comprehensive Plan has not been updated since 2009 and is significantly flawed)**

1) ***Policy 6.1.3.*** *Broward County shall encourage resource recovery, by the following:*

   (a) *To the extent allowed by law, the Interlocal Agreement (ILA) for the Authority shall require all Authority participants to direct all processable waste to a Waste-to-Energy Plant.*

   (b) *Government owned landfills within Broward County shall be prohibited from accepting any processable waste, unless they are functioning as interim or contingency facilities for resource recovery plants should the plants become temporarily inoperable, or if disposal is required while additional capacity is being developed.*

   (c) *Broward County shall strongly encourage state and federal legislators to recognize waste-to-energy as a key renewable energy source, and to include waste-to-energy within any established renewable energy portfolio standard.*

2) ***Policy 6.3.3.*** *Broward County, in cooperation with municipal partners, shall ensure that design and permitting of additional capacity for the existing Waste-to-Energy facilities, or for an alternative facility, shall begin no later than five years prior to the time when capacity is projected to be reached.*

   *Based on the scenario projections contained in Section III of the Support Document for this Element, capacity may be reached at the existing Waste-to-Energy facilities:*

   (a) *by 2015, if municipalities representing an additional ten percent (or more) of Broward's population participate in the use of these Waste-to-Energy facilities;*

   (b) *by 2030, if the Waste-to-Energy share of municipal solid waste increases to 31%, in order to meet the State recycling goal of 75%.*

**I. Climate Change Element**

1) **Policy CC1.3** Broward County shall continue to promote and support the expansion of alternative and renewable energy from residential, commercial, and municipal properties by working with municipalities to reduce regulatory encumbrances, develop incentives for renewable and alternative energy installations, and support cooperative installations.

2) **Policy CC1.4** Broward County shall increase the abundance of renewable energy projects, investments, and infrastructure across the County consistent with the County's support for a 20% renewable energy portfolio by 2030



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through public-private partnerships, encouraging financing options, and County investment in solar projects.

3) **Policy CC2.16** Broward County shall continue to pursue the source reduction, reuse, recycling, and recovery model of waste management, consistent with the Solid Waste Element of the Broward County Comprehensive Plan, in order to meet the State of Florida goal of recycling seventy-five percent of municipal solid waste (including net waste combusted) by 2030; work towards the zero waste by 2030 goal established in the Broward County Climate Change Action Plan; and continue to provide the environmental and social benefits of lowering GHG emissions, producing alternative energy, and reducing toxins in our land and water.

4) **Policy CC4.8** Broward County shall create and maintain the Broward County Green Infrastructure Map Series to illustrate elements of green infrastructure identified as critical for meeting the County's goals for Green House Gas reduction, renewable energy production, aquifer protection and surface water management, coastal habitat protection, enhanced green spaces, healthy food access, and other resource protection and health and safety goals shared by the greater Broward community.

5) **Policy CC5.3** Broward County shall seek to strengthen the local economy by promoting green economic growth and green-collar work training programs in order to: create resiliency; reduce reliance on fossil-fuel-based economies; provide a positive focus for economic development; advance the use of sustainable materials, technologies and services; and encourage local jobs in sustainable businesses which offer a living wage and make it possible for local climate change goals to be met.

6) **Policy CC5.4** Broward County shall continue to develop plans and programs in coordination with local municipalities, power companies, and private partners in order to reduce Green House Gas emissions and create "green" job opportunities throughout the community by: 1. Expanding the market for energy efficient products and services; 2. Supporting alternative and renewable energy production through innovative financing; and 3. Promoting and incentivizing energy conservation retrofits.

## III. The Applicant has Misinformed, Misled, and Misrepresented in the past and continues to do so in this Application.

We believe that Commissioner Mark Bogen provided the best description of the applicant (Waste Management Inc. of Florida) and its methods. When speaking at the County Commission meeting on February 3, 2015, and discussing the applicant's request to shut down the North Broward Waste-to-Energy Facility prior to the County's Global Amendment, Commissioner Bogen said: "this [application] is about the three M's: 1. Misinformation, 2. Misleading, and 3. Misrepresentation". The applicant's disingenuous method of operation has continued through to the current application, as discussed below:



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A. **In the current request, the applicant has *misinformed* the public by failing to address the ultimate desired end-use.** The applicant claims that the proposed amendment is needed in order to allow the transfer station at Monarch Hill to continue operating. However, the applicant has made it clear that the site will be used as additional landfill airspace if the current land use designation is changed and, thus, the site will not continue to be used for a transfer station. (See Letter to Heather E. Cunniff from C. William Laystrom regarding Proposed Future Land Use Map Amendment 20-M1, dated May 11, 2020, attached as **Exhibit A**, including paragraphs 4, 5, 6, and 8, on pages 2, 3, and 5).

The image below shows how shocking it is when a lateral expansion of the applicant's landfill brings the "working face" and the associated negative impacts of landfilling activities close to a local roadway. In the example below, the roadway is Powerline Road. In the pending application, the most impacted roadway will be Wiles Road, which is a vital arterial roadway that traverses the City of Coconut Creek.

The applicant has indicated that the expansion of the landfill into the area that is the subject of this application will not significantly increase the height or profile of the landfill. However, just as we can see it up close and personal while driving along Powerline Road, we understand that a horizontal expansion of the landfill in this case will set the stage for a future vertical expansion. Once the base of the landfill is expanded, the height of the landfill can be increased.

B. **The applicant has *misled* everyone year after year by stating that they will not expand the landfill.** As referenced by Commissioner Bogen at the February 3, 2015 County Commission meeting, Dennis Mele, an attorney for the applicant, stated publicly at a Coconut Creek City Commission meeting in September 2010 that the applicant would not put processable waste in the landfill. Mr. Mele also stated at a Broward County Planning Council meeting in December 2011, that the applicant will only take waste [at the landfill] that can be burned. Further, Commissioner Bogen referenced a letter from the late State Representative, Kristin Jacobs, stating that going back to the 1980's there were discussions with the applicant providing that no more processable waste will



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be placed in the landfill. The applicant also promised Coconut Creek in a 2010 Settlement Agreement between Coconut Creek and Waste Management ("Original Agreement") (attached hereto as Exhibit B), that the maximum height of the landfill will not exceed 225 NGVD with 3:1 slopes. See **Exhibit B**, Section II, paragraph 1 on page 7. Beyond that, only "Summit Waste" (defined as ash, C&D, sludge and non-hazardous soils) will be allowed. Further, it should be noted, Waste Management agreed in the Original Agreement not to expand horizontally beyond the confines of major roadways. See Exhibit B, Section II, paragraph 3, on page 8.

Then, in a 2011 Amendment to the 2010 Settlement Agreement ("Amendment") (attached hereto as **Exhibit C**), the applicant agreed to divert all processable waste to the Wheelabrator waste-to-energy facility so long as it had capacity, Broward County allowed it, and Wheelabrator had the Resource Recovery Board's contract. Although the Amendment provided for some exceptions to the applicant's commitment, the City was led to believe that the applicant would continue to support the County's use of waste-to-energy facilities for the disposal of the County's solid waste.

The 2015 Settlement Agreement between the City of Coconut Creek and Waste Management ("Current Agreement") (attached hereto as **Exhibit D**) superseded the earlier agreements, but continues to provide limits on the use of the landfill for the disposal of sludge and "Limited Waste" (defined as Household Waste and Commercial Solid Waste - previously referenced as "processable" waste). See Exhibit D, pages 6, 8, and 9.

In spite of the applicant's pledges to limit the amount of waste going in the Monarch Hill Landfill, the applicant closed the North Broward Waste-to-Energy Facility, which dramatically limited the County's options for using a waste-to-energy facility for the disposal of the County's processable waste. By closing the waste-to-energy facility, the applicant virtually ensured that the County would have to increase its reliance on the applicant's landfills, including the Monarch Hill Landfill, for the disposal of the County's solid waste. Now, seeking to change the land use designation from Electrical Generation (which allows for waste-to-energy) to Industrial (which allows for landfilling), the applicant is again demonstrating that it will not honor or otherwise follow through on the commitments it previously made to the public.

C. **If the County approves the applicant's proposed Future Land Use Amendment, the County will allow the applicant to perpetuate the adverse impacts of the applicant's *misrepresentations* to the public**. The applicant has represented that the proposed amendment minimizes impacts on adjacent uses as it is surrounded by the existing landfill to the west, south, and east and the land designation across Wiles Road to the north is Industrial. This statement is disingenuous. The landfill has been in existence since the early 1960's. This fact alone should be enough to warrant additional environmental monitoring at the site. Indeed, there are well-documented environmental issues related to the



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historical or "grandfathered" operations at the applicant's site. Groundwater contamination with benzene, a carcinogenic compound, was detected in the groundwater at the site as early as 1991. See the Contamination Assessment Report dated March 1996 prepared by RUST Environment and Infrastructure, which is attached as **Exhibit E** (Section 1.2 at page 7). Not only was benzene detected at the site more than 25 years ago, benzene has been detected at concentrations greater than the levels deemed safe under the federal Primary Drinking Water Standards, and the concentrations of benzene in the groundwater have been increasing. See Exhibit E, Section 4.1 on page 26, Section 4.5.1 on page 30, Section 4.6 on page 31, Section 5.2.3 on page 43, Section 5.2.4 on page 45, and Section 6.1 on page 46. Initially, benzene was only detected in one well. Since that time, however, publicly available documents show that benzene has been detected in several down-gradient wells and even in compliance wells – i.e., wells that are designed to be the final point of compliance and beyond which violations of water quality standards are allowed to occur. In fact, the most recent First Semiannual Water Quality Monitoring Report dated July 2022 prepared by SCS Engineers, which is attached hereto as **Exhibit F**, discusses increasing trends for benzene in monitoring wells MW5I, MW5S and MW35SR with levels detected above Primary Drinking Water Standards on pages 7 and 8. Furthermore the same report references that vinyl chloride, another carcinogenic compound, was detected in monitoring well MW5S at a concentration above the Primary Drinking Water Standards in pages 7 and 8 as well.

The City recognizes that the landfill is more than 50 years old, and certain prior disposal areas have been "grandfathered" – i.e., they have been allowed to continue to operate under prior standards. Nonetheless, the County should not approve a land use plan amendment that would allow on-going groundwater contamination to continue indefinitely in the future. Allowing a lateral expansion of the landfill through the pending Future Land Use Plan Amendment will allow the contamination of groundwater to continue, and potentially be exacerbated, without being addressed.

Most of the acreage that will be added to the landfill by the pending Land Use Plan Amendment will directly affect the old landfill cells that were never designed to meet modern environmental regulatory standards and are not capable of doing so. The following map identifies the many expansion areas that have been developed at the landfill over the last 50 years. This map is attached hereto as **Exhibit G**. The map has been copied from the Construction/Operation Permit Renewal Application dated May 2016 that SCS Engineers prepared for Waste Management. The map is included in the SCS application as Figure 9 on page 134.



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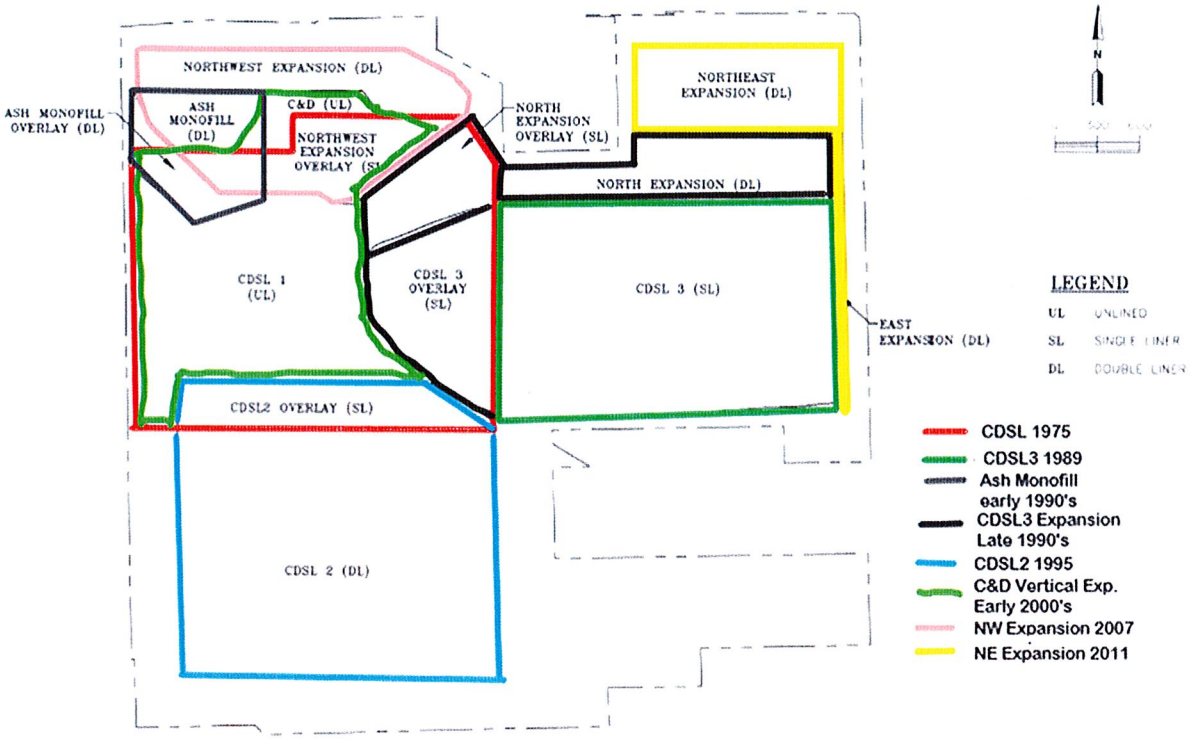


The area outlined in red, labeled "CDSL 1975 (UL)", is the original waste disposal area at the Central Disposal Sanitary Landfill (now known as the Monarch Hill Landfill). As indicated by the "UL" designation, this area is unlined; there is no liner to prevent contaminations from leaking directly from the garbage into the soil and groundwater. In many instances, waste was placed directly into the groundwater in this unlined area.

Five vertical and lateral expansions in this area alone have been allowed since 1975. These expansions have real, long-term consequences. Every ton of waste placed on top of this unlined area creates downward pressure, which pushes the waste further into the water table, thus increasing the potential for on-going groundwater contamination. This is the type of impact on groundwater that the Florida Department of Environmental Protection (FDEP) has attempted to prohibit at new landfills by adopting FDEP Rule 62-701.300(2)(d), Florida Administrative Code. The FDEP rule prohibits the placement of solid waste in groundwater. The FDEP prohibition expressly applies to cases where "waste may settle into ground water as a result of the maximum expected loads over the waste."

Further, approving the pending application would in effect approve the decommissioning and abandonment of a regional asset (i.e., the North Broward Waste-to-Energy Facility) and almost certainly preclude the use of the site for an innovative waste processing technology in the future.



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## IV. Conclusion.

In light of the foregoing, the City of Coconut Creek:

**A.** believes approval of the proposed amendment to the County's Future Land Use Plan will create multiple inconsistencies within the County's own Comprehensive Plan;

**B.** disagrees with the applicant's assertions regarding the potential profile and height changes of the landfill; and

**C.** believes that the approval of the proposed amendment would create an environmental threat to the County's groundwater supply; and

**D.** preclude the use of the site for an innovative waste processing technology in the future.

Therefore, the City respectfully requests the Planning Council to recommend denial of the applicant's proposed amendment to the County's Future Land Use Plan.

Thank you for your careful consideration of the City's concerns.

Sincerely,

Karen M Brooks

KAREN M. BROOKS
City Manager

cc: Monica Cepero, County Administrator
Andrew J. Meyers, County Attorney
Heather Cunniff, Senior Planner
Mayor Joshua Rydell
Vice Mayor Sandra L. Welch
Commissioner Rebecca A. Tooley
Commissioner Jackie Railey
Commissioner John Brodie
Sheila Rose, Deputy City Manager
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