

ITEM #45(2)

(Revised Exhibit 5)

ADDITIONAL MATERIAL

REGULAR MEETING

JANUARY 23, 2024

SUBMITTED AT THE REQUEST OF

BROWARD COUNTY

PLANNING COUNCIL

ADDITIONAL AGENDA MATERIAL

AGENDA ITEM NUMBER 45

PC 22-5

UPDATED DRAFT DECLARATION OF RESTRICTIVE COVENANTS

This Instrument Prepared By:
C. William Laystrom Jr., Esq.
1177 S.E. 3rd Ave.
Fort Lauderdale, Florida 33316

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") dated this day of _____, 2024, by and through Waste Management Inc. of Florida, a Florida Corporation ("Declarant"), for the benefit of Broward County, a political subdivision of the State of Florida ("County").

WITNESSETH:

WHEREAS, Declarant is the owner of the property located in the County as further described on Exhibit A attached hereto and made a part of hereof (the "Property"); and

WHEREAS, the Declarant has requested an amendment to the land use designation on the Property from electrical generating plant to commerce; and

WHEREAS, the Declarant intends to develop the Property for landfill, solid waste disposal and other uses consistent with the industrial uses allowed under the commerce designation including, but not limited to, those uses allowed under the A-6 and A-7 Zoning Districts of the County Zoning Code and requests that the County review the impacts of its land use amendment based upon the impacts created by industrial use rather than other uses that might be allowed under a Commerce designation including, but not limited to, restaurant, retail, etc.; and

WHEREAS, in order for the County to review the impacts based solely on industrial uses, Declarant must enter into this Declaration for the benefit of the County limiting the development and use of the Property to industrial; and

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the restrictions hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns.

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by reference.
2. Property Development and Use Limitation. In connection with the development and use of the Property, Declarant agrees that the Property shall be restricted to industrial uses, as more particularly defined in Attachment A, attached hereto. This shall be deemed a restriction on the development and use of the Property.
3. Recordation/Effective Date. This Declaration shall not be effective until this Declaration is recorded in the Official Records of Broward County, Florida. Once recorded, this Declaration shall run with the Property for the sole benefit of the County and shall bind all successors and assigns to title of the Property. This Declaration shall not give rise to a cause of action by any party other than the County and no party other than the County shall be entitled to enforce this Declaration.

4. Amendment. This Declaration may not be modified, amended or terminated without prior written approval from the owner(s) of the Property and joinder and consent of the County.
5. Waiver. No waiver of any of the provisions of this Declaration shall be effective unless it is in writing, signed by the party against whom it is asserted and any such waiver shall only be applicable to the specific instance in which it relates and shall not be deemed to be a continuing or future waiver.
6. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida and venue for any litigation arising hereunder shall be Broward County, Florida.
7. Captions, Headings and Titles. The captions, paragraph headings and titles contained in this Declaration are for reference and convenience only and in no way define, describe, extend or limit the scope of intent of this Declaration, nor the intent of the provisions hereto.
8. Severability. Unless otherwise provided herein, if any provision of this Declaration shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
9. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.
10. Counterparts. This Declaration may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as follows:

Declarant

Witnesses:

Waste Management Inc. of Florida
a Florida corporation

(Signature)

Print Name:

By: _____
Its Authorized Agent

(Signature)

Print Name:

STATE OF
COUNTY

The foregoing instrument was acknowledged before me this ____ day of _____, 202__,
by _____, as _____ of Waste Management Inc. of

Florida, a Florida corporation. He/She is personally known to be or produced _____ as identification.

(Seal)

NOTARY PUBLIC

My Commission expires:

(Signature)

Print Name:

Commission No.:

ATTACHMENT A

INDUSTRIAL USE

Uses permitted in areas designated industrial are as follows:

1. Light and heavy industrial uses.
2. Heavy commercial uses including new and used automobile, truck, motorcycle, boat and trailer display, sales, and service; newspaper, magazine, and printing plants; bakeries, carpentry, cabinet shops and other trade shops; motion picture studios; ice houses; propane gas sales and repair; and salvage yards.
3. Educational, scientific and industrial research facilities, research laboratories, and medical or dental laboratories.
4. Office uses.
5. Transportation facilities.
6. Recreation and open space, cemeteries, and commercial recreation uses, as long as the location of these uses does not preclude or adversely affect the future use of surrounding areas for industry.
7. Community facilities.
8. Non-residential Agricultural uses.
9. Ancillary commercial uses within buildings devoted to primary industrial uses.
10. Wholesaling uses.
11. The following uses may also be permitted if certified by the Broward County Planning Council in the local land use plan, subject to the review and approval requirements of Policy 2.10.1 and as long as the total area of these uses does not consume more than 20 percent of the industrial land designated on the Future Broward County Land Use Plan Map (Series) within a flexibility zone, and as long as the location of these uses does not preclude or adversely affect the future use of surrounding areas for industrial uses:
 - a. Commercial and retail business uses.
 - b. Hotel, motel and similar lodging.
12. Mining.
13. Communication facilities.
14. Utilities, excluding electrical power plants.
15. Residential units within the same structure as industrial uses for the owner, manager or caretaker of the industrial uses may be located in areas designated industrial without the application of flexibility units or reserve units.