

EXHIBIT 1

ORDINANCE NO.

1 AN ORDINANCE OF BROWARD COUNTY, FLORIDA, ADOPTING A SMALL SCALE
2 AMENDMENT TO THE BROWARD COUNTY COMPREHENSIVE PLAN; AMENDING
3 THE BROWARD COUNTY LAND USE PLAN WITHIN THE BROWARD MUNICIPAL
4 SERVICES DISTRICT; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE
5 DATE.

6 (SPONSORED BY THE BOARD OF COUNTY COMMISSIONERS)
7

8 WHEREAS, Broward County adopted the Broward County Comprehensive Plan
9 on April 25, 2017 (the Plan);

10 WHEREAS, the Department of Commerce has found the Plan in compliance with
11 the Community Planning Act;

12 WHEREAS, Broward County now wishes to propose an amendment to the
13 Broward County Land Use Plan within the Broward Municipal Services District;

14 WHEREAS, the Planning Council, as the local planning agency for the Broward
15 County Land Use Plan, held its hearing on October 27, 2022, with due public notice;

16 WHEREAS, the Board of County Commissioners held an adoption public hearing
17 on November 12, 2024, at 10:00 a.m., having complied with the notice requirements
18 specified in Section 163.3184(11), Florida Statutes, at which public comment was
19 accepted and considered;

20 WHEREAS, the Board of County Commissioners, after due consideration of all
21 matters, hereby finds that the following amendment to the Plan is consistent with the State

22 Plan, Regional Plan, and the Plan; complies with the requirements of the Community
23 Planning Act; and is in the best interests of the health, safety, and welfare of the residents
24 of Broward County; and

25 WHEREAS, the proposed amendment constitutes a Broward County permitted
26 small scale amendment to the Plan pursuant to Section 163.3187(1), Florida Statutes,

27 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
28 BROWARD COUNTY, FLORIDA:

29 Section 1. The Broward County Land Use Plan is hereby amended by
30 Amendment PC 22-5 in the Broward Municipal Services District, set forth in Exhibit A,
31 attached hereto and incorporated herein.

32 Section 2. Severability.

33 If any portion of this Ordinance is determined by any court to be invalid, the invalid
34 portion will be stricken, and such striking will not affect the validity of the remainder of this
35 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
36 legally applied to any individual, group, entity, property, or circumstance, such
37 determination will not affect the applicability of this Ordinance to any other individual,
38 group, entity, property, or circumstance.

39 Section 3. Effective Date.

40 (a) The effective date of the plan amendment set forth in this Ordinance shall
41 be the later of:

42 (1) Thirty-one (31) days after the adoption of this Ordinance;

43 (2) The date a final order is issued by the Department of Commerce or the
44 Administration Commission finding the amendment to be in compliance;

- 45 (3) If the Department of Commerce or the Administration Commission finds the
46 amendment to be in noncompliance, pursuant to Section 163.3184(8)(b),
47 Florida Statutes, the date the Board of County Commissioners nonetheless
48 elects to make the plan amendment effective notwithstanding potential
49 statutory sanctions;
- 50 (4) If a Declaration of Restrictive Covenants is applicable, as per Exhibit B, the
51 date the Declaration of Restrictive Covenants is recorded in the Official
52 Records of Broward County; or
- 53 (5) If recertification of the municipal land use plan amendment is required, the
54 date the municipal amendment is recertified.
- 55 (b) This Ordinance is effective as of the date provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Maite Azcoitia 09/27/2024
Maite Azcoitia (date)
Deputy County Attorney

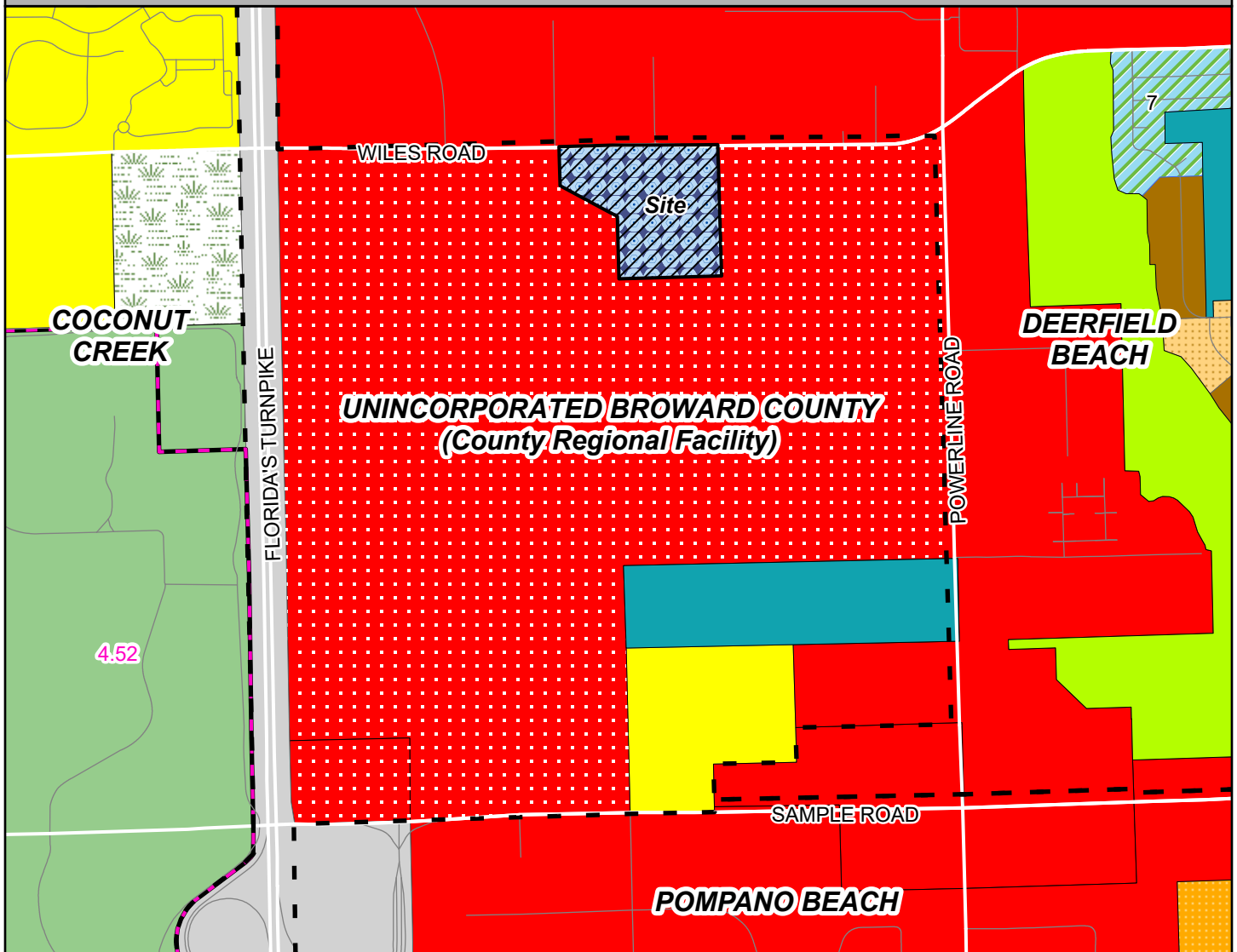
EXHIBIT A

BROWARDNEXT - BROWARD COUNTY LAND USE PLAN FUTURE LAND USE DESIGNATIONS AMENDMENT PC 22-5

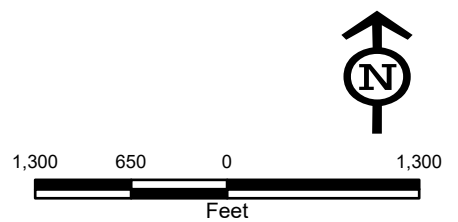
Current Land Use: Electrical Generation Facilities

Proposed Land Use: Commerce

Gross Acres: Approximately 24.2 acres



- | | |
|------------------------------|-------------------------------------|
| Municipal Boundary | Commerce |
| Site | Conservation - Natural Reservations |
| Dashed-Line Area | Recreation and Open Space |
| Low (5) Residential | Commercial Recreation |
| Low-Medium (10) Residential | Community |
| Medium (16) Residential | Electrical Generation Facilities |
| Medium-High (25) Residential | Transportation |
| Irregular Residential | |



SECTION I
AMENDMENT REPORT
BROWARD COUNTY LAND USE PLAN
PROPOSED AMENDMENT PC 22-5
(UNINCORPORATED BROWARD COUNTY/BROWARD MUNICIPAL SERVICES DISTRICT)

RECOMMENDATIONS/ACTIONS

DATE

I. Planning Council Staff Recommendation

October 18, 2022

Planning Council staff finds that the proposed change from the Electrical Generation Facilities to the Commerce category is generally consistent with the land use designations and development patterns in the surrounding areas.

If the proposed land use amendment is adopted, the applicant has been very clear in its intent to request an expansion of the footprint of the landfill, which is a permitted use in the Commerce land use designation. However, to achieve such an expansion to the landfill footprint, the applicant will be required to apply to the local government (Unincorporated Broward County) and be approved for the appropriate (re)zoning, permits and licenses. Based on information provided the applicant, the existing landfill has an estimated 8 to 9 years of capacity remaining (barring the unanticipated cleanup from any storm events) and an expansion of the facility could extend the capacity by an additional 5 to 6 years.

The collection, recycling and disposal of solid waste in Broward County presents a complex series of issues as each local government determines its own process and providers. As it is unclear as to the direction that Broward County and its local governments are moving towards related to regional solid waste disposal as part of the Solid Waste Working Group, the proposed land use plan change may be considered premature and create a cascading affect regarding (re)zoning, permitting and licensing applications.

Pending a recommendation by the Planning Council and if the Broward County Land Use Plan amendment and local version of the amendment are adopted by the Broward County Board of County Commissioners, effectiveness of the approval of the land use plan amendment shall not occur until the municipal recertification of the local amendment is complete.

As the Planning Council is aware, the Broward County Charter requires at least one Planning Council public hearing and Article 1.2(A) of the *Administrative Rules Document: BrowardNext* outlines the following circumstances in which a second Planning Council public hearing may be recommended or required:

- (1) At its initial public hearing, the Planning Council takes an action to recommend denial of a proposed amendment; or

I. Planning Council Staff Recommendation (continued)

October 18, 2022

- (2) At its initial public hearing, the Planning Council takes an action to recommend approval subject to meeting specific criteria or policy prior to a second Planning Council public hearing; or
- (3) At its initial public hearing, the Planning Council votes by a majority of the members present with a minimum of six (6) affirmative votes for a second Planning Council public hearing; or
- (4) If the County Commission requests by a vote of the majority of members present to request a second Planning Council public hearing; or
- (5) If an objection or comment on adverse impacts to important state resources or facilities is issued during the State of Florida Chapter 163 review process; or
- (6) If State of Florida Chapter 163 requires or is modified to require a second local planning agency public hearing.

If the Planning Council chooses to require a second Planning Council public hearing per Article 1.2(A)(1)(2) or (3), such recommendation must be made as part of its motion.

In addition, if the Planning Council does not require a second Planning Council public hearing and the Broward County Land Use Plan amendment is adopted by the County Commission, this action by the Planning Council shall be considered the “conditional” recertification of the municipal land use plan amendment, which directly correlates to the referenced BCLUP amendment. The recertification will not be deemed effective until such time as the Planning Council Executive Director and Attorney determine that the municipality has fulfilled all application requirements for recertification of local land use plans, as outlined in the *Administrative Rules Document: BrowardNext*. The Planning Council Executive Director will issue a written letter of effectiveness to the municipality upon satisfaction of the same.

II. Planning Council Public Hearing Recommendation

October 27, 2022

While we find no technical fault with staff’s recommendation, as a matter of urban planning essential to the implementation of effective land use planning, we cannot recommend expansion of any landfill facilities within Broward County at this time. Further, a second Planning Council public hearing is not required. (Vote of the board; Unanimous: 12-0; Brunson, Castillo, Fernandez, Hardin, Horland, Levy, Parness, Reiter, Rich, Rosenof, Williams and DiGiorgio)

SECTION II
AMENDMENT REPORT
PROPOSED AMENDMENT PC 22-5

INTRODUCTION AND APPLICANT’S RATIONALE

- I. Municipality: Unincorporated Broward County/Broward Municipal Services District (BMSD)

- II. County Commission District: District 2

- III. Site Characteristics
 - A. Size: Approximately 24.2 acres

 - B. Location: In Section 16, Township 48 South, Range 42 East; generally located on the south side of Wiles Road/Northwest 48 Street, between Powerline Road and the Florida’s Turnpike.

 - C. Existing Use: Non-operational waste-to-energy incinerator facility and solid waste transfer station (non-conforming use permitted by agreement through July 2023)

- IV. Broward County Land Use Plan (BCLUP) Designations
 - A. Current Designation: Electrical Generation Facilities

 - B. Proposed Designation: Commerce

 - C. Estimated Net Effect: Addition of 24.2 acres of commerce use
Reduction of 24.2 acres of electrical generation facilities use

- V. A. Existing Uses and BCLUP Designations Surrounding the Amendment Site
 - 1. Existing Uses:
 - North:* Warehouse/Industrial (Deerfield Beach)
 - East:* Landfill (BMSD)
 - South:* Landfill (BMSD)
 - West:* Landfill (BMSD)

 - 2. Planned Uses:
 - North:* Commerce (Deerfield Beach)
 - East:* Commerce (BMSD)
 - South:* Commerce (BMSD)
 - West:* Commerce (BMSD)

INTRODUCTION AND APPLICANT'S RATIONALE (continued)

V. B. Existing Uses and BCLUP Designations Surrounding the County Regional Facility

- | | | |
|----|-----------------------|---|
| 1. | <i>Existing Uses:</i> | <i>North:</i> Vacant and Warehouse/Industrial (Deerfield Beach)
<i>East:</i> Warehouse/Industrial (Deerfield Beach), FPL Substation (BMSD), Outdoor Vehicle Storage, Office (BMSD) and Retail (Deerfield Beach)
<i>South:</i> FPL Substation (BMSD), Turnpike Access and Retail (Pompano Beach)
<i>West:</i> Florida's Turnpike (BMSD) and County Facility (Tradewinds Park) (Coconut Creek) |
| 2. | <i>Planned Uses:</i> | <i>North:</i> Commerce (Deerfield Beach)
<i>East:</i> Commerce (Deerfield Beach), Community and Low (5) Residential (BMSD)
<i>South:</i> Community (BMSD), Commerce and Transportation (Pompano Beach)
<i>West:</i> Transportation (Florida's Turnpike) (BMSD), Recreation and Open Space (Coconut Creek) and Conservation (Coconut Creek) |

VI. Applicant/Petitioner

- | | | |
|----|------------------------|--|
| A. | <i>Applicant:</i> | Waste Management Inc. of Florida |
| B. | <i>Agent:</i> | C. William Laystrom, Jr., Esq., Doumar, Allsworth, Laystrom, Voigt, Adair & Dishowitz, LLP |
| C. | <i>Property Owner:</i> | Waste Management Inc. of Florida |

VII. Recommendation of Local Governing Body:

The Broward County Board of County Commissioners has transmitted the application to the Broward County Planning Council for review and analysis.

EXHIBIT B

The attached draft "Declaration of Restrictive Covenants" has been submitted and is required to be executed and recorded by the applicant prior to the effective date.

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.