

**COMMISSION ORDER OF THE
CITY OF PEMBROKE PINES, FLORIDA
CITY COMMISSION**

COMMISSION ORDER NUMBER: 2023-02

DATE AND AGENDA June 21, 2023

CITY COMMISSION ACTION: APPROVED

APPLICANT: Waste Management Inc. of Florida

FILE NUMBERS: City Commission Item No. 19/No. 23-0127

PETITION FOR: Approval of the WM Recycling South Florida Site Plan for development of a recycling facility, as recommended by the Planning and Zoning Board; for the property located at the Northeast corner of Pembroke Road and SW 208th Avenue.

LOCATION: 20701 Pembroke Road.

LEGAL DESCRIPTION: A portion of Parcel "A", Reuter Plat, according to the Plat thereof, as recorded in Plat Book 148, Page 21 of the Public Records of Broward County, Florida.

FINDINGS OF FACT: The City Commission, pursuant to the provisions of Chapter 37 of the City's Code of Ordinances entitled Quasi-Judicial Proceedings and section 155.304 of the City's Land Development Code (Quasi-judicial Proceedings) after having heard and considered the following matters, hereby makes the following Findings of Fact:

1. Planning and Economic Development Department Staff has reviewed the development application for the Waste Management (WM) Recycling Facility based on Land Use, Zoning, Plat and Site plan standards.
2. The existing facility was approved by the Planning and Zoning Board on June 14, 1990, via application SP 90-09.
3. The subject site plan application was heard on February 9, 2023 by the City's Planning and Zoning Board which voted unanimously to transmit the application with a favorable recommendation to the City Commission consistent with the Planning and Economic Development Department's recommendation which included the following conditions: (1) City Commission approval of the building for height in excess of 50' (2) Satisfaction of FPL landscape comments prior to issuance of a certificate

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of occupancy on the site, (3) Applicant to build SW 208 Avenue consistent with final design of Pembroke Road expansion project as stated within 12/20/22 letter, (4) Applicant to provide a secondary Fire Department connection at a location to be determined by the Fire Prevention Bureau prior to issuance of a building permit, (5) Establishing an agreement between the City and Waste Management for an annual host fee, (6) Applicant to address with City Commission the entrance of trucks and feasibility of maintaining the current traffic patterns which include the majority of truck traffic coming from US 27.

4. Section 155.303 outlines the decision-making authority of various entities within the City. Planning and Economic Development Department staff's authority in terms of process for development applications is part of Section 155.303 (A)(2)(f)(g). The Department recommends action on applications, that are reviewed by the Planning and Zoning Board and or City Commission. The Department also establishes application submittal requirements and review procedures.
5. The proposed recycling plant will be located within an undeveloped ± 21-acre portion of the Petitioner's property within the Reuter Plat and the development is consistent with the uses allowed within the underlying Resource Recovery (R-R) Zoning District and Agriculture (A) land use designation. Pursuant to section 155.301(A)(4)(b) of the City's Land Development Code, site plans providing for a building height in excess of 50 feet shall require review and action by the City Commission.
6. Petitioner's property consists of 139.48 acres and contains multiple buildings including a hanger, a transfer station, and an existing recycling facility, which Petitioner proposes to convert into a waste storage building. All present and future uses are consistent with the R-R Zoning District as well as the City's Land Development Code.
7. Dennis Mele, Esq., the Petitioner's registered and authorized representative, presented on behalf of the Petitioner. Mr. Mele was sworn in. All documentary evidence and exhibits offered by Mr. Mele were accepted by the City Commission and admitted into the public record. Petitioner requests approval for the WM Site Plan to design and to construct a 127,304 sq. ft. recycling facility, Site Plan Application (SP 2022-0014) (the "Application").
8. Michael DeClerk, the Florida Recycling Operations Director for the Applicant also presented on behalf of the Petitioner upon being sworn in by the City Clerk.
9. The Petitioner stated that recyclable or other material or waste brought onto the Subject Property shall never be incinerated on-site.
10. The Petitioner stated that the on-site operations will not contribute to pollution

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of the land, air, or water. And, further, that the subject property will not be a source of noxious or unpleasant smells or unpleasant noises.

11. Petitioner represented that there are presently 240 daily trips to and from the Property. The proposed addition of a new recycling facility will increase the total number of daily trips by an additional 80 trips.
12. Michael Stamm, Assistant City Manager and Planning and Economic Development Director appeared on behalf of the City. Mr. Stamm stated that the proposed application was reviewed by staff and met code requirements. In addition, he stated that the proposed facility may improve the City's ability to provide recycling services, following procurement, because additional facilities providing recycling services could potential impact the costs associated with the service.
13. It was clarified for the record, by the Petitioner, the hours of operation for the Subject Property for receiving waste shall be from 6:00 AM to 6:00 PM Monday through Friday and from 6:00 AM to 3:00 PM on Saturday; Processing waste will occur on-site daily until 1:00 AM.
14. Licensing for the Waste Recycling Plant is not a function of the City, but is regulated by state agencies.
15. One member of the public addressed the Commission. The individual identified himself and spoke in favor of more competition for services such as recycling.
16. The names and addresses of all public speakers were identified and their statements were filed with the City Clerk as a part of the public record.
17. The Host Fee Agreement was approved by the Commission as part of its Consent Agenda at the same hearing as a mutually-dependent agreement that is inextricably tied and contingent upon the Commission's approval of the Site Plan Application. The adoption of a host fee agreement is consistent with the recommendations of staff and condition of approval from the members of the Planning and Zoning Board.
18. The following documents were submitted for the record
 - o Exh-A: Deferral Request on behalf of Petitioner;
 - o Exh-B: Affidavit of Applicant;
 - o Exh-C: Unified Development Application for Site Plan;
 - o Exh-D: Status Letter from Broward County;
 - o Exh-E: Petitioner's Operations Narrative;
 - o Exh-F: Petitioner's email regarding Host Fee Agreement
 - o Exh-G: Letter to City from Sun-Tech Engineering
 - o Exh-H: FPL DRC Comments

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- Exh-I: Petitioner's Sustainability Statement
- Exh-J: Petitioner's Economic Impact Statement
- Exh-K: Excerpt of Draft Planning and Zoning Board Minutes;
- Exh-L: Subject Site Aerial Photograph;
- Exh-M: City Commission Selected Plan Sheets;
- Exh-N: WM Recycling South Florida Site Plan; and
- Exh-O: Site Plan Consent Agenda Affidavit.

CONCLUSION AND ORDER:

After full and open public consideration and review of the City's records and arguments presented as reflected above in the FINDINGS OF FACT, the City Commission hereby GRANTS Petitioner's request for approval of the Site Plan described in paragraph 1 above.

NOTICES: All notices or other communications required by one party to another shall be given in writing by personal delivery or by regular U.S. mail or sent by telex, facsimile or similar method of electronic communication addressed to such other party or delivered to such other party as follows:

CITY: Charles F. Dodge, City Manager
601 City Center Way
Pembroke Pines, FL 33025
Telephone No. (954) 431-4884
Facsimile No. (954) 437-1149

Copy to: Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Blvd., Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500
Facsimile No. (954) 771-4923

PETITIONER: Waste Management Inc. of Florida
c/o Dennis D. Mele, Esquire
Greenspoon Marder LLP
200 East Broward Blvd., Suite 1800
Fort Lauderdale, FL 33301
Telephone No. 954-527-2409

Issuance of this development order by the City of Pembroke Pines does not create any right on the part of an applicant to obtain a permit from a State or Federal agency and does not create any liability on the part of the City of Pembroke Pines for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of state or federal law. All other applicable State or Federal permits must be obtained before commencement of the development.

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DONE AND ORDERED on this 29th day of June, 2023, in Pembroke Pines, Florida.

CITY OF PEMBROKE PINES, FLORIDA


ATTEST:

BY:


MAYOR FRANK ORTIS

 6/29/23
MARLENE A. GRAHAM, CITY CLERK

APPROVED AS TO FORM:


OFFICE OF THE CITY ATTORNEY