STAFF REPORT

TO: COLLIER COUNTY PLANNING COMMISSION
FROM: GROWTH MANAGEMENT DEPARTMENT, ZONING DIVISION
COMPREHENSIVE PLANNING SECTION
HEARING DATE: March 19, 2020
SUBJECT: PETITION PL20190001052/CPSS-2019-7, SMALL SCALE GROWTH
MANAGEMENT PLAN AMENDMENT
[ADOPTION HEARING]
(Companion to PL20190000948, Yahl Mulching & Recycling Conditional Use
Modification)
ELEMENT: FUTURE LAND USE ELEMENT (FLUE)

PETITIONER/OWNER/AGENT:
Petitioner/Owner: Yahl Mulching and Recycling, Inc.  James Calaf, of Ventura Yahl, LLC
2250 Washburn Avenue  2651 SW 27th Avenue
Naples, Florida  34117  Miami, FL  33133
Agent: James Golden, P.G.
Grove Scientific & Engineering Co.
6140 Edgewater Drive, Suite F
Orlando, Florida  32810

GEOGRAPHIC LOCATION
The subject property contains approximately 2.71 acres located south and east of Washburn Avenue,
and east of the Naples Landfill. The property has approximately 460 feet of frontage on an east-west
segment of Washburn Avenue, in the north east area of the ±28.7 acre parent property, in Section 31,
Township 49 South, Range 27 East, Collier County, Florida. (See aerial and zoning maps below)
REQUESTED ACTION
This petitioner seeks to amend Rural Fringe Mixed Use District, Sending Lands provisions in the FLUE, and Future Land Use Map Series of the Growth Management Plan (GMP), affecting ten (10) or fewer acres, by introducing the:

1) FLUM inset map for Air Curtain Incinerator Facilities, to depict the effected 2.7-acre area, and
2) Sending Lands, Conditional Uses text to revise provisions regarding the uses allowed within the affected area.

Both the new map and revised language proposed by this amendment are found in Ordinance Exhibit A, and will allow modification to the companion Conditional Use to allow the addition of an Air Curtain Incinerator (ACI) for disposal of yard waste (trees & clean lumber/wood) on 2.7 acres of the total site, along with the already-allowed recycling of horticultural, construction and demolition materials on the entire +28-acre subject property in the A, Rural Agricultural zoning within the Rural Fringe Mixed Use (RFMU) Sending Lands [zoning] Overlay, and within the North Belle Meade [zoning] Overlay.

PURPOSE AND DESCRIPTION OF AMENDMENT
The petitioner proposes amended provisions that allow the ACI as a Conditional Use, at a Sending Lands location where “facilities for landfilling, dryfilling, incinerating, or other method of solid waste disposal” are not now allowed.

STAFF ANALYSIS
FUTURE LAND USE DESIGNATION, ZONING AND LAND USE:
Subject Property: The subject property, which comprises approximately 2.7 acres, is currently designated Rural Fringe Mixed Use District, Sending Lands, North Belle Meade Overlay (NBMO), which generally provides participation in the Transfer of Development Rights (TDR) program, agricultural uses consistent with the Florida Right to Farm Act, habitat preservation and conservation, single-family residences at a 1 dwelling unit per 40 acres or legally nonconforming parcel density, non-residential uses (e.g. passive recreation, essential services, sports and recreation camps, oil and gas exploration, development and production), and limited accessory commercial uses.

It is zoned A, Rural Agricultural, lies within the Rural Fringe Mixed Use (RFMU) Sending Lands [zoning] Overlay, and within the North Belle Meade [zoning] Overlay. It is approved with a Conditional Use allowing for the “Mulching and Recycling Facility”. County records indicate zoning activity as early as 1991, when a Provisional Use for a “Sawmill” was granted, plus a series of Conditional Uses, beginning in 1998, when the “Sawmill (Mulching and Horticultural Recycling)” use was approved; the land uses on the property are horticultural mulching and construction & demolition materials recycling, with no on-site incineration.

Surrounding Lands:
North: The Future Land Use Map designates land north, across Washburn Ave., as Rural Fringe Mixed Use District, NBMO Sending Lands. Land is zoned A, Rural Agricultural, RFMU Sending Lands Overlay, and within the North Belle Meade Overlay, and developed with residences.

East: The Future Land Use Map designates land east of the subject property as Rural Fringe Mixed Use District, NBMO Sending Lands. Land is zoned A, Rural Agricultural, RFMU Sending Lands Overlay, and within the North Belle Meade Overlay, and developed with residences.

South: The Future Land Use Map designates land lying south of the subject property, across I-75, as Rural Fringe Mixed Use District, NRPA Sending Lands. These areas lie within the Picayune Strand State Forest. These areas are zoned A, Rural Agricultural, RFMU Sending Lands Overlay, and within the Natural Resource Protection Area, and are undeveloped.
West: The Future Land Use Map designates land immediately west of the subject property as Rural Fringe Mixed Use District, NBMO Sending Lands. These areas are zoned A, Rural Agricultural, RFMU Sending Lands Overlay, and within the North Belle Meade Overlay, and are developed residentially. A property across Washburn Ave., is zoned A, Rural Agricultural with a Provisional Use (PU), RFMU Sending Lands Overlay, and within the North Belle Meade Overlay, and developed with a communication tower.

Criteria for GMP Amendments in Florida Statutes

The data and analysis requirements for comprehensive plans and plan amendments are noted in Chapter 163, F.S., specifically as listed below.

Identification and Analysis of the Pertinent Criteria in Florida Statutes, Chapter 163.3187, to Qualify as a Small-Scale Comprehensive Plan (GMP) Amendment:

The process for adoption of small-scale comprehensive plan amendment requires (in part) the following statutory standards be met, [followed by staff analysis in bracketed text].

1. A small scale development amendment may be adopted under the following conditions:
   (a) The proposed amendment involves a use of 10 acres or fewer. [The amendment pertains to a 2.7-acre property.]
   (b) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section. [This amendment involves text changes that relate directly to site-specific Future Land Use Map changes.]
   (c) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). [The subject property is not within an Area of Critical State Concern.]

4. Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177. [The amendment preserves the internal consistency between and among GMP elements.]

Section 163.3177(1)(f), Florida Statutes:

The process for adoption of a comprehensive plan amendment requires (in part) that plan amendments shall be based upon relevant and appropriate data and an analysis by the local government,

(f) All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments shall be made available for public inspection, and copies of such plans shall be made
available to the public upon payment of reasonable charges for reproduction. Support data or summaries are not subject to the compliance review process, but the comprehensive plan must be clearly based on appropriate data. Support data or summaries may be used to aid in the determination of compliance and consistency.

2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.

3. The comprehensive plan shall be based upon permanent and seasonal population estimates and projections, which shall either be those published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology. The plan must be based on at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission. Absent physical limitations on population growth, population projections for each municipality, and the unincorporated area within a county must, at a minimum, be reflective of each area’s proportional share of the total county population and the total county population growth.

Section 163.3177(6)(a)2. Florida Statutes:

The process for adoption of a comprehensive plan amendment requires (in part) that plan amendments shall be based upon surveys, studies and data regarding the area,

2. The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:
   a. The amount of land required to accommodate anticipated growth.
   b. The projected permanent and seasonal population of the area.
   c. The character of undeveloped land.
   d. The availability of water supplies, public facilities, and services.
   e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.
   f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
   g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
   h. The discouragement of urban sprawl.
   i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community’s economy.
   j. The need to modify land uses and development patterns within antiquated subdivisions.

Section 163.3177(6)(a)8., Florida Statutes:

The process for adoption of a comprehensive plan map amendment [which this is] requires (in part) that plan amendments shall be based analyses of the availability of facilities and services, the suitability of the plan amendment for its proposed uses, and of the minimum amount of land needed to achieve the
goals and requirements of the existing subdistricts, Sending Lands and special designations, within which land use programs and activities are ultimately directed.

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use shall be provided for the gross land area included in each existing land use category. The element shall establish the long-term end toward which land use programs and activities are ultimately directed.

8. Future land use map amendments shall be based upon the following analyses:

a. An analysis of the availability of facilities and services.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

It is incumbent upon the petitioner to provide appropriate and relevant data and analysis to address the statutory requirements for a Plan amendment, then present and defend, as necessary, that data and analysis.

BACKGROUND, CONSIDERATIONS AND ANALYSIS

COMPREHENSIVE PLANNING COMMENTS: Application materials describe the site as "partially cleared and improved" with "existing mulching and recycling facilities". The parcel is zoned A, Rural Agricultural, lies within the Rural Fringe Mixed Use (RFMU) Sending Lands, and within the North Belle Meade Overlay. It is approved with a Conditional Use allowing for the "Mulching and Recycling Facility". The GMP provisions for Sending Lands’ Conditional Uses are found [in part] in the FLUE as:

8. Conditional Uses:

a) The following uses are conditionally permitted subject to approval through a public hearing process

(5) Facilities for resource recovery and for the collection, transfer, processing and reduction of solid waste, for a ±29 acre property located within the southwest quarter of the southwest quarter of Section 31, Township 49S, Range 27E, provided previously cleared or disturbed areas are utilized to minimize impacts to native habitats such that existing conservation easement areas remain protected from expanding uses. This shall not be interpreted to allow for the establishment or expansion of facilities for landfilling, dryfilling, incinerating, or other method of solid waste disposal.

Staff cannot clearly determine the reasons for disallowing these specifically identified methods of “solid waste disposal.” In this instance however, it appears that landfilling, dryfilling and incinerating were considered to be similar practices, or methods of solid waste disposal – with potentially similar impacts on the surrounding land uses and neighbors. The advent of the Air Curtain Incinerator (ACI) introduced an enclosed technology; one which the petitioner asks the County to consider as acceptable for this location. Informational materials provided by the petitioner have included an ACI Operating Manual, and a Startup, Shutdown and Operating Plan for Yard Trash Processing (prepared by the engineering firm, Grove Scientific & Engineering). The “Operating Plan” appears to cover nearly every aspect of ACI operations on the Yahl property. It covers how operators are trained before operating the ACI, and how the Greater Naples Fire District, Florida Forest Service and Department of Environmental
Protection are involved. This “Operating Plan”, in itself may be a valuable resource when considerations are given to the companion Conditional Use modification.

**Environmental Impacts:**

The entire Conditional Use subject property is 28.7 acres. The acreage of native vegetation on site was field verified by staff during review of the Conditional Use (CU) for the project. The project is located within the Rural Fringe Mixed Use District (RFMUD) overlay.

The proposed GMP amendment has no effect on the requirements of the Conservation and Coastal Management Element (CCME) of the GMP. Native vegetation on site will be retained in accordance with the requirements of CCME Policy 6.1.1 and section 3.05.07 of the LDC.

**Traffic Capacity/Traffic Circulation Impact Analysis, Including Transportation Element Consistency Determination:**

Transportation Planning staff has reviewed the application and found this project consistent with Policy 5.1 of the Transportation Element of the Growth Management Plan (GMP). The proposed Air Curtain Incinerator machine addition to the existing facility will according to the application not cause additional trips and potentially reduce the current trips experience at this facility. The ITE traffic impacts generated by the facility does not change with the addition of this machine (an Air Curtain Incinerator is not a stand-alone ITE trip generator and is considered accessory to the principal use for traffic impact). There are no other changes proposed with this Conditional Use; therefore, there are no additional transportation impacts beyond the previous findings of approval.

[Michael Sawyer, Principal Planner
Growth Management Department, Transportation Planning]

**Public Facilities Impacts:**

This petition proposes no increase in density or changes in permitted uses and would therefore have no impact on public utility facilities adequacy.

[Eric Fey, P.E., Senior Project Manager
Public Utilities Department]

Emergency Medical (EMS) and Fire Rescue Services: The subject property is located within the Greater Naples Fire and Rescue District, who’s collocated EMS/fire station 72 is located at 3820 Beck Boulevard, approximately 3 miles to the west. No adverse impacts to these safety services result from the proposed use.

Changes in permitted uses do not impact other public utility facilities adequacy.

**NEIGHBORHOOD INFORMATION MEETING (NIM) SYNOPSIS**

A Neighborhood Information Meeting (NIM) required by LDC Section 10.03.05.F. was [duly advertised, noticed and] held, jointly for this small-scale Growth Management Plan amendment petition and companion CU modification petition, on January 30, 5:30 p.m. at the Springhill & Fairfield Inn & Suites meeting facilities, located at 3798 White Lake Boulevard, Naples. Approximately 22 people other than the application team and County staff attended.

James Golden, of Grove Scientific & Engineering Company (agent representing the applications), introduced other principals present, including Jeff Ekiss, the applicant.

Mr. Golden used a Power Point presentation to describe the existing characteristics of the property, located southwest of Washburn Road. He explained how together, the small-scale GMPA and Conditional Use modification requests will allow for the operation of the ACI, on an area of the property where horticultural recycling already takes place. He displayed a site plan showing the proposed arrangement of uses.
He went on to explain how the ACI functions, how its operators are trained, and the State agency that monitors its operation.

Neighbors in attendance expressed their concerns over traffic, ash, smoke, heat, fumes, and how this existing operation’s traffic in particular, already creates dangerous traffic situations on the narrow roadway.

Concerns regarding a history of mulching and recycling activities and their related problems were discussed, including the unexpected height of the C&D (construction and demolition) mound [higher than the Conditional Use allows], the nuisance wood-chipping and concrete crushing, and increasing unsightliness that seems to accompany the growing business.

Additional details were discussed about operating the incinerator, its potential impacts, and the protections neighbors have to their properties from it operation. Jeff Ekiss agreed to post some type of sign or other roadside notification on days when the ACI would be active.

Neighbors asked about the public hearing process before the Planning Commission and County Board, and the anticipated schedule these two companion petitions are on. Mr. Golden and County staff present explained how this happens.

The Information Meeting was ended at approximately 7:05 p.m.

This synopsis provides the annotated NIM proceedings. An audio recording of the entire Neighborhood Information Meeting is available on the County’s “I” drive, at I:/GMD/Comprehensive Planning/NIM Recordings & PREAPP Notes.

[Finding prepared by C. Schmidt, AICP, Principal Planner]

FINDINGS AND CONCLUSIONS

- The subject site is currently zoned with a Conditional Use, and used for the recycling of horticultural, construction and demolition materials on the parent, ±28-acre subject property in the A, Rural Agricultural zoning.

- Informational materials provided by the petitioner have included an ACI Operating Manual, and a Startup, Shutdown and Operating Plan for Yard Trash Processing (prepared by the engineering firm, Grove Scientific & Engineering). The “Operating Plan” appears to cover nearly every aspect of ACI operations on the Yahl property, and may be a valuable resource when considerations are given to the companion Conditional Use modification.

- The County found this project consistent with Policy 5.1 of the Transportation Element of the GMP.

- No issues regarding impacts upon potable water, wastewater collection and treatment or solid waste collection and disposal services have been identified, nor concerns for impacts upon other public infrastructure.

- People attending the Neighborhood Information Meeting expressed a strong consensus that operating the incinerator, its potential impacts, and the protections neighbors have to their properties from it operation are important considerations. The applicant agreed to a Conditional Use commitment to post some type of sign or other roadside notification on days when the ACI would be active.

- A companion Conditional Use modification petition has been submitted concurrent with this GMPA petition to permit an air curtain incinerator (ACI), as a method of onsite solid waste disposal.
LEGAL CONSIDERATIONS
The Office of the County Attorney reviewed this report on __________, 2019. In addition to pertinent small-scale (GMP) amendment criteria in Florida Statutes, Section 163.3187 addressed above, the criteria for GMP amendments to the Future Land Use Element and map series are in Sections 163.3177(1)(f) and 163.3177(6)(a)2 and 163.3177(6)(a)8, Florida Statutes. [HFAC]

STAFF RECOMMENDATION
Staff recommends that the Collier County Planning Commission forward Petition PL20190001052/CPSS-2019-7 to the Board of County Commissioners with a recommendation to approve for adoption and transmittal to the Florida Department of Economic Opportunity.

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PREPARED BY:

CORBY SCHMIDT, AICP, PRINCIPAL PLANNER
COMPREHENSIVE PLANNING SECTION, ZONING DIVISION

DATE: 26 Feb 2020

REVIEWED BY:

DAVID WEEKS, AICP, GROWTH MANAGEMENT MANAGER
COMPREHENSIVE PLANNING SECTION, ZONING DIVISION

DATE: 2-26-20

APPROVED BY:

JAMES FRENCH, DEPUTY DEPARTMENT HEAD
GROWTH MANAGEMENT DEPARTMENT

DATE: 2-27-2020

PETITION No.: PL20190001052/CPSS-2019-7
Staff Report for the March 19, 2020, CCPC meeting.

NOTE: This petition has been tentatively scheduled for the April 28, 2020, BCC meeting.