<u>Application No.</u>
Z-12-06-07
(Rezoning Request)

<u>Applicant</u>
Calusa Green, LLC / Calusa Green Waste Management Facility

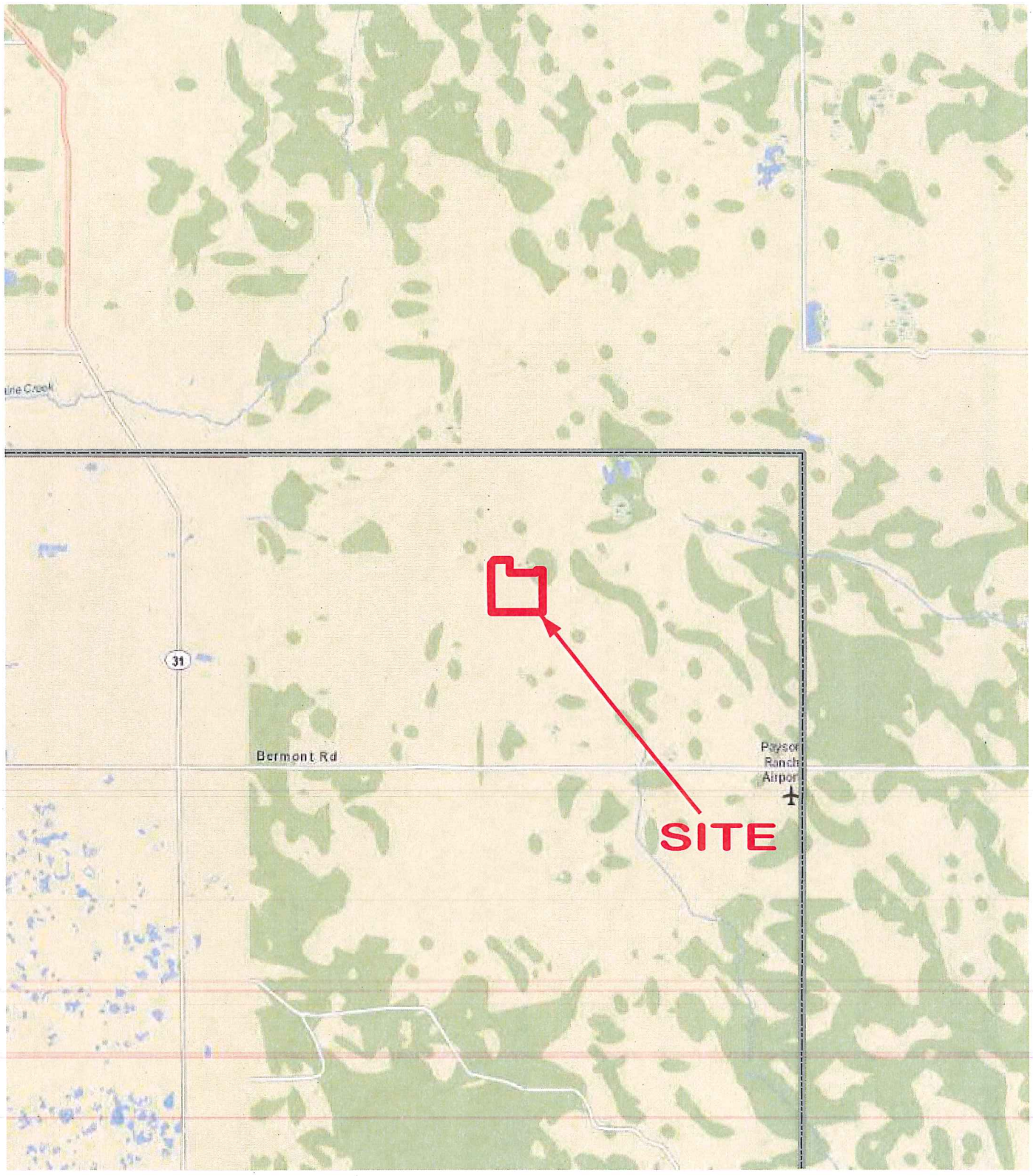
Quasi-Judicial

Commission Dist. I

Open for Business

Z-12-06-07
CALUSA GREEN WASTE MANAGEMENT FACILITY
General Area Map

Map Prepared By
Charlotte County
Community Development
Department



27/40/18 South County

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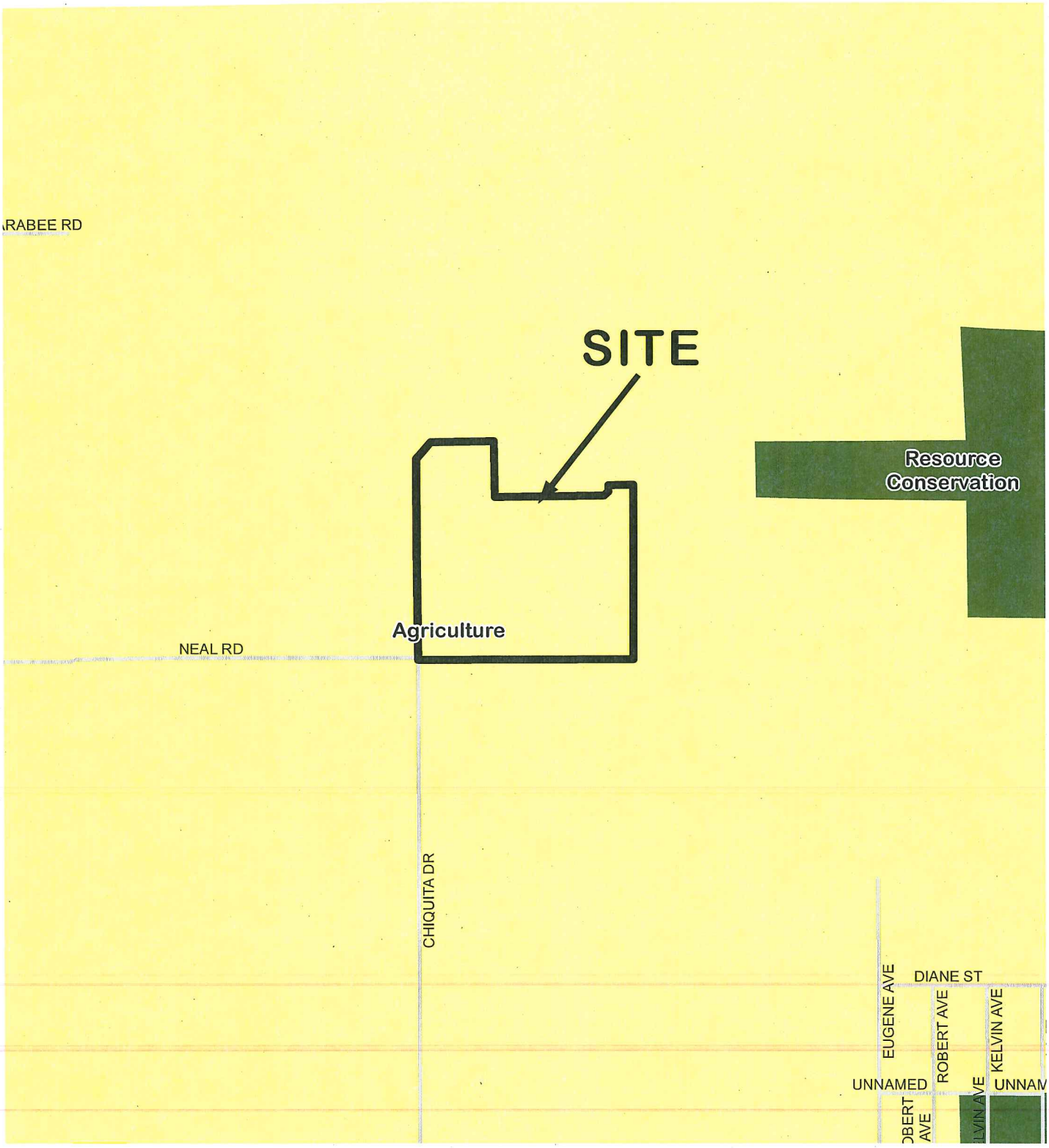
NOT TO SCALE

Open for Business

Z-12-06-07
CALUSA GREEN WASTE MANAGEMENT FACILITY
2030 Future Land Use Designations

Map Prepared By
Charlotte County
Community Development
Department



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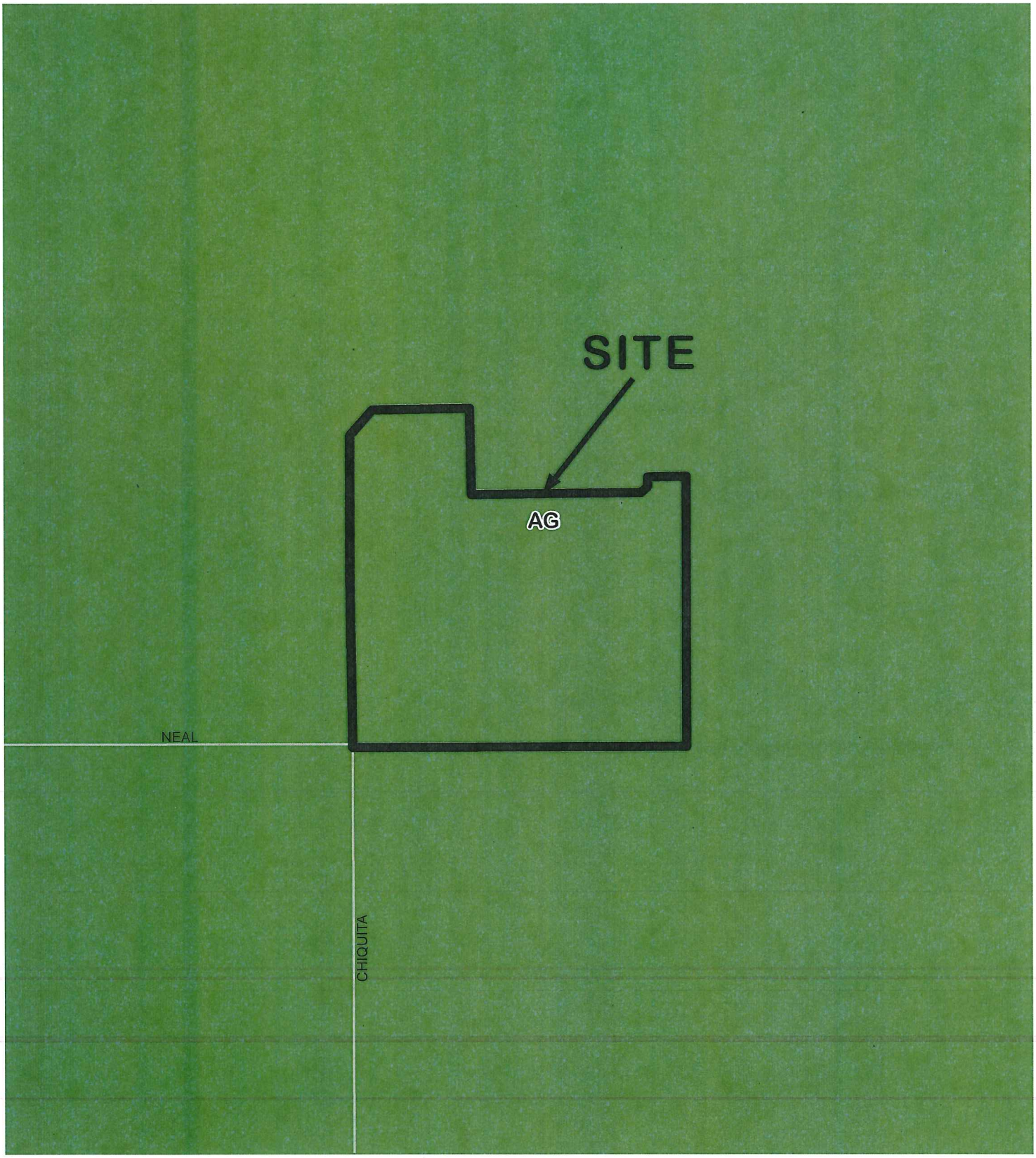
NOT TO SCALE

Open for Business

Z-12-06-07
CALUSA GREEN WASTE MANAGEMENT FACILITY
Zoning Districts

Map Prepared By
Charlotte County
Community Development
Department



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NOT TO SCALE

Community Development Department
Staff Report for Z-12-06-07

DATE: August 31, 2012

TO: Honorable Board of County Commissioners
The Planning and Zoning Board

FROM: Inga Williams, AICP, Principal Planner

REQUESTED ACTION(S): A privately initiated request to amend the Charlotte County Zoning Atlas from Agriculture (AG) to Planned Development (PD)

PART I

Applicants: Calusa Green, LLC,
1801 Shreve Street, Suite 112, Punta Gorda, FL 33950

Owner(s): Calusa Growers LC
PO Box 8188, Melrose Park, IL 60161

General Location:
The project site is located north of Bermont Road (C.R.74), south of the DeSoto County line, east of S.R. 31 and west of the Glades County line, in the East County area; more specifically, it is located at the northeast corner of the intersection of Neal Road and Chiquita Drive, in Township 18, Range 40, Section 27.

Acreage: 554± acres.

Account Number: 402718100001

The Proposed Project:
The proposed project consists of a 189 acre Class I Solid Waste Management Facility, a 30 acre Construction and Demolition Debris facility, a biosolids composting facility, a recycling center, and an energy recovery plant. The project phasing indicates that the development of the project will take approximately 2 years to complete construction once County approval is obtained.

STAFF RECOMMENDATION:
Deny adoption of Petition No. Z-12-06-07 based on the findings and analysis in the Comprehensive Planning Division staff report dated August 31, 2012 and evidence presented at the public hearing on the application.

The Planning and Zoning Board proposed recommendations:
"Motion to forward application No. Z-12-06-07 to the Board of County Commissioners with a recommendation of Denial, based on the findings and analysis in the staff report dated August 31, 2012 and evidence presented at the public hearing on the application."

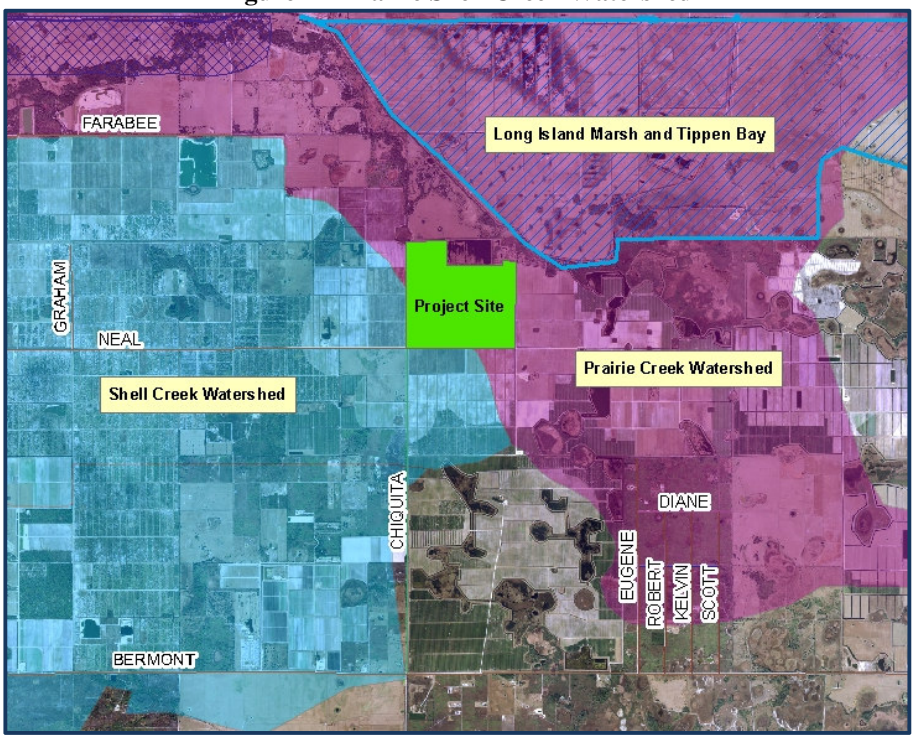
Conclusion:
Smart Charlotte 2050 is a planning document, not a technical document. Staff is reviewing the proposed project in respect to the language of the policies in Smart Charlotte 2050 and how the applicant's proposed project meets the requirements or guidelines of the policies. The applicant is responding with technical engineering facts to refute the professional opinion of staff on consistency with the comprehensive plan. The technical engineering facts may provide a basis to implement a change to Smart Charlotte 2050 policies, but this rezoning cannot of itself change the language of the comprehensive plan.

Staff is recommending denial of this rezoning because it is inconsistent with Smart Charlotte 2050.

A. Property Location in Relation to Smart Charlotte 2050 Maps:

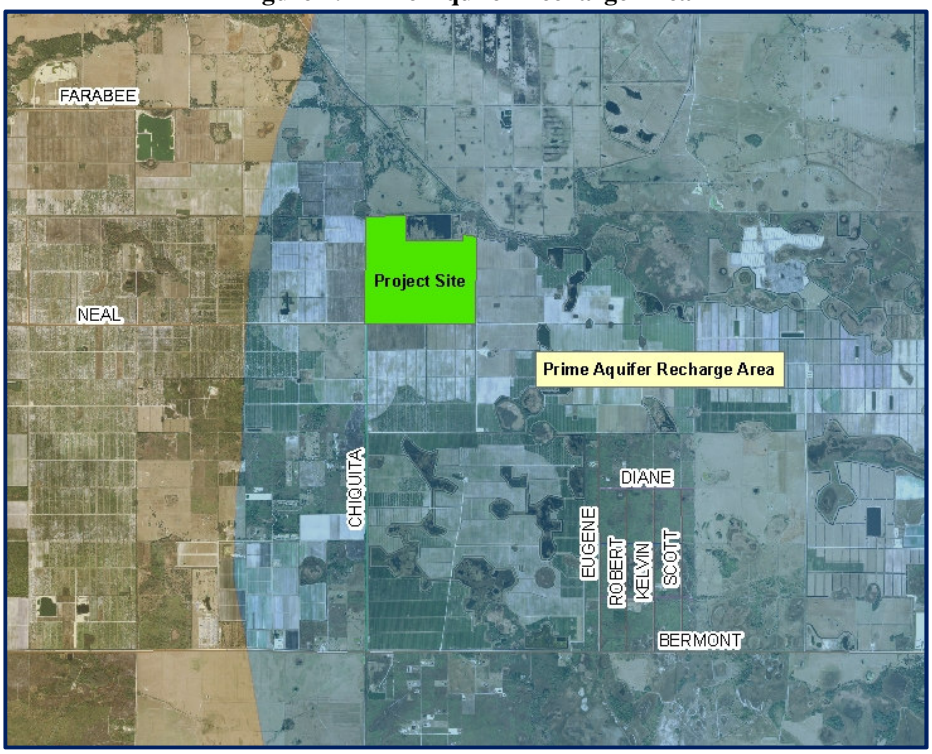
- The project site is located in the Rural Service Area, FLUM Series Map #3.
- The project site is located in the Agricultural/Rural area of the 2050 Framework map, FLUM Series Map #2.
- The project site is located in the Watershed Overlay District, FLUM Series Map #4.

Figure 1 – Prairie Shell Creek Watershed



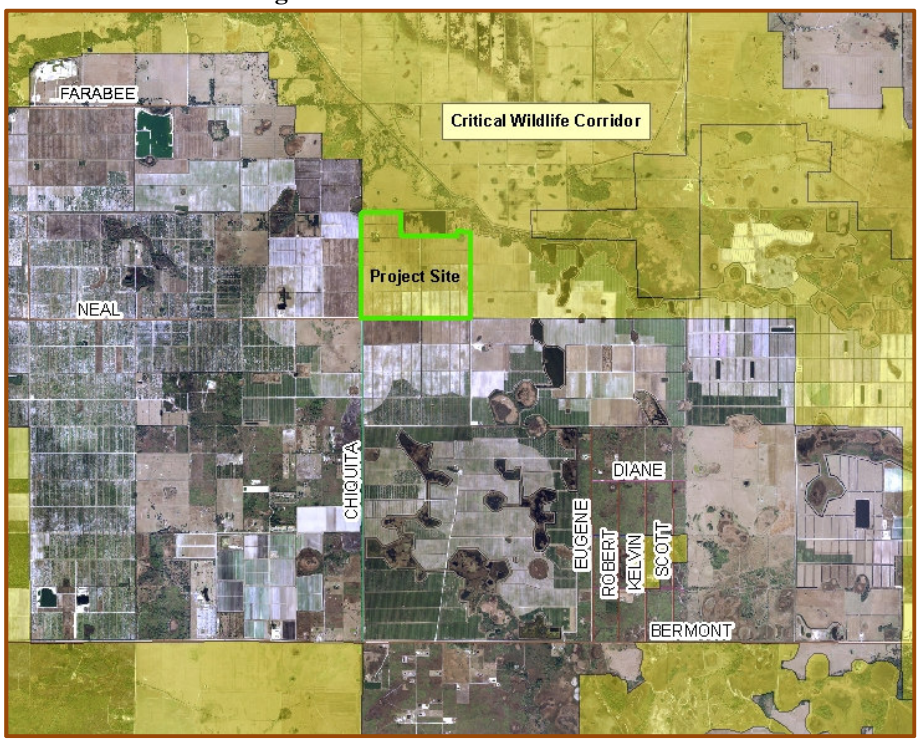
- The project site is located in the Prime Aquifer Recharge Area, FLUM Series Map #6.

Figure 2: Prime Aquifer Recharge Area



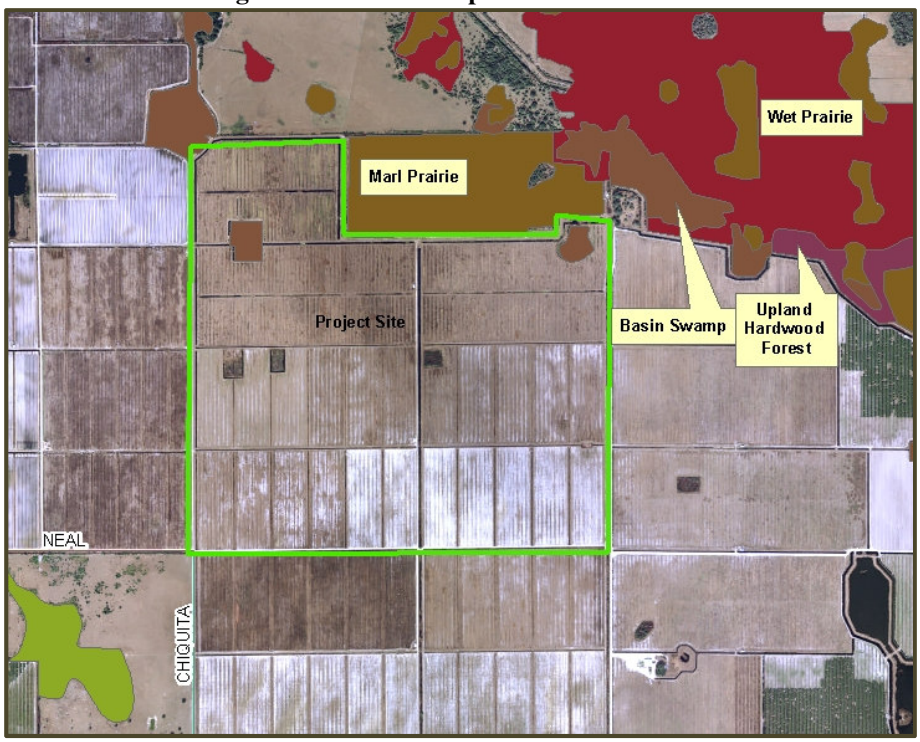
- The project site is located within a Critical Wildlife Corridor, FLUM Series Map #22.

Figure 3: Critical Wildlife Corridors



- The project site is adjacent to rare and imperiled communities, SPAM Series Map #50.

Figure 4: Rare and Imperiled Communities



B. Existing Land Use on the Site: The project site was a citrus grove which was removed as part of the citrus canker eradication program. A portion of the property was replanted and contains young citrus trees. The majority of the subject property is fallow at this time.

C. Future Land Use Map Designation of the Project Site: Agriculture

Excerpt from FLU Appendix I

AGRICULTURE (AG)

These lands are designated for agricultural activities.

General Range of Uses

Ranching, crop farming including citriculture, silviculture, aquaculture, and row crops, as well as rural residential, rural recreational uses, rural industrial uses and public services and facilities.

D. Zoning Designation of the Project Site: Agriculture General

Excerpt from Land Development Regulations, Chapter 3-9, Section 3-9-30

(a) *Intent.* Agriculture districts are intended to retain the open character of the land. Permitted uses are limited to conservation, agriculture, low-density residential, recreation and other uses consistent therewith.

Agriculture and agricultural activities are frequently associated with noise, odors, dust, aerial chemical spraying, and other activities generally incompatible with urban-style living. However, agriculture forms a vital segment of the economy of the state, and provides diversity of economic opportunity and life styles for the county. Therefore, it is the purpose of the agricultural districts to provide areas for the establishment and/or continuation of agricultural operations with residential uses being permitted only at very low densities and to accommodate those individuals who understand and desire to live in an agricultural environment.

Siting Ordinance Standards for Approval

A Solid Waste Management Facility Siting Ordinance (Siting Ordinance) was adopted by the County in 1998. The language is found in the Code of Laws and Ordinances within the section titled General Ordinances and Special Acts, Chapter 1-12, Article V. Solid waste management facilities regulated pursuant to this article include incinerators, landfills, composting facilities, construction and demolition debris management facilities, and vegetative waste management facilities. All new facilities are required to be rezoned to a Planned Development zoning district.

In accordance with the Siting Ordinance, a solid waste management facility can be approved by the commissioners only when they are satisfied that the proposed facility is appropriately sited and necessary. In addition, the commissioners must make positive findings of fact on the following items:

(1) A finding as to the recommendation of the planning and zoning board.
(2) A finding relating the consistency of the proposal with the adopted Comprehensive Plan of Charlotte County.
(3) A finding that approval of the facility will or will not adversely affect the public interest.
(4) A finding that the use and operation of the proposed facility will not endanger the public health or safety, and that the negative impacts of the proposed facility on adjacent properties will be minimized through buffering, setbacks, and other controls as may be established by the BCC at the time of approval.
(5) A finding that safe and adequate access to the facility for general, service and emergency purposes will be provided from nonresidential, major thoroughfares and will not require the use of any residential collector or residential local streets.

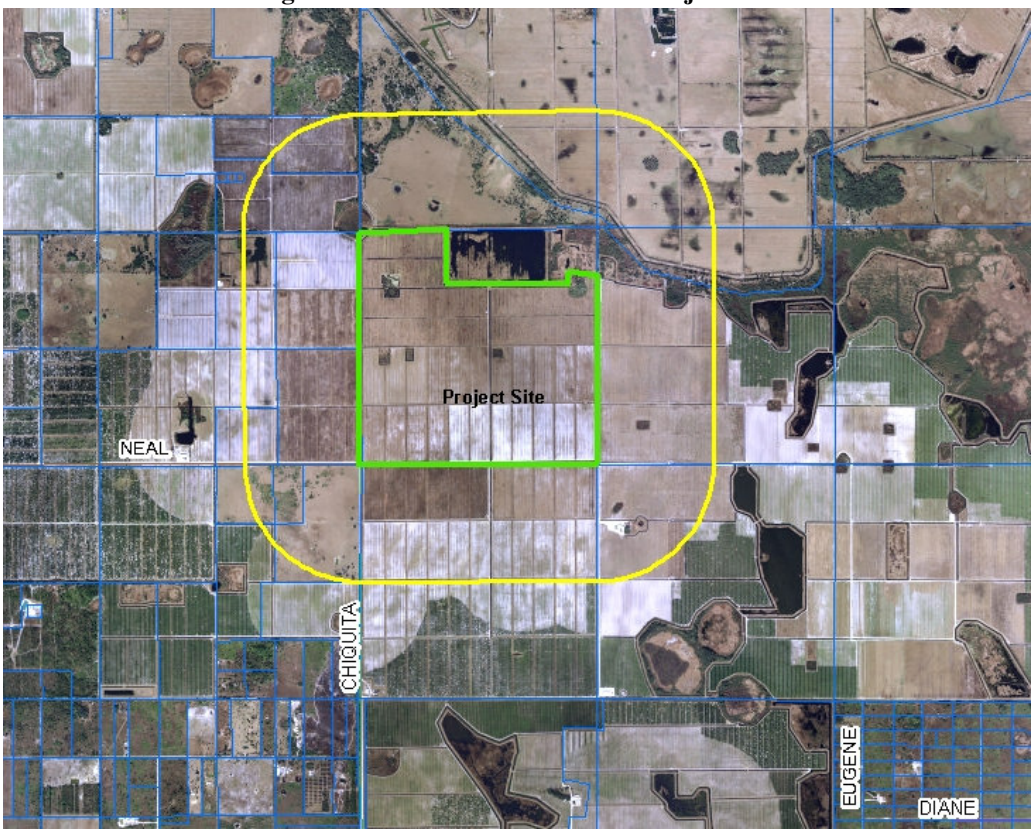
Solid waste facilities must meet certain locational and other standards. These are listed and analyzed below.

A. Locational Standards:

1. A facility shall not be constructed within one-half mile (see Figure 5 on next page for reference) of any lands in residential use at a density excess of two units per acre.
Staff review: The facility is in accordance with this standard. Density in the agricultural area is one unit per ten acres.

2. A facility shall not be constructed within one-half mile (see Figure 5 on next page for reference) of any school, park or hospital.
Staff review: The facility is in accordance with this standard.

Figure 5: One-half Mile Buffer of Project Site



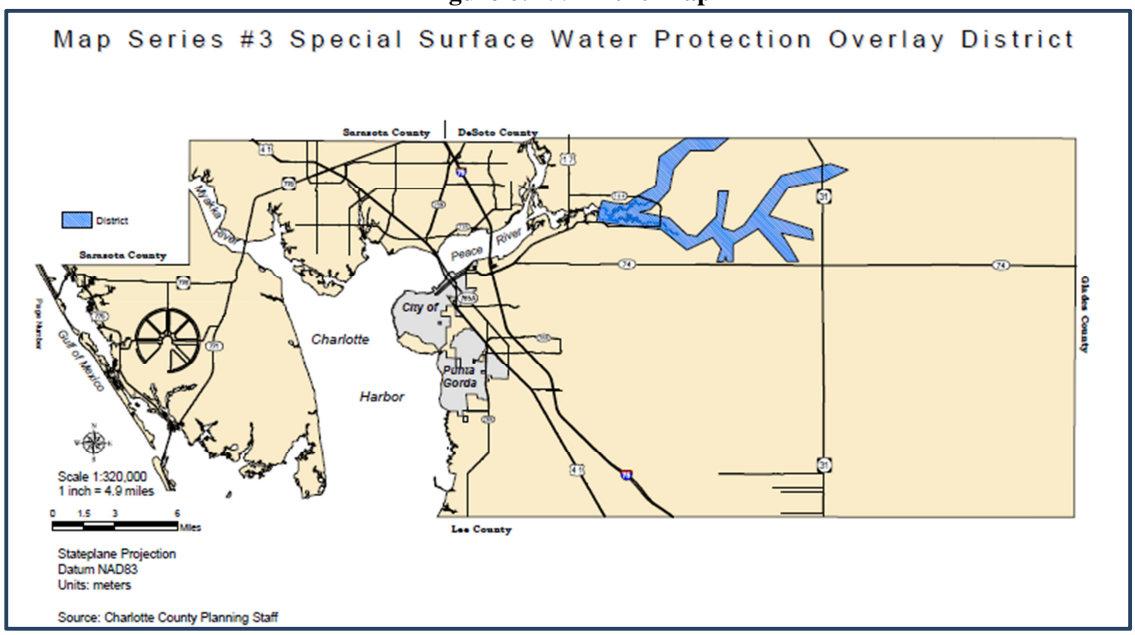
3. The facility shall not be constructed within 200 feet of any body of water, except canals used to drain on-site water, borrow pits, and other bodies of water contained completely within the site.
Staff review: (Please refer to the PD Site Development Plan of the application) The boundary of the facility is set back 200 feet from off-site water bodies. The facility is in accordance with this standard.

4. The facility shall not be located within 1,500 feet of any potable water wellhead for a public or private utility.
Staff review: The nearest mapped utility potable water wellhead is approximately 15,000 feet away to the southwest of the project site. The facility is in accordance with this standard.

5. The facility shall not be constructed in any special surface water overlay district.
Staff review: The facility is located in the Watershed Overlay District, see Figure 1. Through strict application of this criterion, the facility would not meet this standard. However, the special surface water overlay district was revised with the adoption of Smart Charlotte 2050. The overlay was expanded from being a rough one-half mile buffer around the Shell and Prairie Creeks to the entire watershed, with special buffers around the creeks and over Long Island Marsh and Tippen Bay. Since, this standard was written based on the Special Surface Water Protection Overlay and not the Watershed Protection Overlay, staff referred to the 1997-2010 Comprehensive Plan map, see Figure 6. It appears that the intent was to prohibit the location of such a facility in close

proximity to the creeks. That intent is still being met and the facility is in accordance with this standard.

Figure 6: 1997-2010 Map



B. Setback Standards:

1. No part of any incinerator shall be located within eight hundred (800) feet of any property line.

Staff review: Calusa Green is not proposing to use an incinerator.

2. No processing area of any construction and demolition debris management facility shall be located within two hundred fifty (250) feet of any property line.

Staff review: The southern boundary of the proposed construction and demolition debris (C&D) facility is the closest to the property boundary. It is located 250 feet away from the property boundary line.

3. No storage, processing, composting or disposal area of any vegetative waste management facility shall be located within one hundred (100) feet of any property line; and, in addition, no machinery or equipment for the chipping or shredding of vegetative waste shall be located within eight hundred (800) feet of any property line.

Staff review: The compost facility is located approximately 1,400 feet from the nearest property boundary.

C. Other Standards:

1. All facilities shall provide a landscaped buffer zone of at least 50 feet around the entire perimeter of the facility site.

Staff review: The entire perimeter of the facility is enclosed with a 50 foot buffer.

2. All facilities must be located within five miles of a full-service fire station or provide on-site fire/rescue capability acceptable to the county fire marshal.
Staff review: This was reviewed during Site Plan Review and it was indicated by Gregg Bala, Fire Prevention Inspector, that on-site provisions would be acceptable as long as they meet code requirements of NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting. Calusa Green states that large on-site stormwater ponds with dry hydrants stand pipes will be available for firefighting as well as stockpiles of soil near the working face of the landfill.

3. All such facilities shall provide evidence that the industrial performance standards set out in section 3-9-81 of the County Code will be met.
Staff review: Calusa Green's response to this standard is under Tab 12 and begins on page 18. Staff is satisfied that Calusa Green can meet this standard.

D. Application Requirements:

In addition to the basic materials and information required by the PD land development regulation, the Siting Ordinance requires the following to be submitted:

1. Needs Analysis
2. Land use compatibility analysis
3. Traffic impact analysis
4. Public facilities impact analysis
5. Environmental impact analysis
6. Facilities operation plan

Review of this material will be instrumental in a decision as to whether the solid waste management facility is appropriately sited and necessary, which findings must also be made by the commissioners. The criteria of the Siting Ordinance will be used to review these items as well as associated Smart Charlotte 2050 policies.

1. Needs Analysis

Code of Laws and Ordinances, Sec. 1-12-109 (1), "An analysis of the need for the proposed solid waste management facility. Such analysis shall include market surveys, letters of commitment and contracts, and other documentation establishing the quantity of solid waste generated and the need for additional solid waste management facility capacity to dispose of such waste."

Associated Smart Charlotte 2050 Policy
Infrastructure, Solid Waste subelement

MSW Policy 2.3.1 Needs Analysis
The County shall require any proposed solid waste disposal facility to prepare a Needs Analysis that supports the added disposal capacity proposed is required in order to service County residents.

MSW Policy 1.1.2 Residential Solid Waste Disposal
The County shall provide for the disposal of no less than 5.0 pounds of solid waste per permanent resident per day within the County's landfill.

MSW Policy 1.1.3 Residential Recycling
The County shall provide for the recycling of no less than 2.2 pounds of recyclables per permanent resident per day.

RESPONSE - Calusa Green: The Needs Analysis is located under Tab 15 of the application.

RESPONSE - Staff:
The proposed project is inconsistent with MSW Policy 2.3.1.

The County's consultant, Atkins North America, Inc., provided a review of Calusa Green's Needs Analysis and updated calculations of capacity based on the required 5 pounds per permanent resident per day. This report is an attachment to Staff's memo, which is ***Attachment 1***. The consultant's report found that Zemel Road Landfill has sufficient capacity up to the year 2030, the County's Planning Horizon, without any expansion. With expansion, the landfill could provide service up to the year 2085. The need for a new solid waste management facility for Charlotte County residents does not exist. This is summarized in the memo from Mr. Lescrynski, Projects Manager of the County's Municipal Solid Waste Management office, ***Attachment 1***.

2. Land use compatibility analysis

Code of Laws and Ordinances, Sec. 1-12-109 (2), "An analysis of the effect(s) which the proposed solid waste management facility will have on adjacent land uses. Such analysis shall specifically state whether the proposed facility is likely to diminish the value of properties within one-half mile of the proposed facility, or whether the proposed facility will preclude or diminish the uses of adjacent properties in existence at the time of application."

Associated Smart Charlotte 2050 Policies

FLU Policy 1.4.3: Agricultural Primacy

The County shall consider bona fide agricultural operations that have been in existence for at least one year, regardless of crop or agricultural use rotation, and that have been developed on lands designated for agricultural use on the FLUM as having "primacy" over other land uses that may be developed in time. Primacy means that, when conflict arises between agricultural uses and non-agricultural uses, these conflicts will be resolved in favor of the agricultural interests, provided the agricultural interests were established prior to the non-agricultural uses.

FLU Policy 3.2.1: Preserving Rural Character

The County shall preserve and protect rural character within the Rural Service Area by requiring that all future development activities within this Area preserve, support, and enhance the fundamental elements of rural character. It is not the obligation of residents and businesses (agriculture being considered a business) in a rural area to change and conform to the needs and character of new development but rather the obligation of the new development to seamlessly integrate into the existing character of the rural location.

FLU Policy 3.2.2: Elements of Rural Character

Rural character is denoted by:

1. Open space where the natural landscape and vegetation predominate over the built environment.
2. Visual landscapes that are traditionally found in rural areas, such as row crops, pasture, woodlands, barns, and fences.
3. Uses that are compatible with terrestrial and aquatic wildlife habitat and the continued use of that habitat by the wildlife.
4. Uses that are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.
5. Intermittent concentrated village and hamlet style developments surrounded by large open spaces.
6. Uses that generally do not require an extension of urban governmental services:
    a. Large and small scale farming;
    b. Scattered agricultural industry;
    c. Sporadic commercial retail uses that serve the social and economic needs of the residents;
    d. Very low density development.

FLU Policy 3.2.5: Support Economic Viability of Agricultural Lands
The County shall preserve the economic viability of agricultural lands and prevent the premature conversion of these lands to other uses to ensure that the County experiences no substantial loss of agricultural productivity.

RESPONSE - Calusa Green: The Land Use Compatibility Analysis is located under Tab 20 of the application. Responses to the associated Smart Charlotte 2050 policies are located under Tab 12.

RESPONSE - Staff:

A repeated statement in the application says that this proposed facility is an agricultural use. This use is not considered an agricultural use, it is an industrial use allowed within the Agriculture FLUM if all conditions of approval are met and approval is attained at a public hearing.
The Florida definition of agriculture is as follows:

> From Title XXXV Agriculture, Horticulture, and Animal Industry, Chapter 570, Department of Agriculture and Consumer Services, Section 570.02 Definitions:
> "Agriculture" means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition.

The Siting Ordinance requires a landfill to be located in an Agricultural FLUM or a Public/Semi Public FLUM. The Public/Semi Public FLUM category was a 1988 Comprehensive Plan designation and was renamed to Public Lands and Facilities in the 1997-2010 Comprehensive Plan, which designation is in use in Smart Charlotte 2050. The statement that this use is only allowed in the Agricultural FLUM is incorrect as this use is also allowed in the Public Lands and Facilities FLUM. Since this use is allowed in a FLUM category other than Agriculture, the statement that this use must be considered an agricultural use because it is only allowed in the Agriculture FLUM is incorrect.

Since this is not an agricultural use being located next to an agricultural use, the applicant has not provided the County with sufficient and specific assurances how this use will preserve, support, and enhance the fundamental elements of rural character. This use may be found inconsistent with FLU Policies 3.2.1 and 3.2.5.

3. Traffic impact analysis

Code of Laws and Ordinances, Sec. 1-12-109 (3), "This analysis shall address the trip generation of the proposed facility; ingress, egress, and access control to the site; and will address the impact(s) of the proposed facility on the transportation system which will support the proposed facility, including anticipated increases in road maintenance requirements, impacts to the levels of service of affected roadways; and the estimated public cost of maintaining the area's transportation system."

RESPONSE - Calusa Green: located under Tab 9 of the application.

RESPONSE - Staff:

Please review the report by Mr. Vattikuti, Transportation Planner, which is ***Attachment 2*** of this report.

4. Public facilities impact analysis

Code of Laws and Ordinances, Sec. 1-12-109 (4), "An analysis of the impact(s) of the proposed facility on schools, parks, conservation areas, hospitals, potable water supplies, aquatic preserves, and other natural water bodies within two (2) miles of the proposed site."

Associated Smart Charlotte 2050 Policies

Future Land Use Element

FLU Policy 2.3.5: Public Water System Wellhead Protection

The County shall evaluate the effects of development on wellheads for all proposed land uses within delineated cones of influence for all central potable water supply wellheads used for public consumption (FLUM Series Map #7). Where a cone of influence is not determined, all proposed development within 1,500 feet of the wellhead will be evaluated. Land uses in which hazardous materials, such as petroleum products, chemical or biological wastes, are produced or stored are not permitted to adversely impact groundwater resources. Landfills, wastewater treatment facilities, or feedlots/concentrated animal facilities are prohibited.

Natural Resources Element

ENV Policy 1.4.1: Water Quality Standards

The County shall not allow the quality of Charlotte County's groundwater and surface water resources to be degraded, either directly or indirectly by human influences, below the minimum criteria for water quality provided in Chapter 62 FAC, the Clean Water Act, 3 USC 1251, or by adopted Site Specific Alternative Criteria (62-302.800 FAC), and shall ensure that it is maintained or, as necessary, improved to ensure the availability of this resource for present and future generations.

ENV Policy 3.1.6: Incompatible Uses

Where adequate land area exists to support the proposed use, the County shall require a 50 foot, undeveloped buffer between any commercial intensive and industrial land uses, including associated uses such as parking lots and storage areas, and any waterways, wetlands, or lakes.

RESPONSE - Calusa Green: Response is located under Tab 21 of the application.

RESPONSE - Staff:

No schools, parks, conservation areas, hospitals, potable water supplies, or aquatic preserves exist within two miles of the project site. Natural water bodies, mostly wetlands, do exist within two miles of the site. This area is under active agricultural use, which are cattle grazing to the north and citrus groves on the other three sides. Many of these natural water bodies have been isolated and delineated by the agricultural uses.

Calusa Green states that they will meet all requirements of FDEP regulations, which will prevent this facility from impacting the water quality and quantity of off-site water bodies. Staff is unable to support or refute this assertion.

5. Environmental impact analysis

Code of Laws and Ordinances, Sec. 1-12-109 (5), "The environmental analysis shall review the impact of the proposed facility on endangered or threatened species which occur on or utilize the subject property; air quality within one and five-tenths (1.5) miles from the site, noting direction of the prevailing wind; wildlife habitat and native vegetative communities on the site; surface and groundwater quality within one-half of a mile from the site (the analysis must include a graphic illustration of any Class I surface waters as defined by the FDEP which occur within three thousand (3,000) feet of the edge of the subject property); and noting any areas within the subject property which occur within the 100-year flood zone."

Associated Smart Charlotte 2050 Policies

Future Land Use Element

FLU Policy 2.1.7: Wetland Protection

The County shall protect wetlands so as to be consistent with the objectives and policies within the Natural Resources element and the Coastal Planning element, including the requirement that development proposals and activities protect wetlands so that productive natural functions shall be maintained in the post-development environment.

FLU Policy 2.3.6: Groundwater Protection

The County shall require commercial and industrial uses to be developed without the contamination of groundwater and shall not permit land uses in which hazardous materials, such as petroleum products, chemical or biological wastes, are produced or stored in areas where their presence would adversely impact groundwater resources, recharge areas (FLUM Series Map #6), or watersheds that drain into surface water supplies (FLUM Series Map #4).

Natural Resources Element

ENV Policy 1.3.3: Air Quality Standards (Advisory)

The County shall enforce, and improve as necessary, the Industrial Performance Standards and any codes controlling soil erosion and dust emanation during and after development activities.

ENV Policy 1.3.4 Air Quality Permit Restriction

The County shall prohibit the placement of new land uses requiring air quality permits from the US Environmental Protection Agency or Florida Department of Environmental Protection (FDEP) within one-half mile of any area designated by the Future Land Use Map (FLUM) as being primarily for residential development. This policy shall not apply to crematoria or incinerators located within hospitals, medical centers, or funeral homes intended for the sole use of the facility.

ENV Policy 1.4.9: Watershed Overlay District (WOD)

The County shall establish the Watershed Overlay District as illustrated on FLUM Series Map # 4. The intent of the WOD is to protect the quantity and quality of water within

the Hendrickson Dam Reservoir, which is the City of Punta Gorda's potable water supply. Since all overground and underground waters within the watersheds of Shell Creek and Prairie Creek drain into the reservoir, those watershed perimeters shall constitute the boundary of the of the Overlay. The creek system is delineated along with the boundaries of two significant water sources, Long Island Marsh and Tippen Bay.

1. The following shall apply throughout the entire Overlay:
    a. By right uses shall be those allowed by the comprehensive plan.
    b. All agricultural and resource conservation uses are encouraged to utilize Best Management Practices as created by the Florida Department of Environmental Protection, The Florida Department of Agriculture and Consumer Services, and the Florida Department of Forestry, as applicable. The County shall support and assist, as possible, in the Facilitating Agricultural Resource Management Systems (FARMS) projects and the Federal Environmental Quality Incentives Program (EQIP).
    c. The generation or transmission of petroleum products or other hazardous substances is prohibited. The storage and use of such products as incidental to a permitted use are allowed (the exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances). An exemption may also be made for biofuel generation manufacturing operations when in conjunction with an agricultural operation that utilizes Best Management Practices.
2. The following shall apply within one-half mile of the creek system and within Long Island Marsh or Tippen Bay:
    a. There shall be no increases in intensity. This does not apply to changes in agricultural uses.
    b. Density is restricted to the maximum density allowed at time of adoption of this comprehensive plan. There shall be no increases in density.
    c. Group III excavations are prohibited.
    d. Agricultural Best Management Practices are required.
    e. Biofuel generation manufacturing operations are prohibited.
    f. Prohibited uses may be allowed on a case by case basis by the Board of County Commissioners if it can be demonstrated through generally accepted, science-based analysis that the proposed use will have no negative affect on the quality or quantity of water within the Hendrickson Dam Reservoir. In no case shall prohibited uses be allowed within one-quarter mile of the shoreline of the creeks or creeks' tributaries.
3. The following are prohibited within 200 feet of the mean high water mark of the creeks and creeks' tributaries:
    a. All septic systems (including all components of those systems), and
    b. The storage or use of any hazardous substances.
4. For residential properties adjacent to the creek system, the County shall require adherence to the standard outlined within 40D-40.301(2)(f), Southwest Florida Water Management District Rules.

ENV Policy 1.4.13: Aquifer Recharge Protection

Within Charlotte County's Prime Aquifer Recharge Area, as identified on Future Land Use Map Series Map # 6, the County shall prohibit the generation or transmission of petroleum products or other hazardous substances. The storage and use of such products as incidental to a permitted use are allowed (the exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances). The County shall further protect its aquifer recharge area by requiring properties to develop in accordance with the guidelines of the Groundwater and Aquifer Recharge subelement of the Infrastructure element, AQR Policies 1.1.1 and 1.1.2.

ENV Policy 2.2.4: Limitation on Land Use Changes

The County may deny increases in density or intensity of land use if it can be determined that such a change would be harmful to natural resources. This would include, but is not limited to, harmful impacts to listed flora and fauna, imperiled and rare communities, water quality and quantity, historic flowways and other such resources. Impacts to wetlands shall be processed as described by ENV Objective 3.1 and associated policies.

ENV Policy 2.3.2 Listed Species Surveys

When it is determined that properties undergoing development review contain habitat that may be utilized or is utilized by listed species, the County shall require surveys per the methods set by FFWCC or USFWS. Charlotte County shall withhold development approval for properties until all applicable State and Federal permits pertaining to such listed species have been obtained and copies provided to Charlotte County.

ENV Policy 3.1.6: Incompatible Uses

Where adequate land area exists to support the proposed use, the County shall require a 50 foot, undeveloped buffer between any commercial intensive and industrial land uses, including associated uses such as parking lots and storage areas, and any waterways, wetlands, or lakes.

ENV Policy 3.1.7: Prohibited Uses

The use, storage, transmission, or generation of hazardous substances, or substances which may artificially accelerate the eutrophication of wetlands and waterbodies, is prohibited within 200 feet of wetlands.

Solid Waste Subelement

WSW Policy 4.1.2: Hazardous Materials and Potable Water Supplies

The County shall not permit land uses in which hazardous materials (such as petroleum products or chemical or biological wastes) are produced or stored, or land uses which may have an adverse impact on central potable water supplies for public consumption, in areas where their presence would adversely impact groundwater resources, recharge areas, or watersheds that drain into surface water supplies.

WSW Policy 4.1.3: Sewage Sludge Disposal
The County shall not permit the disposal of sludge in areas where it would adversely impact groundwater resources, recharge areas, or watersheds that drain into surface water supplies, unless such disposal is consistent with regulations established by FDEP.

Aquifer Recharge Subelement

AQR Policy 1.1.1: Prime Aquifer Recharge Protection
The County shall limit impervious surface area within areas of prime aquifer recharge (FLUM Series Map #6) to ten percent, thereby allowing for the greatest amount of water to infiltrate the ground. Allowable uses include rural residential development and agricultural and resource conservation activities. Group III Excavations are prohibited.

AQR Policy 1.1.2: Prime Aquifer Density and Intensity Limitations
The County shall protect groundwater resources by maintaining maximum density at the levels allowed at the time of adoption of this comprehensive plan in areas of prime aquifer recharge. Increases in intensity and density are prohibited. Increases in intensity do not apply to changes in agricultural uses.

AQR Policy 1.1.3: Aquifer Protection Modifications
Uses prohibited by AQR Policy 1.1.1 and 1.1.2 may be allowed on a case by case basis by the Board of County Commissioners if it can be demonstrated through a science-based analysis, approved in writing by the appropriate Water Management District (WMD), that the proposed use will have no negative impact on the quantity or quality of water entering the aquifer.

RESPONSE - Calusa Green: A protected species assessment is located under Tab 8 of the application. Air quality is addressed in the Operations Plan, specifically section 4.4.3 Dust Control. Also some responses are located under Tab 12. Surface and groundwater quality is addressed in the Preliminary Hydrogeological Report under Tab 16 and under Tab 17 in Section 4 of the Operations Plan.

RESPONSE - Staff:

Calusa Green has provided operational standards to address air quality. Calusa Green provided a Protected Species Assessment and a Mitigation and Monitoring Plan for a wetland that they will be impacting. The mitigation for the wetland will occur on-site. The edge of the proposed landfill is set back 250 feet from the nearest wetlands.

Staff noted Crested Caracara in the vicinity of this property. This bird species is classified as Threatened in Florida. Survey guidelines for Crested Caracara require observations to be completed from January to April. Further review may be required by State and Federal agencies.

Calusa Green provided a hydrogeologic report, which was reviewed by a consultant contracted by the County, Cardno ENTRIX. Cardno ENTRIX provided a report of their review, ***Attachment 3***, and, after a response was received from Calusa Green to the Cardno ENTRIX report, ***Attachments 4a and 4b***, also provided a summarization of a joint discussion with Calusa Green and conclusions based on that discussion, ***Attachment 5***.

The initial summary by Cardno ENTRIX was, "The technical review of the Calusa Green application has shown that the applicant has addressed many of the necessary geologic and hydrogeologic aspects to protect natural resources. However, there are additional items that need to be addressed."

The second summary indicated, "It is Cardno ENTRIX's position that the likelihood of recharge from the SAS [staff note: Superficial Aquifer System] to the FAS [staff note: Floridan Aquifer System] is minimal. However, the potential for movement between the SAS and IAS [staff note: Intermediate Aquifer System] is unknown based on the submitted data. The IAS is a source of supply that is utilized more than the FAS in the project area." Also, "As noted in the applicant's response to the County's Request for Additional Information, additional data will be collect as required by the Florida Department of Environmental Protection (FDEP) as part of the permit application process. Analyses of these data will be necessary to assure the FDEP that the project protects the natural and community resources of the County." Calusa Green is asking the County to place reliance upon a future action of FDEP to provide sufficient proof that the facility will not impact Charlotte County resources. The comprehensive plan states that the County shall not permit certain uses in certain locations because of the potential for adverse water quality impacts. As of this time, sufficient information has not been submitted to show that the facility would not impact water quality. Therefore, this rezoning is inconsistent with FLU Policy 2.3.6, WSW 4.1.2, and may be inconsistent with WSW Policy 4.1.3.

Aquifer recharge is an important part of the environmental resources of the County. Smart Charlotte 2050 recognizes the importance of the Prime Aquifer Recharge Area to the surficial aquifer system (SAS), the intermediate aquifer system (IAS) and the Floridan aquifer system (FAS). This area encompasses approximately 50 square miles in northeastern Charlotte County. This language can be found in the document titled Infrastructure – Groundwater and Aquifer Recharge – Data and Analysis. This same or similar language was included in the 1988 Comprehensive Plan and the 1997-2010 Comprehensive Plan. This project site is located in the Prime Aquifer Recharge Area. A solid waste management facility is not an agricultural use and therefore this project is an increase in intensity of use. The siting of this facility in the Prime Aquifer Recharge Area is inconsistent with AQR Policy 1.1.2.

The proposed project is also inconsistent with AQR Policy 1.1.1. The landfill development is considered impervious surface area. The County's consultant, Cardno ENTRIX, states in their second summary, "However, Cardno ENTRIX concurs with County staff that the portion of the site overlain by the geosynthetic liner, which is an impervious material, will exceed ten percent impervious coverage by area." The area covered by the landfill alone accounts for 34 percent impervious surface area. Calusa Green responded that the landfill is not impervious surface based on technical engineering standards. However, Calusa Green's application appears to support the fact that the landfill is an impervious area: from Page 19 under Tab 12, "The landfill leachate (i.e.,

liquid resulting from the infiltration of rainwater through the solid waste in the landfill) will be collected in a state-of-the-art liner and leachate collection system." The same is discussed in Section 4 of the Operation Plan, Page 17, under Tab 17. If water cannot infiltrate through the liner then it creates an impervious surface area.

6. Facilities operation plan

Code of Laws and Ordinances, Sec. 1-12-109 (6), "This plan shall address the type of solid waste management facility proposed, its method of operation, and other pertinent information. The plan shall include detailed drawings and specifications for the facility and all equipment to be located on the site, including operating parameters and test results of identical or, if not available, comparable equipment. In addition, the plan shall include an engineer's certification that the facility and all equipment thereof will meet or exceed the design requirements set forth by the state for this type of facility and all county requirements including the industrial performance standards. The narrative shall describe the method of operation of the facility; the construction schedule; hours of operation; haul routes to be utilized identifying the roads which will be used to haul the waste to the facility; qualifications of operators, including a statement relative to any state or federal employee certifications necessary; sources of materials to be disposed; limitations on types of waste that may be disposed; volume of waste to be received, expressed in cubic yards per day or tons per day; special waste areas; method of management of byproducts of any proposed waste processing; and emissions controls, including gas, leachate, and surface run-off. Narratives submitted as part of landfill applications shall include the sequence of filling and areas to be landfilled."

RESPONSE - Calusa Green: located under Tab 17 of the application.

RESPONSE - Staff: See Attachment 6.

Standards for Rezoning Approval

For the rezoning of land, the final action of the Board shall be made after giving due consideration to:

a. Would the proposed change be contrary to the Comprehensive Plan?

Finding: Yes, the proposed change is contrary to FLU Policy 2.3.6, WSW Policy 4.1.2, AQR Policy 1.1.1, AQR Policy 1.1.2, and MSW Policy 2.3.1 and may be inconsistent with FLU Policy 3.2.1, FLU Policy 3.2.5 and WSW Policy 4.1.3.

b. The existing land use pattern in adjacent areas:

Finding: The land uses in the area are agricultural and consist mostly of citrus farms and some grazing.

c. The population density pattern and possible increased load on public facilities, such as schools, utilities, and roads:

Finding: The proposed project would not increase density. There would be no increased load on schools and utilities. There would an increase in the use of roads, but the Level of Service of the road would not decrease below acceptable levels.

d. Would changed conditions make the passage of the proposed amendments appropriate?

Finding: The closure of the County's landfill could make the proposed amendment appropriate.

e. Would the proposed change adversely influence living conditions or property values in adjacent areas?

Finding: Staff is unsure how many people are living in proximity to this proposed project. As is experienced by those driving into Charlotte County from Lee County, a landfill emits odors which could adversely influence living conditions for those experiencing it. Staff cannot judge whether property values would be affected by this project.

f. Would the proposed change affect public safety?

Finding: Public safety may be affected if groundwater and surface water contamination occurs.

g. Would the proposed change reduce light and air to adjacent areas?

Finding: This finding normally applies to residential uses in proximity to a proposed project. There are none immediately adjacent. The finished grade elevation of the landfill will be 248 feet so it will be visible for some distance, however, this project should not reduce light or air to adjacent areas.

h. Are there substantial reasons why the property cannot be used in accordance with the existing zoning?

Finding: None.

Other Items

Calusa Green submitted a report on the economic and fiscal benefits of the proposed landfill. Staff reviewed this report. The review, ***Attachment 7***, by Budget and Administrative Services Department, Fiscal Services division, finds that the assumptions used in Calusa Green's analysis are reasonable.

PART II: RESEARCH AND FINDINGS

1. Existing Designation(s):

FLUM	Development Standard
Agriculture (AG)	These lands are designated for agricultural activities. **General Range of Uses** Ranching, crop farming including citriculture, silviculture, aquaculture, and row crops, as well as rural residential, rural recreational uses, rural industrial uses and public services and facilities. **Maximum Density/Intensity** Density: Agricultural lands may not exceed a maximum residential density of one dwelling unit per ten acres when developing under an Agriculture zoning or one dwelling unit per five acres when developing in accordance with FLU Policy 3.1.2 and Conservation Subdivision zoning. Intensity: The maximum FAR is 0.10.
Zoning	**Development Standard**
Agriculture (AG)	Agriculture districts are intended to retain the open character of the land. Permitted uses are limited to conservation, agriculture, low-density residential, recreation and other uses consistent therewith. AG district is intended to exist only outside the urban service area. • Minimum lot area is 10 acre • Minimum width is 125 feet • Maximum lot coverage by all buildings is 20 percent • Maximum building height is 38 feet • Maximum density is 1 unit per 10 acres

Table 1

2. Proposed Designation(s):

FLUM	Development Standard
N/A	N/A
Zoning	**Development Standard**
Planned Development (PD)	Minimum lot and yard requirements. There are no minimum lot and yard requirements for this district, provided no structure shall be located closer to the peripheral property line of the PD than twenty-five (25) feet or as required by section 3-9-98, "Waterfront property," as the same may be amended, whichever is greater. If the PD abuts water, the minimum setback shall be twenty (20) feet. However, minimum lot and yard requirements other than those contained in this section and section 3-9-98 may also be established through the final site plan approval process. Maximum height of structures. There is no maximum height for structures in this district, except as required by section 3-9-98, "Waterfront property," as the same may be amended. Maximum height limits other than those contained in section 3-9-98 may also be established through the PD review process. Open space. A minimum of twenty (20) percent of the entire PD parcel or phase shall be open space, which may include vegetated areas unencumbered by an

	impervious surface. Utilities. Potable water supply, sewage treatment and water management systems, utility lines and easements shall be designed in accordance with requirements of the county subdivision regulations except as modified in subsection (c) (1)e of this section, "Relation to utilities, public facilities and services." Internal circulation. Streets to be dedicated to the public shall be designed and constructed in accordance with the subdivision regulations or other appropriate design standards. All streets shall be designed to provide safe, efficient and convenient access to land uses within the development and to roadways adjacent to the development. In addition to vehicular thoroughfares, functional pedestrian and bicycle-path systems are required in accordance with the master plan.

Table 2

3. Surrounding Land Uses and their Future Land Use Map and Zoning Designations:

Direction	Existing Land Use	FLUM Designation	Zoning District Designation
North	grazing	Agriculture (AG)	Agriculture (AG)
East	Citrus groves	Agriculture (AG)	Agriculture (AG)
South	Citrus groves	Agriculture (AG)	Agriculture (AG)
West	Citrus groves	Agriculture (AG)	Agriculture (AG)

Table 3

7. Buildout Calculations (square footage &/or density):

- Class 1 landfill, 189 acres, finished grade elevation of 248 feet
- Construction and Debris landfill, 30 acres, finished grade elevation of 184 feet
- Energy recovery plant
- Recycling operations
- Compost facility

8. Is the subject site within a Community Planning Area or Special Plan area? The site is not located within any Community Planning Area or Special Plan area.

9. Is the subject site located adjacent to existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves? The subject property is not adjacent to any of the existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves.

10. Is the proposed land use designation(s) consistent with the provisions of the:

a. **Charlotte Harbor Aquatic Preserves Management Plan?** The subject property is located outside the boundary of the Charlotte Harbor Aquatic Preserves.

b. **Lemon Bay Aquatic Preserve Management Plan?** The subject property is located outside the boundary of the Lemon Bay Aquatic Preserve

11. Does the subject site contain any designated archaeological site or historic structures?

According to the Florida Master Site File, the subject site does not contain any historic structures nor is it designated as an archaeological site.

12. Are there wetlands on the property? Yes.

a. **Number of acres of Category I:** unknown
b. **Number of acres of Category II:** unknown

13. Natural Resources:

a. **Significant natural resources and/or critical habitat for endangered/potentially endangered species:** The site contains some wetlands. See Staff's Preliminary Environmental Assessment, ***Attachment 8***.
b. **Possible impacts to groundwater, surface water, wetlands or other significant natural resources:** Impacts to natural resources are possible if all regulations are not followed.
c. **Is the subject site within the Special Surface Water Protection Overlay District?** No
d. **Is the subject site within the Watershed Overlay District?** Yes
e. **Is the subject site within a Wellhead Protection Area?** No
f. **Is the subject site within the Prime Aquifer Recharge Area?** Yes

14. Coastal Planning:

a. **Is the subject site within the Coastal Planning Area?** No.
b. **Could the proposed changes impact beach accessibility?** No
c. **Could the proposed change affect other waterfront access?** No
d. **Flood Zone:** The entire site is located in Flood Zone X, an area determined to be outside the 0.2% annual chance of flood plain.
e. **Storm Surge Evacuation Zone:** Outside the Category 5 Storm Surge
f. **Coastal High Hazard Area?** No
g. **Could the proposed changes impact evacuation times?** No

15. Facilities and Services

a. **Nearest Park:** Babcock/Webb Wildlife Management Area and the Babcock Ranch Preserve
b. **Nearest Police Station:** Sheriff District 3 office on Golf Course Blvd.
   Distance: 26 Miles
   Response Time: 15 minutes or greater
c. **Nearest Fire/EMS Station:** Station 6
   Distance: 25 miles
   Response Time: 15 minutes or greater
d. **Nearest Library:** Not applicable.
e. **Nearest Hospital:** Charlotte Regional Medical Center
f. **Nearest Potential Emergency Shelter:** Not applicable.
g. **Nearest Public Schools:** Not applicable.

16. Concurrency

a. **Roads Level of Service:** See attached report from Venkat Vattikuti, Transportation Planner

b. Potable Water Level of Service: Water and wastewater service will be provided by a well and septic system.

c. Park and Recreation Level of Service:

1. *Level of Service*
   Adopted Level of Service is 16 Park, Recreation and Open Space (PROS) point per 1,000 populations
2. *Analysis:*
   A 2009 analysis shows that the County currently has 17.2 PROS points per 1,000 populations.

d. Schools: This proposal will have no impacts on schools.

e. Solid Waste:

1. *Refuse Collector:* Waste Management Inc. of Florida
2. *Solid Waste Provider:* Public Works Department - Municipal Solid Waste Management
3. *Level of Service*
   - Solid Waste (Landfill) 5.0 pounds per day per equivalent fulltime resident
   - Solid Waste (Recycle) 2.2 pounds per day per equivalent fulltime resident

f. Drainage:

1. *Level of Service*
   New arterials – flood free in the 100-year rainfall event
   New and improved collectors - not less than one lane of traffic in each direction above the design high water elevation from a 25-year, 24-hour rainfall.
   New local residential streets - designed and constructed with the pavement centerline at or above the design high water elevation resulting from a 5-year, 24-hour rainfall
   Stormwater management facilities - in all new subdivisions manage a 25-year, 24-hour rainfall.
   New parking facilities- maximum temporary detention depth of nine (9) inches resulting from a 5-year, 24-hour rainfall.
   New development on existing platted lots (except single-family, duplex, and triplex dwellings) - on-site stormwater management for a 25-year, 24-hour rainfall.
2. *Analysis:*
   The Southwest Florida Water Management District and the Community Development Department review stormwater management plans on a project specific basis.

17. Capital Improvements Program

a. Are any updates to the CIP required as a result of this petition? No

18. Intergovernmental Coordination

a. Does this amendment require comments from or coordination with adjacent governments or other governmental agencies? Staff requested comments from the City of Punta Gorda. The City responded with a letter stating they have no objections to the proposal. See ***Attachment 9***.

19. Has a public hearing been held on this property within the last year? No

20. 2050 Comprehensive Plan; Goals, Objectives, and Policies that may be relevant to the proposed amendment:

Future Land Use

FLU Policy 1.4.3: Agricultural Primacy

The County shall consider bona fide agricultural operations that have been in existence for at least one year, regardless of crop or agricultural use rotation, and that have been developed on lands designated for agricultural use on the FLUM as having "primacy" over other land uses that may be developed in time. Primacy means that, when conflict arises between agricultural uses and non-agricultural uses, these conflicts will be resolved in favor of the agricultural interests, provided the agricultural interests were established prior to the non-agricultural uses.

FLU Policy 2.1.7: Wetland Protection

The County shall protect wetlands so as to be consistent with the objectives and policies within the Natural Resources element and the Coastal Planning element, including the requirement that development proposals and activities protect wetlands so that productive natural functions shall be maintained in the post-development environment.

FLU Policy 2.3.3: Nutrient Runoff

The County shall continue to monitor water quality in surface waters and shall require best management practices to reduce nutrient-laden runoff, which includes but is not limited to runoff from urban areas, residential landscapes, and agricultural lands.

FLU Policy 2.3.4: Aquifer Recharge Protection

The County shall protect groundwater resources by maintaining very low density and intensity in areas of aquifer recharge.

FLU Policy 2.3.5: Public Water System Wellhead Protection

The County shall evaluate the effects of development on wellheads for all proposed land uses within delineated cones of influence for all central potable water supply wellheads used for public consumption (FLUM Series Map #7). Where a cone of influence is not determined, all proposed development within 1,500 feet of the wellhead will be evaluated. Land uses in which hazardous materials, such as petroleum products, chemical or biological wastes, are produced or stored are not permitted to adversely impact groundwater resources. Landfills, wastewater treatment facilities, or feedlots/concentrated animal facilities are prohibited.

FLU Policy 2.3.6: Groundwater Protection

The County shall require commercial and industrial uses to be developed without the contamination of groundwater and shall not permit land uses in which hazardous materials, such as petroleum products, chemical or biological wastes, are produced or stored in areas where their presence would adversely impact groundwater resources, recharge areas (FLUM Series Map #6), or watersheds that drain into surface water supplies (FLUM Series Map #4).

FLU Objective 3.2: Protect Rural Character

To protect the existing rural character of those areas of the County within the Rural Service Area (FLUM Series Map #3) and thereby ensure this lifestyle is preserved for existing residents and remains available to future generations.

FLU Policy 3.2.1: Preserving Rural Character

The County shall preserve and protect rural character within the Rural Service Area by requiring that all future development activities within this Area preserve, support, and enhance the fundamental elements of rural character. It is not the obligation of residents and businesses (agriculture being considered a business) in a rural area to change and conform to the needs and character of new development but rather the obligation of the new development to seamlessly integrate into the existing character of the rural location.

FLU Policy 3.2.2: Elements of Rural Character (Advisory)

Rural character is denoted by:

1. Open space where the natural landscape and vegetation predominate over the built environment.
2. Visual landscapes that are traditionally found in rural areas, such as row crops, pasture, woodlands, barns, and fences.
3. Uses that are compatible with terrestrial and aquatic wildlife habitat and the continued use of that habitat by the wildlife.
4. Uses that are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.
5. Intermittent concentrated village and hamlet style developments surrounded by large open spaces.
6. Uses that generally do not require an extension of urban governmental services:
    a. Large and small scale farming;
    b. Scattered agricultural industry;
    c. Sporadic commercial retail uses that serve the social and economic needs of the residents;
    d. Very low density development.

FLU Policy 3.2.5: Support Economic Viability of Agricultural Lands

The County shall preserve the economic viability of agricultural lands and prevent the premature conversion of these lands to other uses to ensure that the County experiences no substantial loss of agricultural productivity.

<u>Natural Resources</u>

ENV Policy 3.1.1: Identification and Categorization of Wetlands

The County shall require that the presence of wetlands be identified within the review processes of Developments of Regional Impact, Land Use Amendments, Rezoning applications and preliminary site plans. The type (i.e. Category I or II as defined below) of wetlands shall also be indicated by Calusa Green and reviewed for accuracy.

ENV Policy 3.1.3: Wetland Categories

<u>Category I</u>

Category I wetlands are those wetlands that are considered critically necessary to sustain the health of the County's environment and shall mean those wetlands that meet at least two of the following criteria:

1. Any wetland of any size that has a permanent surface water connection to natural surface waterbodies with special water classifications, such as an Outstanding Florida Water, an Aquatic Preserve, or Class I or II waters. A natural hydrological connection that has been enhanced by human technology will be considered a connection under this category.

2. Any wetland of any size that has a direct connection to the Floridan aquifer by way of an open sinkhole or spring.
3. Any wetland of any size that has functioning hydroperiods with minimal human disturbance and provides critical habitat for listed species.
4. Any wetland of any size whose functioning hydroperiods are connected via a direct natural surface water connection to parks or conservation lands.
5. Any wetland of any size where downstream or other hydrologically connected habitats are significantly dependent on discharges from the wetland.

Wetlands meeting two or more of the above criteria must have no more than 30 percent coverage of exotic invasive vegetation. The County shall limit the removal, alteration, encroachment, dredging, filling, or changes to the natural hydroperiod or water quality (hereinafter collectively referred to as "impacts") within Category I wetlands, regardless of any other regulatory agency authorization, to cases where no other feasible and practicable alternative exists that will permit a reasonable use of the land. The protection, preservation, and continuing viability of Category I wetlands shall be the prime objective of the basis for review of all proposed impacts.

<u>Category II</u>
Category II wetlands shall mean those wetlands that consist of isolated wetlands or formerly isolated wetlands which by way of man's activities have been directly connected to other surface water drainage. Impacts within Category II wetlands shall first be avoided. Impacts that cannot be avoided may be mitigated as permitted by State and Federal permitting agencies. The County shall review the reasoning for any proposed impacts and may prohibit such if it determined to be contrary to the public interest.

ENV Policy 3.1.5: All Wetlands Impact Limitations
The County shall limit impacts in wetlands to the following:

1. Development of parcels of land created prior to June 15, 2010 only if adequate uplands do not exist to support the footprint of the proposed use - impacts shall be limited to the minimal area necessary to support the proposed use. Sewer shall be utilized unless adequate spacing exists to allow a distance separation of at least 100 feet between the Onsite Sewage Treatment and Disposal System (OSTDS) and the delineated edge of the wetland. Contiguous parcels under same ownership shall be consolidated to minimize wetland impacts to Category I and II wetlands.
2. Redevelopment of previously permitted structures provided all development occurs within the footprint of the original structure.
3. Activities necessary to prevent or eliminate a public hazard.
4. Activities that provide a direct benefit to the public at large that would exceed any public loss as a result of the activity, such as removal of exotic species.
5. Passive, resource oriented activities for which wetland functions and values are the primary attraction.
6. Agriculture, provided the overall ecological integrity of the wetlands community shall be maintained as follows:
    a. Viable populations of protected or listed species found onsite can be maintained onsite;
    b. Harvests are planned to provide for varying age and height diversity, supporting a variety of vegetative successional stages within the overall wetland ecosystem;
    c. The natural hydrology and hydroperiod of wetlands are not significantly modified on a long-term basis and State water quality standards are not violated; and

d. There is no conversion of wetland systems to upland systems.

7. Non-commercial water dependent uses and structures such as boardwalks, docks or boat ramps constructed in a manner to minimize impacts to wetlands and aquatic resources.
8. Linear facilities serving a public need that cannot be reasonably located outside of all wetlands may cross or occur in wetlands provided the proposed facility impacts the least sensitive portions (i.e., narrowest, most impacted, etc.), bridging may be considered as means to minimize impacts. Linear facilities can include boring or directional drilling.
9. Stormwater treatment or tertiary treatment of wastewater may be allowed only for innovative designs which demonstrate that:
    a. The continued natural functioning of the wetland system will be maintained or improved.
    b. The natural hydroperiod of the wetland will be maintained.
    c. Water quality, vegetation, and aquatic lifeforms will be maintained or improved.
    d. All substances that could adversely impact water quality, vegetation and aquatic lifeforms will be removed or treated prior to discharge to the wetland system.
    e. The wetland's ability to assimilate any nutrients in the effluent discharged to the wetland system will not be exceeded.
    f. The project owner or operator agree to a monitoring program of the wetlands system, at their expense, and any degradation of the wetland system that occurs during the monitoring period due to project design failure shall be corrected at the owner or operator's expense.

ENV Policy 3.1.6: Incompatible Uses

Where adequate land area exists to support the proposed use, the County shall require a 50 foot, undeveloped buffer between any commercial intensive and industrial land uses, including associated uses such as parking lots and storage areas, and any waterways, wetlands, or lakes.

ENV Policy 3.1.7: Prohibited Uses

The use, storage, transmission, or generation of hazardous substances, or substances which may artificially accelerate the eutrophication of wetlands and waterbodies, is prohibited within 200 feet of wetlands.

ENV Policy 3.1.10: Permits

The County shall require an FDEP Environmental Resource Permit and other State or Federal wetland permits prior to issuing local development permits. All conditions placed on such permits by the issuing agencies, including upland buffer zone requirements, restrictions of use within the wetland, etc., shall be incorporated into the final development approval issued by the County. The County reserves the right to deny any local permit regardless of any other regulatory agency authorization. Charlotte County shall also coordinate with permitting agencies to review wetland delineations prior to the finalization of the agency permits. If the County determines that the boundary may be incorrect, staff will work with the permitting agency to correct the delineation.

ENV Policy 1.4.1: Water Quality Standards

The County shall not allow the quality of Charlotte County's groundwater and surface water resources to be degraded, either directly or indirectly by human influences, below the minimum criteria for water quality provided in Chapter 62 FAC, the Clean Water Act, 3 USC 1251, or by adopted Site Specific Alternative Criteria (62-302.800 FAC), and shall ensure that it is maintained or, as necessary, improved to ensure the availability of this resource for present and future generations.

ENV Policy 1.4.3: Protection Guidelines

The County shall implement of the following standards and guidelines to protect its surface waters:

1. The discharge of runoff, wastewater, or other potential sources of contamination into surface waters resulting in a degradation of the quality is prohibited and shall be enforced.
2. The most current best management practices which control erosion and limit the amount of sediment reaching surface waters shall be applied to all activities.
3. Removal or control of submerged, emergent, or floating vegetation through non-chemical means shall be prioritized. Removal shall be limited to that necessary to allow reasonable access to water resources except for the removal of invasive, exotic species such as hydrilla, water hyacinth, or water lettuce.
4. Non-chemical means, where feasible, and best management practices shall be used as alternatives to insecticides and herbicides for the control of mosquitoes.

ENV Policy 1.4.9: Watershed Overlay District (WOD)

The County shall establish the Watershed Overlay District as illustrated on FLUM Series Map # 4. The intent of the WOD is to protect the quantity and quality of water within the Hendrickson Dam Reservoir, which is the City of Punta Gorda's potable water supply. Since all overground and underground waters within the watersheds of Shell Creek and Prairie Creek drain into the reservoir, those watershed perimeters shall constitute the boundary of the of the Overlay. The creek system is delineated along with the boundaries of two significant water sources, Long Island Marsh and Tippen Bay.

1. The following shall apply throughout the entire Overlay:
    a. By right uses shall be those allowed by the comprehensive plan.
    b. All agricultural and resource conservation uses are encouraged to utilize Best Management Practices as created by the Florida Department of Environmental Protection, The Florida Department of Agriculture and Consumer Services, and the Florida Department of Forestry, as applicable. The County shall support and assist, as possible, in the Facilitating Agricultural Resource Management Systems (FARMS) projects and the Federal Environmental Quality Incentives Program (EQIP).
    c. The generation or transmission of petroleum products or other hazardous substances is prohibited. The storage and use of such products as incidental to a permitted use are allowed (the exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances). An exemption may also be made for biofuel generation manufacturing operations when in conjunction with an agricultural operation that utilizes Best Management Practices.
2. The following shall apply within one-half mile of the creek system and within Long Island Marsh or Tippen Bay:
    a. There shall be no increases in intensity. This does not apply to changes in agricultural uses.
    b. Density is restricted to the maximum density allowed at time of adoption of this comprehensive plan. There shall be no increases in density.
    c. Group III excavations are prohibited.
    d. Agricultural Best Management Practices are required.
    e. Biofuel generation manufacturing operations are prohibited.

f. Prohibited uses may be allowed on a case by case basis by the Board of County Commissioners if it can be demonstrated through generally accepted, science-based analysis that the proposed use will have no negative affect on the quality or quantity of water within the Hendrickson Dam Reservoir. In no case shall prohibited uses be allowed within one-quarter mile of the shoreline of the creeks or creeks' tributaries.

3. The following are prohibited within 200 feet of the mean high water mark of the creeks and creeks' tributaries:
   a. All septic systems (including all components of those systems), and
   b. The storage or use of any hazardous substances.
4. For residential properties adjacent to the creek system, the County shall require adherence to the standard outlined within 40D-40.301(2)(f), Southwest Florida Water Management District Rules.

ENV Policy 1.4.14: Groundwater - Waste Disposal & Discharge

The County shall monitor permit compliance for waste disposal and discharge facilities and activities, and take appropriate action when necessary. Appropriate action shall include notification of the permitting agency, intervention in agency proceedings, or legal action by the County.

ENV Policy 1.4.15: Groundwater - Public, Industrial, Agricultural Uses

The County shall monitor permit compliance for public, industrial, or agricultural water uses, and take appropriate action when necessary. Appropriate action shall include notification of the permitting agency, intervention in agency proceedings, or legal action by the County.

ENV Policy 1.4.18: Nutrient Load Reduction

The County shall continue to work toward compliance with the requirements of the National Pollutant Discharge Elimination System and will utilize all available means, including stormwater units, MSBUs, and other revenue sources, to provide funding for these necessary requirements and programs to ensure that water quality and productive capability meets or exceeds the standards provided in Chapter 62, FAC and the Clean Water Act, 33 USC 1251. At such time when nutrient load reduction goals are promulgated through the Charlotte Harbor Surface Water Improvement and Management (SWIM) program or through Total Maximum Daily Load (TMDL) programs, Charlotte County will review and, as necessary, revise its Code of Laws and Ordinances to ensure that these goals are met through the County's development review processes.

ENV Policy 1.4.13: Aquifer Recharge Protection

Within Charlotte County's Prime Aquifer Recharge Area, as identified on Future Land Use Map Series Map # 6, the County shall prohibit the generation or transmission of petroleum products or other hazardous substances. The storage and use of such products as incidental to a permitted use are allowed (the exemption shall not be construed to relieve these activities from compliance with applicable State and Federal regulations pertaining to the installation and use of hazardous substances). The County shall further protect its aquifer recharge area by requiring properties to develop in accordance with the guidelines of the Groundwater and Aquifer Recharge subelement of the Infrastructure element, AQR Policies 1.1.1 and 1.1.2.

ENV Policy 2.3.1 Monitoring Development Activities

The County shall assist in the application of, and compliance with, all State and Federal regulations regarding listed species through monitoring of development activities and providing information regarding listed species on properties undergoing development review.

ENV Policy 2.3.2 Listed Species Surveys
When it is determined that properties undergoing development review contain habitat that may be utilized or is utilized by listed species, the County shall require surveys per the methods set by FFWCC or USFWS. Charlotte County shall withhold development approval for properties until all applicable State and Federal permits pertaining to such listed species have been obtained and copies provided to Charlotte County.

ENV Policy 2.3.3 Protecting Imperiled Habitat on Private Lands
During the site plan review process, the County shall require avoidance, minimization and proper mitigation of the effects of development on rare and imperiled natural communities. As one method of implementing this policy, any properties undergoing development that contain a rare or imperiled community shall set aside the amount of land required by the Open Space/Habitat Reservation Land Development Regulation for preservation.

ENV Policy 1.1.2: Alternative Energy
The County shall encourage, without detriment to natural resources, the use of clean alternative energy sources and technologies, such as active and passive solar technology and wind turbines, to reduce or eliminate the input of fossil fuel emissions into the atmosphere and conserve energy.

ENV Policy 1.3.3: Air Quality Standards
The County shall enforce, and improve as necessary, the Industrial Performance Standards and any codes controlling soil erosion and dust emanation during and after development activities.

ENV Policy 2.2.4: Limitation on Land Use Changes
The County may deny increases in density or intensity of land use if it can be determined that such a change would be harmful to natural resources. This would include, but is not limited to, harmful impacts to listed flora and fauna, imperiled and rare communities, water quality and quantity, historic flowways and other such resources. Impacts to wetlands shall be processed as described by ENV Objective 3.1 and associated policies.

ENV Policy 2.4.4: Site Plan Review
During its review of site plans and proposed developments, Charlotte County shall consider how the subject property's topography, vegetation, and hydrology may affect the potential for erosion and erosion control.

<u>Infrastructure</u>
<u>Groundwater and Aquifer</u>
AQR Policy 1.1.1: Prime Aquifer Recharge Protection
The County shall limit impervious surface area within areas of prime aquifer recharge (FLUM Series Map #6) to ten percent, thereby allowing for the greatest amount of water to infiltrate the ground. Allowable uses include rural residential development and agricultural and resource conservation activities. Group III Excavations are prohibited.

AQR Policy 1.1.2: Prime Aquifer Density and Intensity Limitations
The County shall protect groundwater resources by maintaining maximum density at the levels allowed at the time of adoption of this comprehensive plan in areas of prime aquifer recharge. Increases in intensity and density are prohibited. Increases in intensity do not apply to changes in agricultural uses.

The County does not consider a landfill to be an agricultural use. Explain how this is not considered an increase in intensity.

AQR Policy 1.1.3: Aquifer Protection Modifications
Uses prohibited by AQR Policy 1.1.1 and 1.1.2 may be allowed on a case by case basis by the Board of County Commissioners if it can be demonstrated through a science-based analysis, approved in writing by the appropriate Water Management District (WMD), that the proposed use will have no negative impact on the quantity or quality of water entering the aquifer.

AQR Policy 1.1.4: Maintenance of Natural Flow
The County shall require that natural hydroperiods, flows, and water quality will be maintained or improved when development activity occurs upon a site anywhere in the County.
Explain how this proposed use will not impact the hydroperiods, flows and water quality of adjacent wetlands and waterbodies.

AQR Policy 1.1.5: Altered Drainage Features
The County shall protect altered drainage features from further overall degradation by requiring new development to maintain the original and beneficial use of altered drainage systems or create new drainage works that, on balance, mitigate the adverse effects of previous works.

<u>Municipal Solid Waste</u>
MSW Policy 2.2.1: Environmental Monitoring
The County shall require environmental monitoring for all landfills in accordance with applicable Federal and State requirements, including conditions contained within applicable Florida Department of Environmental Protection (FDEP) permits.

MSW Policy 2.2.2: Landfill Closure Plan
The County shall require that all landfills implement an approved closure plan in accordance with applicable FDEP permit conditions.

MSW Policy 2.2.3: Post-closure Maintenance and Monitoring
The County shall require that all landfills provide closure maintenance and monitoring after facility closure in accordance with applicable Federal and State requirements.

MSW Policy 2.3.1: Needs Analysis
The County shall require any proposed solid waste disposal facility to prepare a Needs Analysis that supports the added disposal capacity proposed is required in order to service County residents.

MSW Policy 2.3.2: Siting Requirements
The County shall require any proposed solid waste collection and disposal facilities to be sited in accordance with all applicable land development regulations and other local, regional, State, or Federal regulations.

<u>Potable Water and Sanitary Sewer</u>
WSW Policy 4.1.1: Wellhead and Wellfield Protection
The County shall protect wellheads and wellfields as established in FLU Policy 2.3.5.

WSW Policy 4.1.2: Hazardous Materials and Potable Water Supplies

The County shall not permit land uses in which hazardous materials (such as petroleum products or chemical or biological wastes) are produced or stored, or land uses which may have an adverse impact on central potable water supplies for public consumption, in areas where their presence would adversely impact groundwater resources, recharge areas, or watersheds that drain into surface water supplies.

WSW Policy 4.1.3: Sewage Sludge Disposal

The County shall not permit the disposal of sludge in areas where it would adversely impact groundwater resources, recharge areas, or watersheds that drain into surface water supplies, unless such disposal is consistent with regulations established by FDEP.