MEMORANDUM

To: Tammi E. Bach, City Attorney

From: James White, Esq., AICP
Susan Trevarthen, Esq., FAICP

Date: May 23, 2024

RE: **Request for Legal Opinion – Adding Bioethanol Plant to Existing Industrial Use**

Our office has received your correspondence dated March 20, 2024, requesting a legal opinion and memorandum from our office as to whether Rayonier Performance Fibers, LLC, the owner of the acid sulfite-based pulp mill (Dissolving Sulfite Pulp Plant or "RPF Plant") and property located at 6 Gum Street in the City of Fernandina Beach, Florida ("Property"), can add a plant that will use spent sulfite liquor ("SSL") from the RPF Plant to produce bioethanol that will be transported off site for sale.

You state that, the RPF Plant has been in operation since the late 1930's and uses ammonia as a base chemical for the manufacture of dissolving pulp. The RPF plant produces 10 different grades of pulp. The RPF Plant partnered with LignoTech Florida in 2017 to construct the LignoTech Plant on the Property which uses SSL on an oven dry basis to manufacture wet and dry lignosulfonate products. Now, Rayonier Performance Fibers, LLC seeks an air construction permit to add a new second-generation bioethanol plant to use SSL from the RPF Plant for the production of bioethanol.

Additionally, you state that the Property has the Industrial Future Land Use assigned to it in the Future Land Use Map (the "FLUM") and is zoned Heavy Industrial (I-2). You note that chemical or petroleum manufacturing or refining are prohibited uses in the City and not permitted under any zoning or FLUM category.

To date, the City has not received any development permit application(s) for the proposed bioethanol plant project, but the City is interested in your opinion as to whether the proposed project is an allowable use prior to receiving an application from the property owner.

I. QUESTION PRESENTED

Under these circumstances, you ask the following question:

Is the proposed Bioethanol Plant an allowable use consistent with the City of Fernandina Beach 2030 Comprehensive Plan (the "Comprehensive Plan") and Land Development Code (the "LDC")?

II. SHORT ANSWER

In sum, it is our opinion that the proposed Bioethanol Plant is not an allowable use consistent with the City's Comprehensive Plan and LDC. Both the Comprehensive Plan, in its Industrial future land use category, and the LDC, in the definitions applicable to the I-2 Heavy Industrial zoning, expressly prohibit the proposed use on the Property. Therefore, state law requires the City to reject the development and operation of this land use. If the City wanted to consider allowing the proposed Bioethanol Plant, it would need to amend both the Comprehensive Plan and the LDC to allow for it, in a manner that preserves the internal consistency of the Comprehensive Plan as required by state law.

III. BACKGROUND

A. RFP Plant

Rayonier Performance Fibers, LLC ("RYAM"), currently owns and operates the RPF Plant on Property located within the City. The RPF Plant has been in operation since the late 1930's and uses ammonia as the base chemical for the manufacture of dissolving pulp. The RPF Plant produces approximately 10 different grades of pulp. The pulp produced at this plant is used in products such as plastics, photographic film, LCD screens, paints, cigarette filters, pharmaceuticals, food production, cosmetics, and textiles.

In 2017, the RPF Plant partnered with LignoTech Florida, and sought and received City approval to construct a lignosulfonate product manufacturing plant (the "LignoTech Plant") co-located with the RPF Plant. The LignoTech Plant uses SSL to manufacture wet and dry lignosulfonate products.

B. Proposed 2G Bioethanol Production Plant

RYAM is currently proposing to construct a new, second-generation bioethanol production plant (the "Bioethanol Plant") at the Property. The City is aware of this plan because RYAM has filed an air construction permit application with the Florida Department of Environmental Protection ("FDEP") requesting authority to add the Bioethanol Plant to be co-located with the RPF Plant. The proposed Bioethanol Plant will create a second use for the SSL as feedstock, by fermenting sugars in the SSL to produce Ethanol. Bioethanol production will consist of evaporation, continuous fermentation, distillation and dehydration, and yeast recycling and conditioning. The proposed Bioethanol Plant will be capable of producing approximately 7.5 million gallons of Ethanol for sale per year.

It is important to note that the air construction permit application materials submitted to FDEP specifically reference that the proposed new Bioethanol Plant industrial manufacture

processes include the following: Chemical Manufacturing; Methanol/Alcohol production; and Ethanol by fermentation.[1]

IV. GENERAL OVERVIEW OF ETHANOL/BIOETHANOL PRODUCTION

This section explains the process of producing Ethanol, so that the process can be evaluated for its compliance with the City's Comprehensive Plan and LDC. The terms Ethanol and Bioethanol may be used interchangeably for purposes of analyzing compliance with the City's land use and zoning regulations.

Ethanol is a renewable fuel made from various plant materials collectively known as "biomass." Ethanol produced from biomass is most often referred to as Bioethanol. Bioethanol is commonly used as a fuel additive or as a standalone fuel in vehicles, and it is also utilized in various industrial processes.

Ethanol (C_2H_5OH) is a clear, flammable colorless liquid. Ethanol has the same chemical formula regardless of whether it is produced from starch-or sugar-based feedstocks, such as corn grain (as it primarily is in the United States), sugar cane (as it primarily is in Brazil), or from cellulosic feedstock (such as wood chips or crop residues).[2]

Almost any plant-based material can be an Ethanol feedstock. All plants contain sugars, and these sugars can be fermented to make Ethanol in a process called "biochemical conversion." Plant material also can be converted to Ethanol using heat and chemicals in a process called "thermochemical conversion."

Today, nearly all Ethanol produced in the world is derived from starch- and sugar-based feedstocks. The sugars in these feedstocks are easy to extract and ferment, making large-scale Ethanol production affordable. Corn is the leading U.S. crop and serves as the feedstock for most domestic Ethanol production.

Cellulosic feedstocks are non-food based and include crop residues, wood residues, dedicated energy crops, and industrial and other wastes. These feedstocks are composed of cellulose, hemicellulose, and lignin. Lignin is usually separated out and converted to heat and electricity for the conversion process.[3]

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[1] See RYAM Bioethanol Production Plant – November 2023 Air Construction Permit Application submitted to Florida Department of Environmental Protection (FDEP)

[2] See U.S. Department of Energy – Energy Efficiency and Renewable Energy Alternative Fuels Data Center (*https://afdc.energy.gov/fuels/ethanol-fuel-basics*)

[3] See U.S. Department of Energy – Energy Efficiency and Renewable Energy Alternative Fuels Data Center (*https://afdc.energy.gov/fuels/ethanol-feedstocks#cellulosic*)

The production method of Ethanol depends on the type of feedstock used. The process is shorter for starch- or sugar-based feedstocks than with cellulosic feedstocks.

A. Starch- and Sugar-Based Ethanol Production

Most Ethanol in the United States is produced from starch-based crops by dry-or wet-mill processing. Nearly 90% of Ethanol plants are dry mills due to lower capital costs. Dry milling is a process that grinds corn into flour and ferments it into Ethanol with coproducts of distillers grains and carbon dioxide. Wet-mill plants primarily produce corn sweeteners, along with Ethanol and several other coproducts (such as corn oil and starch). Wet mills separate starch, protein, and fiber in corn prior to processing these components into products, such as Ethanol.

B. Cellulosic Production

Making Ethanol from cellulosic feedstocks—such as grass, wood, and crop residues—is a more involved process than using starch-based crops. There are two primary pathways to produce cellulosic Ethanol: biochemical and thermochemical. The biochemical process involves a pretreatment to release hemicellulose sugars followed by hydrolysis to break cellulose into sugars. Sugars are fermented into Ethanol, and lignin is recovered and used to produce energy to power the process. The thermochemical conversion process involves adding heat and chemicals to a biomass feedstock to produce syngas, which is a mixture of carbon monoxide and hydrogen. Syngas is mixed with a catalyst and reformed into Ethanol and other liquid coproducts.[4] Cellulosic production is the process that would typically be followed for a plant like the proposal at issue.

V. ETHANOL IS A CHEMICAL SUBSTANCE

The key question for analyzing this use under the City's Comprehensive Plan and LDC is whether the proposed Bioethanol Plant is a chemical manufacturing use. This section will analyze whether Bioethanol is a chemical.

Ethanol (also known as ethyl alcohol, with the molecular formula C_2H_5OH) is a widely used chemical compound with various applications, including as a fuel additive, as a solvent, and in food and beverage production. As a chemical, it is subject to various laws and regulations governing its manufacture, distribution, and use, to ensure safety and environmental protection.

Chemical manufacturing is regulated under federal law in the United States. The primary federal law governing chemical manufacturing is the Toxic Substances Control Act

[4] See U.S. Department of Energy – Energy Efficiency and Renewable Energy Alternative Fuels Data Center (*https://afdc.energy.gov/fuels/ethanol-production*)

(TSCA), which was enacted in 1976 and is administered by the U.S. Environmental Protection Agency (EPA).[5]

The TSCA regulates the manufacture, processing, distribution, use, and disposal of chemicals to ensure that they do not pose unreasonable risks to human health or the environment. It requires chemical manufacturers to submit information about the chemicals they produce and grants the EPA authority to review and regulate new and existing chemicals, including imposing restrictions or bans if necessary to protect public health and the environment.

The EPA sets regulations concerning the production, distribution, and use of Ethanol as a fuel additive. This includes standards for Ethanol content in gasoline, emissions standards for vehicles using Ethanol-blended fuels, and relevant to the current analysis, regulations for Ethanol production facilities to ensure compliance with environmental laws.

Ethanol is considered a chemical substance subject to regulation under the TSCA. Section 3(2)(B)(ii) of the TSCA defines a chemical substance as *"any organic or inorganic substance of a particular molecular identity, including...alcohols."* [6] Ethanol falls within this definition, as an organic compound with the molecular formula (C_2H_5OH). Therefore, it is subject to reporting, testing, and record-keeping requirements under the TSCA.

Section 8(b) of TSCA requires EPA to compile, keep current, and publish a list of chemical substances that are manufactured or processed, including imports, in the United States for uses under TSCA.[7] Also called the "TSCA Inventory" or simply "the Inventory," it plays a central role in the regulation of most industrial chemicals in the United States. The non-confidential portion of EPA's TSCA Inventory is updated approximately every six months, and the Agency provides free access to the inventory online via its website.[8]

The Emergency Planning and Community Right-to-Know Act (EPCRA), authorized by Title III of the Superfund Amendments and Reauthorization Act (SARA Title III), was passed in 1986 in response to concerns regarding environmental disasters and safety hazards posed by the storage and handling of toxic chemicals.[9]

To reduce the likelihood of such a disaster in the United States, Congress imposed requirements for federal, state, and local governments, tribes, and industry. These requirements covered emergency planning and "Community Right-to-Know" reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their

[5] See 15 U.S.C. §§ 2601 et seq. (Toxic Substances Control Act).

[6] See 15 U.S.C. § 2602(2)(B)(ii).

[7] See 15 U.S.C. § 2607(b).

[8] See (https://www.epa.gov/tsca-inventory)

[9] See 42 U.S.C. § 11001 et seq. (Emergency Planning and Community Right-to-Know Act).

uses, and releases into the environment. EPA specifically notes that states and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.[10]

To assist in implementing the EPCRA, the EPA has established the EPA's Substance Registry Services (SRS) online web database. The SRS is EPA's authoritative resource for information about chemicals, biological organisms, and other substances tracked or regulated by EPA.[11] Additionally, the EPA has published a Consolidated List of Chemicals to help facilities handling chemicals determine, for a specific chemical, whether they may be subject to certain reporting requirements under various federal statutory provisions.[12]

Ethanol is a chemical substance included within both the SRS and the Consolidated List of Chemicals.

VI. ETHANOL PRODUCTION IS CONSIDERED CHEMICAL MANUFACTURING

This section will analyze whether the proposed Bioethanol Plant will engage in a chemical manufacturing process that triggers the prohibitions of the City's Comprehensive Plan and LDC. It does so by examining the process itself, as well as by determining how the industry involving that process is categorized in the NAICS.

The production of Ethanol is considered chemical manufacturing. As explained above, Ethanol, is a chemical compound. The process of producing Ethanol typically follows one of two chemical processes:

(1) Fermentation: This is the most common method of Ethanol production, where microorganisms such as yeast ferment sugars in biomass feedstocks to produce Ethanol and carbon dioxide; and

(2) Chemical Synthesis: Ethanol can also be produced through chemical reactions, such as hydration of ethylene or catalytic conversion of syngas (a mixture of carbon monoxide and hydrogen) derived from biomass or fossil fuels.

Given that Ethanol production involves chemical processes and the synthesis of a chemical compound, it falls within the scope of chemical manufacturing activities. As such, Ethanol production facilities are subject to regulation under relevant laws and regulations governing chemical manufacturing, such as the TSCA.[13]

While Ethanol production is inherently a chemical manufacturing process, the inclusion of biomass processing and the production of various biofuels may also justify its classification as a refinery. Refining typically refers to processes that involve the purification or

[10] See (https://www.epa.gov/epcra/what-epcra)

[11] See (https://cdxapps.epa.gov/oms-substance-registry-services/search)

[12] See (https://www.epa.gove/epcra/consolidated-list-lists)

[13] See 15 U.S.C. §§ 2601 et seq. (Toxic Substances Control Act).

processing of raw materials to obtain valuable products. In the case of Ethanol production, the raw material (biomass) undergoes processing to extract sugars, which are then fermented into Ethanol. This extraction and processing of raw materials can be considered refining. Additionally, refining may also refer to the purification steps involved in separating Ethanol from other components in the fermentation mixture.

Overall, Ethanol production can be considered a form of chemical manufacturing and refining, as it encompasses processes related to both the transformation of raw materials into a desired product and the purification of that product. As explained below, both processes are implicated by the City's requirements.

The EPA classifies industries into various sectors, which are identified by their North American Industry Classification System (NAICS) code. The various NAICS codes are utilized in determining applicable laws and regulations that affect the industry as well as compliance and enforcement information. Many local governments consult NAICS in determining what proposed land uses are, and some even use NAICS as the basis for their regulations.

Ethanol production facilities are classified under industry codes related to chemical manufacturing in the NAICS, further emphasizing their status as chemical manufacturing operations. The Chemical Manufacturing Sector (NAICS 325) is part of the larger Manufacturing Sector (NAICS 31-33). The Chemical Manufacturing Sector covers the transformation of organic and inorganic raw materials by a chemical process and the formation of products. More specifically, the NAICS includes Ethanol production under (NAICS 325-193), "Ethyl Alcohol Manufacturing."[14]

VII. ANALYSIS OF ETHANOL PRODUCTION UNDER THE CITY'S REQUIREMENTS

A. Prohibition on Chemical Manufacturing or Refining Within The City

i. Comprehensive Plan

The proposed new Bioethanol Plant is a large-scale industrial production facility, which includes manufacturing and refining processes (evaporation, continuous fermentation, distillation and dehydration, and yeast recycling and conditioning) necessary to produce the chemical Ethanol. As previously referenced, the proposed Bioethanol Plant will be capable of producing approximately 7.5 million gallons of Ethanol on an annual basis.

[14] See (https://www.epa.gov/regulatory-information-sector/chemical-manufacturing-sector-naics-325)

The new Bioethanol Plant is proposed to co-locate with the RPF Plant on land having a Future Land Use Map (FLUM) designation of Industrial (IN). Under the City's Comprehensive Plan, *chemical manufacturing* and *refining* facilities are prohibited land uses on properties containing a FLUM designation of Industrial (IN). Comprehensive Plan Policy 1.07.12 ***expressly prohibits chemical*** or petroleum ***manufacturing*** or ***refining*** in the Industrial (IN) future land use category, as quoted below:

City of Fernandina Beach 2030 Comprehensive Plan:[15]

> **Goal 1: Future Land Use Element**
>
> **OBJECTIVE 1.07. LAND USE CATEGORIES**
>
> **Policy 1.07.12. Industrial (IN)**
>
> a. The industrial land use category is intended to recognize existing industrial development, appropriate open air recreation activities and animal shelter, and to ensure the availability of land for industrial and airport purposes.
>
> b. The intensity of industrial development shall not exceed a FAR of. 0.75.
>
> c. Industrial sites should have transportation access by air, rail, or highway.
>
> d. ***Industrial uses include***: airport dependent uses, ***manufacturing***, assembling and distribution activities; warehousing and storage activities; green technologies, general commercial activities; integral airport related support services such as rental car facilities, parking facilities; and other similar land uses.
>
> *** * * ***
>
> *g. Heavy metal fabrication, batch plants, salvage yards, **chemical** or petroleum **manufacturing or refining**, rubber or plastics manufacturing, or other uses generating potentially harmful environmental or nuisance impacts **shall be prohibited**.*

[15] The Community Planning Act, codified in Chapter 163, Part II, Florida Statutes (the "Act"), establishes the statutory framework for comprehensive planning in Florida. Under the Act, local governments are required to adopt and maintain a comprehensive plan necessary to guide their future development and growth. (*See §§ 163.3167(1)(b) and 163.3167(2), Fla. Stat.)*

Within the Industrial (IN) future land use category, the Comprehensive Plan generally permits industrial manufacturing uses; however, there are clear definitive restrictions and limitations concerning the scope of permissible manufacturing uses that must be followed. Comprehensive Plan Policy 1.07.12(g) clearly provides that **"…** *chemical* or petroleum *manufacturing or refining…… shall be prohibited."* Under this mandatory prohibition, the production of chemicals, including the Ethanol manufacturing or refining proposed to occur in the Bioethanol Plant, are prohibited uses in the Industrial (IN) future land use category.

As such, Comprehensive Plan Policy 1.07.12(g) clearly prohibits the operation of the proposed Bioethanol Plant in the Industrial (IN) future land use category.[16] Accordingly, development of the proposed Bioethanol Plant would be inconsistent with Comprehensive Plan Policy 1.07.12(g), which prohibits such uses.[17]

Under Florida law, once a local government has adopted a comprehensive plan, all subsequent actions taken by it with regard to authorizing development must be consistent with that plan.[18] Moreover, the courts have strictly enforced this statutory mandate.[19]

ii. Land Development Code

The new Bioethanol Plant is proposed to co-locate with the RPF Plant on land which is zoned Heavy Industrial (I-2). Under the City's Land Development Code (LDC),

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[16] *§163.3161(6), Fla. Stat.*, provides that *"*It is the intent of [the] act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof*…"*; and also note *§ 163.3194(1)(a), Fla. Stat.*, provides that "After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted*."*

[17] *§163.3194(3)(a), Fla. Stat.*, provides that *"*A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government"; and also note *§ 163.3194(3)(b), Fla. Stat*., provides that "A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government."

[18] *§§ 163.3194(1)(a), (3)(a) and (b), 163.3201, 163.3213(1), 163.3215(3), Fla. Stat.*

[19] *See Pinecrest Lakes, Inc. v. Shidel*, 795 So. 2d 191, 197 (Fla. Dist. Ct. App. 2001), *review denied*, 821 So. 2d 300 (Fla. 2002) (holding the Act strictly prohibits the approval of a development order that is inconsistent with an adopted plan); *Machado v. Musgrove*, 519 So. 2d 629, 631–32 (Fla. Dist. Ct. App. 1987) (holding that a comprehensive plan is a statutorily mandated plan to control and direct the use and development of property—like a constitution governing all future development decisions); *Dixon v. City of Jacksonville*, 774 So. 2d 763, 764 (Fla. Dist. Ct. App. 2000) ("It is well established that a development order shall be consistent with the governmental body's objectives, policies, land uses, etc., as provided in its comprehensive plan.").

chemical manufacturing and *refining* facilities are prohibited uses within the Heavy Industrial (I-2) zoning district.

LDC Section 2.01.00 provides for the establishment and purpose of the I-2 zoning district and LDC Section 2.03.02 further specifies the permissible uses within the I-2 zoning district, as quoted below:

City of Fernandina Beach Land Development Code[20]

Chapter 2. Zoning Districts and Uses

2.01.00 ESTABLISHMENT AND PURPOSE OF ZONING DISTRICTS

*** * * ***

2.01.17. Heavy Industrial (I-2). *The I-2 District is intended for the development of warehousing, fabrication, storage, and commercial services which are likely to produce adverse physical and environmental impacts such as noise, land, air, and water pollution and transportation conflicts. The Heavy Industrial District recognizes existing heavy manufacturing development with locations that have access to major highways. Residential development, with exception of a caretaker's unit, is not permissible within the zoning district. The designation of land for the I-2 District shall be based on compatibility with surrounding land uses, considering environmental sensitivity, intensity of use, hours of operation, heat, glare, fumes, noise, and visual impacts.*

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2.03.00. LAND USES PERMITTED IN EACH ZONING DISTRICT

Table 2.03.02. Table of Land Uses

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Heavy Industrial (I-2) Zoning District

PERMITTED PRINCIPAL LAND USES:

[20] See LDC Section 1.00.02. Relationship to the Comprehensive Plan. "The Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, F.S., provides that local governments adopt a comprehensive plan and land development regulations which implement the adopted comprehensive plan. The standards and provisions in this LDC have been designed to implement the comprehensive plan, as may be amended from time to time;" also note *§§163.3194(3)(a), 163.3167(1) and 163.3167(2), Fla. Stat.*

Manufacturing and/or Assembly -Heavy

As referenced above*, Manufacturing and/or Assembly -Heavy* is a permitted use within the I-2 zoning district, but it is further defined under LDC Section 1.07.00 to exclude chemical manufacturing or refining, as follows:

> **Chapter 1. General Provisions**
>
> **1.07.00 ACRONYMS AND DEFINITIONS**
>
> *** * * ***
>
> *Manufacturing and/or Assembly – Heavy* means uses involving intensive manufacturing and industrial operations, including the manufacturing, assembly, fabrication, compounding, processing and /or treatment of extracted or raw materials or other industrial products; packaging and freight loading/unloading activities; utilization, handling and bulk storage of materials including raw materials, chemicals and hazardous materials associated with manufacturing processes; and all other associated or ancillary activities. ***Such use does not include*** heavy metal fabrication, batch plants, salvage yards, ***chemical*** or petroleum ***manufacturing or refining***, rubber or plastics manufacturing, or other uses generating potentially harmful environmental or nuisance impacts.

The LDC specifically addresses how it should be interpreted and applied by the City, and these interpretative rules require strict conformance to the express requirements of the LDC in light of the City's objectives, as follows:

> **LDC 1.05.00. INTERPRETATIONS**
>
> **1.05.01. Generally**
>
> A. In the interpretation and application of this LDC, all provisions shall be *liberally construed in favor of the objectives and purposes of the City* and deemed to neither limit nor repeal any other powers granted to the City under State Statutes.
>
> B. In interpreting and applying the provisions of this LDC, the provisions shall be held be the *minimum requirements* for the promotion of the public health, safety, morals, and general welfare of the City.
>
> C. *Specific provisions* of this LDC shall be followed in lieu of general provisions that may be in conflict with the specific provision.
>
> D. Where any provisions of this LDC conflict with any other provisions of this LDC or with other regulations, the *more stringent* restrictions shall be applied.

> E. If a specific regulation, standard, definition, development criteria, or provision is not included in this Land Development Code, the regulation, standard, definition, development criteria, or provision, shall not be permitted.

These interpretative canons are consistent with those used by courts to construe legislation, including local land use legislation. Florida caselaw applies principles of statutory interpretation that begin with the notion that the specific wording of the statutory text is the key.[21] Where there is no ambiguity in the text, there is no need for interpretation. The literal language of the statute must be applied and respected if it does not lead to an absurd result, and is consistent with the overall statutory scheme.[22]

Here, the specific language of the LDC prohibits the proposed use, and such prohibition advances the City's objectives for the Heavy Industrial I-2 zoning category, to assure "compatibility with surrounding land uses, considering environmental sensitivity, intensity of use, hours of operation, heat, glare, fumes, noise, and visual impacts." Interpretations that defeat the statutory purpose are generally disfavored.[23]

VIII. CONCLUSION

The processes involved in the proposed Bioethanol Plant are chemical manufacturing and refining. Therefore, the City's Comprehensive Plan and LDC clearly and expressly prohibit its development and operation. State law requires the City to reject such a proposal and enforce its Comprehensive Plan and LDC.

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[21] See generally *Roldan v. City of Hallandale Beach*, Case No. 4D22-103 (Fla. 4th DCA 2023):
"In interpreting the statute, we follow the `supremacy-of-text principle'—namely, the principle that `[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.'" *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 946 (Fla. 2020) (quoting Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 56 (2012)). "[J]udges must `exhaust "all the textual and structural clues"' that bear on the meaning of a disputed text." *Conage v. United States*, 346 So. 3d 594, 598 (Fla. 2022) (quoting *Alachua County v. Watson*, 333 So. 3d 162, 169 (Fla. 2022)). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.,* 519 U.S. 337, 341 (1997).

[22] See *State v. Brake*, 796 So.2d 522, 528-29 (Fla. 2001) (where words of common usage are not defined in a statute, they are construed in their plain and ordinary sense) and *Robinson*, supra. Courts cannot "judicially modify a statute by adding words not included by the legislature," nor can they limit the express terms of an unambiguous statute. See *Hayes v. State*, 750 So.2d 1, 4 (Fla. 1999). Courts have recognized that "it is not our role to act as the Legislature or to add words to the statute which do not exist." *Millien v. State*, 336 So. 3d 354 (Fla. 4th DCA 2022), citing *State v. Estime*, 259 So. 3d 884 (Fla. 4th DCA 2018).

[23] Compare *Conage*, supra (in the context of construing a criminal statute, cautioning against isolated interpretations of the law unconnected to the overall statute and to other canons of interpretation). Courts also have a duty to read a statute as a harmonious whole, giving effect to each of their constituent parts. See also *Alachua County*, supra, and *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1033 n.9 (Fla. 2004) (a statutory provision should not be construed in such a way that it renders the statute meaningless or leads to absurd results), warning of the need to steer "between a sterile literalism which loses sight of the forest for the trees, and a proper scruple against imputing meanings for which the words give no warrant."

Should the City desire to allow for the development of the Bioethanol Plant on the Property, it will need to adopt amendments to these Comprehensive Plan and LDC provisions allowing the use. These amendments would need to eliminate or otherwise modify the express prohibition of "chemical or petroleum manufacturing or refining" within the Industrial (IN) Future Land Use category, and revise the definition of Heavy Manufacturing and/or Assembly used in the I-2 zoning district in the LDC. Such amendments would need to be drafted to assure that the internal consistency of the Comprehensive Plan is maintained as required by state law.