



February 4, 2025

Mark Homans
Rayonier Performance Fibers, LLC
10 Gum Street
Fernandina Beach, FL 32034
mark.j.homans@ryam.com

Sent Via Email to Project Team

Applicant Name: Mark Homans
Project Description: RYAM Fernandina 2G Bioethanol Plant
Location: 10 Gum Street
PIN(s): 00-00-31-1840-0000-0000
TRC Case Number: TRC 2024-0009

RE: City Manager – Written Interpretation Concerning Proposed Use

Mr. Homans:

Section 1.05.02(A) assigns the responsibility for interpretation of the application of the City’s Land Development Code (the “LDC”) to the City Manager or designee, and requires that the interpretation “seek guidance from the comprehensive plan.” This letter is being provided as the City’s interpretation of the LDC, and the City’s 2030 Comprehensive Plan (the “Comprehensive Plan”) that it implements, as they apply to the Rayonier Performance Fibers, LLC (“RYAM”) application for a site plan to construct a new second-generation bioethanol production plant (the “2G Bioethanol Plant”) at its existing facility located at 10 Gum Street in the City (TRC Case Number: TRC 2024-0009).

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. No “private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof...”, *See* §163.3161(6), Fla. Stat., and “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.” *See* § 163.3194(1)(a), Fla. Stat.

Moreover, the Courts have strictly enforced this statutory mandate. *See* § 163.3194(1)(a), Fla. Stat. *See Pinecrest Lakes, Inc. v. Shidel*, 795 So. 2d 191, 197 (Fla. 4th DCA 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. 3d DCA 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. 1st DCA 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.”). The City’s LDC was adopted for the purpose of implementing the Comprehensive Plan, in compliance with state law. *See Section 1.00.01 and 1.00.02, LDC.*

The site plan application for the proposed use (2G Bioethanol Plant) is located within the City’s Comprehensive Plan Industrial (IN) future land use category and the Heavy Industrial (I-2) Zoning district. Interpretations of these documents are required to give effect to the specific provisions over the general, and to liberally interpret the laws to achieve the purposes of the City. *See Section 1.05.01(a) and (c), LDC.* While Industrial use is allowed in this future land use designation and zoning category generally, the more specific language of the Comprehensive Plan and the LDC directs that the proposed use (2G Bioethanol Plant) constitutes chemical manufacturing or refining, which is strictly prohibited.

Both the Comprehensive Plan, in its Industrial (IN) future land use category, and the LDC, in the definitions applicable to the Heavy Industrial (I-2) zoning, clearly and expressly prohibit the development and operation of the proposed 2G Bioethanol Plant. 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 2G Bioethanol Plant, are prohibited uses in the Industrial (IN) future land use category.

Accordingly, given the applicable requirements of the Comprehensive Plan and the LDC and the statutory requirements to enforce them, state law requires the City to reject the site plan application (TRC 2024-0009) related to the development and operation of the proposed 2G Bioethanol Plant and enforce its Comprehensive Plan and LDC. As such, the City will take no further action on the site plan application (TRC 2024-0009) concerning the proposed 2G Bioethanol Plant.

This interpretation was based upon the whole of the City’s entire file, including, but not limited to, the site plan application (TRC 2024-0009) and supplemental documents submitted by RYAM, and supported by the outside legal opinion (dated 5.23.2024) for the City from Weiss Serota.

Nothing in this interpretation shall be construed as reviewing or determining the completeness or compliance of any other aspect of the site plan application (TRC 2024-0009) with any applicable requirement of law. The City has not finalized its analysis of the completeness of the remaining aspects of the site plan application or analyzed the substantive details of the proposed 2G Bioethanol Plant project, because the use is not allowable by either the land use established by the Comprehensive Plan or the zoning permitted by the LDC.



City of Fernandina Beach

Ms. Sarah Campbell

City Manager

scampbell@fbfl.org

Section 11.07.01(B)(10), LDC, provides that when the City Manager or designee makes a written interpretation regarding use, that interpretation is subject to administrative appeal to the Board of Adjustment (the "BOA") in accordance with Section 11.07.04, LDC. Pursuant to Section 11.07.02, LDC, an administrative appeal application of this interpretation shall be filled with the City Manager no later than thirty (30) days from the date of this written interpretation concerning the proposed use.

Sincerely,

A handwritten signature in blue ink that reads "Sarah Campbell".

Sarah Campbell
City Manager

CC: Harrison Poole, City Attorney Pro Tem
Kelly N. Gibson, AICP, Director of Planning and Conservation/TRC Coordinator
Susan Trevarthen, Weiss Serota
James White, Weiss Serota