



DEVELOPMENT SERVICES

David L. Recor, ICMA-CM, Development Services Director
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October 2, 2019

Interpretation Letter Number: 19-04500005

Lochrie & Chakas, P. A.
Attn: Andrew J. Schein, Esq.
1401 E Broward Boulevard, Suite 303
Fort Lauderdale, FL 33301

cc: Demisol Holdings LLC
Attn: Alon Amit, Manager
2805 E Oakland Park Blvd, Suite 395
Fort Lauderdale, FL 33306

Re: Unlisted Use Proposed at 1550 NW 24th Avenue / Folio Numbers: 4842-28-01-0560, 4842-28-01-0481, and 4842-28-01-0570

Dear Mr. Schein –

The City of Pompano Beach Development Services Department has reviewed your Interpretation application and narrative dated September 16, 2019. The narrative requests the interpretation of a use that is not specifically listed in the Zoning Code. This use has been described in the narrative as the processing of cooking oil to be reused as a food product. While the use being described in the narrative is specific to the property, the interpretation of the use will apply to the use regardless of location. The applicant has submitted a narrative addressing each criteria for an unlisted use as identified in Sections 155.2423, Interpretation, and 155.4601, Interpretation of Unlisted Uses, which provide the procedure and criteria for interpreting and allowing unlisted principal uses.

The narrative acknowledges that the City has identified the use as a waste-related use, but the applicant disagrees with this classification. Instead, the applicant believes that the use should be regulated in the same manner as Food and/or Beverage Products Manufacturing (without slaughtering). The reasons provided for this include that the processing is not regulated by Florida Department of Environmental Protection and does not have negative impacts on the quality of air, water, soil, or other natural resourced.

The applicant has compared his use to both Waste-Related Services Uses, as defined in §155.4229, and Manufacturing and Production Uses, as defined in §155.4227. While it is understood that the business practice does not seem to meet the purpose or the definitions listed under §155.4229 Waste-Related Services Uses, it does match the definition of Waste Related Uses as stated in §155.4101.F.4: *The Waste-Related Uses category includes use types receiving solid or liquid wastes from others for on-site disposal, processing, or transfer to another location for processing or disposal, or uses that manufacture or produce goods or energy from the composting of organic material or reuse, recycling, or processing of scrap or waste material. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.*

The definition of Manufacturing and Production Uses stated in §155.4101.F does not consider the state of the materials prior to processing. It also is intended to categorize the production of items that are intended for human consumption. The definition of Waste-Related Uses includes receiving liquid waste from others for on-site processing. This is essentially how the use was described in the narrative.

AAC

The subject property is currently zoned I-1, General Industrial. The I-1 zoning district is established and intended to accommodate a wide range of light and moderate manufacturing, assembly, fabrication, processing, distribution, warehousing, research and development, and other industrial uses—but not heavy or hazardous manufacturing processes. Both the I-1 zoning district and the I-1X (Special Industrial) zoning district permit Waste-Related Service Uses upon the approval of a Special Exception. The main difference between the two zoning districts is that for Waste-Related Services Uses, outdoor activity may be permitted in an I-1X zoning district. Outdoor business activity is expressly prohibited in the I-1 zoning district. Most other uses defined in the Zoning Code, including *all* Manufacturing and Production Uses, must be totally and permanently enclosed within a building. The narrative states that “most of the business operations are conducted outdoors and are not housed within a building or structure.” This is in direct conflict with the City of Pompano Beach Zoning Code, regardless of the use classification.

After reviewing the information submitted, and evaluating the various use categories in the Zoning Code, staff has determined that the use described in your narrative is permitted in the I-1 zoning district upon the approval of a Special Exception. The detailed description outlining the proposed operations for this business appears to be comparable to a “Waste-Related Services Uses.” The use described in the narrative specifically stands apart from Food and/or Beverage Products Manufacturing (without slaughtering) as the primary focus of the business is the processing of liquid waste. In this case the resulting product is inconsequential to the use category.

This use, if approved to operate in an I-1 zoning district, must also comply with the general standards for all Waste-Related Services Uses as listed in 155.4229.D, and also enumerated below:

1. *In the I-1 District, all of the use's operation, including storage and sorting, shall occur and be located within a fully enclosed structure;*
2. *Access to the property shall be via a paved public right-of-way with a minimum width of 60 feet;*
3. *Access to the property shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping; and*
4. *The use shall comply with state solid waste management regulations, permitting requirements, and permit conditions.*

Note that any party aggrieved by a final decision by the Development Services Director may appeal the decision within 30 days of the date of the decision or interpretation to the appellate board responsible for reviewing such appeals (Zoning Board of Appeals), as set forth in Section 155.2424C, Appeals Procedure.

Respectfully,

THE CITY OF POMPANO BEACH



David L. Recor, ICMA-CM
Development Services Director

cc: Mark Berman, City Attorney
Jennifer Gomez, Assistant Development Services Director

DR/mre

Excerpts from the City of Pompano Beach Code of Ordinances Chapter 155: Zoning Code
Full Code available online at www.amlegal.com

E. Food and/or Beverage Products Manufacturing (without slaughtering)
1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4	
																S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
		P	P	P									P			

2. Definition

A food and/or beverage products manufacturing use is an establishment primarily engaged in manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; brewery, winery, or distillery; and nonalcoholic beverages. This use also includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.

3. Standards

A food and/or beverage products manufacturing use shall comply with the following standards:

- a. No animal slaughtering shall be permitted.
- b. Greenhouses are permitted as an accessory structure provided they comply with the standards in Section 155.4302.B, General Standards for All Accessory Uses and Structures.

155.4229. INDUSTRIAL: WASTE-RELATED SERVICES USES

A. Purpose

Waste-Related Services Uses are solid waste management facilities regulated and permitted by the Florida Department of Environmental Protection's Bureau of Solid & Hazardous Waste. These uses are recognized as having potential negative impacts on the quality of air, water, soil, and other natural resources. It is further recognized that improper disposal and management of solid waste results in or contributes to air and water pollution, land blight, and nuisance conditions.

B. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
		S	S					S	S				P			

C. Definition

A waste-related services use includes any of the following facilities:

1. Construction and Demolition Debris Disposal Facility

A construction and demolition debris disposal facility is a Solid Waste Management Facility permitted by the state for the disposal of construction and demolition debris, as provided for in FL SS 403.703.

2. Land Clearing Debris Disposal Facility

A land clearing debris disposal facility is a solid waste management facility permitted by the state for the disposal of land clearing debris, as provided for in FL SS 403.703 and FAC 62-701.200.

3. Materials Recovery Facility

A materials recovery facility is a solid waste management facility that provides for the extraction from solid waste of recyclable material, materials suitable for use as a fuel or soil amendment, or any combination of such materials, as provided for in FAC 62-701.200.

4. Solid Waste Transfer Station

A solid waste transfer station is a solid waste management facility, the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility, as provided for in FAC 62-701.200. Operations at such facilities may include separation of incidental amounts of recyclable materials or unauthorized waste.

5. Tire Disposal or Recycling Facility

A tire disposal or recycling facility is a solid waste management facility, the primary purpose of which is tire disposal or tire recycling, as provided for in FAC 62-701.200.

6. Waste Composting Facility

A waste composting facility is a solid waste management facility where solid waste is processed using composting technology, as provided for in FAC 62-709.201. Processing may include physical turning, windrowing, aeration or other mechanical handling of organic matter.

7. Waste-to-Energy Plant

A waste-to-energy plant is a facility that uses an enclosed device using controlled combustion to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result, as provided in FL SS 403.7061. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term also does not include facilities that burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.



D. General Standards for All Waste-Related Service Uses

Waste-Related Service Uses shall comply with the following standards:

1. In the I-I District, all of the use's operation, including storage and sorting, shall occur and be located within a fully enclosed structure;
2. Access to the property shall be via a paved public right-of-way with a minimum width of 60 feet;
3. Access to the property shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping; and
4. The use shall comply with state solid waste management regulations, permitting requirements, and permit conditions.

E. Additional Standards for Outdoor Waste-Related Service Uses

A Waste-Related Service Use is considered to be an Outdoor use if all or a portion of the use's operations, including storage and sorting, are located outside of a fully enclosed structure. In addition to the general standards listed in Section [155.4229.D](#), Outdoor Waste-Related Service Uses shall be required to comply with the following standards:

1. The use shall be located on property with an area of at least one acre;
2. The lot shall be located at least 1,000 feet, as measured by airline distance from property line to property line, from another lot containing a junkyard or an Outdoor Waste-Related Service Use;
3. The use shall include measures to reduce the off-site transmission of noise or dust to the maximum extent practicable;
4. A type C perimeter buffer shall be provided around all perimeters of the site; and
5. The applicant shall provide documentation of compliance with state solid waste management regulations for minimum distance separation from water bodies and airports .
6. The Applicant shall comply with [§ 155.3707.C.5](#) related to landfills located within the Air Park Overlay.

155.4201.B:

B. Standards Applicable to all Uses

The following use standards shall be applicable to all uses:

1. All uses shall be totally and permanently enclosed within a building.
2. If an Eating and Drinking Establishment includes outdoor seating, it shall comply with the standards in Section [155.4303.V](#)
3. If the use includes accessory outdoor storage of the following components, materials, equipment, or objects, the outdoor storage area shall comply with standards in Section [155.4303.VV](#):
 - a. Equipment and Materials;
 - b. Inoperable vehicles trailers, heavy equipment, or boats, including those that will be serviced. (operable vehicles, trailers, heavy equipment, or boats are those that are in a condition that they may be moved under their own power at any time except when under repair in garages); and
 - c. Automobile parts, dismantled vehicles, and similar materials.
4. If the use includes outdoor storage of items listed above, and the outdoor storage area exceeds the limitation of accessory outdoor storage (35% or less of the total gross floor area of the building containing the principal use(s) on the lot), the outdoor storage area shall comply with the standards in Section [155.4228](#);
5. If the use is an Alcoholic Beverage Establishment, it shall comply with the standards in Section [155.4501](#), Separation Requirements;
6. If the use includes drive-through service, it shall comply with the standards in Section [155.4303.I](#);
7. If the use is subject to county, state, or federal license requirements, it shall provide proof of such valid license; and
8. If the use is subject to allocation of flex or reserve units, the applicant shall apply for and obtain required flex or reserve units.
9. Unless otherwise expressly permitted by statutory or general law, on-site dispensing of controlled substances that are identified in Schedule II, III or IV in F.S. §§ 893.03, 893.035 or 893.0356, is prohibited, regardless of zoning district. The following are exempt from this prohibition:
 - a. A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session;
 - b. A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice or intermediate care facility for the developmentally disabled which is licensed in this state;
 - c. A health care practitioner when administering a controlled substance in the emergency room of a licensed hospital;
 - d. A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16; and
 - e. A health care practitioner when dispensing a onetime, 72-hour emergency resupply of a controlled substance to a patient.Any request for reasonable accommodation to the prohibition of on-site dispensing of controlled substances, as listed above, shall be submitted in accordance with Section [155.2432](#), Reasonable Accommodation.
10. The manufacturing of hazardous substances is strictly prohibited. Hazardous substances include:
 - a. Acids, fertilizer, soap, insecticides, and/or batteries;
 - b. Any substance or material which, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties may be detrimental or deleterious to the health of any person handling or using or otherwise coming into contact with the material or substance; and
 - c. In accordance with Section [98.13.A](#) of the City's Code of Ordinances , hazardous substances include any substances or materials defined or listed as a hazardous substance, pollutant or a contaminant in any applicable federal or state law or regulation or any substances or materials in a quantity or form which, in the determination of the respective Fire Chief or his/her authorized designee, poses an imminent risk to the life, health, safety, or welfare of persons or property within the City of Pompano Beach.
11. Sales of used merchandise and/or goods.
 - a. Unless specifically provided for in a use's definition or in a use-specific standard, the sale of used merchandise and/or goods is prohibited in all Residential, Special Base, Planned Development, and Overlay Zoning Districts, as well as in the Limited Business (B-1), Community Business (B-2), and Commercial Recreation (CR) Zoning Districts.
 - b. Unless specifically provided for in a use's definition or in a use-specific standard, the sale of used merchandise and/or goods is limited to 20% of the floor space in the General Business (B-3) Zoning District.

DR/mre

c. Unless specifically restricted to the sale of new merchandise and/or goods as provided for in a use's definition or in a use-specific standard, the sale of used merchandise and/or goods is permitted in the Heavy Business (B-4), Marine Business (M-1), and in the Industrial Zoning Districts.

155.4101.F:

F. Industrial Classification

1. Industrial Services Uses

The Industrial Services Uses category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.

2. Manufacturing and Production Uses

The Manufacturing and Production Uses category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms for consumers. This use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment) and craft manufacturing. Goods are generally not displayed or sold on-site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include limited retail sales, wholesale sales, offices, cafeterias, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, and security and caretaker's quarters.

3. Warehousing and Freight Movement Uses

The Warehousing and Freight Movement Uses category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, outdoor storage, and maintenance areas.

4. Waste-Related Uses

The Waste-Related Uses category includes use types receiving solid or liquid wastes from others for on-site disposal, processing, or transfer to another location for processing or disposal, or uses that manufacture or produce goods or energy from the composting of organic material or reuse, recycling, or processing of scrap or waste material. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.

5. Wholesale Uses

The Wholesale Uses category includes use types involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order-taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, greenhouses (for plant nurseries), and repackaging of goods.

155.2424. APPEAL

A. Purpose

The purpose of this section is to establish an administrative remedy whereby persons claiming to have been aggrieved by a decision of the Development Services Director or a decision-making body may appeal that decision.

B. Right to Appeal

1. Parties aggrieved by a final decision by the Development Services Director.

A party aggrieved by a final decision by the Development Services Director identified in Table 155.2424.B, Appellate Boards for Appeals of Development Services Director Decisions, may appeal the decision to the appellate board identified in the table as responsible for reviewing such appeals, in accordance with the procedures as set forth in Section 155.2424.C, Appeal Procedure.

TABLE 155.2424.B: APPELLATE BOARDS FOR APPEALS OF DECISIONS OF DEVELOPMENT SERVICES DIRECTOR	
Application Type	Board Responsible for Reviewing Appeal
Minor Building Design	Architectural Appearance Committee (AAC)
Minor Certificate of Appropriateness	Historic Preservation Committee (HPC)
All other application types and waiver requests	Zoning Board of Appeals (ZBA)

2. A party aggrieved by a final decision by the P&Z on a Major Site Plan application, by the AAC on a Major Building Design application, or by the HPC on a Major Certificate of Appropriateness application may appeal the decision to the City Commission in accordance with this section, including the procedures as set forth in Section 155.2424.C.

3. A party aggrieved by a final decision by the Zoning Board of Appeals as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

4. A party aggrieved by a final decision by the City Commission as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

5. Decisions relating to application of the Building Code are appealable in accordance with the Florida Building Code and Chapter 152 (Buildings) of the Code of Ordinances.

C. Appeal Procedure

1. Step 1: Pre-Application Conference

Optional (See Section [155.2301](#)).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section [155.2303](#)), except that an appeal shall be initiated by filing a written Notice of Appeal and appeal application with the Development Services Director within 30 days of the date of the decision or interpretation being appealed.

4. Step 4: Staff Review and Action

Applicable, except that on accepting a Notice of Appeal and appeal application, the Development Services Director shall transmit the notice, application, and all the papers, documents, and other materials relating to the appealed interpretation or decision to the appropriate appellate body. These materials constitute the record of the appeal.

5. Step 5: Public Hearing Scheduling and Notice

Applicable (See Section [155.2305](#)), except that the Development Services Director shall also provide notice of the public hearing to the applicant for the decision being appealed, if different from the appellant.

6. Step 6: Advisory Body Review and Recommendation

Not applicable.

7. Step 7: Decision-Making Body Review and Decision

The following alternative procedures and standards shall apply:

a. Public Hearing and Review

i. The appellate body shall conduct a quasi-judicial hearing on the appeal in accordance with the procedures and special considerations required by Section [30.08](#) of the Code of Ordinances and by state law.

ii. The appellate body shall review the Notice of Appeal and appeal application, the record of the decision or interpretation being appealed, arguments from the appellant identifying the grounds for the appeal and basis for the alleged error in the decision being appealed, responding arguments from city staff, and any other relevant comments by other interested parties.

b. Decision

The final decision of the appellate body shall be one of the following:

- i. Affirmation of the decision or interpretation (in whole or in part);
- ii. Modification of the decision or interpretation (in whole or in part); or
- iii. Reversal of the decision or interpretation (in whole or in part).

c. Super-Majority Vote by the Zoning Board of Appeals

The concurring vote of at least five members of the ZBA is required for the board to modify or reverse a decision or interpretation by the Development Services Director.

D. Review Standards

1. The appellate body shall review an Appeal in accordance with the standards of this Code applicable to the decision or interpretation being appealed, and shall base its decision solely on the record established below in making the decision or interpretation being appealed. The record shall consist of all documents, hearing records, and other materials related to the decision or interpretation.

2. The appellate body may modify or reverse a decision or interpretation on appeal (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the application of the relevant standards or provisions of this Code.

3. For [Sexually Oriented Businesses](#), the sole issue to be considered in an Appeal is whether the Development Services Director's determination was correct, pursuant to the requirements of [Article 4](#), Section [155.4224](#).

E. Effect of Pending Appeal

A pending appeal stays all city actions in furtherance of the decision appealed from unless the Development Services Director certifies to the appellate body reviewing the decision that because of facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by an order issued by the appellate body.

F. Effect of Appeal Decision

To the extent a decision on an appeal pertains to application of a particular provision of this Code in a particular circumstance, the appeal decision shall be binding on subsequent decisions by the Development Services Director or other city administrative official applying the same provision of this Code in the same circumstance.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-32](#), passed 12-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2013-43](#), passed 2-26-13; Am. Ord. [2013-73](#), passed 7-23-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15 ; Am. Ord. [2017-23](#), passed 1-24-17)

OWNER: Demisol Holdings LLC
DATE: September 16, 2019
REQUEST: Interpretation for Unspecified Use
AUTHOR: Andrew J. Schein, Esq.

**NARRATIVE TO ACCOMPANY APPLICATION FOR
INTERPRETATION OF UNSPECIFIED USE**

City of Pompano Beach Zoning Code Section 155.4601

1. General Information

Demisol Holdings LLC (“Owner”) is seeking an interpretation for an unspecified use at the property generally located at 1550 NW 24th Avenue in Pompano Beach (the “Property”). Although this application is specific to the use at the Property, the Owner requests that this interpretation apply to the specific use in the future if the Owner decides to change locations of the use to another area in the City in the same zoning district. The Property is located in the I-1 zoning district and has an underlying future land use designation of Industrial.

The principle business operations of the company associated with this interpretation request, known as Banyan Recycling Inc. (“Company”), is the processing of cooking oil. The cooking oil processed by the Company and the end-result byproducts are non-toxic, non-petroleum based, non-biohazardous, 100% biodegradable, and consumable. The Company collects and receives cooking oil from local restaurants and processes the cooking oil through filtering and gravity settling to be reused as a food product. The process does not involve the use of chemicals or heat.

Due to the non-toxic nature of this business operation, the business operation is not required to obtain specific licenses from the Department of Agriculture, Florida Department of Environmental Protection (“FDEP”), or Broward County and is not regulated by such entities.

2. Comparison of Industrial Use Characteristics

The City’s zoning code separates industrial uses into five (5) separate categories: Industrial Service Uses, Manufacturing and Production Uses, Warehousing and Freight Movement Uses, Waste-Related Services Uses, and Wholesale Uses. The business operations of the Company do not fall under the Industrial Service Uses, Warehousing and Freight Movement Uses, or Wholesale Uses as defined in the zoning code. However, the City has indicated that the business operations of the Company may be classified as a Waste-Related Service Use. The Owner disagrees and believes that the business operations of the Company fall squarely in line with the City’s definition of Manufacturing and Production Uses as defined in Section 155.4227 of the City’s zoning code.



a. Waste-Related Service Uses

In Section 155.4229.A of the City's zoning code, the City's stated definition of a waste-related service use is:

“Waste-Related Services Uses are solid waste management facilities regulated and permitted by the Florida Department of Environmental Protection's Bureau of Solid & Hazardous Waste. These uses are recognized as having potential negative impacts on the quality of air, water, soil, and other natural resources. It is further recognized that improper disposal and management of solid waste results in or contributes to air and water pollution, land blight, and nuisance conditions.”

The business operations of the Company do not meet this definition. The business operations are not solid waste management facilities, are not regulated by FDEP's Bureau of Solid & Hazardous Waste, do not have any negative impact on the quality of air, water, soil, or other natural resources, and do not involve the any disposal or management of solid waste that would result in or contribute to air or water pollution, land blight, or nuisance conditions. All products produced by the business operations of the Company are biodegradable and the business operations are not regulated by FDEP. The operations of the Company therefore do not meet the City's definition of a waste-related service use as defined in Section 155.4229.A of the zoning code.

Section 155.4229.C of the City's zoning code states that a waste-related service uses include any of the following facilities:

- 1) Construction and Demolition Debris Disposal Facility;
- 2) Land Clearing Debris Disposal Facility;
- 3) Materials Recovery Facility;
- 4) Solid Waste Transfer Station;
- 5) Tire Disposal or Recycling Facility;
- 6) Waste Composting Facility; or
- 7) Waste-to-Energy Plant

The business operations of the Company do not include any of the aforementioned uses and are not regulated under FAC 62-701.200, FAC 62-709.201, Florida Statute § 403.703, or Florida Statute § 403.7061 as mentioned in Section 155.4229.C of the City's zoning code. Therefore, the business operations of the Company are not a waste-related service use under Section 155.4229.C of the City's zoning code.

Further, in Part 5 of the City's zoning code, the City's defines waste-related service uses in Part 5 of the City's zoning code as:

“Solid waste management facilities regulated and permitted by the Florida Department of Environmental Protection's Bureau of Solid & Hazardous Waste, unless otherwise noted. These uses are recognized as having potential negative impacts on the quality of air, water, soil, and other natural resources. It is further

recognized that improper disposal and management of solid waste results in or contributes to air and water pollution, land blight, and nuisance conditions.”

The business operations of the Company are not solid waste related, are not regulated by FDEP, and do not have negative impacts on the quality of air, water, soil, or other natural resources. Improper disposal of the semi-finished and/or finished goods produced by the Company would not contribute to air or water pollution, land blight, or nuisance conditions, as the products are non-toxic and 100% biodegradable. The operations of the Company therefore do not meet the City’s definition of a waste-related service use as defined in Part 5 of the zoning code.

Since the business operations of the Company do not meet any of the definitions of a waste-related service use as defined/described in 155.4229.A, Section 155.4229.C, or Part 5 of the City’s zoning code, the business operations of the Company cannot be regulated under such sections of the zoning code. The business operations of the Company do, however, fall squarely within the City’s own definitions of a Manufacturing and Production Use.

b. Manufacturing and Production Uses

The only other reasonable classification of the business operations of the Company is under the Manufacturing and Production Uses category of the City’s zoning code, and specifically the Food and/or Beverage Products Manufacturing Without Slaughter (“Food Manufacturing”) use. The operations of the Company clearly meet the definition of Food Manufacturing as explained below.

Under Section 155.4101.F of the City’s zoning code, which includes the use classification system and certain defined uses, the Manufacturing and Production classification is defined as:

“The Manufacturing and Production Uses category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms for consumers. This use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment) and craft manufacturing. Goods are generally not displayed or sold on-site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Relatively few customers come to the manufacturing site.”

The operations of the Company include the processing of semi-finished goods into finished goods, particularly consumable food goods. The end products are made for the wholesale market and are not available to end-consumers, the goods are not sold on-site, and relatively few (if any) customers come to the site. Therefore, the operations of the business fall squarely within the Manufacturing and Production Uses category as defined in Section 155.4101.F of the zoning code.

Food Manufacturing is a subcategory of Manufacturing and Production Uses. The City’s stated definition of Food Manufacturing, stated in Section 155.4227.E.2 of the City’s zoning code, is:

“A food and/or beverage products manufacturing use is an establishment primarily engaged in manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; brewery, winery, or distillery; and nonalcoholic beverages. This use also includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.”

The sole operation of the Company is to produce a consumable food product and therefore meets the definition of Food Manufacturing under Section 155.4227.E.2 of the zoning code.

3. Criteria for Allowing Unlisted Principal Uses

Since the specific operations of the Company are niche in nature, the exact operations are not spelled out in any existing use category. However, for the reasons previously stated, the Owner believes that the operations of the Company fall squarely within the definition of a Manufacturing and Production Use, specifically Food Manufacturing. Food Manufacturing is a permitted use in the I-1 zoning district, therefore the business operations of the Company must also be a permitted use in the I-1 zoning district.

In making determinations of unlisted principal uses, the Development Services Director shall consider the relevant characteristics of the unlisted use, the purpose and intent statements in the zoning code concerning the zoning district, and the character of the use types allowed in the district.¹ The relevant characteristics of the unlisted use that should be considered in making the determination include but are not limited to the following:

1. Actual or projected characteristics of each activity likely to occur at the unlisted use;

RESPONSE: The business operations of the company include processing used cooking oil into consumable, biodegradable, and non-toxic food products through gravity settling and filtering. No chemicals or heat are used in the process. The gravity settling and filtering process is the same process used by breweries in producing beer – the yeast settles to the bottom of the vat during the brewing process via gravity and is later filtered out with the hops and other additives to the beer. This produces “spent grain”, which generally represents approximately 85% of the total by-product of the brewing process.² Although consumable, industrial quantities of spent grain is generally used for animal feed.

Breweries are explicitly considered a Food Manufacturing use under Section 155.4227.E.2 of the City’s zoning code. Since the operations of the Company are very similar to the operations of a brewery and do not meet any definition/description of a waste-related service

¹ City of Pompano Beach Zoning Code Section 155.4601.B

² Saliyu Aliyu and Muntari Bala, *Brewer’s Spent Grain: A review of its potentials and applications*, <https://pdfs.semanticscholar.org/f677/acc78e886c19ce6b1b756adc333ab8a36eea.pdf>

use, the operations of the Company should therefore be classified as a Food Manufacturing use.

2. The type, size, orientation, and nature of buildings, and structures devoted to each activity;

RESPONSE: Since the business operations of the Company are non-toxic in nature and do not produce any odor, fumes, excess noise, smoke, glare, or radiation, most of the business operations are conducted outdoors and are not housed within a building or structure.

3. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;

RESPONSE: The Company employs five (5) people and generally operates from 5:00am to 4:00pm. The Company rarely sees customers on-site.

4. Vehicles used and their parking requirements, including the ratio of the number of spaces required per unit area or activity;

RESPONSE: The business operations utilizes two (2) 3,000-gallon trucks to pump the oil and provides one (1) parking space per employee. The parking requirement for Food Manufacturing is 1 parking space per 1,000 square feet.

5. Transportation requirements, including the modal split for people and freight, by volume type, and characteristics of traffic generation to and from the site;

RESPONSE: The Company rarely sees customers on site. The only traffic generated by the operations is traffic generated by the five (5) employees and the two (2) 3,000-gallon trucks.

6. Relative amounts of sales from each activity;

RESPONSE: The Company generates approximately \$1,000,000 in annual sales.

7. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building, and the predominant types of items stored;

RESPONSE: N/A, no merchandise is displayed outdoors.

8. Customer type for each activity;

RESPONSE: The customers of the Company are wholesale customers who purchase approximately 24,000 gallons of biodegradable processed cooking oil at a time. The cooking oil is delivered to a rail yard for shipping.

9. How each use is advertised, including signage;

RESPONSE: N/A, no signage is provided and the Company does not publicly advertise.

10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

RESPONSE: The noise produced by the business operation is minimal, as the gravity settling and filtering process is relatively quiet and would not be a nuisance to anyone outside of the property lines. The operation produces no smoke. The cooking oil does not

produce any significant odor. The operation does not produce any glare, vibration, radiation, or fumes.

11. Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

RESPONSE: N/A, the business operations do not require any special public utilities.

12. The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district.

RESPONSE: The areas to the west, north, and east of the Property are zoned I-1. The area to the south of the Property is zoned B-3 and B-4. The I-1 zoning district allows for significantly more intense uses as permitted uses, including metal processing, dry-cleaning, electric motor repair, and a variety of intense manufacturing uses.

The B-4 zoning district allows for a similar intensity of uses including dry-cleaning and a variety of manufacturing uses. The B-3 zoning district provides for less intense uses than I-1, but is separated by approximately 100' of right-of-way from the Property. The business operations of the Company are not expected to have any negative impacts on adjacent lands and are significantly less intense than that of other use types permitted in the I-1 zoning district.



City of Pompano Beach
 Department of Development Services
 Planning & Zoning Division

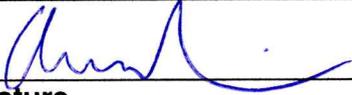
19-04560005

100 W. Atlantic Blvd Pompano Beach, FL 33060
 Phone: 954.786.4634 Fax: 954.786.4666

Interpretation Application

Indicate the Type of Interpretation requested	Zoning Map District Boundaries _____	Unspecified Uses <u>x</u> _____
	Text Provisions _____	

1550 NW 24th Avenue		
STREET ADDRESS		Zoning District
Pompano Manor, Plat Book 22, Page 14 BCR	9	1, 9 & 10
SUBDIVISION	BLOCK #	LOT #
Representative's or Agent's interest in property (Owner, Lessee, Etc) Attorney		
Has any previous application(s) been filed?		Yes _____ No <u>x</u> _____
If Yes, give date of hearing and finding N/A		

Owner's Representative or Agent	Landowner (Owner of Record)
Lochrie & Chakas, P.A.	Demisol Holdings LLC
Business Name	Business Name
Andrew J. Schein, Esq.	Alon Amit, Manager
Print Name and Title	Print Name and Title
	
Signature	Signature
September 11, 2019	September 11, 2019
Date	Date
1401 East Broward Boulevard, Suite 303	2805 E. Oakland Park Blvd., Suite 395
Street Address	Street Address
Fort Lauderdale, FL 33301	Fort Lauderdale, FL 33306
Mailing Address City/ State/ Zip	Mailing Address City/ State/ Zip
954-617-8919	954-494-4902
Phone Number	Phone Number
ASchein@Lochrielaw.com	Alon@banyanenvironmental.com
Email	Email
Indicate your preferred medium to receive agendas and notifications: _____ Mail <u>x</u> E-Mail	Indicate your preferred medium to receive agendas and notifications: _____ Mail _____ E-Mail



AAC



100 W. Atlantic Blvd Pompano Beach, FL 33060
Phone: 954.786.4634 Fax: 954.786.4666

Interpretation Application

OWNER'S CERTIFICATE

This is to certify that I am the owner of the subject lands described in this application and that I have authorized the filing of the aforesaid application.

Owner's Name: Alon Amit
(Print or Type)
Address: 2805 East Oakland Park Boulevard, Suite 395
Fort Lauderdale, FL 33306
Phone: 954-494-4902 (Zip Code)
Email address: Alon@banyanenvironmental.com

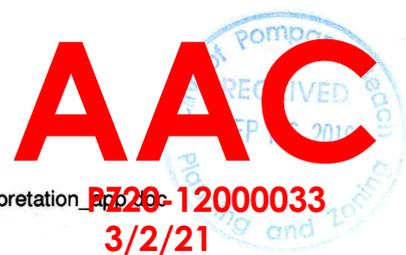
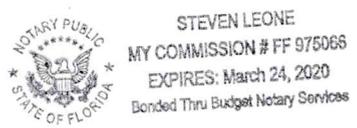
[Signature]
(Signature of Owner or Authorized Official)

SWORN AND SUBSCRIBED before me this 11th day of September, 2019.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Steven Leone

(Name of Notary Public: Print, stamp, or Type as Commissioned.)

Personally know to me, or
 Produced identification: _____
(Type of Identification Produced)





Site Address	1550 NW 24 AVENUE, POMPANO BEACH FL 33069	ID #	4842 28 01 0570
Property Owner	DEMISOL HOLDINGS LLC	Millage	1512
Mailing Address	2805 E OAKLAND PARK BLVD #395 FORT LAUDERDALE FL 33306	Use	49
Abbr Legal Description	POMPANO MANOR 22-14 B LOT 10 LESS PT DESC'D IN OR 21357/838 FOR R/W BLK 9		

The just values displayed below were set in compliance with [Sec. 193.011, Fla. Stat.](#), and include a reduction for costs of sale and other adjustments required by [Sec. 193.011\(8\)](#).

Property Assessment Values					
Year	Land	Building / Improvement	Just / Market Value	Assessed / SOH Value	Tax
2019	\$326,760	\$3,090	\$329,850	\$329,850	
2018	\$326,760	\$3,090	\$329,850	\$329,850	\$6,674.85
2017	\$326,760	\$3,090	\$329,850	\$329,850	\$6,575.84

2019 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$329,850	\$329,850	\$329,850	\$329,850
Portability	0	0	0	0
Assessed/SOH	\$329,850	\$329,850	\$329,850	\$329,850
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type	0	0	0	0
Taxable	\$329,850	\$329,850	\$329,850	\$329,850

Sales History			
Date	Type	Price	Book/Page or CIN
1/18/2018	SW*-E	\$1,650,000	114841051
6/8/2004	WD*	\$100	37641 / 183
9/1/1972	WD	\$15,000	1745 / 246
3/1/1963	WD	\$6,500	

Land Calculations		
Price	Factor	Type
\$7.25	45,071	SF
Adj. Bldg. S.F. (Card, Sketch)		

* Denotes Multi-Parcel Sale (See Deed)

Special Assessments								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
15			3A					
L			3A					
1								

Legal Description

Parcel 1:

Lot 10, Block 9, POMPANO MANOR, according to the Plat thereof, recorded in Plat Book 22, Page 14 of the Public Records of Broward County, Florida; and a portion of Lot 9, Block 9, POMPANO MANOR, beginning at the Southwest corner of said Lot 9, thence North along the West line of said Lot 9 at a distance of 403.86 feet, thence East making an included angle of 90 degrees and 03 minutes and along the North line of said Lot 9 a distance of 50.6 feet. Thence South parallel to the West line of Lot 9 a distance of 418.0 feet to a point on the South line of Lot 9, thence Westerly along the said South line along a curve to the left whose radius is 3,869.83 feet with a central angle of 0 degrees, 46 minutes, 47 seconds an arc distance of 52.66 feet to the point of beginning; as recorded in Plat Book 22, Page 14 of the Public Records of Broward County, Florida. Less property conveyed by deed recorded in Official Records Book 21357, Page 838 described as:

A portion of Lot 10, Block 9, POMPANO MANOR, according to the Plat thereof, as recorded in Plat Book 22, Page 14 of the Public Records of Broward County, Florida, more fully described as: Commence at the Northwest corner of said Lot 10, thence East a distance of 15 feet; thence South a distance of 355.05 feet to a point of curvature to the Southeast having a radius of 25 feet to a point on the North right-of-way line of Hammondville Road; thence Northwest along a curve having a radius of 25 feet to a point on the East right-of-way line of NW 24th Avenue, 19 feet North of the North right-of-way line of Hammondville Road; thence North a distance of 351.29 feet to the POINT OF BEGINNING.

Parcel 2:

The South 120 feet of Lot 1, less the West 10 feet thereof, Block 9, POMPANO MANOR, according to the Plat thereof, as recorded in Plat Book 22, Page 14 of the Public Records of Broward County, Florida.

AAC

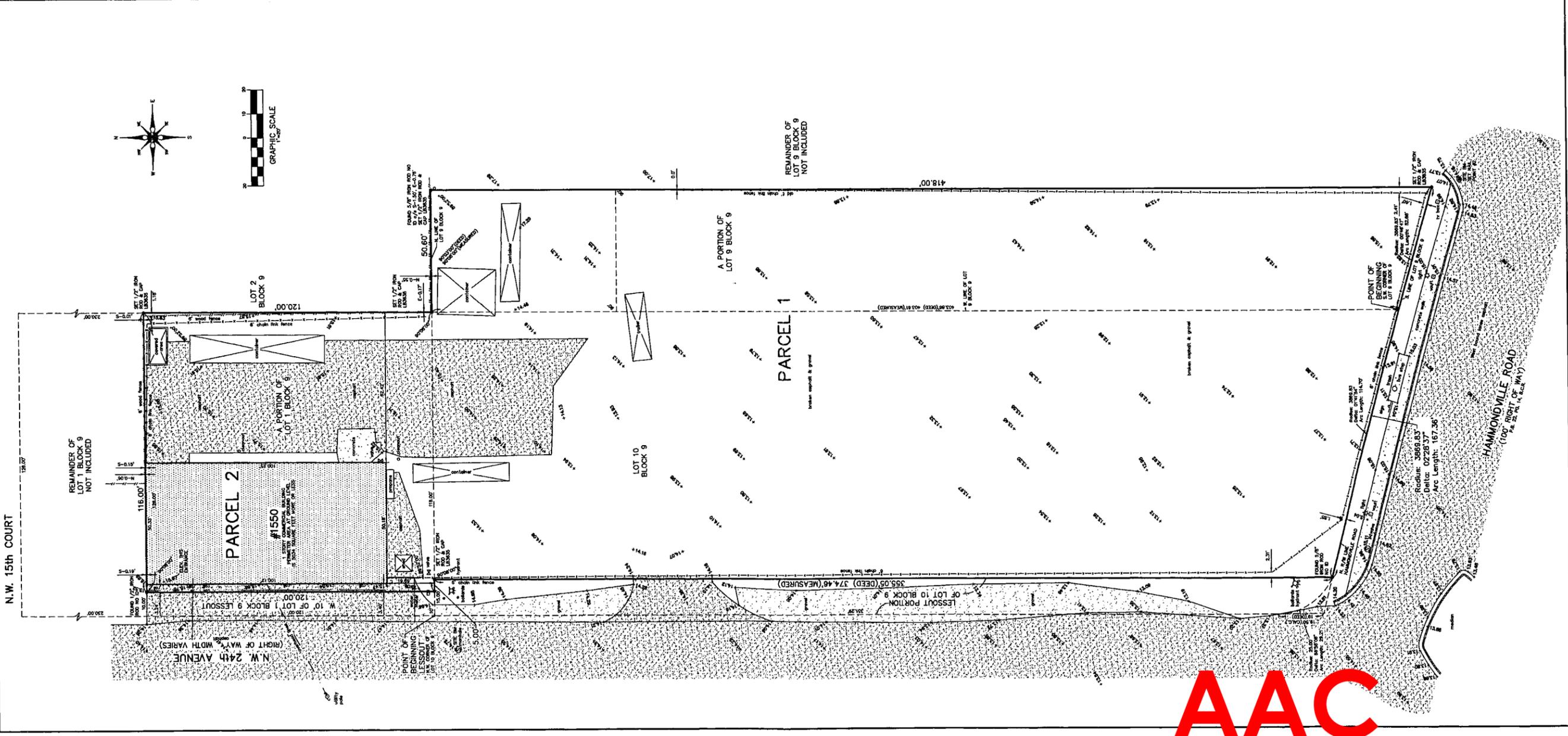
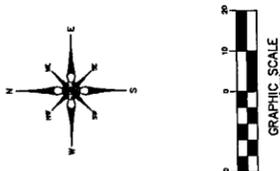
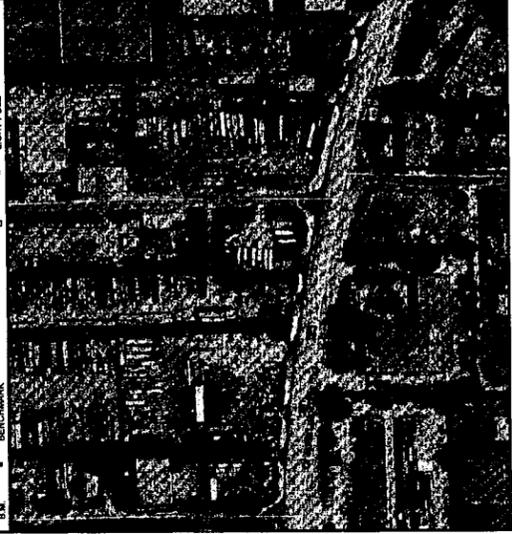
PZ20-12000033

3/2/21

ALTA/NSPS LAND TITLE & TOPOGRAPHIC SURVEY

LEGEND OF ABBREVIATIONS:

A	CONC.	CONCRETE	W	WEST
B	CLIP	CHAIN LINK FENCE	X	CROSS
C	BLVD	BOULEVARD	Y	YARD
D	PAV	PAVEMENT	Z	ZONE
E	P.A.M.	PERMANENT REFERENCE MONUMENT		
F	N.A.V.D.	NORTH AMERICAN VERTICAL DATUM		
G	LEV.	ELEVATION		
H	B.M.	BENCHMARK		
I				
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S				
T				
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V				
W				
X				
Y				
Z				



LOCATION SKETCH NOT TO SCALE

STREET ADDRESS:
 1550 N.W. 24th Avenue
 Pompano Beach, Florida 33069

LEGAL DESCRIPTION:
 Parcel 1
 Lot 10, Block 9, POMPANO MANOR, according to the Plat thereof, recorded in Plat Book 22, Page 24, of the Public Records of Broward County, Florida, as a portion of Lot 9, Block 9, POMPANO MANOR, beginning 408.85 feet, thence East making an included angle of 90 degrees and 03 minutes and along the North line of said Lot 9 a distance of 50.60 feet, thence South parallel to the West line of Lot 9 a distance of 418.0 feet to a point on the South line of Lot 9, thence West along the said South line along a curve to the left whose radius is 3,869.83 feet with a central angle of 0 degrees, 46 minutes, 47 seconds an arc distance of 52.66 feet to the point of beginning; as recorded in Plat Book 22, Page 14, of the Public Records of Broward County, Florida.

Less property conveyed by deed recorded in Official Records Book 21357, Page 898 describes as:
 A portion of Lot 10, Block 9, Pompano Manor, according to the Plat thereof, as recorded in Plat Book 22, at Page 14 of the Public Records of Broward County, Florida, more fully described as:
 Commence at the Southeast corner of Lot 10, thence East a distance of 15 feet; thence South a distance of 435.05 to a point of capture to the Southeast having a radius of 25 feet to a point on the North right-of-way line of Hammondville Road; thence Northwest along a curve having a radius of 25 feet to a point on the East right-of-way line of N.W. 24 Ave., 19 feet North of the North right-of-way line of Hammondville Road; thence North a distance of 351.29 feet to the POINT OF BEGINNING.

Parcel 2
 The South 120 feet of Lot 1, less the West 10 feet thereof, Block 9, POMPANO MANOR, according to the Plat thereof, recorded in Plat Book 22, Page 14, of the Public Records of Broward County, Florida.

NOTES:
 1. Unless otherwise noted field measurements are in agreement with record measurements.
 2. Bearings shown hereon are based on a bearing of N/A.
 3. The lands shown hereon were not abstracted for ownership, rights of way, easements, or other matters of records by Accurate Land Surveyors, Inc.
 4. Ownership of fences and walls, if any are not determined.
 5. This survey is the property of Accurate Land Surveyors, Inc. and shall not be used or reproduced in whole or in part without written authorization.
 6. This survey is made for the exclusive use of the certified hereon, to be valid one year from the date of survey as shown hereon.
 7. This survey was made for mortgage and title purposes only and is not valid for design or construction purposes.
 8. This survey reflects all obtainable, legible, platable, recorded matters of survey per Schedule B2 of OM Republic National Title Insurance Company Commitment Issuing Office File Number: 20069-0007, Commitment Date: December 5, 2017 at 8:09a.m.
 9. Perimeter area of the subject property is 77,856 square feet, or 1.7873 acres, more or less.
 10. The flood zone information shown hereon is for the dwellable structure only unless otherwise indicated.
 11. The location of overhead utility lines are approximate in nature due to their proximity above ground, site, type and quantity must be verified prior to design or construction.

FLOOD INFORMATION:
 Community name and number: Pompano Beach 12065
 Map and panel number: 120110357H
 Panel date: 08-18-14
 Flood zone: X-1
 Flood zone: "X"
 Base flood elevation: N/A

SCHEDULE B2 EXCEPTIONS:
 1. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage hereon covered by this Commitment. (This item is not a matter of survey.)
 2. Facts which would be disclosed by an accurate and comprehensive survey of the premises herein described. (After upon review of survey to be determined by title examiner.)
 3. Rights or claims of parties in possession. (This item is not a matter of survey.)
 4. Construction, Mechanics, Contractors' or Materialmen's lien claims, if any, where no notice thereof appears of record. (This item is not a matter of survey.)
 5. Easements or claims of easements not shown by the public records. (This item is not certifiable.)
 6. General or special taxes and assessments required to be paid in the year 2018 and subsequent years. (This item is not a matter of survey.)
 7. All matters contained on the Plat of Pompano Manor as recorded in Plat Book 22, Page 14 (All). (This item affects the subject property and is shown hereon.)
 8. Terms and conditions of any existing unrecorded lease(s), and all rights of lessee(s) and any parties claiming through the lease(s) under the lease(s). (This item is not a matter of survey.)

OBSERVED ENCROACHMENTS:
 Asphalt and gravel driveways in road right of way along the West boundary.

CERTIFY TO:
 Demico Holdings, LLC, a Florida limited liability company
 Angelo & Bartra, P.A.,
 Old Republic National Title Insurance Company

DATE OF FIELD SURVEY: 11-30-17
 FIELD BOOK: ALS-SU-17-3000
 REVISIONS:
 DRAWN BY: MLW
 CHECKED BY: MLW
 DATE:
 BY:

SEE 14-1418 FOR ORIGINAL SURVEY OF NORTH PARCEL

CERTIFICATION:
 This is to certify that this map or plat and the survey on which it is based was made in accordance with the Minimum Standard Detail Requirements for ALTA/NSPS Land and Surveying, as established and adopted by the American Land Title Association, Inc. (ALTA) and NSPS, and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Florida, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

ROBERT L. THOMPSON (PRESIDENT)
 PROFESSIONAL SURVEYOR AND LICENSED MAPPING ENGINEER - STATE OF FLORIDA
 12-12-17
 SKETCH NUMBER SU-17-3900

