



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

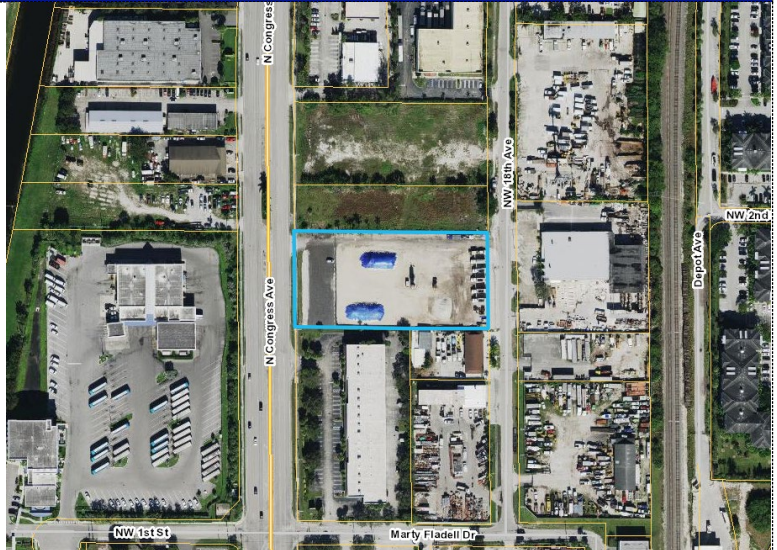
Similarity of Use – Gunite Yard, MIC Zoning District

Meeting	File No.	Application Type
October 21, 2024	2024-232	Similarity of Use
Property Owner	Authorized Agent	
Platinum RE HLDG Inc. / Lessee and Applicant – Calabash Gunite, Inc.	Neil M. Schiller, Esq.	

Request
 Consideration of an Application for a Determination of Similarity of Use to determine that the operation of a gunite yard is similar to Manufacturing and Wholesale of products using ceramic and plaster material within the Mixed Industrial and Commercial (MIC) zoning district.

Site Data & Information

Location: 135 North Congress Avenue
PCN: 12-43-46-18-53-000-0020
Property Size: 1.85 acres
Land Use: Commerce (CMR)
Zoning: Mixed Industrial and Commercial (MIC)
Adjacent Zoning:
 ○ **North, South, & East:** MIC
 ○ **West:** Community Facilities (CF)
Existing Use: Vacant (Existing site improvements completed without permit or development approvals)



Proposed Land Use: Gunite Yard (Manufacturing and Wholesale of products using ceramic and plaster material)

Background Information

The subject property is zoned Mixed Industrial and Commercial (MIC) with an underlying Land Use Map (LUM) designation of Commerce (CMR). Previously a vacant lot, the subject property has undergone extensive site modification without permit or necessary development approvals. Modifications have included site work and installation of unpermitted structures to facilitate operation of a use that the Applicant refers to as a “gunite yard”, which has included leveling and grading the site without civil engineering review, installation of a cement storage silo without Building Division or Zoning review, and persistent utilization of the site for storage purposes, including storage of materials and trucks used in the daily operation of the gunite yard. The property has been cited under Code Enforcement action, and this specific request is made to alleviate some of the outstanding code compliance issues with regard to the use and its noncompliance with requirements of the MIC zoning district.

Through previous correspondence with the Applicant and in reviewing material that has been presented to Staff in relation to the proposed use, Staff has determined that the operation of a gunite yard as described by the Applicant is considered *Concrete Products Manufacturing*. This use is permitted in the Industrial (I) zoning district, subject to Conditional Use approval. Industrial is the district intended to accommodate the most intense industrial uses permissible within the City – such as Concrete Products Manufacturing. However, Concrete Products Manufacturing is not a permitted or conditional use in the MIC district, which is intended to accommodate industrial uses of a lighter intensity with supporting business and office functions that are compatible and harmonious in scale and intensity with adjacent commercial uses.



Project Description

An application for a Determination of Similarity of Use has been submitted by the Applicant specifically requesting that the operation of a gunite yard, as described, be considered similar to *Manufacturing and Wholesale of products using ceramic and plaster material*, which is a permitted use in the MIC zoning district, rather than being classified as *Concrete Products Manufacturing* (a prohibited use in the MIC zoning district), as initially determined by Staff upon review of information provided by the Applicant. A narrative of the request, which describes the use and provides the Applicant’s justification of the request, is included with this submittal. Staff analysis and considerations are provided in the following section.

It is important to note that the analysis of this request is limited to consideration of the use. Any existing or potential conditions stemming from site modifications and operational procedures that do not conform with the requirements of the LDR are not a factor in this specific request. Any nonconformities must be addressed through the applicable review mechanism. For example, the Applicant requires outdoor storage as a major component of the use. However, outdoor storage is only permissible as an accessory use in the MIC zoning district. This request should not be construed as a request to allow outdoor storage as a primary permitted use, and if this request for similarity of use determination is granted, it should not be assumed that outdoor storage as a primary permitted use is also granted, even if the operation of a gunite yard requires outdoor storage in the amount that exceeds the level of an incidental and subordinate accessory use.

Review and Analysis: Similarity of Use

LDR Section 2.4.6(D)(5), Findings

Prior to approving a requested determination of similarity of use, the Planning and Zoning Board must find that the requested use is, indeed, similar to other uses allowed in the zoning district and is in keeping with the stated purpose of the district.

Pursuant to LDR Section 4.4.19(A), MIC District: Purpose and Intent, *the Mixed Industrial and Commercial (MIC) District is created to provide for a mix of industrial, commercial, and office use in a single zoning district. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. Residential uses are only allowed within the I-95/CSX Railroad Corridor Overlay District, subject to Article 4.7. The MIC District is applied to properties with a Commerce or Industrial designation on the Land Use Map.*

Given the range of uses allowed within the MIC zoning district, it is important to note that the subject area of MIC zoning is supported by the underlying Commerce land use designation, as opposed to Industrial.

Adjacent Zoning, Land Use, and Use					
	Zoning Designation	Land Use	Use	Zoning Map	Land Use Map
North	MIC	CMR	Vacant		
South	MIC	CMR	Retail/Office		
East	MIC	CMR	Light Industrial / Contractor		
West	Community Facility (CF)	CMR	Office / Vehicle Storage		

The Applicant justification statement states that “the business sells the raw materials for gunite and loads the trucks for their customers. There is no manufacturing, processing, mixing, or alteration of the raw materials.” However, the applicant requested a Determination of Similarity of Use to liken the gunite yard to the Manufacturing and Wholesale of products using ceramic and plaster material. The analysis is based on this request and considers whether the request “is in keeping with the stated purpose of the district.”

Manufacturing:

MIC zoning allows the *manufacturing, fabrication and wholesale of items and other uses as described in Section 4.4.20 (B) (1), (2) and (3)*. LDR Section 4.4.20 provides the regulations for those properties zoned Industrial (I). The MIC zoning district allows limited uses from the Industrial zoning district that are less impacting and require less mitigation, given the mix of uses allowed within the MIC and the need to maintain compatibility with adjacent lower intensity commercial uses. LDR Section 4.4.20(B)(1), Industrial District: Principal Uses and Structures Permitted, describes “manufacturing” as *the processing of raw materials to create final products for distribution*. It is important to note that this description specifies that manufacturing entails the conversion of raw materials into a final product. If a use only involves the distribution of raw materials, but not the conversion of raw materials into a final product for distribution, the use does not meet the definition of manufacturing. The uses would instead be classified as the storage and distribution of raw materials. The defining characteristic of manufacturing, per the LDR, is that a final product is the result of processing of raw materials.

The Industrial Zoning District (LDR Section 4.4.20) lists specific materials that may be used in manufacturing. One of the permissible materials is ceramics and plaster.

Ceramics: The US Environmental Protection Agency defines “ceramics” as “*a class of inorganic, nonmetallic solids that are subjected to high temperature in manufacture and/or use. The most common ceramics are composed of oxides, carbides, and nitrides. Silicides, borides, phosphides, tellurides, and selenides also are used to produce ceramics. Ceramic processing generally involves high temperatures, and the resulting materials are heat resistant or refractory. Traditional ceramics refers to ceramic products that are produced from unrefined clay and combinations of refined clay and powdered or granulated non-plastic minerals. Often, traditional ceramics is used to refer to ceramics in which the clay content exceeds 20 percent. The general classifications of traditional ceramics are described below:*

Pottery: *sometimes used as a generic term for ceramics that contain clay and are not used for structural, technical, or refractory purposes.*

Whiteware: *refers to ceramic ware that is white, ivory, or light gray in color after firing. Whiteware is further classified as earthenware, stoneware, chinaware, porcelain, and technical ceramics.*

Earthenware: *defined as glazed or unglazed nonvitreous (porous) clay-based ceramic ware. Applications for earthenware include artware, kitchenware, ovenware, tableware, and tile.*

Stoneware: *vitreous or semivitreous ceramic ware of fine texture, made primarily from nonrefractory fire clay or some combination of clays, fluxes, and silica that, when fired, has properties similar to stoneware made from fire clay. Applications for stoneware include artware, chemical ware, cookware, drainpipe, kitchenware, tableware, and tile.*

Chinaware: *vitreous ceramic ware of zero or low absorption after firing that are used for nontechnical applications. Applications for chinaware include artware, ovenware, sanitaryware, and tableware.*

Porcelain: *defined as glazed or unglazed vitreous ceramic ware used primarily for technical purposes. Applications for porcelain include artware, ball mill balls, ball mill liners, chemical ware, insulators, and tableware.*

Technical ceramics: *include vitreous ceramic whiteware used for such products as electrical insulation, or for chemical, mechanical, structural, or thermal applications.”*

Plaster is defined by USG Corporation, a leading manufacturer of gypsum product, as “*a cementitious material or combination of cementitious materials and aggregate that, when mixed with water, forms a plastic mass. When applied to a surface, plaster adheres to it and subsequently sets or hardens, preserving in a rigid state the form or texture imposed during the period of plasticity.*” Plaster is customarily used in the production of products that are molded and set in place, including surface finishes such as stucco or grout, amongst other products with applications in a variety of industry.

The manufacturing of certain other materials identified in LDR Section 4.4.20(D), Conditional uses and structures allowed, are only permissible through the approval of a conditional use. The conditional use review process allows for evaluation on a case-by-case basis rather than as-of-right, because it is understood that the processes and operations customarily associated with the production or use of these materials is often of a certain intensity that necessitates additional scrutiny and assessment to determine the appropriateness of the use within a specific location and whether additional improvements or other considerations are required to mitigate potential impacts on the surrounding area. Concrete products manufacturing, because of the intensity of use, is one form of manufacturing that is specifically subject to conditional use approval in the Industrial district, which is intended to accommodate the most intense industrial uses permissible within the City, and only in areas within the Industrial District where the surrounding context supports the use.

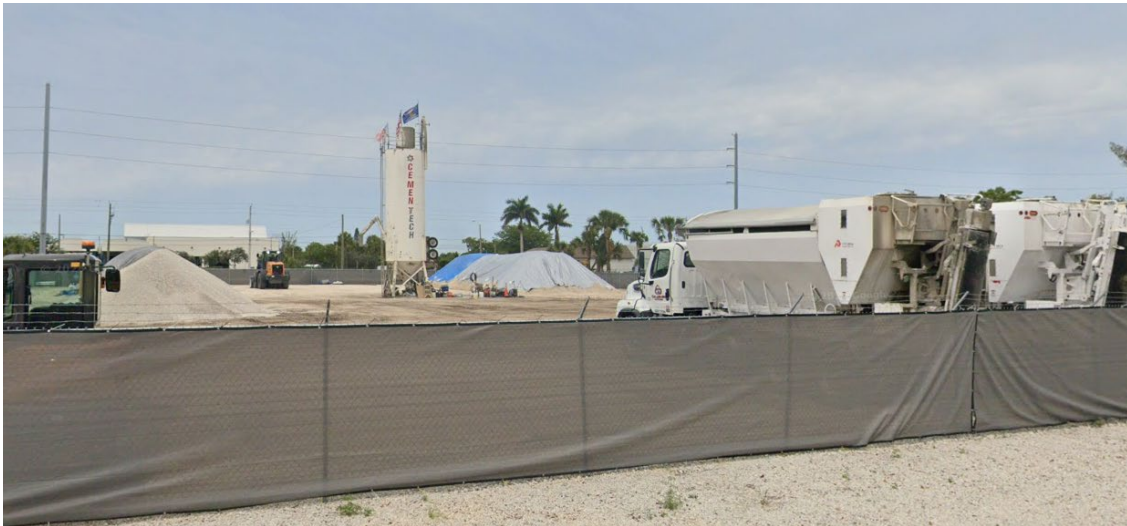
The MIC zoning district, however, does not list concrete products manufacturing as a conditional use, either by direct reference or by reference to Industrial district regulations. Therefore, it can be inferred that the intent of the LDR is to deem Concrete Products manufacturing too intense for the MIC district in all contexts.

Concrete Products Manufacturing:

The National Ready Mixed Concrete Association (NRMCA) defines concrete as a material that is “a mixture of paste and aggregates. The paste, composed of cement and water, coats the surface of the fine (sand) and coarse aggregates (rocks) and binds them together into a rock-like mass.” Concrete is a pourable and moldable material that is customarily used in many construction applications. Concrete is sometimes manufactured into fabricated products including concrete masonry units (CMU), blended dry material known as dry-mix that becomes pourable and moldable when mixed with water, or concrete pre-mixed with water known as ready-mix. CMU blocks, dry-mix concrete, and ready-mix concrete are considered final products that are manufactured through the combination of raw materials through a process that results in the creation of a different product.

Concrete products manufacturing customarily includes certain site elements such as outdoor storage of raw material, silo structures, and the frequent use of large vehicles to load, mix, and maneuver the raw materials so that they can be combined as needed. Concrete products manufacturing has the potential to impart negative side-effects onto adjacent properties by way of air pollution created through the agitation of dry materials, as well as noise and visual nuisances because of the nature of the use, and because production of these products customarily occurs outdoors. As such, facilities that deal with concrete processing and other similar materials often require permits and licensure from State agencies to confirm compliance with certain pollution mitigation measures. It should be noted that the Applicant, Calabash Gunite, Inc. has an Air General Permit Registration issued by the Florida Department of Environmental Protection that specifically refers to the facility at 135 North Congress Avenue as a **Concrete Batching Plant**.

An image of the operations at the subject property is provided below.



Gunite:

Gunite is a type of building material customarily used in pool construction that is a sub-category of concrete with many similar characteristics to concrete, including how it is processed and batched. There are, however, a few key distinctions between concrete and Gunite processing. Both traditional concrete and gunite are comprised of a formula of dry cement and sand, with concrete containing larger aggregates and gunite exclusively using small aggregate particles in the mix. Concrete is traditionally mixed with water prior to installation on-site whereas gunite is typically transported in a dry state, pumped through a hose using air pressure, and mixed with water at the hose point during the act of being sprayed. This particular application method has benefits for pool construction that render the use of gunite commonplace in this industry, as well as other applications where the structural surface is curvilinear.

Staff performed a web search of the Applicant, Calabash Gunite Inc., in an effort to obtain clarity on their business operations. When performing a web search of the term “Calabash Gunite”, the first site the search engine routes the user to is a website with address “nextdayconcrete.com.” This website states the following in reference to their gunite services: “Gunite is a popular construction method

used for building strong and durable structures, such as swimming pools, retaining walls, and underground tanks. It is a dry mixture of sand, cement, and water, which is sprayed onto a prepared surface using a high-pressure hose...Our efficient processes and onsite batching capabilities enable us to deliver **gunite concrete** promptly and tailor-made to your specifications. We use volumetric concrete technology to provide less waiting time and more productivity for pool contractors.” Volumetric concrete mixers compartmentalize the individual materials that comprise concrete or gunite and batch mix the materials on site prior to application in the desired ratio or formula.

Characteristics of Ceramics and Plaster Manufacturing in the MIC District:

LDR Section 4.6.6, Commercial and Industrial uses to operate within a building, states that *all commercial and industrial uses shall conduct within a completely enclosed building rather than outside regardless of the zoning district. However, certain aspects of a use may be conducted outside, and such aspects are identified in (B) below.* Subheading (B) of the section does not allow manufacturing a product outside of a fully enclosed structure (list at right). As such, the expectation of the LDR is that any manufacturing of final products using ceramics and plaster material would occur inside a building in the MIC district, because the nature of the use does not have the potential to create nuisances that require mitigation (such as Concrete Products Manufacturing) or require outdoor manufacturing processes. Ceramics and Plaster Manufacturing is not subject to conditional use approval.

Section 4.6.6(B), Allowable outside usage

- (1) Off-street parking.
- (2) Refuse and service areas.
- (3) Storage of nursery plants.
- (4) Fruit and vegetable displays.
- (5) Signage.
- (6) Outside dining areas.
- (7) Loading and unloading of materials.
- (8) Outside storage where specifically permitted within a zoning district.
- (9) Activities associated with outside conditional uses, pursuant to (A)(2) above.
- (10) Retail displays.

Characteristics of a Gunite Yard as Described by the Applicant:

The operation of a gunite yard as described by the Applicant, and as observable during normal operations, comprises the outdoor storage of raw materials including sand in large piles, storage of cement in a cement silo, storage of construction equipment and vehicles used in the moving and distribution of the material, frequent unloading of the raw material from supply trucks, and loading of the raw material into volumetric mixers that is then batched and distributed off-site for use in construction applications – all of which occurs outside of a building. The Board should consider whether the observable operational characteristics of a gunite yard are indeed similar to the manufacturing of ceramic and plaster material (allowable in the MIC district), or if it is instead more accurately classified as concrete products manufacturing (which is prohibited in the MIC zoning district).

Additional Considerations

As noted above, the Applicant states that “the business sells the raw materials for gunite and loads the trucks for their customers. There is no manufacturing, processing, mixing, or alteration of the raw materials.”

If this is in fact the case, then the Applicant acknowledges that the use does not constitute manufacturing given that a final product is not produced per the description of *Manufacturing* in LDR Section 4.4.20(B)(1). If a use does not entail the creation of a final product, then the use as described is not manufacturing, but is instead storage and distribution of raw materials. The Board should consider whether it is appropriate to deem the operation of a gunite yard as being similar to manufacturing, when the Applicant says the use does not entail manufacturing.

Alternatively, if the Board instead finds that the batching and distribution of raw materials for the purpose of combining into a dry-mix formula, whether on-site or off-site, is itself the manufacturing of a final product (“dry-mix”), then the Board should consider whether a dry-mix that becomes gunite when mixed with water is most accurately described as a concrete product.

Board Action Options

- A. Move **approval** of a Determination of Similarity of Use finding that the operation of a gunite yard is similar to Manufacturing and Wholesale of products using ceramic and plaster material, as listed as an allowed use in the MIC zoning district, and is in keeping with the stated purpose of the district.
- B. Move **denial** of a Determination of Similarity of Use finding that the operation of a gunite yard is not similar to Manufacturing and Wholesale of products using ceramic and plaster material, as listed as an allowed use in the MIC zoning district, and is not in keeping with the stated purpose of the district.
- C. **Continue with direction.**







Photos obtained from Delray Beach Code Enforcement.



FLORIDA DEPARTMENT OF
Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Electronic Submission

Air General Permit Registration

You have successfully submitted an Air General Permit Registration to operate a **Concrete Batching Plant** Facility under the authority of **Rule 62-210.310, F.A.C.**. Your registration was received on **December 14, 2023**. Unless you are notified by the Department of ineligibility to use the air general permit, you may use the air general permit thirty (30) days after giving notice to the Department.

Below is a copy of the details of your registration for your records.

Facility Information

Facility ID: 0990729
Facility or Business Name: CALABASH GUNITE, INC.
Site Name: Calabash Gunite, Inc.
Address Line 1: 135 N Congress Ave
Address Line 2:
City/State/Zip Code: Delray Beach, FL 33445

Mailing Address

Address Line 1: 1250 Wallace Dr
Address Line 2: Ste A
City/State/Zip Code: Delray Beach, FL 33444 4602

Owner

Name: Calabash Gunite, Inc.
Address Line 1: 1250 Wallace Dr
Address Line 2: Ste A
City/State/Zip Code: Delray Beach, FL 33444 4602

Facility Contact(s)

Name: Thomas Reardon
Address Line 1: 1250 Wallace Dr
Address Line 2:
City/State/Zip Code: Delray Beach, FL 33444 4601
Phone Number: (561) 727-9511
Extension:
Cell Number:
Fax Number:
E-mail Address: tommy@espoosfla.com

Correspondence Contact(s)

Name: Notifications BES
Address Line 1: 315 SE 20th Pl
Address Line 2:
City/State/Zip Code: Cape Coral, FL 33990 2739
Phone Number: (239) 246-3646
Extension:
Cell Number:
Fax Number:
E-mail Address: Notifications.bes@gmail.com

Name: DANIEL BEATTY
Address Line 1: 315 SE 20th Pl
Address Line 2:
City/State/Zip Code: Cape Coral, FL 33990 2739
Phone Number: (239) 246-3646
Extension:
Cell Number:
Fax Number:
E-mail Address: beattyenvironmental12@gmail.com

Surrendered Permits

The following permits are surrendered as of the effective date of your Air General Permit.

Air Permit #	Project Name	Permit Type
0990729002AG	CALABASH - WEST PALM BEACH	Air - General Permit

Notification Submitted By

Name: Daniel Beatty
Phone Number: (239) 246-3646
E-mail Address: beattyenvironmental12@gmail.com

All information submitted was certified true, accurate, and correct to the best of the knowledge of the person whose name appears above.

If you have any questions or concerns about the information contained in this report, please contact the Small Business Environmental Assistance Program at (800) 722-7457 or by e-mail at Small.Business@floridadep.gov.

Facility Information¹

Estimated Start-up Date: 01/02/2024

Type of Facility:

X	Stationary Facility
	Relocatable Facility

Collocation:

At the time of this registration, this facility is not located with another asphalt concrete plant, concrete batch plant or nonmetallic mineral processing plant that is operating under a different air general permit.

Concrete Batcher Details:

Process Equipment Type	Equipment Identification	Control Device	Control Device Manufacturer	Control Device Model #
Silo	EU-002 Cement Silo	Baghouse	Cementech	150

Facility Description:

Facility is a gunite truck loading yard consisting of cementitious storage silo(s), sand storage bins, office and parking areas.

Precautions (Management of roads/parking areas, stock piles, and yards):

	Pave Roads
X	Maintain Roads/Parking/Yards
X	Remove Particulate Matter
	Pave Parking Areas
X	Use Water Application
X	Reduce Stock Pile Height
	Pave Yards

	Use Dust Suppressant
X	Install Wind Breaks

Precautions (Drop points to trucks):

	Spray Yard
X	Chute
	Partial Enclosure
	Enclosure
	N/A

¹Items appearing in **RED** indicate a value or response that may cause your Air General Permit to be out of compliance.



Government
L A W G R O U P

W W W . G O V L A W G R O U P . C O M

Neil M. Schiller, Esq. | (561) 771-9330 office | nschiller@govlawgroup.com

August 19, 2024

Ms. Anthea Gianniotis
Development Services Director
City of Delray Beach
100 Northwest First Street
Delray Beach, Florida 33444

RE: Determination of Similarity of Use

Dear Ms. Gianniotis,

This firm represents Calabash Gunitite, the lessee of 135 N. Congress Avenue. After two preapplication meetings with your staff, we seek a determination of similarity of use to establish my client's gunnite business at the property as there are no direct expressions of the use in the Code. We hope that a thorough review of the facts and logic will compel the Planning and Zoning Board to determine that the proposed use is similar to what is permitted in the Mixed Industrial and Commercial (MIC) zoning district, the wholesaling and manufacturing of ceramics and plaster.

The request from Calabash Gunitite, a wholesale gunnite distributor throughout South Florida is to determine that the proposed use of the property as a gunnite yard. The business sells the raw materials for gunnite and loads the trucks for their customers. There is no manufacturing, processing, mixing, or alteration of the raw materials. Gunitite consists of sand, concrete, and water, however they are not mixed until the user sprays the substance at high pressures, usually in swimming pools. When a truck enters the yard, the sand is loaded into one compartment, with a loader, into the truck, then the truck drives to the silo, where the dry cement is dispensed into a different compartment in the truck. There is no water on the truck. The water is added to the raw materials at the job site with a waterhose spicket from the house. Additionally, the Applicant seeks to establish a business office on site as an ancillary use. All of the required environmental licenses have been obtained by the Applicant for the situs property and included for review.

The MIC zoning district is intended "to provide for a mix of industrial, commercial, and office use in a single zoning district. The uses allowed are intended to enhance employment opportunities in the industrial, manufacturing and trade sectors, with supporting business and professional office functions. Retail uses are appropriate on a limited basis, and only as a secondary use within the district. Residential uses are only allowed within the I-95/CSX Railroad Corridor Overlay District, subject to Article 4.7. The MIC District is applied to properties with a Commerce or Industrial

137 NW First Avenue, Delray Beach, Florida 33444

designation on the Land Use Map.” Permitting the Applicant to establish its gunnite yard at this property enhances employment opportunities in the industrial trade sector, with additional office support that will be required.

The proposed use of a Gunitite yard is consistent with the intent of the MIC and is similar to some of the approved uses in the zoning district. Section 4.4.19(B)(1), of the Delray Beach Land Development Regulations, permits “the manufacturing, fabrication, and wholesale of items and other uses as described in Section 4.4.20(B)(1), (2), and (3).” Section 4.4.20(B)(1) identifies ceramics and plaster, fiberglass, glass, leather, tobacco, and wood as materials that may be manufactured in the MIC. Section 4.4.20(B)(3) says, “The wholesaling, storage, and distribution of any products which may be manufactured, assembled, or fabricated on the premises.” The proposed Gunitite yard and impacts thereof, would be most similar to ceramics and plaster which are allowed to be manufactured and wholesaled in the MIC. Ceramics and plaster come in a variety of flavors like Clay plaster, Gypsum otherwise known as plaster of Paris, Lime plaster, Cement plaster and Heat-resistant plaster.¹ Below is a table showing the types of plaster, how they are made and their uses.

Type of Plaster	How is it made?	Storage, Uses, and Notes
Clay plaster	Mixture of clay, sand and water	Not used for commercial purposes in the region
Gypsum (plaster of Paris)	Gypsum is sorted, washed, and dried to remove impurities. It's then crushed and ground into a fine powder. The gypsum powder is heated to a high temperature in a kiln or calciner, usually between 1600°C and 1800°C, for about two hours. This process removes water from the gypsum, converting it to calcium sulfate hemihydrate, also known as POP. The calcined gypsum is ground again to achieve the desired fineness.	Not uncommon that once produced, the plaster, a fine powder, is stored in water-proof silos or hoppers for distribution. Used in construction, fire-proofing and orthopedic casts.

1

<https://en.wikipedia.org/wiki/Plaster#:~:text=To%20make%20lime%20plaster%2C%20limestone,a%20paste%20prior%20to%20use>. (Included for your review)

Lime plaster	limestone (calcium carbonate) is heated above approximately 850 °C (1600 °F) to produce quicklime (calcium oxide). Water is then added to produce slaked lime (calcium hydroxide), which is sold as a wet putty or a white powder. Additional water is added to form a paste prior to use	Plaster is stored in airtight containers for distribution. Uses include general construction.
Cement plaster	Cement plaster is a mixture of plaster, sand, cement, sometimes gravel, and water.	The storage and distribution of the sand is typically spread over a portion of the site with a silo being used to distribute the cement into trucks.
Heat-resistant plaster	Mixture of cement, gypsum, lime, exfoliated insulating aggregate, phosphate shale, small amounts of adhesive binder, and a detergent agent.	Used in the construction industry with distribution being similar to Lime and Cement.

If ceramics and plaster is allowed to be manufactured and wholesaled in the MIC, then gunite should be manufactured and wholesaled in the MIC. The environmental impact of the uses is similar to the proposed use with the gunite yard actually being less intense than what is permitted in the MIC as there is no processing or manufacturing occurring on site.

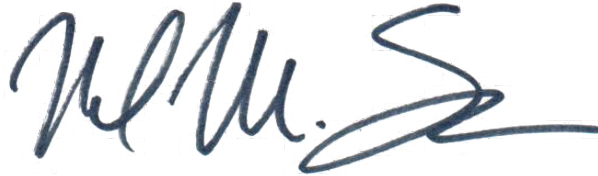
City Staff has insisted that the proposed use of the gunite yard is most like “Concrete products manufacturing, including concrete block and redimix concrete,”² which is a conditional use only allowed in the Industrial zoning district. We argue that concrete products manufacturing is substantially different from a gunite yard. The manufacturing of concrete takes place in four stages: (1) crushing and grinding the raw materials, (2) blending the materials in the right proportions, (3) heating the mix in a kiln, and (4) grinding the burned mixture with gypsum. This process is to blame for 4-8% of the world’s carbon dioxide emissions, which contribute to greenhouse gases. Manufacturing concrete is significantly more intense than the proposed gunite yard as the gunite yard does not require crushing of material, mixing material, heating material, or grinding material. The proposed gunite yard does nothing like that; instead raw materials are stored on site, then loaded into a truck and are delivered to the job site. Once at the job site the raw materials are mixed with water to produce the gunite. The proposed use does not imitate a use similar to concrete products manufacturing.

² Sec. 4.4.20(D)(3)

August 19, 2024
Ms. Anthea Gianniotis

Based on the foregoing, I respectfully seek a determination of similarity of use that the proposed guniting yard is similar to the wholesaling and manufacturing of ceramics and plaster that will allow for the operation of a guniting yard in the MIC zoning district.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil M. Schiller". The signature is fluid and cursive, with a long horizontal stroke at the end.

Neil M. Schiller
For the Firm



STATE OF FLORIDA
DEPARTMENT OF HEALTH
Operating Permit

Air Pollution Sources

50-71-2337425

50-BID-6930741

Issued To: Calabash Gunite
135 N Congress Avenue
Delray Beach, FL 33445

County: **Palm Beach**
Amount Paid: \$200.00
Date Paid: 02/14/2024
Issued Date: 02/14/2024

Permit Expires On: 12/31/2024

Mail To: Calabash Gunite, Inc.
1250 Wallace Drive, Suite A
Delray Beach, FL 33444

Issued By:
Department of Health in Palm Beach County
P.O. Box 29
West Palm Beach, FL 33402-0029

(561) 837-5903

Owner: Calabash Gunite, Inc.

Original Customer: Calabash Gunite (NON-TRANSFERABLE)

DISPLAY CERTIFICATE IN A CONSPICUOUS PLACE



STATE OF FLORIDA
DEPARTMENT OF HEALTH
Operating Permit

Air Pollution Sources

50-71-2337425

50-BID-6930741

Issued To: Calabash Gunite
135 N Congress Avenue
Delray Beach, FL 33445

County: **Palm Beach**
Amount Paid: \$200.00
Date Paid: 02/14/2024
Issued Date: 02/14/2024

Permit Expires On: 12/31/2024

Mail To: Calabash Gunite, Inc.
1250 Wallace Drive, Suite A
Delray Beach, FL 33444

Issued By:
Department of Health in Palm Beach County
P.O. Box 29
West Palm Beach, FL 33402-0029
(561) 837-5903

Owner: Calabash Gunite, Inc.

BEATTY ENVIRONMENTAL SERVICES, INC.

315 SE 20TH PL, CAPE CORAL, FL 33990
PHONE: (239) 464-1403
EMAIL: BEATTYENVIRONMENTAL12@GMAIL.COM

May 13, 2024

Compliance Section
Florida Department of Health – Palm Beach County
Division of Environmental Public Health
Air & Solid Waste Program
800 Clematis St., 4th Floor
West Palm Beach, FL 33401

Re: Calabash Gunite, Inc.
Airs ID: 0990729

Dear Compliance Section,

On April 9, 2024, EPA Method 9 Visible Emissions testing was conducted at Calabash Gunite, Inc. located at 135 N. Congress Ave. in Delray Beach, Florida.

The test was performed in order to comply with the requirements as specified in the Air General Permit.

The test was conducted by Daniel Beatty, a certified Visible Emissions Evaluator. A copy of the certification is attached.

The following emission unit (EU) was tested:

EU-002 Cement Silo

All units were tested for this facility. If you have any questions regarding the report please contact our office as soon as possible.

Sincerely,

Daniel Beatty

Daniel Beatty
Beatty Environmental Services, Inc.

Electronic Copy to: Calabash Gunite, Inc.



19001 Old LaGrange Rd #300
Mokena, IL 60448
Tel 800-786-6380 Fax 708-326-4301

Ticket No.

350566

Date: 04/09/2024
Time: 09:05:43AM

Location: **936 Ozinga Cement | Port of Palm Beach**
200 E Port Rd Riviera Beach, FL, 33404

Customer: **64202 Endless Summer Pools of Florida**

Order: **Q-79137 135 N Congress Ave, Delray Beach**
135 N Congress Ave Delray Beach, FL, 33444

PO Number:

Product:	Product Description:	Weight:	
CEM-NUH	Portland Cement Type I-II	25.37	Ton

Vehicle: **80037 80037**

Carrier: **VN004299 Medley Trucking**

P/S No.: **CMT76**

Railcar:

CEMENT		
Today:	25.37	Loads: 1

	Pounds	Tons
Gross	79,560	39.78
Tare	28,820	14.41
Net	50,740	25.37

Load-out Silo: Palm Beach Silo 1

Notes:

Signature: _____

This Order is subject to the terms and conditions in Ozinga Cement's Quote(s) and Credit Application.

Customer agrees to indemnify, defend, and hold harmless Ozinga Cement from any and all liability, claims, demands, actions, causes of action, loss, liability, property damage, injury or death to any person, damage or cost, including court costs and attorney fees, due to the negligent acts or omissions of Customer or Customer's affiliates, employees, agents, contractors, or subcontractors.

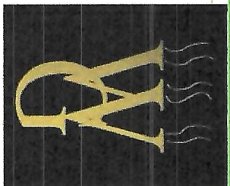
Material Data Sheets are available upon request.

EMERGENCY NUMBER:
1-800-326-3777



- H314 : Causes severe skin burns and eye damage
- H317 : May cause an allergic skin reaction
- H318 : Causes serious eye damage
- H335 : May cause respiratory irritation
- H350 : May cause cancer (Inhalation)
- H402 : Harmful to aquatic life

Received: _____



WHITLOW GREEN EPA SMOKE SCHOOL, LLC

WWW.SMOKESCHOOL.NET

CERTIFIES THAT

DAN BEATTY-BEATTY ENVIRONMENTAL SERVICES, INC.

Has passed the certification test required by EPA Method 9
40 CFR 60 Appendix A and is qualified as a visible emissions evaluator.
Certification Date: October 14, 2023 Location: North Fort Myers, FL

Jerry Green & Gary Green
OWNERS

FL101423-DB-BEATTYENVIRONMENTALSERVICES-01