



DEVELOPMENT SERVICES

David L. Recor, ICMA-CM, Development Services Director
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September 17, 2019

Zoning Letter Number: 19-02000112

O'Connor Holdings, LLC
Attn: Jack O'Connor, Manager
4060 Coral Hills Drive
Coral Springs, FL 33065

Notice of Non-Compliance
Revocation of Major Temporary Permit / P&Z: 19-15000002

RE: 1601 NW 15 Avenue / Folio Number: 4842-27-00-0350 / Major Temporary Use Permit

Dear Mr. O'Connor -

The purpose of this letter is to formally notify you that the Major Temporary Use Permit issued by the Zoning Board of Appeals on March 27, 2019, authorizing the owner to dredge fill from an existing lake at 1601 NW 15 Avenue, is hereby revoked, effective immediately, today, September 17, 2019.

The Major Temporary Use Permit was approved by the Zoning Board of Appeals subject to the following conditions:

- 1) Obtain all necessary governmental permits and approvals, including scheduling regular inspections to ensure compliance with approved plans.
- 2) All site work performed is strictly limited to a scope of work that brings the property into compliance with the Surface Water Management License and Borrow Pit Reclamation License.
- 3) No fill or other materials – natural or man-made – shall exceed the height of the fence. All work shall be conducted and materials shall be maintained in a manner that minimizes blight and dust, particularly to adjacent properties.
- 4) After dredging operation is completed, sod and irrigate the entire property. All asphalt, rock, and other non-natural materials shall be removed and filled with clean soil before any drought-resistant sod is installed on the lot and thereafter maintained.
- 5) Other landscaping and irrigation components must comply with zoning code requirements, including but not limited to tree protection, tree removal and mitigation, and/or tree relocation
- 6) Applicant shall move all grinding operations to the northern end of the property.

You have failed to satisfy the conditions of approval as required by the Order authorizing the Major Temporary Use Permit. The use of the affected property for the owner to dredge fill from an existing lake must cease and desist immediately.

Please note that this decision may be appealed to the Zoning Board of Appeals as set forth in Section 155.2424C., Appeals Procedure, within 30 days from today's date. A copy of this Code section has been included for your reference.

If you have questions or need additional information please contact the Department of Development Services at 954-786-4679.

Respectfully,

David L. Recor, ICMA-CM
Development Services Director

Enclosure

THE ZONING BOARD OF APPEALS
CITY OF POMPANO BEACH, FLORIDA

Date: February 21, 2019

Applicant: O'Connor Holdings, LLC
Case No.: 19-15000002
Address: 1601 NW 15th Ave
Zoned : O-IP (Office Industrial Park)
Folio(s): 484227000350

Legal Description:

That part of the Southeast one-quarter (SE ¼) of the Northeast One-quarter (NE ¼) of the Southeast one-quarter (SW ¼), lying West of the Northwest 15th Avenue, all in Section 27, Township 48 South, Range 42 East, of the public records of Broward County, Florida. Said lands situate, lying and being in the City of Pompano Beach, Broward County, Florida and containing 414,780 square feet or 9.5220 acres, more or less.

REQUEST:

1. Applicant requests that a MAJOR TEMPORARY USE PERMIT be granted in order to dredge fill from an existing lake on an undeveloped property within the Office Industrial Park district where this use is not permitted in Section §155.4403(F)(1)[Districts Where Permitted; OIP] of the City of Pompano Beach Code of Ordinances.
2. Applicant also requests that a MAJOR TEMPORARY USE PERMIT be granted in order to dredge fill from a lake on a vacant lot without complying with Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Code of Ordinances.

* * * * *

ORDER

Upon Applicant and City's presentation at a public hearing before the Zoning Board of Appeals (Board") regarding the Applicant's request for two (2) MAJOR TEMPORARY USE PERMIT at a public hearing before the Zoning Board of Appeals ("Board"), and upon review and consideration of all testimony, evidence and argument presented at the hearing, the Board finds that:

1. Competent substantial evidence was presented to issue a Major Temporary Use Permit allowing dredging of excess fill from an existing lake on an undeveloped property within the OIP district where this use is not permitted by Section §155.4403(F)(1) of the City of Pompano Beach Code of Ordinances.
2. Competent substantial evidence was presented to issue a Major Temporary Use Permit allowing dredging of excess fill from a lake on a vacant lot without complying with Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Code of Ordinances.

THEREFORE, the Board unanimously grants the issuance of a MAJOR TEMPORARY USE PERMIT allowing the applicant to dredge excess fill form from an existing lake on a undeveloped property within the OIP district.

Moreover, the Board unanimously grants the issuance of a MAJOR TEMPORARY USE PERMIT allowing the applicant to dredge excess fill from a lake on a vacant lot.

Each grant is conditioned on the applicant's compliance with the following:

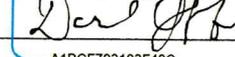
1. Obtain all necessary governmental permits and approvals, including scheduling regular inspections to ensure compliance with approved plans.

PZ Case No. 19-1500002

2. All site work performed is strictly limited to a scope of work that brings the property into compliance with the Surface Water Management License and Borrow Pit Reclamation License.
3. No fill or other materials – natural or man-made – shall exceed the height of the fence. All work shall be conducted and materials shall be maintained in a manner that minimizes blight and dust, particularly to adjacent properties.
4. After dredging operation is completed, sod and irrigate the entire property. All asphalt, rock, and other non-natural materials shall be removed and filled with clean soil before any drought-resistant sod is installed on the lot and thereafter maintained.
5. Other landscaping and irrigation components must comply with zoning code requirements, including but not limited to tree protection, tree removal and mitigation, and/or tree relocation
6. Applicant shall move all grinding operations to the northern end of the property.

This matter was heard before the Zoning Board of Appeals, and the Board pronounced its decision on February 21, 2019.

DocuSigned by:

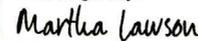


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Dan Yaffe, Chairman, Zoning Board of Appeals

Filed with the Development Services Department this 3/27/19 day of March, 2019.

DocuSigned by:



Martha Lawson, Development Services Head Secretary

c: John B Smith Engineers,
Robert C. Smith P.E.
250 SW 6th Place
Pompano Beach, FL 33060

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Pompano Beach, Florida Zoning Code

155.2412. TEMPORARY USE PERMIT

A. Purpose

The purpose of this subsection is to provide a uniform mechanism for reviewing temporary use of buildings or lands in the city that do not comply with the standards in Chapter 155, Zoning Code.

B. Applicability

There are two types of Temporary Use Permit authorized by this Code: Major Temporary Use Permits and Minor Temporary Use Permits .

1. Major Temporary Use Permits

A development order for a Major Temporary Use Permit in accordance with this section is required for any proposed temporary use of buildings or lands in the city set forth in Part 4 (Temporary Uses and Structures) of Article 4: Use Standards, or any temporary use that does not comply with the standards in Chapter 155 Zoning Code.

2. Minor Temporary Use Permits

A development order for a Minor Temporary Use Permit in accordance with this section is required for any proposed temporary use set forth in Part 4 (Temporary Uses and Structures) of Article 4: Use Standards, that the Development Services Director determines would have only minor impacts on neighboring properties. Proposed temporary uses not set forth in Article 4: Part 4 are not eligible for a Minor Temporary Use Permit .

C. Major Temporary Use Permit Procedure

1. Step 1: Pre-Application Conference

Applicable (See Section 155.2301.).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.).

4. Step 4: Staff Review and Action

Applicable to a recommendation by the Development Services Director (See Section 155.2304.).

5. Step 5: Public Hearing Scheduling and Notice

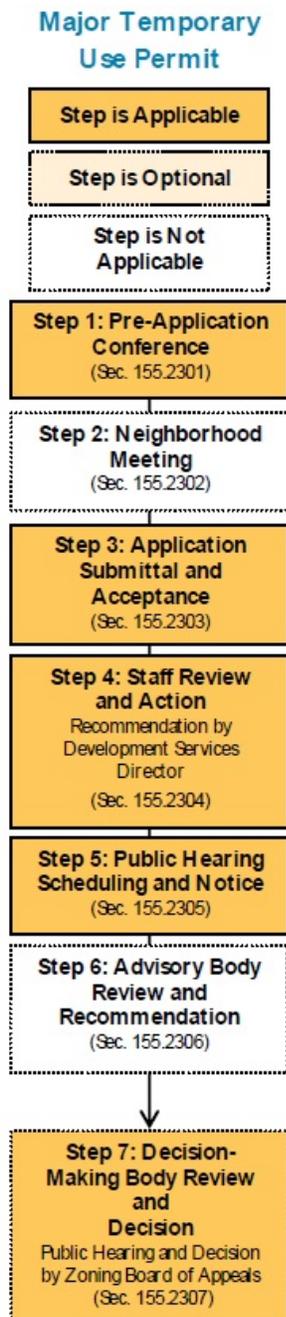
Applicable.

6. Step 6: Advisory Body Review and Recommendation

Not applicable.

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

Applicable to a final decision by the ZBA, following a quasi-judicial hearing (See Section 155.2307.).



D. Minor Temporary Use Permit Procedure

1. Step 1: Pre-Application Conference

Applicable (See Section 155.2301.).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.).

4. Step 4: Staff Review and Action

Applicable to a final decision by the Development Services Director (See Section 155.2304.).

5. Step 5: Public Hearing Scheduling and Notice

Not applicable.

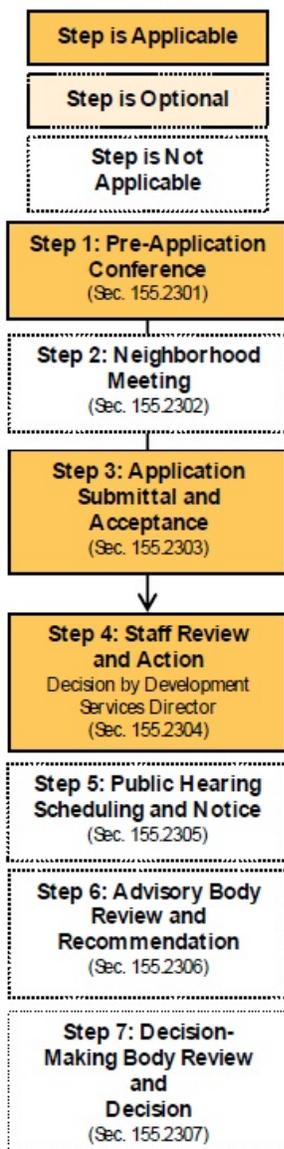
6. Step 6: Advisory Body Review and Recommendation

Not applicable.

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

Not applicable.

Minor Temporary Use Permit



E. Temporary Use Permit Review Standards

A Temporary Use Permit shall be approved only on a finding that the temporary use as proposed:

- I. Is on its face temporary in nature;

2. Is in harmony with the spirit and intent of this Code;
3. Is not detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare;
4. Does not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
5. Is compatible with any principal uses on the site;
6. Is located on a site containing sufficient land area to allow the temporary use and associated structures, and accommodate any associated parking and traffic movement, without disturbing environmentally sensitive lands; and
7. Complies with all applicable use-specific standards in Section 155.4403.

F. Effect of Approval

A development order for a Temporary Use Permit authorizes the submittal of an application for a Zoning Compliance Permit or a Zoning Use Certificate and any other development permit that may be required before the construction or use of the development approved by the development order for the Temporary Use Permit.

G. Expiration

A Temporary Use Permit shall be effective beginning on the date specified in the development order for the Temporary Use Permit, and shall remain effective for the period indicated on the permit. In no case shall a Temporary Use Permit be valid for more than one year after its approval. This expiration period may not be extended.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2013-73](#), passed 7-23-13; Am. Ord. [2018-67](#), passed 7-10-18)

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Pompano Beach, Florida Zoning Code

155.2424. APPEAL

A. Purpose

The purpose of this section is to establish an administrative remedy whereby persons claiming to having 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

TABLE 155.2424.B: APPELLATE BOARDS FOR APPEALS OF DECISIONS OF DEVELOPMENT SERVICE	
Application Type	Board Responsible for Reviewing
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 or Air Park Obstruction Permit, 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, who may appear in person, by agent or by attorney, 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.

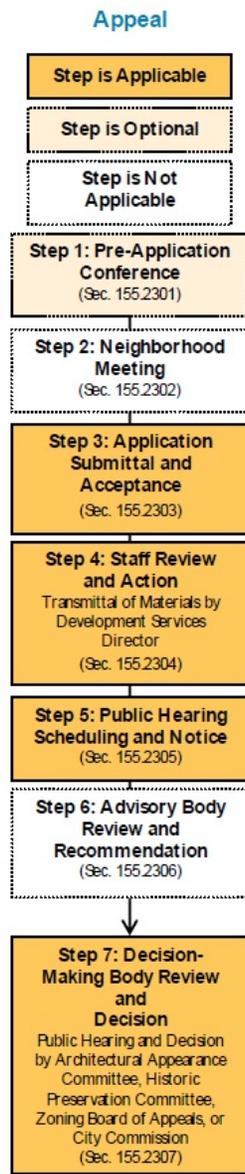
b. Decision

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; Am. Ord. [2019-29](#), passed 2-26-19)



AM 8:25 JUL/27/2019



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