



Staff Report

File #: LN-405

Zoning Board of Appeals

Meeting Date: February 16, 2023

MAJOR TEMPORARY USE - GOLD COAST PLAT PROPERTY OWNERS ASSOCIATION

Request: Major Temporary Use
P&Z# 23-15000001
Owner: Gold Coast Plat Property Owners Association
Project Location: NW 15 Avenue (Vacant)
Folio Number: 484227000350
Land Use Designation: I- Industrial
Zoning District: Office Industrial Park (O-IP)
Agent: Malcom Butters
Project Planner: Scott Reale

Summary:

The Applicant Landowner is requesting a MAJOR TEMPORARY USE PERMIT from the provisions of Chapter 155: Article 4 [Use Standards] and Article 5 [Development Standards] of the City of Pompano Beach Zoning Code for the remediation/restoration of an 8-acre storage lake without complying with the applicable use and development standards as required by Code.

The subject property is located west of NW 15th Avenue, between NW 15th Street and NW 18th Street.

PROPERTY INFORMATION

1. The subject property contains a man-made drainage lake for area industrial properties and has had a history of code violations (refer to attached Code Case #18020124), primarily involving unpermitted fill operations and failing to maintain the surface water management system as required by a recorded Storm Water Storage Drainage Easement and Surface Water Management License.
2. The applicant seeks to remediate and restore the lake, pursuant to a settlement agreement. The previous owner filled more of the lake than was permitted under the Broward County licenses and the current property owner is required to excavate and remove the excess fill from the property and restore the lake to its intended use.
3. There have been several Major Temporary Use Permits granted by the Board regarding the subject property. The most recent was PZ #19-15000002, issued on 3/27/2019. However, the permit was revoked by the Director of Development Services on 9/17/2019 (Zoning Letter #19-02000112) for failing to satisfy the conditions of approval in the Order.

LAND USE PATTERNS

Subject property (Zoning District | Existing Use):

- O-IP | lake

Surrounding Properties (Zoning District | Existing Use):

- North: OIP/PCD | industrial warehouse/distribution
- South: RM-12 | canal (Water Control District 3)
- East: O-IP | vacant/undeveloped land
- West: RS-2 | industrial warehouse/distribution

TEMPORARY USE PERMIT REVIEW STANDARDS

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

1. 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.

Staff Conditions:

Should the Board determine the applicant has provided competent substantial evidence sufficient to satisfy the seven Major Temporary Use Permit review standards, staff requests the Board include the following conditions as part of the Order:

1. Obtain all necessary governmental permits and approvals, including scheduling regular inspections to ensure compliance with approved plans.
2. All site work must be performed in accordance with the Broward County Surface Management License and Borrow Pit Reclamation License.
3. The Property Owner shall be responsible to (i) repair and maintain the six-foot temporary construction fence on the Property in accordance with City requirements until the Work is completed; (ii) maintain the gate installed on the fence at a minimum of 15' wide to allow the City's firetrucks access to the Property; (iii) establish and follow protocols to ensure the gate on the construction fence is kept closed, secured and locked except when actively exporting fill; and (iv) remove the overgrowth and accumulation of discarded items a debris on the Property and thereafter keep the Property properly maintained in accordance with City requirements.

4. Fill piles on the Property shall not exceed 25' in height and not longer than reasonably necessary, and shall initially be located on the northwest corner of the Property away from the residential community to the south. As the dredging progresses and the available area to stockpile fill is reduced, all Work shall be conducted in accordance with best management practices that address erosion migration; noise; ingress and egress and other nuisance issues.
5. No new fill material may be brought on the Property without the prior written consent of properly authorized City and County staff.
6. Water Truck. At all times during performance of the Work, there shall be an on-site water truck kept full of water on the Property with a 2" pump for the purpose of wetting down materials in order to mitigate dust.
7. The Property shall be maintained in compliance with the approved Landscaping Plan and other zoning code requirements, including but not limited to tree protection, tree removal and mitigation and tree relocation.



PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES



City Attorney's Communication #2023-421

February 9, 2023

TO: Scott Reale, Senior Planner

FROM: Fawn Powers, Assistant City Attorney

RE: *City of Pompano Beach v. O'Connor Holdings, LLC, et al.*
Case No. CACE 20-003904 (12)

This provides background on the foreclosure the City filed in March 2020 against the subject 10-acre industrial property ("Property") that resolved last December pursuant to a Settlement Agreement between its former owner, O'Connor Holdings, LLC; Gold Coast Plat Property Owners Association, Inc., a Florida not-for profit corporation ("Association") made up of several adjacent property owner who purchased the Property last November for drainage; Broward County and the City.

The litigation was not contentious but rather a cooperative effort (albeit very challenging). Since the only legal use that can be made of the Property is to provide drainage for other properties, the parties' focus after attending Court-ordered mediation last March has been to work together to problem solve, iron-out differences and develop a comprehensive, mutually acceptable compliance strategy, consistent with the Final Orders on Broward County NOV17-0019, Broward County Surface Management License issued on Application L2002-107 and Borrow Pit Reclamation License issued on Application SW-BP16659-22.

The Association has already made a significant investment in the Property and been actively working with City and County staff, consultants and contractors to "hit the ground running" towards compliance subject to the ZBA approving its request for a Major Temporary Use Permit ("MTUP") to dredge the lake.

Should you have any further questions, please do not hesitate to contact me.

FAWN POWERS

l:foreclosure/oconnor/2023-421f

Case Overview

Property/Incident Information

Owner	Address	Site Address
O'CONNOR HOLDINGS LLC	4060 CORAL HILLS DR CORAL SPRINGS, FL 33065	NW 15 AVE, POMPANO BEACH, FL 33069

Legal Description

27-48-42 SE1/4 OF NE1/4 OF SW1/4 LESS PT DESC IN OR 3220/245 FOR R/W

Description

- THE PROPERTY IS NOT IN COMPLIANCE WITH THE CONDITIONS OF TEMPORARY PERMIT #17-15000012.
- THE LANDSCAPING ON THE PROPERTY IS NOT IN ACCORDANCE WITH THE PLANS ON FILE.
- TREES HAVE BEEN REMOVED FROM THE PROPERTY WITHOUT THE BENEFIT OF A PERMIT.
- DUST AND EROSION CONTROL MEASURES ARE NO BEING IMPLEMENTED AS REQUIRED BY FBC.

Case Status	Open	Case #	18020124	Date Next Inspection	2/7/2022
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Notes

- THE LANDSCAPING ON THE PROPERTY IS NOT IN ACCORDANCE WITH THE PLANS ON FILE. APPLY AND OBTAIN ZONING COMPLIANCE PERMIT, INSTALL ALL LANDSCAPING AS REQUIRED BY LANDSCAPING PLAN ON FILE.
- TREES HAVE BEEN REMOVED FROM THE PROPERTY WITHOUT THE BENEFIT OF A PERMIT. APPLY FOR AND OBTAIN TREE PERMIT, INSTALL ALL TREES AS REQUIRED BY LANDSCAPING PLAN ON FILE.
- THE PROPERTY IS NOT IN COMPLIANCE WITH THE CONDITIONS OF TEMPORARY PERMIT #17-15000012. COMPLY WITH ALL CONDITIONS SET FORTH IN TEMPORARY PERMIT #17-15000012.
- DEVELOPMENT OF A PARCEL OF LAND SHALL BE PROHIBITED FROM NON-PERMITTED DISCHARGES ONTO ADJACENT PARCELS OF LAND. OWNER TO OBTAIN A PERMIT AND PROVIDE PLAN TO COMPLY WITH POLLUTION SOURCE CONTROLS AND SEDIMENTATION AS DEFINED IN THE FLORIDA STORMWATER EROSION AND SEDIMENTATION CONTROL DEPARTMENT OF ENVIRONMENTAL PROTECTION.

FOR QUESTIONS OR CONCERNS, PLEASE CONTACT CODE COMPLIANCE SUPERVISOR MARIO SOTOLONGO AT 954.786.7870 OR VIA E-MAIL AT MSOTOLONGO@CGASOLUTIONS.COM.

Documents Issued

<u>Date Issue</u>	<u>Document Type</u>
2/21/2018	Complaint
2/21/2018	Notice of Violation
3/6/2018	Notice of Hearing
4/6/2018	Affidavit of Service
4/25/2018	Affidavit of Non-Compliance
4/30/2018	Notice of Hearing
4/30/2018	Final Order
6/18/2018	Affidavit of Non-Compliance
6/21/2018	Notice of Hearing

Case Overview

6/21/2018	Motion to Mitigate
7/25/2018	Affidavit of Non-Compliance
7/27/2018	Notice of Continuance
7/27/2018	Notice of Hearing
10/23/2018	Notice of Continuance
10/23/2018	Notice of Hearing
12/5/2018	Affidavit of Non-Compliance
12/7/2018	Notice of Continuance
12/7/2018	Notice of Hearing
1/9/2019	Affidavit of Non-Compliance
1/14/2019	Order of Imposition/Liens
8/17/2021	Affidavit of Non-Compliance
12/7/2021	Affidavit of Non-Compliance

Violations

Ordinance/Regulation	Section	Description	Date Complied
Chapter 155: Zoning	155.5203(B)6.a.1-9 Landscaping	Maintenance of Landscaping. All required landscaping and landscape areas—including abutting portions of public rights-of- way, swales, lakes, and canals banks—shall maintained in accordance with landscaping BMPs and the following standards. All required landscaping shall be maintained in accordance with the approved landscape plan, including approved specifications for plant size, number, location, and type of landscaping material. All plant life shown on an approved landscape plan shall be replaced if it dies, is seriously damaged, or removed. All required landscaping shall be kept reasonably free of visible signs of insects infestation or disease. Required landscaping shall present a healthy and orderly appearance free from refuse and debris. Required landscaping shall be mown, trimmed, or pruned in a manner and at a frequency appropriate to the use made of the plant material and species and so as not to detract from the appearance of the general area. All r...	Not in Compliance - Reinspection Date: 2/7/2022
Chapter 155: Zoning	155.5203(B)6.c. Landscaping	GENERAL REQUIREMENTS FOR LANDSCAPING. Maintenance of Landscaping. Removal or relocation of any tree shall be subject to the Tree Permit procedure in Section 155.2411, Tree Permit, and tree preservation standards in Section 155.5204, Tree Preservation	Not in Compliance - Reinspection Date: 2/7/2022
Chapter 155: Zoning	155.8202.B. SPECIFIC VIOLATIONS	It shall be a violation of this Code to undertake any activity contrary to the provisions of this Code, including but not limited to any of the following: B. Occupy or use land or a structure without first obtaining all appropriate development permits, and complying with their terms and conditions.	12/5/2018
Chapter 53: Stormwater Management	53.13 (A) PROHIBITIONS, GENERAL.	(A) Prohibited acts. The following shall constitute a violation of this code: (1) Any discharge into the stormwater system of the city or drainage district without written permission from the City Engineering Department and the appropriate Drainage District. (2) Any discharge into the stormwater system of the City or Drainage District in violation of any city, federal, state, county, municipal or other governmental law, regulation or permit is prohibited, except those discharges authorized by a valid NPDES permit. (3) Any discharge to the stormwater system that is not composed entirely of stormwater is prohibited, except as authorized by a valid NPDES permit. (4) Blocking, filling, altering or obstructing any drainage course, swale, canal, ditch or any type of stormwater management facility in a manner which alters the intended use of the facility, whether the facility is located on public right-of-way, dedicated easement, or private property is strictly prohibi...	12/5/2018

Fines

Case Overview

<u>Fine Type</u>	<u>Section</u>	<u>Fine Type</u>	<u>Date Complied</u>	<u>Total Fine</u>
Individual Violation	53.13 (A) PROHIBITIONS, GENERAL.	Individual Violation	12/5/2018	\$13,800.00
Individual Violation	155.5203(B)6.c. Landscaping	Individual Violation		\$149,600.00
Individual Violation	155.5203(B)6.a.1-9 Landscaping	Individual Violation		\$149,600.00
Admin Fixed		Admin Fixed		\$100.00
			Total Fines	\$313,100.00

Payments

<u>Date</u>	<u>Payment Type Name</u>	<u>Amount</u>
	Total Payments	\$0.00
	Fees Outstanding	\$313,100.00