

APPLICATION FORM FOR APPEALS



APPEALS FROM:

- Decisions of the Community Development Director or His Designee; AND
- Actions/Decisions of the Planning and Zoning Commission (P&ZC)

FEES:

- I. Site Plan Projects:
 - Appeal by project applicant: \$400.00
 - Appeal by affected party: \$800.00
- II. Appeal of Staff Determination: \$800.00

Is this an appeal by a project applicant? YES

If so, please list the project name OCEAN CONCRETS, INC.

Property Owner(s): GEORGE MAIB

Address: 4234 Skyline Dr. Jensen Beach, FL 34957

Phone Number: 772-260-5727

Signature: _____ (or letter of authorization attached)

Applicant Name: OWNER

Address: _____

Phone Number: _____

Signature: _____

Site Address (If Applicable): _____

1. What is being appealed? IRC'S DECEMBER 17, 2007 DECISION DENYING SITE PLAN APPLICATION

2. Reason(s) for the appeal SEE ATTACHED EXHIBIT

3. What staff (or P&ZC) error(s) is alleged? SEE ATTACHED EXHIBIT

4. What land development regulation (LDR) provision(s) have allegedly been improperly interpreted or applied IRC LDR 914.06 (5)(f)
SEE ATTACHED EXHIBIT

5. What LDRs and/or Comprehensive Plan goals, objectives, policies support your position? 914.06(1)(a)(4)(b) ; 914.06 (5)(f)
SEE ATTACHED EXHIBIT

NOTE: Supplemental or additional information may be attached. If such information is being attached, please list here what is being attached:

1. 2 pg EXHIBIT WITH ADDITIONAL INFORMATION
- 2.
- 3.

OFFICE USE ONLY:

FEE PAID: _____

DATE RECEIVED: _____ DATE ACCEPTED: _____

Exhibit "A"

Additional Information for Ocean Concrete's January 7, 2008 Appeal of IRC's December 17, 2007 Decision Denying Site Plan Application and Deeming Application Null and Void

Ocean Concrete Inc. ("Applicant") pursuant to Sections 914.13 and 902.07 of the County Code hereby appeals the December 17, 2007 decision by the County and the Community Development Department denying Applicant's Site Plan Application and deeming the Application null and void.

#2. *Reasons For The Appeal:*

Reasons 1-3.

Applicant fully incorporates herein as grounds for this appeal, each of the reasons (Reasons No. 1, 2, and 3), as contained in its prior December 14, 2007 appeal of IRC's denial of Ocean Concrete's request to extend the Site Plan Application. Summarized, these reasons include:

(1) The Community Development Director should have granted the requested extension because the County Growth Management Staff failed to conduct a complete review of the Site Plan Application final comments within the time specifically required by Code.

(2) The Community Development Director's denial of the site plan extension is arbitrary and inconsistent with County staff's actions of the site plan review, and is based on inapplicable Code provisions.

(3) To the extent the Community Development Director's denial of extension is upheld, it constitutes a de facto denial on the merits of the site plan application, and is erroneous based on the various grounds listed in Reason 3 of the December 14 appeal.

Additional Reasons

The County's denial is arbitrary, capricious, and taken in clear violation of Applicant's property rights. The County has not properly considered Applicant's timely and detailed December 6 response to the Technical Review Committee's (TRC's) and the County's various comments. The grounds given for denial given in IRC's December 17 decision, and the various "discrepancies noted therein" are erroneous, inaccurate, inapplicable and/or trivial. By way of example only:

1. Applicant's representatives met with Chris Mora, PE – IRC Traffic Engineer, to discuss the differences in methodologies regarding the traffic distribution. Applicant stands by its study and the methodology used to distribute the traffic onto the County network. Also, it was discussed with Mr. Mora that the requirement of widening Old Dixie from C.R. 512 to U.S. 1 contradicts the agreement Applicant had with the Public Works Director, Jim Davis, PE. Also, it contradicts what was required of the sand mine project that developed years ago north of the site, which only had to widen the road from one arterial to their site and was not required to widen the entire link. Also discussed with Mr. Mora were potential solutions to the problems noted above, one being possibly a developer's

agreement between Ocean Concrete and IRC to provide for the widening to the north if the County secures the right of way within a specific time period.

2. Regarding all the drainage comments, Applicant stands by its original position questioning the accuracy of some of the comments from David Hayes. Also, some of the comments are associated with different philosophies of methodology regarding drainage designs, which is not an exact science. Frequently, projects are modeled to perform drainage evaluations. This modeling can create differences between engineers and does not indicate the design is incorrect. Applicant stands by the design in that the stormwater reports and the plans provide all required information to construct the project, as well as demonstrate compliance with IRC's LDR and other standards and requirements.

3. In sum, the County's comments are technical in nature and reflective of the standard process for site plan designs and the iterative process that applicants go through with IRC to secure final approval. This was why Applicant requested the extension to allow for the iterative process to work and provide the time to work with staff to discuss some of the issues noted above. Also, for the record Applicant did try to schedule meeting with David Hayes to discuss the drainage comments.

Accordingly, Applicant stands by its position that via its December 6 response to the TRC's comments and including Applicant's detailed application, drawings & designs, Applicant has fully and adequately addressed the TRC's comments and is in full compliance with all applicable County Codes, LDRs, zoning, and other standards & requirements necessary for approval of the Site Plan Application and for construction of the project per submitted plans and design.

Moreover, numerous of the matters and comments as contained in the County's December 17 letter of denial request further information from the Applicant and otherwise indicate that the TRC's review is not yet complete. Accordingly, denial at this juncture is premature and improper, and instead, at a minimum, an extension of the Site Plan Application should be granted, or alternatively the existing Site Plan Application should be approved outright.

Conclusion and Requests for Relief

For the foregoing reasons, the Applicant appeals the decision of the Community Development Department dated December 17, 2007 and respectfully requests:

1. That the decision to deny the Site Plan Application be reversed and the Site Plan Application be approved, or
2. That the prior decision to deny the Site Plan Application Extension Request be reversed and that the matter be returned to the Community Development Director and TRC to complete their evaluation on the merits of the site plan, and to enter their final decision, allowing the Applicant and affected parties their due process rights to appeal such decision under the County Code as may be appropriate.