APPEAL OF AN ADMINISTRATIVE EXTENSION ON A SITE PLAN APPLICATION

CASE NUMBER: SP-2012-0382D ZAP COMMISSION DATE: June 4, 2013

PROJECT NAME: Republic Services of Austin – Recycling Center Grading Plan

ADDRESS: 10001 E US 290 Highway EB

APPLICANT: BFI Waste Systems of North America, LLC (Lee Kuhn)

3424 FM 973 Phone: 512-848-2306

Austin, TX 78\617

APPELLANT: Coats Rose Yale Ryman & Lee, PC (John M. Joseph)

901 South Mopac Expressway Phone: 512-541-3599

Building 1, Suite 500 Austin, Texas 78746

AGENT: BFI Waste Systems of North America, LLC (Lee Kuhn)

3424 FM 973 Phone: 512-848-2306

Austin, TX 78\617

CASE MANAGER: Christine Barton-Holmes, LEED AP, 974-2788

Christine.Barton-Holmes@AustinTexas.gov

APPLICABLE WATERSHED ORDINANCE: Decker Creek and Gilleland Creek,

Comprehensive Watershed Ordinance

AREA: 161.4 acres

EXISTING ZONING: I-RR

PROPOSED USE: Recycling center

LEGAL DESCRIPTION: 161.4 acres situated in the WH Sanders Survey 54 Abstract 690 of

Travis County.

Description of Appeal:

An appeal to an administrative extension of update deadline. [LDC Section 25-1-88].

- Extension of Update Deadline, LDC Section 25-1-88(A), an applicant may request of the director that the deadline of a site plan application be extended by filing a written request and justification prior to the deadline of that application.
- Under LDC Section 25-1-88(A)(3), Extension of Update Deadline an interested party may appeal the responsible director's decision under this subsection to the Land Use Commission.



Proposed Development:

The applicant proposes grading and associated improvements with this application.

Staff's Determination of Extension:

- A 180 day extension was requested by the engineer on April 22, 2013, prior to the expiration date of May 4, 2013. A 180-day extension was granted, extending the application expiration date to November 1, 2013. Due to the complexity of the remaining comments and the time required to obtain review by City of Austin and non-City of Austin entities, staff determined there was just cause to grant the extension.
- Extensions to the update deadline are standard practice by staff when unresolved issues are pending or when documents require City legal staff's review and approval.
- Issues that remained at the time the extension was granted:
 - 1. Rezoning hearings to change zoning to LI-PDA
 - 2. Dedicating easements by a separate instrument.
 - 3. Recordation of Unified Development Agreement.
 - 4. Obtain approval signatures by TXDOT and Travis County Transportation and Natural Resources.
 - 5. Confirmation from Environmental Resource Management that Environmental Assessment is accurate and meets requirements of the LDC and ECM.
 - 6. Posting of Fiscal Surety and Landscape Fees.

If the current site plan is not granted the extension and the application expires, the applicant may re-file the same plan to obtain a site development permit.

Appellant Issues (John M. Joseph):

The following list outlines the attached appellant letter included with this backup material:

- 1. Not a permitted use under current zoning.
- 2. Zoning application filed February 22, 2013, three months after filing site plan application
- 3. Zoning change likely will not be processed before site plan expires
- 4. Site plan application is premature and should be withdrawn and resubmitted

Zoning and Platting Commission Action:

- UPDATE FOR JUNE 4 HEARING: the motion to deny the appeal failed 3 to 2 and did not have the effect of granting the appeal. No action is taken unless adopted by an affirmative vote of four members.
- Under LDC Section 25-1-88(3), Extension of Update Deadline an interested party may appeal the responsible director's decision under this subsection to the Land Use Commission.
- The commission may grant the appeal or determine the extension is valid.



- o If the appeal is granted, the site plan application expires. The applicant may then submit a new application to continue the review process. Once all administrative requirements are met, a site plan permit will be issued.
- o If the appeal is denied, the site plan application will remain extended. The applicant will have until November 1, 2013 to clear all remaining comments and obtain a site plan permit. If the comments are not cleared by the deadline, the permit will expire.

Land Use Summary:

This site is within the Limited Purpose jurisdiction, and zoned I-RR with zoning case C14-2013-0015 pending to change the zoning to LI-PDA.

The site plan will comply with all ordinance requirements prior to approval and release.

PROJECT INFORMATION

TROSECT INFORMATION					
Site Area	161.4 acres 7,030,584 ft.				
Jurisdiction	Full Purpose				
Traffic Impact Analysis	N/A				
Capitol View Corridor	Not In View Corridor				
Proposed Access	US 290 EB				
I-RR Standards	Allowed/Required	Existing	Proposed		
Floor-to-Area Ratio	NA	0	0		
Building Coverage	20%	0%	0		
Impervious Coverage	25%	0%	.6%		
Height	35'	0	NA		
Parking	NA		NA		

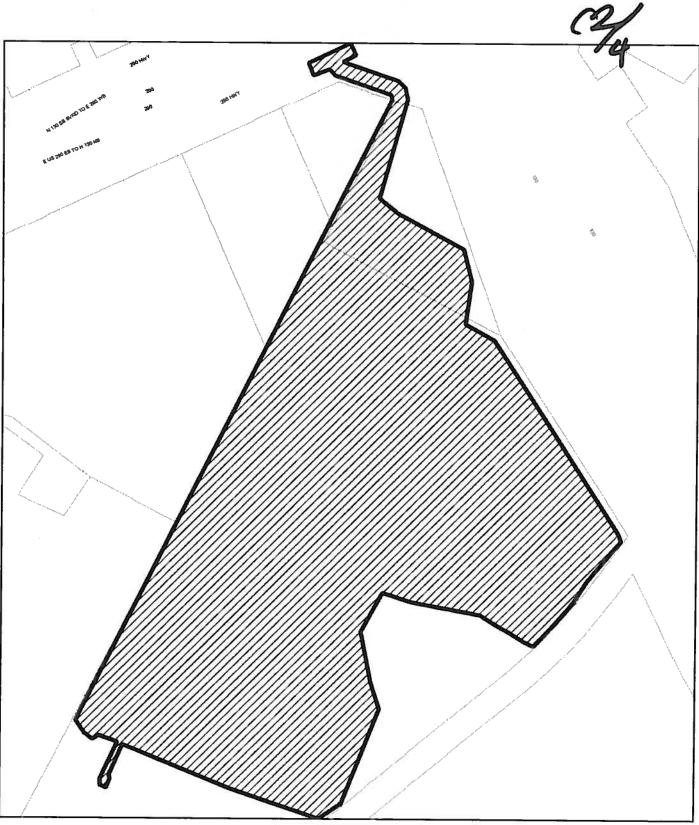
SURROUNDING CONDITIONS: Zoning/Land Use

North: US 290, PUD (Undeveloped, agriculture)

East: I-RR, PUD (Agricultural, undeveloped, large-lot single-family)

South: P (Park)

West: CH-CO, 2-Mile ETJ (Agricultural, single-family, then warehousing)



N

Subject Tract
Base Map

CASE#: SP-2012-0382D ADDRESS: 10001 E. US 290 Hwy.

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







City of Austin Planning and Development Review Department 505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

SITE PLAN APPEAL

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Planning and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Land Use Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

case no. <u>5P-2012-0382D</u>	DATE APPEAL FILED 5/3/14				
PROJECT NAME Republic Services	YOUR NAME JOHN M. Joseph				
of Austin-Recycling Center	SIGNATURE M. M.				
PROJECT ADDRESS 10001 & Hwy 290,	YOUR ADDRESS 901 South Mocac,				
Austin, TX 78653	Bldg 1, Svite 500, Austin, TX 78746				
ADDITION OF THE LOCAL CONTRACTOR OF THE PROPERTY OF THE PROPER					
CITY CONTACT Christine Backers Holmes					
	(НОМЕ				
INTERESTED PARTY STATUS: Indicate how you qual	ify as an interested party who may file an appeal by the				
following criteria: (Check one)					
 I am the record property owner of the subject proper I am the applicant or agent representing the applican 	ty				
☐ I communicated my interest by speaking at the Land	Use Commission public hearing on (date)				
I communicated my interest in writing to the Directo copy of dated correspondence).	r or Land Use Commission prior to the decision (attach				
In addition to the above criteria, I qualify as an interested	party by one of the following criteria: (Check one)				
Lam the record owner of property within 500 feet of	I occupy as my primary residence a dwelling located within 500 feet of the subject site. I am the record owner of property within 500 feet of the subject site. (Austin HB Residential)				
I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500					
feet of the subject site.	organization whose declared boundaries are within 500				
DECISION TO BE APPEALED*: (Check one)					
□ Administrative Disapproval/Interpretation of a Site P	lan Date of Decision:				
□ Replacement site plan	Date of Decision:				
Land Use Commission Approval/Disapproval of a Si					
Waiver or Extension	Date of Decision: 4/22/13				
Planned Unit Development (PUD) RevisionOther:	Date of Decision:				
Date of Decision: *Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.					
STATEMENT: Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:					
See attached letter.					
(Attach additional page if necessary.)					
Applicable Code Section: 25-1-88 and 25-1-182					
Whiteman come section: 42-1-00 atta 42-1-184					



COATS | ROSE

A Professional Corporation

JOHN M. JOSEPH

jmjoseph@coatsrose.com Direct Dial 512.541.3593

May 3, 2013

Via Email and Regular Mail

Greg Guernsey, Director Planning & Development Review Department City of Austin 505 Barton Springs Road, 5th Floor Austin, Texas 78704

RE: Republic Services of Austin-Recycling Center Grading Plan (SP-2012-0382D)

Dear Mr. Guernsey:

I am writing to you on behalf of this firm's client, Austin HB Residential Properties, Ltd. ("Austin HB"), an interested party in the above-referenced application. Pursuant to Sec. 25-1-88 and Sec. 25-1-182 of the City of Austin Land Development Code, Austin HB appeals the 180-day extension to submit an update that the Applicant, BFI Waste Services of Texas, L.P., was granted on April 22, 2013.

The subject grading plan is incidental to a "recycling operation center" the Applicant has proposed for the site. The Applicant's proposed center is not a permitted use under existing zoning. The Applicant has requested a zoning change to permit the recycling center, but the Applicant neglected to make this request until February 22, 2013, more than three months after it filed the subject site plan application. Due to this delay, there was no realistic chance that the proposed zoning change would be processed by staff and considered by City Council by the Applicant's site-plan update deadline. Indeed, there is no realistic chance that the proposed zoning change can be processed before the expiration of the new update deadline. The Applicant's site plan application accordingly is premature. The Applicant should withdraw and resubmit the application.

Austin HB is an interested party because it owns property within 500 feet of the subject property. You may contact Austin HB through my office regarding this matter but, in accordance with Sec. 25-1-183(1), its contact information is:

1717 W. 6th Street, Suite 420 Austin, Texas 78703
Phone: 512-469-7987 Fax: 512-469-9408
Web: www.coatsrose.com

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Of 3

May 3, 2013 Page 2

> Austin HB Residential Properties, Ltd. Attn: John McCullough 1010 Rio Grande, Suite B Austin, Texas 78701 (512) 419-7600

Thank you for your attention to this matter.

Sincerely,

John M. Joseph

cc: Christine Barton-Holmes, City of Austin John McCullough, Austin HB Residential, Ltd.

4814-6106-7539, v. 1



COATS ROSE

JOHN M. JOSEPH

jmjoseph@coatsrose.com Direct Dial (512) 541-3593

December 11, 2012

VIA EMAIL

Benny Ho, Case Manager City of Austin 505 Barton Springs Road, 4th Floor Austin, Texas 78704

Re: Republic Services of Austin-Recycling Center Grading Plan (SP-2012-0382D)

Dear Mr. Ho:

We request that the following entities be registered as interested parties in the above-referenced case. Accordingly, the following entities should be provided copies of all documents generated in this case, including but not limited to applications, amendments, comments, extensions, and approvals related to the above-referenced case and should be notified of all hearings/settings.

 Austin HB Residential Properties, Ltd. (owner of property located within 500 feet of the above-referenced case), Attn: John McCullough, (512) 419-7600, 1010 Rio Grande, Suite B, Austin, Texas 78701; <u>imccullough@galesi-austin.com</u>; and

 Coats Rose Yale Ryman & Lee, PC, Attn: John M. Joseph, (512) 541-3593, 901 South Mopac Expressway, Building 1, Suite 500, Austin, Texas 78746; jmjoseph@coatsrose.com.

Thank you for your attention to this matter.

Sincerely,

lin Ma Joseph

cc: John McCullough, Austin HB Residential Properties, Ltd.

Barton Oaks Plaza, 901 South MoPac Expressway, Building 1 Suite 500, Austin, Texas 78746

Phone: 512-469-7987 Pax: 512-469-9408

Web: www.coatsrese.com

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November 1, 2012

City of Austin
Department of Watershed Protection& Development Review
P.O. Box 1088
Austin, Texas 78767

Subject:

Engineers Summary Letter

Project:

Republic Services of Austin

Recycling Center Grading Project 10001 E US 290 HWY, Austin, Texas

1. PROJECT SIZE:

161.4 Acres (LOC 120.1 Acres)

2. WATERSHED:

Decker and Gilleland

3. DEVELOPMENT TYPE:

Grading

4. PROJECT PHASING:

None

5. STORM DRAINAGE SYSTEM:

Overland flow

6. EFFECT OF PROPOSED PROJECT ON:

a. Existing drainage system:

Negligible

b. Future drainage system:

No effect

c. <u>Natural and traditional character of land and waterways:</u> Short-term detrimental effects shall be minimized with temporary erosion control in accordance with City of Austin policy.

The Recycling Center grading project will consist of constructing an entrance driveway and road and excavating soil to use for final cover construction at the Sunset Farms landfill and to grade the site for future construction of the proposed Recycling Center. The existing site is undeveloped. The project will not be phased.

The project is designed and will be constructed in accordance with the design and construction standards of the City of Austin Land Development Code, Drainage Criteria Manual and the Environmental Criteria Manual.

Adam W. Mehevec

Registered Professional Engineer 84736

REPUBLIC SERVICES OF AUSTIN RECYCLING CENTER

DECKER CREEK & GILLELAND CREEK SUBURBAN WATERSHEDS

161.4 ACRES STUATED IN THE WILLIAM H SANDERS SURVEY NO. 54, ABS 690 TRANS COUNTY, TEXAS AS RECORDED IN DOCUMENTS 2012151877 AND 2011190882

SHEET INDEX GENERAL NOTES PROPERTY MAP

C-1. COVER SHEET

10001 E US 290 HWY AUSTIN, TEXAS 78724

11/05/2012

INITIAL SUBMITTAL DATE: ADDRESS: LEGAL DESCRIPTION; EROSION & SEDIMENTATION CONTROL PLAN

SEQUENCE OF GRADING ACTIVITIES PROPOSED DRAINAGE CONDITION EXISTING DRAINAGE CONDITION

SITE PLAN

CHANNEL PROFILES/DETAILS

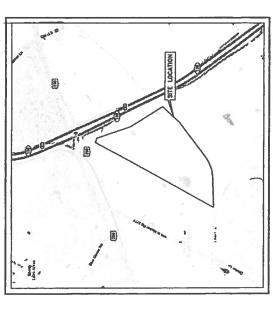
DRIVEWAY DETAILS CULVERT DETAILS

POND DETAILS

EXISTING CONDITIONS AND SLOPE MAP

C-3.

GRADING PLAN



PROJECT LOCATION MAP

(A PORTION OF THIS SITE IS WITHIN THE 100 VR FLOODPLAIN AS PER
FEMA FIRM MAP NO. 48433C44804, DATED 28 SEPTEMBER 2008, FOR TRAYS COUNTY, TEXAS)

(NOT SUBJECT TO COURATIBILITY STANDARDS)

DRIVEWAY PERMIT 010-12-33236-DP WAS ISSUED BY TADOT ON APRIL 4, 2012 FOR THE PROPOSED DRIVEWAY.

LANDSCAPE MASTER PLAN AND TREE LIST

CUT AND FILL EXHIBIT

DETAILS

LANDSCAPE PLAN (1 OF 3) LANDSCAPE PLAN (2 OF 3)

LANDSCAPE PLAN (3 OF 3) C.E.F. MITHOATHON PLAN

111

CEF-1.

A LAND USE COMMISSION VARIANCE TO SECTION 25-8-341 OF THE COA LAND DEVELOPMENT CODE, FOR CUT AT DEPTHS FROM — TO DEVELOP FOR THIS STE BY THE ZOHING AND PLATTING COMMISSION ON

1						
10 mm						
3E						
Description						
1						

THIS SITE SHALL BE DESIGNED, CONSTRUCTED, AND MAINTAINED IN CONFORMANCE WITH CHAPTER 25-8 OF THE CITY OF MASTIN LUND. DEVELOPMENT CODE, AND CHAPTER S4 AND 82 OF THE TRANS COUNTY CODE.

THIS PROJECT IS LOCATED IN THE DECKER AND GILELAND CREEK WATERSHEEDS, WHICH ARE CLASSIFIED AS SUBURBAN WATERSHEDS.

THE SITE IS COMPOSED OF 2 LOTS/TRACTS. IT HAS BEEN APPROVED AS ONE COMESYVE DEVELOPMENT. IF PORTIONS OF THE LORS/TRACTS ARE SOLD. APPLICATION FOR SUBBONISON AND SITE PLAN APPROVAL MAY BE REQUIRED.

BFI WASTE SERVICES OF TEXAS, LP dba REPUBLIC SERVICES OF AUSTIN LEE KUHN, GEMERAL MANAGER	3424 FW 973, DEL VALLE, TX 78617 TEL. NO. (312) 247-5647
APPLICANT:	

S REPUBLIC

ENCINEER

Civil & Environmental Consultanta, Inc. 200 Wed Early TX 70746 State No. - State A.440 - Acade, TX 70746 State S

LANDSCAPE ARCHITECT:

LAND STRATEGIES INC. PALL LINDIAN & ASSECTATES

Submitted By:

CONSULTANTS, INC. CIVIL & ENVIRONI

WATERSHED PROTECTION & DEVELOPMENT REVIEW

SP-2012-03820 SITE PLAN NO.

TRAVIS COUNTY TRANSPORTATION AND NATURAL RESOURCES

12-1602 DEVELOPMENT PERMIT NO.

BOTH LOTS ASSOCIATED WITH THE AUSTIN OPERATIONS CENTER HAVE BEEN DETERBIED TO BE LEGAL LOTS BY THE CITY OF AUSTIN AND ARE EXEMPT FROM PATTING REQUIREMENTS. SEE LAND STATUS DETERMINATIONS C81-2012-0005 AND C81-2012-0154.

RELEASE OF THIS APPLICATION DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, HETORALMON AND CALLOLATIONS SUPPLIED BY THE APPLICANT. THE ENGINEER OF RECORD IS SOLLLY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY AND ADDICATOR THIS RESPONSIBLE FOR THE COMPLETENESS, ACCURACY AND FOR CODE COMPLANCE BY CITY ENGINEERS.

THERE ARE NO WATER OR WASTEWATER IMPROVEMENTS PROPOSED AS PART OF THIS PROJECT. THIS SITE IS NOT LOCATED OVER THE EDWARDS ADUIFER RECHARGE ZONE.

APPROVAL OF THESE PLANS BY THE CITY OF AUSTIN INDICATES COMPLIANCE WITH APPLICANT BY OTHER GOVERNMENTAL ENTITIES MAY BE REQUIRED PRIOR TO THE START OF CONSTRUCTION. THE MACESSARY IS RESPONSIBLE FOR DETERMINING WHAT ADDITIONAL APPROVALS MAY BY ADDITIONAL APPROVALS MAY BY ADSTRUCTIONS.

SHEET

