# APPEAL OF AN ADMINISTRATIVE EXTENSION ON TO A SITE PLAN PERMIT

CASE NUMBER: SP-2017-0143C(XT) ZAP COMMISSION DATE: August 1, 2023

PROJECT NAME: Marquis Ranch Self Storage - Austin

**ADDRESS:** 9718 Anderson Mill Rd

**OWNER:** Mathias Company, (Richard Mathias)

27001 Montana Creek Crossing Phone: 512-844-1644

Marble Falls, TX 78654

**APPELLANT:** Cindy Barron

13602 Caldwell Dr Phone: 512-567-3928

Austin, TX 78750

**AGENT:** Mathias Company, (Richard Mathias)

27001 Montana Creek Crossing Phone: 512-844-1644

Marble Falls, TX 78654

CASE MANAGER: Gabriel Guerrero Jr. 512-978-4658

gabriel.guerrero@austintexas.gov

**APPLICABLE WATERSHED ORDINANCE:** Lake Creek

**AREA**: 7.875 acres

**EXISTING ZONING:** CS-MU-CO

**PROPOSED USE:** Convenience Storage

**LEGAL DESCRIPTION:** LOT 1, BLOCK A, ZFB SUBDIVISION

### **Description of Appeal:**

An appeal to an administrative extension to a previously approved site plan.

Under 25-5-62(E)An interested party may appeal the director's decision under this section to the Land Use Commission. An interested party may appeal the Land Use Commission's decision on an appeal under this section to the council.

# **Proposed Development:**

The applicant is proposing an extension to a previously approved site plan for nine 1-story convenience storages and other associated site improvements.

# **Staff's Determination of Extension:**

- 25-5-62(C) allows the director to extend the expiration of a site plan if the site plan meets the following:
  - (C) The director may extend the expiration date of a released administrative site plan one time for a period of one year if the director determines that there is good cause for the requested extension; and
    - (1) the director determines that:
      - (a) the site plan substantially complies with the requirements that apply to a new application for site plan approval;
      - (b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
      - (c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
      - (d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan; and
    - (2) the director determines that:
      - (a) if a traffic impact analysis was submitted with the application for site plan approval:
        - (i) the assumptions and conclusions of the traffic impact analysis are valid; or
        - (ii) if the assumptions and conclusions are not valid, the applicant has submitted an addendum to the traffic impact analysis that demonstrates that traffic impacts will be adequately mitigated; or
      - (b) if a traffic impact analysis was not submitted with the application for site plan approval, the applicant demonstrates that traffic impacts will be adequately mitigated.

The application for the extension request was submitted prior the Site Development Permit expiration date of May 31, 2022. The extension was filed on May 12, 2022 and approved by DSD Staff on June 8, 2023 based on item B listed above.

# **Appellant Issues (Cindy Barron):**

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

- 1) Original site plan SP-2017-0143C permit expired 05/02/2021 but was extended to 03/31/2022 by mayoral executive extension Order #20211220-036 signed 12/20/2021. However, the COA website indicates an expiration date of 05/31/2022. It is not clear how that date was determined and changed. Per Section 25-5-62 of the Land Development Code, an applicant may request that the director extend a site plan by filing an extension request before the site plan expires. The application for the extension (SP-2017-0143C(XT) was filed 5/12/2022 after the original site plan permit had expired.
- (2) Original site plan claimed Vested Rights based on original subdivision plat from 1988. No Vested Rights Determination is shown on COA website for this site plan or for

this official site address. Was a Vested Rights Petition submitted as required by LDC 25-1-533? Development should comply with current code.

- (3) Applicant/contractor began site disturbance and land clearing in January 2023 after the original site plan had expired as evidenced by Code Enforcement's action to issue a Red Tag. What were the terms and reasons to issue the Red Tag and were those terms satisfied and resolved?
- (4) The Restrictive Covenants established to protect the highly sensitive CEF features on this site were ignored and violated. TCEQ approvals had expired and protocols for construction activity were not in place prior to site disturbance commencing in January 2023.
- (5) Your letter indicates applicant has paid all required fees and met all fiscal requirements. Please explain.

# **Zoning and Platting Commission Action:**

- 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 extension approval will stand. The XT will allow the applicant until 6/8/2024 to pull Building Permits and continue construction.

### **Land Use Summary:**

This site is within the COA full purpose jurisdiction, the zoning for this site is MI-PDA. The site plan will comply with all ordinance requirements prior to approval and release.

### PROJECT INFORMATION

Site Area	7.875 acres	343,035 s	quare feet
Jurisdiction	Full purpose		
<b>Traffic Impact Analysis</b>	N/A		
Capitol View Corridor	Not In View Corridor		
<b>Proposed Access</b>	Anderson Mill Rd		
I-RR Standards	Allowed/Required	Existing	Proposed
Floor-to-Area Ratio	1:1	0	.25:1
<b>Building Coverage</b>	75%	0	24.85%
Impervious Coverage	80%	0	41.56%
Height	120'	0	20'
Parking	NA	0	NA



# City of Austin Development Services Department 6310 Wilhelmina Delco Dr. Austin, Texas 78752

# 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 Watershed Protection 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 (ZAP or PC), or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 978-4658.

the Director. If you need assistance, please contact the assigned only		
	PEALFILED 6/28/2023	
PROJECT NAME MARGUIS RANCH YOURN	AME CIURY BARRON	
SELF STORAGE SIGNAT	URE Barron	
PROJECT ADDRESS 9718 ANDERSON YOUR A	DDRESS 13602 CALDWELL DE,	
MILL RD., &USTIN, TX.	SUSTINITE.	
APPLICANT'S NAME PERALES LAND DEV, YOUR P	HONE NO. (5/Z) 567-3925 WORK	
CITY CONTACT GABRIEL GUERRERO	(512) 258-214 2HOME	
INTERESTED PARTY STATUS: Indicate how you qualify as an interfollowing criteria: (Check one)  I am the record property owner of the subject property I am the applicant or agent representing the applicant I communicated my interest by speaking at the Land Use Communicated my interest by speaking a	ommission public hearing on (date)	
I communicated my interest in writing to the Director or Land Copy of dated correspondence). Thru Fel'icia Fos	ter (my adugnter)	
In addition to the above criteria, I qualify as an interested party by a I occupy as my primary residence a dwelling located within I am the record owner of property within 500 feet of the sull I am an officer of a neighborhood or environmental organization feet of the subject site.	hiect site	
DECISION TO BE APPEALED*: (Check one)  Administrative Disapproval/Interpretation of a Site Plan  Replacement site plan  Land Use Commission Approval/Disapproval of a Site Plan  Waiver or Extension  Planned Unit Development (PUD) Revision  Other:  *Administrative Approval/Disapproval of a Site Plan may only	Date of Decision:	
STATEMENT: Please provide a statement specifying the reason(s) y not comply with applicable requirements of the Land Development EXTENSION WAS SUBMITTED (SP-2017-0143C) has expired. (SP-2017-0143C) has expired. (Attach additional page if necessary)	after original site plan aditional reasons	
Applicable Code Section: 25-5-62		

# RE: 9710/9718 Anderson Mill Road

Felicia Foster CPBD AIA assoc <Felicia@barroncustomdesign.com>

Tue 3/28/2023 1:36 PM

To:Barton-Holmes, Christine < Christine.Barton-Holmes@austintexas.gov>; Mars, Keith < Keith.Mars@austintexas.gov>

Cc:Goswami, Joydeep < Joydeep.Goswami@austintexas.gov>

Thanks for sending Christine! Yes, this site has quite a history and I know you know!!!

Can you please double check the dates because it looks like the Original Site Plan expired 5/2/2021 but was extended by mayoral executive orders to 03/01/2022. Extension was submitted 05/12/2022 after the original site plan expired ...so extension should have been denied by intake.

It appears their TCEQ permit (WPAP) expired July 1, 2019 for the original site plan. Letter is available thru WmsnCty public records Doc# 2017064422

They had applied for a correction to turn it to 24 condos but the fire department said that the change in scope would not be approved so they applied for a Revision (that did not require notification to the neighborhood). This went thru staff review and then sat...

Clearing began around mid January (pre ice storm) for removal of trees with no silt fencing, or tree protection for the trees to remain as identified on the original expired site plan. No protection in place for the sink hole. The neighborhood called 311 and complained that there was work being done without a permit- Austin code confirmed that the site plan was expired so they issued a stop work order Feb 8, 2023... It looks like it went back to Sean Blanchard(?) and activated the revision (not sure how) re-opening the project with a new case manager.

The houses that back up to the property have been in a boundary dispute with Bill Pohl for at least 15 years that I can remember so when the contractor cleared out the buffer all the houses are now pretty exposed to Anderson Mill road.

Felicia Foster, TIBD, CPBD, Assoc. AIA Principal

512.637.4426 o 512.626.7078 c 361.416.0768 c

Mailing Address: PO Box 1170 Port Aransas, TX 78373

The BCD Team is continuing to work remotely. That may mean a delay in certain services.

June 28, 2023

**CITY OF AUSTIN** 

**DEVELOPMENT SERVICES DEPARTMENT** 

Attn: Gabriel Guerrero, Jr. Planner III, Land Use Review

Case Manager for SP-2017-0143C(XT)

## **NOTICE OF APPEAL**

This letter is submitted as a Notice of Appeal for the decision made to approve the extension application for the Marquis Ranch Self Storage site plan SP-2017-0143C(XT).

APPELLANT:

**Cindy Barron** 

13602 Caldwell Drive Austin, TX 78750 512/567-3928

APPLICANT: Perales Land Development, LLC

**Jerome Perales** 

DECISION BEING APPEALED: Administrative approval for a one-year extension to a previously approved site plan (SP-2017-0143C) from 6/8/2023 to 6/8/2024.

**DATE OF ADMINISTRATIVE DECISION: June 8, 2023** 

APPELLANT'S STATUS: Registered Interested Party and Acres West neighborhood community leader

REASONS FOR APPEAL: (1) Original site plan SP-2017-0143C permit expired 05/02/2021 but was extended to 03/31/2022 by mayoral executive extension Order #20211220-036 signed 12/20/2021. However, the COA website indicates an expiration date of 05/31/2022. It is not clear how that date was determined and changed. Per Section 25-5-62 of the Land Development Code, an applicant may request that the director extend a site plan by filing an extension request before the site plan expires. The application for the extension (SP-2017-0143C(XT) was filed 5/12/2022 after the original site plan permit had expired.

- (2) Original site plan claimed Vested Rights based on original subdivision plat from 1988. No Vested Rights Determination is shown on COA website for this site plan or for this official site address. Was a Vested Rights Petition submitted as required by LDC 25-1-533? Development should comply with current code.
- (3) Applicant/contractor began site disturbance and land clearing in January 2023 after the original site plan had expired as evidenced by Code Enforcement's

action to issue a Red Tag. What were the terms and reasons to issue the Red Tag and were those terms satisfied and resolved?

- (4) The Restrictive Covenants established to protect the highly sensitive CEF features on this site were ignored and violated. TCEQ approvals had expired and protocols for construction activity were not in place prior to site disturbance commencing in January 2023.
- (5) Your letter indicates applicant has paid all required fees and met all fiscal requirements. Please explain.

These are just a few of my concerns that has triggered my request to appeal your decision to approve this extension. In addition, construction activity began again last week despite your directive that during the 20 day period allowed for appeal, no development authorized by this site plan may occur, nor may any construction occur until any pending appeal that may be filed is resolved. The 20 day period ends today, 6/28/2023.

If you have any questions or discover errors in the appeal reasons I have described, please contact me as soon as possible.

Cindy Barron
Acres West
13602 Caldwell Drive
Austin, TX 78750
H) 512-258-2142
M) 512-567-3928

February 25, 2021 Development Services Department P.O. Box 1088 Austin, Texas 78704.

RE: Letter of Request for Extension – # SP-2017-0143C Marguis Ranch Self Storage - Austin

9718 Anderson Mill Rd. Austin, Tx 78750

### Dear Review Team:

I am writing to formally request an extension to the update deadline for our Marquis Ranch Self Storage - Austin Site Plan project, Case Number: SP-2017-0143C. We would like to extend the site plan as we are in a correction process to change our land use from a self-storage facility to condominium residential. We would truly appreciate your help in extending this project so that we can get it approved. Please let me know if you have any questions or need additional information to consider our request.

Sincerely,

Jerry Perales, PE Chief Operating Officer

Perales Land Development LLC



March 10, 2023

Development Services Department CITY OF AUSTIN 505 Barton Springs Road Austin, TX 78704

**RE:** Comment Response

**Project Name: Marquis Ranch Self Storage-Austin** 

**Site Plan Extension** 

Case #: SP-2017-0143C(XT)

Dear Ms. Lucas:

As agent for the owners of the above referenced property, we are restating our request for a 1-year administrative site plan extension request in accordance with LDC 25-5-62 at the request of the site plan reviewer. This site plan was approved on 5/2/2018, and was scheduled to expire on 5/2/2021. The Mayor's COVID policy extended the expiration date to May 31, 2022. This extension application was filed on 5/12/2002, prior to its expiration date.

The previous owners of the property were unable to proceed with site construction during COVID19 and elected to sell the property. The current owners purchased the property on 8/31/2021, and filed a site plan extension to allow them the time to put together their development program and begin construction. As of this date, the extension is still pending and they have retained my firm to assist them with getting it approved by the 5/31/2023 deadline. The site plan substantially complies with the requirements that apply to a new application for site plan approval and the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed.

The owners wish to proceed with the site plan as previously approved and simply need the extension to keep it active so they can start construction. Equipment is on site at this time waiting for this extension to be approved so they can begin work.

Your favorable consideration of this request is greatly appreciated. Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

Richard Mathias

Fill Wath

SERVICES DEPARTMENT

Building a Better and Safer Austin Together

June 8, 2023

Richard Mathias
MATHIAS COMPANY
27001 Montana Creek Crossing
Marble Falls, Texas 78654
RE: SP-2017-0143C(XT)- Marquis Ranch Self Storage

Dear Mr. Mathias,

The City of Austin has approved your request for an administrative extension from June 8, 2023, to June 8, 2024 for the released site plan SP-2017-0143C(XT)- Marquis Ranch Self Storage. This one-year extension is granted in accordance with Section 25-5-62 of the Land Development Code, no further extensions are allowed by administrative action.

Any additional extension for this released site plan requires approval of the Planning Commission after a public hearing as specified in Section 25-5-63 of the Land Development Code. The request for an additional extension to be granted in accordance with Section 25-5-63 would have to be received prior to the new expiration date.

In addition, Sections 25-5-62(d) and 25-1-182 provides that the decision of the Director to extend the site plan may be appealed to the Planning Commission, provided an interested party files a completed notice of appeal no later than 20 days after an administrative decision. During this 20-day period, no development authorized by this site plan may occur, nor may any construction occur until any pending appeal that may be filed is resolved.

If you have any questions, please contact the Case Manager, Gabriel Guerrero Jr. at 512-978-4658.

Sincerely,
Gabriel Guerrero Jr.
Planner III, Land Use Review
Development Services Department



Application Date: 04/25/2017

Site Plan Expiration Date: 05/02/2021

Permit No.: SP-2017-0143C

Project Name (or description): Marquis Ranch Self Storage Address or Location Description: 9718 ANDERSON MILL RD

Watershed: Lake Creek

Owner of Property: ZFB, LTD

Address: 10800 Pecan Park Blvd, #125, Austin, TX 78750

Owner's Representative: Ron Thrower, Thrower Design, (512) 476-4456

Address: P.O BOX 41957 AUSTIN TX 78745

Legal Description:

### PERMIT IS HEREBY ISSUED FOR:

The construction of nine 1-story convenience storage buildings with parking, drives, utilities, and drainage, for a total of 142,581 square feet of impervious cover (approximately 41.56%), as shown and described on the approved site plan.

The project is located within the Lake Creek watershed and is subject to all watershed protection regulations as set forth in Chapter 25 of the City of Austin Code of Ordinances. This project is located within the City's Full-Purpose jurisdiction.

## **CONDITIONS OF PERMIT**

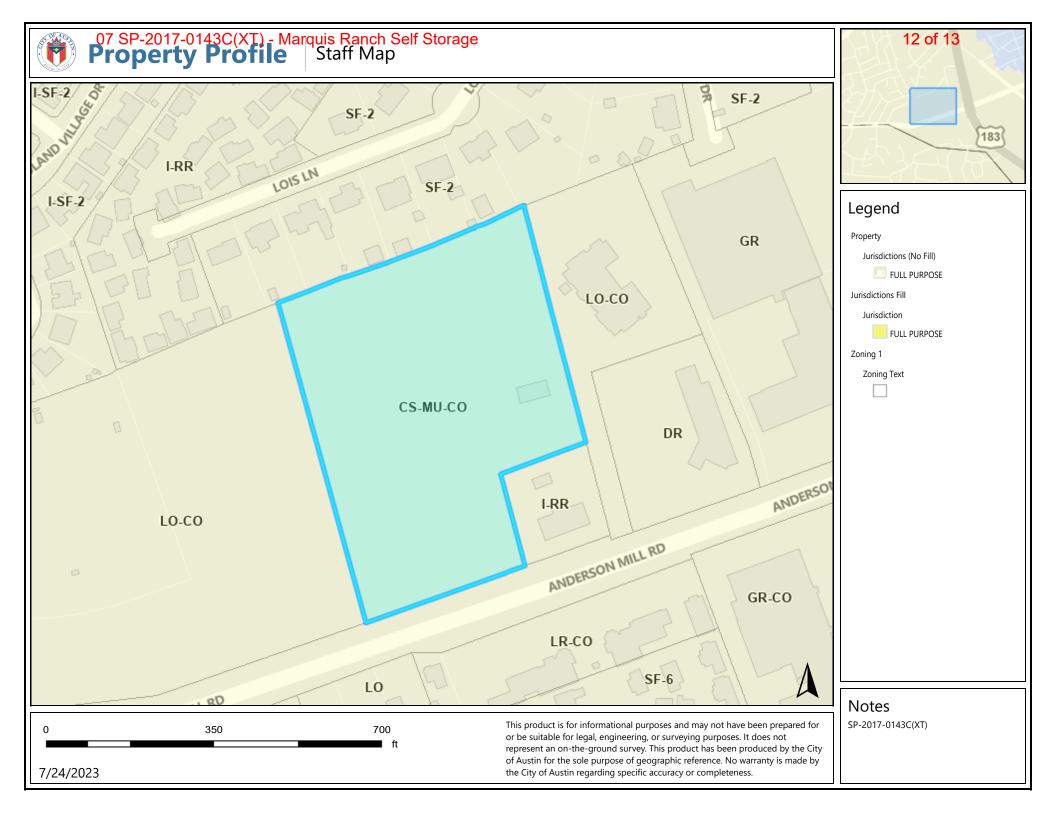
It is agreed that the proposed development shall be performed and completed in accordance with the plans and specifications approved by the City of Austin Standard Specifications and Code requirements, and State of Texas construction safety statutes. All development approved by this permit is subject to the inspection and control of the City of Austin.

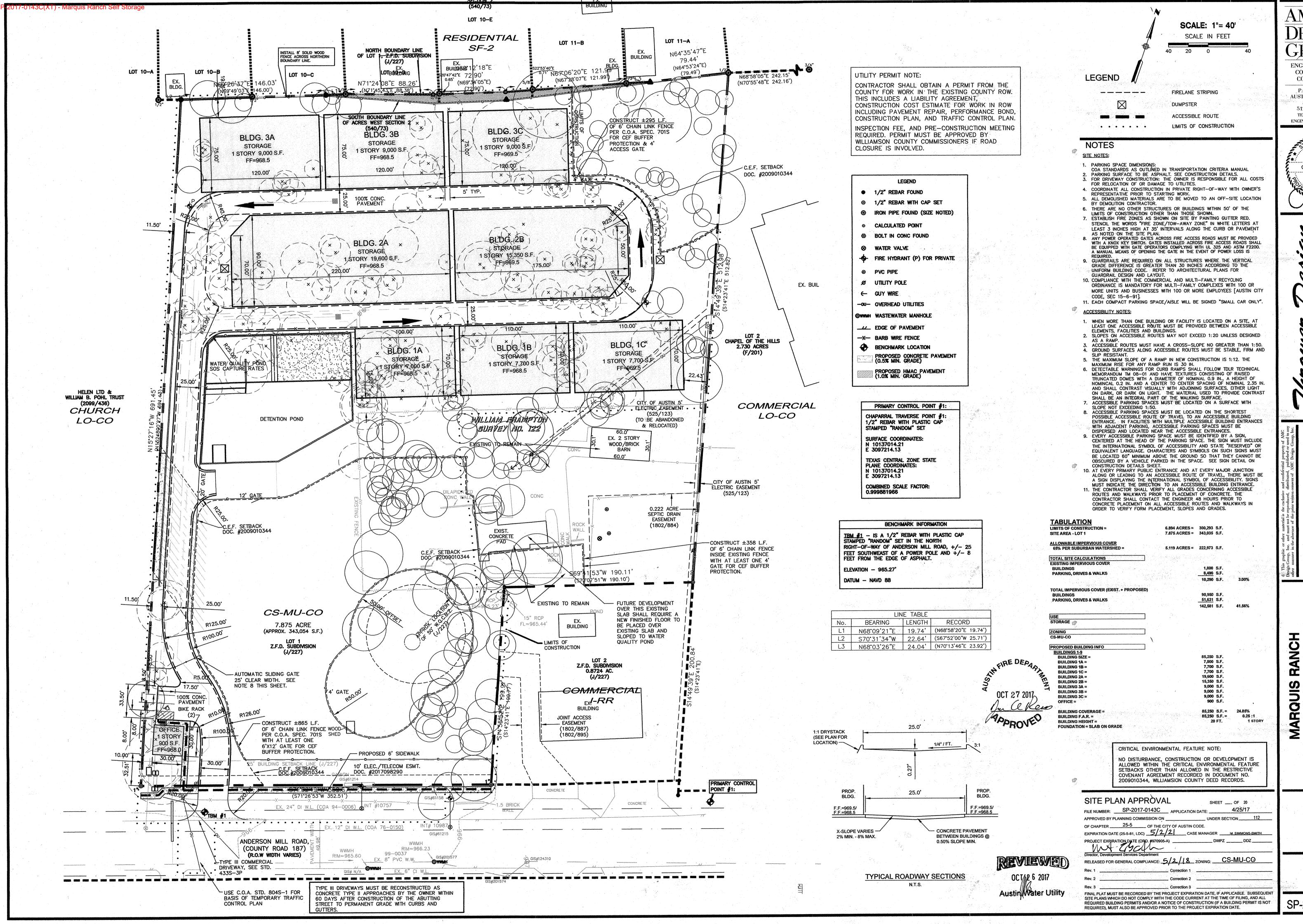
It is the responsibility of the permit holder to identify all utilities in the work area and to notify each utility of the scope of work in the immediate area of the utilities.

**ENGINEER'S CERTIFICATION:** Inspection and a "Certification of Completion" by a Texas Licensed Engineer is required for the development approved by this permit. No Certificate of Occupancy may be approved until the Engineer's Certification is filed. The engineer is responsible for the adequacy of the plans submitted with this application.

### **SPECIAL CONDITIONS:**

Brirner	For ZPB, Ltd.	5/3/18
Signature of Applicant	Owner	Date
WA Grash	4	\$-2-18
Permit Approved by City of Austin		Date





CONSTRUCTION CONSULTANTS

P.O. BOX 341555 AUSTIN, TEXAS 78734 512-385-2911 512-385-5400 FAX TEXAS RECISTERED **ENGINEERING FIRM F-1708** 



RANCH QUIS STORA

SHEET NO.

SP-2017-0143C