

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

**CASE NUMBER:** SP-2017-0143C(XT) **ZAP COMMISSION DATE:** August 15, 2023

**PROJECT NAME:** Marquis Ranch Self Storage - Austin

**ADDRESS:** 9718 Anderson Mill Rd

**OWNER:** Mathias Company, (Richard Mathias)  
27001 Montana Creek Crossing  
Marble Falls, TX 78654  
Phone: 512-844-1644

**APPELLANT:** Cindy Barron  
13602 Caldwell Dr  
Austin, TX 78750  
Phone: 512-567-3928

**AGENT:** Mathias Company, (Richard Mathias)  
27001 Montana Creek Crossing  
Marble Falls, TX 78654  
Phone: 512-844-1644

**CASE MANAGER:** Gabriel Guerrero Jr. 512-978-4658  
[gabriel.guerrero@austintexas.gov](mailto: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.

DSD issued a disaster declaration in Feb. 2022 allowing applicants to request an extension to expirations to be granted to May 31, 2022. The applicant requested the extension, staff granted the permit expiration to extend to May 31, 2022. The application for the extension request was submitted prior the new Site Development Permit expiration date of May 31, 2022. The extension application was filed on May 12, 2022 and approved by DSD Staff on June 8, 2023 based on item B listed above. See attached memo from the DSD Development Officer for additional details.

**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.
  - 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.
  - 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.
- On 8/1/2023 there was a staff postponement to 8/15/2023 ZAP hearing.

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



To: Zoning & Platting Commission  
Hank Smith, Chair

From: Brent Lloyd  
Development Services Department  
Development Officer

Date: August 9, 2023

Subject: **Appeal of Site Plan Extension re: Marquis Ranch Self-Storage [SP-2017-0143C(XT)]**  
9718 Anderson Mill Road

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The matter before you is an appeal challenging DSD's approval of a one-year extension to an approved site plan for proposed development at 9718 Anderson Mill Road. This report provides context for the main issue in the appeal, which concerns how DSD handled application filed during the transitional period in 2022 when the Mayor's COVID-related suspension of permit deadlines expired and standard Title 25 timing requirements were reinstated.

#### **DSD's Response to Appeal**

Appellant's primary argument is that the extension failed to comply with Sec. 25-1-62(A), which requires that a request for extension be filed with DSD "before the site plan expires." In support of this argument, Appellant correctly points out that the formal application for an extension was not filed until May 12, 2022, but the site plan expired on March 1, 2022.

The reasons for this discrepancy, and DSD's decision to accept the May 2022 submittal, are related to the extremely high volume of permitting activity that occurred prior to expiration of the deadline-tolling provisions adopted by the Mayor to provide relief for applicants during the COVID-19 pandemic. As stated in [Mayor's Order No. 20211120-036](#):

Except for applications and permits subject to Title 30 of the City Code, all deadlines and expiration dates for site plans, subdivisions, zoning, building permits, and similar development applications or permits are extended until March 1, 2022, or the date they would have normally expired, whichever is later.

Since the March 1 expiration date affected potentially thousands of applications, DSD anticipated an unprecedented number of extension requests and other electronic submittals in the last weeks—and, especially, the last few days—of February 2022. So, in order to avoid



crashing DSD's system for electronic filings, applicants were allowed to submit "short-form" extension requests through a web-portal by March 1, 2022, which then had to be updated with any missing information by May 31.

This process eased the return to normal operations for applicants and staff, while maintaining operability of essential IT infrastructure. The justification for this approach was Sec. 25-1-82 (*Non-Subdivision Application Requirements and Expiration*), which provides that:

- (B) The responsible director or building official may permit an applicant to omit required information from an application that the responsible director or building official determines is not material to a decision on the application. An applicant who disagrees with a determination under this subsection may appeal the decision to the city manager.

Utilizing the flexibility afforded by this provision, then-Director Denise Lucas permitted applicants to "omit required information" from their short-form requests filed through the web portal by March 1, 2022. These omissions were not considered "material to a decision on the application" because applicants were subsequently required to submit all required documentation, which the applicant in this case did on May 12, 2022. The decision to utilize this approach was within DSD's authority and did not result in the waiver of any requirements, simply a short delay in submittal of required documents to accommodate limitations on the electronic filing system.

We believe this process was followed in this case, as DSD strictly enforced the requirement to submit a shortform request by March 1, 2022, and would not have accepted submittal of the formal extension request on May 12 had the applicant failed to meet that deadline. However, the web portal that was used to process these requests in 2022 is no longer active, and staff has so far been unable to confirm with certainty the submittal of any shortform requests. Since the applicants are not the appealing party, we believe they are entitled to the benefit of the doubt on this issue unless the Appellant can demonstrate that the March 1 deadline was not met.

As for the extension itself, DSD properly approved it under the criteria in Sec. 25-5-62(B) (*Extension of Released Site Plan by Director*), which authorizes extensions based on a finding that "the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed[.]" The Appellant has not demonstrated that this finding was incorrect, so there is no basis for reversing DSD approval of the site plan extension. Accordingly, DSD respectfully asks the Commission to uphold the extension request.

OCC RECEIVED AT  
DEC 20 '21 PM3:05**PERMIT AND EXPIRATION DATE EXTENSION****ORDER NO. 20211220-036****BY THE MAYOR OF THE CITY OF AUSTIN**

**WHEREAS**, on March 6, 2020, I, Mayor Steve Adler, issued a Declaration of Local Disaster pursuant to Texas Government Code Chapter 418, ratified by City Council Resolution No. 20200312-074, to allow the City of Austin to take measures in response to the COVID-19 pandemic and protect the health and safety of Austin residents; and

**WHEREAS**, on March 13, 2020, Governor Greg Abbott proclaimed a state-wide state of disaster due to the COVID-19 pandemic and has since issued numerous Executive Orders related to the pandemic; and

**WHEREAS**, infected persons can transmit the COVID-19 virus to others before showing any symptoms, and widespread and consistent use of face coverings over the nose and mouth when in public is a critical and necessary measure to help slow the spread of the virus while allowing local businesses to remain open and help the Austin economy recover; and

**WHEREAS**, the local Health Authority continues to encourage people to stay home except when necessary, and to wear face coverings to provide for the safety of the public and when individuals are outside their household; and

**WHEREAS**, COVID-19 and the rise of COVID-19 variants continue to menace the health of Austin residents and the Austin economy, and the local Health Authority has advised on the need for continued vigilance by individuals and Austin businesses in complying with health measures.

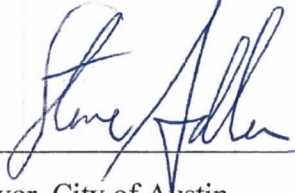
**NOW THEREFORE, I, MAYOR OF THE CITY OF AUSTIN, PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY ORDER, EFFECTIVE AS OF 12:01 A.M. ON DECEMBER 30, 2021, THAT IN THE CITY OF AUSTIN:**

**SECTION 1. City Deadlines.** Except for applications and permits subject to Title 30 of the City Code, all deadlines and expiration dates for site plans, subdivisions, zoning, building permits, and similar development applications or permits are extended until **March 1, 2022**, or the date they would have normally expired, whichever is later. All deadlines and expiration dates for an application or permit subject to Title 30 are extended until the later of **March 1, 2022**; the date they would have normally expired; or as authorized by an administrative extension granted by Travis County and the City. All other deadlines or expiration dates imposed by City Code, ordinance, rule, or regulation remain in effect as provided by the code provision, rule, or regulation, unless otherwise extended by separate order or ordinance. Nothing in this order precludes extensions otherwise authorized by City Code, ordinance, rule, or regulation.

**SECTION 2. Posting.** The Development Services Department and the City Clerk will post this Order on their websites.

**SECTION 3. Prior Mayor's Order.** This order supersedes Section 7 of Mayor's Order No. 20210216-026.

**ORDERED** this the 20th day of December 2021, in the City of Austin, Travis County, Texas, in witness whereof I subscribe my name.

  
\_\_\_\_\_  
Mayor, City of Austin

Filed with me, the City Clerk of the City of Austin, this 20 day of December 2021, by Mayor Steve Adler, whose signature I hereby attest under my hand.

  
\_\_\_\_\_  
City Clerk





*Building a Better and Safer Austin Together*

Dear Customer:

When the COVID-19 pandemic began in March 2020, the elected leaders of the City of Austin and Travis County issued emergency orders that, among other provisions, extended active development applications and permits that were set to expire while the orders were in effect.

Under those orders, your application or permit was extended until December 31, 2021. **On Monday, December 20, a [new Order was issued](#) that extends expiration dates to March 1, 2022.** If your application or permit was previously scheduled to expire on December 31, 2021, the new Order gives you an additional two months.

Projects covered by the new Order may be eligible for an additional extension, beyond March 1, 2022, if you take the necessary steps to request an extension on or before that date. We are providing you this information because, **based on our records, you have an application or approved permit (site plan, subdivision, or buildings/trade permit) with the City of Austin Development Services Department (DSD) that may have recently expired or will soon expire.**

Depending on the status of your project and where it is in the development process, you have several options before the March 2022 deadline.

**To learn more about your application and permit options and request an extension, where available, please [visit this website](#).**

If a permit application expires and an extension request has not been submitted before the deadline, you will need to submit a new application to continue the development process. Please note that consideration for this extension **applies to projects set to expire between the dates of March 17, 2020, and March 1, 2022.** If you are unsure of your project status or deadline, please visit your account in the [AB+C Portal](#).

We ask that you take action as soon as possible.

Regards,

City of Austin Development Services Department

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**CITY OF AUSTIN**  
**One Texas Center-505 Barton Springs Road**  
**Site Plan Permit**

**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:**

Handwritten signature of the applicant, B. Turner.

Signature of Applicant

For

Handwritten signature of the owner, ZFB, Ltd.

Owner

Handwritten date, 5/3/18.

Date

Handwritten signature of the City of Austin official.

Permit Approved by City of Austin

Handwritten date, 5-2-18.

Date





*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



**PERALES LAND DEVELOPMENT LLC**

Land Development and Environmental Consulting

February 25, 2021

Development Services Department

P.O. Box 1088

Austin, Texas 78704.

RE: Letter of Request for Extension – # SP-2017-0143C  
Marquis 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 5/12/2022, 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.

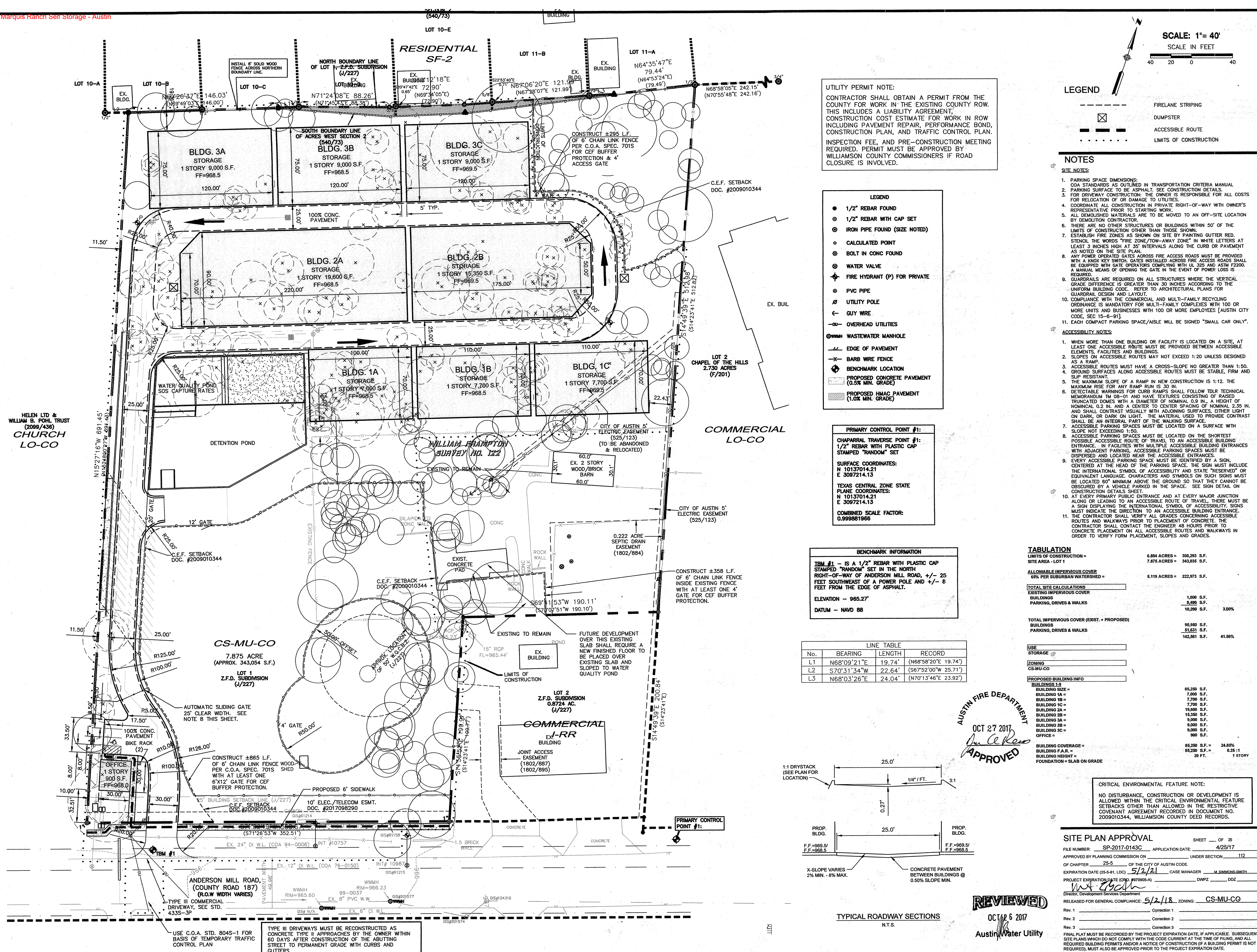
The owners wish to proceed with the site plan as previously approved and simply need the extension to keep it active so they can start construction. Equipment is on site at this time waiting for this extension to be approved so they can begin work.

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



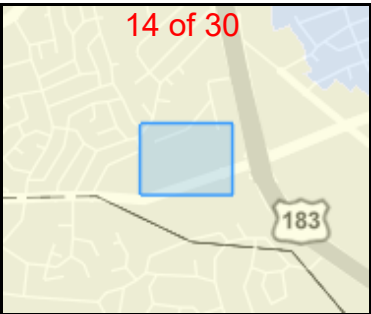






# Property Profile

Staff Map



## Legend

Property

Jurisdictions (No Fill)

 FULL PURPOSE

Jurisdictions Fill

Jurisdiction

 FULL PURPOSE

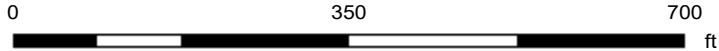
Zoning 1

Zoning Text



## Notes

SP-2017-0143C(XT)



7/24/2023

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

Appellant backup



**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.

CASE NO. SP-2017-0143C(XT) DATE APPEAL FILED 6/28/2023  
 PROJECT NAME MARQUIS RANCH YOUR NAME CINDY BARRON  
SELF STORAGE SIGNATURE Cindy Barron  
 PROJECT ADDRESS 9718 ANDERSON YOUR ADDRESS 13602 CALDWELL DR,  
MILL RD., AUSTIN, TX. AUSTIN, TX.  
 APPLICANT'S NAME PERALES LAND DEV, YOUR PHONE NO. (512) 567-3928 <sup>cell</sup>  
 CITY CONTACT GABRIEL GUERRERO (512) 258-2142 <sup>HOME</sup>

**INTERESTED PARTY STATUS:** Indicate how you qualify as an interested party who may file an appeal by the following 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 Commission public hearing on (date)

☒ I communicated my interest in writing to the Director or Land Use Commission prior to the decision (attach copy of dated correspondence). thru Felicia Foster (my daughter)

**In addition to the above criteria,** I qualify as an interested party by one of the following criteria: (Check one)

- ☐ 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.
- ☒ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

**DECISION TO BE APPEALED\*:** (Check one)

- |   |                         |
|---|-------------------------|
| <input type="checkbox"/> Administrative Disapproval/Interpretation of a Site Plan | Date of Decision: _____ |
| <input type="checkbox"/> Replacement site plan                                    | Date of Decision: _____ |
| <input type="checkbox"/> Land Use Commission Approval/Disapproval of a Site Plan  | Date of Decision: _____ |
| <input checked="" type="checkbox"/> Waiver or Extension                           | Date of Decision: _____ |
| <input type="checkbox"/> Planned Unit Development (PUD) Revision                  | Date of Decision: _____ |
| <input type="checkbox"/> Other: _____   | 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:

EXTENSION WAS SUBMITTED after original site plan  
(SP-2017-0143C) had expired. Additional reasons  
sent in attached e-mail.  
 (Attach additional page if necessary.)

Applicable Code Section: 25-5-62

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 Wmsn Cty 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.

CITY OF AUSTIN  
DEVELOPMENT SERVICES DEPARTMENT  
Attn: Gabriel Guerrero, Jr.  
Planner III, Land Use Review  
Case Manager for SP-2017-0143C(XT)

June 28, 2023

### 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

**Community Assistance Form**  
CAF # 19400 – Email Response  
February 14, 2023

Resident: Bill Allen  
Bgallen1958@gmail.com

Dear Bill Allen,

Thank you for your message to Council District 6 regarding possible violation of a Stop Work Order at 9718 Anderson Mill Rd. On behalf of Council Member Kelly, please allow me to respond.

An Environmental Inspection Specialist from Development Services Department first received a complaint about this site on January 23. The inspector visited the site and observed clearing of brush and trees. Because the site plan for this site is expired, the inspector ordered the contractor to stop all development work. In order to provide safety and security to the site, the inspector allowed workers to install temporary erosion controls and tree preservation measures. In addition, the inspector allowed workers to remove trash, debris, and felled trees into roll-off dumpsters that were present on the site. Workers were also allowed to shred brush only as necessary to provide access for installation of erosion controls and to prevent stormwater runoff. No other trees are to be removed and no ground disturbance is to take place until there is an active, compliant site plan in place.

The inspector is working with the contractor and the engineer of record to either re-activate the expired site plan or submit a new site plan for approval. The Stop Work Order remains in place and the inspector is monitoring the site regularly to ensure that unapproved work does not resume.

Again, thank you for bringing your concern to our attention. Should you have any further questions, please contact Walter Brown, Environmental Compliance Supervisor, at (512) 999-5679 or by e-mail at [Walter.Brown@austintexas.gov](mailto:Walter.Brown@austintexas.gov).

Sincerely, \

John Cruz, Construction & Inspection Services Program Manager  
Development Services Department



## SP-2017-0143C(XT)

MARQUIS RANCH SELF STORAGE – AUSTIN  
TIMELINE...04/25/2017 THROUGH PRESENT

04/25/2017...application to develop commercial buildings, site utility, drainage with associated improvements (convenient storage 'use') ...SP-2017-0143C Marquis Ranch Self Storage

05/02/2018...site plan permit issued...SP-2017-0143C Marquis Ranch Self Storage.

02/21/2021...application to CORRECT SP-2017-0143C and change the 'use' to residential/24 condos...rejected by COA staff reviewers...change was beyond scope for a CORRECTION.

04/21/2021...application to REVIZE a previously approved site plan SP-2008-0090D (convenient storage 'use') which had expired 02/19/2013...application expired.

**05/02/2021**...site plan SP-2017-0143C expiration date as shown on permit and approved plan sheets.

09/20/2021...new ownership of project site Lot 1, ZFB Subdivision...ULTR8  
(WmsnCtyDoc#2021133106)

12/20/2021...last order (#20211220-036) in series of mayoral executive orders to extend site plan expiration date to 03/01/2022.

12/20/2021...application to REVIZE a previously approved site plan SP-2017-0143C(R1) and change 'use' to residential condominiums...Master Comment Report U0 01/18/2022-03/08/2022...Case Manager Carlos Huizar noted the original site plan would expire on March 1, 2022, and applicant would need to file for an extension. The one-year extension would be changed from March 1, 2022 to March 1, 2023. No additional updates were submitted before the update deadline of January 26, 2023.

**03/01/2022**...site plan SP-2017-0143C Marquis Ranch Self Storage expired per mayoral executive order #20211220-036 dated 12/20/2021.

05/12/2022...application to EXTEND a previously approved site plan SP-2017-0143C(XT) Marquis Ranch Self Storage...Master Comment Report U0 07/05/2022-08/10/2022

07/19/2022...Notice of application issued to EXTEND site plan SP-2017-0143C(XT).

01/20/2023 – 02/03/2023...residents in neighboring ACRES WEST subdivision reported to 311 the constructive activity and tree removal with heavy equipment and haul-off trucks at 9718 Anderson Mill...no active site plan permit, no stabilized construction entrance, no CEF protection measures in place, no silt fencing or erosion controls in place or on site, no tree protection in place.

01/24/2023...complaint was filed with TCEQ regarding land clearing within the buffer areas of the second highest priority sensitive geological features in Austin and the absence of CEF protections and temporary stormwater controls on the lot at 9718 Anderson Mill Road. TCEQ approvals had expired.

02/08/2023...Code enforcement environmental inspector Michael Bogard responded and confirmed the site plan had expired. A warning (red flag) was issued with conditions.

02/22/2023...TCEQ Region Environmental Investigator Mr. Boyd Guthrie visited the site and identified alleged violations. Investigation report is attached.

03/14/2023...SP-2017-0143C(XT)...Master Comment Report U1 03/14/2023-04/14/2023...new case manager was assigned and extension request was reactivated after sitting dormant for seven months.

03/28/2023...site plan SP-2017-0143C AB+C web page expiration date was shown in error to be 05/31/2022. COA Staff members were notified of the discrepancy but failed to respond and verify who, how, why and when that date change was made.

05/15/2023...SP-2017-0143C(XT)...Master Comment Report U2 05/15/2023-06/01/2023 ...condition for approval was contingent on EV changes only as previously submitted. No further construction would be permitted without approval from EV or submittal on an approved site plan correction.

06/08/2023...One-year extension (SP-2017-0143C(XT)) was approved administratively to extend SP-2017-0143C from June 8, 2023 to June 8, 2024.

06/08/2023...beginning of 20-day moratorium period per LDC Section 25-1-182.

06/12/2023...Mr. Bogard said there was a pre-con meeting and construction was allowed to commence. Mr. Bogard was unaware of the 20-day period (per LDC Section 25-1-182) during which no development authorized by the site plan may occur, nor may any construction occur until any pending appeal that may be filed is resolved. Case Manager, Gabriel Guerrero, did notify Mr. Richard Mathias (current applicant) in letter dated June 8, 2023. Construction activity has continued throughout this appeal process despite the notice and directive from Mr. Guerrero to Mr. Mathias.

06/28/2023...Appeal notice was emailed to COA case management.

07/17/2023...application for site plan CORRECTION to SP-2017-0143C...Applicant: Southwest Engineers.

07/18/2023...received email from Gabriel Guerrero. Appeal scheduled for August 1<sup>st</sup> for the Zoning and Platting Commission.

07/21/2023...notice of public hearing mailed out.

08/01/2023...public hearing on appeal case for administrative approval for 1-year extension of SP-2017-0143 effective June 8, 2023 to June 8, 2024. Extension was submitted after original site plan had expired and should have been rejected at intake.

## COVID-19

### MAYORAL EXECUTIVE ORDERS TO EXTEND SITE PLAN EXPIRATION DATES

06/15/2020 to 12/20/2021

(applicable to SP-2017-0143C)

20200615-013 06/16/2020 extended to 08/15/2020

20200622-015 06/22/2020 extended to 08/15/2020

20200622-016 06/26/2020 extended to 09/15/2020

20200702-017 07/02/2020 extended to 09/15/2020

20200815-019 08/14/2020 extended to 03/15/2021

20200312-074 12/15/2020 extended to 03/15/2021

20210216-026 02/16/2021 extended to 12/31/2021

20211220-036 12/20/2021 extended to 03/01/2022

STW CGP \_ TXR1589LX \_ CP\_20230222\_Investigation  
03 P-2017-01436(XT) - Marquis Ranch Self Storage - Austin  
Texas Commission on Environmental Quality 24 of 30  
**Investigation Report**

The TCEQ is committed to accessibility. If you need assistance in accessing this document, please contact oce@tceq.texas.gov

**Customer: Ultr8 LLC**  
**Customer Number: CN606110229**

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**Regulated Entity Name: MARQUIS RANCH**  
**Regulated Entity Number: RN111680351**

**Investigation #** 1873644  
**Investigator:** BOYD GUTHRIE  
**Conducted:** 02/22/2023 -- 02/22/2023  
**Program(s):** EDWARDS AQUIFER  
STORMWATER  
**Investigation Type:** Compliance Investigation  
**Additional ID(s):** TXR1589LX  
**Incident Numbers**  
394339  
**Site Classification** CONSTRUCTION GENERAL  
PERMIT FOR STORMWATER  
COMMERCIAL  
**No Industry Code Assigned**  
**Location:**  
**Address:** 9718 ANDERSON MILL RD,  
AUSTIN, TX, 78750  
**Local Unit:** REGION 11 - AUSTIN  
**Activity Type(s):** EAPPCMPL - EAPP Complaint  
EAPPGRTRC - EAPP Grant Recon  
SWCGPRC - SW Recon CGP

**Principal(s):**

Role	Name
RESPONDENT	ULTR8 LLC

**Contact(s):**

Role	Title	Name	Phone
REGULATED ENTITY MAIL CONTACT	DIRECTOR	MS Shaila Derevianko	
REGULATED ENTITY CONTACT		MR Andrey Derevianko	Phone (512) 888-2399
PARTICIPATED IN	PROJECT MANAGER	MR Sean Blanchard	Phone (512) 662-5568
REGULATED ENTITY CONTACT	PROJECT MANAGER	MR Sean Blanchard	Phone (512) 662-5568

**Other Staff Member(s):**

Role	Name
QA Reviewer	CHAD AHLGREN
Supervisor	SHAWN STEWART



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**Associated Check List****Checklist Name**WQ COMPLAINT INVESTIGATION  
STORMWATER CONSTRUCTION RECON**Unit Name**Ultr8.compl  
ultr8.cgprecon**Investigation Comments:****INTRODUCTION/SUMMARY**

On January 24, 2023, the Texas Commission on Environmental Quality (TCEQ) Austin Region Office (Region) received a complaint regarding alleged land clearing within the buffer area of sensitive geologic features and the absence of stormwater controls on the lot at 9718 Anderson Mill Rd. (site) in Austin, Texas. The complaint investigation was assigned to Region Environmental Investigator, Mr. Boyd Guthrie.

On February 22, 2022, an unannounced complaint site investigation was conducted. During the site investigation and subsequent file review, Alleged Violations (AV) were documented for failing to have Edwards Aquifer Protection Program (EAPP) approval and for failing to have Construction General Permit (CGP) authorization prior to commencing construction activities.

On March 9, 2023 and April 13, 2023, the Exit Interview Form (EIF) was emailed to the Ultr8, LLC (property owner) Project Manager, Mr. Sean Blanchard and Company Manager, Mr. Andrey Derevianko, respectively.

A Notice of Enforcement (NOE) was issued to the Ultr8, LLC Director, Ms. Shaila Derevianko.

**GENERAL FACILITY INFORMATION**

Williamson County Appraisal District (WCAD) property details indicate that the 7.83-acre lot owned by Ultr8 LLC (Ultr8 Series Cedar assumed name) (Property ID R322437) is located at 9710 Anderson Mill Rd., Austin, Texas. The deed date is August 31, 2021 (Attachment 1: WCAD Property Details). Texas Secretary of State (TSOS) Business Inquiry lists Shaila Derevianko as the Manager and Director of Ultr8 LLC (Attachment 2: TSOS Business Inquiry). The respondent has used 9718 Anderson Mill Rd. for the address on applications to TCEQ and the City of Austin. The difference in address numbers is due to property replats.

The site is located on the Edwards Aquifer Recharge Zone (EARZ) and within the Lake Creek (Segment 1244B) watershed of the Brazos River basin.

Five natural geologic recharge features (S-1 to S-5) have been identified on the site by the licensed geologists during the prior geologic assessments. No manmade features were identified on the site. Three of the features (S-1, S-2 and S-3) were evaluated to be sensitive for groundwater recharge capability and therefore require protective setback buffers. Two of the geologic features: S-4 and S-5 (both filled solution cavities) have been evaluated as non-sensitive for groundwater recharge capability and therefore do not require protective setback buffers (Attachment 3: Area Geologic Maps).

The sensitive geologic features: S-1 (sinkhole opening to a cave), S-2 (solution-enlarged fracture), and S-3 (solution-enlarged fracture) meet TCEQ guidance for a setback of 50 feet in all directions from the feature surface opening, plus its watershed catchment up to 200 feet from the feature surface opening. No regulated activity (such as construction or soil disturbing activities) is permitted within protective buffers.

**BACKGROUND**

On July 7, 2008, a Water Pollution Abatement Plan (WPAP) application was submitted by ZFB LTD / ZFB LTD A Texas Limited Partnership (CN603384058 / CN604111922) to the Region for Marquis Ranch Self Storage Austin (RN105571681) (EAPP ID: 11-08070303). The application was approved on September 24, 2008 (Investigation: 687124).

On December 7, 2010, the Region conducted an EAPP compliance investigation. There was no construction activity noted after the WPAP approval. In accordance with Title 30 Texas Administrative Code (30 TAC) Chapter 213.4(h) the Edwards Aquifer protection plan expires two years after the date of issuance unless more than 10 percent of total construction has commenced or TCEQ has approved an extension request. On September 24, 2010, the WPAP approval expired (Investigation: 884563).

On December 23, 2013, a Water Pollution Abatement Plan (WPAP) and Sewage Collection System (SCS)



applications (EAPP IDs: 11-13122301 and 11-13122302) were submitted by ZFB LTD A Texas Limited Partnership (CN604111922) to the Region for Cottages at Anderson Oaks (RN107065757). Region EAPP staff determined that the site plan layout did not have adequate protective buffers for sensitive features and required a Class V injection permit. On April 8, 2014, the applications were withdrawn as requested by the applicant (Investigation: 1140329).

On December 12, 2014, the Region approved an Escarpment Environmental request to excavate S-1 and S-2 using a backhoe for the purpose of surveying the subsurface extent of the features to create a cave footprint map.

On August 12, 2015, TCEQ Area and Regional management met with the property developers, Mr. William B. Pohl and Lee Miks of Pohl Partners to discuss buffer area accommodations. TCEQ proposed a reduced buffer of 200 feet similar to the expired plan that was approved in 2008. Mr. Pohl requested a reduced buffer for S-1 and S-2 of 50 feet to allow development within 200 feet buffer. Mr. Pohl's request was determined to not be viable within Edwards Aquifer requirements. A letter summarizing the meeting was provided by the TCEQ Executive Director to the State Representative (Attachment 4: Letter to State Representative).

On May 27, 2016, the Region received a Geologic Assessment (GA) Addendum describing a karst investigation of S-4 by Horizon Environmental Services, Inc. (Horizon) contracted by ZFB, Ltd. (c/o Pohl Partners). Based on the investigation results, S-4 was determined to not meet TCEQ criteria for sensitive feature classification (Attachment 5: GA Addendum).

On May 11, 2017, a WPAP application was submitted by ZFB, Ltd. (CN603384058) to the Region for Marquis Ranch Self Storage Austin (RN105571681) (EAPP ID: 11000672). The application was approved on June 30, 2017 (Attachment 6: WPAP Approval Letter).

On May 28, 2021, the Region received an extension request for the approved WPAP (EAPP ID: 11000672). On July 2, 2021, the extension request was approved (Attachment 7: Extension Request Approval Letter). The extension request approval expired on December 30, 2021 due to construction not commencing by that date.

#### ADDITIONAL INFORMATION

On February 21, 2023, Mr. Guthrie reviewed the Marquis Ranch Self Storage WPAP file and noted that the WPAP approval letter (EAPP ID: 11000672) dated June 30, 2017 expired if 10 percent of construction did not commence or an extension was not requested. The approval site plan illustrated 50-foot radii protective buffers around two sensitive features on the southern portion of the property and a buffer area at the property northeast corner. Mr. Guthrie discussed site history with EAPP staff. Mr. Guthrie conveyed that the last approval letter expired and an extension request approval was not found in the Region file. Mr. Guthrie asked if there was an approved extension in the Authorization and Remediation Tracking System (ARTS) database. Mr. Guthrie was provided with the approved extension letter which expired on December 20, 2021. EAPP staff conveyed that land clearing with heavy equipment causing soil disturbance would not have EAPP approval.

On February 22, 2023 at 4:15 PM, Mr. Guthrie arrived onsite unannounced and made the following observations (Attachment 8: Photo Documentation): the site was recently cleared of vegetation with soil disturbance (Photo 1); a silt fence and chain link fence was partially constructed around the geologic features at the southern portion the property, and an existing barrier fence was within the 50 foot protective buffer of the sinkhole (Photos 2, 3 and 7); stormwater drainage channels to the sinkhole were disturbed by the recent land clearing and trash was mixed with the disturbed soil (Photos 4-6); the construction access road from Anderson Mill Rd. transected the 50 foot protective buffer of the sinkhole (Photos 8 and 10); the construction road extended into an area within the barrier fence where construction equipment was staged (Photo 9); the area within the protectivebuffer around the solution enlarged fracture located just south of the sinkhole was disturbed by the heavy land clearing equipment evidenced by tracks in the soil (Photos 11-12); the excavator and skid steer used for land clearing were staged at the north entrance of the barrier fence (Photo 15); most of the northern portion of the property was cleared of vegetation, except for an area in the property northeast corner that was designated as protective buffer for a sensitive feature (Photo 14). A Construction General Permit (CGP) Construction Site Notice (CSN) was not posted on the site and there were no perimeter sediment controls installed. Mr. Guthrie departed the site at 5:30 PM and returned to the Region Office.

On February 23, 2023, Mr. Guthrie contacted the complainant and discussed the complaint's concerns.

On February 24, 2024, Mr. Guthrie queried TCEQ Central Registry (CR) Water Quality General Permits (WQGP) and noted that Ultr8 LLC obtained Construction General Permit (CGP) authorization on February 22, 2023 with a



disturbed area of 6.88 acres (Attachment 9: WQGP Report).

On February 24, 2023, Mr. Michael Cameron provided Mr. Guthrie requested aerial images generated from Sentinel Playground application under the Creative Commons Attribution-NonCommercial 4.0 International License. The date timeframe of the aerial images (December 15, 2022 to February 23, 2023) was prior to and after the recent site land clearing. The cleared land area was determined to be approximately 4.5 acres using Google Earth area measuring tool on the aerial image dated by January 23, 2023 (Attachment 10: Aerial Image Exhibit). Mr. Guthrie noted that land clearing construction activity, which began during January 2023 commenced prior to CGP authorization.

On March 7, 2023, Mr. Guthrie contacted COA Inspector, Mr. Michael Bogard and discussed the site construction activity. Mr. Bogard conveyed that he issued the stop order on the construction activity until COA issued an approved site plan extension. Mr. Bogard conveyed that the only construction activity currently allowed by COA is installation of protective controls around the Critical Environmental Features (CEF) and debris and trash removal without additional soil disturbance. Mr. Guthrie informed Mr. Bogard that the EAPP approval expired and the CGP authorization was obtained after the land clearing construction activity commenced. Consequently, alleged violations were documented for failing to have EAPP approval and for failing to have CGP authorization prior to commencing construction activities. Mr. Guthrie asked Mr. Bogard for his developer contact information. Mr. Bogard provided the phone number of the Project Manager, Mr. Sean Blanchard. On March 7, 2023, Mr. Guthrie emailed to Mr. Bogard a summary of Mr. Guthrie's and Mr. Bogard's phone discussion (Attachment 11: Email).

On March 8, 2023, Mr. Guthrie contacted Mr. Blanchard and discussed the complaint and investigation at the Marquis Ranch development. Mr. Guthrie conveyed he noted that most of the site was disturbed by the land clearing equipment to include the sensitive feature protective buffers for on the southern portion of the property. Mr. Guthrie asked when land clearing on the site commenced. Mr. Blanchard replied that surveying and tree marking began in December 2022, and land clearing began in January 2023. Mr. Blanchard conveyed that a skid steer was used to remove debris and trash from the protective buffers to prevent his workers from having contact with hypodermic needles in the trash near the features. Mr. Blanchard conveyed that people experiencing homelessness were camping and generating trash around the sensitive features.

Mr. Guthrie conveyed that the CGP Notice of Intent (NOI) was submitted after the land clearing construction activity commenced. Mr. Guthrie conveyed that he noted during the site investigation that the CSN was not posted and perimeter sediment controls were not installed according to CGP requirements. Mr. Blanchard conveyed that B Wise Consulting, Inc. (B Wise) submitted the NOI and was contracted to conduct site inspections.

Mr. Blanchard conveyed that he was instructed by the COA Inspector to not conduct activity on the site other than installing the silt fence and chain link fence around the sensitive feature, debris removal and re-establishment of natural vegetation in the buffer areas. Mr. Blanchard conveyed that site grading and water quality pond excavation would begin after their site plan extension was approved by COA. Mr. Guthrie conveyed that a WPAP application approval is required for the proposed project prior to commencing any additional construction activity. Mr. Guthrie advised Mr. Blanchard to have the Civil Engineer contact the EAPP regarding the required WPAP application approval for the proposed construction project. Mr. Guthrie also advised Mr. Blanchard to consult B Wise regarding CGP Stormwater Pollution Prevention Plan (SWP3) implementation on the site.

Mr. Guthrie informed Mr. Blanchard that the EAPP approval was expired and the CGP authorization was obtained after the land clearing construction activity commenced. Consequently, AVs were documented for failing to have EAPP approval and for failing to have CGP authorization prior to commencing construction activities. Mr. Guthrie conveyed that an EIF would be emailed to Mr. Blanchard describing the investigation findings.

Mr. Guthrie asked Mr. Blanchard about the current site plan that was submitted to COA for approval. Mr. Blanchard conveyed that the current site plan was for proposed construction of an apartment complex.

On March 9, 2023, an EIF was emailed to Mr. Blanchard describing the alleged violations for failure to obtain EAPP approval and failure to obtain a CGP prior to commencing construction activities. Mr. Guthrie conveyed in the email that the AVs would be referred to the TCEQ Enforcement Division, and a NOE would be issued. Site photos and the WQGP report were attached to the email (Attachment 12: Email with EIF).

On April 12, 2023, Mr. Guthrie contacted Mr. Andrey Derevianko and informed him of the complaint



investigation and the investigation findings. Mr. Derevianko conveyed that he was meeting with Mr. Blanchard to discuss Marquis Ranch construction permitting issues. Mr. Guthrie asked Mr. Derevianko for his email address. Mr. Derevianko conveyed that he would call Mr. Guthrie back with his email address when he arrived back at his office.

On April 13, 2023, Mr. Blanchard contacted Mr. Guthrie and conveyed he was returning Mr. Derevianko's call. Mr. Guthrie asked Mr. Blanchard how Mr. Andrey Derevianko was related to Shaila Derevianko. Mr. Blanchard conveyed that Shaila Derevianko is Mr. Andrey Derevianko's wife. Mr. Blanchard conveyed that he reported directly to Mr. Derevianko. Mr. Guthrie conveyed that Shaila Derevianko was listed as the Manager and Director of Ultr8, LLC in TSOS. Consequently, Shaila Derevianko would be the mail contact for the NOE.

Mr. Guthrie requested the current site plan that was submitted to COA. Mr. Blanchard conveyed that he would email the Marquis Ranch Self Storage -Austin site plan to Mr. Guthrie. Mr. Guthrie asked what happened to the Ultr8 apartment complex site plan. Mr. Blanchard replied that Ultr8 recently reverted to the previously approved self-storage site plan to facilitate the COA approval. Mr. Blanchard conveyed that Ultr8 currently intends to only construct an entrance from Anderson Mill Rd. at the southwest corner of the property, then sell the property. Mr. Blanchard provided Mr. Derevianko's email address at Mr. Guthrie's request.

On April 13, 2023, Mr. Guthrie forwarded to Mr. Derevianko the email with the EIF that was sent to Mr. Blanchard. Mr. Guthrie conveyed that Shaila Derevianko would be the mail contact for the NOE. Mr. Guthrie asked Mr. Derevianko's relationship to Shaila Derevianko and asked for Mr. Derevianko's company title (Attachment 13: Email). Mr. Guthrie did not receive a return email or return call from Mr. Derevianko.

On April 14, 2023, Mr. Guthrie received emails from Mr. Blanchard that included a cover letter and comment response letter to COA Development Services Department, and site plans (Attachment 14: Email with Documents). Mr. Guthrie reviewed the attached documents and noted that the comment response letter indicated the extension requested was for the previously approved self-storage facility rather than the previous site plan correction for the change in use to residential condominiums. The site plans were for Marquis Ranch Self Storage - Austin.

#### CONCLUSION

A NOE was issued to the Ultr8, LLC Director, Ms. Shaila Derevianko.

**NOE Date: 4/24/2032**

#### OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF ENFORCEMENT

**Track Number: 841373**

**Compliance Due Date: To Be Determined**

**Violation Start Date: Unknown**

**30 TAC Chapter 213.4(a)(1)**

#### Alleged Violation:

**Investigation: 1873644**

**Comment Date: 04/19/2023**

Failure to have approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity.

During the site investigation February 22, 2023, the Investigator noted that the 7.8-acre property at 9718 Anderson Mill Rd. located within the Edwards Aquifer Protection Program (EAPP) Recharge Zone (RZ) was partially cleared of vegetation with soil disturbance to include areas within the sensitive feature protective buffers located on the southern portion of the property fronting Anderson Mill Rd. The disturbance area was determined to be approximately 4.5 acres and land clearing began in January 2023 based on recent satellite images and Project Manager statement.

During subsequent file review, the Investigator noted that the most recent Water Pollution Prevention Plan



(WPAP) approval for Marquis Ranch Self Storage-Austin (EAPP ID: 11000672) was issued on June 30, 2017, and subsequently received extension request approval on July 2, 2021. The extension request expired on December 30, 2021.

Commercial development to include land clearing with soil disturbance within the EAPP RZ requires an active WPAP approval, prior to commencing regulated activity.

**Recommended Corrective Action:** Obtain WPAP approval for the Ultr8, LLC construction activity at the site.

Final compliance will be determined by the TCEQ Enforcement Division.

**ALLEGED VIOLATION(S) NOTED AND RESOLVED  
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

**Track Number:** 841281

**Resolution Status Date:** 4/19/2023

**Violation Start Date:** Unknown

**Violation End Date:** 2/22/2023

**30 TAC Chapter 281.25(a)(4)**

**Alleged Violation:**

**Investigation:** 1873644

**Comment Date:** 04/19/2023

Failure to have a Construction General Permit (CGP) prior to commencing construction activities.

**Recommended Corrective Action:** Failure to have a Construction General Permit (CGP) prior to commencing construction activities.

During the investigation on February 22, 2023, the Investigator noted that the property was partially cleared with soil disturbance. A Construction Site Notice (CSN) posting and downslope perimeter controls were absent from the site. The disturbance area was determined to be approximately 4.5 acres and land clearing began in January 2023 based on recent satellite images and Project Manager statement. The CGP Notice of Intent indicates that the disturbed area will be 6.88 acres.

CGP authorization is required prior to commencing soil disturbing construction activities.

**Resolution:** CGP authorization for the construction activity was effective on February 22, 2023.

Signed



Environmental Investigator

Date April 19, 2023

Signed



Supervisor

Date 4/21/2023

**Attachments: (in order of final report submittal)**☐ Enforcement Action Request (EAR)☒ Letter to Facility (specify type) : NOE☐ Investigation Report☐ Sample Analysis Results☐ Manifests☐ Notice of Registration☐ Maps, Plans, Sketches☒ Photographs☒ Correspondence from the facility☒ Other (specify) :Refer to the List of Attached Files.**List of Attached files**

Att 12 Email with EIF.pdf

Att 13 Email.pdf

Att 1 WCAD Property Details.pdf

Att 14 Email with Documents.pdf

Att 4 Letter to State Representative.pdf

Att 2 TSOS Business Inquiry.pdf

Att 3 Geologic Area Maps.pdf

Att 5 GA Addendum.pdf

Att 9 WQGP Report.pdf

Att 10 Aerial Image Exhibit.pdf

Att 7 Extension Request Approval Letter.pdf

Att 8 Photo Documentation.pdf

Att 6 WPAP Approval Letter.pdf

Att 11 Email.pdf