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/1

**APPEAL OF AN ADMINISTRATIVE EXTENSION ON A SITE PLAN  
APPLICATION**

**CASE NUMBER:** SP-2012-0382D      **ZAP COMMISSION DATE:** July 16, 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 787617

**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 787617

**CASE MANAGER:** Christine Barton-Holmes, LEED AP, 974-2788  
[Christine.Barton-Holmes@AustinTexas.gov](mailto: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.

C2  
2

**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 JULY 16 HEARING: the case was postponed to allow for review by the full Commission.
- UPDATE FOR JUNE 18 HEARING: the case was postponed to allow for review by the full Commission.
- 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.

C2  
3

- 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.
  - 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 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**

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

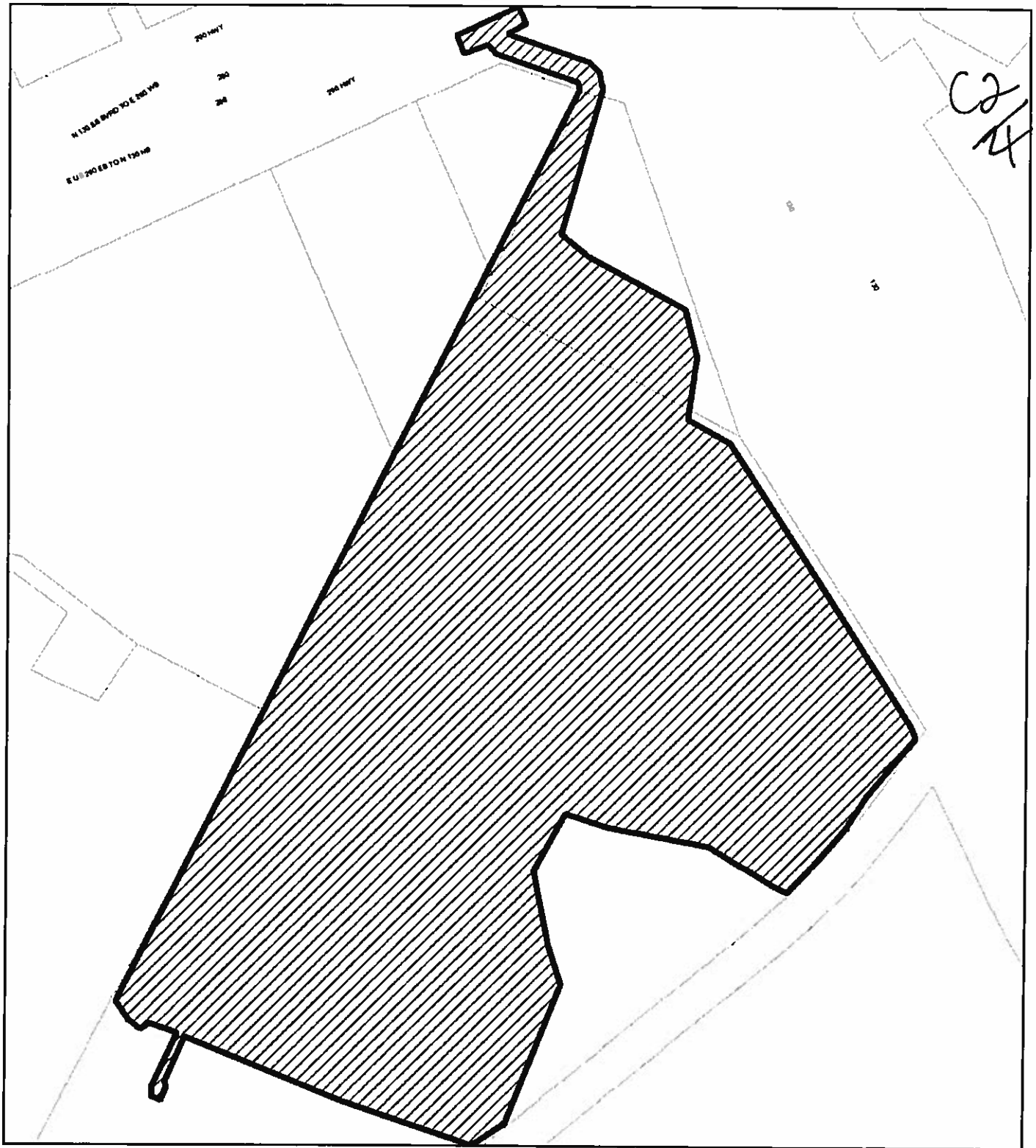
**SURROUNDING CONDITIONS: Zoning/ Land Use**



**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)



-  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.

November 1, 2012

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

C2/5

Subject: Engineers Summary Letter

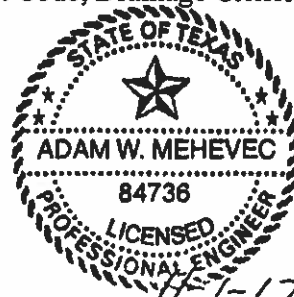
Project: Republic Services of Austin  
Recycling Center Grading Project  
10001 E US 290 HWY, Austin, Texas

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. Natural and traditional character of land and waterways: 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



11-7-12  
Firm F-36



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

C2/6

## 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. SP-2012-0382D DATE APPEAL FILED 5/3/14  
PROJECT NAME Republic Services YOUR NAME John M. Joseph  
of Austin-Recycling Center SIGNATURE [Signature]  
PROJECT ADDRESS 10001 E Hwy 290, YOUR ADDRESS 901 South Mopac,  
Austin, TX 78653 Bldg 1, Suite 500, Austin, TX 78746  
APPLICANT'S NAME BFI Waste Systems YOUR PHONE NO. (512) 541-3593 WORK  
CITY CONTACT Christine Barton-Holmes ( ) HOME

**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).

**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. (Austin HB Residential, Ltd.)
- ☐ 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)

- ☐ 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: \_\_\_\_\_

Date of Decision: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_  
Date of Decision: 4/22/13  
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

# COATS | ROSE

*A Professional Corporation*

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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. 6<sup>th</sup> Street, Suite 420 Austin, Texas 78703  
Phone: 512-469-7987 Fax: 512-469-9408  
Web: [www.coatsrose.com](http://www.coatsrose.com)

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS  
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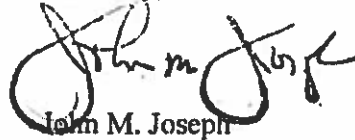
May 3, 2013  
Page 2

C2/4

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.

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*A Professional Corporation*

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.

1. 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; [jmccullough@galesi-austin.com](mailto:jmccullough@galesi-austin.com); and
2. 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](mailto:jmjoseph@coatsrose.com).

Thank you for your attention to this matter.

Sincerely,



John M. 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 Fax: 512-469-9408  
Web: [www.coatsrose.com](http://www.coatsrose.com)

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