



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Applicant: Pillar Income Asset Management

Project No.: SWF-2001-00023

Date: October 4, 2012

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. David Madden

Phone Number: 817-886-1741

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of a 138-acre commercial development in Farmers Branch, Dallas County, Texas.

APPLICANT: Mr. R.L. Lemke
Pillar Income Asset Management
1603 LBJ, Suite 800
Dallas, Texas 75234

AGENT: Ms. Terri Symonds
Symonds Ecology, Ltd.
1506 Audrey
Garland, Texas 75040

APPLICATION NUMBER: SWF-2001-00023

DATE ISSUED: October 4, 2012

LOCATION: The proposed commercial development is located on a 138-acre tract of land at the southeast corner of the intersection of Interstate Highway 635 (LBJ Freeway) and Luna Road in Farmers Branch, Dallas County, Texas. The proposed project is located approximately at 32.92° latitude and -96.93° longitude on the Carrollton 7.5 minute USGS quadrangle map in the USGS Hydrologic Unit 12030103 (Sheets 1-4 of 5).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: This tract of land has had several proposals for development through the years. The U.S. Army Corps of Engineers (USACE) issued a permit to the Manhattan Land Company in 1988 for development of this property which expired December 31, 1991 without any work being completed. In 2005, Basic Capital Management was issued a permit which expired December 31, 2010. The project has since been re-designed to reduce the amount of impacts to jurisdictional waters of the United States from 14.30 acres as originally permitted in 2005 to 5.07 acres. The applicant proposes to remove portions of the 138-acre tract of land from the 100-year floodplain for commercial development (Sheet 5 of 5). The proposed project would involve the excavation of approximately 875,000 cubic yards (CY) to expand the existing 7.5-acre pond to approximately 35.3 acres with approximately 163,600 CY of the excavated material being used to fill 798 linear feet (LF) (0.34 acre) of an ephemeral stream and 4.73 acres of the northern on-channel pond for a total impact of 5.07 acres of waters of the

United States. The project would avoid impacts to Farmers Branch Creek and portions of an unnamed ephemeral stream.

The proposed project would create developable commercial property while resulting in a 2.35% increase of 100 year valley storage and a 9.4% reduction in the standard project flood (SPF) storage.

EXISTING CONDITIONS

The 138-acre tract of land was formerly a sand and gravel excavation site and is currently undeveloped. The northern half of the project site consists primarily of bermuda grass (*Cynodon dactylon*) fields with boxelder (*Acer negundo*), green ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*) and black willow (*Salix nigra*) around the waterways.

Farmers Branch Creek is a perennial stream that enters the project site from under bridges for IH-635 and continues 1,142 linear feet to Luna Road, ultimately flowing into the Elm Fork Trinity River. The creek averages 30 feet-wide with banks covered in common grasses and forbs. A maintained levee is on the north bank. There are no wetlands adjacent to the creek.

The ephemeral tributary is on the northeastern part of the property and is characterized by a corridor of American elm, green ash, black willow, Eve's necklace (*Sophora affinis*), cardinal flower (*Lobelia cardinalis*), goldenrod (*Solidago* sp.), bushy bluestem (*Andropogon glomeratus*) and sump weed (*Iva annua*) along most of its length. This tributary is approximately 1,348 linear feet and has an average width of 21 feet (0.65 acre).

The two existing ponds, abandoned remnants of the sand and gravel activity, are located on the property. The smaller north pond is approximately 4.7 acres in size and is characterized by 50% open water, 40% vegetated shallows and 10 % fringe wetlands. Much of the shoreline along the pond contains American elm, black willow, green ash, buttonbush (*Cephalanthos occidentalis*), false indigo (*Amorpha fruticosa*), Baccharis (*Baccharis* sp.), rough-leaved dogwood (*Cornus drummondii*), and elderberry (*Sambucus canadensis*). Common herbaceous species include cattail (*Typha* sp.), American waterwillow (*Justica americana*), climbing hempweed (*Mikania scandens*), and boneset (*Eupatorium serotinum*).

The larger 7.5 acre south pond is primarily open water with a narrow vegetated shallow around the perimeter. The ephemeral tributary connects the two ponds. This pond receives water from overland flow, from the drainage channel to the south and from backwater of Farmers Branch. The banks are mostly earthen along with areas of rubble. Along the eastern and west shorelines, boxelder, pecan, American elm and black willow are found. Similar vegetation is found around the perimeter as the smaller pond.

To compensate for the unavoidable adverse impacts to waters of the United State, the applicant proposes a combination of on-site mitigation for the pond impacts and the purchase of the

appropriate number of ephemeral stream credits from the Trinity River Mitigation Bank for unavoidable impacts to the ephemeral stream. The expansion of the South Pond to approximately 35.3 acres would provide on-site mitigation through the increase in open water/shallow water and fringe habitat along the expanded perimeter of the pond.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION:

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification

under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if they may occur in the project area. The proposed project is located in Dallas County where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*), bald eagle (*Haliaeetus leucocephalus*), piping plover (*Charadrius melodus*), golden-cheeked warbler (*Setophaga chrysoparia*) and Black-capped vireo (*Vireo atricapillus*) are known to occur or may occur as migrants. The whooping crane, least tern, golden-cheeked warbler and Black-capped vireo are endangered species and the bald eagle and piping plover are threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

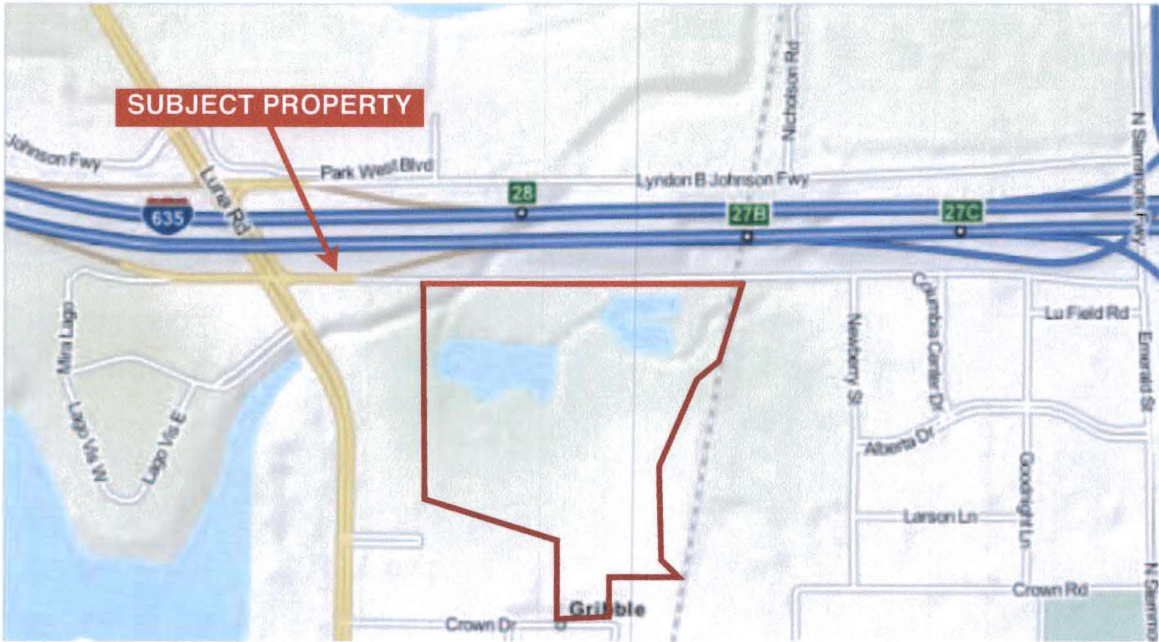
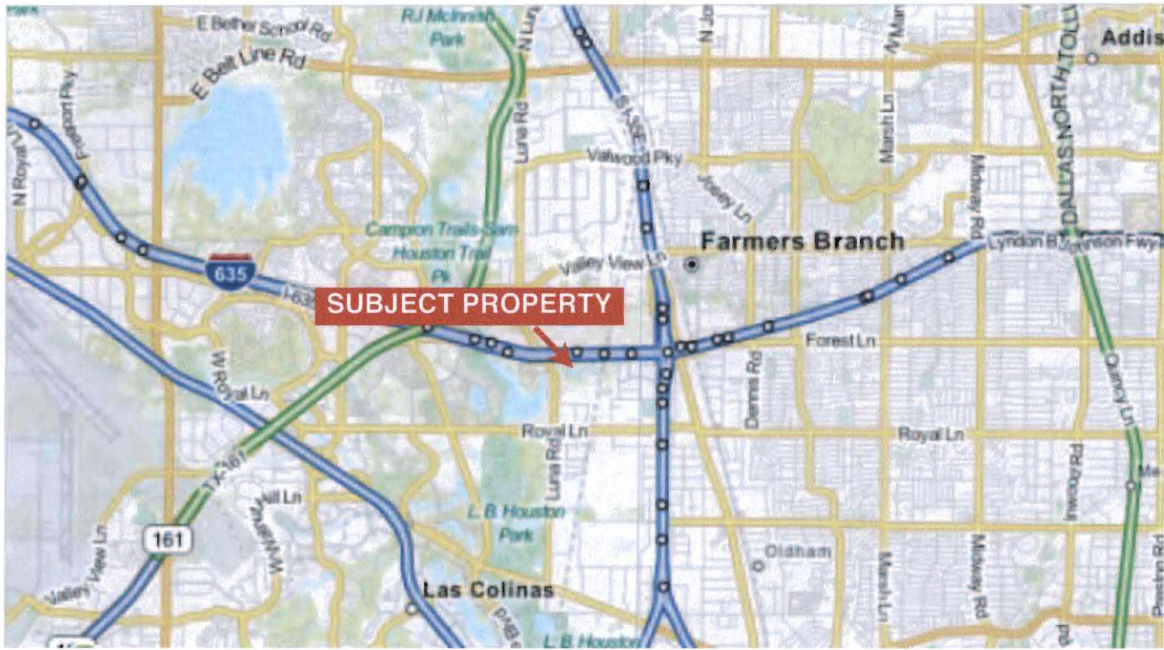
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his

permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before November 3, 2012, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



LOCATION MAP



1506 Audrey Dr.
Garland, TX
75040
(972) 496-4701
(972) 414-0451 (fax)

**MANHATTAN
IP 200100023
DALLAS, TEXAS**

Job No. 46-01001

JUNE 2012

Sheet 1 of 8

Copyright NCTCOG



SUBJECT PROPERTY

Aerial Photography



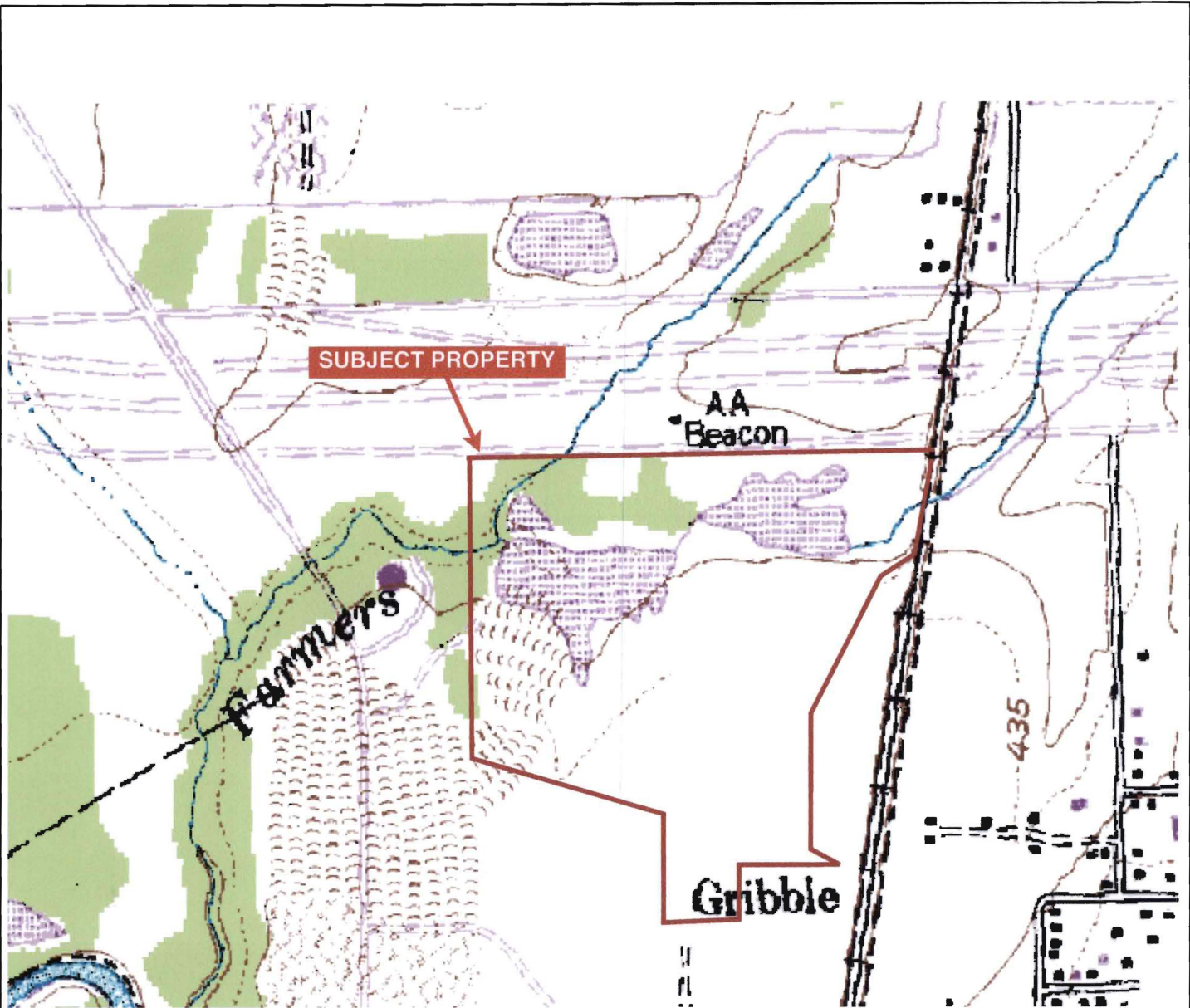
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JUNE 2012

Sheet 2 of 8



USGS 7.5 MINUTE QUADRANGLE MAP CARROLLTON, TX



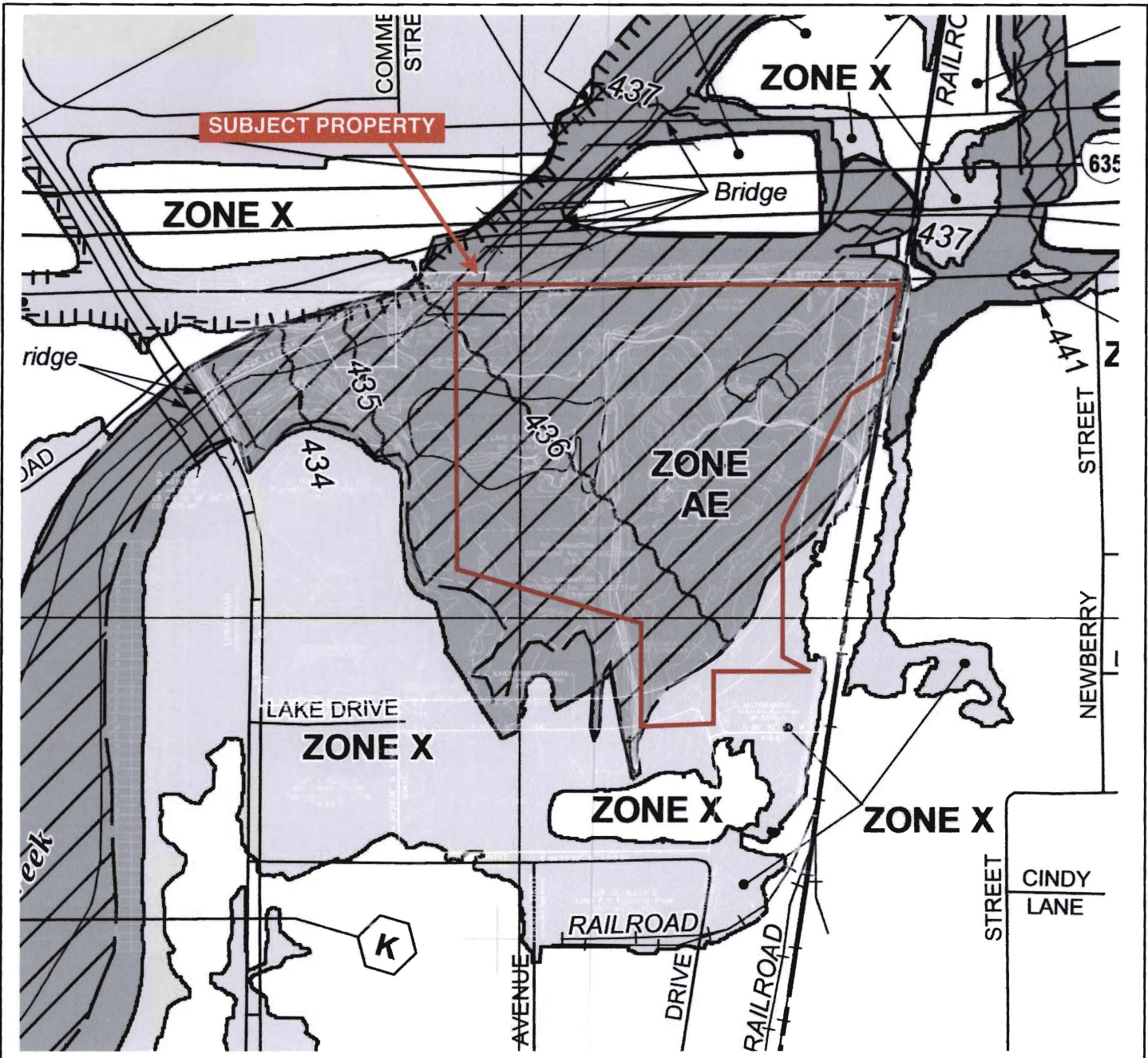
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Job No. 46-01001

April 2012

Sheet 3 of 8



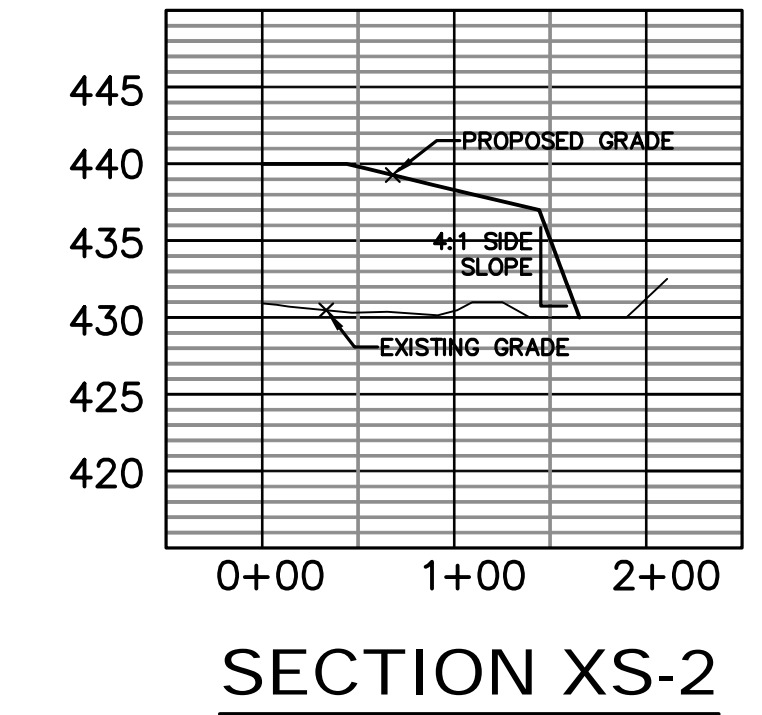
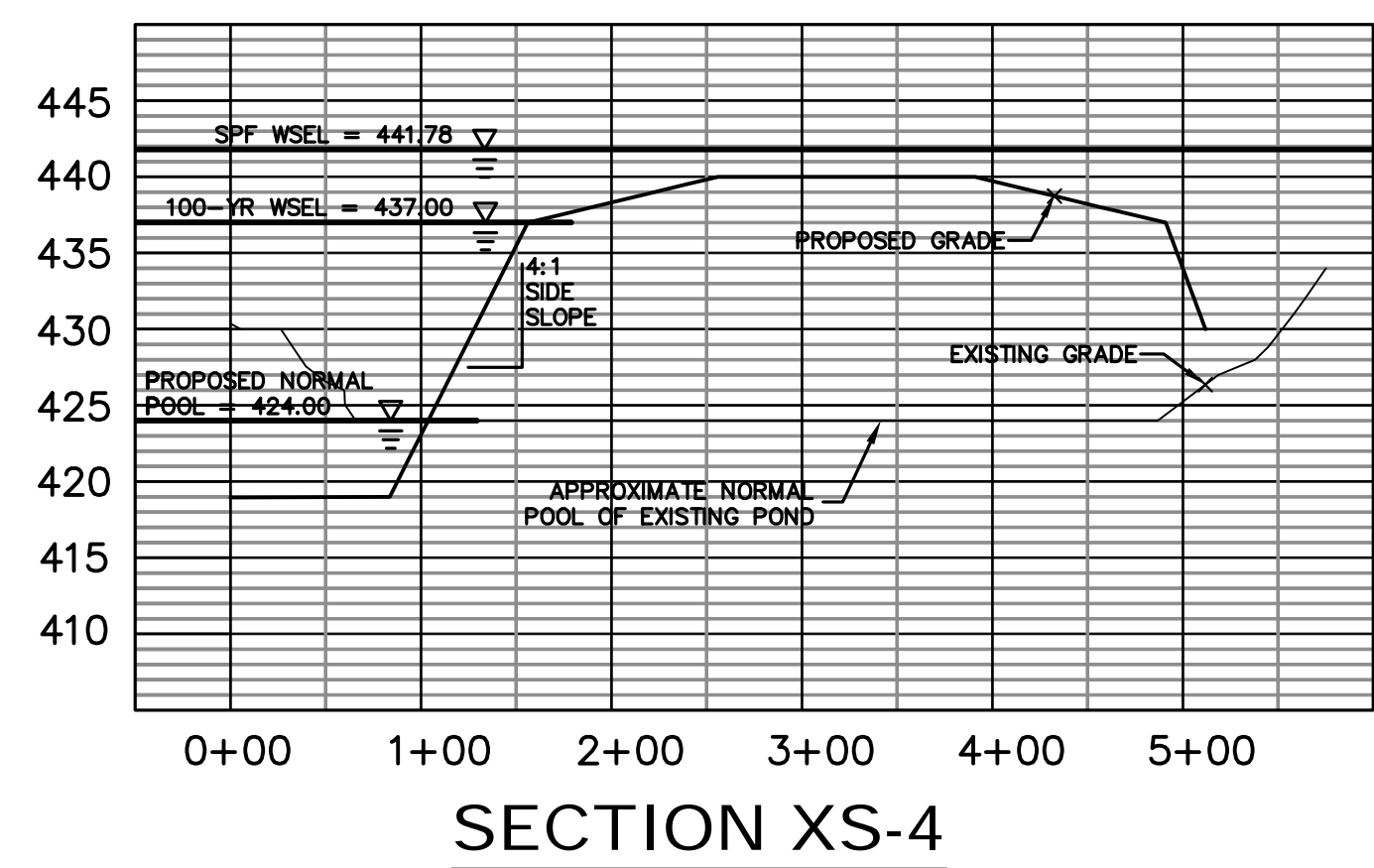
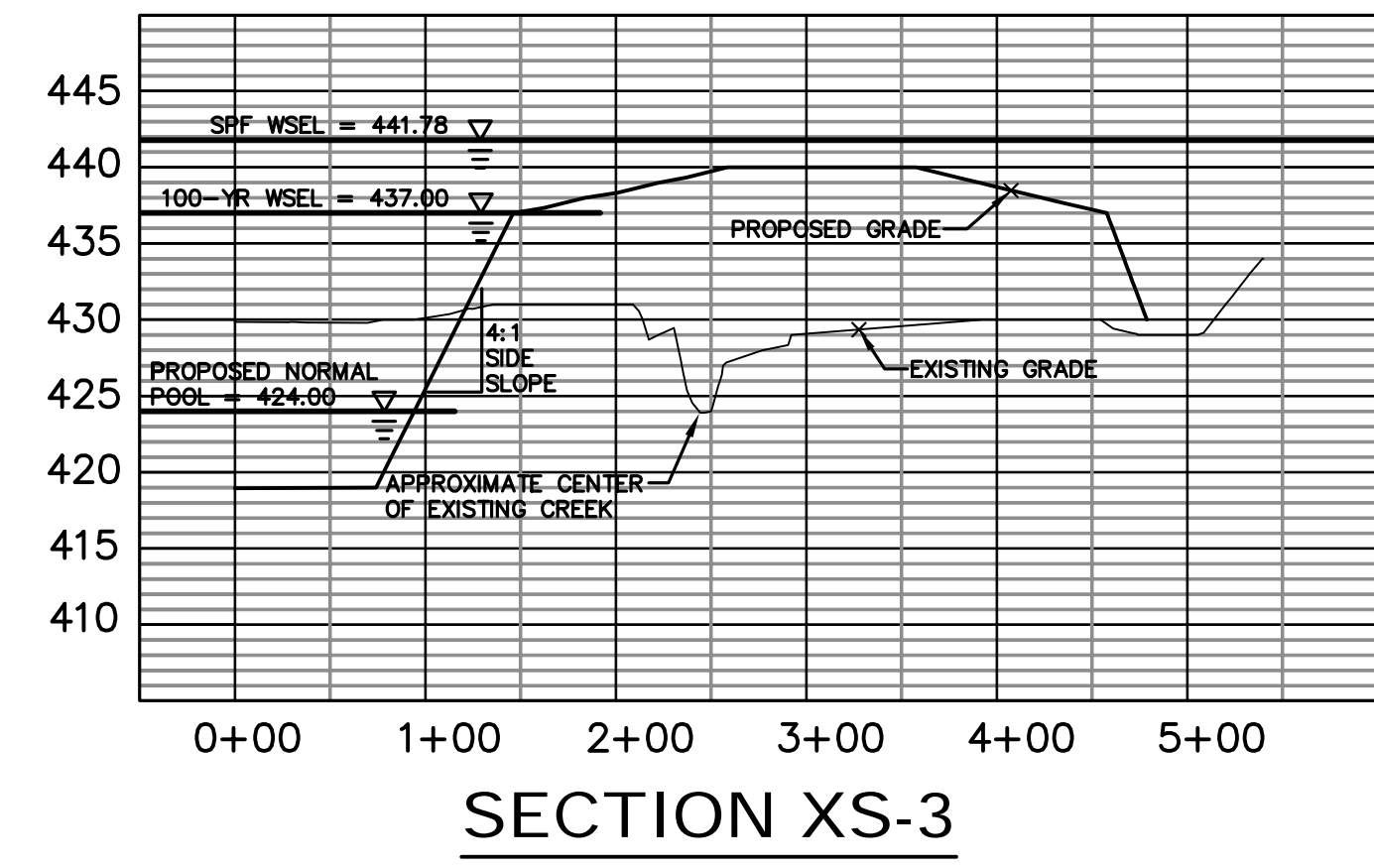
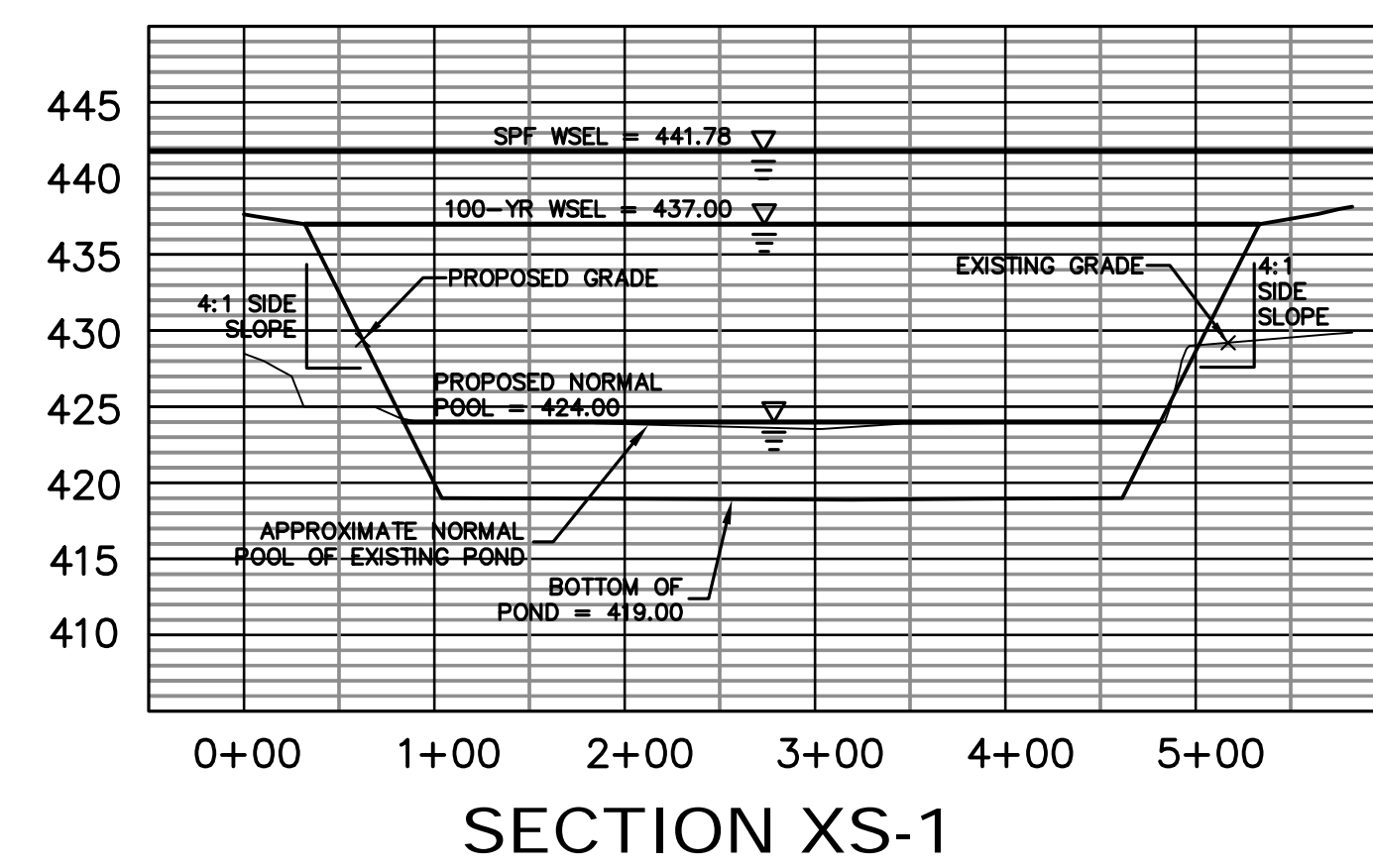
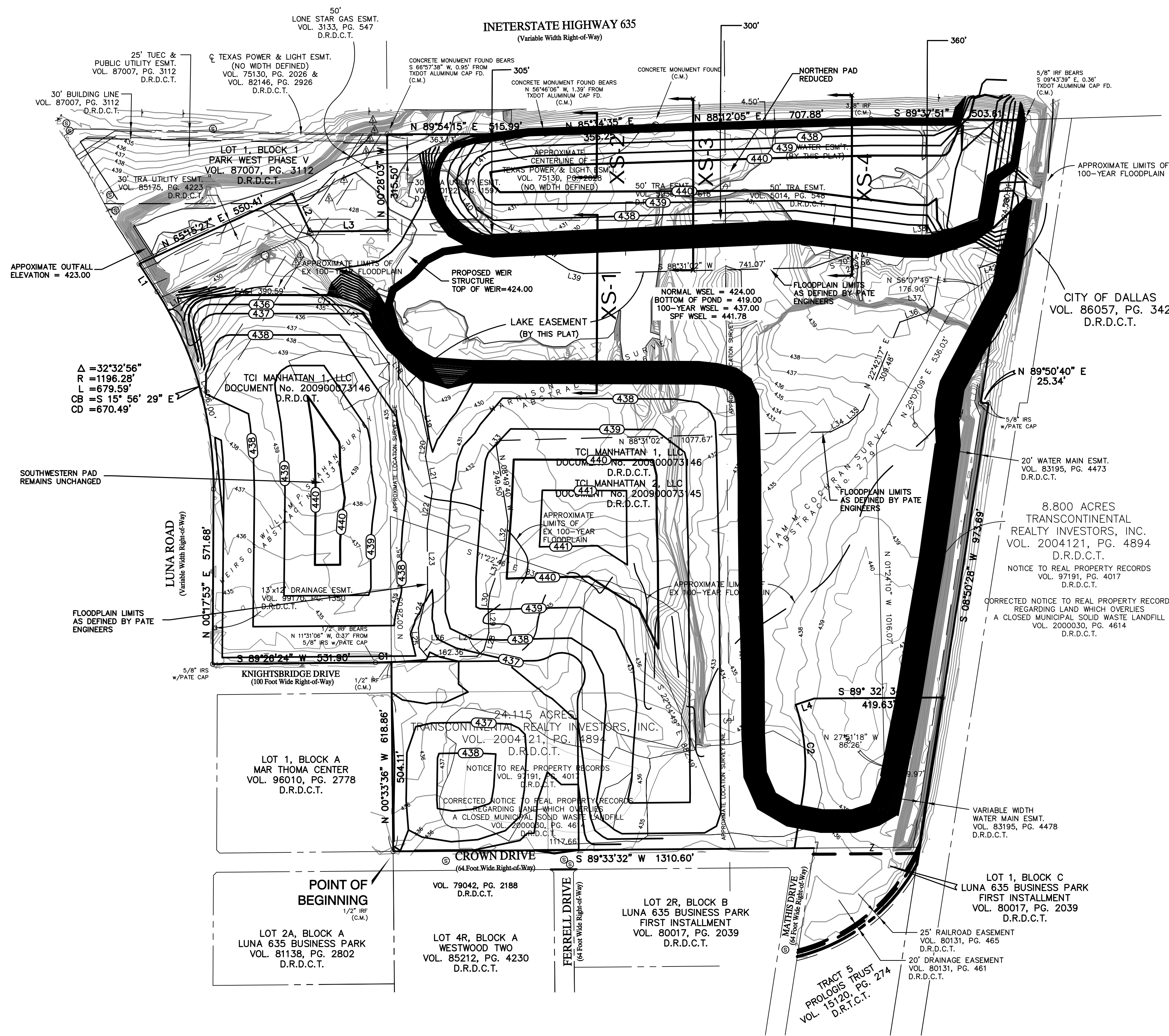
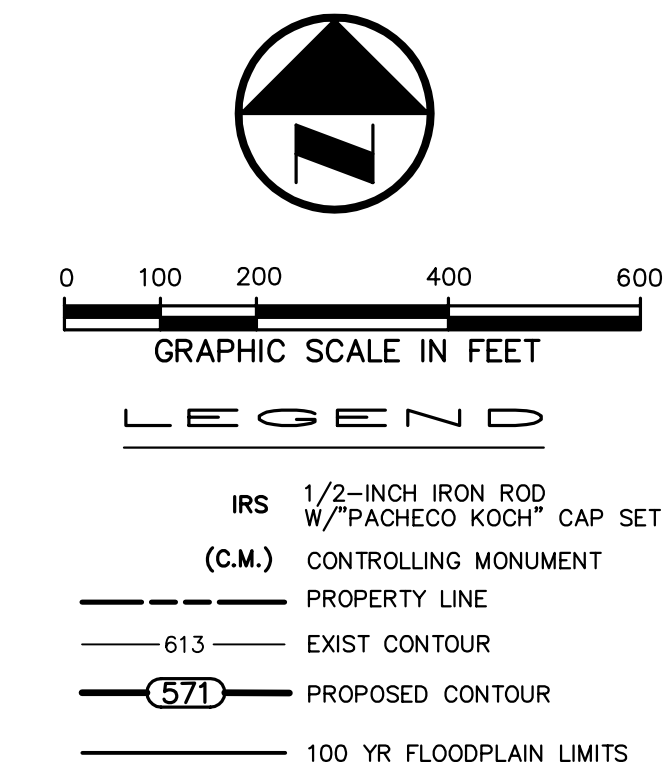
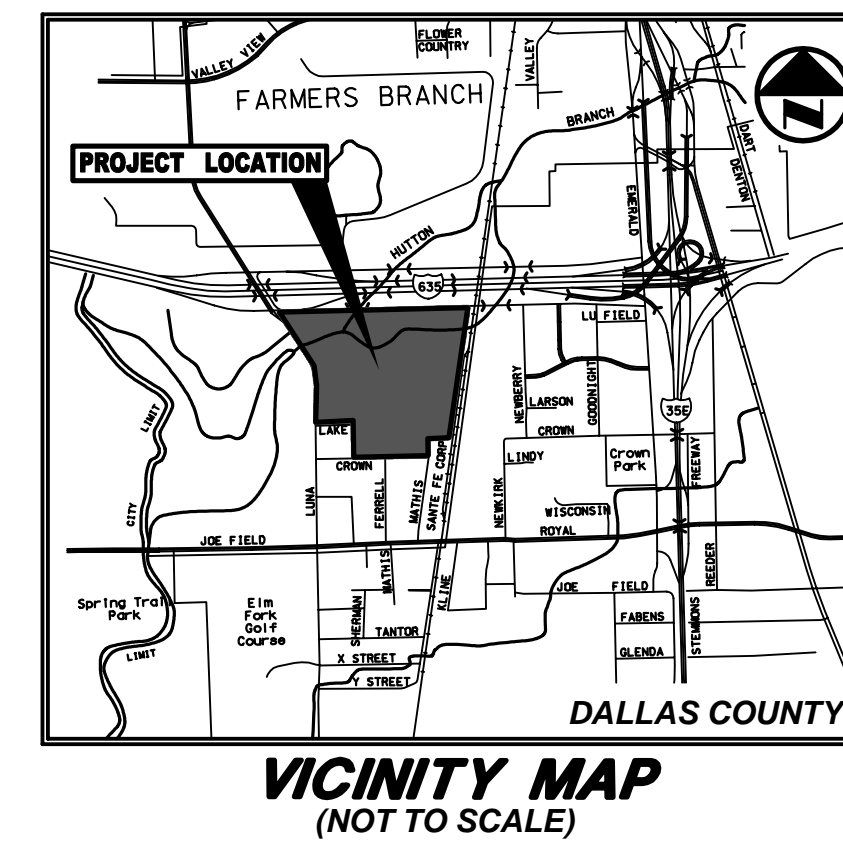
FEMA FIRM FLOODPLAIN MAP



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MANHATTAN
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DALLAS, TEXAS

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|------------------|
| Job No. 46-01001 |
| June 2012 |
| Sheet 4 of 8 |



OPTION 1 NARRATIVE:

ANY MODIFICATIONS TO THE SITE CANNOT REDUCE THE AMOUNT OF VALLEY STORAGE FOR THE 100-YEAR FLOOD. THE STANDARD PROJECT FLOOD STORAGE MAY BE REDUCED BY A MAXIMUM OF 15% BASED ON TOPOGRAPHIC INFORMATION PROVIDED BY THE CLIENT. EXISTING CONDITIONS OF THE 100-YEAR AND SPF FLOOD EVENTS WAS DETERMINED AS A BASELINE FOR DESIGN.

PATE ENGINEERS PROVIDED A DESIGN DATED 04/22/2010. THIS DESIGN INCLUDED A WET POND WITH A NORMAL SURFACE ELEVATION OF 411.00. AN OUTFALL PIPE WAS DESIGNED TO DISCHARGE DOWNSTREAM OF THE LUNA ROAD BRIDGE CROSSING. AFTER REVIEW OF THE PATE ENGINEERING PLANS, IT WAS DETERMINED THERE WAS NOT SUFFICIENT STORAGE FOR EITHER OF THE STORM EVENTS. MODIFICATIONS WERE MADE TO PROVIDE REQUIRED STORAGE.

IN THIS CONCEPT DESIGN, THE CLIENT REQUESTED THE SOUTHWESTERN LOT REMAIN UNCHANGED FROM WHAT IS SHOWN ON THE PATE ENGINEERING PLANS. TO AVOID BORING THE OUTFALL PIPE UNDER LUNA ROAD, THE OUTFALL WAS MOVED FURTHER UPSTREAM, INSTEAD OF AN OUTFALL ELEVATION OF 408, THE FLOWLINE OF THE PROPOSED 60" OUTFALL IS 423.90. DUE TO THE INCREASE IN OUTFALL ELEVATION, THE POND NORMAL WATER SURFACE WAS RAISED TO 424.00. THE POND WAS THEN EXPANDED TO PROVIDE THE NECESSARY VALLEY STORAGE.

NOTE THAT FURTHER REVISIONS TO THE POND CAN MAXIMIZE USABLE LAND.

REFER TO THE TABLE BELOW FOR APPROXIMATE VOLUMES.

ISSUED FOR PRELIMINARY PRICING PURPOSES ONLY
(SUBJECT TO REVISION PRIOR TO CONSTRUCTION)

THESE DOCUMENTS HAVE BEEN PREPARED BY THE ENGINEER WITH THE INTENT OF COMPLYING WITH ALL CITY STANDARD REQUIREMENTS. THESE DOCUMENTS HAVE NOT BEEN APPROVED AND RELEASED FOR CONSTRUCTION BY THE CITY AS OF THIS DATE AND, THEREFORE, REVISIONS MAY BE REQUIRED PRIOR TO CONSTRUCTION. BY ANY USE OF THESE DOCUMENTS, THE USER AFFIRMS THEIR UNDERSTANDING OF THE PRELIMINARY STATUS OF THE PLANS AND THE POTENTIAL FOR REVISION PRIOR TO ANY CONSTRUCTION.

SITE INFORMATION:

| |
|--|
| 100-YEAR WSEL = 437.00 |
| SPF WSEL = 441.78 |
| EXISTING 100-YEAR STORAGE = 868,489 CY |
| EXISTING SPF STORAGE = 1,783,060 CY |
| PATE 100-YEAR STORAGE = 731,356 CY (15.8% REDUCTION) |
| PATE SPF STORAGE = 1,331,201 CY (25.3% REDUCTION*) |
| OPTION 1 100-YEAR STORAGE = 888,655 CY (2.3% INCREASE) |
| OPTION 1 SPF STORAGE = 1,614,953 CY (9.4% REDUCTION*) |
| *15% MAX REDUCTION ALLOWED FOR STANDARD PROJECT FLOOD |

EXISTING POND INFORMATION:

| |
|--|
| TOTAL ACRES OF EXISTING POND AFFECTED BY FILL: 4.73 ACRES |
| TOTAL ACRES OF EXISTING CREEK AFFECTED BY FILL: 0.34 ACRES |
| TOTAL LINEAR FOOTAGE OF EXISTING CREEK AFFECTED BY FILL: 798 LF. |

TOPOGRAPHIC SURVEY PREPARED BY:
PATE SURVEYORS.
MARK A. NACE, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5539
DATED: AUGUST, 2010

NOTE:
ELEVATIONS SHOWN HAVE NOT BEEN VERIFIED ON THE GROUND BY PACHECO KOCH AND ARE BASED ON A TOPOGRAPHIC SURVEY PROVIDED BY THE OWNER. CONTRACTOR IS TO CONFIRM EXISTING ELEVATIONS PRIOR TO COMMENCING WORK.

PRELIMINARY
NOT FOR CONSTRUCTION

THIS DOCUMENT IS ISSUED FOR THE PURPOSE OF SCHEMATIC REVIEW ONLY AND IS NOT INTENDED FOR PERMITTING, BIDDING, OR CONSTRUCTION PURPOSES.

PLANS PREPARED UNDER THE DIRECT SUPERVISION OF KYLE F. WHITTS, P.E.
TEXAS REGISTRATION NO. 101330
DATE: 05/11/2012

| NO. | DATE | REVISION |
|-----|------|----------|
| | | |

Pacheco Koch 8350 N. CENTRAL EXPWY, SUITE 1000
DALLAS, TX 75206 972.235.3031
TX REG. ENGINEERING FIRM F-469
DALLAS • FORT WORTH • HOUSTON TX REG. SURVEYING FIRM LS-100080-00

POND EXHIBIT 1
MERCER CROSSING
SOUTH POND REVISION

CITY OF FARMERS BRANCH, TEXAS

| DESIGN | DRAWN | DATE | SCALE | NOTES | FILE | NO. |
|--------|-------|----------|---------|-------|------|-----|
| KFW | GKH | MAY 2012 | 1"=200' | | | 1 |

KHARKINS 05/29/2012 7:01PM M:\DWG-24\2464-12.075\DWG\C3D\2464-12.075OPTION3.DWG

MERCER CROSSING - SOUTH POND