



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

# Public Notice

Applicant: Lennar Homes

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Project No.: SWF-2013-00265

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Date: October 29, 2013

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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. Darvin Messer

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Phone Number: 817-886-1744

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PUBLIC NOTICE

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

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 (WOUS) associated with the construction of Wyndale Meadows residential development, Lewisville, Denton County, Texas.

APPLICANT: Lennar Homes  
c/o David Aughinbaugh  
1707 Market Place Boulevard  
Irving, Texas 75063

APPLICATION NUMBER: SWF-2013-00265

DATE ISSUED: October 29, 2013

LOCATION: The proposed residential development and associated attendant features would be located on an unnamed tributary to Midway Branch southeast of SH 121 and north of Parker Road, Lewisville, Denton County, Texas (See attached Sheet 1 of 3). The project area is centered at approximately 33.048° latitude and -96.915° longitude on the Lewisville East 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 1203010501 – Timber Creek-Elm Fork Trinity River.

PROJECT DESCRIPTION: The applicant proposes to discharge 1,360 cubic yards of earthen fill into approximately 0.65 acre of WOUS, in conjunction with the construction of the residential development and associated attendant features (See attached Sheets 2 and 3 of 3). The need for the project is to provide additional single family residential units in Lewisville and southeastern Denton County.

WOUS located within the proposed project limits total approximately 0.65 acre of low-quality linear emergent wetland. Current site layout indicates a maximum of 231 building lots available within the proposed project area with necessary infrastructure and attendant features. Impacts to WOUS include grading for lots and road crossings, road crossings and conveyance of site drainage. Direct and permanent impacts to WOUS include 0.65 acre of low-quality linear emergent wetland.

The applicant evaluated alternative sites as part of their site selection process and chose the proposed project area due to (1) the limited supply of undeveloped parcels of the size necessary to make this type of development economically feasible; (2) the existence of a major thoroughfare fronting the project area (SH 121); (3) the presence of existing zoning for single

family residential, and (4) the projected housing growth demands. No other sites within the City of Lewisville or southeastern Denton County meet all or most of these selection criteria.

The applicant explored alternative subdivision layouts; however, due to the size of the parcel and the location of the project WOUS, none of the alternatives avoided the impacts to WOUS. Additionally, any impact minimization achieved utilizing alternative layouts removed too many building lots for the overall development to remain financially feasible.

Although the applicant considered these alternate configurations to avoid and minimize impacts to WOUS, the proposed project would result in the permanent loss of 0.65 acre of low-quality linear emergent wetland. To offset unavoidable adverse impacts to WOUS, the applicant proposes to purchase 1.3 wetland credits from Bunker Sands Mitigation Bank (0.65 acre X 2 credits/acre = 1.3 credits), which has a primary service area that includes the proposed project area.

**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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those that result in a direct impact of three acres or less of waters of the State or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices (BMPs) and other provisions designed to safeguard water quality. The USACE has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

**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 any may occur in the project area. The proposed project would be located in Denton County, Texas, where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*) and piping plover (*Charadrius melodus*) are listed as endangered. 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.

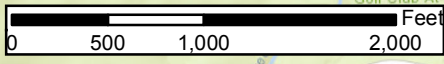
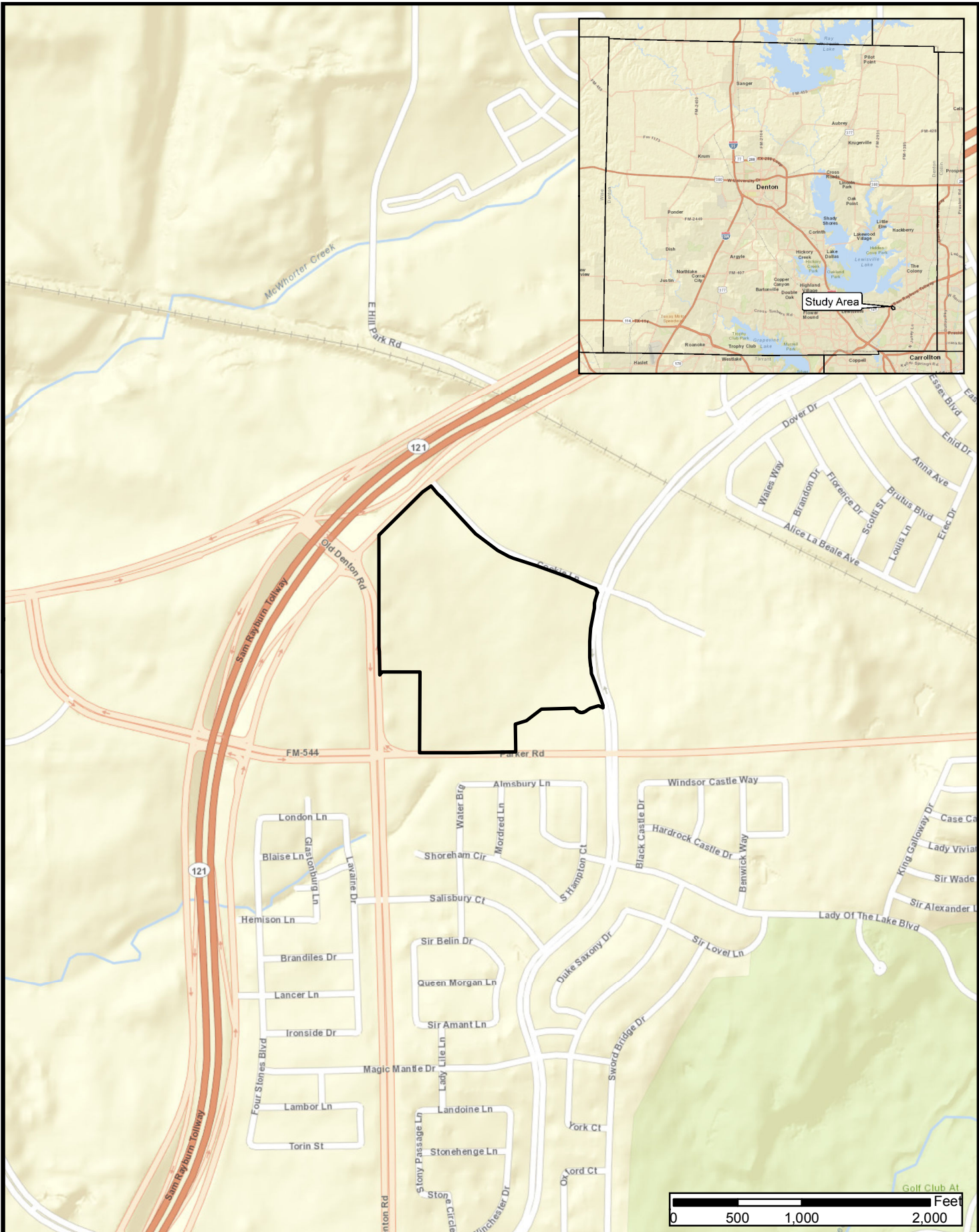
**FLOODPLAIN MANAGEMENT:** The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review 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 December 6, 2013, 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**



<b>SHEET</b> <b>1</b> <b>OF 3 SHEETS</b>	DATE:	10/18/2013
	DESIGN:	RKB
	DRAWN:	RKB
	CHECKED:	LDC
	KHA NO.:	063451301

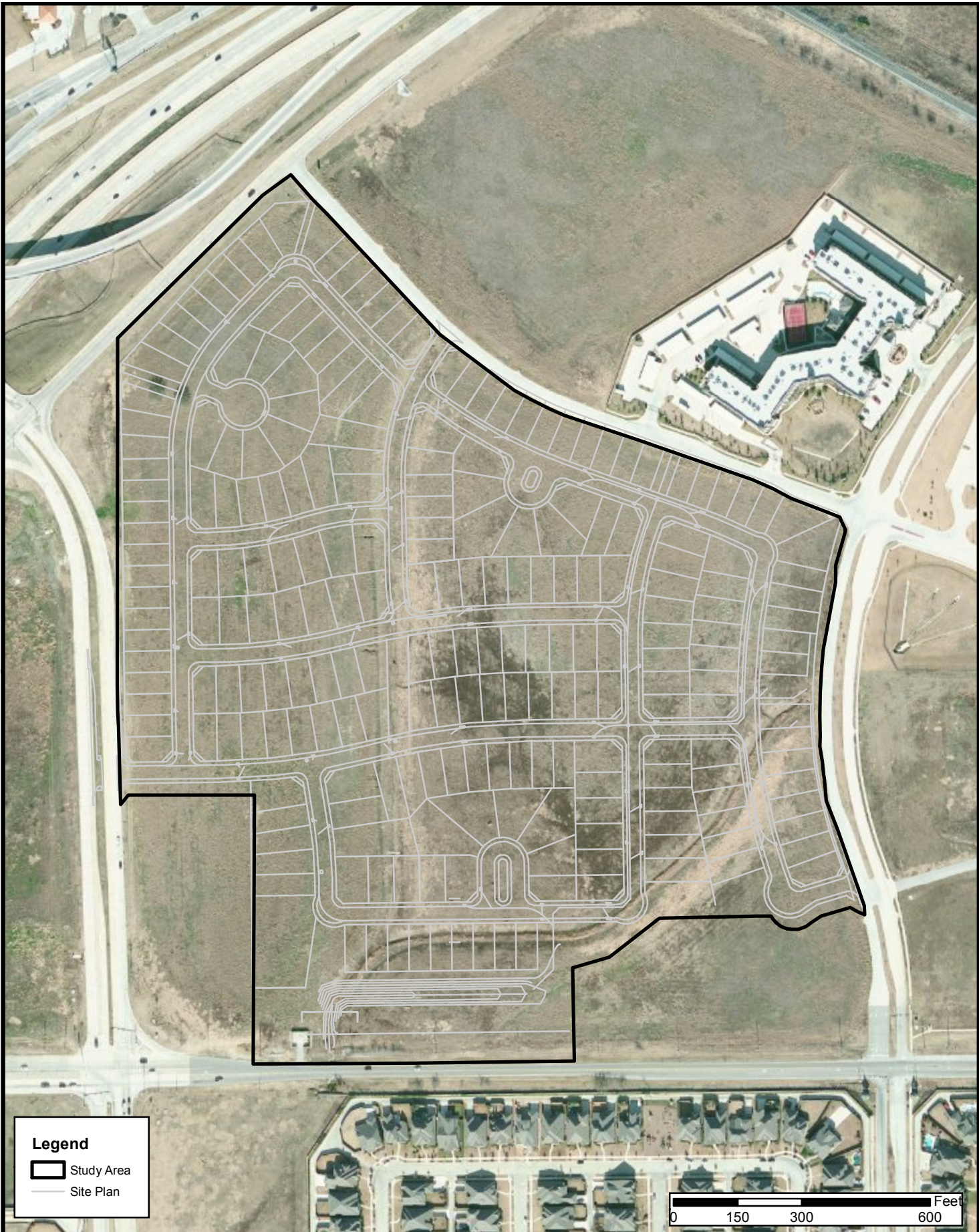
**Vicinity Map**

**Wyndale Meadows**  
**SWF-2013-00265**


Lewisville, Denton County, Texas




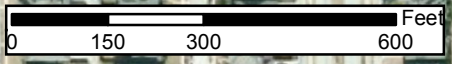
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**Legend**

 Study Area

 Site Plan

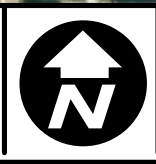



<b>SHEET</b>  <b>2</b>  OF 3 SHEETS	DATE:	10/18/2013
	DESIGN:	RKB
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**Recent Aerial Image**

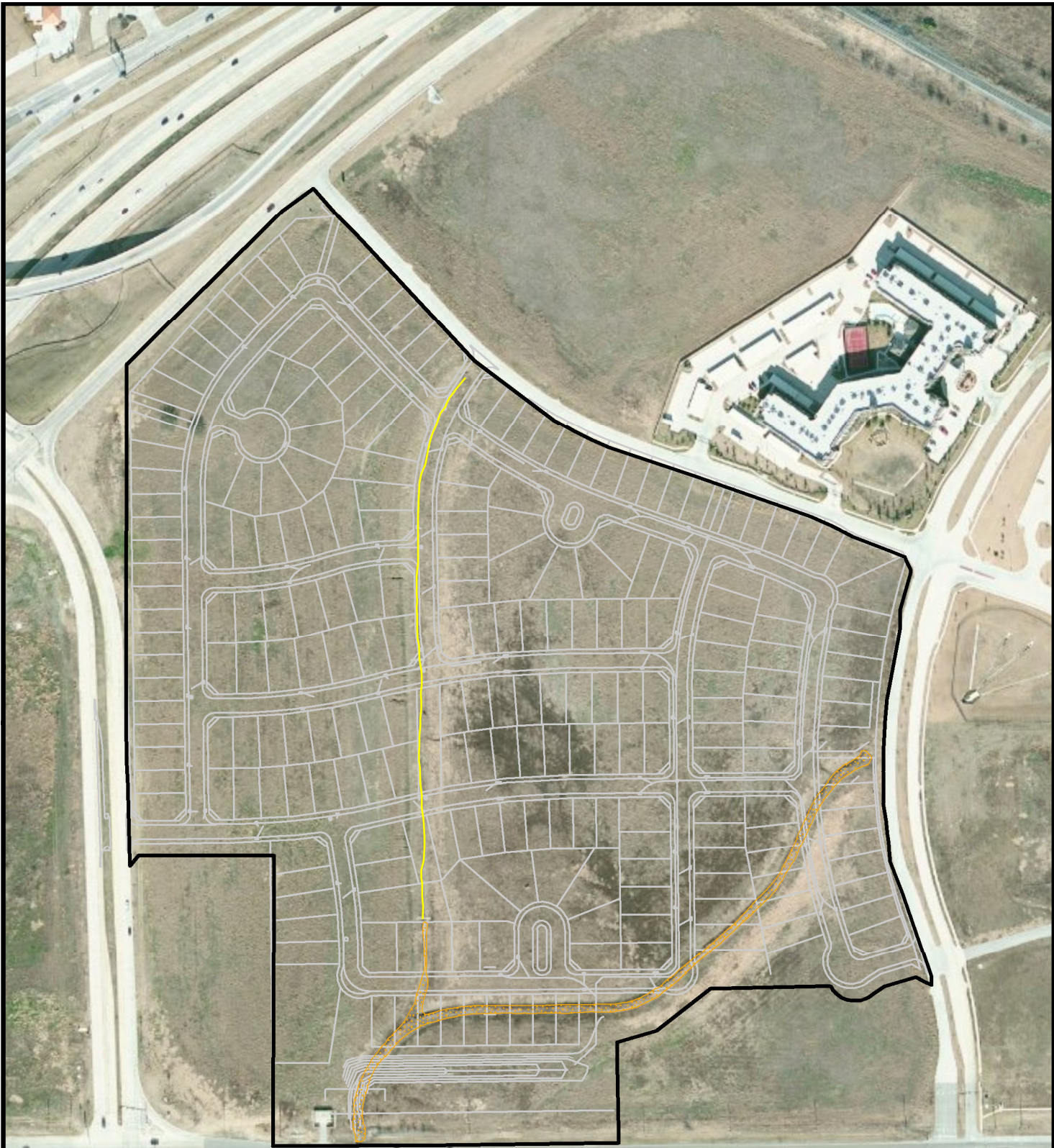
Aerial Source: TNRIS 2012

Wyndale Meadows  
 SWF-2013-00265  
 Lewisville, Denton County, Texas







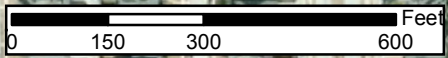
 Kimley-Horn and Associates, Inc.

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**Legend**

-  Swale, Non-Jurisdictional, 1,200-linear feet
-  Linear Wetland Impacts, Jurisdictional, 0.65-acres
-  Study Area
-  Site Plan




<b>SHEET</b> <b>3</b> OF 3 SHEETS	DATE:	10/18/2013
	DESIGN:	RKB
	DRAWN:	RKB
	CHECKED:	LDC
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waters of the U.S.  
Aerial Source: TNRIS 2012

Wyndale Meadows  
SWF-2013-00265  
Lewisville, Denton County, Texas



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