US Army Corps of Engineers ®
Fort Worth District

Public Notice

Applicant: Billingsley Development Corporation, LLC

Project No.: SWF-2014-00510

Date: April 16, 2015

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

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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 (WOUS) associated with the proposed West Cell Residential Development, located in the cities of Irving and Dallas, Dallas County, Texas.

APPLICANT: Billingsley Development Corporation, LLC

APPLICATION NUMBER: SWF-2014-00510

DATE ISSUED: April 16, 2015

LOCATION: The proposed project is located within the cities of Irving and Dallas in Dallas County, Texas (Figures 1 – 7 of 8), on an approximately 67 acre tract of land located at the northwest and southeast quadrant of the North Lake Boulevard and South Northlake Road intersection. The proposed project would be located approximately at Latitude 32.9519 and Longitude 96.9664 (Zone 14) on the Carrollton 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12030103 (Figure 1).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

BACKGROUND: On December 8, 2014, the U.S. Army Corps of Engineers (USACE) received a pre-application meeting request from the applicant's agent. During an internal review of the project area, it became apparent to the Evaluations Project Manager that fill material had been discharged into wetlands. Accordingly, the project was reassigned to the Compliance and Enforcement Branch. On January 29, 2015, a site visit with the applicant, their agent and the USACE occurred. The discharged material was found to be construction debris (i.e. bricks) and soil that was brought from off-site location. The fill material was actively being removed by the applicant. The applicant stated the material was illegally discharged and the site was subsequently gated to prevent further activities. Following the site visit, USACE determined that approximately 0.20 acre of emergent wetlands had been filled with construction debris and soil. On March 24, 2015, USACE sent an official Notice of Violation letter to the applicant along with a Tolling Agreement. The Tolling Agreement was executed on April 2, 2015, and an after-the-fact permit application was submitted for review.

PROJECT DESCRIPTION: The applicant is proposing to discharge clean fill material into 2.76 acres of emergent wetlands in addition to the previously unauthorized discharge of fill material

into 0.20 acre of emergent wetlands in conjunction with the proposed West Cell Residential Development. Adverse impacts to WOUS would total approximately 2.96 acres.

I. INTRODUCTION: The applicant is proposing to construct the West Cell Residential Development with the stated purpose of providing residential housing units in a location in North Central Texas where there's a high demand for new residential lots, especially within the Coppell Independent School District. The applicant has also stated the proposed roadways within the development would provide the City of Irving a more direct route for emergency services to this part of Irving.

II. EXISTING CONDITIONS: As previously stated, the proposed project site contains an unauthorized discharge of fill into approximately 0.20 acre of emergent wetlands. The fill material, according to aerial photography was discharged in early 2011.

The general topography within the proposed project area slopes to the east and is nearly level along South Fork Grapevine Creek sloping to the uplands in the northeast. The site ranges from approximately 450 to 490 feet above sea level (Figure 2).

According to the Soil Survey of Dallas County, eight soil series are located within the proposed project area: Ferris-Heiden complex (5 to 12 percent slopes), Frio silty clay (frequently flooded), Heiden clay (2 to 5 percent, eroded), Lewisville silty clay (3 to 5 percent slopes), Seagonville clay (occasionally flooded), Silawa fine sandy loam (3 to 8 percent slopes), Trinity clay (frequently flooded), and Trinity Clay (occasionally flooded). Trinity clay soil series when located within depressions and floodplains are listed as hydric soils on the Hydric Soils of Texas list prepared by the National Technical Committee for Hydric Soils (revision March 2014) (Figure 3).

The FEMA Flood Insurance Rate Map (FIRM) shows the project area within Zone X, Shaded Zone X, Zone A, Zone AE, and Zone AE (Floodway areas in Zone AE) (Figure 4).

The project area contains one perennial stream (Grapevine Creek), three ephemeral tributaries, two open water wetlands, and six emergent wetlands. Table 1 (below) provides details of the aquatic features within the project area and coincides with Figure 5's nomenclature.

Table 1. Aquatic Features Delineated within the Project Site

Water Identification	Aquatic Feature Type	WOUS?	Hydrology Characteristics	Area (Acres)	Length (Linear Feet)
Wetland 1	Emergent Wetland	Yes	Seasonal	7.36	N/A
Wetland 2	Emergent Wetland	Yes	Seasonal	3.08	N/A
Wetland 3	Open Water Wetland	Yes	Seasonally Inundated	0.24	N/A
Wetland 4	Open Water	Yes	Intermittent	3.44	N/A

	Wetland				
Wetland 5	Emergent Wetland	Yes	Seasonal	0.03	N/A
Wetland 6	Emergent Wetland	Yes	Seasonal	0.15	N/A
Wetland 7	Emergent Wetland	Yes	Seasonal	0.08	N/A
Wetland 8	Emergent Wetland	Yes	Seasonal	0.02	N/A
Grapevine Creek	RPW Tributary	Yes	Perennial	2.16	3646
Tributary 1 (South Fork Grapevine Creek)	Non-RPW Tributary	Yes	Ephemeral	0.03	328
Tributary 2	Non-RPW Tributary	Yes	Ephemeral	0.02	105
Tributary 3	Non-RPW Tributary	Yes	Ephemeral	0.02	81
			Jurisdictional Total	**16.63**	**4160**

III. ADVERSE IMPACTS TO WOUS: Proposed impacts to WOUS associated with the proposed plan would total 2.96 acres of emergent wetlands (2.76 acres proposed and 0.20 acre of previously unauthorized impacts). The proposed project fully avoids Grapevine Creek, three ephemeral tributaries, and 11.64 acres of wetlands. To accommodate the development, the applicant is proposing to dewater and fill three emergent wetlands. The impacts would be associated with the grading and filling for residential lot development and interior roadway construction. The applicant believes impacts would be minimized through the installation of retaining walls, strategic grading plans, and maintenance of a hydrologic connection between North Lake and Grapevine Creek (Figure 7).

IV. APPLICANTS ALTERNATIVES: The applicant has provided an alternatives analysis that includes the no action alternative, eight alternative sites, plus their preferred site and alternative layouts. The applicant developed a set of selection criteria to determine the most feasible set of sites for the development within the constraints of existing available properties and environmental concerns. A brief overview of the applicants alternatives are below. Locations of the alternative sites considered can be found on Figure 8.

No Action Alternative

The No Action alternative would have no impact to WOUS since the development would be built on the northwestern portion of the site (~24 acres) and avoid all WOUS. The applicant states this configuration has limitations associated with site access and city emergency services. Additionally, the applicant would increase lot size and each home would require the installation

of interior sprinkler systems, which increase costs of the homes and eliminate the overall objective of the proposed development.

Alternative 1 – 54 Acre Site

This site is located north of Raiford Road and east of Old Denton Road. The site contains 7.05 acres of WOUS and 6.60 acres of Floodway. The site is currently zoned Single-Family Residential, Open Space, but it did not meet the applicant's size requirement of being at least 58 acres.

Alternative 2 – 63 Acre Site

This site is located at the southwest corner of the intersection of Las Colinas Boulevard and Presidential George Bush Turnpike. The site contains 3.42 acres of WOUS and the applicant states that full avoidance could occur, reducing developable land to 53 acres. That would accommodate 181 units, which is below the threshold for the applicants stated objective. To accommodate more units, the applicant would need to impact the western edge of the property. Doing so, the applicant believes more impacts to WOUS would occur than on their preferred site.

Alternative 3 – 107 Acre Site

This site is located north of John Carpenter Freeway (SH 114) and west of Colwell Boulevard. The site contains 5.79 acres of WOUS and 47.10 acres of floodway. The site is currently zoned Freeway and Planned Development – Commercial. The applicant states the failed constraint for this site is floodway size.

Alternative 4 – 169 Acre Site

This site is located north of Highway 635 and east of Luna Road. The site contains 21.50 acres of WOUS and is currently zoned Qualified Open Space – Planned Development. The applicant states the failed constraint for this site is zoning.

Alternative 5 – 25 Acre Site

This site is located north of Highway 635 and west of North Belt Line Road. The site contains no WOUS and zoned Commercial, but it did not meet the applicant's size requirement of being at least 58 acres.

Alternative 6 – 38 Acre Site

This site is located north of John Carpenter Freeway (SH 114), west of Esters Boulevard, and south of West Royal Lane. The site contains no WOUS and zoned Freeway and Commercial, but it did not meet the applicant's size requirement of being at least 58 acres.

Alternative 7 – 45 Acre Site

This site is located north of John Carpenter Freeway (SH 114) and west of North Belt Line Road. The site contains no WOUS and zoned Planned Development – Commercial, but it did not meet the applicant's size requirement of being at least 58 acres.

Alternative 8 – 150 Acre Site

This site is located west of Texas 121 and north of Grapevine Mills Boulevard. The site contains approximately 1.50 acres of WOUS and 0.70 acre of Floodway. The site is currently zoned Commercial, Multi-Family Residential, Governmental Use, and Industrial. The applicant states the site is currently under development.

Alternative 9 – 130 Acre Site (Applicants Preferred Site)

This site meets the applicant's criteria for site selection. The site is within the Coppell Independent School District, is located in close proximity to the surrounding major thoroughfares, is sized greater than 58 acres, has portions that lie outside FEMA's Special Flood Hazard Areas (which cannot be developed by local floodplain ordinance), is adjacent to existing or planned complimentary and appropriate land uses, and is currently zoned residential. The applicant developed two site layout concepts for the site development; each of which had impacts to WOUS.

Alternative Site Layout #1: Under this concept design, the development and associated infrastructure on the project site is maximized. Approximately 350 residential lots would be established. To achieve this, approximately 10.14 acres of wetlands would be filled, and the associated spillway for North Lake would be redirected along the southern and eastern boundary of the project site to maintain connection with Grapevine Creek. This alternative site layout was eliminated due to the amount of WOUS that would be impacted.

Alternative Site Layout #2: Under the preferred design, approximately 280 residential lots would be developed along with the appropriate infrastructure, which would include interior roadways, site access, utilities, and open space. This site plan results in impacts to 2.96 acres of emergent wetlands. The applicant states that due to the configuration of the WOUS within the project area, the 2.96 acres of impacts would be unavoidable to obtain the overall objective of the development.

V. MITIGATION: The applicant proposes to compensate for the loss of emergent wetlands with the purchase of mitigation bank credits from a currently serviceable mitigation bank. Currently, the applicant proposes to purchase 3.6 credits from Bunker Sands Wetland Mitigation Bank calculated according to the approved Mitigation Banking Instrument as follows: 2.96 acres emergent wetlands x 1.2 credits/acre = 3.55 rounded up to 3.6 credits.

VI. SHEETS

A. Figure 1: General Location Map
B. Figure 2: USGS Topographic Map
C. Figure 3: Soils Map
D. Figure 4: FEMA FIRM (Map Panel 48113CO155J)
E. Figure 5: Water Features Identified within the Project Site
F. Figure 6: Site Plan
G. Figure 7: Impacts to Waters of the United States
H. Figure 8: Alternative Sites Considered

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 is submitted after-the-fact and as such would not fulfill Tier I criteria. 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 complete application may be reviewed in the USACE's office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing 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 any may occur in the project area. The proposed project would be located in a Dallas County where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), black-capped vireo (*Vireo atricapilla*), red knot (*Calidris canutus rufa*), and golden-cheeked warbler (*Dendoica chrysoparia*) are known to occur or may occur as migrants. The whooping crane, least tern, black-capped vireo, and golden-cheeked warbler are endangered species and the piping plover and red knot 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 May 15, 2015, 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-DE-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) 886-1743. 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

Figure 1
General Location Map

County: Dallas
State: Texas
Date map created: 04/01/2014
Source: ESRI 10 Streetmap North America

Project Site

N
W
E
S

1 inch = 1,000 feet

0 1,000 2,000 3,000 Feet

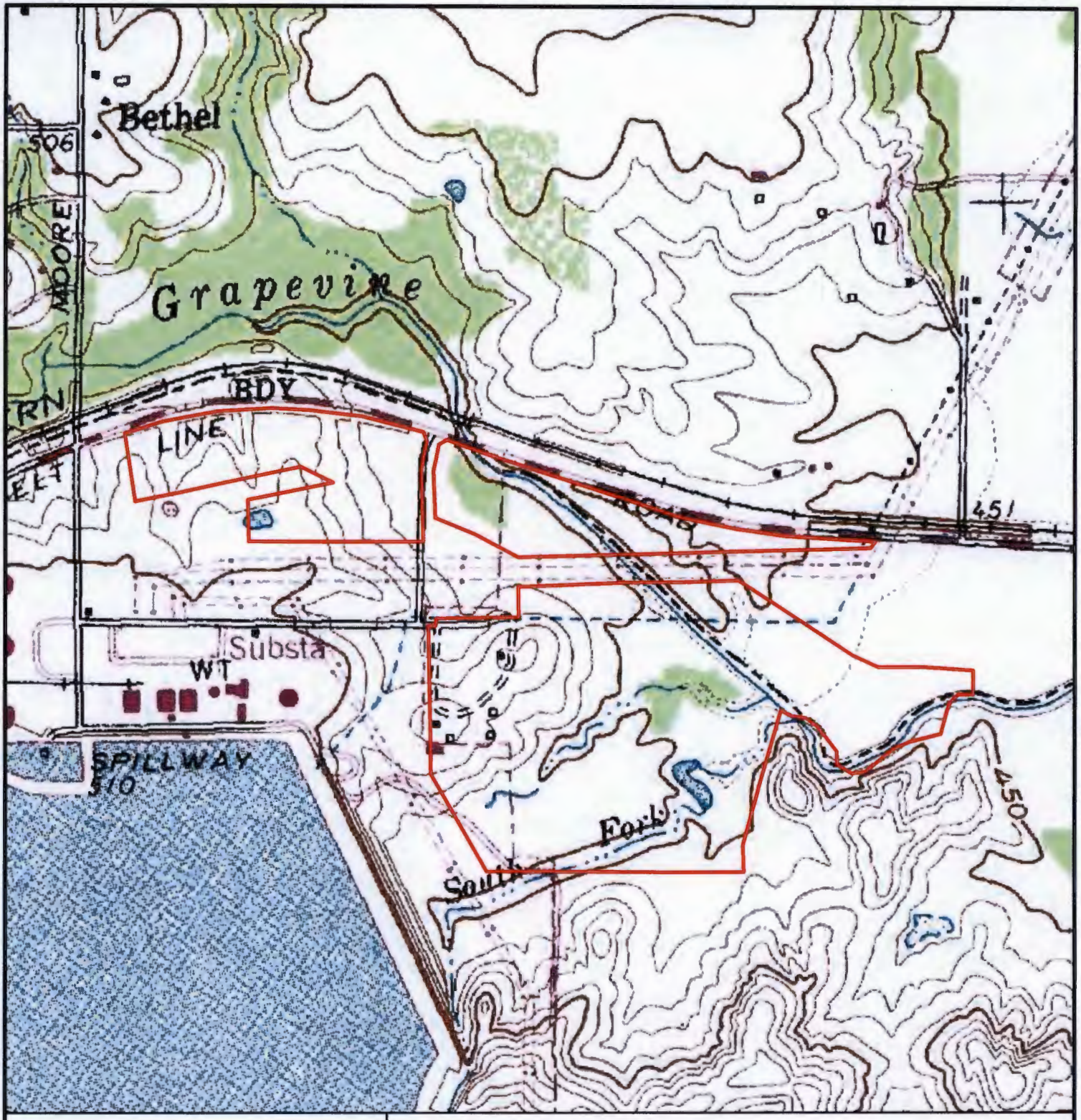

Figure 2
United States Geological Survey
Topographic Map

Project Site

N
W E
S

County: Dallas
State: Texas
Date map created: 04/01/2014
Source: USGS Topographic Map
Carrollton 7.5' Quadrangle, 1978

1 inch = 800 feet

0 800 1,600 2,400 Feet

Figure 3
Soils Map

County: Dallas
State: Texas
Date map created: 04/01/2014
Source: 2007 USDA
NRCS Digital Soils Database;
(c) 2009 Microsoft Corporation
and its data suppliers

Project Site

Soils Descriptions

- 34 - Ferris-Heiden complex, 5 to 12 percent slopes
- 37 - Frio silty clay, frequently flooded
- 42 - Heiden clay, 2 to 5 percent slopes, eroded
- 47 - Lewisville silty clay, 3 to 5 percent slopes
- 59 - Seagoville clay, occasionally flooded
- 61 - Silawa fine sandy loam, 3 to 8 percent slopes
- 73 - Trinity clay, frequently flooded
- 72 - Trinity clay, occasionally flooded
- Water

N W E S

1 inch = 650 feet

0 650 1,300 Feet

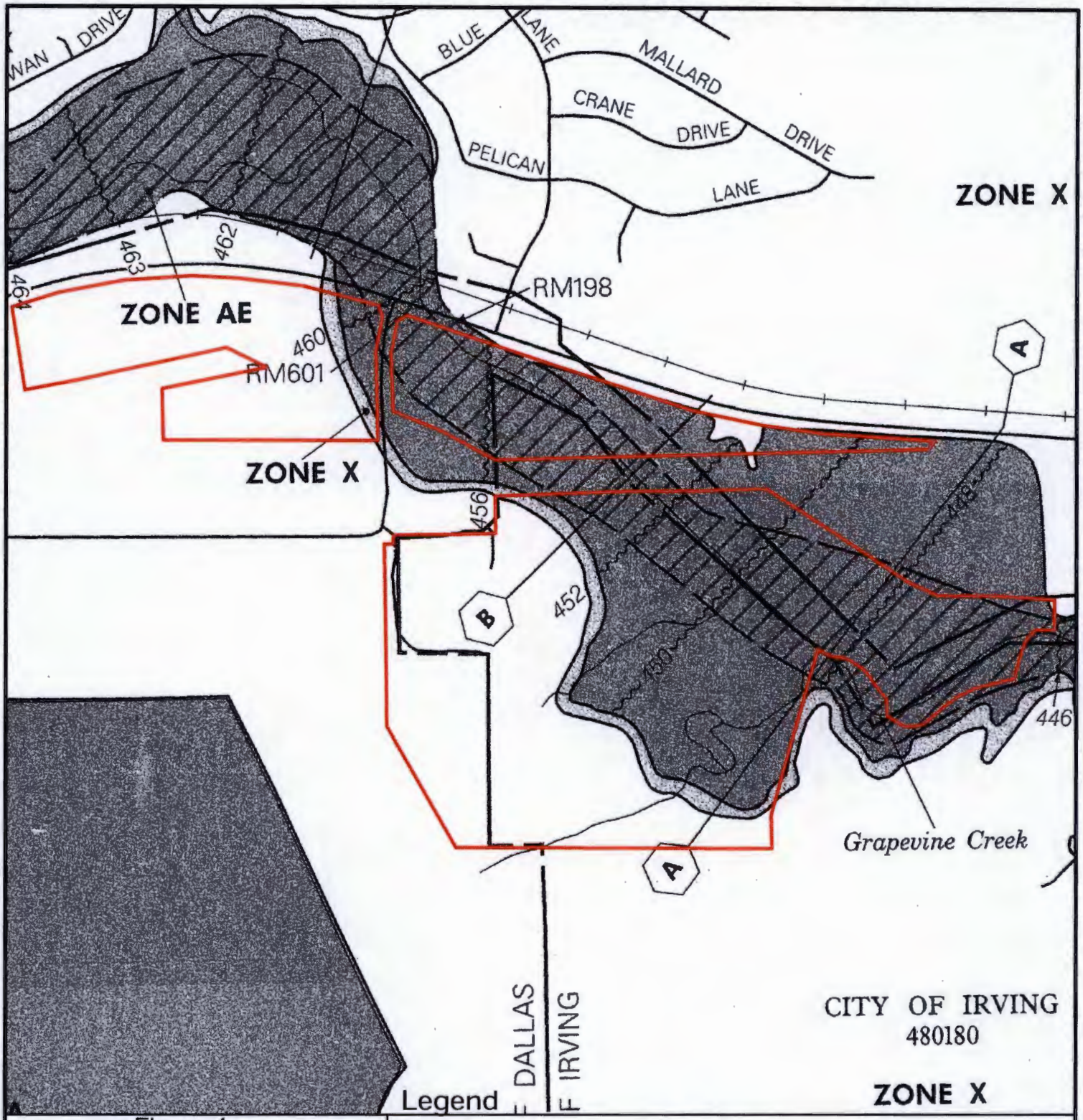

Figure 4
Federal Emergency Management Agency Flood Insurance Rate Map

County: Dallas
State: Texas
Date map created: 04/01/2014
Source: Federal Emergency Management Agency Flood Insurance Rate Map Panel, 48113C0155J
Effective Date: 08/23/2001

Figure 5
Water Features identified within the Project Site

County: Dallas
State: Texas
Date map created: 04/01/2014
Source: (c) 2009 Microsoft Corporation and its data suppliers

Project Site

Wetland Dataform Locations

Features that meet a definition of waters of the United States

Herbaceous Wetland

Open Water Wetland

Tributary

N
W E
S

1 inch = 650 feet

0 650 1,300 1,950 Feet

Figure 6
Site Plan

Project Site

Proposed Site Plan

Lot Boundaries

Open Space

Roadways

N
W E
S

County: Dallas
State: Texas
Date map created: 02/03/2015
Source: (c) 2009 Microsoft Corporation and its data suppliers

1 inch = 650 feet

0 650 1,300 1,950 Feet

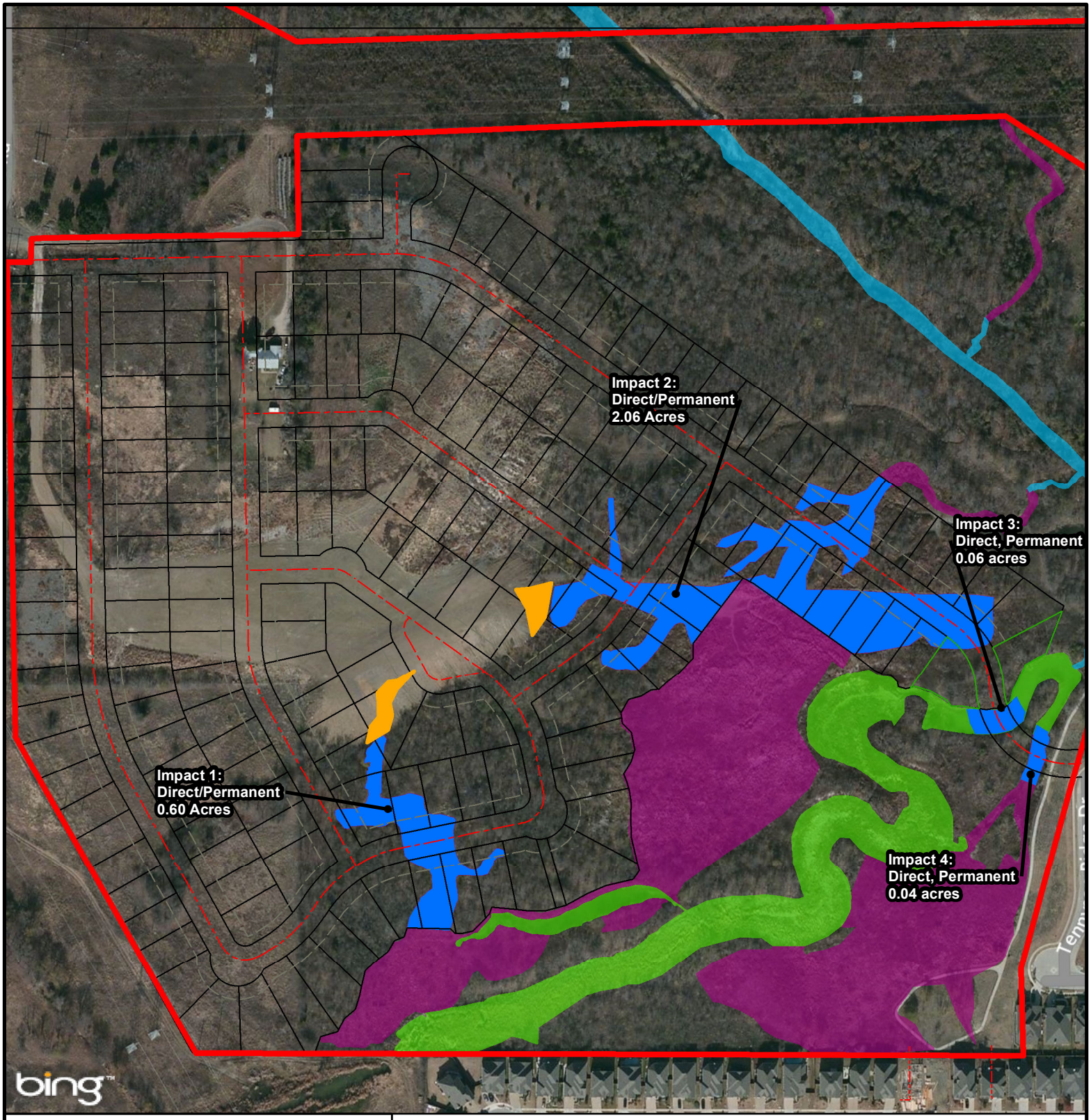

Figure 7
Impacts to Waters of the United States

County: Dallas
State: Texas
Date map created: 02/03/2015
Source: (c) 2009 Microsoft Corporation and its data suppliers

- Project Site
- Impacts to waters of the United States
- Previously unauthorized Impacts (0.20 acres)
- Herbaceous Wetland
- Open Water Wetland
- Tributary

N
W E
S

1 inch = 250 feet

0 250 500 750 Feet

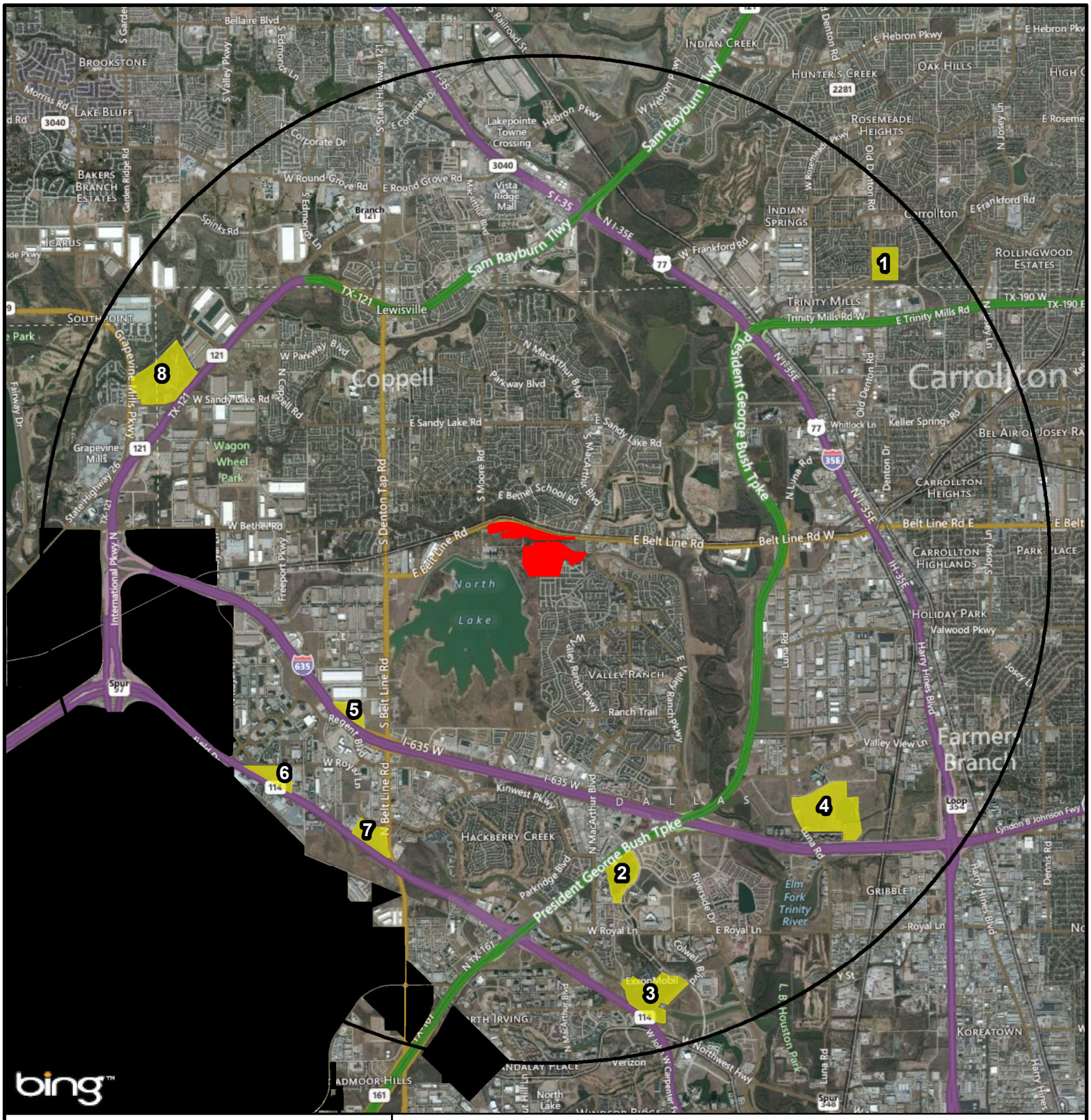

Figure 8
Undeveloped Alternative Sites Locations within 5-mile Radius

5-mile Radius
Project Site
DFW Airport Property
Undeveloped Property

N
W E
S

County: Dallas, Denton, Tarrant
State: Texas
Date map created: 03/10/2015
Source: (c) 2009 Microsoft Corporation and its data suppliers

1 inch = 7,000 feet

0 7,000 14,000 21,000 Feet