US Army Corps of Engineers ®
Fort Worth District

Public Notice

Applicant: 17FW Limited Partnership, LLC

Permit Application No.: SWF-2016-00125

Date: Nov. 2, 2016

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: Ms. Lisa Gomez

Phone Number: 817-886-1735

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 or fill material into waters of the United States associated with the construction of Phases 3 and 4 of the Seventeen Lakes Residential Development in the city of Fort Worth, Denton County, Texas.

APPLICANT: Mr. Robert Betancur
17FW Limited Partnership, LLC
218 West Wall Street
Grapevine, Texas 76051-5213

APPLICATION NUMBER: SWF-2016-00125

DATE ISSUED: November 2, 2016

LOCATION: The project site is located on a 185-acre tract of land approximately 1.5 miles northwest of the intersection of U.S. Highway (US) 377 and State Highway (SH) 170 in the City of Fort Worth, Denton County, Texas. The proposed project would be located approximately at 32.996502 N and -97.263010 W on the TX-Keller 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 120301040302 (Figure 1).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposed to discharge approximately 16,522 cubic yards (CY) of fill material into approximately 2.61 acres of on-channel impoundments and 0.02 acre of intermittent stream tributary of waters of the United States in conjunction with the construction of single family residential homes.

I. INTRODUCTION: The proposed project would involve the construction of single family residential homes (approximately 462 lots), as well as all attendant features (i.e., road, utilities, open spaces, surface parking, retaining walls) on 185 acres in the City of Fort Worth, Denton County, Texas (Figure 2). A series of ponds, both on-channel impoundments and off-channel upland stock ponds, were previously constructed or expanded as amenity features during the initial development phase of the master-planned development in the 1980's or were features from

previous agricultural activities. Phase 3 was previously completed with a total of 0.61 acres of impacts associated with interior roadways and repairs to several dams as required by the TCEQ dam safety compliance. Proposed impacts associated with the Phase 4 conceptual site plan would total approximately 2.02 acres of on-channel impoundments for a total of 2.63 acres of impacts to waters in both phases (Figure 3). Impacts of 19.74 acres of waters of the United States were avoided through the installation of retaining walls, strategic grading plans, and lot layout to avoid and minimize impacts to the maximum feasible. These on-channel impoundments have all been determined to meet the Texas Commission on Environmental Quality (TCEQ) dam safety requirements. These areas would be maintained as common-space and used for recreational purposes with trails and walking paths. Pollutants generated within runoff and stormwater flows would be minimized in downstream waters courses through the detention of flows that the remaining impoundments provide, as well as the nutrient retention capabilities associated with the vegetated areas.

Purpose and Need Statement

The applicant states that according to Vision North Texas, if current trends continue, the North Texas region will have over 75 percent more people in 2030 than in 2000, and the populations will more than double by 2050. The Interstate Highway (IH) 35 corridor has continued to expand in response to the growth in commerce, resulting in a demand for an increased workforce. Given the economic growth within the North Central Texas region, there continues to be a high demand for new residential developments. The proposed location for the Seventeen Lakes Development (the "project"), with its relative proximity to IH 35 and State Highway (SH) 114, allows for easy connections to surrounding communities and both, Alliance Airport and Dallas/Fort Worth (DFW) international airport. The purpose of the project is to meet the continued demand for residential housing units within this sector of North Central Texas.

II. EXISTING CONDITIONS: The USGS Keller 7.5-Minute Quadrangle map illustrates that the project area is located to the east of Henrietta Creek along the dissected breaks of the creek's valley wall. Several unnamed tributaries, swales, and ravines dissect the hilly topography of the project area in a general south to north trend. Henrietta Creek is located just west of the project area. An unnamed tributary of Henrietta Creek dissects the northwest portion of the project area. According to the Soil Survey of Denton County Texas, the seven mapped soils within the project area consist of Aledo association, undulating: Frio silty clay, frequently flooded; Medlin-Sanger clay, 5 to 15 percent slopes; Mingo clay loam, 1 to 3 percent slopes; Sanger clay, 1 to 3 percent slopes; Sanger clay, 3 to 5 percent slopes; Somervell gravelly loam, 1 to 5 percent slopes, which are respectively distributed across 1.9, 1.5, 58.2, 0.8, 20.8, 10.2, and 3.2 percent of the project area. The soils within the project area are characterized by well drained, clayey soils located on ridges. The project area is located within the Grand Prairie ecoregion of the Cross Timbers and is the transitional area between the prairieland to the west and forested low hills to the east. The land is generally characterized by a mix of prairie, savanna, and woodland settings. Soils in this area are underlain by the undivided Cretaceous-aged Washita group comprised of Pawpaw

Formation, Weno Limestone, Denton Clay, Fort Worth Limestone, and Duck Creek Formation and is comprised of alternating beds of limestone and marl, with sandy matrices nearer the top.

III. ALTERNATIVES TO THE PROPOSED PROJECT: The applicant has provided a preliminary alternatives analysis that includes six off-site and on-site alternatives.

SELECTION CRITERIA

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. The selection criteria included the following:

1. A site, which lies within the Northwest Independent School District (NWISD) and the City of Fort Worth, which has a greater demand for new single family residential units due to the small size of the district, the high quality of public education available, and the current level of build-out within the ISD boundaries;
2. Site should be located in close proximity to the surrounding major thoroughfares; SH 170, SH 114, and IH 35 to ensure practicality for commuting from both Dallas and Fort Worth areas and for ease of access to DFW International Airport and Alliance Airport;
3. To accommodate a comparable medium-sized residential development of Phases 3 and 4, which consists of approximately 450 to 500 residential lots and their associated infrastructure, the parcel would need to be a minimum 160 acres and a maximum size of 250 acres, if oriented correctly and completely developable. Minimum parcel size was determined based on zoning ordinances and regulations. This assumes at minimum, to build a comparable residential development within comparable zoning restrictions within Fort Worth, each lot would need to be approximately 1/3-acre (14,375 square feet) plus an additional 1/8-acre (5,445 square feet) per lot to account for all additional allowances and right-of-way (ROW) associated with the developments infrastructure;
4. Site, which lies outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Floodway areas which contain Special Flood Hazard Areas subject to inundation by the 1% annual chance flood since this category cannot be developed by local floodplain ordinance;
5. A site adjacent to existing or planned complimentary and appropriate land uses for a single family residential subdivision;
6. A site that could be rezoned to the appropriate single family residential zoning category, if not currently zoned for single family residential; and
7. Site that would minimize impacts to environmental features, especially waters of the United States.

From these selection criteria, the applicant expanded the search area to a 5-mile radius from the preferred project site to find other comparable sites. Using the selection criteria, the applicant

located six sites within the geographic area that could fit all or some of the remaining requirements for the proposed development (Table F-1).

Table F-1. Alternative Sites within 5-mile Radius

Site Number	Site Acreage	Zoning	Adjacent Zoning	Probability of Re-zoning to Single Family Residential	Floodplain (acres)	Wetlands (acres)	Tributary (acres)	Pond (acres)	Total WOUS (acres)	Potential Loss of WOUS (acres)	Failed Constraint
1	262	Heavy Industrial	Heavy Industrial	Low	0	9.88	0	0	9.88	Minimal	AFW AO, Zoning
2	174	Light Industrial	Intensive Commercial	Low (IH 35 Frontage)	0	5.19	0.37	0.81	6.37	6.37	Zoning, Potential loss of WOUS
3	190	Light Industrial	Intensive Commercial, Planned Development, Single Family	Low (IH 35 Frontage)	0	1.17	0.23	2.70	4.10	4.10	AFW AO, Zoning, Potential loss of WOUS
4	203	Heavy Industrial	Intensive Industrial, Single Family	Low (IH 35 Frontage)	23.66	8.85	0.23	1.34	10.42	6.54	Zoning, Potential loss of WOUS
5	197	Heavy Industrial	Heavy Industrial	Low	125.08*	1.71	0	0.72	2.43	Minimal	Zoning, Floodplain
6	184	Heavy Industrial	Heavy Industrial, Single Family	Moderate	0	8.69	0.19	5.48	14.36	14.36	Potential loss of WOUS
Preferred	206	Single Family	Single Family, Heavy Industrial	N/A	0	0	0.16	21.76	21.92	2.63	N/A

* No detailed flood study was available; upstream and downstream detailed flood studies indicate the presence of floodway for a portion of the mapped floodplain.

No Action Alternative

Under the No Action Alternative, the applicant would propose building a smaller development on the site that would not fully meet the selection criteria as presented above. Based on the location and orientation of the parcel, the remaining portion cannot be developed in the same manner as originally planned without the infrastructure provided with the development of the entire site. This is due to limitations associated with site access and anticipated emergency response times for city emergency services. If all impacts to waters of the United States were avoided, the development would be reduced by a total of 41 lots. The loss of these lots would result in the project ~~as~~ being economically infeasible.

ALTERNATIVE SITE ANALYSIS

An analysis of available properties was conducted within a 5-mile geographic radius of the preferred development site. From an aerial photography survey, six properties were located in addition to the preferred location (see Attachment F-1). Two of the six sites (Sites 4 and 5) contained FEMA FIRM 100-year floodplain (Attachment F-1). Two of the six sites (Sites 1 and

3) were located within the Fort Worth Alliance International Airport (AFW) Airport Overlay District (AO) (Attachment F-1). Attachment F-1, Figure 4 illustrates the current land use zoning of the parcels and the adjacent parcels.

The amount of potential waters of the United States was photo-interpreted, except for the preferred site. In regards to Sites 1 and 3; under the City of Fort Worth Zoning Ordinance Section 4.405.G (9)a(*i*) prohibits all residential uses which are not ancillary to the operation of the airport or to the conduct of the aviation-related activities. As such, Sites 1 and 3 were removed from consideration due to being located within the AFW AO. In regards to Site 5, the FEMA FIRM map illustrates approximately 125 acres of the property to be within Zone A (Special Flood Hazard Area subject to inundation by the 1% annual chance flood, no base elevations determined). No detailed study has been performed for map panel 48121C0635G at this time; however according to the Letter of Map Amendment Case 14-06-1576A, a study is underway. Also, it should be noted that detailed studies have been performed both upslope and downslope of Site 5, and a floodway has been designated within the same mapped floodplain. At the limits of the detailed study upslope of Site 5, approximately 63% of the mapped floodplain was designated floodway; and at the limits of the detailed study downslope of Site 5, approximately 90% of the mapped floodplain was designated floodway. It is reasonable to expect more than 30% of the mapped floodplain within Site 5 would be determined to be within the floodway, which would reduce the developable acreage of the site below the minimum necessary for the project size. As such, Site 5 was removed from consideration. Sites 2 and 4 were located along the IH 35 corridor, which has been zoned for Heavy Industrial use. As these sites did not share a boarder with a residentially zoned area, the likelihood of being rezoned would be low. Development within Sites 2 and 4 would also result in greater impacts to waters of the United States (Attachment F-1, Figures 5 and 6). Avoiding these water features would eliminate developable acreage, which would result in a project site that is smaller than the minimum necessary. As such, Sites 2 and 4 were eliminated for consideration due to zoning issues and greater impacts to waters of the United States. While Site 6 is currently zoned as Heavy Industrial, there is a possibility for this parcel to be rezoned to single family residential as it shares two borders with residential zoned parcels. As such, Site 6 will be considered through analysis.

Alternative Site 6 was located at the southeast corner of the intersection of Mallard Creek Street and Litsey Road. This 228-acre site was in close proximity and adjacent to single-family residential developments as well as industrial developments. The site contains approximately 14.36 total acres of waters of the United States; 5.48 acres of on-channel impoundments, 8.69 acres of wetlands, and 0.19 acre (4,637 feet) of tributaries (Attachment F-1). A large overhead transmission line right of way, two gas well padsites, and the planned expansion of Independence Parkway would reduce the developable acreage of this property to 158. Full avoidance of the water features could occur; however, this would limit the developable acreage to 147 acres which would not accommodate the minimum 450 lots required to complete the project (Attachment F-1). As such, this alternative site was eliminated by the applicant as it has more impacts to waters

of the United States than the preferred site, when avoidance and minimization is not attainable (Table F-2).

Table F-2. Potential Impacts to Waters of the United States on Reasonable Alternative Sites

Site Number	Site Acreage	Wetlands (acres)	Tributary (feet)	Tributary (acres)	Pond (acres)	Total WOUS (acres)	Potential Impacts to WOUS (acres)
6	228	8.69	4,637	0.19	5.48	14.36	10.97
Preferred	206	0	1,709	0.16	21.76	21.92	2.63

Alternative On-Site Layouts

The applicant developed additional site layout concepts for the site development, which also had impacts to waters of the United States due to the location of the ponds throughout the site. Alternative Site Layout #1: Under the alternative site plan, approximately 462 residential lots would be developed along with the appropriate infrastructure, which would include interior roadways, site access, utilities, and open space. The quantity of on channel impoundments impacted would be reduced by removing a total of 33 residential lots. Impacts associated with this reduced site plan would equal 0.71 acres of impoundments. However, by reducing the lot size and quantity of lots developed, the applicant has determined that this project would no longer be economically viable.

IV. MITIGATION: The applicant proposes to compensate for the loss of waters of the United States through the purchase of open water credits from the Bunker Sands Mitigation Bank (BSMB) in accordance with the methodologies prescribed within the USACE-approved mitigation banking instrument.

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. The applicant has incorporated the best management practices for erosion control. 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 Denton County where the whooping crane (*Grus americana*), interior least tern (*Sterna antillarum athalassos*), bald eagle (*Haliaeetus leucocephalus*), piping plover (*Charadrius melodus*), and red knot (*Calidris canutus rufa*) are known to occur or may occur as migrants. The whooping crane and least tern, are endangered species and the bald eagle, red knot, 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 December 2, 2016 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-RC; 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

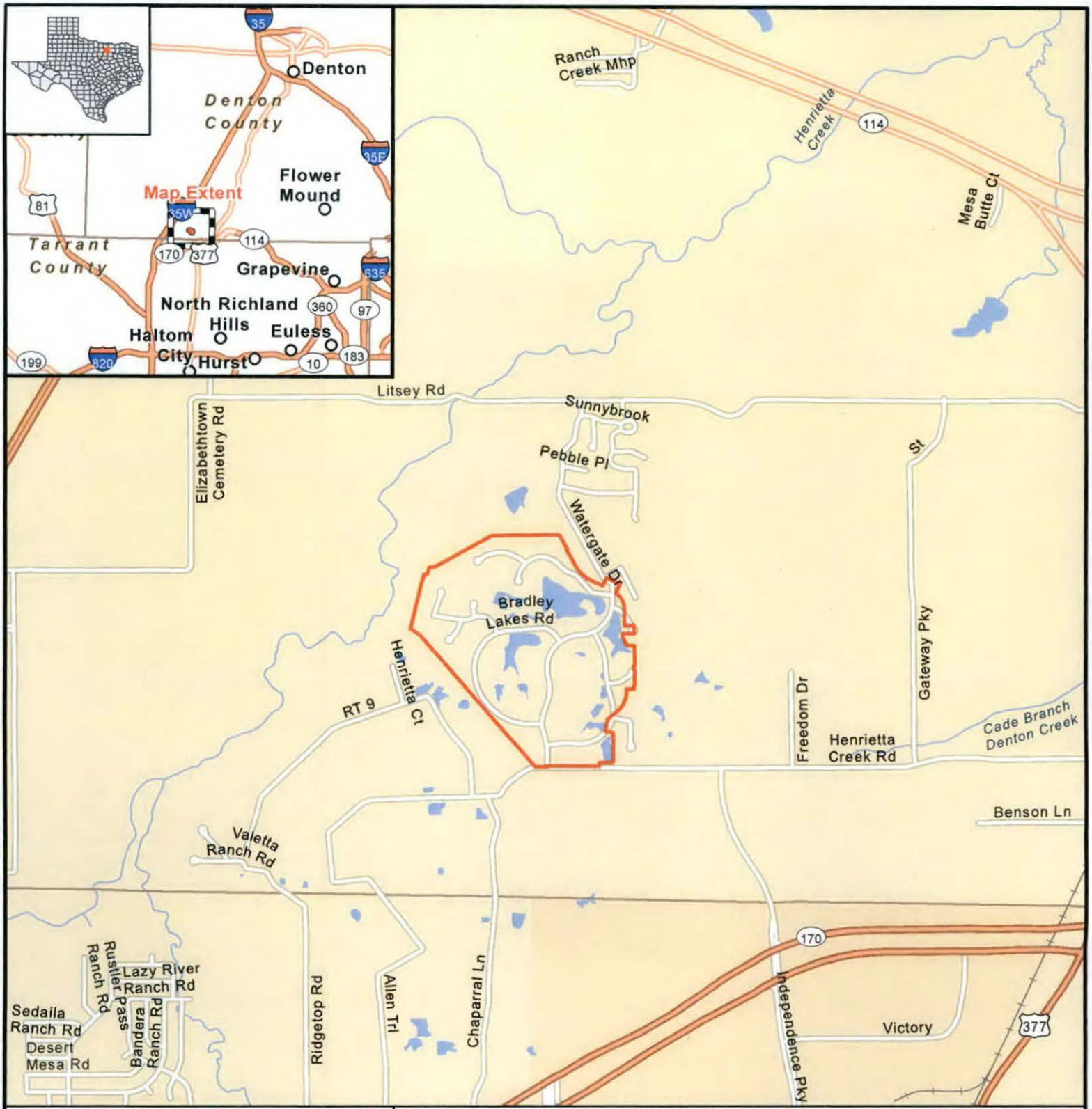

Figure 1
General Location Map

Project Site

N
W E
S

County: Denton
State: Texas
Date map created: 12/09/2015
Source: ESRI 10 Streetmap North America

1 inch = 2,000 feet

0 1,000 2,000 4,000 Feet

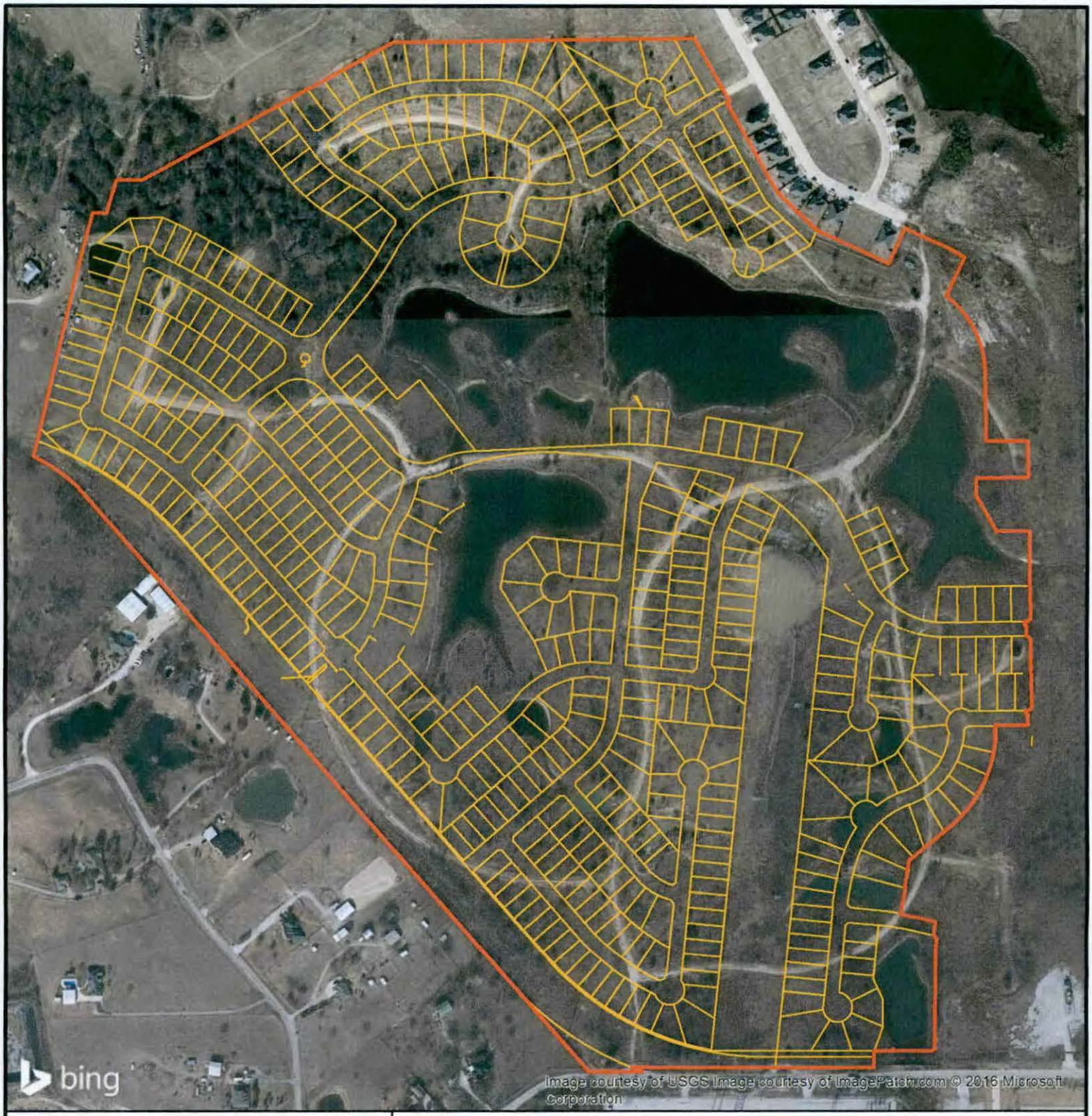

Figure 2
Proposed Site Plans

Project Site

Proposed Site Plans

N
W E
S

County: Denton
State: Texas
Date map created: 07/07/2015
Source: (c) 2009 Microsoft Corporation and its data suppliers

1 inch = 450 feet

0 450 900 Feet

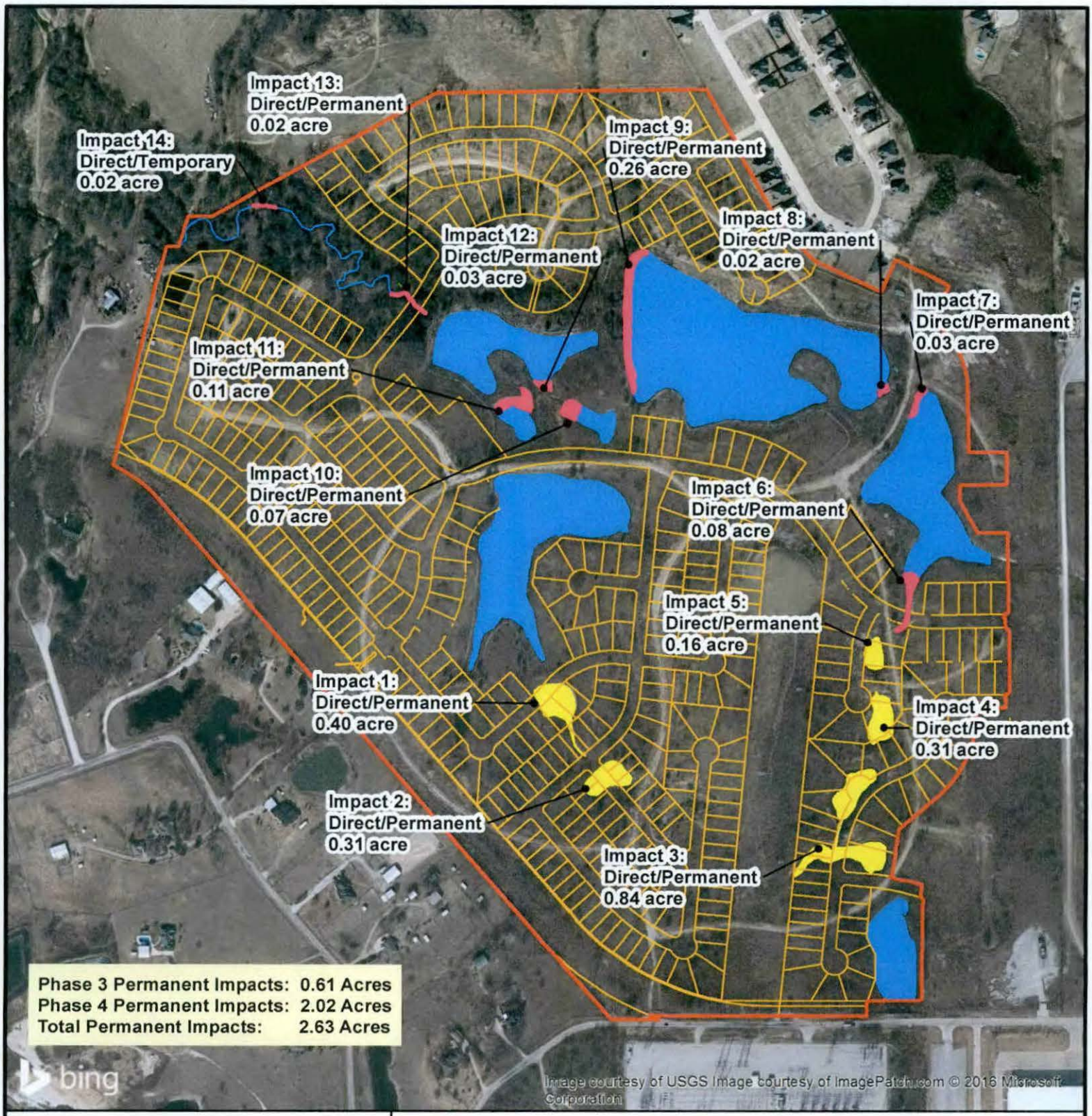

Figure 3
Impacts to
Waters of the United States

County: Denton
State: Texas
Date map created: 07/07/2015
Source: (c) 2009 Microsoft Corporation and its data suppliers

Project Site
Proposed Site Plans
Phase 3 Impacts
Phase 4 Impacts to Waters of the United States
Features that meet a definition of a water of the United States

N
W E
S

1 inch = 500 feet

0 500 1,000 Feet