



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

Public Notice

Applicant: Avere Real Estate

Project No.: SWF-2017-00150

Date: May 30, 2017

Purpose

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. Eric Dephouse, Project Manager

Phone Number: 817-886-1820

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 construction of a commercial development located in Irving, Dallas County, Texas.

APPLICANT: Avere Real Estate
c/o Don Wilson
P.O. Box 1527
Colleyville, Texas 76034

APPLICATION NUMBER: SWF-2017-00150

DATE ISSUED: May 30, 2017

LOCATION: The proposed project is Phase II of a commercial development that would be located southeast of the intersection of South Conflans Rd. and SH 161 in Irving, Dallas County, Texas, within a previously permitted project site. The proposed project would be located at coordinates 32.825 North and 97.015 West on the TX-Euleess 1:24K USGS quadrangle map in the USGS Hydrologic Unit 12030102.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 6,000 cubic yards of dredged and fill material into approximately 1.25 acres of waters of the United States in conjunction with construction of a commercial development project. Approximately 1.25 acres of permanent impacts to Waters of the U.S. would occur, consisting of 0.79 acre of emergent wetland impacts and 0.46 acre impacts to forested wetlands.

EXISTING CONDITIONS: The subject property is an approximately 16-acre tract located southeast of the intersection of SH 161 and Conflans Rd. in Irving, Dallas County, Texas. Its general boundaries consist of vacant property to the north, south, east, and west. The study area includes 0.91 acre of forested wetlands, 1.2 acres of emergent wetlands, and an approximately 600 LF drainage ditch. A previous Nationwide Permit (NWP) 39 (USACE Project Number SWF-2016-00148) was issued in August 2016 for anticipated regulated activities, which include impacts to 0.44 acre of emergent and forested wetlands to accommodate a commercial

development. The permittee purchased 1.4 wetland credits from Big Wood on the Trinity Mitigation Bank on February 28, 2017. In addition to the 0.44 acre of wetlands impacts from the previous NWP, the applicant is anticipating an additional 1.25 acres of impacts to jurisdictional wetlands as a result of the new phase of the project.

ALTERNATIVE SITES AND ALTERNATIVE LAYOUTS: The applicant has prepared a preliminary alternatives analysis. The USACE has not evaluated the applicant's alternatives analysis. The applicant's stated project purpose is construction of a commercial development. Alternatives were limited to areas within Irving, close to DFW Airport to meet the needs of the growing community within the general vicinity. There are seven alternatives for the project, including the no-build alternative.

Alternative 1: Site 1 – NE corner of SH 161 & Conflans Road, Irving, Texas
Zoning – Residential
Acreage – 35 acres
Listing – Not for sale

The undeveloped site located directly to the north of the subject site and would not be a suitable option. It is not available for sale and the current zoning designation would not allow commercial uses. The current City Council for the City of Irving has indicated they view this site as a residential development site. The size of the site also makes it undesirable, since it is significantly larger than the proposed commercial development. The site falls nearly sixty feet from north to south; therefore, the topography would require significant grading to allow commercial development and would drive up development costs. The site also contains an existing 1,100 ft. stream that bisects the property, which would result in greater impacts to the aquatic environment. That site feature makes it a significantly less appealing alternative, since our proposed use would negatively affect the stream, which is of significantly higher quality than the existing wetlands on the subject site.

Alternative 2: Site 2 –SW corner of Conflans Road & Esters Drive, Irving, Texas
Zoning – Freeway
Acreage – 170 acres
Listing – Not for sale

The undeveloped site bounds the subject tract to the east and south. The site has been owned in the same partnership for more than twenty years and is not listed for sale. The extremely large size of this tract is not conducive for the proposed development, although the existing zoning would allow for the proposed commercial use. This site has inferior highway visibility, which is important for our proposed tenant base. This alternative site would also have a more negative environmental impact than the subject tract, due to the existence of extensive wetlands throughout.

Alternative 3: Site 3 – 500 Valley View Lane, Irving, Texas
Zoning – ML-20

Acreage – 12.86 acres
Listing – For sale

This site has the same zoning as the proposed commercial use, but the site is twice the size of the subject tract. The site also lacks highway frontage necessary for the proposed commercial development. The price of this site is comparable to the subject tract. However, the site topography would require a significant amount of grading, which would make the cost of development too expensive project feasibility. Additionally, there are a number of very large utility easements throughout the site. There is also an existing channel that would be impacted as a result of the proposed project. The lack of highway frontage, the property size, presence of waters of the U.S., and topography make this site unfeasible for this development because, combined, these encumbrances would not meet the project criteria.

Alternative 4: Site 4 – 501 Valley View Lane, Irving, Texas
Zoning – ML-20
Acreage – 15.58 acres
Listing – For sale

This site has the same project constraints as Alternative site 3. It has the same zoning as the proposed commercial use, but the site is twice the size of the subject tract. The site also lacks highway frontage necessary for the proposed commercial development. The price of this site is comparable to the subject tract. However, the site topography would require a significant amount of grading, which would make the cost of development too expensive project feasibility. Additionally, there are a number of very large utility easements throughout the site. There is also an existing channel that would be impacted as a result of the proposed project. The lack of highway frontage, the property size, presence of waters of the U.S., and topography make this site unfeasible for this development because, combined, these encumbrances would not meet the project criteria.

Alternative 5: Site 5 – 1048 W Trinity Blvd, Grand Prairie, Texas
Zoning – Light Industrial
Acreage – 5.8 acres
Listing – For sale

This site is zoned appropriately for the proposed commercial use and the size of the site is fairly similar to the proposed development and has highway frontage that is similar to the subject tract. The price of this site is prohibitive for the proposed development tract and it is further from DFW airport, which is a driver for the subject development. Additionally, the site topography requires a substantial amount of fill as it currently sits in a hole. This site is not a feasible option due to the cost of fill required for development, which does not meet the project performance criteria of the applicant.

Alternative 6: Proposed project (Applicant's Preferred Alternative). The applicant believes the proposed project meets the following criteria required for the project:

Zoning – Light Industrial
Acreage – 16 acres
Listing – For Sale

1. A site in close proximity to SH 161 or SH 183 for ease of access to DFW International Airport;
2. To accommodate a comparable small commercial development of Phase 2, which consists of approximately 37,000 square feet contained in 3 single story buildings. Development issues such as topography and the existence of existing utility easements throughout the site are problematic;
3. 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;
4. A site that could be rezoned to the appropriate light industrial zoning category, if not currently zoned for light industrial uses; and
5. Site that would minimize impacts to environmental features, especially waters of the United States

Alternative 7: No build 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. If all impacts to waters of the United States were avoided, the development would be reduced by a total of 3 buildings. The loss of these buildings would result in the project as being economically infeasible.

COMPENSATORY MITIGATION: The applicant has proposed a conceptual compensatory mitigation plan which would include the purchase of credits from the Big Woods on the Trinity Mitigation Bank to offset impacts associated with the open water impoundment.

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 a county where the whooping crane (*Grus americana*), least tern (*Sterna antillarum*), black-capped vireo (*Vireo atricailla*), golden-cheeked warbler (*Dendroica chrysoparia*), red knot (*Calidris canutus rufa*), and piping plover (*Charadrius melodus*) are known to occur or may occur as migrants. The whooping crane, black-capped vireo, golden-cheeked warbler, and least tern are endangered species and the 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 June 29, 2017, 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 Division, CESWF-DE-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Division 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 Mr. Eric Dephouse, (817) 886-1820. 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



P.O. BOX 1826
 ROWLETT, TX
 75030
 (972) 496-4701
 (972) 414-0451 (fax)

**INDIVIDUAL PERMIT
 CONFLANS RD.
 IRVING, TEXAS**

Job No. 77-02001
MARCH 2017
Sheet 1

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PROJECT LOCATION



AERIAL PHOTOGRAPHY



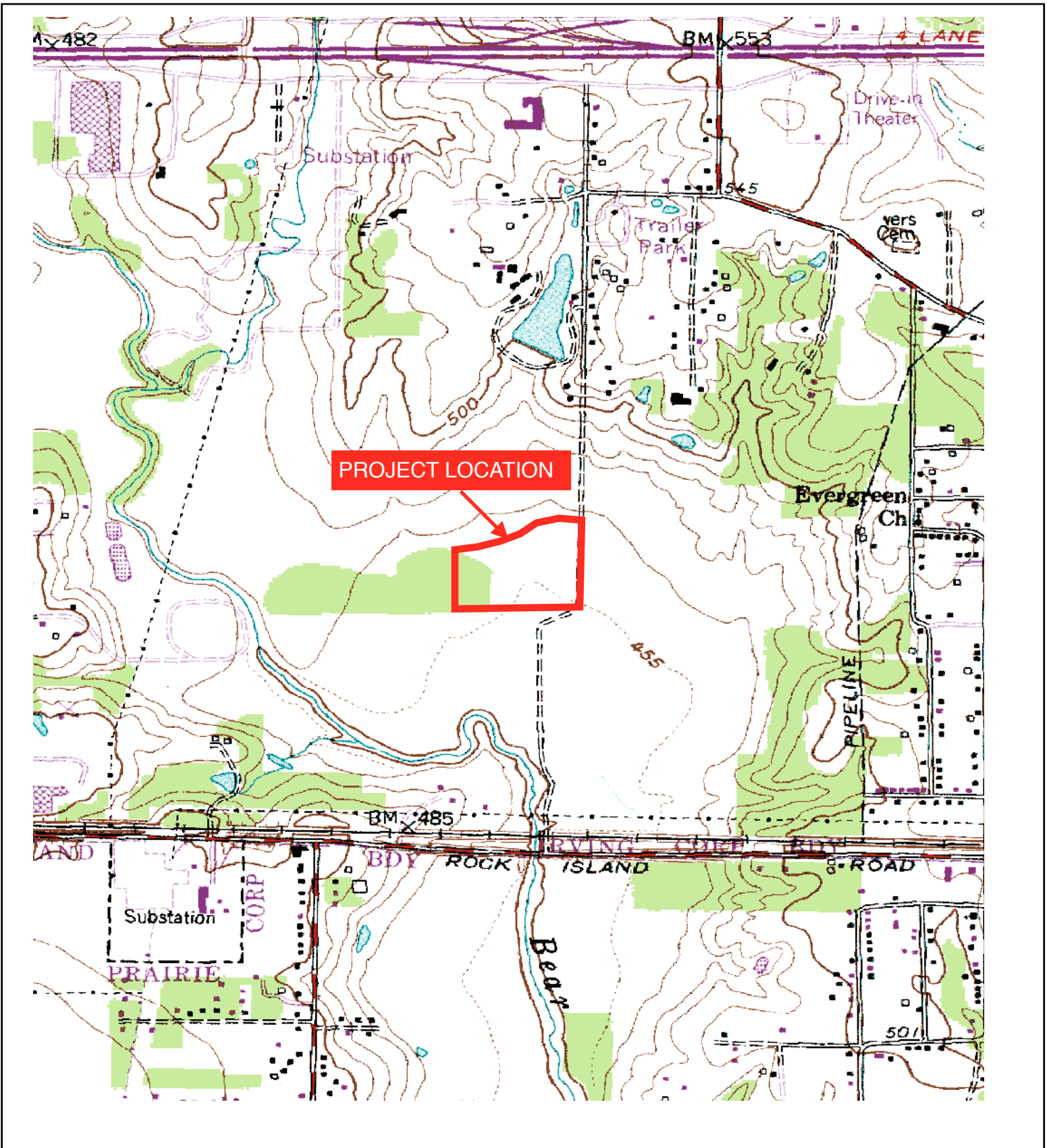
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Job No. 77-02001

MARCH 2017

Sheet 2



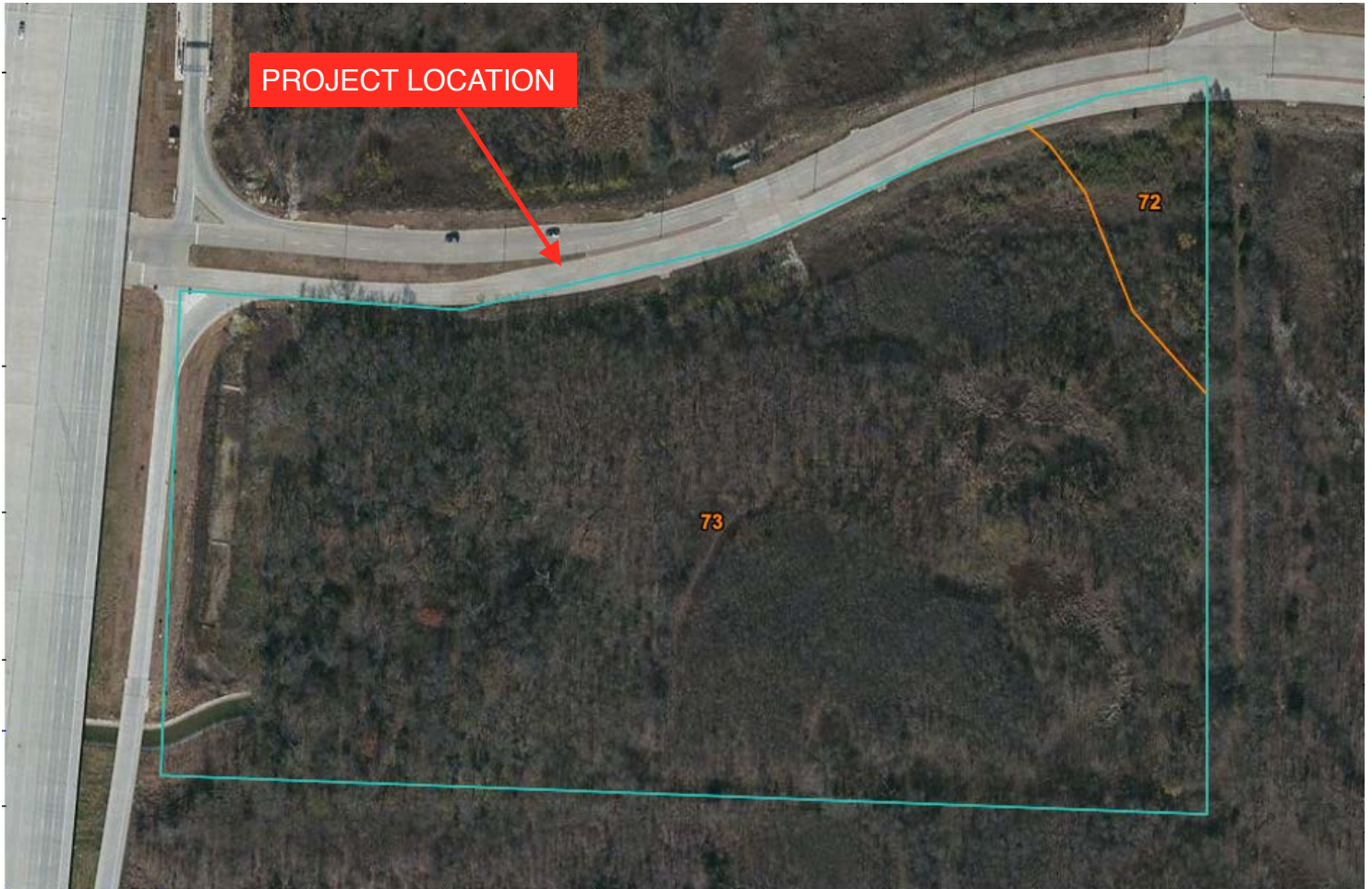
USGS MAP EULESS, TX



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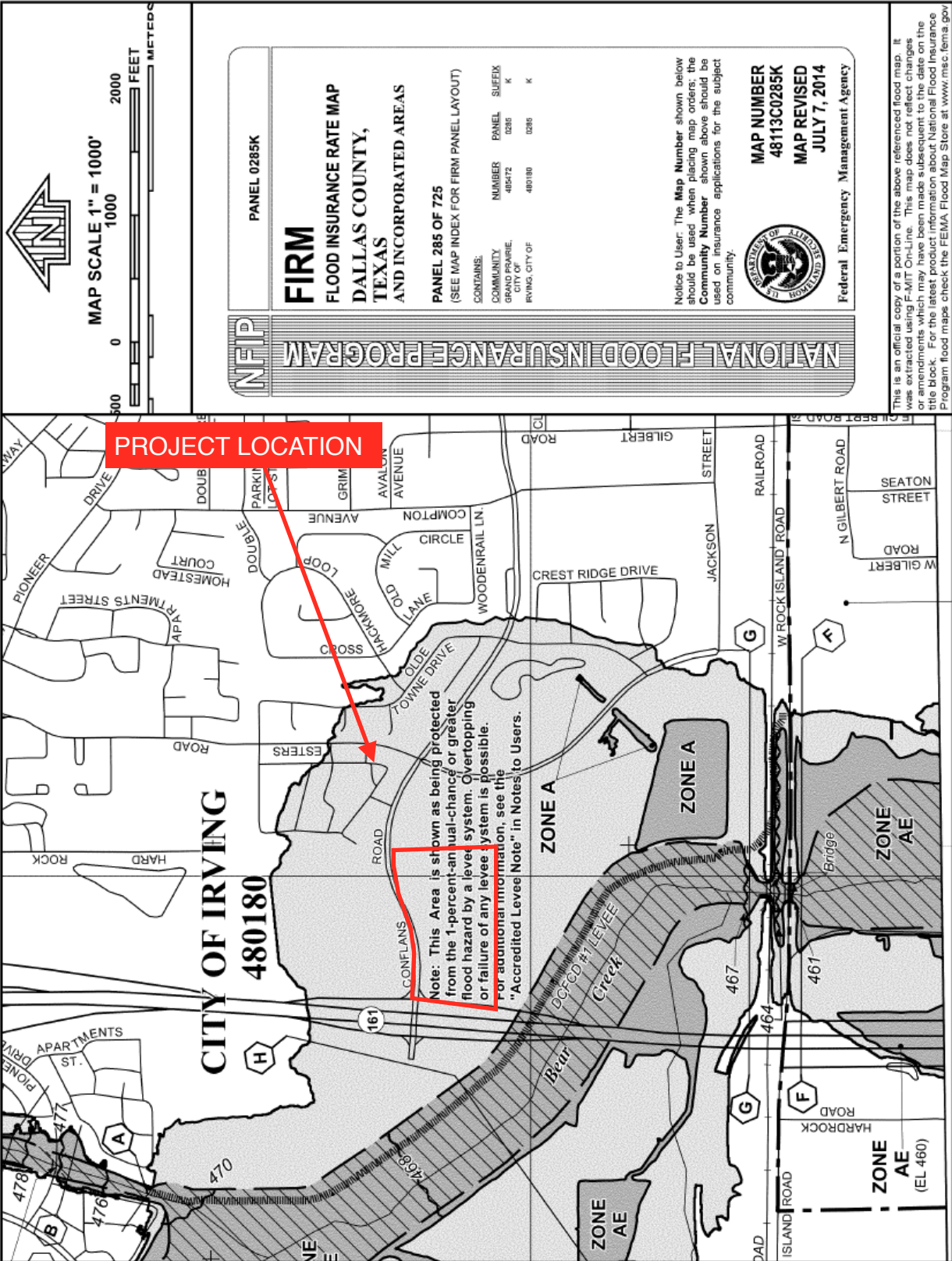
Job No. 77-02001
MARCH 2017
Sheet 3



Map Unit Symbol	Map Unit Name
72	Trinity clay, occasionally flooded
73	Trinity clay, frequently flooded

DALLAS COUNTY SOIL SURVEY

	P.O. BOX 1826 ROWLETT, TX 75030 (972) 496-4701 (972) 414-0451 (fax)	INDIVIDUAL PERMIT CONFLANS RD. IRVING, TEXAS	Job No. 77-02001
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FEMA FLOODPLAIN MAP



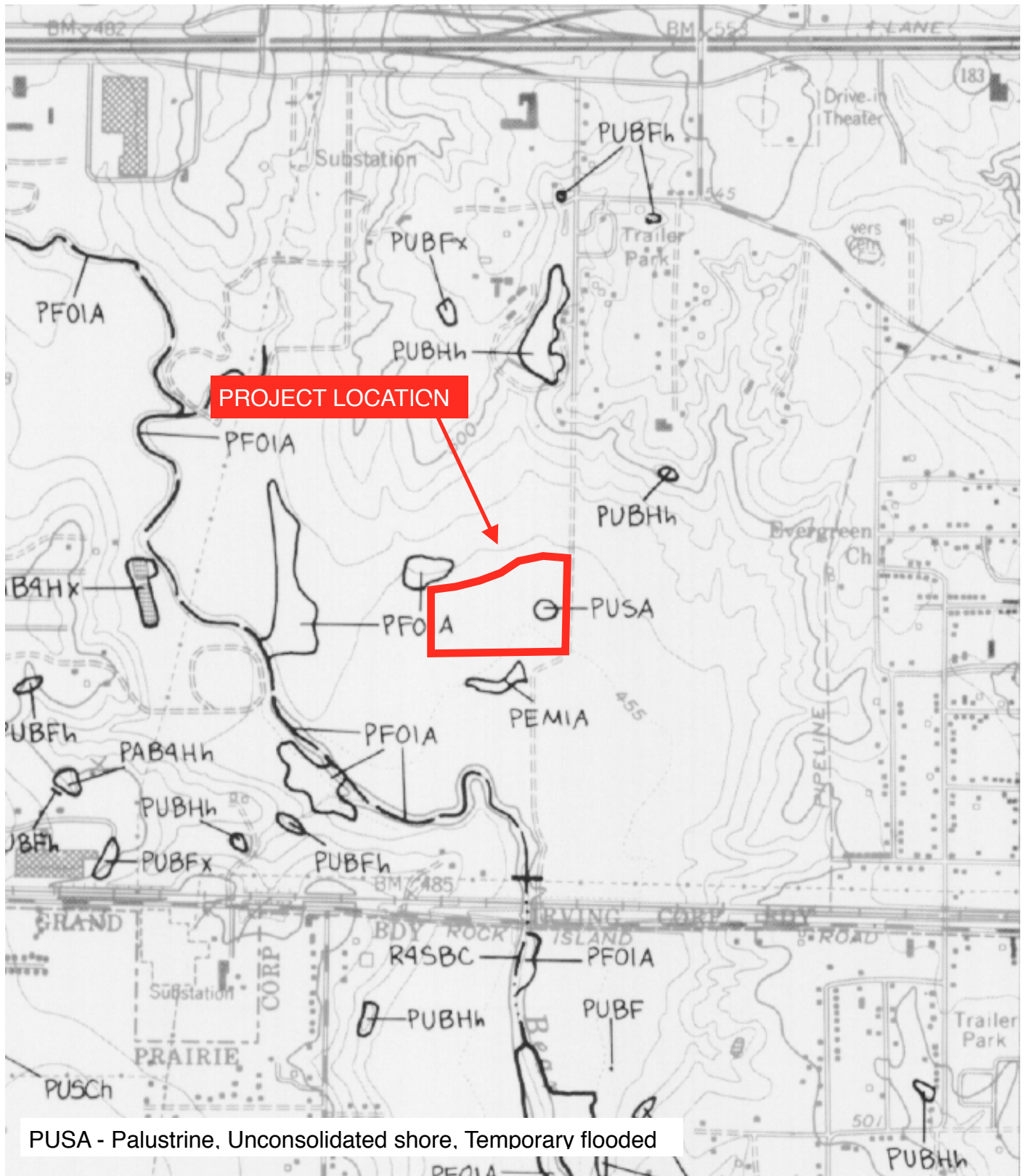
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INDIVIDUAL PERMIT CONFLANS RD. IRVING, TEXAS

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Sheet 5



PUSA - Palustrine, Unconsolidated shore, Temporary flooded

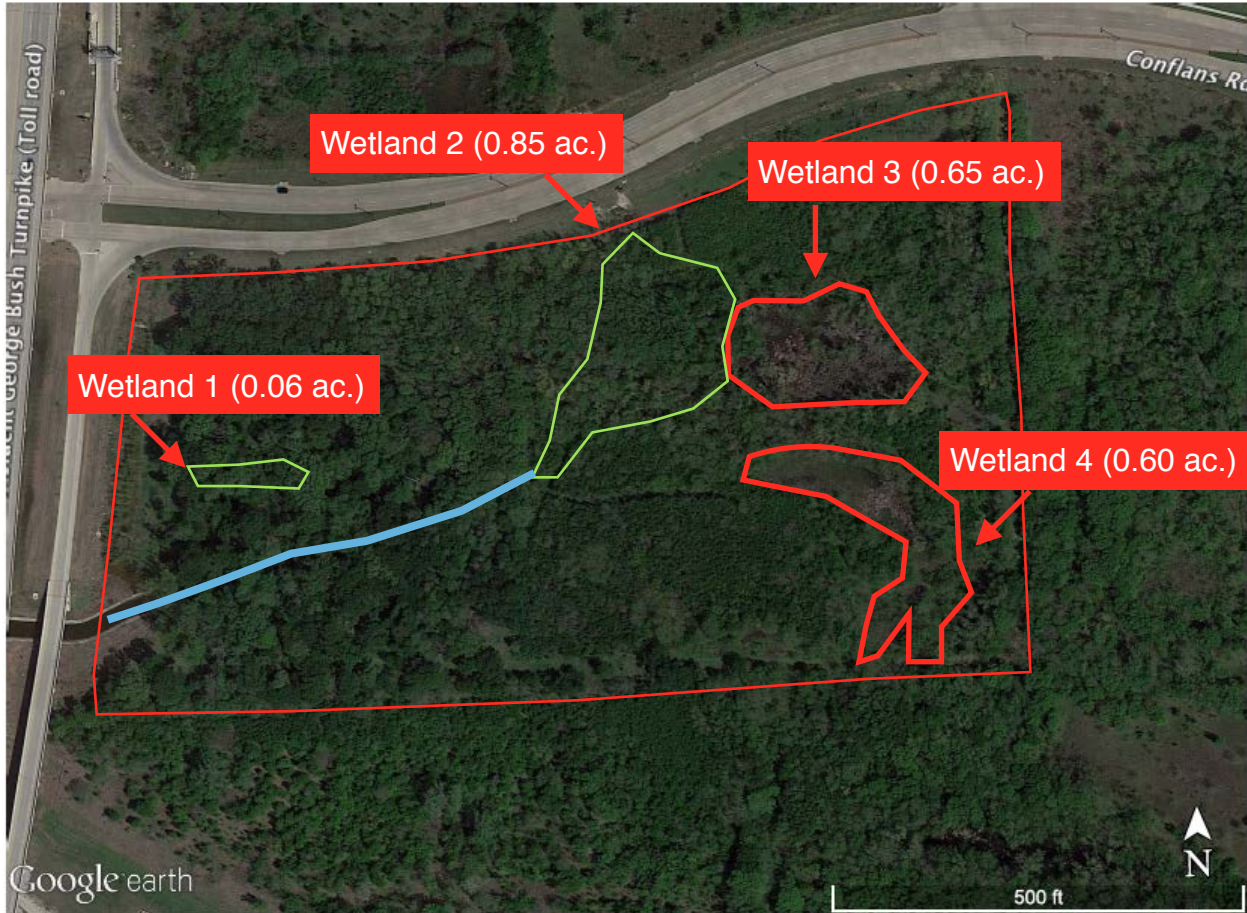
NWI MAP



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- Forested Wetlands (0.91 ac.)
- Herbaceous Wetland (1.2 ac.)
- Manmade Drainage Ditch

JURISDICTIONAL DETERMINATION



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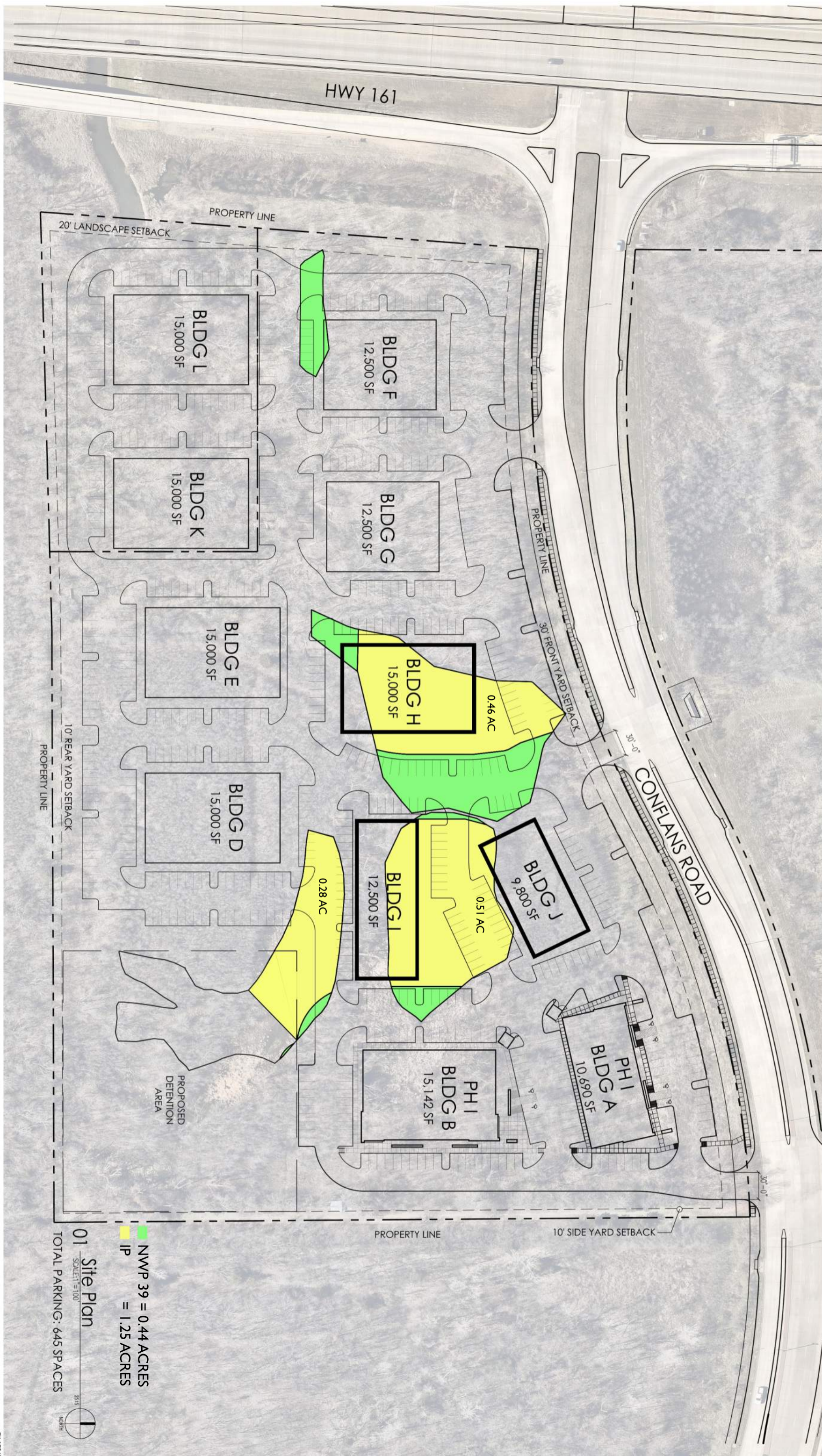
Job No. 77-02001

MARCH 2017

Sheet 7

HWY 161 & CONFLANS RD. - IRVING, TX
IMPACT AREA DIAGRAM

MARCH 8/MARCH 9TH 2017
2515-X-85-01-PHASE II (17-0116)



1X-17868