



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

Public Notice

Applicant: Tyler Independent School District

Permit Application No.: SWF-2015-00098

Date: July 9, 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

Name: Mr. Steve Lindamood

Phone Number: 817-886-1670

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 Tyler Independent School District project, located in the city of Tyler, Smith County, Texas.

APPLICANT: Tyler Independent School District (TISD)

APPLICATION NUMBER: SWF-2015-00098

DATE ISSUED: July 9, 2015

LOCATION: The existing Robert E. Lee High School campus is located at 411 East Southeast Loop 323 within the city of Tyler in Smith County, Texas, on an approximately 53 acre tract (Latitude 32.2968; Longitude -95.2967). The proposed location of the project (i.e., a new high school) is located adjacent to and south of the existing campus.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: In accordance with the applicant's proposal, the applicant proposes to discharge approximately 4,500 cubic yards of fill material and box culvert into a 1,475 linear foot of intermittent reach of West Mud Creek and approximately 6,000 cubic yards of fill materials into palustrine forested wetlands in conjunction with the construction of a new high school campus with associated new streets, parking areas, utilities, tennis courts, and baseball/softball fields. In accordance with the applicant's preferred alternative, the total proposed impacts to WOUS include the direct and permanent impacts to 1,475 lf of intermittent stream and 1.78 acres of forested wetlands.

I. INTRODUCTION: The applicant is proposing the construction of a new high school campus. The applicant's stated purpose for the project is to construct a new Robert E. Lee High School within the geographic area of Tyler currently served by the Robert E. Lee High School, which satisfies the current and future needs of the growing community. According to the applicant, the TISD needs to provide a larger, safer campus to accommodate a population of students that has already outgrown the overcrowded, outdated campus.

II. EXISTING CONDITIONS: The proposed project is located on a tract of approximately 53 acres. The surrounding land uses are primarily residential communities and commercial developments with some undeveloped park land to the west. The applicant states that the intermittent reach to West Mud Creek is an intermittent waterway that transects the property and flows from the northwest to the southeast. Riparian vegetation within the project area consists primarily of hardwoods, elm, birch, and sweetgum.

According to the USGS 7.5-minute Quadrangle Map of Tyler South, Texas, the ground surface elevation varies from approximately 480 to 500 feet above mean sea level (MSL). Generally, drainage flows through the proposed project area to West Mud Creek located east of the property. According to the applicant, a greater majority of the property lies within the 100-year floodplain. A lack of topographic relief in this area, along with the presence of the floodplain, supports the existence of the forested wetlands. Areas above the wetlands are better drained and do not support wetlands.

Smith County Soil Survey maps identify 2 soil types occurring within the property boundary: Urban Land, 10 to 90 percent slopes, which are typically well drained and located in uplands & Mantachie Loam, 0 to 1 percent slopes, which are typical in floodplains and are somewhat poorly drained.

III. APPLICANTS ALTERNATIVES: The applicant has provided an alternatives analysis that includes 7 proposed alternatives, which includes the no action alternative and the applicant's preferred alternative (Alternative No. 7), of which Alternative Numbers 2 and 3 are located off-site, and has made a practicability determination based on their course screening criteria. This criteria screened the alternative's practicability based on whether if it was available for acquisition, of a sufficient parcel size, appropriate zoning, availability of utilities, availability of access, existing technology to construct the project, and cost.

The Tyler Independent School District (TISD) is following guidelines published by the Texas Education Agency (TEA) in the sizing of the new school. TEA guidelines establish a 30-acre minimum for a school campus with one additional acre per 100 students. The existing campus currently has approximately 2,500 students, so the current acreage needed to satisfy TEA guidelines is about 55 acres. In 2020, demographic studies show the student population to be an estimated 3,200 students, which would require a campus of approximately 62 acres in size. Any significantly smaller properties were screened from being practicable and reasonable alternatives. TISD researched available off-site properties that could be purchased, and identified only two potential alternatives. While other larger tracts of land may exist within the geographic area, they are all considered to be impracticable if they are not for sale or available. As such, no alternatives were considered for lands that are unavailable for purchase.

Alternatives ranged from redevelopment of the current campus to developing other properties elsewhere in the city of Tyler. The cost of these development alternatives is an important consideration as the TISD has an obligation to the local taxpayers to minimize the costs of the selected alternative. However, TISD acknowledges the importance of protecting the aquatic resources and they submit that they have considered all alternatives that are both reasonable and practicable which may avoid or minimize impacts to waters. In addition, the applicant submits that access to utilities and high speed telecommunications is an important consideration when evaluating the practicability of school alternatives. Technology limitations and safety issues are major concerns that have shaped the selection process, but logistics and maximizing adverse impacts are the main determining factors establishing the least environmentally damaging practicable alternative.

Seven alternatives considered for the project are described as follows. Corresponding exhibits showing each of these alternatives is included at the end of the public notice.

Alternative No. 1: No Action Alternative. This "no action" alternative would result in no adverse impacts to waters of the U.S., however would not meet the applicant's purpose and need for the project and is therefore considered to be impracticable.

Alternative No. 2: Construct a New Campus on Old Noonday Road (Off-Site). This 80.5 acre parcel is located on Old Noonday Road in south Tyler (Latitude 32.2966; Longitude -95.3342) within which this

project could potentially be constructed. The parcel is located outside the developed area of town, is heavily wooded, and is considered greenspace in the local area per the applicant. The applicant does not currently own this parcel. The applicant indicates the parcel is bisected by multiple spring fed, intermittent streams totaling 2,900 linear feet in length. These streams would require to be filled in order to develop the property as proposed. The applicant conducted an off-site delineation of wetlands and remotely identified at least 7 acres of wetlands on the property, which exist along the riparian zone of the stream channels. This alternative site was considered practicable, as it did not fail any of the 7 aforementioned screening criteria and is included in the least damaging practicable alternative discussion below.

Alternative No. 3: Construct a New Campus on Old Jacksonville Highway (Off-Site). This 85.3 acre parcel is undeveloped, heavily wooded, and is also located on the edge of town per the applicant (Latitude 32.2844; Longitude -95.3356). The applicant doesn't currently own this parcel. The applicant indicates the parcel is bisected by an intermittent stream totaling 2,400 linear feet in length. These streams would be required to be filled in order to develop the property as proposed. The applicant conducted an off-site delineation of wetlands and remotely identified 1 to 6 acres of wetlands on the property. This alternative site was considered practicable, as it did not fail any of the 7 aforementioned screening criteria and is included in the least damaging practicable alternative discussion below.

The following four alternatives are for the 53 acre parcel that is the site of the current campus.

Alternative No. 4: Redevelop Current Campus and Avoid All Impacts to Waters. The applicant already owns the land on which the following four alternatives would potentially be constructed. The applicant has focused their avoidance efforts on impacts to the stream channel and wetlands. According to the applicant, completely avoiding impacts to streams and wetlands on-site is not possible due to the topography of the site and its current occupation by students and staff.

Avoiding waters would require shifting the new campus back to the Loop 323 frontage, which is the location of the existing campus. Shifting the campus in this manner would fail the screening for access and size. Space limitations, parking limitations, and scheduling issues make this alternative impracticable. The TEA guidelines establish a need for about 55 acres of development to accommodate the current student population at the existing campus. The total acreage of land located north of the stream and wetlands is approximately 35 acres, which is not large enough to meet TEA guidelines. The current parking for the existing student population is 100% occupied at most times. Any phasing concept would involve limiting the number of parking spaces during construction, and there is no safe alternative to parking available. The construction of the new campus can not be completed during the summer when students and faculty are off campus. The applicant's need for a larger campus is urgent and the preferred alternative is a two year construction project. Phasing and redevelopment of the existing campus would result in a four year project, which does not meet the applicant's needs in a reasonable timeframe. This alternative site was considered not practicable, as it failed the size and availability for access screening criteria.

Alternative No. 5: Redevelop Current Campus and Reroute 2500-3500 Linear Feet (LF) of Stream. The applicant has also considered filling all waters and rerouting the stream around the project's western perimeter. The existing channel would be filled and rerouted into a man-made, earthen shaped channel. From the standpoint of cost, the applicant believes that rerouting the channel is feasible. However, they believe that reconstructing a stream with a different configuration and flow path has a high risk of failure, and believe that very few hydrogeomorphologists have the skill and experience to properly design a stream system. The applicant believes this alternative is not practicable due to technological limitations; this

alternative passes all other screening criterion.

Alternative No. 6: Redevelop Current Campus and Place Stream in Culvert. Filling all waters and rerouting the stream into a culvert was considered practicable, as it did not fail any of the 7 aforementioned screening criteria and is included in the least damaging practicable alternative discussion below.

Alternative No. 7: Redevelop Campus, Place Stream in Culvert, and Avoid 375 Linear Feet of Stream. This alternative includes filling most of the stream and channeling the water into a culvert. All of the forested wetlands on-site would be filled. Approximately 375 linear feet of stream would be avoided in this alternative due to a slight redesign of the project to avoid as much of the stream impact as possible. This alternative would result in filling 1,475 linear feet of the 1,850 linear feet of stream on-site. This alternative passes all screening criteria and is included in the least damaging practicable alternative discussion below.

Alternatives Screened for the Least Damaging Practicable Alternative (LEDPA).

Based on the results of the alternatives screening in the previous section, the applicant determined that four practicable alternatives remain for further consideration. Alternative numbers 2, 3, 6, and 7 were deemed to be practicable. In accordance with the Guidelines at 40 CFR 230.10(a) (The Guidelines), a permit cannot be issued if a practicable alternative exists that would have less adverse impact on the aquatic ecosystem (known as the LEDPA), provided that the LEDPA does not have other significant adverse environmental consequences to other natural ecosystem components.

According to the applicant, the loss of stream and wetlands associated with each practicable alternative is considered to be the most significant environmental factors. Additionally, there are other minor considerations which are not included in the environmental impacts comparison. Alternatives 2 and 3 are located in more undeveloped areas and the release of stormwater will modify the hydroperiod and flows in downstream areas. However, the applicant believes with the design of stormwater and detention systems, there should be no significant adverse ecological downstream impacts. Alternatives 6 and 7 are located in densely developed areas. Receiving waters, including the on-site waters, are already receiving urban runoff. Development of these two sites with proper drainage designs will not result in any significant off-site impacts.

The loss of wildlife habitat associated with all practicable alternatives is also insignificant according to the applicant. The properties do not provide habitat for any threatened or endangered species. The applicant further states, that the urban areas would only provide habitat for generalist of low conservation value. The cumulative loss of habitat in the dense urban area is not considered to be significant and the fragmentation of habitat at the more rural location is insignificant.

The following table presents a comparison of environmental impacts resulting from the alternatives. In regards to wetland delineation data, on-the-ground delineation data was not available for Alternatives 2 and 3. Desktop delineation methods were used to evaluate the potential waters on these sites. In addition to the on-the-ground data, desktop wetland delineation data for Alternatives 6 and 7 is included in the table below for comparison.

In regards to stream delineation data, comparison of on-the-ground stream delineation data for Alternatives 3, 6, and 7 showed close correlation with desktop determination methods. Ranges of stream impacts are presented in the table below.

Environmental Factors	Alternative No.2	Alternative No.3	Alternative No.6	Alternative No.7
Wetland Impacts (Acres)	7 -20	1 -6	1.78 -3*	1.78 -3*
Stream Impacts (Length)	2,320 – 2,900**	1,920 – 2,400**	1,850 LF	1,475 LF
LEDPA	NO	NO	NO	YES

*The applicant states that the actual on-the-ground delineation shows 1.78 acres of wetlands, but 3 acres are identified by desktop screening (a method that compares to that employed for off-site alternatives)

** The applicant shows here a comparison of on-the-ground and desktop stream delineation data for Alternative Numbers 3, 6, and 7 showed closely correlated results. The applicant states that they're able to avoid impacts to 20% of channel for Alternative No. 7, so low range numbers for off-site alternatives with the assumption that 20% of the impacts could be avoided (for a fair comparison).

The applicant suggests in the previous table, that Alternative No. 2 would result in the greatest loss of both streams and wetlands. Conversely, Alternative No. 3 would likely be more comparable to Alternative numbers 6 and 7, but stream loss would be greater. Alternative numbers 6 and 7 will result in impacts to wetlands similar to Alternative No. 3, but with less stream impact. The applicant suggest, since some avoidance of stream impact was possible under Alternative No. 7, this alternative will result in the LEDPA. The Tyler Independent School District has chosen Alternative No. 7 as the LEDPA, because in their opinion it will impact the least amount of intermittent stream.

The Guidelines also presume that practicable alternatives located in non-aquatic sites (e.g., uplands) have less adverse impact on the aquatic ecosystem. The applicant believes that, as demonstrated in this alternatives analysis, there exist no practicable alternatives located in non-special aquatic sites only. By selecting Alternative No. 7, the applicant believes they are selecting a preferred alternative that best meets their purpose and need for the project, while representing the LEDPA.

IV. COMPENSATORY MITIGATION: The applicant proposes to compensate for the loss of WOUS through the purchase of stream credits from the Scoober Creek Mitigation Bank and wetland credits from the West Mud Creek Mitigation Bank in accordance with the methodologies prescribed within their respective mitigation banking instruments.

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 any species may occur in the project area. The proposed project would be located in Smith County where the piping plover (*Charadrius melodus*) and Louisiana black bear (*Ursus americanus luteolus*) are known to occur or may occur as migrants. Both the piping plover and the Louisiana black bear 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 area of the proposed development was surveyed for the presence of historic and prehistoric cultural resources. The survey did not identify any sites and the report has been accepted by the Texas State Historic Preservation Office. No additional cultural resources work is planned for this project. Should evidence of ancient human artifacts be discovered during construction activities, all work will cease and the appropriate agencies will be contacted for further evaluation.

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.

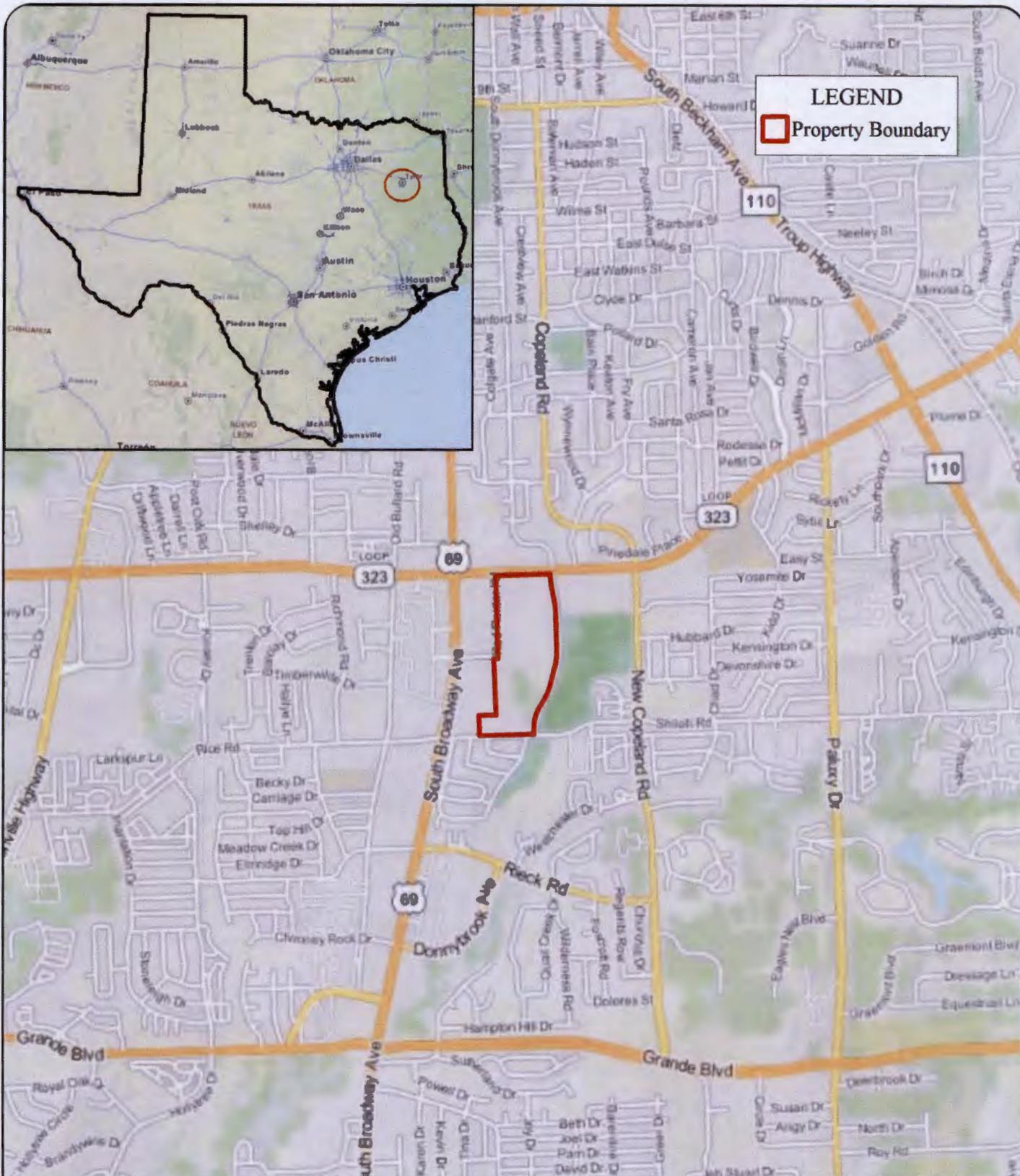
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted 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 August 7, 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 Division, 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 Mr. Steve Lindamood at (817) 886-1744. 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

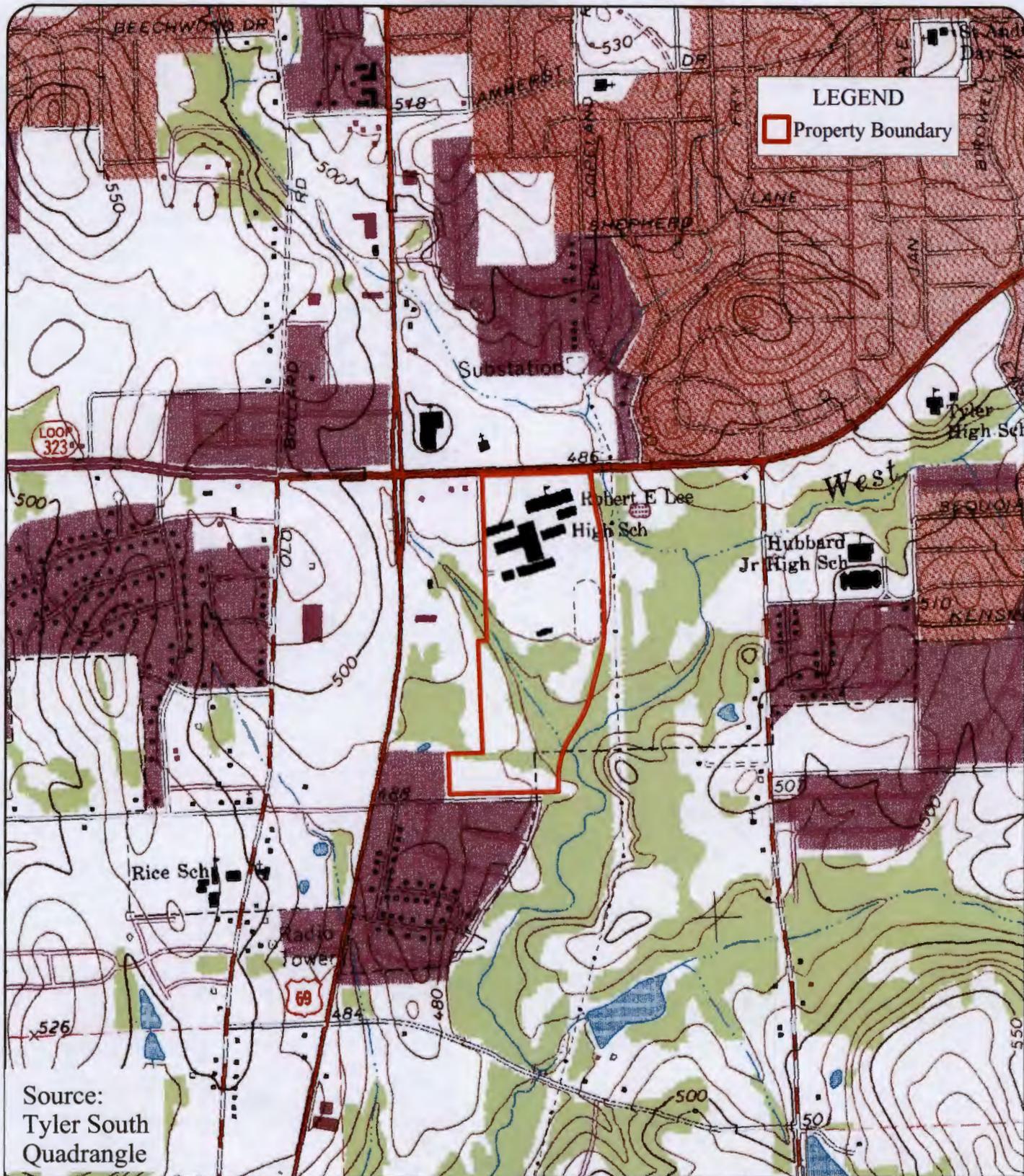
PUBLIC NOTICE
Drawings and Figures



Sheet 1 of 4 - Vicinity Map
 Tyler Independent School District
 SWF-2015-00098
 May 12, 2015

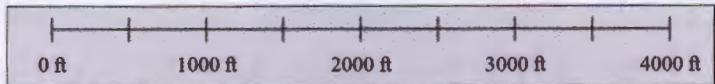


Rowden Consulting, LLC
 Environmental Services

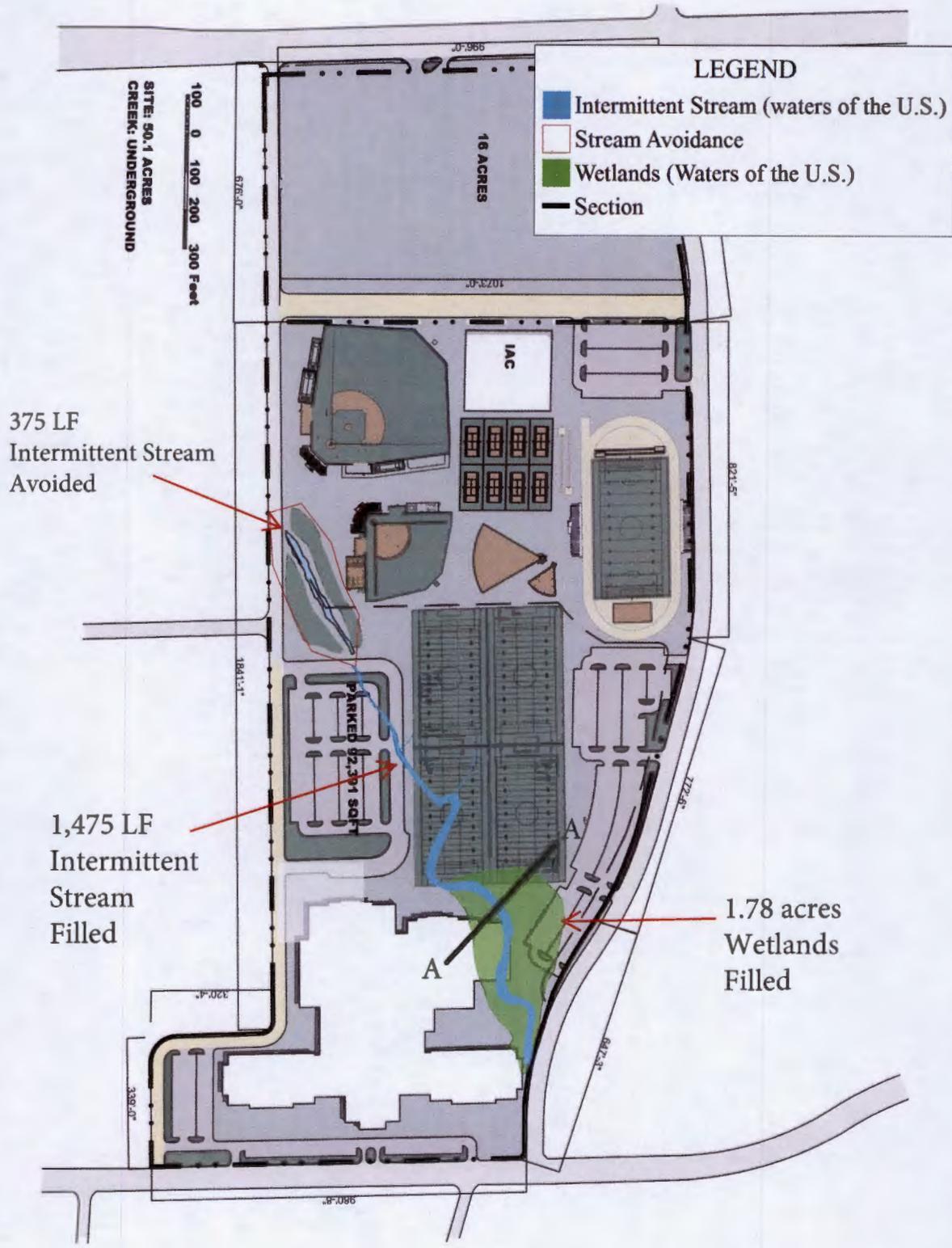


Source:
Tyler South
Quadrangle

Sheet 2 of 4 - USGS Topo Map
Tyler Independent School District
SWF-2015-00098
May 12, 2015



Rowden Consulting, LLC
Environmental Services



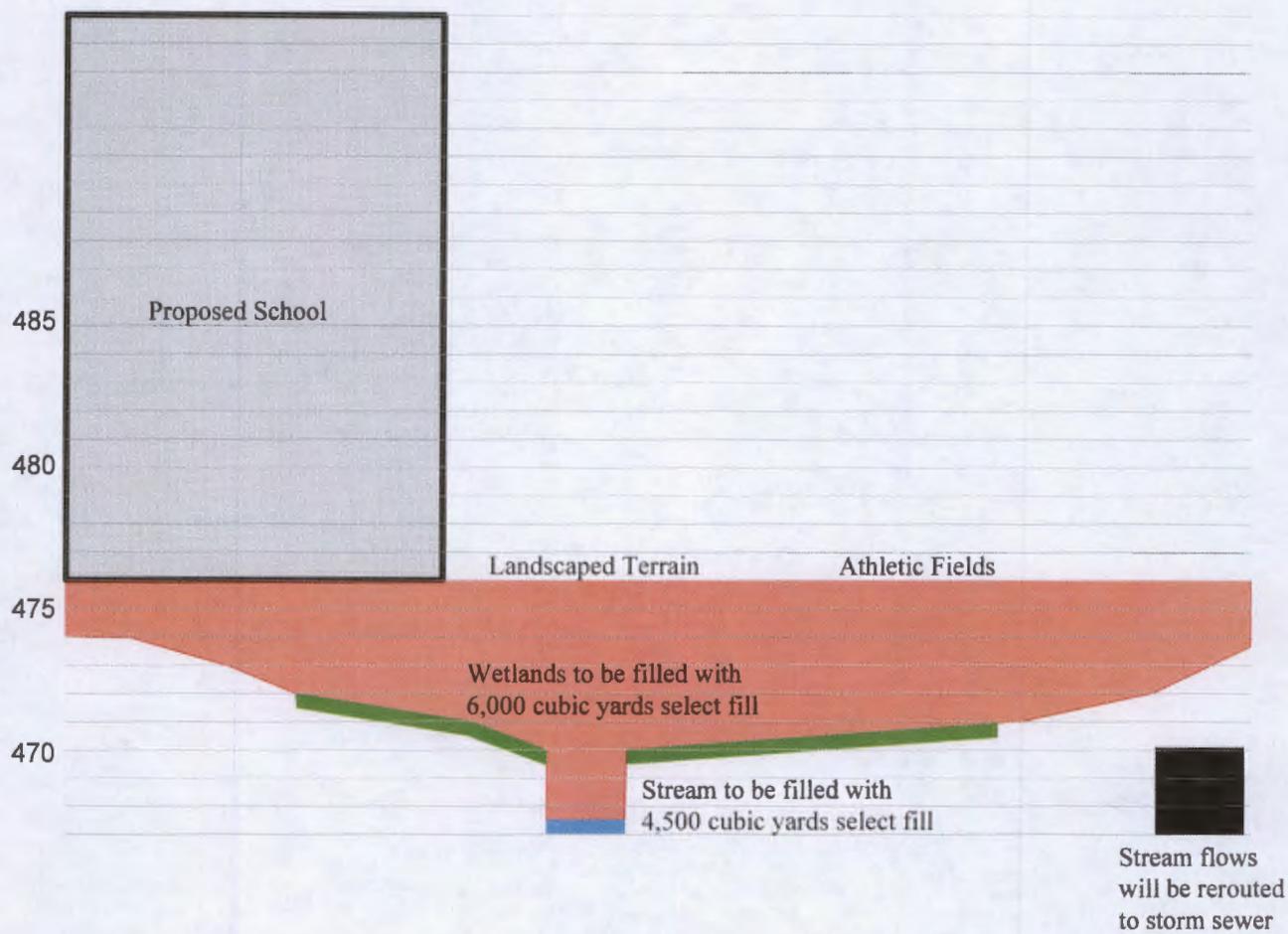
Sheet 3 of 4 - Site Plan w/ Impacts
 Tyler Independent School District
 SWF-2015-00098
 May 12, 2015



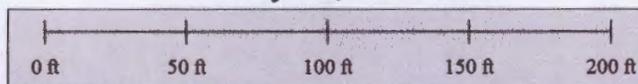
Rowden Consulting, LLC
 Environmental Services

LEGEND

- Buildings
- Culvert
- Intermittent Stream (waters of the U.S.)
- Select Fill
- Wetlands (Waters of the U.S.)

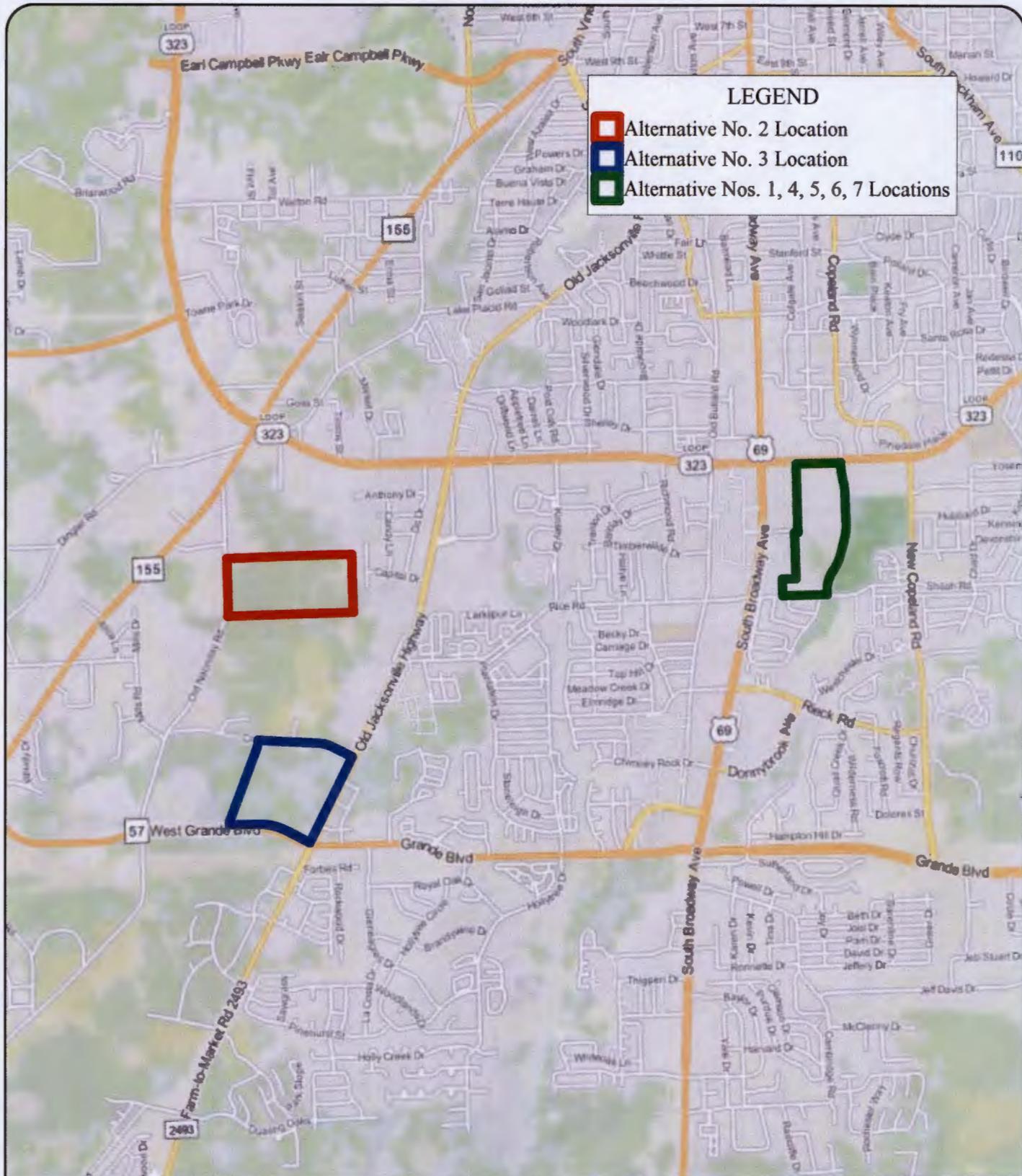


Sheet 4 of 4 - Section A - A'
Tyler Independent School District
SWF-2015-00098
May 12, 2015

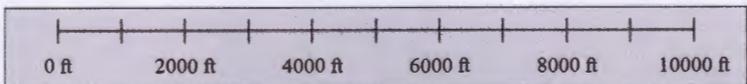


Rowden Consulting, LLC
Environmental Services

Alternative Exhibits



Location of Alternatives



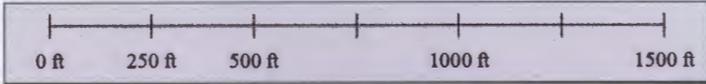
Rowden Consulting, LLC
Environmental Services



LEGEND
Property Boundary

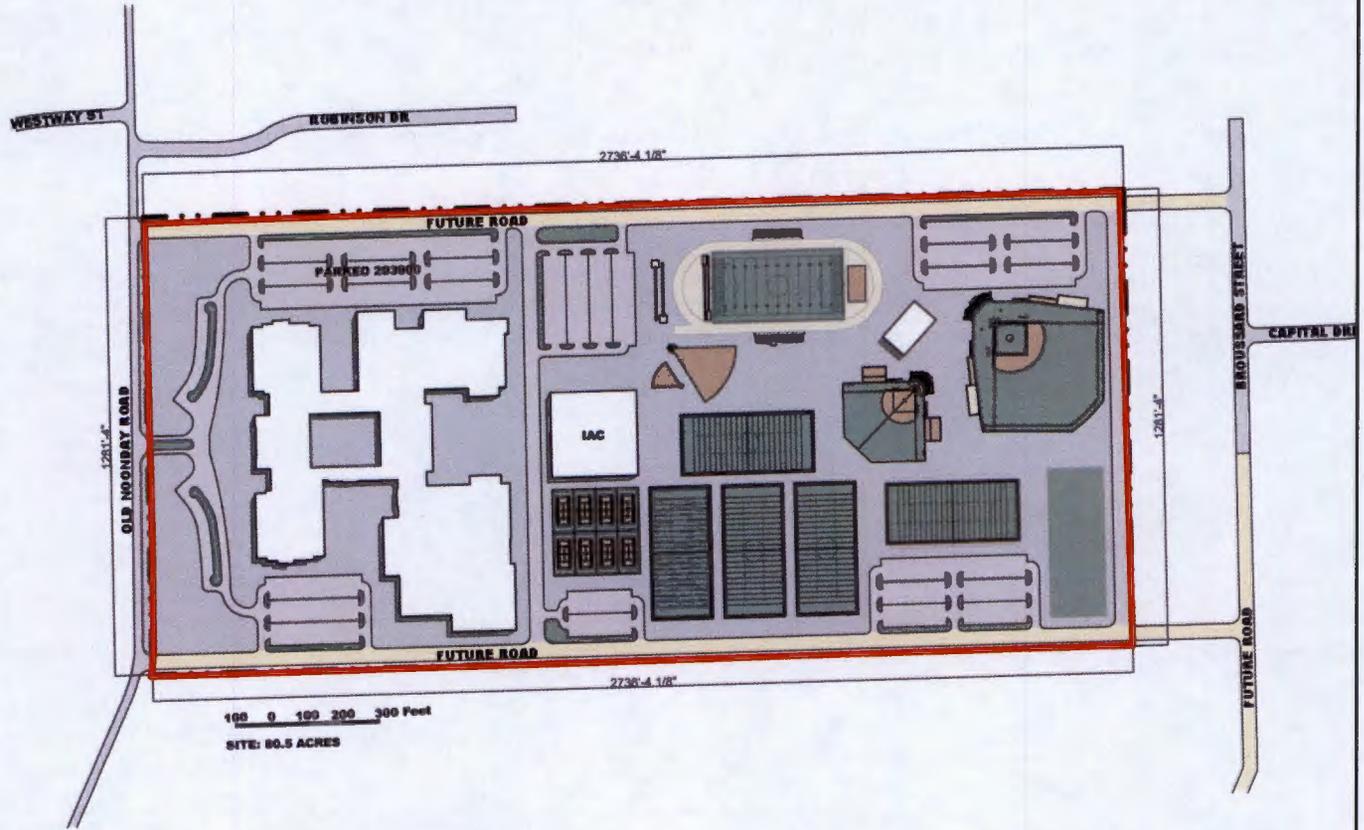


Alternative No. 1
(No Action)

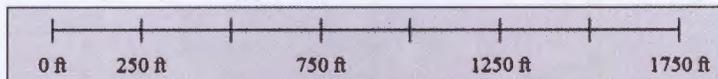


Rowden Consulting, LLC
Environmental Services

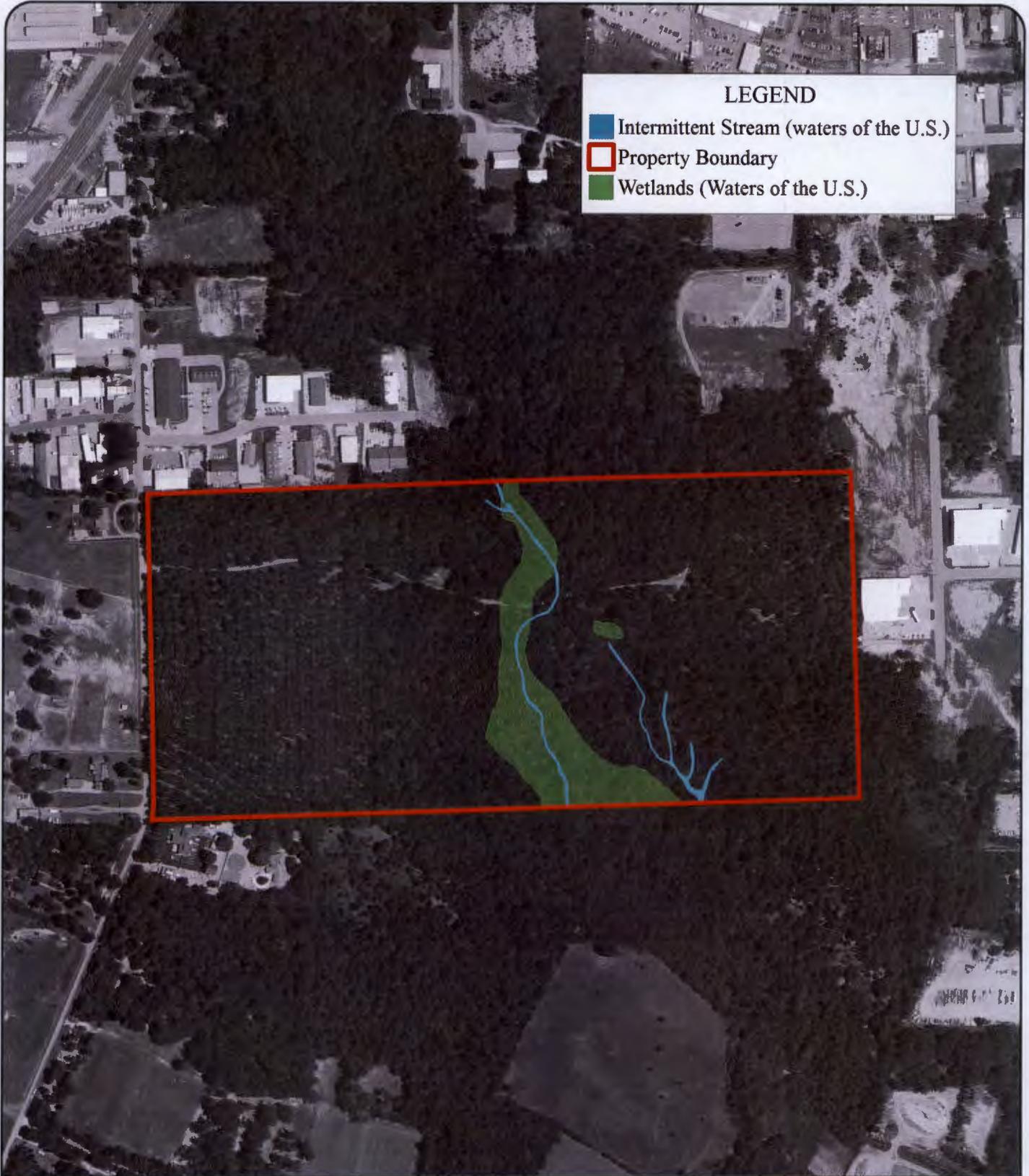
LEGEND
 Property Boundary



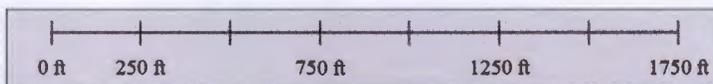
Alternative No. 2
Conceptual



Rowden Consulting, LLC
Environmental Services

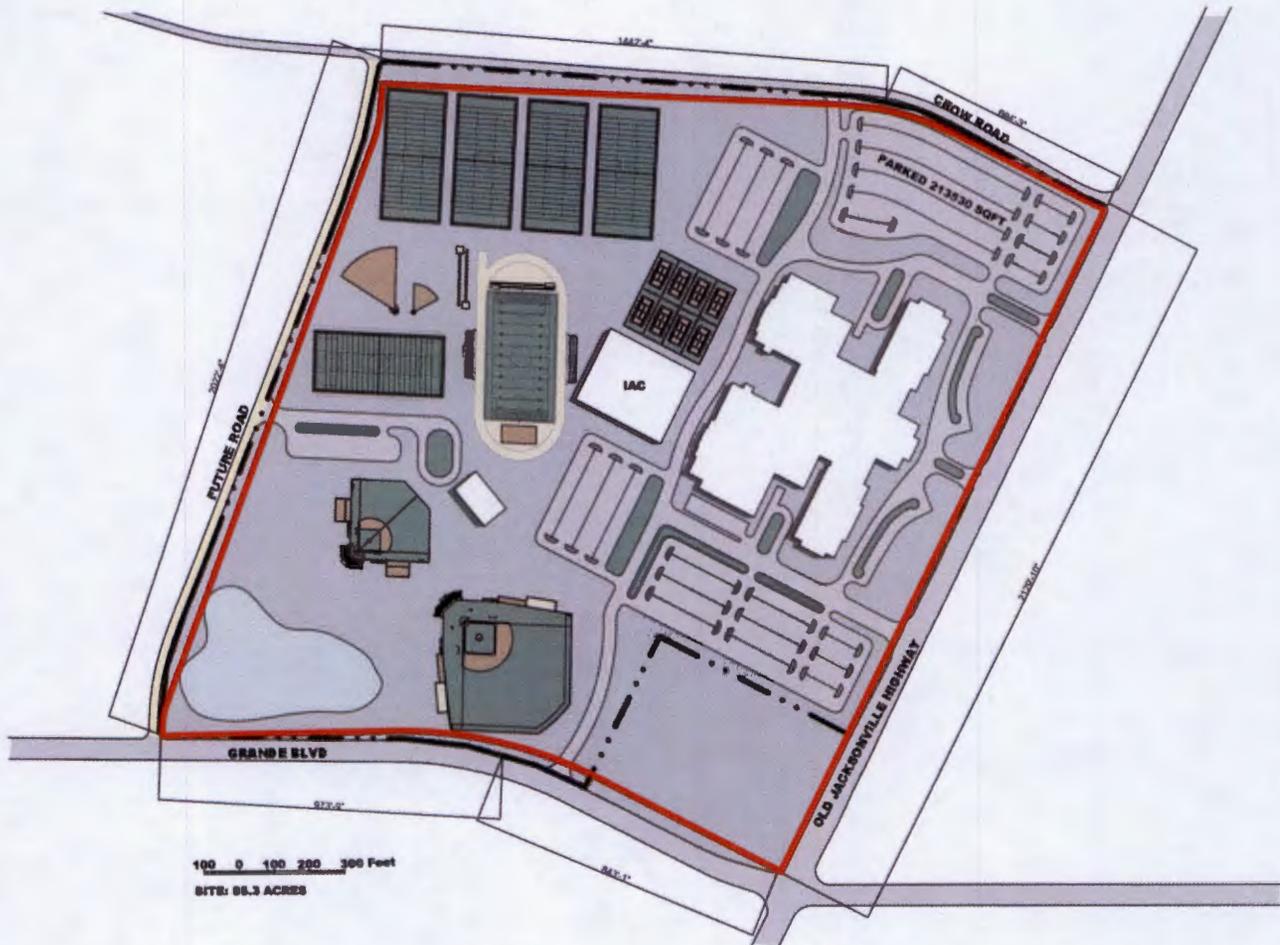


Alternative No. 2
Waters of the U.S.

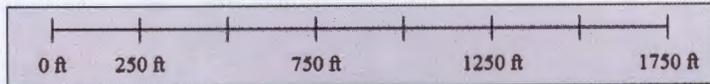


Rowden Consulting, LLC
Environmental Services

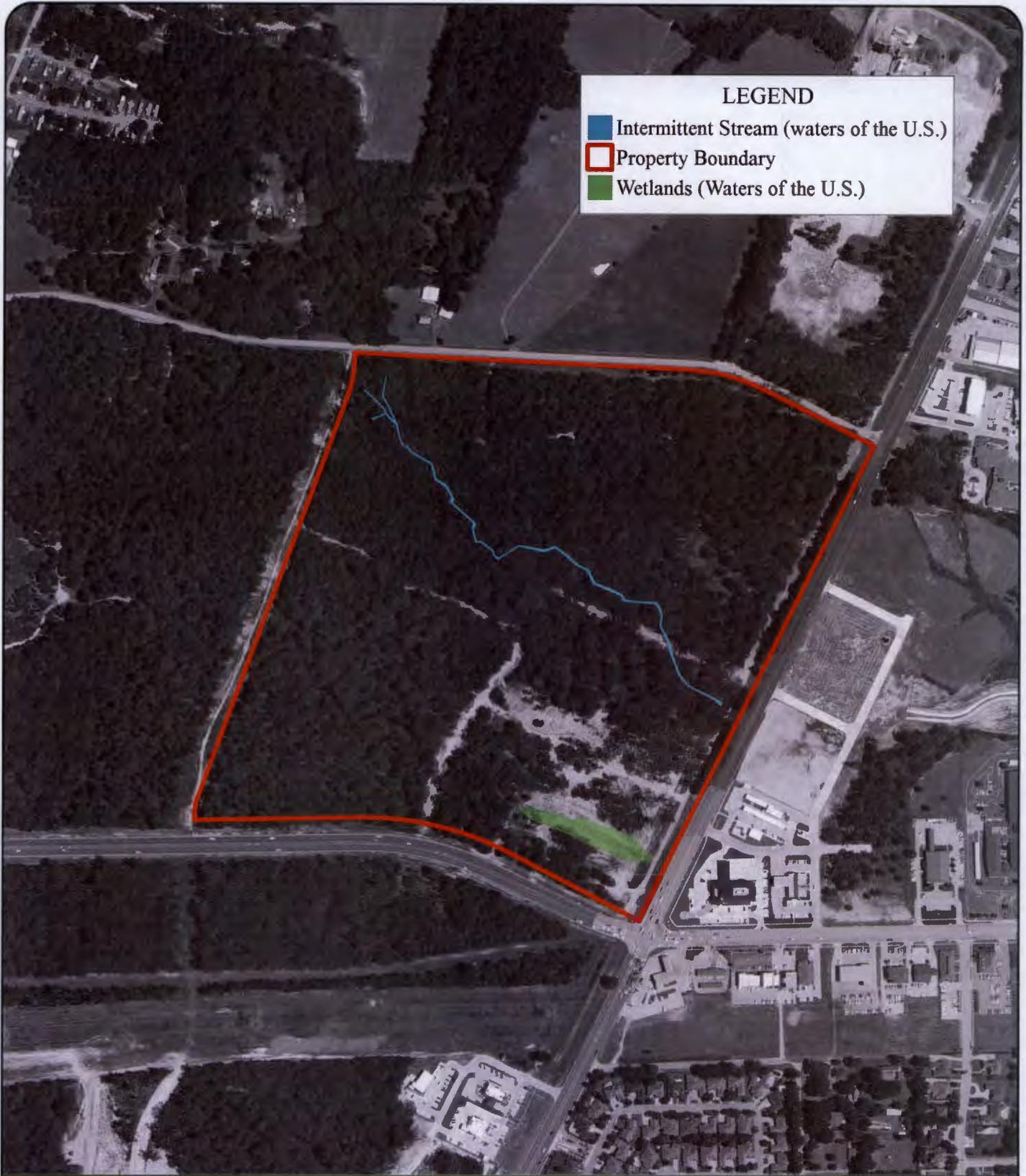
LEGEND
 Property Boundary



Alternative No. 3
Conceptual



Rowden Consulting, LLC
Environmental Services

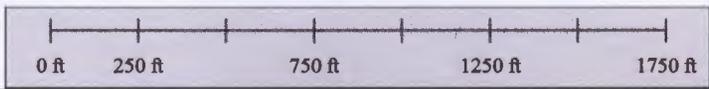


LEGEND

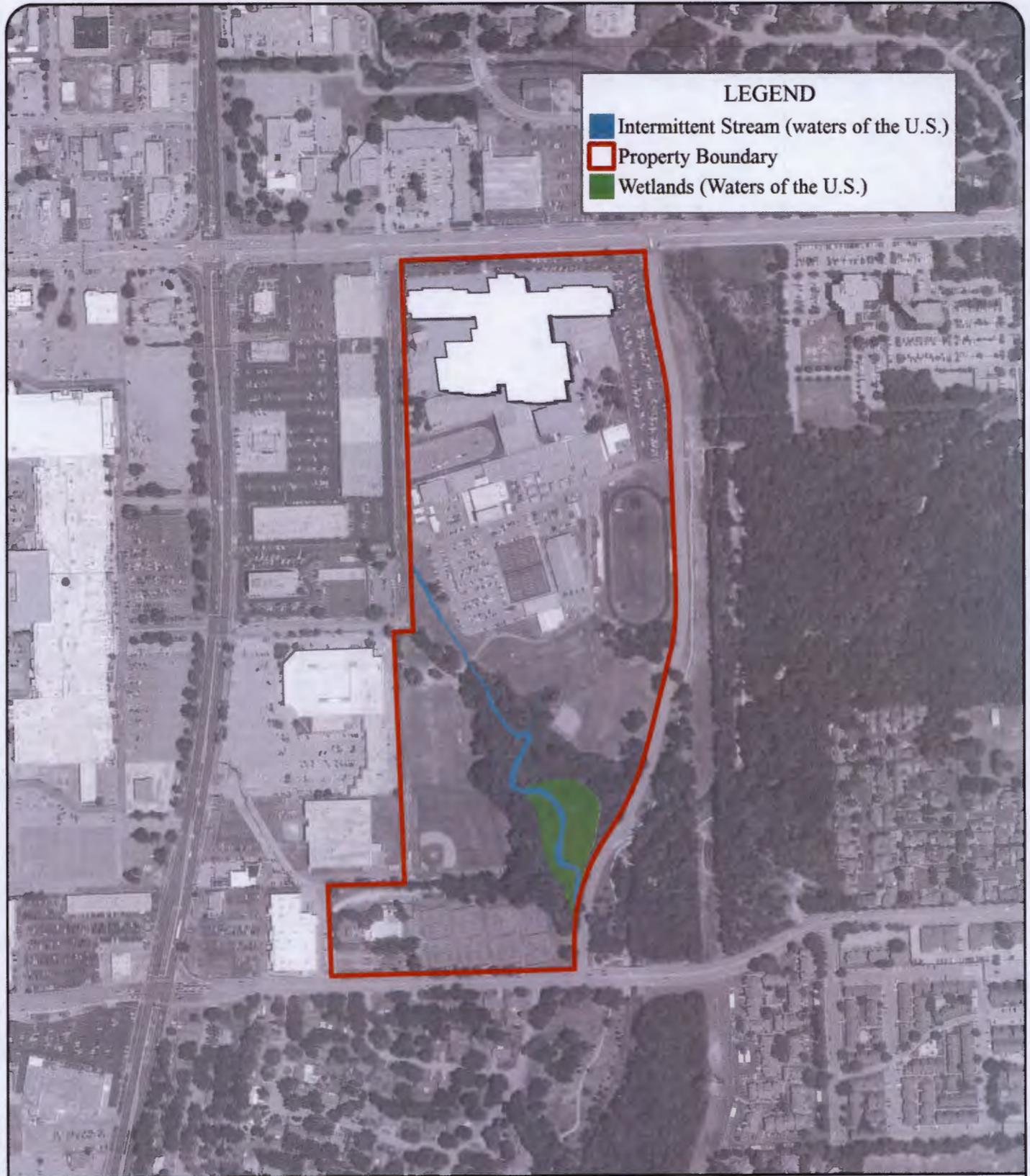
-  Intermittent Stream (waters of the U.S.)
-  Property Boundary
-  Wetlands (Waters of the U.S.)



**Alternative No. 3
Waters of the U.S.**



Rowden Consulting, LLC
Environmental Services

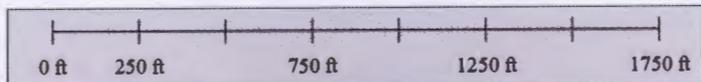


LEGEND

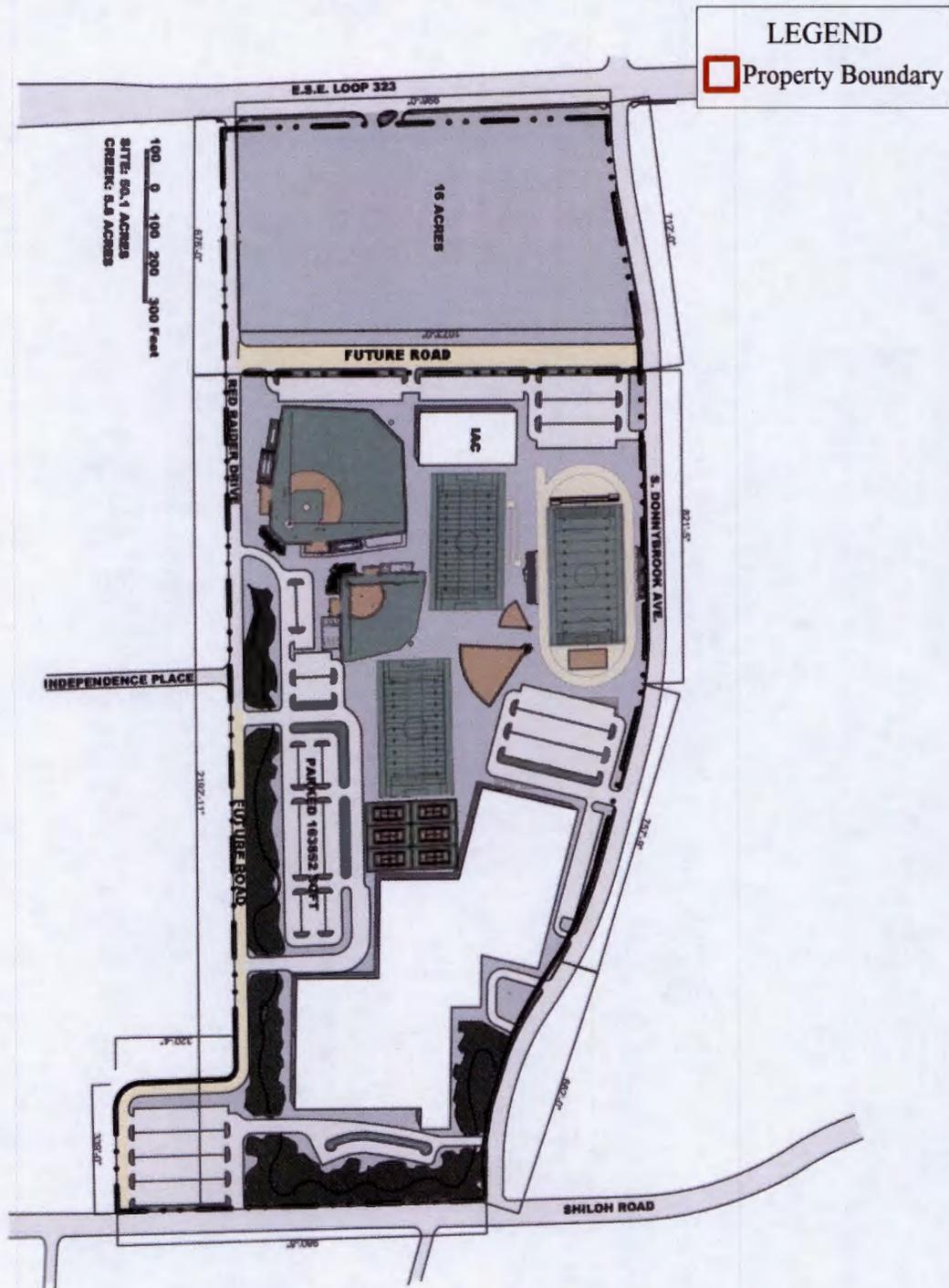
- Intermittent Stream (waters of the U.S.)
- Property Boundary
- Wetlands (Waters of the U.S.)



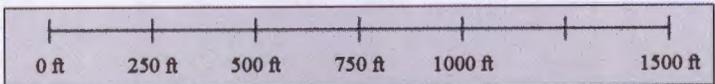
Alternative No. 4



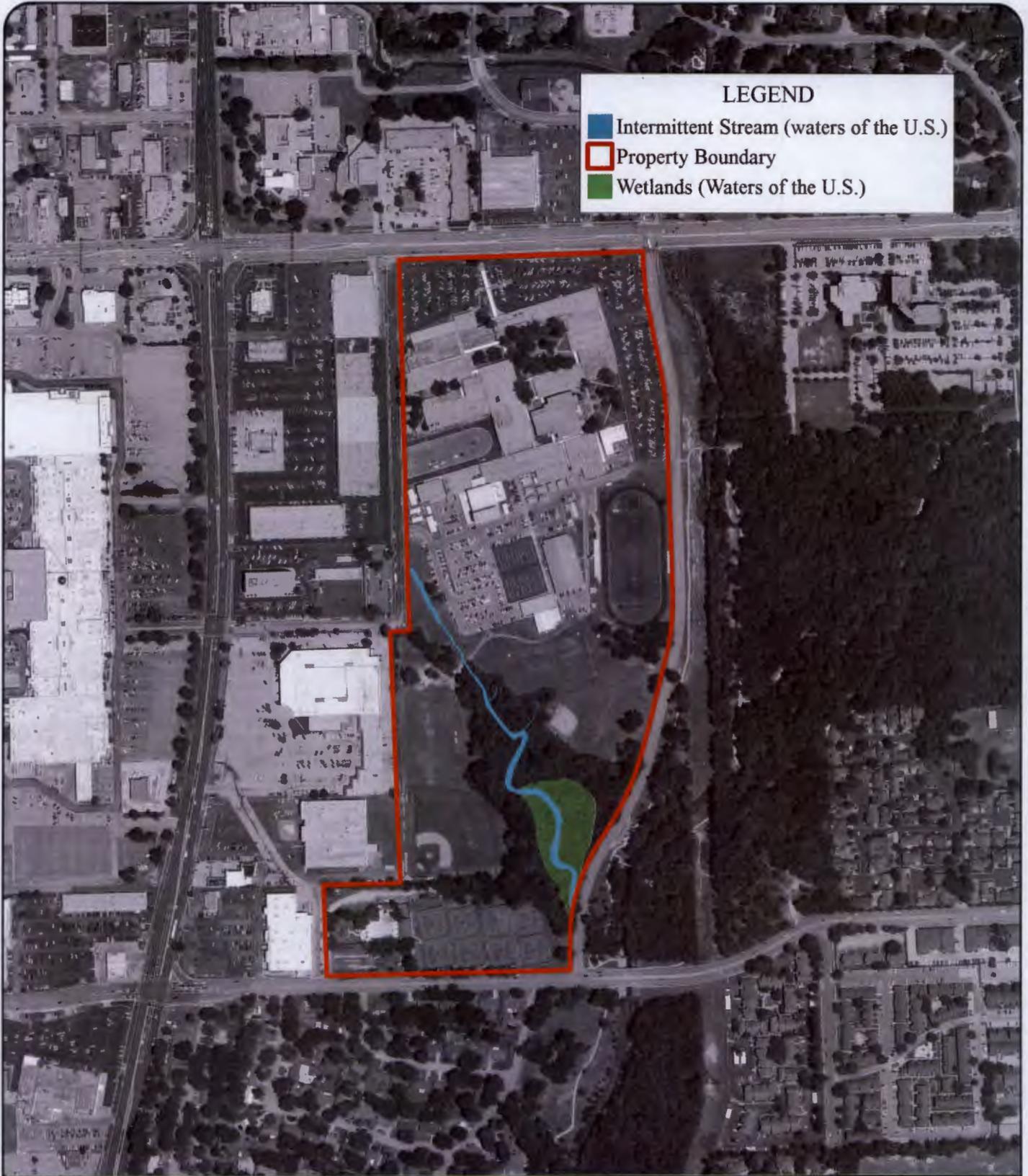
Rowden Consulting, LLC
Environmental Services



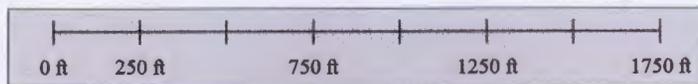
Alternative No. 5



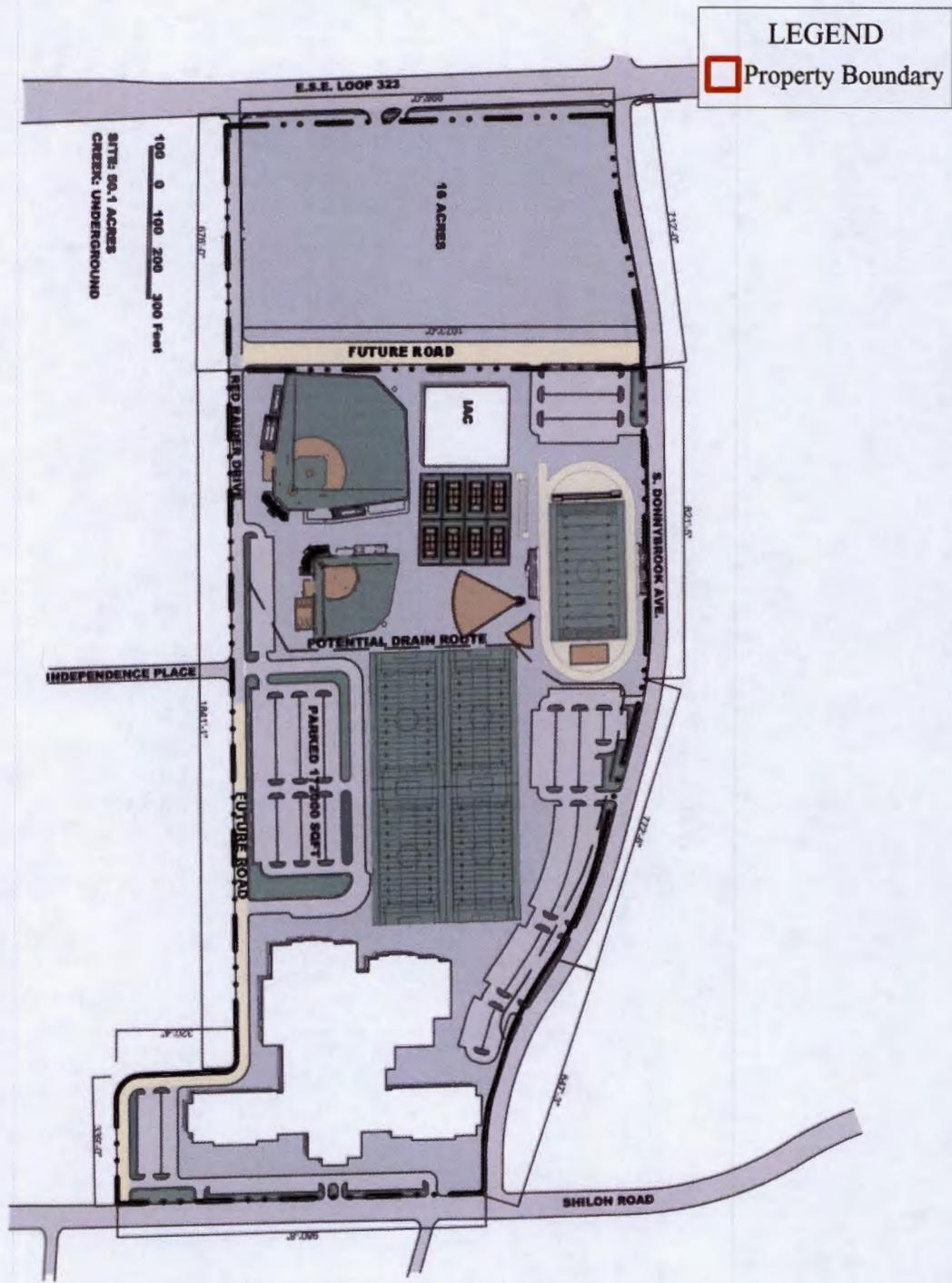
Rowden Consulting, LLC
Environmental Services



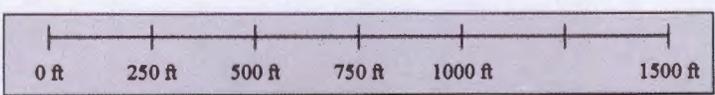
Alternative No. 5 Waters of the U.S.



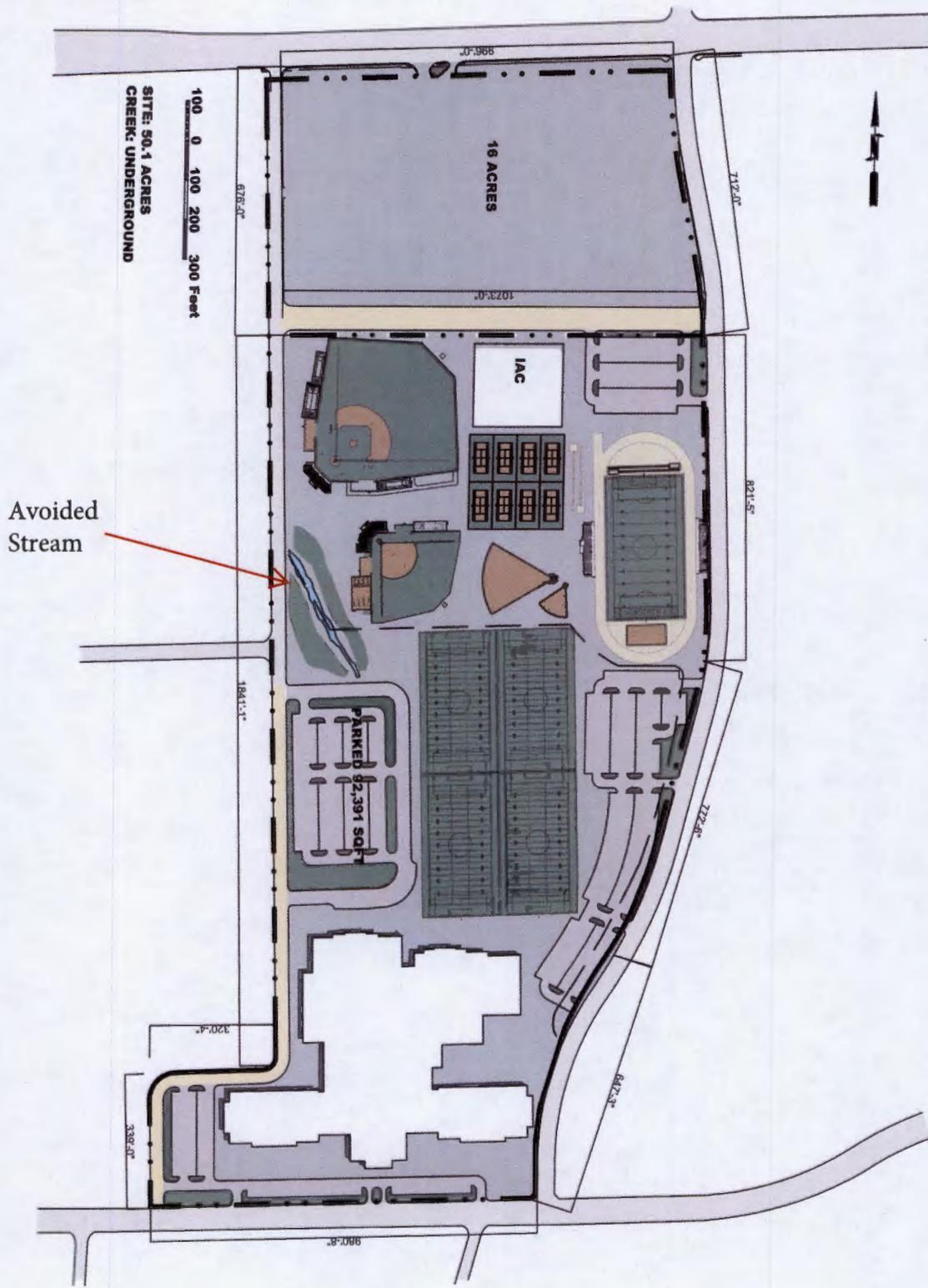
Rowden Consulting, LLC
Environmental Services



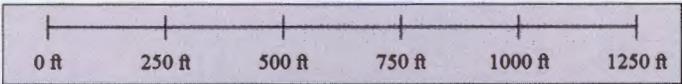
Alternative No. 6 Conceptual



Rowden Consulting, LLC
Environmental Services



Alternative No. 7 Preferred and LEDPA



Rowden Consulting, LLC
Environmental Services