



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

Public Notice

Applicant: Berlin Interests

Project No.: SWF-2018-00094

Date: June 29, 2018

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. Jamie Larkin

Phone Number: (817) 886-1662

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 the construction of a commercial development facility and associated infrastructure. Proposed construction would occur within the City of Celina, Denton County, Texas.

APPLICANT: Berlin Interests
c/o Eric Berlin
1201 N. Riverfront Blvd.
Dallas, Texas 75207

APPLICATION NUMBER: SWF-2018-00094

DATE ISSUED: June 29, 2018

LOCATION: The proposed commercial development would be located on ~17.2 acres of land containing wetlands adjacent to Doe Branch in the City of Celina, Denton County, Texas (Exhibit 1: Vicinity Map). The project is located at the northeast corner of Smiley Road and Parvin Road at approximately 33.25718768 North latitude and 96.86129983 West latitude and is mapped on the Celina, Texas 7.5-minute U.S. Geological Survey (USGS) topographic quadrangle map (Exhibit 2: USGS Map) in Celina, Denton County, Texas. The project area is located in the Elm Fork of the Trinity, Hydrologic Unit Code (HUC) 12030103.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 11,000 cubic yards of dredged and fill material into approximately 1.75 acres of waters of the United States in conjunction with the construction of a commercial store. Total proposed impacts to waters of the U.S. include 1.75 acres of permanent impact to emergent wetlands located in the floodplain of Doe Branch.

I. INTRODUCTION - The applicant is proposing to construct approximately 110,000 square feet of commercial development. The commercial construction would include attendant features including truck docks, utilities, site lighting, parking areas, and other features typical of a commercial development.

PURPOSE AND NEED: The purpose of the project would be for the applicant to construct a commercial development to provide goods and services to local customers in a rapidly expanding area of residential development at an intersection with no competition. The Applicant chose to develop the subject property after performing market research and after going through their site selection process. The site was selected due to the availability of real estate, the area's population, demographics, potential for growth, and lack of commercial competition at the intersection. The primary factors that played into the

Applicant's decision to select the subject property are: 1) the property is located at the planned intersection of two major thoroughfares, 2) there is a lack of commercial competition at the intersection, and 3) there are imminent plans of expansive residential development currently being planned within the service area of the proposed store. The project is located in an area of planned, dense, suburban development. Residents would need access to the community services and/or goods to be provided by the commercial development.

II. EXISTING CONDITIONS

Setting: The USGS topographic map (Celina 7.5', Quadrangle; Exhibit 2) illustrates the project site. The National Wetlands Inventory Map (Exhibit 5) does not indicate the presence of aquatic resources on site; while the delineation map (Exhibit 3) and site development plan (Exhibit 4) both indicate the presence of emergent wetlands located within the project boundary. Waters of the U.S. were delineated on the property in the form of 3.2 acres of emergent wetlands. A Section 404 Permit would be required for any placement of fill material or construction in waters of the U.S.

Aquatic Resources: The delineated wetlands were identified within the floodplain of Doe Branch, which flows just beyond the northern property boundary. Some portions of the wetlands were found to be in a degraded state due to past grading and filling activities, which appear to have been conducted in 2006 or 2007. A sewer line was also constructed through the property in 2008. Around that time, a pond was excavated on the north side of the property in what appears to have been uplands. The pond appears to have been excavated for borrow material, which was spread and placed within wetlands and low-lying areas on the property. This filling occurred for agricultural purposes as the earthmoving activity was intended to provide water for livestock and more grazing area. The partially filled and degraded wetlands identified on the property are located in areas that appear to have been naturally occurring wetlands. In review of the aerial photographs, floodwaters and overbank flows from Doe Branch appear to have historically drained across the property, and poorly drained areas supported wetland conditions. Also, historic land terracing activities for soil conservation and pipeline construction may have impeded flood drainage and supported wetland conditions on the east side of the property. A photograph from 2007 shows the excavation of the pond with the filling and grading of most of these areas. A photograph taken in 2006 shows the pipeline construction. The primary purpose of the filling was to improve the property for agricultural use. The filling did not fully eliminate wetland conditions as the areas still do not drain well. In many areas, once wetter wetlands now exist in more of a mosaic pattern of pooled and saturated areas. During drier seasons, portions of the wetland likely dry up with reduced hydrology resulting from past filling.

Floodplain: The wetlands are located within the floodplain and are adjacent to Doe Branch (Exhibit 6). Doe Branch flows in to Lake Lewisville.

Vegetation: Vegetation throughout the study area was highly disturbed in some areas by late season mowing and possibly grading activities on the west side (near Plot 3). The property was also observed outside of the growing season. Remnant species observed within wetlands included cattails (*Typha latifolia*), spikerush (*Eleocharis sp.*), and curly dock (*Rumex crispus*). Upland conditions were disturbed by mowing, and identifiable dormant species were comprised of ragweed (*Ambrosia artemisiifolia*) and little bluestem (*Schizachyrium scoparium*). The dominance of obligate and FACW species in wetlands satisfied the hydrophytic vegetation criteria.

Soils: According to soil survey information (Exhibit 7), all sample plots were established within the Heiden clay, 1 to 3 percent slopes and the Heiden clay, 3 to 5 percent slopes soil series. These soil series are not listed on the hydric soils list, but wetland areas did not exhibit characteristics typical of the Heiden soil series. Clayey soils generally exhibited Munsell soil colors between 10YR 3/1 and 10YR 3/2 with discernable redoximorphic features in wetlands. Upland conditions appear to have been highly disturbed with soil colors showing a mix of 2.5YR3/2 and 2.5YR5/4. Hydric soil conditions were confirmed within the areas mapped as wetland.

Hydrology: Wetlands hydrology was observed throughout the areas delineated as wetlands. The region had not received any rain in the nine days preceding the field delineation, but standing water was still observed in poorly drained areas. The presence of saturation and inundation satisfied the wetlands hydrology criterion within the poorly drained areas delineated as wetland.

III. ADVERSE IMPACTS OF THE PROPOSED PROJECT – Activities associated with the construction of a commercial/retail facility would result in permanent impacts to waters of the United States including the grading and filling of emergent wetlands for site development. Direct and permanent impacts to waters of the United States total 1.75 acres of emergent wetland. Based on the proposed site plan provided by the applicant, 1.45 acres of waters of the United States would be avoided within the project boundary.

IV. ALTERNATIVES TO THE PROPOSED PROJECT - The Applicant has researched alternatives that would satisfy the project's needs. The USACE has not yet evaluated the Applicant's Alternative Analysis. On-site alternatives are presented on an Alternatives Table provided below. Initially, the Applicant planned to develop the entire property due to the need for commercial uses in the immediate area. Floodplain reclamation work would have resulted in the loss of 3.2 acres of wetlands. After considering the wetland delineation results, the Applicant then attempted to minimize impacts. The developer's goal for floodplain reclamation was to create a balance in cut and fill volumes that did not require any import of fill. By reconfiguring the cut area within the floodplain, the Applicant's engineer could only minimize wetland impacts to 2.5 acres while maintaining a balance in cut and fill volumes. To further minimize impacts, the Applicant then modified their minimization goals by allowing some import of fill, rotating the planned commercial building, and limiting the wetland impacts to the minimum quantity necessary to feasibly construct the development with the minimum number of parking spaces required by local code. This resulted in the third on-site alternative, which would impact 1.75 acres of wetland and avoid 1.45 acres of wetland.

In addition to on-site alternatives, the Applicant also considered numerous off-site alternatives. The desired market area is Celina. Prosper is located a short distance to the south, but the Applicant wants to be located within the City of Celina as their market area. Second, the Applicant feels strongly that the project must be located at the intersection of two major thoroughfares and one major being on Frontier Parkway. In review of the City of Celina's Thoroughfare Plan (2016), the property is located at the planned intersection of Smiley Road and Frontier Parkway. These thoroughfares would be comprised of a four lane street and a six lane street, and they comprise the "going home" routes for residents. The Applicant's development strategy requires routes of this size to ensure the success of their project. Third, and most importantly, the chosen intersection must have a lack of commercial competition in order to ensure the success of the proposed development. Both adjacent quadrants of the intersection south of the proposed project are owned by a school district and would be developed as school campuses. The presence of the proposed school limits the potential for competition at the chosen intersection. Most suitable off-site alternatives have commercially zoned corners that increase competition at the intersection.

The Applicant states that at least 15 acres of land would be required to make their development feasible. A property of this size does not accommodate large, multi-use developments. As such, the Applicant plans to construct one large commercial building with the required number of parking spaces mandated by local code.

No Action Alternative: The “no action” alternative would support the USACE’s “no net loss” policy by not causing any adverse impacts to waters of the U.S. However, the “no action” alternative would not allow the Applicant to construct their project.

On-Site Alternative No. 1: Initial Site Plan: The Applicant first considered developing the property without having completed a wetland delineation. Without consideration of possible wetland impacts, the Applicant would have developed the entire property along with the required floodplain mitigation. The cut and fill volumes would have been balanced so that there would be no imported fill.

On-Site Alternative No. 2: After considering wetland impacts, the Applicant’s engineering team completed a design that minimized wetland impacts from 3.2 acres to 2.5 acres. The cut and fill volumes would still have been balanced so that there would be no imported fill.

On-Site Alternative No. 3: Since wetland impacts could be further minimized by spending more money on fill import, a third on-site alternative was considered. For this alternative, which is the preferred alternative, the proposed commercial building was rotated so that the site could be designed with the minimum footprint area. This alternative requires the import of fill material; however, it minimizes the impacts of flood mitigation excavation on nearby wetlands. The project would impact 1.75 acres of wetlands by filling.

Off-Site Alternative No. 4: This parcel of property is located adjacent to the preferred alternative across Smiley Road. This parcel is entirely covered in floodplain with a mixture of stream channels, former channel scars (open water) and possible wetlands. A desktop review of the property identified likely wetland conditions throughout the majority of the property.

Off-Site Alternative No. 5: This parcel of property is located west of the preferred alternative at the planned intersection of Frontier Parkway and Mayer Parkway. This parcel appears to be comprised of uplands, which wouldn’t require a Section 404 Permit. The property is located at a planned “T” intersection at the very western edge of the market area.

Off-Site Alternative No. 6: This parcel of property is located 1.3 miles east of the preferred alternative at the planned intersection of Frontier Parkway and North Legacy Drive. This parcel appears to be comprised of uplands, which wouldn’t require a Section 404 Permit. The property is currently unavailable.

Off-Site Alternative No. 7: This parcel of property is located 1.3 miles east of the preferred alternative at the planned intersection of Frontier Parkway and North Legacy Drive. This parcel appears to be comprised of uplands, which wouldn’t require a Section 404 Permit. The property is currently unavailable.

Off-Site Alternative No. 8: This parcel of property is located 2.4 miles east of the preferred alternative at the planned intersection of Frontier Parkway at Dallas Parkway. This parcel contains a large stream and wetland drainage area that could not be avoided by construction at the hard corner of the intersection.

The applicant proposes that this alternative would result in 4.5 acres of possible permanent wetland impact.

Alternatives Summary Table

Practicability Category	On-Site Alternative No. 1	On-Site Alternative No. 2	On-Site Alternative No. 3	Off-Site Alternative No. 4	Off-Site Alternative No. 5	Off-Site Alternative No. 6	Off-Site Alternative No. 7	Off-Site Alternative No. 8
Available For Acquisition	Already Own	Already Own	Already Own	Assumed to be Available	Property is Available	Property is Unavailable	Property is Unavailable	Assumed to be Available
Logistics Sufficient Parcel Size	YES	YES	YES	YES	N/A – Not Available	N/A – Not Available	N/A – Not Available	YES
Logistics Existing Zoning Appropriate	YES	YES	YES	YES	N/A – Not Available	N/A – Not Available	N/A – Not Available	YES
Logistics Availability of Utilities	YES	YES	YES	YES	N/A – Not Available	N/A – Not Available	N/A – Not Available	YES
Logistics Availability for Access	YES – As a result of planned street construction	YES – As a result of planned street construction	YES – As a result of planned street construction	YES – As a result of planned street construction	Property is located at a Planned T-Intersection, which doesn't provide the desired traffic patterns.	N/A – Not Available	N/A – Not Available	YES – As a result of planned street construction
Existing Technology Topography/ Site Conditions Feasible for Construction	YES – Requires Floodplain Reclamation	YES – Requires Floodplain Reclamation	YES – Requires Floodplain Reclamation	YES – Requires Floodplain Reclamation	N/A – Not Available	N/A – Not Available	N/A – Not Available	YES – Requires Floodplain Reclamation
Cost Reasonable?	YES - Other entities would spend comparable amounts	YES - Other entities would spend comparable amounts	YES - Increased import fill costs, but others would spend comparable amounts	YES - Other entities would spend comparable amounts	N/A – Not Available	N/A – Not Available	N/A – Not Available	YES - Other entities would spend comparable amounts
Market Competition Reasonable?	YES - No competition exists at the intersection	YES - No competition exists at the intersection	YES - No competition exists at the intersection	NO - Competition exists at the intersection (undesired)	NO - Competition exists at the intersection (undesired)	NO - Competition exists at the intersection (undesired)	NO - Competition exists at the intersection (undesired)	NO - Competition exists at the intersection (undesired)
Practicability	Practicable	Practicable	Practicable	Practicable	NOT	NOT	NOT	Practicable

V. MITIGATION: To offset unavoidable adverse impacts to waters of the U.S., the applicant proposes to purchase appropriate mitigation bank credits in accordance with the methodologies prescribed within the USACE-approved mitigation banking instruments.

VI. SHEETS

1. Vicinity Map
2. 7.5-minute USGS Topographic Quadrangle Map
3. Applicant Provided Waters of the United States Delineation Map
4. Site Development Plan with Wetland Impacts
5. National Wetlands Inventory Map
6. FEMA FIRM Map
7. Soils Map

8. Cross Section View

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.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Denton County, Texas. 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 Berlin Interests Celina Project has never been surveyed for the presence of historic or prehistoric cultural resources. There are no properties eligible for, or listed on, the National Register of Historic Places within the proposed development. Based on similar areas in Denton County, the area has a high likelihood of containing prehistoric or historic sites. A survey of the permit area will be required to identify and assess any cultural resources identified.

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 July 30, 2018, 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 (817) 886-1662. 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



LEGEND
 Property Boundary

Crutchfield Rd

Smiley

Carey Rd

Denton
Collin
County

Smiley Rd



Parvin Rd

Parvin Rd

Doe Branch

Prosper Rd

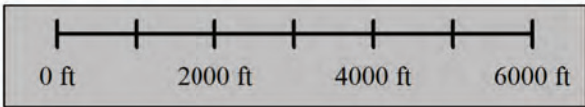
Good Hope Rd

Fields Rd

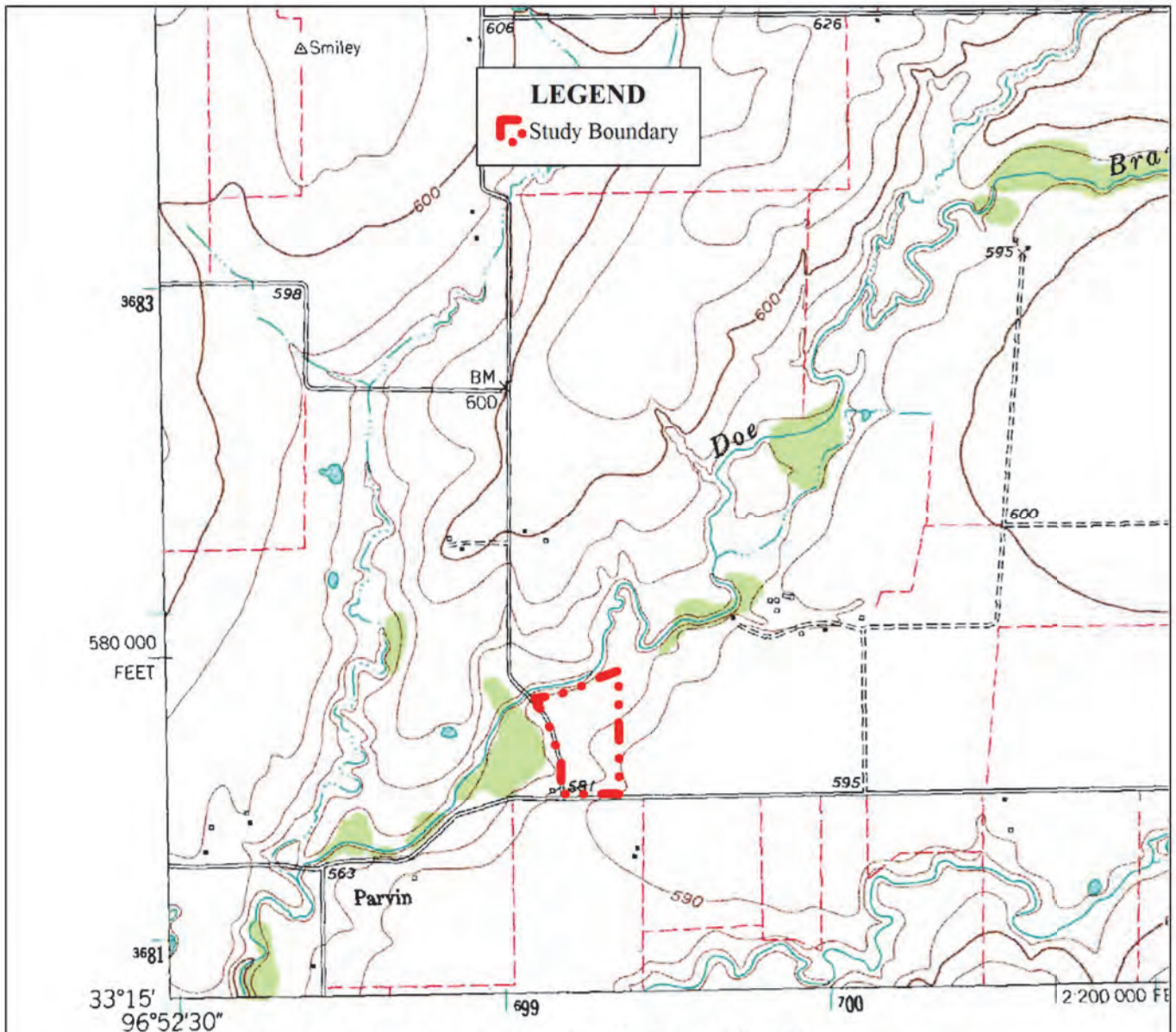
N Legacy Dr
Denton
Collin



Project Number SWF-2018-00094
Exhibit 1 - Vicinity Map
June 2018



Rowden Consulting, LLC
Environmental Services

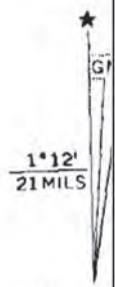


LITTLE ELM
 8650 III NW

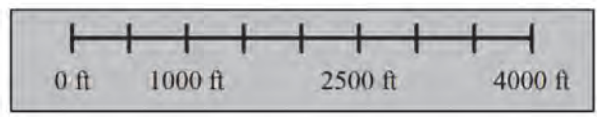
Mapped, edited, and published by the Geological Survey
 Control by USGS and USC&GS
 Topography from aerial photographs by photogrammetric methods
 Aerial photographs taken 1957. Field check 1960

Polyconic projection. 1927 North American datum
 grid based on Texas coordinate system,
 zone
 Universal Transverse Mercator grid ticks,
 zone 15, shown in blue



Basemap:
 Celina, TX Quadrangle



Project Number SWF-2018-00094
 Exhibit 2 - USGS Map
 June 2018



LEGEND

-  Study Boundary
-  Wetlands (emergent)



Uplands






Project Number SWF-2018-00094
Exhibit 3 - Delineation Map
June 2018



Rowden Consulting, LLC
Environmental Services

LEGEND

-  Impacts to Waters
-  Study Boundary
-  Wetland

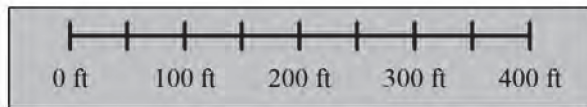
Borrow/Excavation/Floodplain
Reclamation Area

GROCERY ANCHOR
110,000 SF

Wetland Loss = 1.75 Acres



Project Number SWF-2018-00094
Exhibit 4 - Site Development Plan w/ Wetland Impacts
June 2018



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Environmental Services

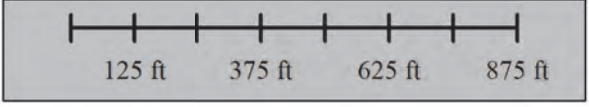


LEGEND
Property Boundary

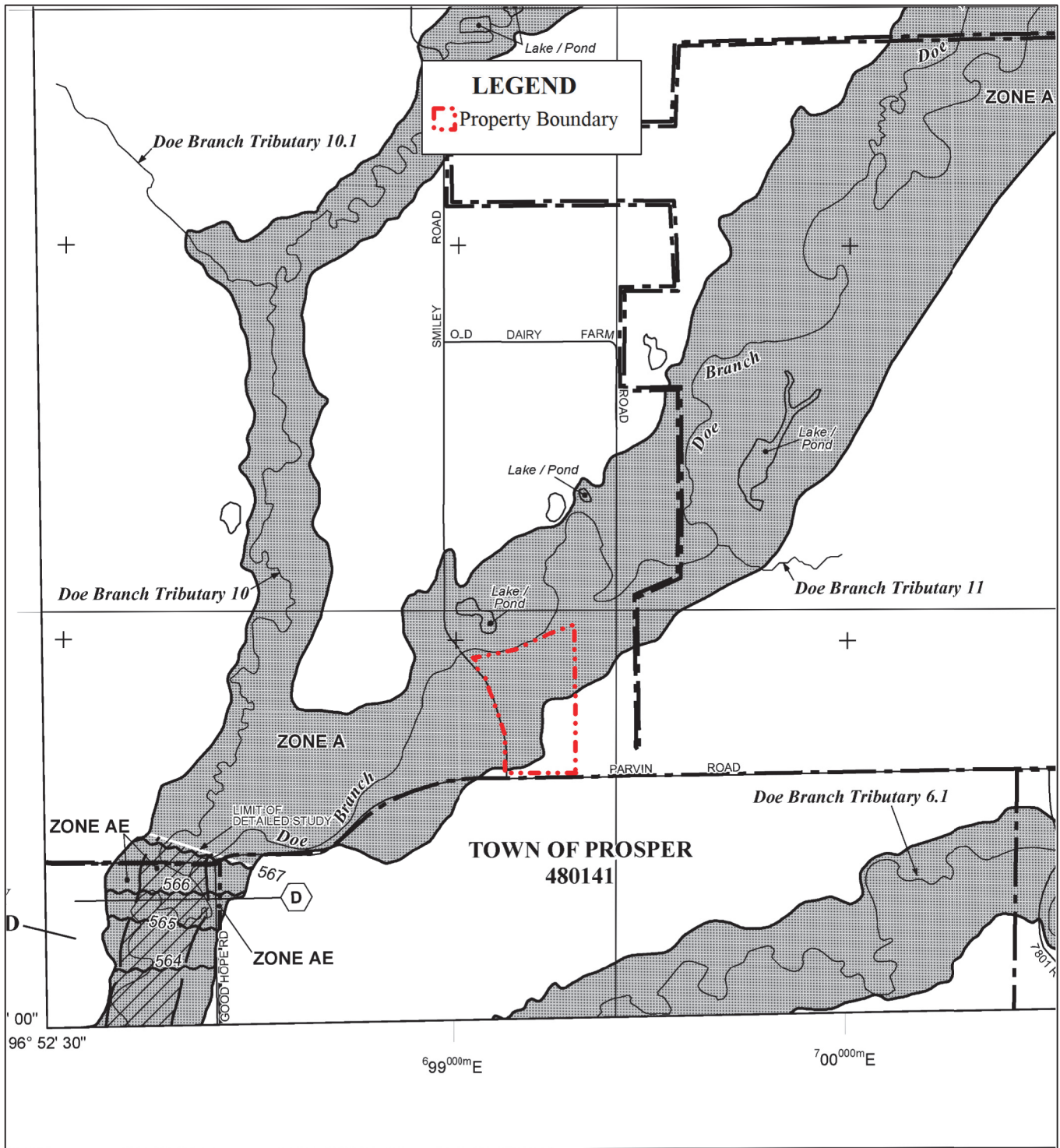
PEM1/FO1A



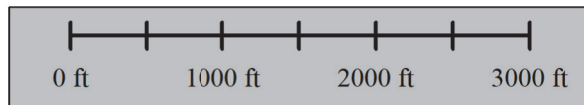
Project Number SWF-2018-00094
Exhibit 5 - National Wetlands Inventory Map
June 2018



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Project Number SWF-2018-00094
 Exhibit 6 - FEMA FIRM Map
 June 2018



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 Environmental Services



LEGEND
Property Boundary

Oval clay,
frequently flooded

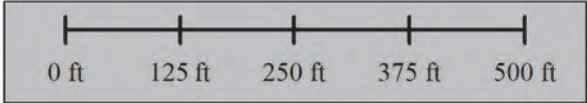
Heiden clay,
1-3% slopes

Heiden clay,
3-5% slopes

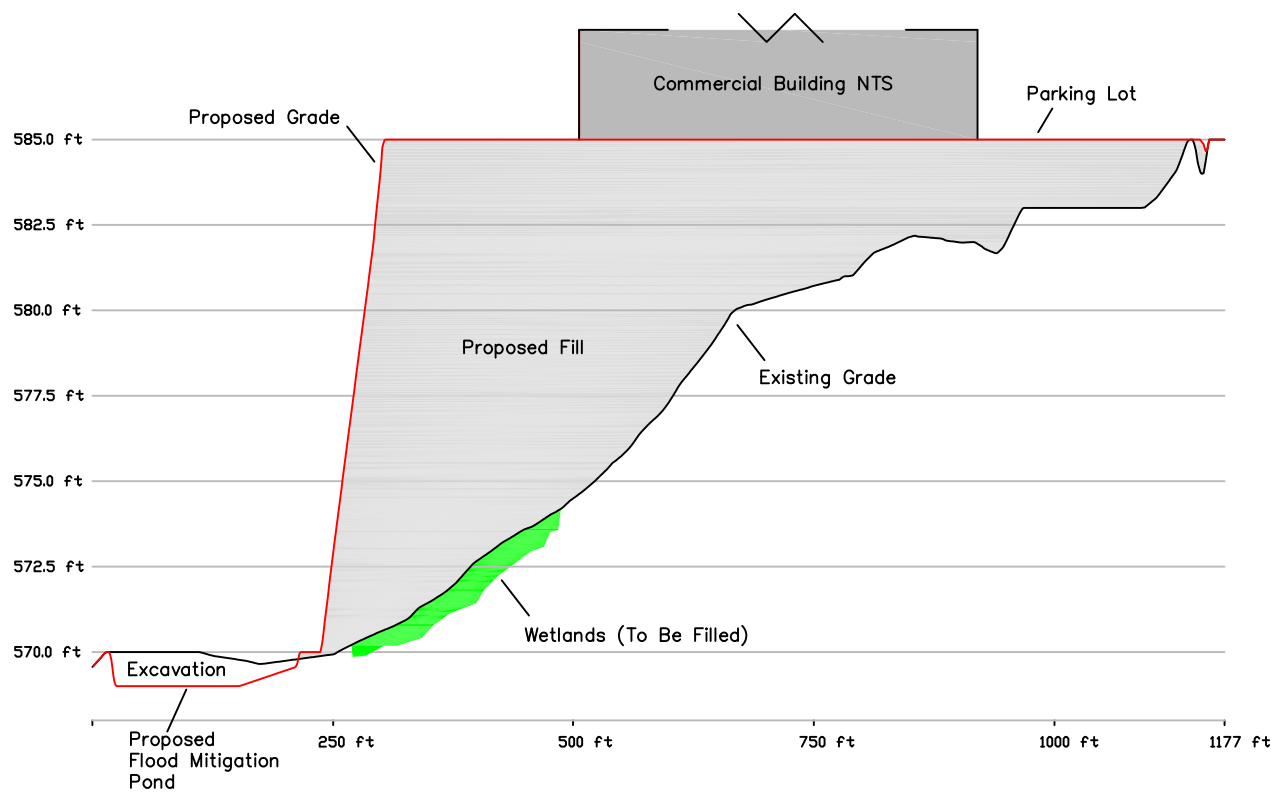
Burleson clay,
1-3% slopes



Project Number SWF-2018-00094
Exhibit 7 - Soils Map
June 2018



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SCALE: 1" = 200'
(35X Vert.)

Section A - A'

FIGURE NO.

8

Project Number SWF-2018-00094
Exhibit 8 - Section
June 2018



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Environmental Services
P.O. Box 978 - Bullard, TX - 75757

PROJECT NO.
17.063

DATE
June 2018

PROJECT MGR.
jwr

PROJECT TECH
jwr