



US Army Corps
of Engineers
St Paul District

APPLICANT: Liberty Property Limited
Partnership

Public Notice

ISSUED: 4/24/2015

EXPIRES: 5/24/2015

REFER TO: 2014-04104-MMJ

SECTION:404 - Clean Water Act

1. APPLICATION FOR PERMIT TO permanently discharge fill material into approximately 6.09 acres of wetland for the purpose of constructing the French Lake Industrial Park, which would include the construction of French Lake Road, six industrial structures totaling 1.77 million square feet, associated parking lots and storm water ponds.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: Liberty Property Limited Partnership
c/o Dave Jellison
10400 Viking Drive, Suite 130
Eden Prairie, Minnesota 55344

AGENT NAME: Sambatek
c/o Todd Ullom

AGENT'S ADDRESS:
12800 Whitewater Drive, Suite 300
Minnetonka, Minnesota 55343

PROJECT LOCATION: The project site is located in Sections 19 and 30, T. 120 N., R. 22 W., Hennepin County, Minnesota, as shown on the attached figures labeled MVP-2014-4104-MMJ, Page 1 of 7 through Page 7 of 7.

DESCRIPTION OF PROJECT: Liberty Property Limited Partnership (Applicant) is proposing to construct a multi-structure industrial park along the municipal boundary of the Cities of Dayton and Rogers, Minnesota. The proposed industrial development would be located on approximately 182 acres that are currently utilized as agricultural cropland. The Applicant is proposing to construct six structures totaling 1,770,540 SF, as well as associated parking lots, city streets and storm water ponds as part of the development.

QUANTITY, TYPE, AND AREA OF FILL: As proposed the project would result in the permanent discharge of fill material into 6.09 acres of Corps jurisdictional wetland. In addition, proposed utility work at the site would result in the temporary discharge of fill material into approximately 0.20 acre of wetland. See the table below for a description of the impact sizes and types of wetlands impacted. The project would also result in the discharge of fill material into an additional 2.45 acres of non-jurisdictional wetland (Wetlands 7 & 8) that would be regulated under the Minnesota Wetland Conservation Act.

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Aquatic Resource ID	Aquatic Resource Type (and number)	Type of Impact	Duration of Impact	Size of Impact	Existing Plant Community Types
Impact A	Wetland (3)	Fill	Permanent	0.6 acres	Seasonally Flooded Basin
Impact B	Wetland (3)	Fill	Permanent	0.3 acres	Seasonally Flooded Basin/Shallow Marsh
Impact C	Wetland (2)	Fill	Permanent	0.31 acres	Seasonally Flooded Basin
Impact D	Wetland (2)	Fill	Permanent	2.25 acres	Seasonally Flooded Basin
Impact E	Wetland (6)	Fill	Permanent	2.18 acres	Seasonally Flooded Basin/Shallow Marsh/Scrub Shrub
Impact F	Wetland (9)	Fill	Permanent	0.46 acres	Seasonally Flooded Basin
Temp. Impact 1	Wetland (2)	Excavate / remove vegetation	Temporary	175 SF	Seasonally Flooded Basin
Temp. Impact 2	Wetland (2)	Excavate / remove vegetation	Temporary	0.19 acres	Seasonally Flooded Basin

VEGETATION IN AFFECTED AREA: The project would impact a combination of seasonally flooded, shallow marsh and shrub scrub type wetlands, as detailed in the chart above. Wetlands 6 and 7 have been identified as farmed wetland areas. Upland areas on the site consist mostly of cropland, with small areas of woodland consisting of altered non-native deciduous forest and a smaller portion of maple basswood forest.

SOURCE OF FILL MATERIAL: The Applicant/contractor would be required to use suitable fill material, free from toxic pollutants in toxic amounts.

SURROUNDING LAND USE: The project site is bordered to the west by Brockton Lane (County Road 13), to the north by Grass Lake and to the east by French Lake. Neighboring land uses include single-family residential to the northeast, industrial to the west and a mixture of industrial and agricultural to the south.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The project would incorporate BMPs to prevent the increase of suspended particulates/turbidity within adjacent lakes and wetland areas during construction.

MITIGATION: The applicant proposes to provide compensatory mitigation for the permanent wetland fill activities at Wetlands 2 and 3 (3.46 acres) by purchasing wetland credits at a 2:1 ratio, and at Wetlands 6 and 9 (2.64 acres) by purchasing wetland credits at a 1:1 ratio. (Applicant is requesting 1:1 replacement for impacts to farmed wetlands.) The Applicant proposes to purchase 9.56 wetland credits from a Corps-

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approved wetland bank in Bank Service Area 7. All temporarily impacted wetland areas would be restored to pre-construction conditions at completion of the project.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Melissa Jenny at the St. Paul office of the Corps, telephone number (651) 290-5363.

To receive Public Notices by e-mail, go to: http://mvp-extstp/list_server/ and add your information in the New Registration Box.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Hennepin County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Northern long-eared bat (T)	Caves and mines in fall & winter, upland forests in spring and summer.
Higgins' eye pearl mussel (E)	Mississippi and St. Croix Rivers

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 08-02. We have made an initial determination that the majority of the aquatic resources that would be impacted by the proposed project (Wetlands 2, 3, 6 & 9) are regulated by the Corps of Engineers under Section 404 of the Clean Water Act and/or Section(s) 9 & 10 of the Rivers and Harbors Act. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED:

1. Minnesota Wetland Conservation Act Replacement Plan

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2. MPCA - NPDES Construction Stormwater Pollution Prevention Plan
3. MPCA – Sanitary Sewer Extension Permit
4. MPCA – Stormwater Pollution Prevention Plan
5. Minnesota DNR – General Permit for Temporary Water Appropriations
6. Hennepin County – Roadway Access Permit
7. City of Dayton - Grading Permit
8. City of Dayton – Building Permit
4. Elm Creek Watershed Management Commission

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice. Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency, Resource Management and Assistance Division,
Attention: 401 Certification, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194.

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer (SHPO) independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

According to SHPO database review, there are no archaeological sites or historic structures identified in the search area. However, as discussed in the Alternative Urban Areawide Review (AUAR) completed for the project, a Phase I Archeological study was completed over the entirety of the study area. Five areas were recommended for either avoidance or further study through a Phase II process if the areas would not be avoided by the proposed development. A Phase II archeological study was then undertaken for two of the five areas that would not be avoided by the proposed development. The archaeological report completed for the project area, included in the AUAR, states that both sites proposed to be impacted by the development are likely not eligible for listing on the National Register of Historic Places (NRHP). The

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remainder of the sites on the property would be avoided and would not be impacted as part of this development project.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

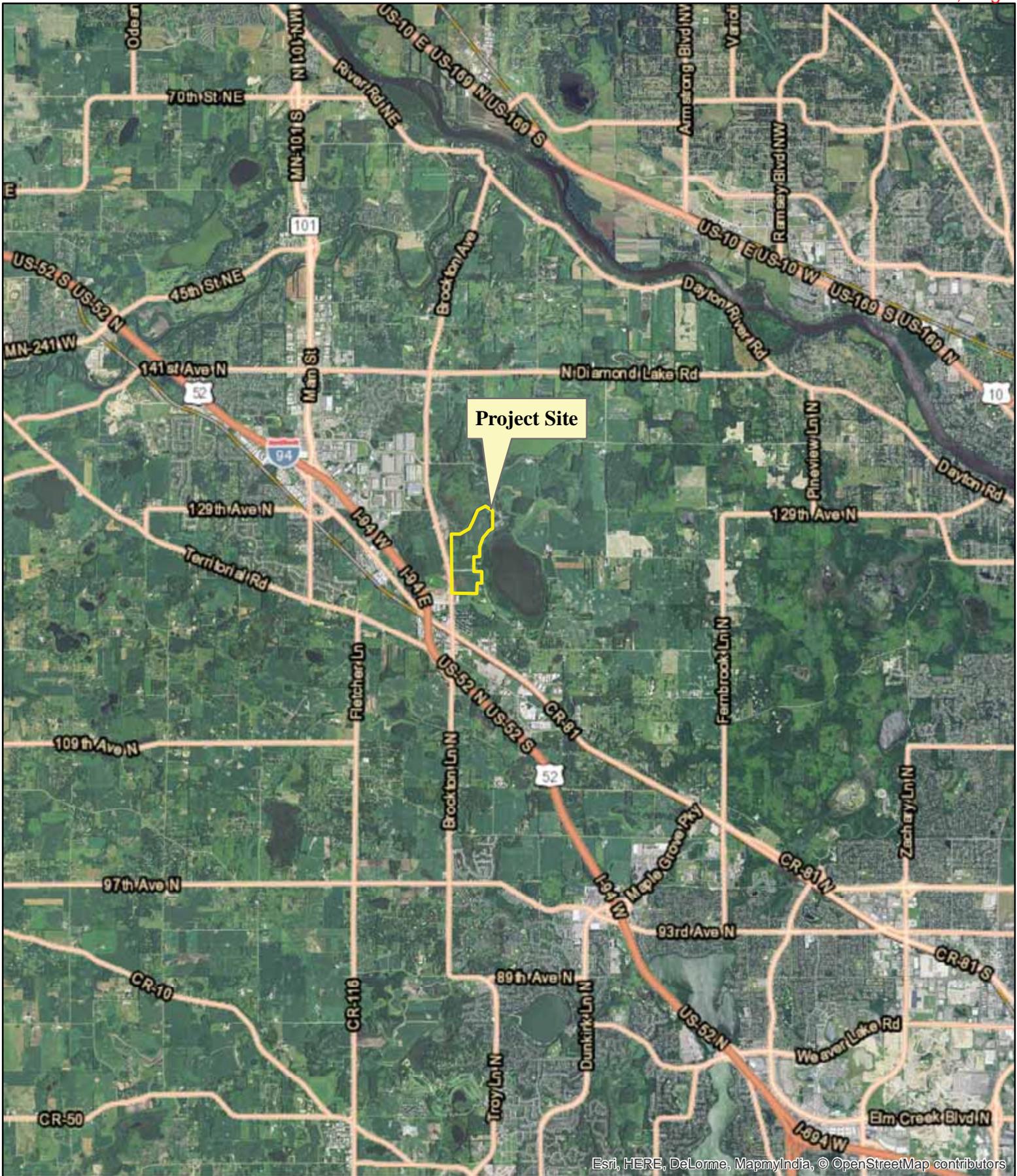
The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably 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 the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers 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 Corps of Engineers to determine whether to issue, modify, condition, 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.

Kathleen A. Dadey, PhD
Acting Chief, SW Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors

Location Map

French Lake Industrial Park
Dayton, Minnesota

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This map was created using Sambatek's Geographic Information Systems (GIS), it is a compilation of information and data from various sources. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Sambatek is not responsible for any inaccuracies contained herein.

Sources: MetroGIS, NRCS, LMIC

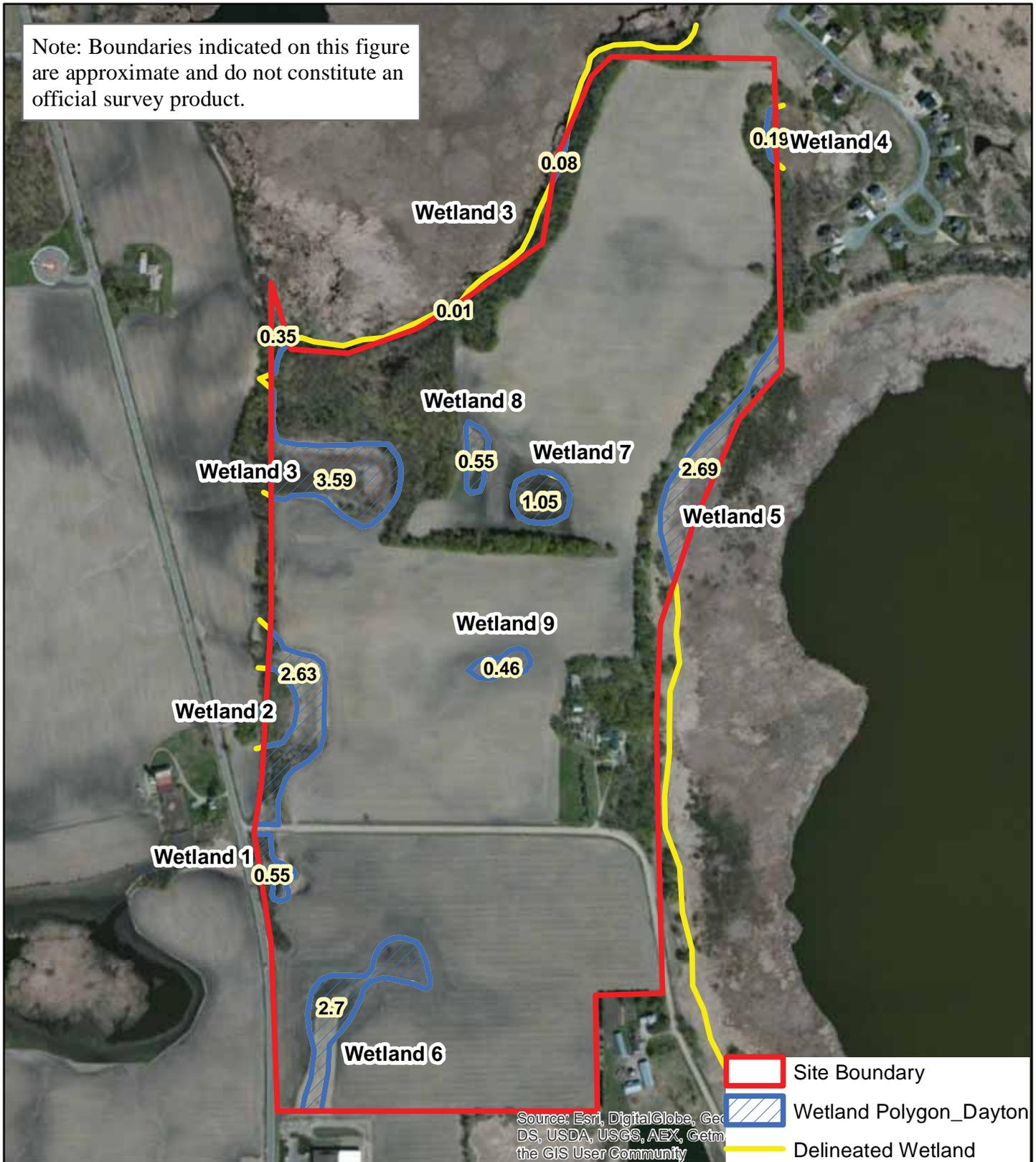
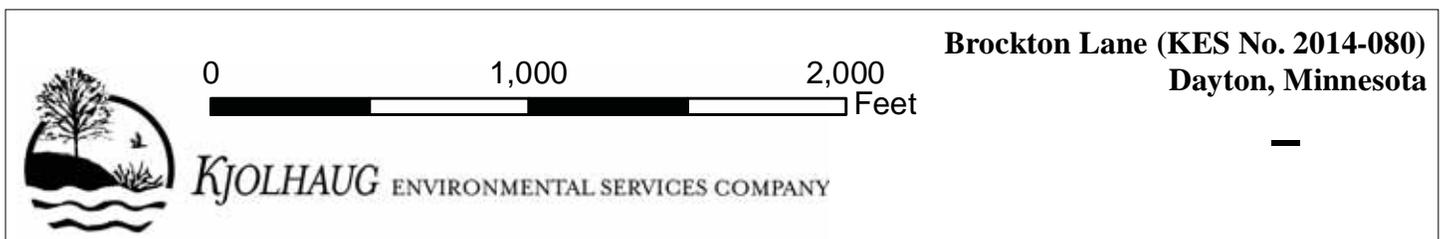


Figure 2 - Existing Conditions Map (World Imagery)





Client
LIBERTY
PROPERTY
TRUST

Project
FRENCH LAKE
INDUSTRIAL
CENTER

Location
DAYTON,
MINNESOTA

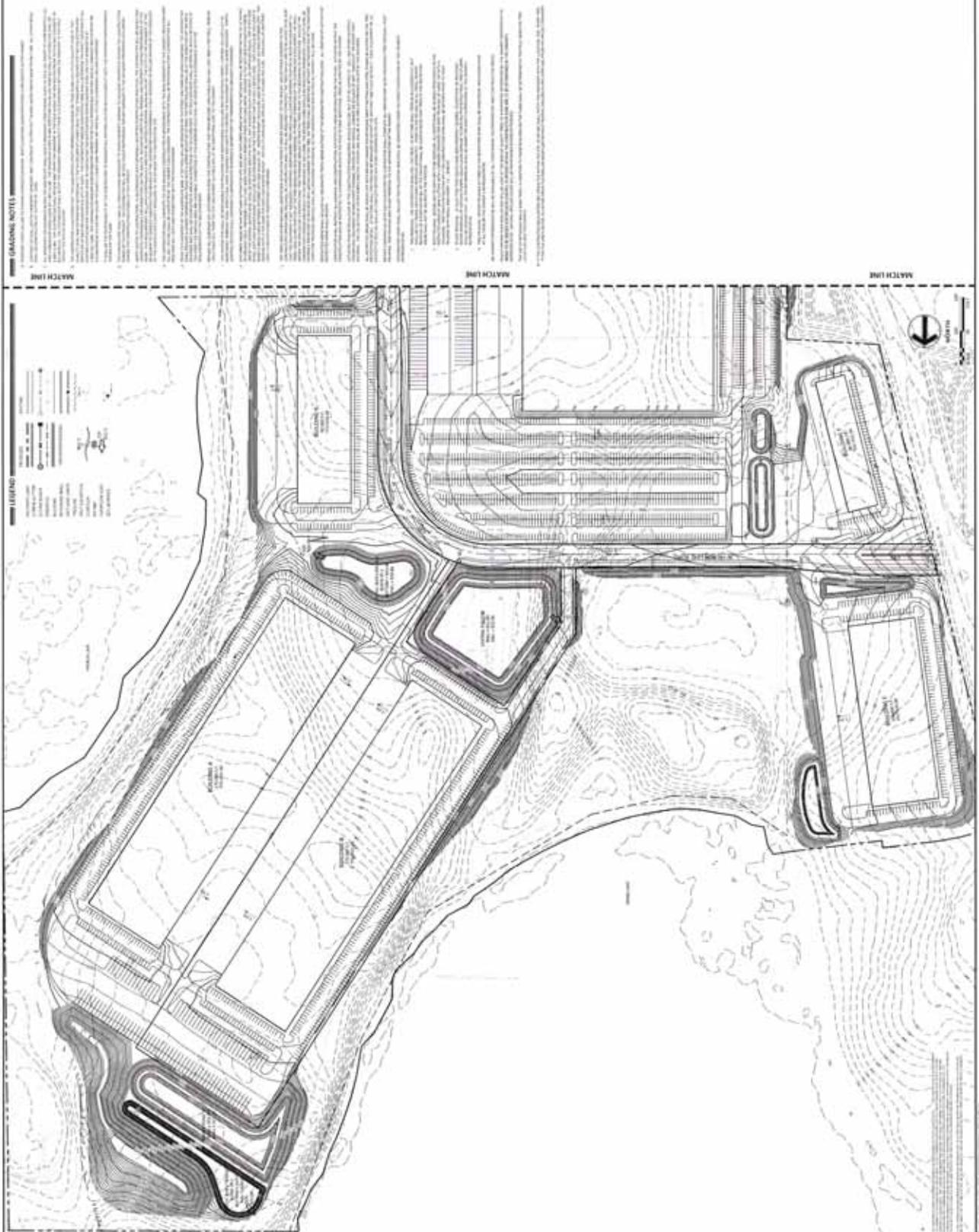
Certification

Summary
Prepared by: Sam Heger
Checked by: Sam Heger
Reviewed by: Sam Heger

Revision History
1.00: Initial Design
2.00: Final Design

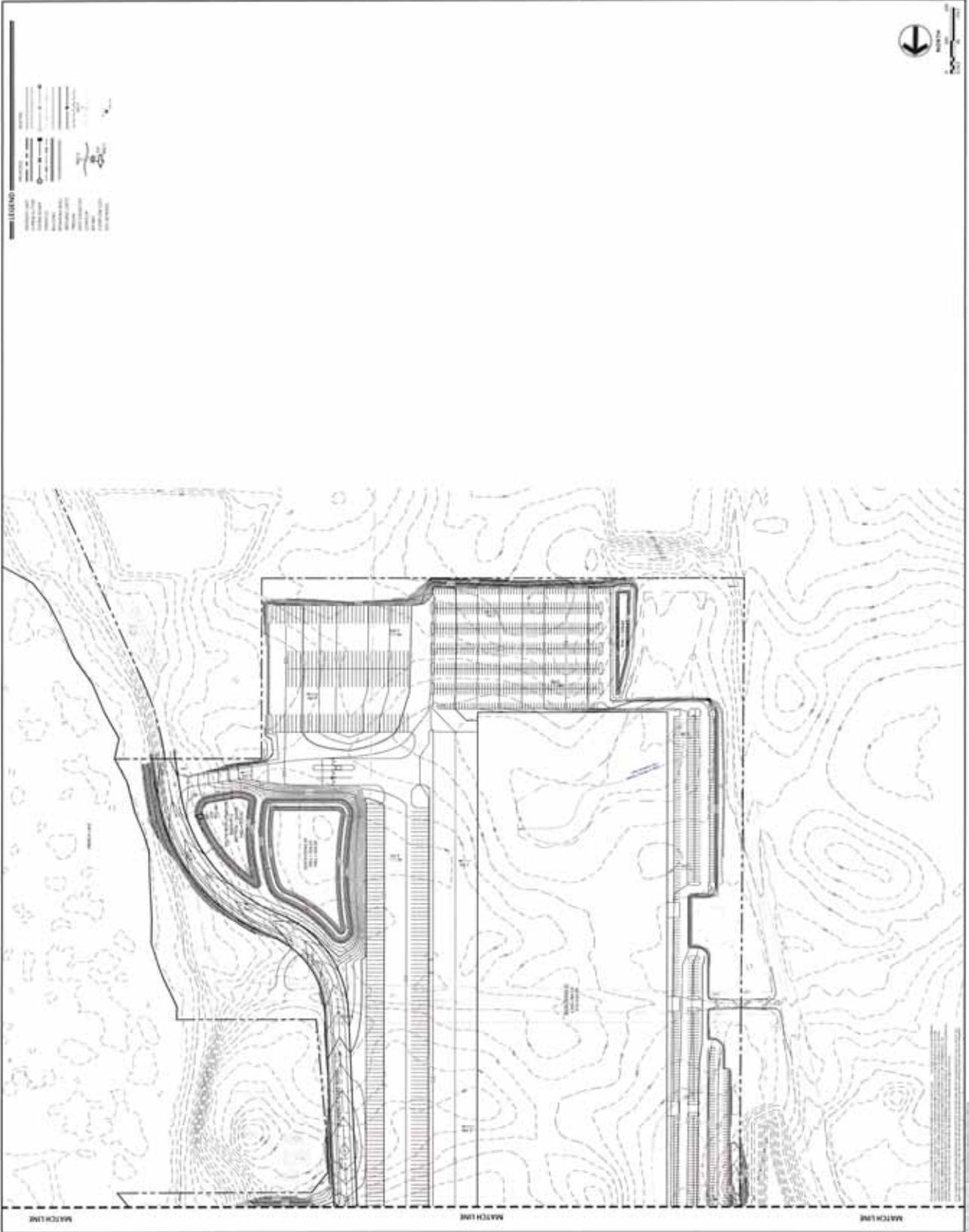
Sheet Title
PRELIMINARY
GRADING PLAN

Sheet No. Revision
C4.01
Project No.: 10020116



GRADING NOTES

- 1. ALL GRADING SHALL BE IN ACCORDANCE WITH THE MINNESOTA ENGINEERING BOARD RULES AND REGULATIONS.
- 2. THE GRADING PLAN IS BASED ON THE SURVEY DATA PROVIDED BY THE CLIENT.
- 3. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE LOCAL AND STATE AUTHORITIES.
- 4. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE CLIENT.
- 5. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE ARCHITECT.
- 6. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE ENGINEER.
- 7. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE SURVEYOR.
- 8. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE PLANNING COMMISSION.
- 9. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE ZONING BOARD.
- 10. THE GRADING PLAN IS SUBJECT TO THE APPROVAL OF THE CITY COUNCIL.
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Sambatek
 1000 Progress Drive, Suite 200
 Dayton, Minnesota 55424
 507.253.8222

Client
 LIBERTY
 PROPERTY
 TRUST

Project
 FRENCH LAKE
 INDUSTRIAL
 CENTER

Location
 DAYTON,
 MINNESOTA

Certification

Summary

Revision History

Sheet Title
 PRELIMINARY
 GRADING PLAN

Sheet No. Revision
C4.02
 Project No. 10020016

