

# PUBLIC NOTICE



**US Army Corps  
of Engineers  
Kansas City District**

**Permit No. NWK-2011-01397  
Issue Date: April 13, 2020  
Expiration Date: May 4, 2020**

**21-Day Notice**

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This public notice is issued jointly with the Kansas Department of Health and Environment. The Department of Health and Environment will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Kansas Department of Health and Environment, Bureau of Environmental Field Services - - Watershed Management Section, 1000 SW Jackson Street, Suite 430, Topeka, Kansas 66612-1367.

**APPLICANT:** Menard, Inc.  
5101 Menard Drive  
Eau Claire, Wisconsin 54703

**PROJECT LOCATION** (As shown on the attached drawings): The proposed project is in Derby, Kansas along an unnamed tributary to the Arkansas River and adjacent wetlands. The site is bordered on the east by N. Buckner Street and on the north by E. 63<sup>rd</sup> Street N. The project is within the NW ¼ of Section 36, Township 28 south, Range 1 east, Sedgwick County, Kansas.

USGS QUAD: KS-Derby  
Latitude: 37.5754 --- Longitude: -97.2742

**AUTHORITY:** Section 404 of the Clean Water Act (33 USC 1344)

**ACTIVITY** (As shown on the attached drawings): The applicant proposes to place fill material within waters of the United States for the construction of a commercial retail development to include the building, parking lot, driveways, and associated infrastructure. The purpose of the project is to provide a Menard's location to serve the southeast Wichita metro area.

NOTE – The project was originally posted for public comment on November 29, 2011, and the Corps issued the permit on April 23, 2012. Two permit extensions were granted in May 2014 and June 2016. The last extension expired on May 13, 2019, thus requiring a new permit. There have been no subsequent changes to the proposed project plan since the initial permit issuance.

**WETLANDS/AQUATIC HABITAT:** Proposed impacts to jurisdictional waters includes the grading and filling of approximately 1,100 linear feet of ephemeral stream and 0.65 acres of emergent wetlands located within two existing impoundments.

**APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES:** Upon issuance of the original permit in May 2012, the applicant purchased stream and wetland mitigation credits from an approved In-Lieu Fee provider.

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by contacting Sarah Reznicek at [sarah.m.reznicek@usace.army.mil](mailto:sarah.m.reznicek@usace.army.mil). All comments to this public notice should be directed to the above address.

**STATE AUTHORIZATION:** The applicant should contact the Kansas Department of Agriculture to determine if a state permit is required pursuant to Kansas Statutes Annotated 82-301 to 305a and 24-126.

**CULTURAL RESOURCES:** Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and the Federal Register and no property listed in the Register or proposed for listing is located in the permit area. In addition, during the initial permit evaluation, the applicant completed a Phase II archeological survey that found no archeological sites or artifacts within the project area. This is the extent of our knowledge about historic properties in the permit area at this time. We will evaluate input by the State Historic Preservation Officer, Tribal Historic Preservation Officers (or Tribe designated representative) and the public in response to this public notice, and we may conduct or require an additional reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. Approximately 5 acres of tree clearing would occur on the project site. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**FLOODPLAINS:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

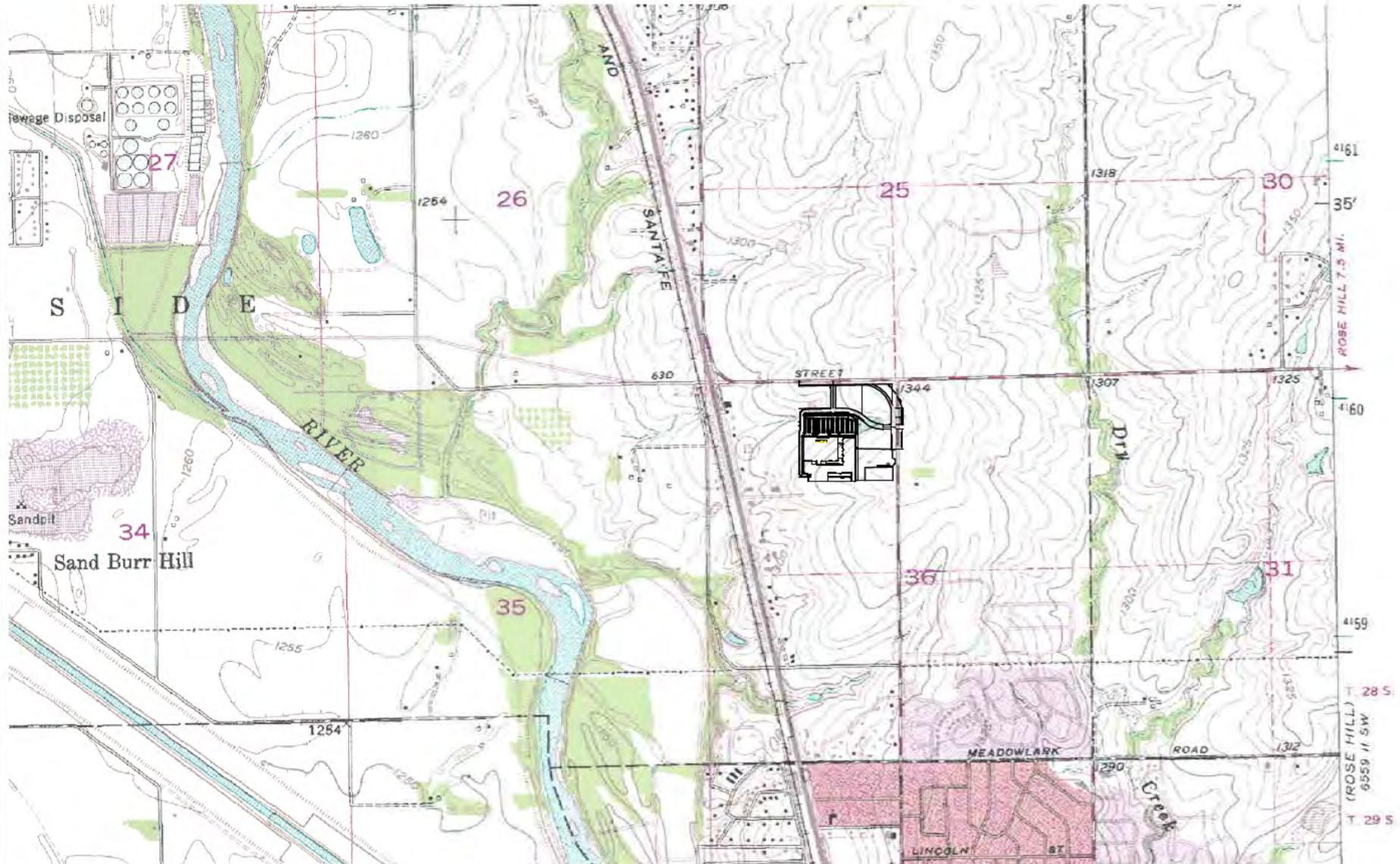
**PUBLIC INTEREST REVIEW:** The decision to issue a permit will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The 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 the cumulative effects thereof; among those are conservation, economics, esthetics, 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, mineral needs and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection

Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). 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 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.

**COMMENTS:** This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if issuance of a permit would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the Department of the Army permit. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address shown on page 2 of this public notice.

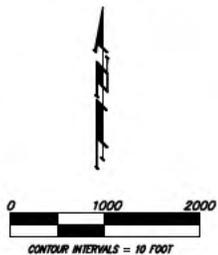
**PUBLIC HEARING:** Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

SITE LOCATION EXHIBIT  
**OLD RANCH 2ND - MENARDS**  
 DERBY, SEDGWICK COUNTY, KANSAS

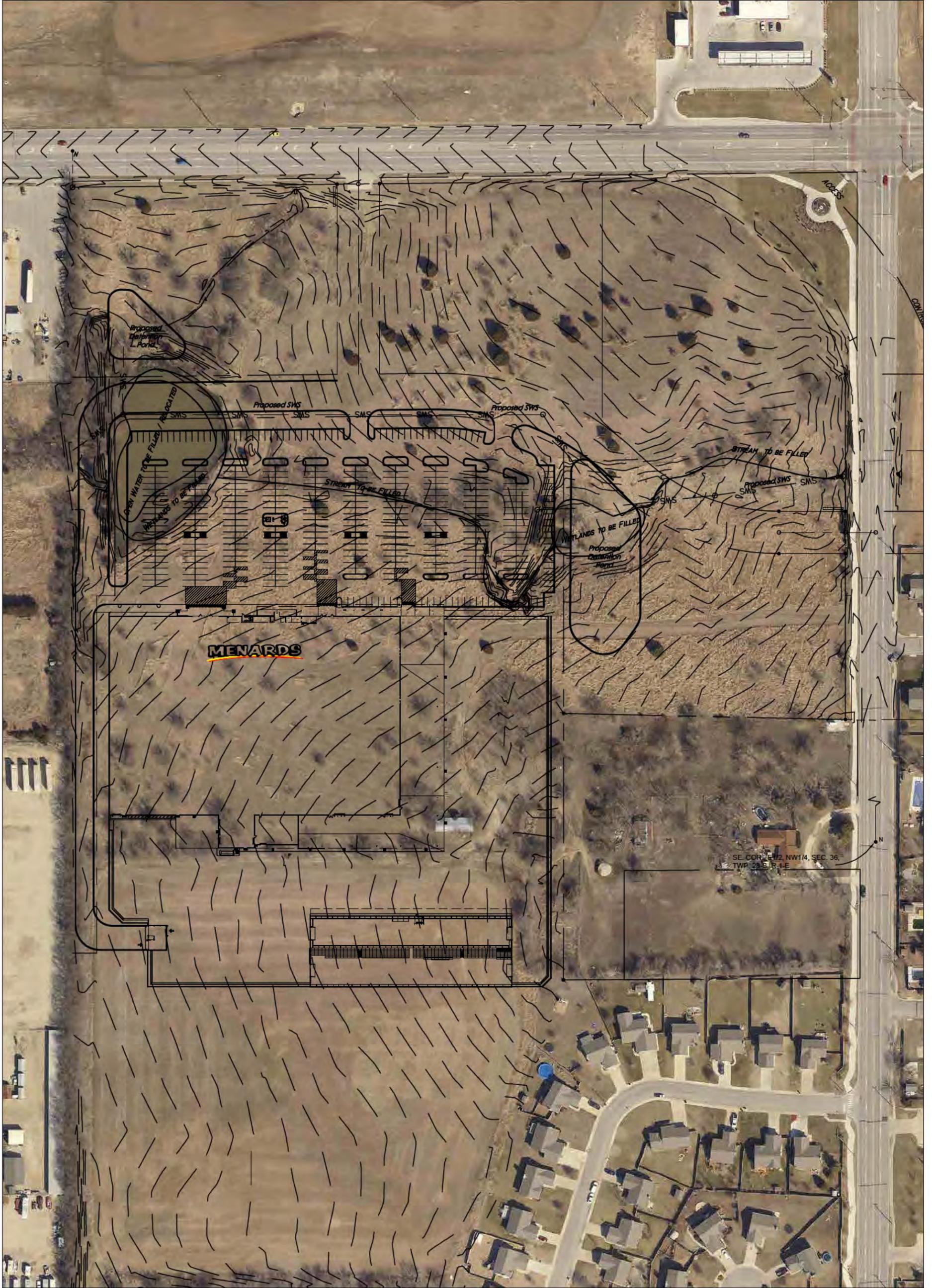


PERMIT NO. NWK-2011-01397  
 MENARD, INC.  
 COMMERCIAL DEVELOPMENT  
 ARKANSAS RIVER  
 SEDGWICK COUNTY, KANSAS  
 SHEET 1 OF 3  
 13 APRIL 2020

**QUAD EXHIBIT**  
**OLD RANCH 2ND - MENARDS**

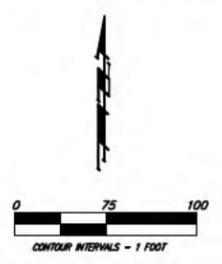


USACOE EXHIBIT  
**OLD RANCH 2ND ADDITION**  
DERBY, SEDGWICK COUNTY, KANSAS

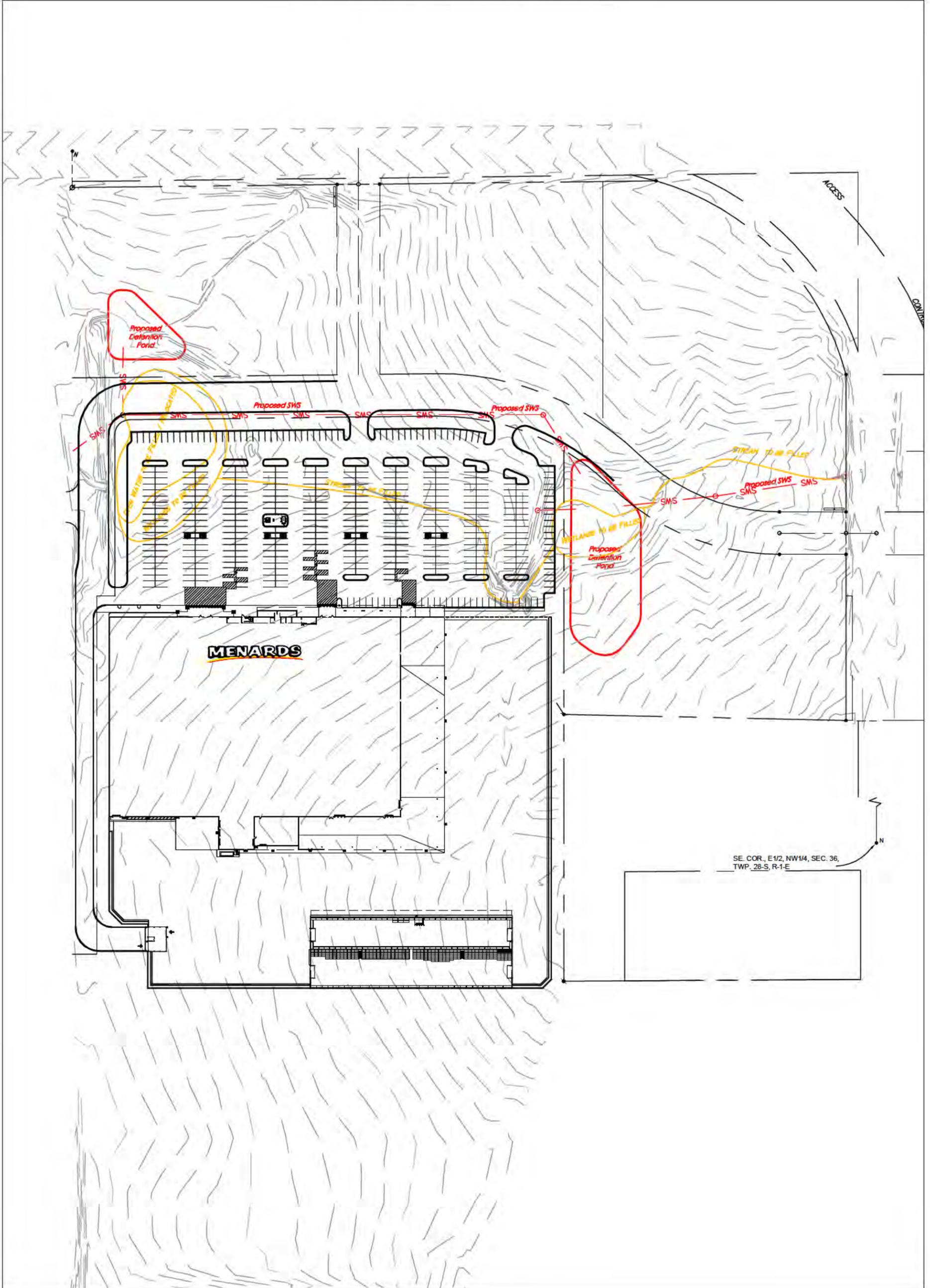


PERMIT NO. NWK-2011-01397  
MENARD, INC.  
COMMERCIAL DEVELOPMENT  
ARKANSAS RIVER  
SEDGWICK COUNTY, KANSAS  
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USACOE EXHIBIT  
**OLD RANCH 2ND ADDITION**



**USACOE EXHIBIT  
 OLD RANCH 2ND ADDITION  
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