

PUBLIC NOTICE



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

**Permit No. NWK-2008-943
Issue Date: April 22, 2020
Expiration Date: May 13, 2020**

21-Day Notice

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: Block Real Estate Services, LLC
700 West 47th Street, Suite 200
Kansas City, Missouri 64112

PROJECT LOCATION (As shown on the attached drawings): The project is located within a single ephemeral tributary, adjacent to W 175th Street and S Hedge Lane, Section 21, Township 14 south, Range 23 east, city of Olathe, Johnson County, Kansas.

USGS 1:24K QUAD: Ocheltree
Latitude: 38.81469 --- Longitude: -94.85944

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

ACTIVITY (As shown on the attached drawings): The applicant is proposing to place fill material within waters of the United States for the construction of an approximate 230-acre mixed-use commercial development. The proposed commercial development would include paved roadway construction, paved parking/loading areas and commercial buildings (industrial, office, retail). The purpose of the project, as stated by the applicant, is “to construct a mixed-use commercial development in a developing area of Olathe, Kansas”.

The construction of the proposed residential development on the site would require permanent grade and fill impacts to 4,146 linear feet of an ephemeral stream channel.

This applicant received Department of the Army authorization to construction this mixed-use development in January 2009. The Corps provided the applicant with a time extension on May 2011 and December 2014. The authorization finally expired December 2017. The applicant never began the project and is now re-applying for a Department of the Army authorization.

WETLANDS/AQUATIC HABITAT: The project area contains a single 5,232 linear foot ephemeral channel. The 4,146 linear foot portion of the ephemeral channel, located on the southwest side of the project area, would be filled. The downstream approximate 1,086 linear foot portion of the ephemeral channel is located at the northwest corner of the project area and would not be filled or otherwise impacted by the proposed project.

APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES: As stated by the applicant: "The northwest portion of the site would be used as a conservation/storm water detention area". For unavoidable impacts to jurisdictional surface waters, the applicant proposes to include stream channel restoration and bank stabilization, riparian buffer restoration, and/or the purchase of mitigation credits (or a combination of methods).

ADDITIONAL INFORMATION: Additional information about this application may be obtained by contacting Richard Chong at Richard.R.Chong@usace.army.mil. All comments to this public notice should be emailed to the above address. Please reference permit application No. NWK-2008-943 in all comments and/or inquiries relating to this project.

STATE AUTHORIZATION: The applicant has applied for a permit from the Kansas Department of Agriculture pursuant to Kansas Statutes Annotated 82a-301 to 305a.

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. This is the extent of our knowledge about historic properties in the permit area at this time. However, 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 a 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 is within the geographic range of the federally threatened northern long-eared bat (NLEB, *Myotis septentrionalis*), Pallid Sturgeon (*Scaphirhynchus albus*) and the Mead's Milkweed (*Asclepias meadii*). We have determined that the project may affect, but is not likely to adversely affect the NLEB, but that the resulting incidental take of the NLEB is not prohibited by the final 4(d) rule. We will submit a NLEB 4(d) Rule Streamlined Consultation Form to the U.S. Fish & Wildlife Service. Additionally, we have made a preliminary determination that the project will have no effect on the pallid sturgeon or the mead's milkweed. 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.

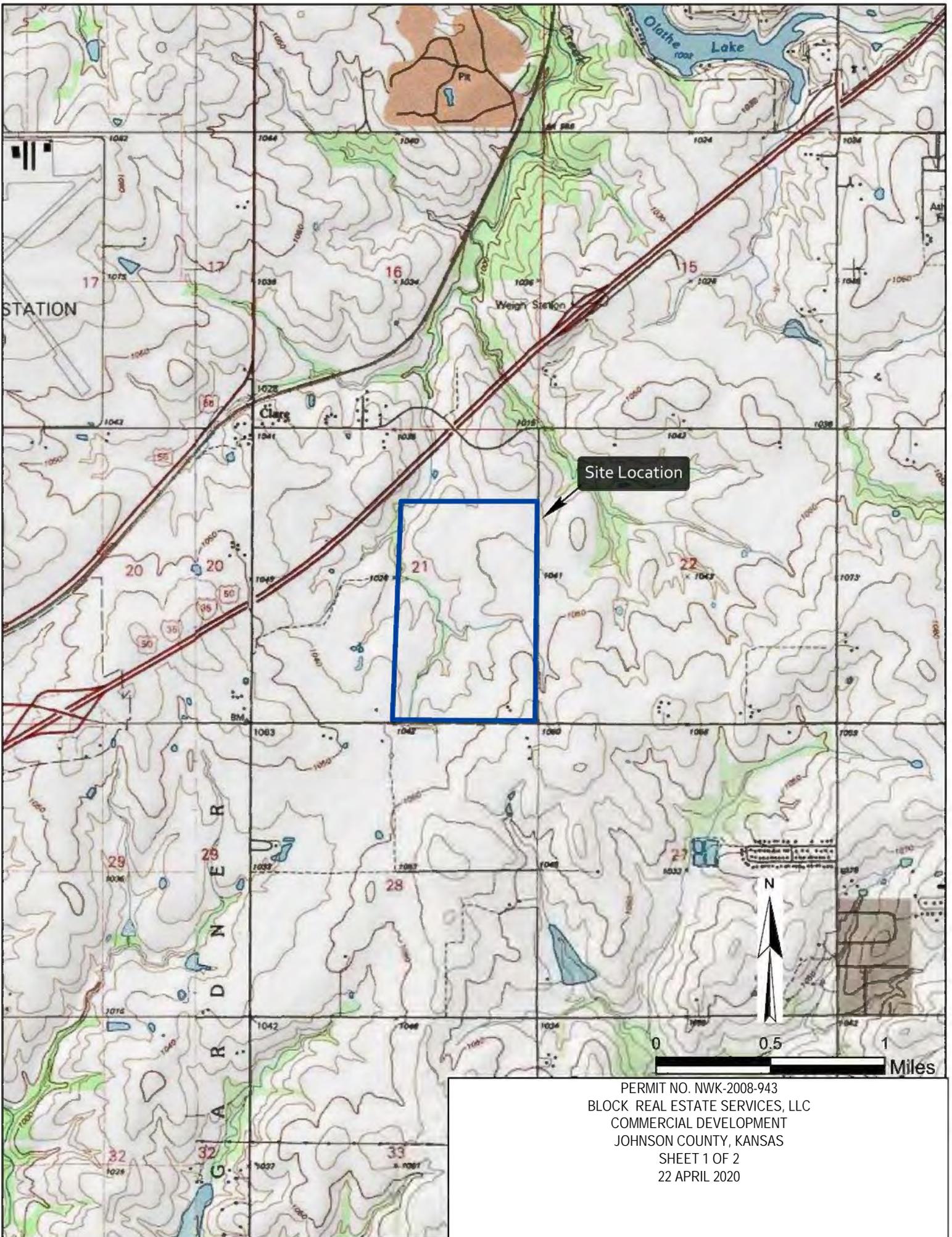
WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application 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 emailed to the address shown on page 2 of this public notice.

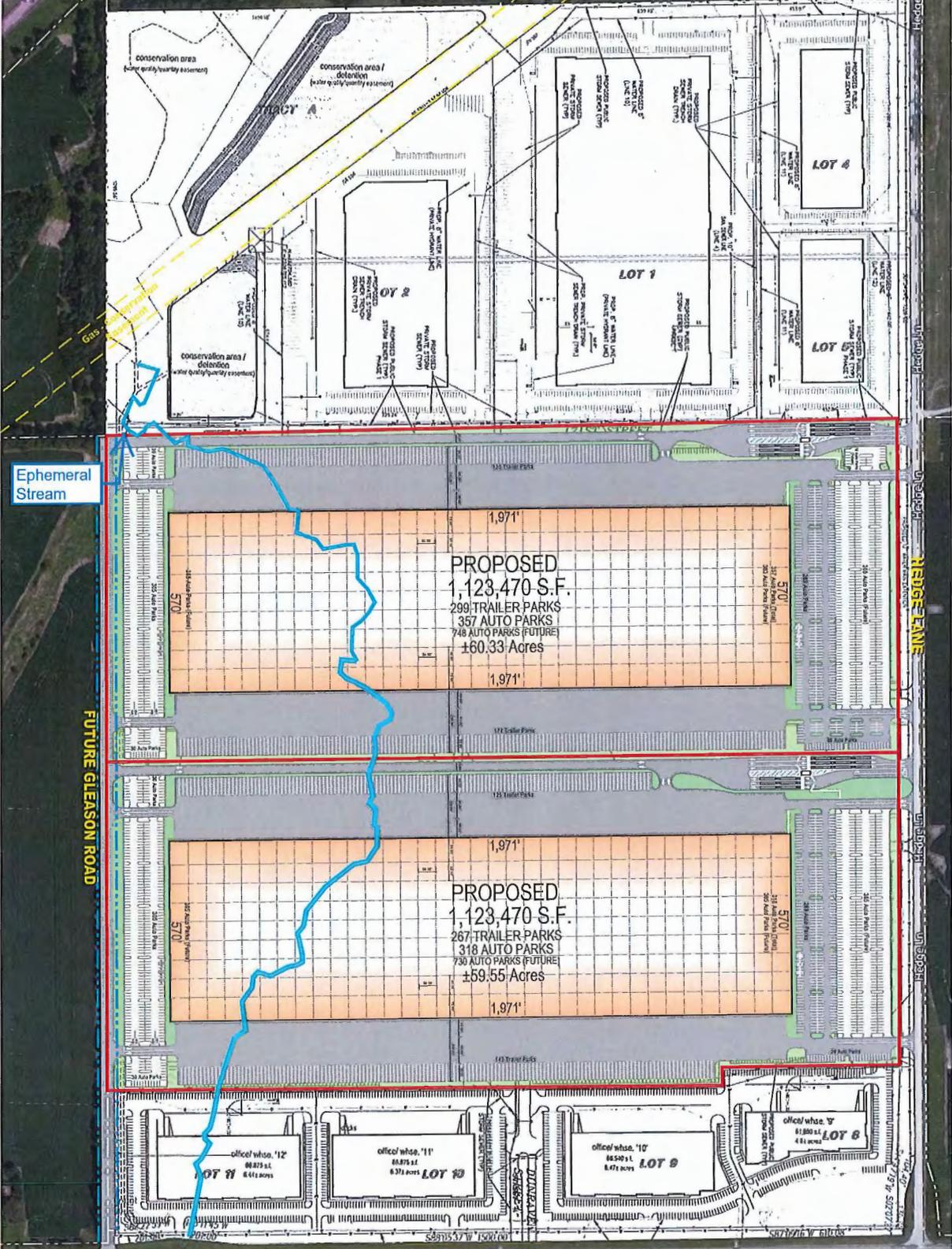
PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.



Site Location

PERMIT NO. NWK-2008-943
BLOCK REAL ESTATE SERVICES, LLC
COMMERCIAL DEVELOPMENT
JOHNSON COUNTY, KANSAS
SHEET 1 OF 2
22 APRIL 2020

0 150' 300'
 NORTH
 SCALE: 1"=300'
 THE INFORMATION SHOWN WAS
 COMPILED FROM NUMEROUS
 SOURCES AND IS BELIEVED TO BE
 CORRECT; HOWEVER, NO WARRANTY
 IS EXPRESSED OR IMPLIED.



April 6, 2020
Conceptual Area Plan
175th & Hedge Lane
OLATHE, KANSAS

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 BLOCK REAL ESTATE SERVICES, LLC
 COMMERCIAL DEVELOPMENT
 JOHNSON COUNTY, KANSAS
 SHEET 2 OF 2
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