



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2008-604

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is for the construction of the proposed Valencia Commercial Development.

Name of Applicant: Mr. Keith Paris
Paris Projects
1111 Metropolitan Avenue, Suite 775
Charlotte, NC 28204

Name of Agent: Mr. Clint Porter
Blackbird Environmental, LLC
Post Office Box 720100
Norman, OK 73070

Location: The proposed project is located near NW 178th Street and Pennsylvania Avenue along the unnamed tributary of Chisholm Creek in the Southeast 1/4 of Section 30, Township 14 North, Range 3 West, in Oklahoma City, Oklahoma County, Oklahoma. The project site can be found on the Bethany NE, Oklahoma 7.5 Minute USGS Quadrangle map at Latitude North 35.65360 and Longitude West 97.55135.

Purpose: The basic purpose of this work is to construct a commercial development to provide commercial outlet for people to shop.

A water dependency will be made upon consideration of the basic purpose. The applicant proposed filling in a stream and wetlands, by overlaying the area with concrete and unconsolidated fill material to create a commercial development proposed on adjacent uplands.

The overall purpose of this work is to bring this property to look like properties in the localized general vicinity, which are characterized by residential and commercial developments along with its associated infrastructure.

Description of Work: The applicant proposes the clearing and grading of former farm lands including jurisdictional Waters of the United States (WOUS) for the construction of several commercial structures and its associated infrastructure. The clearing and grading to facilitate the construction of the commercial structures would result in the permanent loss of 4.283 acres of

wetlands and 95 linear feet of intermittent stream. The placement and distribution of fill material in jurisdictional waterbodies is estimated at 3,040 cubic yards. Total fill material to raise the elevation of the property by 4 feet is estimated at 30,403 cubic yards. Fill material placed below the ordinary high water mark would consist of unconsolidated material from the project site.

The currently proposed design includes the construction of a concrete box culvert near the south end of the subject property. The box culvert will convey surface water from the south adjoining and subject property to a 2.28-acre detention basin prior to discharge into the same stream at a second box culvert beneath Pennsylvania Avenue.

Best management practices will be utilized during construction operations and prevent the discharge of sediment laden storm water from the construction site. Any potential indirect effects of the proposed action will be minimal.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

The applicant stated, "Avoidance and minimization were considered in the early development of the proposed action. However, the wetlands and limited stream channel are located within the most economically valuable segments of the subject property. Proposed commercial developments should be constructed along the main access road frontage to provide safe access for the surrounding community. Therefore, no avoidance and minimization are proposed."

Mitigation: Furthermore, the applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

The applicant proposes the purchase of emergent wetland habitat credits from the EXCel Mitigation Center to offset discharges associated with the proposed action. The wetland within the action area is located within an area constantly disturbed by routine mowing and surrounding development. Therefore, Blackbird Environmental characterized the wetland as emergent wetland habitat within the action area as a low quality of habitat impacted. This qualifies for the 2:1 ratio to offset wetland functions loss associated with the proposed action. The applicant wishes to purchase 8.566 acres of emergent wetland habitat enhancement mitigation.

This mitigation plan is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to

comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Other: On August 2, 2012, the applicant received an official Endangered Species Act List from the U.S. Fish and Wildlife Service (Consultation Tracking Number: 02EKOK00-2012-SLI-1156).

Project Setting: The study area was located within a transitional area between the Central Great Plains and Cross Timbers ecoregions of central Oklahoma. The Central Great Plains ecoregion includes scattered hills, low mountains, gypsum karst and sandy flats. Upland natural vegetation in this dry-sub humid area is predominately mixed grass prairie, but honey mesquite (*Prosopis glandulosa*) and buffalograss (*Bouteloua dactyloides*) are native to the South and to sandy areas. Mean annual rainfall increases to the east, and varies from approximately 22 to 38 inches. Streamflow stops or nearly stops in the summer, but scattered pools persist and serve as summer refuges for aquatic fauna. The most common minnows include the red shiner (*Cyprinella lutrensis*), sand shiner (*Notropis altipinnis*), suckermouth minnow (*Phenacobius mirabilis*), and the plains minnow (*Hybognathus argyritis*). The endemic (and threatened) Arkansas River shiner (*Notropis girardi*) also has designated critical habitat within this ecoregion. Freckled madtoms (*Noturus nocturnus*) and isolated pockets of orangethroat (*Etheostoma spectabile*) and dusky darters (*Percina sciera*) also occur (Woods et al., 2005).

The Cross Timbers ecoregion is characterized by a mix of savanna, woodland and prairie along the low hills, cuestas, ridges and plains. This ecoregion separates the forests of Eastern ecoregions from the prairies of the drier, Western ecoregions. Post oak-blackjack oak woodlands and savanna are native on porous, coarse-textured soils derived from sandstone. Blackjack oak (*Quercus marilandica*) increase to the west and tall grasses are native on fine-textured, moisture deficient soils derived from limestone, shale or marl. Streams are characterized by a mixture of shaded riffles, runs and pools that have gravel or cobble substrate, or wide, shallow, sand-choked channels. Stream conditions, including hydrology, are more stressful for aquatic organisms than in the East, but less rigorous than in the West (Woods et al., 2005).

Existing Condition: The subject property has routinely mowed or cut vegetation consisting of mixed native and cultivated grass field.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 and 2). If additional information is desired, it may be obtained from U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Cultural Resources: The DE has consulted the National Register of Historic Places, and it has been determined that there are no properties currently listed in the National Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Oklahoma and determined that the proposed project is not in the vicinity of properties eligible for listing. This public notice is also being sent to the State

Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register

exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR Part 325, Appendix C.

Threatened and Endangered Species: The following federally-listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: whooping crane (*Grus americana*), interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and Arkansas river shiner (*Notropis girardi*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Our preliminary determination is that the proposed activity will not affect listed threatened or endangered species or their critical habitat.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use 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 thereof: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments

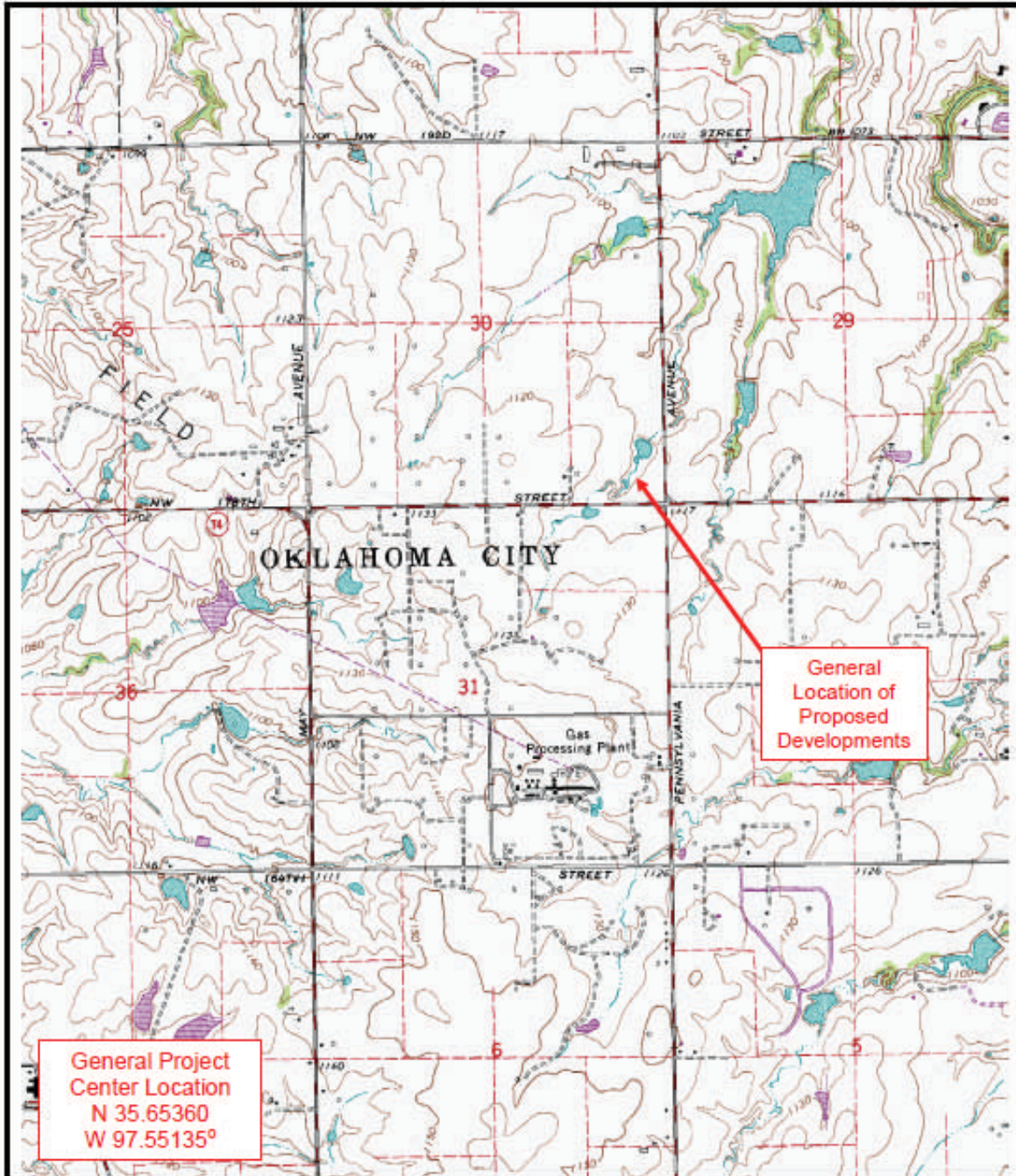
received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest 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. 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, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local flood plain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. The local flood plain administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a water quality Section 401 certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

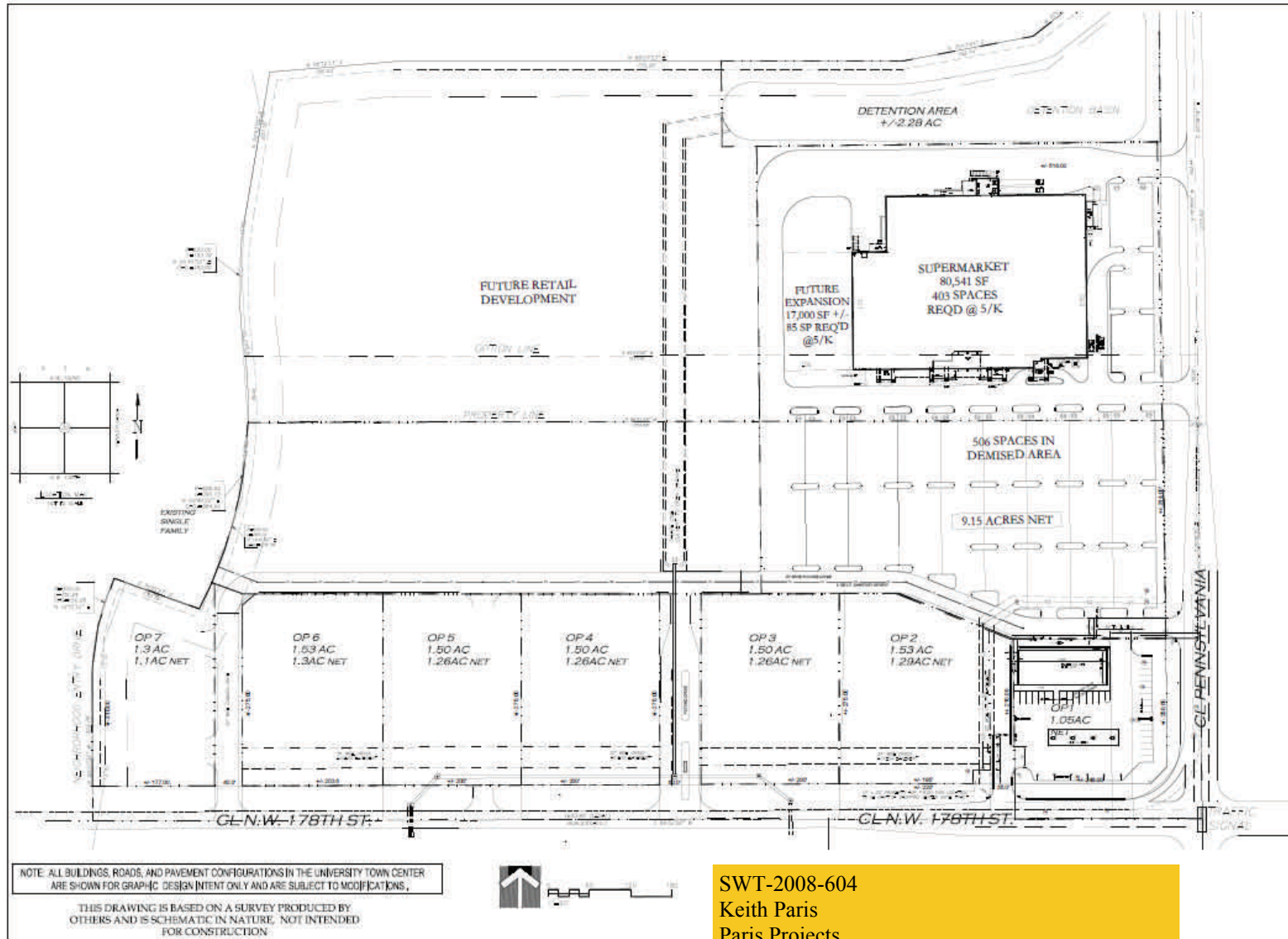
Andrew R. Commer
Chief, Regulatory Office

Enclosures



	<p>Project Description Proposed Commercial Developments SE ¼ of Section 30, T14N, R3W Oklahoma County, Oklahoma</p>	<p>Figure 1: Topographic Map Scale: 1: 24,000 Source: U.S. Geological Survey Bethany NE, OK Quadrangle (1983)</p>
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SWT-2008-604
Keith Paris
Paris Projects
Unnamed tributary of Chisholm Creek
Enclosure 1 of 2



SWT-2008-604
 Keith Paris
 Paris Projects
 Unnamed tributary of Chisholm Creek
 Enclosure 2 of 2

SOONER INVESTMENT
COMMERCIAL AND RESIDENTIAL DEVELOPMENT

COLLETT ASSOCIATES

architecture
 goood
ARCHITECTS

VALENCIA
 178th at Penn
 PRELIMINARY PLAN
 OPTION 'B'

PROJECT
 08.016.00

DATE
 08-15-12

SHEET
 LP-1