



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
636 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

February 12, 2018

Regulatory Branch
(NWK-2017-00785)

Mr. Daren Fristoe
The Grove at Lee's Summit, LLC
P.O. Box 57
Lee's Summit, Missouri 64063

Dear Mr. Fristoe:

As requested by your application, received on May 18, 2017, enclosed is a proposed Department of the Army (DA) permit, in duplicate, with drawings attached. When executed, the permit will authorize your plan to grade and fill two tributaries and two wetlands of Big Creek, for construction of a mixed-use development called The Grove. Additionally, the permit will authorize the temporary impacts to a tributary for installation of a sanitary sewer. The project is located in Sections 8 and 17, Township 47 north, Range 31 west, in Lee's Summit, Jackson County, Missouri.

A copy of the water quality certification issued for your work, by the Missouri Department of Natural Resources has been attached to the enclosed DA permit. As stated in general condition "5" of the enclosed permit document, the conditions presented in the state's water quality certification are incorporated into the special conditions of the permit by reference.

This letter contains an initial proffered permit for your proposed project. If you object to the permit because of certain terms and conditions therein, you may request that the permit be modified accordingly. Enclosed you will find a Notification of Administrative Appeal Options and Process and Request for Appeal (NAO-RFA) form. If you request reconsideration of this decision you must submit a completed NAO-RFA form to the Kansas City District at the following address:

District Commander
ATTN: Mark D. Frazier
Chief, Regulatory Branch
U.S. Army Engineer District, Kansas City
601 East 12th Street, Suite 402
Kansas City, MO 64106-2824
Voice: 816-389-3990 FAX: 816-389-2032

In order for an NAO-RFA to be accepted by the U.S. Army Corps of Engineers (Corps), the Corps must determine that it is complete, that it meets the criteria for reconsideration under 33 CFR Part 331.6.b., and that it has been received by the District Office within 60 days of the date of the NAO-RFA. Should you decide to submit an NAO-RFA form, it must be received at the above address by April 13, 2018. It is not necessary to submit an NAO-RFA form to the District Office if you do not object to the provisions of your initial proffered permit.

If you wish to accept the permit in its present form, please sign the original and duplicate copy of the enclosed permit document. Each copy of the permit document should be signed on page 3 above the word "Permittee," dated, and returned within 30 days from the date of this letter. Also, the application fee of \$100 should be paid by check made payable to USAED-KC and remitted with the permit document. A

preaddressed envelope is enclosed for your convenience. Upon receipt of the properly signed documents and the application fee, the permit will be executed and returned to you for your files. Your signature on the standard permit means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

Special condition "a" of the permit document requires you to complete and return a "Compliance Certification" upon completion of the authorized work and any required mitigation. The "Compliance Certification" form will be provided to you when your DA permit is executed.

In addition to the general and special conditions of this IP, special conditions have been added in order to replace the lost aquatic resources and to protect Threatened and Endangered Species that result from the authorized project.

1. The permittee must purchase 12,247 stream credits and 0.11 acres of wetland credit from an approved mitigation bank in the service area of the project. The current approved mitigation bank within the service area of the project is the Camp Branch Wetland and Stream Mitigation Bank. The compensatory mitigation credit purchase must be completed prior to the commencement of work within our regulatory jurisdiction. You must submit a receipt of payment from the mitigation provider that includes the amount of credits purchased and the date of credit purchase. Receipts submitted by authorized agents will not be accepted.

2. Please be aware that the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*), may be present within your project area. To "not adversely affect" the listed species, the permittee must avoid cutting and clearing trees within the project area during the bats' active season March 31 – November 1. If you anticipate timber clearing within these dates, please contact the Corps of Engineers, Regulatory Branch, for further consultation with the United States Fish and Wildlife Service.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. Please feel free to complete our Customer Service Survey form on our website at: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. You may also call and request a paper copy of the survey which you may complete and return to us by mail or fax.

If you have any questions concerning this matter, please feel free to write me or to contact Ms. Kailey Jones at (816) 389-2123 or by email at kailey.j.jones@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Hibbs", with a stylized flourish at the end.

David R. Hibbs
Regulatory Program Manager
Regulatory Branch

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee The Grove at Lee's Summit, LLC

Permit No. NWK-2017-00785

Issuing Office U.S. Army Engineer District, Kansas City

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below, and with the plans and drawings attached hereto which are incorporated in and made a part of this permit.

Project Description: This permit authorizes the general grading and fill of 1,948 linear feet (LF) of intermittent tributary, 840 LF of ephemeral tributary, and 0.11 acres of two adjacent wetlands; and the temporary impact to 72 LF of intermittent tributary for excavation and installation of a sanitary sewer, as shown on the attached drawings.

Permit Drawings: Location map, aerial map, proposed impact maps: 4 sheets total, dated 25 January 2018.

Project Location: In two unnamed tributaries and two adjacent wetlands of Big Creek, in Sections 8 and 17, Township 47 north, Range 31 west, in Lee's Summit, Jackson County, Missouri.

(38.89492°, -94.37007°)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See continuation sheets, pages 4 and 5, of this document.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE)

(DATE)

(PRINTED NAME AND TITLE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

(DISTRICT ENGINEER)
DOUGLAS B. GUTTORMSEN, COLONEL
BY: David R. Hibbs, Regulatory Program Manager

(DATE)

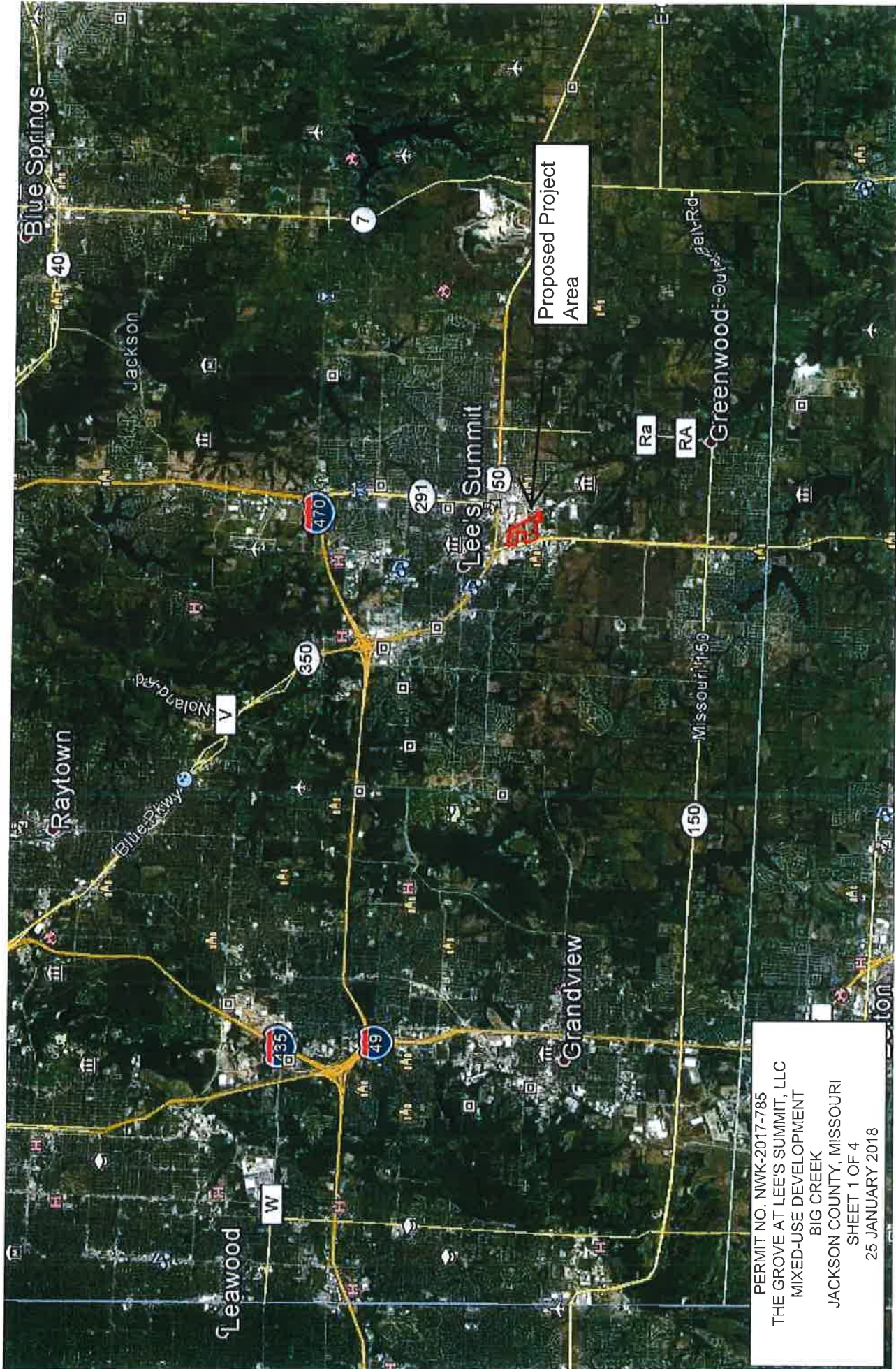
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

Special Conditions:

- a. You must sign and return a “Compliance Certification” after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and specific conditions, and that any required mitigation was completed in accordance with the permit conditions.
- b. The permittee must purchase 12,247 stream credits and 0.11 acres of wetland credit from an approved mitigation bank in the service area of the project. The current approved mitigation bank within the service area of the project is the Camp Branch Wetland and Stream Mitigation Bank. The compensatory mitigation credit purchase must be completed prior to the commencement of work within our regulatory jurisdiction. You must notify the project proponent that they must submit a receipt of payment from the mitigation provider that includes the amount of credits purchased and the date of credit purchase. Receipts submitted by authorized agents will not be accepted.
- c. Please be aware that the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*), may be present within your project area. To “not adversely affect” the listed species, the permittee must avoid cutting and clearing trees within the project area during the bats’ active season March 31 – November 1. If you anticipate timber clearing within these dates, please contact the Corps of Engineers, Regulatory Branch, for further consultation with the United States Fish and Wildlife Service.
- d. If any part of the authorized work is performed by a contractor, before starting work you must discuss the terms and conditions of this permit with the contractor; and, you must give a copy of this entire permit to the contractor.
- e. You must use clean, uncontaminated materials for fill in order to minimize excessive turbidity by leaching of fines, as well as to preclude the entrance of deleterious and/or toxic materials into the waters of the United States by natural runoff or by leaching.
- f. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in a nonwetland area above the ordinary high water mark and at a location where the concrete and wash water cannot enter the water body or an adjacent wetland area.
- g. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- h. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- i. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- j. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.

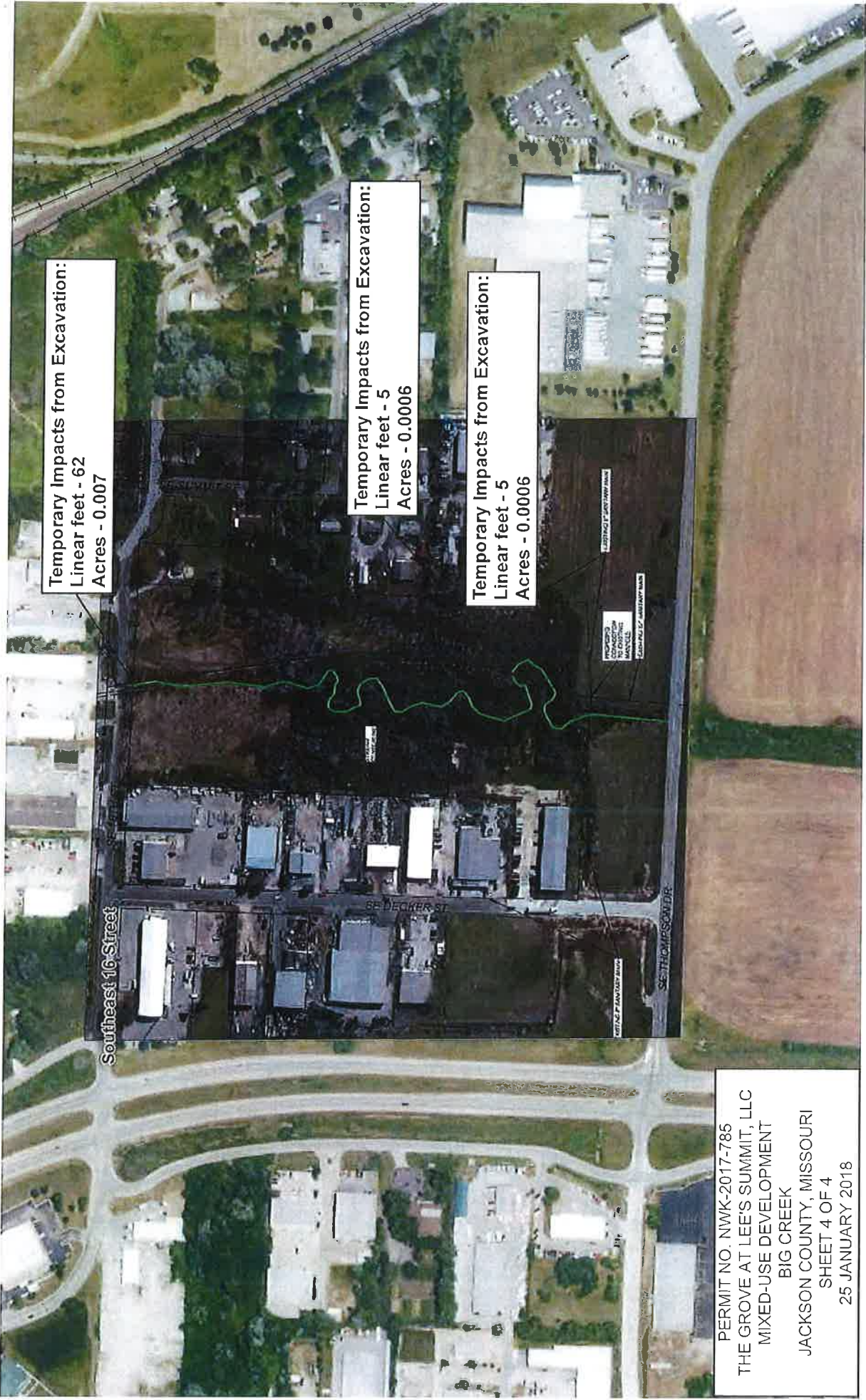


Proposed Project Area

PERMIT NO. NWK-2017-785
THE GROVE AT LEE'S SUMMIT, LLC
MIXED-USE DEVELOPMENT
BIG CREEK
JACKSON COUNTY, MISSOURI
SHEET 1 OF 4
25 JANUARY 2018



PERMIT NO. NWK-2017-785
THE GROVE AT LEE'S SUMMIT, LLC
MIXED-USE DEVELOPMENT
BIG CREEK
JACKSON COUNTY, MISSOURI
SHEET 2 OF 4
25 JANUARY 2018



Temporary Impacts from Excavation:
Linear feet - 62
Acres - 0.007

Temporary Impacts from Excavation:
Linear feet - 5
Acres - 0.0006

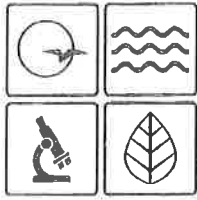
Temporary Impacts from Excavation:
Linear feet - 5
Acres - 0.0006

Southeast 16 Street

SE DECKER ST

SE HICKMAN ST

PERMIT NO. NWK-2017-785
THE GROVE AT LEE'S SUMMIT, LLC
MIXED-USE DEVELOPMENT
BIG CREEK
JACKSON COUNTY, MISSOURI
SHEET 4 OF 4
25 JANUARY 2018



Missouri Department of dnr.mo.gov

NATURAL RESOURCES

Eric R. Greitens, Governor

Carol S. Comer, Director

NOV 22 2017

Mr. Robert Dunn
The Grove at Lee's Summit, LLC
P.O. Box 57
Lee's Summit, MO 64063

RE: 2017-00785/CEK007233 in Jackson County

Dear Mr. Dunn:

The Missouri Department of Natural Resources' Water Protection Program has reviewed your request for Clean Water Act Section 401 Water Quality Certification (WQC) to accompany the U.S. Army Corps of Engineers' (USACE) Permit for 2017-00785 in which you are proposing to develop two parcels, one approximately 35 acres and one approximately 48 acres for the construction of The Grove at Lee's Summit, LLC mixed-use development. The proposal includes the construction of multi-family residential, commercial offices, and industrial warehouse space with associated amenities and stormwater detention.

The proposed development would permanently fill 1,948 linear feet (LF) of intermittent stream, 840 LF of an ephemeral tributary, and 0.11 acre of emergent wetland. Additionally, the applicant has proposed to temporarily impact 72 LF of intermittent Tributary 1 for the placement of a sanitary sewer line in three locations.

The proposed project is located in Sections 8 and 17, Township 47 North, Range 31 West in Lees Summit, Jackson County, Missouri. Approximate geographic coordinates for the center of the project are 38.89492°N and 94.37007°W. Approximate geographic coordinates for aquatic impacts and impact sizes are as follows:

Streams	Impact Size (LF)	Latitude (°N)	Longitude (°W)
Intermittent	1,948	38.895822	94.372770
Ephemeral tributary	840	38.895311	94.367827
Wetland	Impact Size (Acres)	Latitude (°N)	Longitude (°W)
Emergent wetland	0.06	38.893489	94.370988
Emergent wetland	0.05	38.894936	94.372635



Recycled paper

This WQC is being issued under Section 401 of Public Law 95-217, The Clean Water Act of 1977 and subsequent revisions. This office certifies the proposed project will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in the Water Quality Standards, 10 CSR 20-7.031, provided the following conditions are met:

1. The 2,788 LF of stream impacts were assessed using the 2013 State of Missouri Stream Mitigation Method and determined to require 12,247 stream mitigation credits. Compensatory mitigation shall be satisfied by the purchase of 12,247 credits from the Camp Branch Wetland and Stream Mitigation Bank or other approved in-lieu fee provider or mitigation bank. A copy of the purchase document shall be provided to the Department at the address below prior to the start of work within jurisdictional waters at the site.
2. The Grove at Lee's Summit, LLC shall purchase 0.11 wetland acres as mitigation credit from the Camp Branch Wetland and Stream Mitigation Bank or other approved in-lieu fee provider or mitigation bank. A copy of the purchase document shall be provided to the Department at the address below prior to the start of work within jurisdictional waters at the site.
3. Antidegradation requirements dictate all appropriate and reasonable Best Management Practices (BMPs) related to erosion and sediment control, project stabilization and prevention of water quality degradation are applied and maintained; for example, preserving vegetation, streambank stability, and basic drainage. BMPs shall be properly installed prior to conducting authorized activities and maintained, repaired and/or replaced as needed during all phases of the project to limit the amount of discharge of water contaminants to waters of the state. The project shall not involve more than normal stormwater or incidental loading of sediment caused by project activities so as to comply with Missouri's general water quality criteria [10 CSR 20-7.031(4); Page 16 at <http://www.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>].
4. Streambed gradient downstream of the project shall not be adversely altered during project construction. No project shall accelerate bed or bank erosion outside of the project area.
5. The project shall not allow the filling of jurisdictional springs such as those associated with a water body's point of origin or located in a streambed.
6. Conduct project activity at low flows and water levels to limit the amount of sediment disturbance caused by the heavy equipment.
7. All precautions shall be taken to avoid the release of wastes or fuel to streams and other adjacent waters as a result of this operation. Petroleum products spilled into any water or on the banks where the material may enter waters of the state shall be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible, but no later than 24 hours after discovery to the Department's Environmental Emergency Response phone line at 573-634-2436 or website at <http://dnr.mo.gov/env/esp/esp-eer.htm>.

8. Only clean, nonpolluting fill shall be used.
9. Any waste concrete or concrete rinsate shall be disposed of in a manner that does not result in any discharge to the jurisdictional water ways.
10. Clearing of vegetation and trees shall be the minimum necessary to accomplish the activity, except for the removal of invasive or noxious species and placement of ecologically beneficial practices.
11. Disturbed areas shall be restored to a stable condition to protect water quality as soon as possible. Seeding, mulching and needed fertilization should be within three days of final contouring. To ensure erosion and deposition of soil in waters of the state are not occurring from this project, onsite inspections of these areas should be conducted as necessary to ensure successful revegetation and stabilization.
12. Acquisition of a WQC shall not be construed or interpreted to imply the requirements for other permits are replaced or superseded, including Clean Water Act Section 402 National Pollutant Discharge Elimination System Permits. Permits or any other requirements shall remain in effect. Questions regarding permit requirements may be directed to the Department's Kansas City Regional Office by phone at 816-251-0700.
13. Land disturbance activities disturbing one or more acres of total area for the entire project may require a stormwater permit. Instructions on how to apply for and receive the online land disturbance permit are located at www.dnr.mo.gov/env/wpp/epermit/help.htm. Questions regarding permit requirements may be directed to the Department's Land Disturbance phone line at 573-526-2082 or toll free at 855-789-3889.
14. The city of Lee's Summit is covered under Municipal Separate Storm Sewer System Permit MO-R040016 with measures to control and possibly treat stormwater. You shall comply with all stormwater requirements of the city's Stormwater Management Plan and any related ordinances.
15. Representatives from the Department shall be allowed upon request on the project property, which includes the site(s) where the authorized activity takes place and any associated compensatory mitigation site(s), to inspect the authorized activity and mitigation efforts as deemed necessary by the Department to ensure compliance with WQC conditions and water quality standards. The applicant or their consultant shall submit any requested information deemed necessary by the Department to ensure compliance with WQC conditions.
16. The WQC is based on the plans as submitted. Should any plan modifications occur, please contact the Department to determine whether the WQC remains valid or needs to be amended or revoked.

Mr. Robert Dunn

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Pursuant to Chapter 644, RSMo, commonly referred to as the Missouri Clean Water Law, and fee regulations under 10 CSR 20-6.011(2)(I), this WQC shall be valid only upon payment of a fee of \$150. The enclosed invoice contains the necessary information on how to submit your fee. Payment must be received within ten business days of receipt of this WQC. Upon receipt of the fee, the applicable office of the USACE will be informed the WQC is now in effect and final.

If you were adversely affected by this decision, you may be entitled to an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Section 621.250, RSMo. To appeal, you must file a petition with the AHC within 30 days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the AHC. Contact information for the AHC is by mail at Administrative Hearing Commission, United States Post Office Building, Third Floor, 131 West High Street, P.O. Box 1557, Jefferson City, MO 65102 by phone at 573-751-2422, by fax at 573-751-5018, and by website at www.oa.mo.gov/ahc.

This WQC is part of the USACE's permit. Water Quality Standards must be met during any operations authorized. If you have any questions, please contact Mr. Mike Irwin by phone at 573-522-1131, by email at mike.irwin@dnr.mo.gov, or by mail at Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM


Chris Wieberg
Director

CW:mip

Enclosure

- c: Ms. Sherry Bell, Fiscal Management Section, Budget and Fees Unit
Mr. Jesse Cochran, Kansas City Regional Office
Ms. Kailey Jones, U.S. Army Corps of Engineers, Kansas City District
Mr. Kelsey Kropp, TranSystems
Ms. Corinne Rosania, Kansas City Regional Office
Mr. Steve Sturgess, Kansas City Regional Office
Ms. Terrie Williams, Kansas City Regional Office