PUBLIC NOTICE

US Army Corps
of Engineers
Kansas City District

Permit No. NWK-2012-1483
Issue Date: January 16, 2013
Expiration Date: February 6, 2013

21-Day Notice

JOINT PUBLIC 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 Water - - Watershed Management Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

APPLICANT: MRV, Inc.
3501 SW Fairlawn Road, Suite 200
Topeka, KS 66614

PROJECT LOCATION (As shown on the attached drawings): The project is located in a tributary to Ward Creek in Section 26, Township 11 south, Range 15 east, Shawnee County, Kansas. (Latitude: 39.06012 – Longitude: -95.70793 – Quad: Topeka)

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

ACTIVITY (As shown on the attached drawings): **Proposed**. The applicant proposes to develop an approximate 7-acre site for future commercial use. The site will be developed into buildings, associated parking and driveways, and a detention basin. The purpose as stated by the applicant is to provide additional property for commercial businesses within the Topeka area.

WETLANDS/AQUATIC HABITAT: The applicant proposes to fill 1 acre of Palustrine emergent and Palustrine Scrub-Shrub wetland. Approximately 1,620 cubic yards of fill material will be placed to allow for site grading and foundation for proposed buildings and associated parking areas.

APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES: The applicant proposes to compensate for the unavoidable loss of 1 acre of wetlands by purchasing 1.5 acre of wetland credits from Stranger Creek Wetland and Stream Mitigation Bank. Additional mitigation options may be considered during the development of the final mitigation plan.

ADDITIONAL INFORMATION: Additional information about this application may be obtained by contacting Lee Wolf, U.S. Army Corps of Engineers, Kanopolis Satellite Office, 107 Riverside Drive, Marquette, Kansas 67464, or by calling 785-546-2130 (FAX 785-453-2050), email: lee.n.wolf@usace.army.mil . All comments to this public notice should be directed to the above address.

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

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 will not affect species designated as threatened or endangered or adversely affect critical habitat. 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.

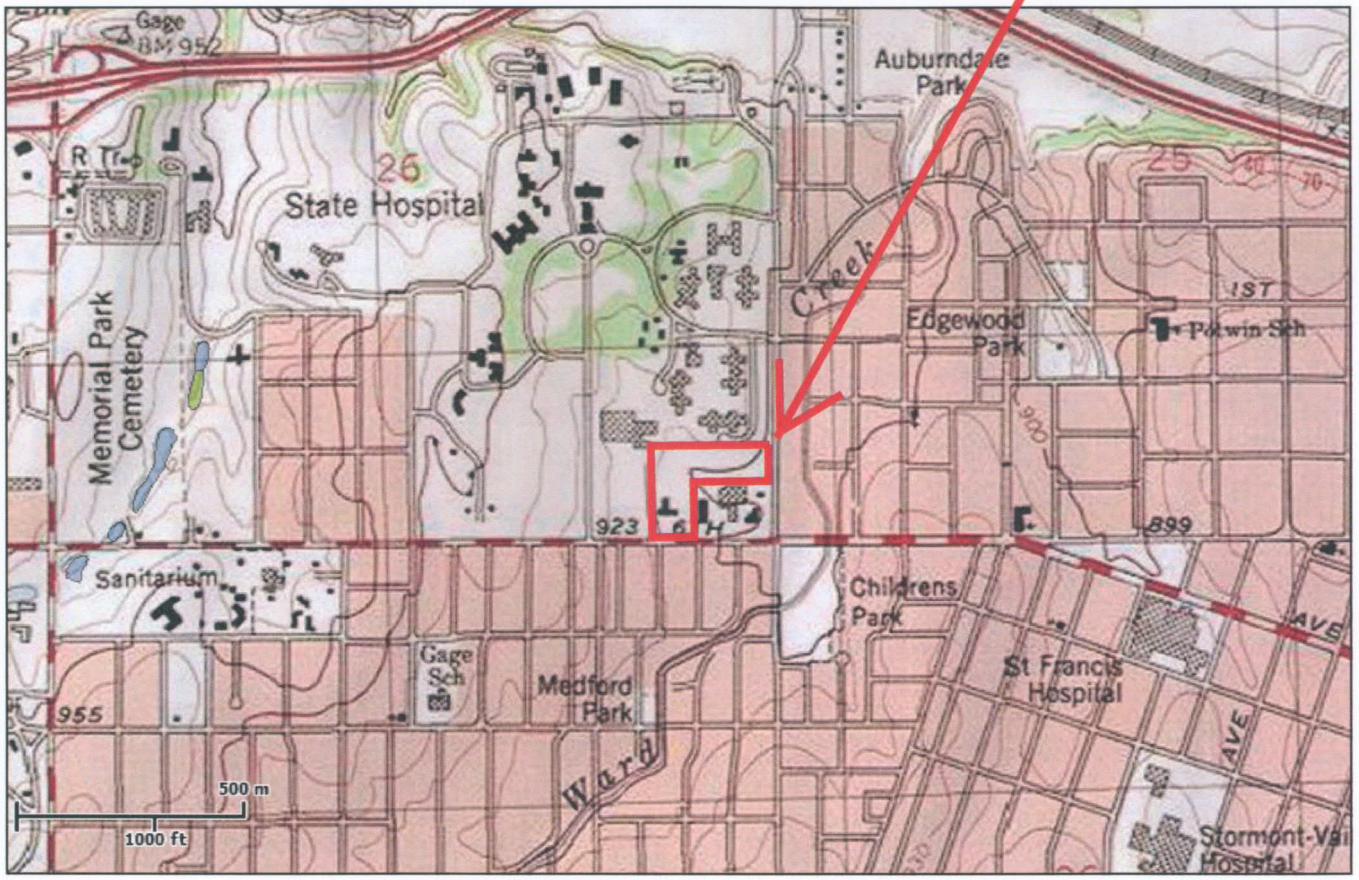
PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

U.S. Fish and Wildlife Service

National Wetlands Inventory

Approximate site location

Sep 5, 2012



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

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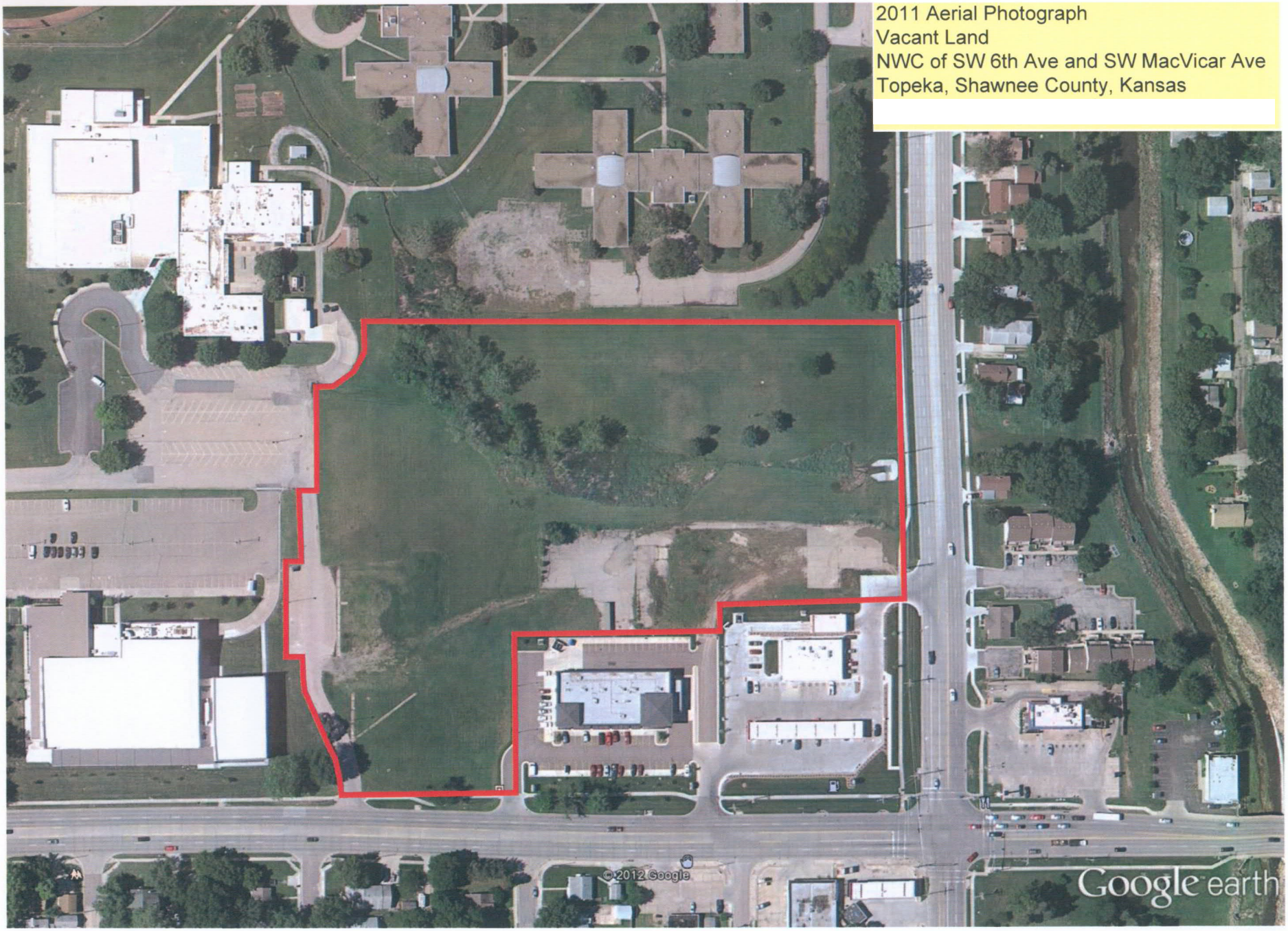
MRV, INC.
COMMERCIAL DEVELOPMENT
WARD CREEK
SHAWNEE COUNTY, KANSAS
SHEET 1 OF 3
DATED 16 JANUARY 2013

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Exhibit 1 - Topographic Site Map
Vacant Land
NWC of SW 6th Ave and SW MacVicar Ave
Topeka, Shawnee County, Kansas



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feet 1000
meters 400

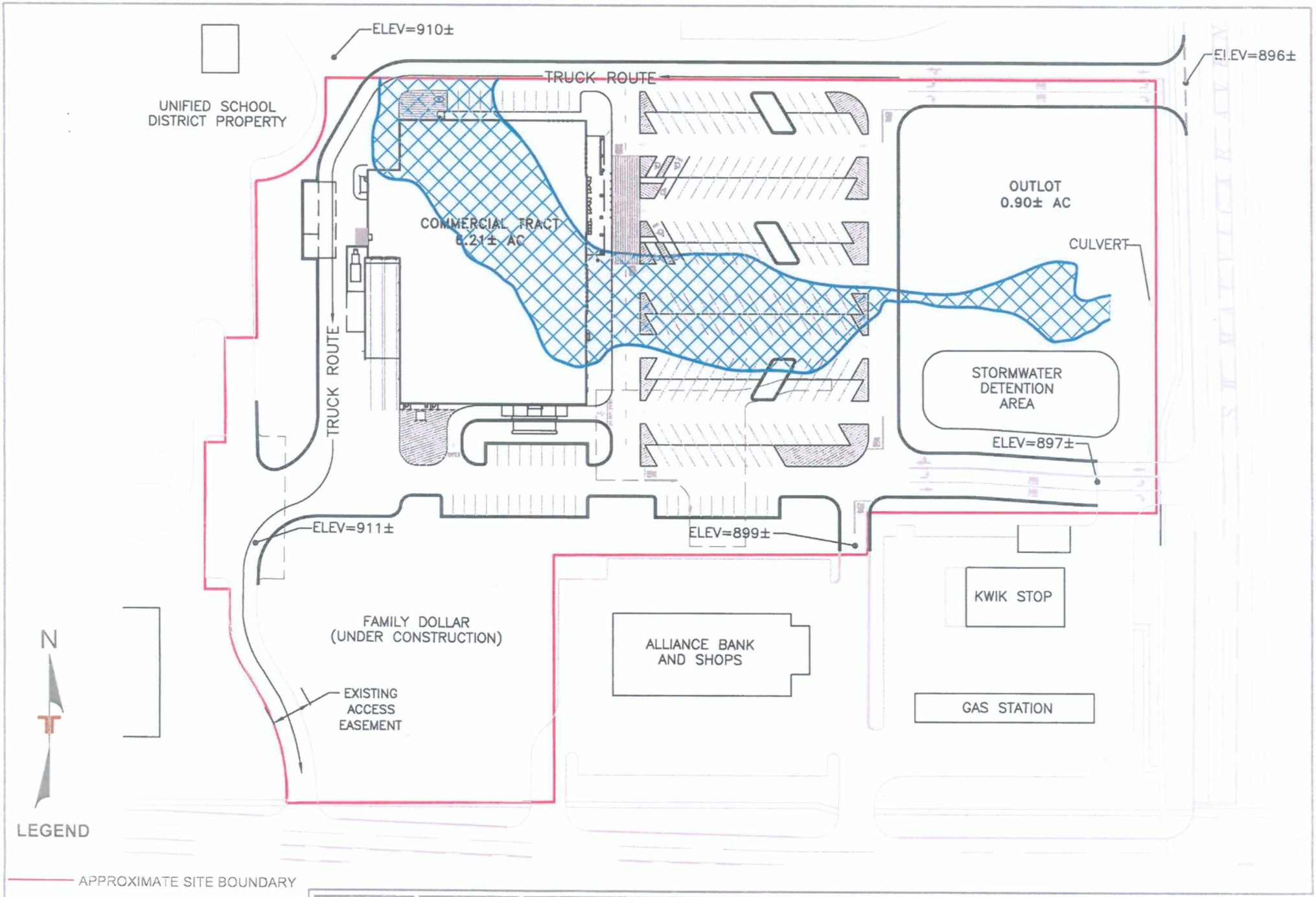

DIAGRAM IS INTENDED FOR GENERAL USE ONLY, AND IS NOT FOR CONSTRUCTION PURPOSES. LOCATIONS ARE APPROXIMATE.

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PROPOSED DEVELOPMENT PLAN

VACANT LAND

NWC OF SW 6TH AVENUE AND SW MACVICAR AVENUE

TOPEKA, SHAWNEE COUNTY, KANSAS