



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

Correspondence
32732

REPLY TO
ATTENTION OF:

September 5, 2003

Regulatory Branch
(200301320)

Mr. Randall A. Root
Senior Wetland Scientist
Burns & McDonnell
9400 Ward Parkway
Kansas City, Missouri 64114-3319

Dear Mr. Root:

Permit No. 200301320 has been executed. One copy is enclosed for your records and one copy has been retained for our files. When you are ready to begin work it is necessary that you contact Douglas R. Berka at 816-983-3657 (FAX 816-426-2321) or by email at douglas.r.berka@usace.army.mil

Special condition "a" of the permit requires you to sign and return the enclosed "Compliance Certification" upon completion of the authorized work and any required mitigation.

Sincerely,

Mark D. Frazier
Kansas City Area Program Manager

Enclosures

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch w/enclosures
U.S. Fish and Wildlife Service,
Columbia, Missouri w/enclosures
Missouri Department of Natural
Resources w/enclosures
Missouri Department of Conservation
w/enclosures

COMPLIANCE CERTIFICATION

Special condition "a" of this permit document requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Kansas City District at the address shown at the bottom of this page upon completion of the project.

APPLICATION NUMBER: 200301320

APPLICANT: City of Liberty, Missouri - Public Works Department
City Hall
101 East Kansas
Post Office Box 159
Liberty, MO 64068

PROJECT LOCATION: In an unnamed tributary of Shoal Creek, at the northeast corner of Interstate 35 and Missouri Highway 152, in Section 12, Township 51 north, Range 32 west, City of Liberty, Clay County, Missouri.

- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraphs a and b above.

(PERMITTEE)

(DATE)

Return this certification to:

U.S. Army Corps of Engineers
ATTN: CENWK-OD-R (200301320)
700 Federal Building
Kansas City, MO 64106-2896

Regulatory Branch
(200301320)

DEPARTMENT OF THE ARMY PERMIT

Permittee Lowe's Home Center and the City of Liberty, Missouri- Public Works Department

Permit No. 200301320

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: Fill (pipe) and relocate approximately 600 feet of intermittent stream channel and relocate approximately 1,650 linear feet of open intermittent stream channel in order to facilitate the construction of a 711,500 square feet retail development center. A Lowe's Home Center (160,000 square feet) is planned as the retail anchor. The relocated channel, approximately 1,650 feet in length, will remain open and will be contained within a riparian area measuring approximately 1,800 feet long by 75 feet in wide. An engineered gravel-packed filter system will be constructed in order to filter storm water from parking lots prior to its release through a slotted pipe to the stream channel. Trees and other native species will be planted along the riparian area.

Permit Drawing(s): Location map, plan view, Sheets 1 of 2 and 2 of 2 dated 31 July 2003.

Project Location: In an unnamed tributary of Little Shoal Creek at the northeast corner of Interstate 35 and Highway 152 in Section 12, Township 51 north, Range 32 west, Clay County, Missouri

(lat:39-14-53.3760 lon:94-27-1.7640)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2006. 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.

[Handwritten signature]

(PERMITTEE)
(Lowe's Home Improvement Warehouse)

[Handwritten signature] 8/19/03

(PERMITTEE)
(City of Liberty, Missouri) Steven P. Hansen, P.E.
Director of Public Works/
Development Services

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

[Handwritten signature]

(DISTRICT ENGINEER)
DONALD R. CURTIS, JR.
BY: Mark D. Frazier
Assistant Branch Chief/Kansas City
Area Program Manager

SEP 5 2003

(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)

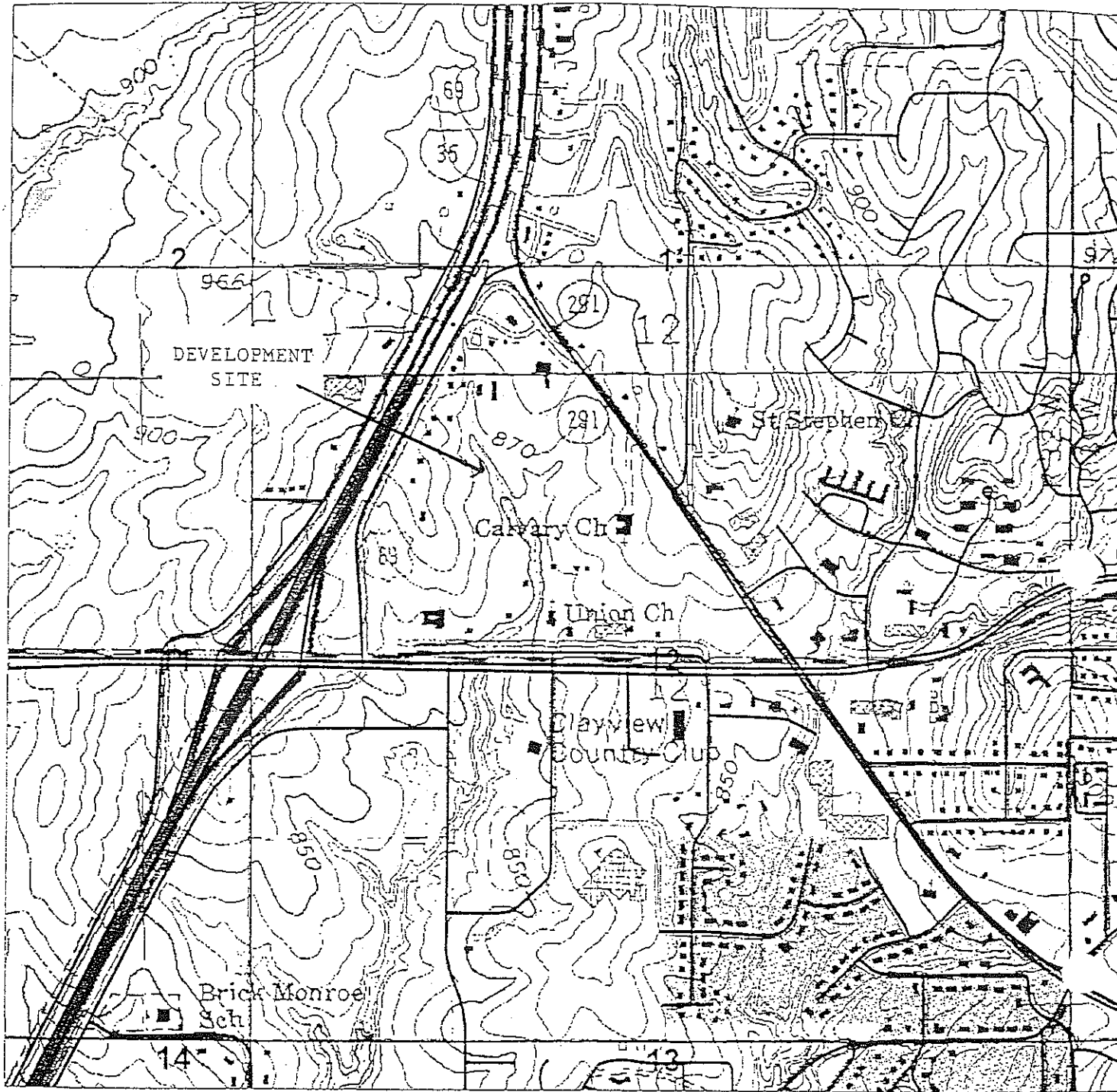
(DATE)

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. 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.
- c. You must complete the mitigation plan as submitted by Burns & McDonnell dated May 19, 2003 and you must maintain all features of the plan including the gravel-pack filters in perpetuity. In addition, you must select one of the flowing options to mitigate for the impacts to approximately 730 feet of stream channel. The final mitigation plan must be approved prior to any work in waters of the United States.
 1. You must preserve by means of a permanent conservation easement or by deed restriction 1,460 linear feet of high quality stream, including the forested riparian corridor that is at least 25 feet wide on both sides of the existing stream channel. If you select this mitigation option, you must provide your draft of the conservation easement or deed restriction and the location of the proposed mitigation site for our approval prior to purchasing the land for mitigation.
 2. Restore, by in stream habitat enhancement, bank stabilization and riparian plantings and protect by a permanent easement or deed restriction, 730 linear feet of degraded stream, including a riparian corridor at least 25 feet wide landward of the edge of both high banks. If you select this mitigation option, you must furnish your draft restoration plan, conservation easement or deed restriction document and the location of the site where the stream will be restored to the Kansas City District Regulatory Branch for approval prior to purchasing the land or the easement. The easement requirement may be waived if the restoration work is completed on public lands.
 3. Contribute to the Missouri Conservation Heritage Foundation's Stream Stewardship Trust Fund, in the amount determined by the Foundation to mitigate for 730 linear feet of intermittent stream channel with a riparian corridor at least 25 feet wide landward from the edge of the high bank on both sides of the channel and provide confirmation to this office that the donation is accepted by the Foundation.
- d. 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.
- e. You must dispose of excess concrete and wash water from concrete trucks and other concrete mixing equipment in an upland 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.
- f. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.

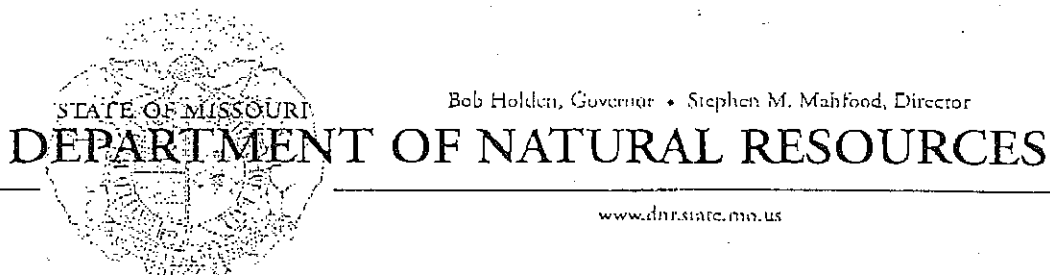
- g. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- h. You must not dispose of any construction debris or waste materials below the ordinary 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.
- i. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- j. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or bare soil condition.
- k. You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. You must furnish a copy of the recorded instrument, with the recorders stamp, that describes the boundary of the mitigation area to the Kansas City District within 2 months from the date of this permit.

Lowes Home Center and Liberty Triangle Retail Development



PERMIT NO. 200301320
BY LOWE'S HOME CENTER AND CITY OF LIBERTY, MO
FOR RETAIL DEVELOPMENT AT I-35 AND 152 HIGHWAY
IN A TRIBUTARY OF LITTLE SHOAL CREEK
CLAY COUNTY, MISSOURI
SHEET 1 OF 2 DATED JULY 31, 2003

Base Number: 200301320
Purpose:
State: MO
County: Clay
Legal: Sec. 12, T51 north, R32 west
River Mile:
Lat: 39-14-53.3760
Long: 94-27-01.7640



Bob Holden, Governor • Stephen M. Mahfood, Director

DEPARTMENT OF NATURAL RESOURCESwww.dnr.state.mo.us

JUL 7 2003

Lowe's Home Center, Inc.
c/o Ozark Civil Engineering, Inc.
15022 West 106th Street
Lenexa, KS 66215

Clay County
PN03-01320/CEK000831

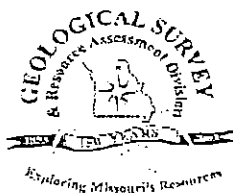
City of Liberty, Missouri
101 East Kansas
P.O. Box 159
Liberty, MO 64068

Dear Sir or Madam:

The Missouri Department of Natural Resources' Water Pollution Control Program has reviewed your request for Water Quality Certification for Public Notice Permit No. 200301320/CEK000831 for the construction of a total of 711,500 square feet of retail development and all attendant features including parking lots, utilities and a stormwater management facility. The development consists of 493,000 square feet of retail development, 160,000 square feet retail anchor (Lowe's Home Center) and 10 new pad sites totaling 58,500 square feet of retail space. To facilitate construction, approximately 600 feet of ephemeral and/or intermittent stream channel will be filled, and 1,800 feet of channel will be relocated. The relocated channel will be approximately 1,650 feet in length with an average width of 6 feet, and it will meander through a 15 to 20 foot wide floodplain. Adjacent to the floodplain will be an additional 30 feet wide area containing 2:1 side slopes that will be planted to a mix of native tree and shrub species. A wetland area approximately 0.8 acre in size will be constructed adjacent to the retail anchor store, and the floodplain area of the detention facility is designed to create prolonged saturated soil conditions.

The project is located in a triangular tract of land bounded on the west by Interstate 35, on the south by State Highway 152, and on the east by State Highway 291 in Section 12, Township 51 north, Range 32 west in the City of Liberty, Clay County, Missouri.

This office certifies that the planned activities apparently will not cause the general or the 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:

*Integrity and excellence in everything we do*

Lowe's Home Center, Inc./City of Liberty, Missouri (PN03-01320/CEK000831)

Page 3

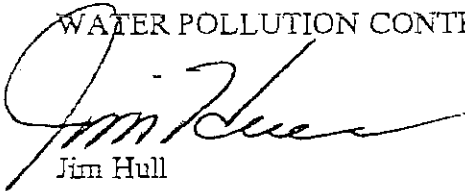
10. Care shall be taken to keep machinery out of the waterways as much as possible. Fuel, oil and other petroleum products, equipment and any solid waste should not be stored below the ordinary high water mark at any time or in the adjacent floodway beyond normal working hours. All precautions should be taken to avoid the release of wastes or fuel to streams and other adjacent waterbodies as a result of this operation. Petroleum products spilled into any waterbody or on the banks where the material may enter waters of the state should be immediately cleaned up and disposed of properly. Any such spills must be reported to the Missouri Department of Natural Resources' 24-hour Environmental Emergency Response number at (573) 634-2436.

Pursuant to Chapter 644.052.9, RSMo, commonly referred to as the Missouri Clean Water Law, this 401 water quality certification shall be valid only upon payment of a fee of seventy-five dollars (\$75.00). The enclosed invoice contains the necessary information on how to submit your fee. Payment must be received within fifteen (15) days of receipt of this certification. Upon receipt of the fee, a copy of the certification will be mailed to the applicable office of the Corps of Engineers to inform them the certification is now in effect and final.

Water Quality Standards must be met during any operations authorized by these permits. If compliance with Water Quality Standards is not maintained, you will be notified and the certification may be withdrawn. If any questions, please contact Scott Hamilton of the Planning Section at (573) 751-7428, e-mail at nrhamis@dnr.state.mo.us, or by mail at Missouri Department of Natural Resources, Water Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102-0176.

Sincerely,

WATER POLLUTION CONTROL PROGRAM



Jim Hull
Director

JH/shp

Enclosure

c: Douglas Berka, Army Corps of Engineers, Kansas City District
Randall Root, Burns & McDonnell
MoDNR - KCRO

PERMIT NO. 200301320
 LOWE'S HOME CENTER & CITY OF LIBERTY, MO
 RETAIL DEVELOPMENT AT I-35 AND 152 HIGHWAY
 IN A TRIBUTARY OF LITTLE SHOAL CREEK
 CLAY COUNTY, MO
 SHEET 2 OF 2 DATED JULY 31, 2003

Total GLA: 711,500 sf

Concept I
 1 Anchor with Sub-Anchor Retail Center

LIBERTY TRIANGLE
 The City of Liberty, Missouri






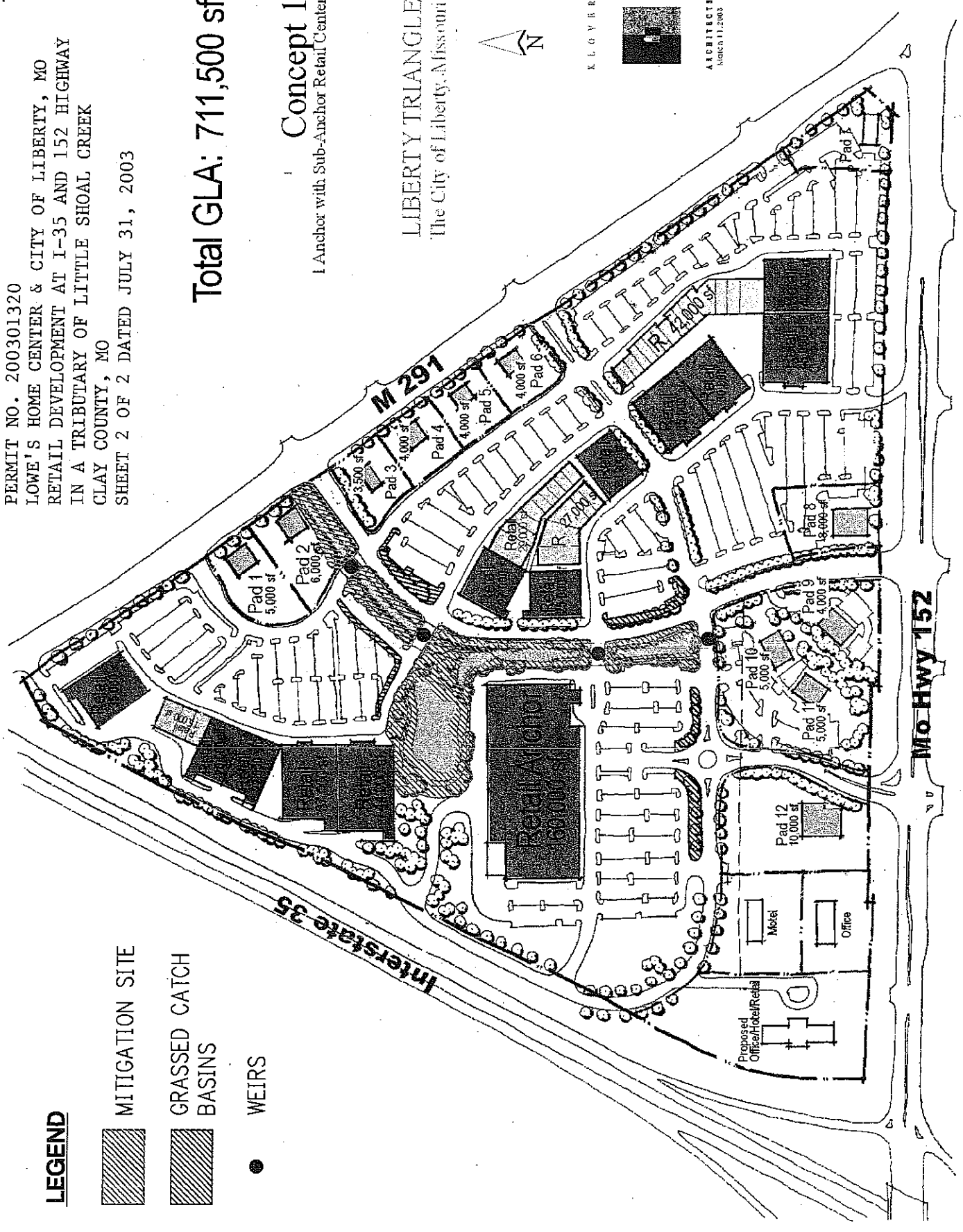
KLOYER



ARCHITECTS
 March 11, 2003

LEGEND

-  MITIGATION SITE
-  GRASSED CATCH BASINS
-  WEIRS



BURNS & MCDONNELL

(AUTO)

THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
017	MEMORY TX		99132364307	11/11	OK

ERRORS

- 1) HANG UP OR LINE FAIL
- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



DEPARTMENT OF THE ARMY
 KANSAS CITY DISTRICT, CORPS OF ENGINEERS
 700 FEDERAL BUILDING
 KANSAS CITY, MISSOURI 64106-2896

REPLY TO
ATTENTION OF:

September 5, 2003

Regulatory Branch
(200301320)

Mr. Randall A. Root
 Senior Wetland Scientist
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 9400 Ward Parkway
 Kansas City, Missouri 64114-3319

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