

# Public Notice

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US ARMY CORPS  
OF ENGINEERS  
St. Louis District  
Gateway to Excellence

Reply To:  
U.S. Army Corps of Engineers  
Attn: CEMVS-OD-F  
1222 Spruce Street  
St. Louis, Missouri 63103-2833

Public Notice/File No.  
MVS-2019-606

Public Notice Date:  
December 2, 2022

Expiration Date:  
December 23, 2022

Postmaster Please Post Conspicuously Until:

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File Number: MVS-2019-606

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached maps.

**COMMENTS AND ADDITIONAL INFORMATION:** Comments on the described work should reference the U.S. Army Corps of Engineers File Number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers  
Regulatory Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833

**APPLICANT:** City of St. Charles, 200 North Second Street, St. Charles, Missouri 63301

**LOCATION:** The project area is located near Bangert Island, east of Arena Parkway, south of the I-70 bridge and west of the Missouri River in St. Charles, Missouri. More specifically, the project is in Sections 5 & 8, Township 46 North, Range 05 East. Approximate coordinates: 38.7595 latitude, -90.4951 longitude.

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

**PROJECT DESCRIPTION:** The applicant seeks a modification to a previous authorization, issued in May of 2021, to conduct grading and filling operations within waters of the United States to facilitate the construction of an open space, adjacent to the previously authorized 15.5-acre fill. The previous authorization was for the construction of mixed-use structures. The newly proposed modifications are to 39.7-acres of forested wetlands, 5160 linear feet of perennial stream, and 32 linear feet of intermittent stream to create a publicly accessible green space, providing wide vistas, containing a prominent central water feature, and to make the proposed mixed-use Riverpointe Development function as originally intended.

To create the open space, the proposal includes the elimination of the previously proposed 20-foot tall, 5,840 linear foot retaining wall, while relocating Crystal Springs Creek an average of 188 linear feet to the southeast.

The relocated, gently meandering channel, approximately 3,500 feet long, will connect a 3.7-acre stream and wetland shelf at the south end with a 2.2-acre lake at the north end. Existing trails will be enhanced and/or rerouted, and potential recreational use of the area will be expanded. A restoration plan, with native plantings and habitat creation, will be followed, and a management plan will be established for long term maintenance of the project.

**APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES:**

The applicant has researched alternatives and has attempted to minimize impacts to the waters. However, the applicant has stated that the impact areas are unavoidable due the desired open space need for the proposed development. The applicant proposes to compensate for unavoidable wetland and stream impacts through the purchase of credits from an approved In-Lieu Fee provider, as well as with the restoration/enhancement of 3.7 acres of forested wetland and expanding the existing Bangert Island Protected area via conservation easement.

**LOCATION MAPS AND DRAWINGS:** See attached. In addition, the project plans may be viewed in more detail by visiting the Public Notice section of our website at:

<http://www.mvs.usace.army.mil/Missions/Regulatory/PublicNotices/OpenNotices.aspx>

**WATER QUALITY CERTIFICATION:** The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not yet submitted a certification request to the MDNR (certifying authority). In accordance with Certification Rule part 121.6, once the applicant submits a certification request the Corps will determine the reasonable period for the certifying agency to act upon the certification and provide written notification. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

**ENDANGERED SPECIES:** The United States Fish & Wildlife Service (USFWS) IPaC website was consulted (consultation code: 03E14000-2020-SLI-1940) to determine if federally listed species were present within the project area. That review discovered that the project is within the range of the federally endangered Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), & Pallid Sturgeon (*Scaphirhynchus albus*) as well as the federally threatened Northern Long-eared Bat (*Myotis septentrionalis*) & Decurrent False Aster (*Boltonia decurrens*). Due to the potential presence of federally listed bat species, a summer acoustic survey was conducted of the area from 23-25 June 2020, which found no occurrences of Indiana or Northern Long-eared Bats, but did find the presence of Gray Bats. Those findings were verified by the USFWS on 15 October 2020. The project will not impact suitable habitat for the Decurrent False Aster or Pallid Sturgeon. The Corps coordinated with the USFWS via Section 7 of the Endangered Species Act, as amended, and determined that the proposed activity would have No Affect on the Indiana Bat, Northern Long-eared Bat, Pallid Sturgeon, & Decurrent False Aster. As the trees will be cleared outside of the roosting period, it was determined that the proposed activity May Affect but was Not Likely to Adversely Affect the Gray Bats. The

USFWS was contacted in August of 2022, and it confirmed that these determinations were still valid for the newly proposed impacts until the 2023 active season.

**CULTURAL RESOURCES:** A shipwreck magnetometer survey was conducted by the Center for Archaeological Research at Missouri State University on portions of the island in August of 2020. On October 26, 2020, the Deputy State Historic Preservation Officer indicated that there will be “no historic properties affected” for the area covered by the survey. On October 28, 2020, a follow-up email with revised limits of the proposed development was sent to SHPO to confirm that the proposed project had received Section 106 clearance since portions of the development were outside the boundary of the magnetometer survey. On November 6, 2020, the SHPO Deputy State Historic Preservation Officer indicated that there will be “no historic properties affected” for the areas of the proposed development (Phases 1, 3a, and 3b). The applicant has reached out to Mo SHPO on the approximately 7.18-acre area that was not covered by the previous determination on 12 August 2022, but as of the time of publishing the Public Notice, had not heard back (MO SHPO file number: 093-SC-20. The St. Louis District will coordinate the modification with the relevant Native American Tribes as appropriate.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that may reasonably be expected to accrue from the described activity must be balanced against its reasonably foreseeable detriments. The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404 (b)(1) of the Clean Water Act. All factors, which may be relevant to the activity described, will be considered including the cumulative effects. Among factors considered are 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; consideration of property ownership; and in general, the needs and welfare of the people.

**PUBLIC HEARING:** The City of St. Charles plans to hold a public meeting for the proposed modification to inform citizens, and answer any questions, on December 20<sup>th</sup>, 2022, from 5:00pm to 7:00pm; located at The Foundry Art Center, 520 North Main Center, St. Charles, MO 63301. Additionally, interested parties can visit the city website to learn more at <https://www.riverpointe-stc.com/>.

**SOLICITATION OF COMMENTS:** The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Tribes; and other interested parties to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army 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 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. Additional information may be obtained by contacting Chad LaMontagne, Project Manager, U.S. Army Corps of Engineers, via e-mail at [Chad.M.LaMontagne@usace.army.mil](mailto:Chad.M.LaMontagne@usace.army.mil).

To join our public notice mailing list and receive all of our Public Notices electronically, please email your request to: [MVS-Regulatory@usace.army.mil](mailto:MVS-Regulatory@usace.army.mil) and include your name, email, and phone number with your statement of request to be added to the Public Notice mailing list.

*Robert S. Gramke*

Robert S. Gramke  
Chief, Regulatory Branch

Attachments

**NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.

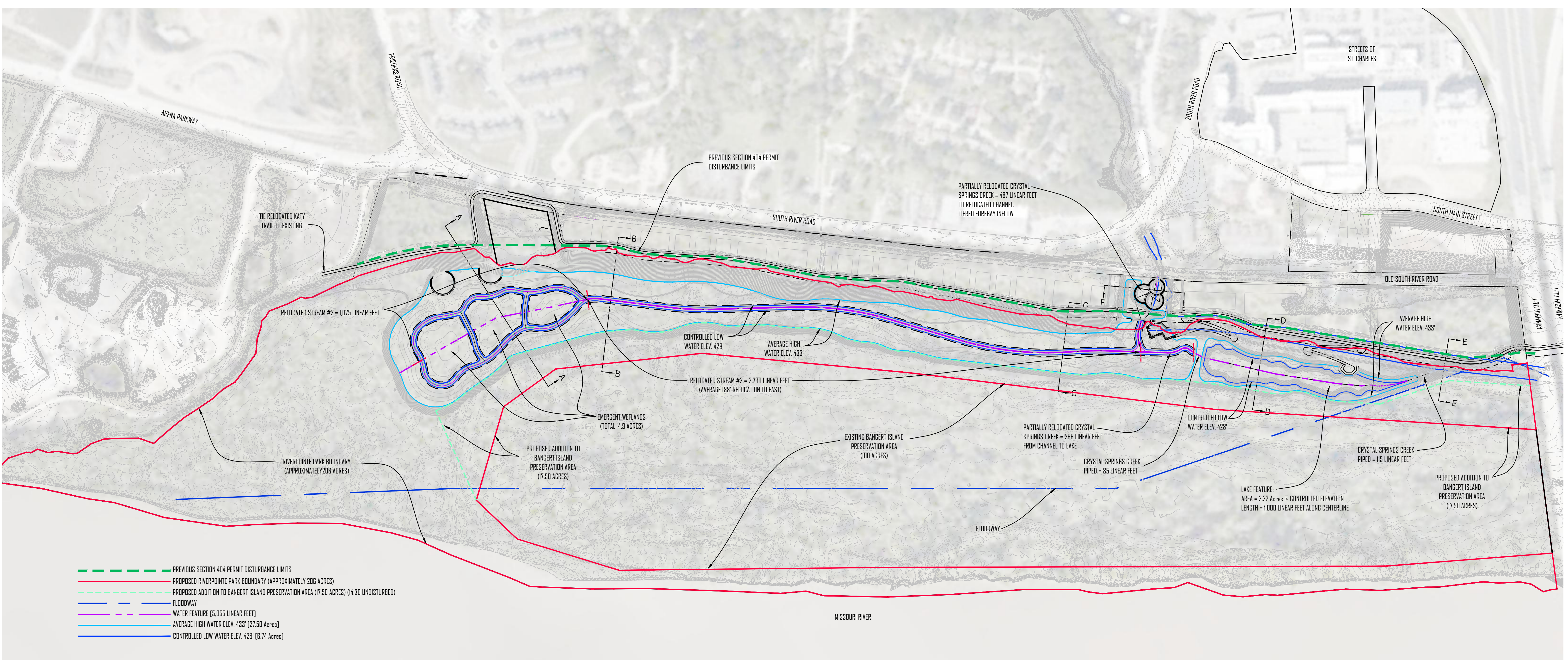
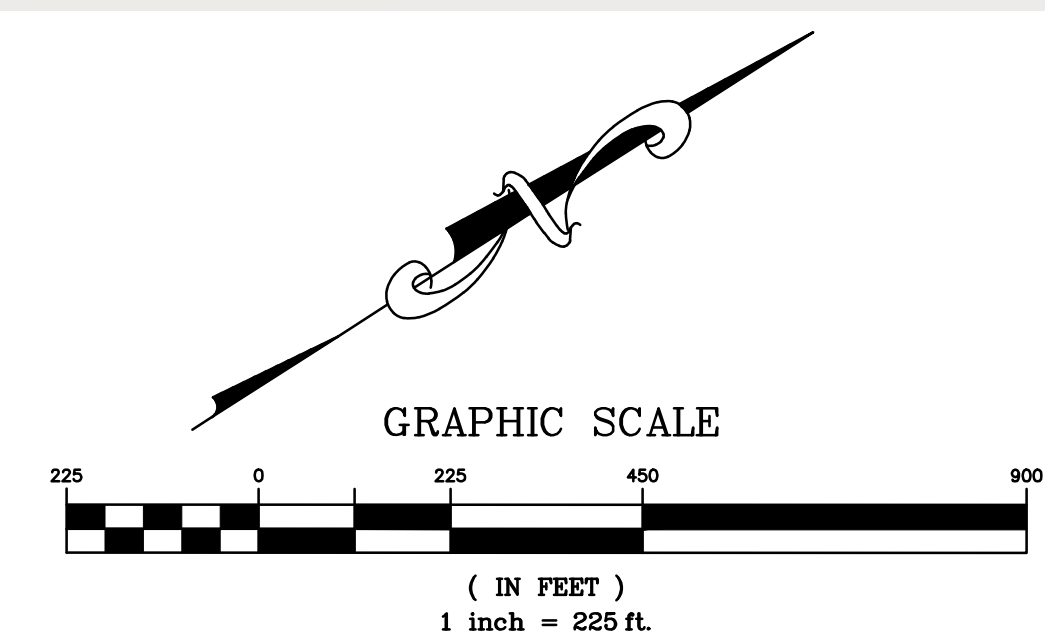


FIGURE 3: RIVERPOINTE PARK PROJECT PLAN



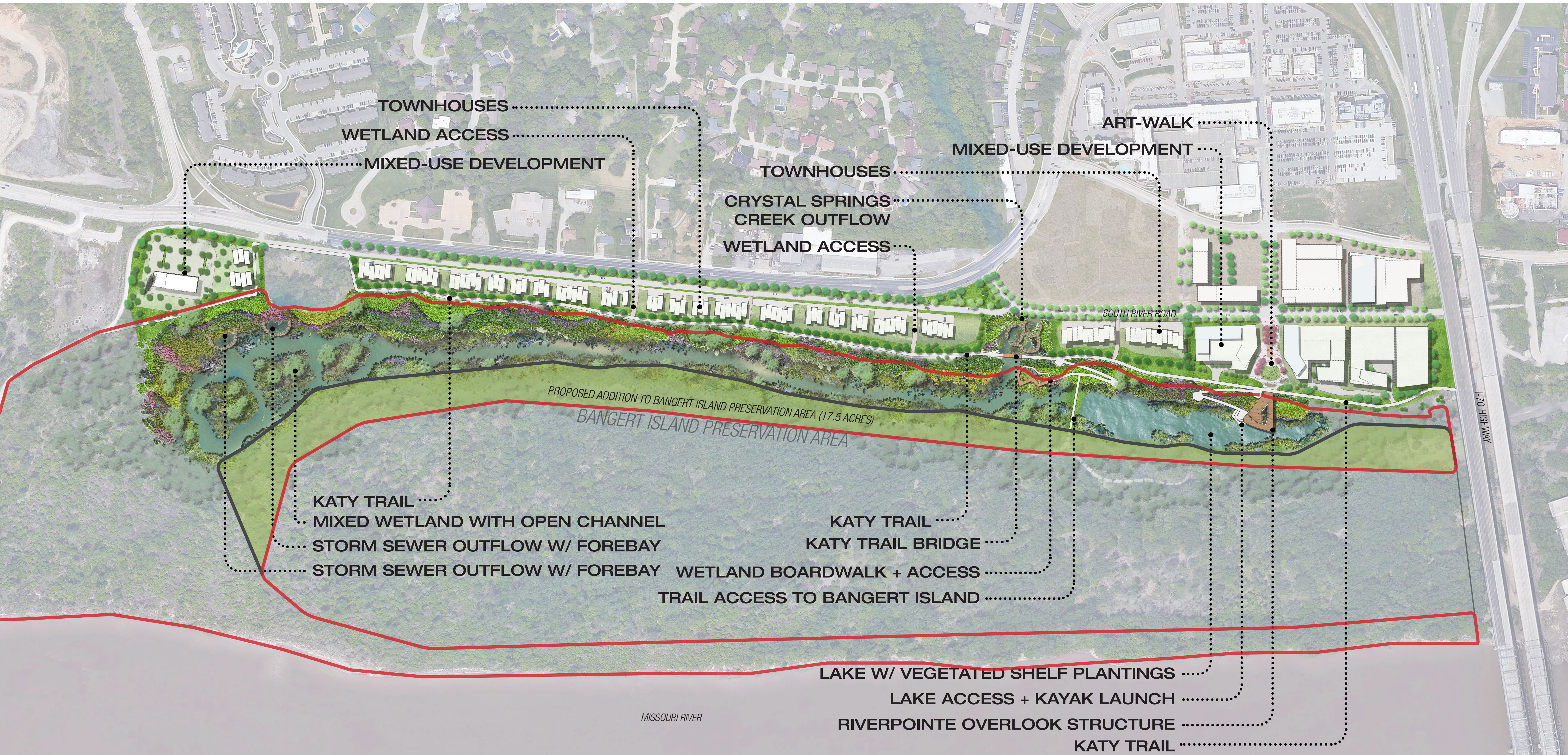
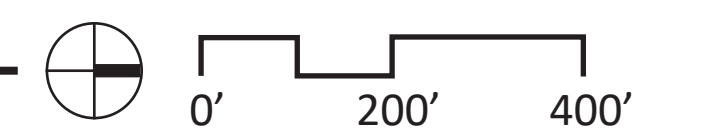


FIGURE 6: RIVERPOINTE PARK FEATURES PLAN

SCALE 1"=200'



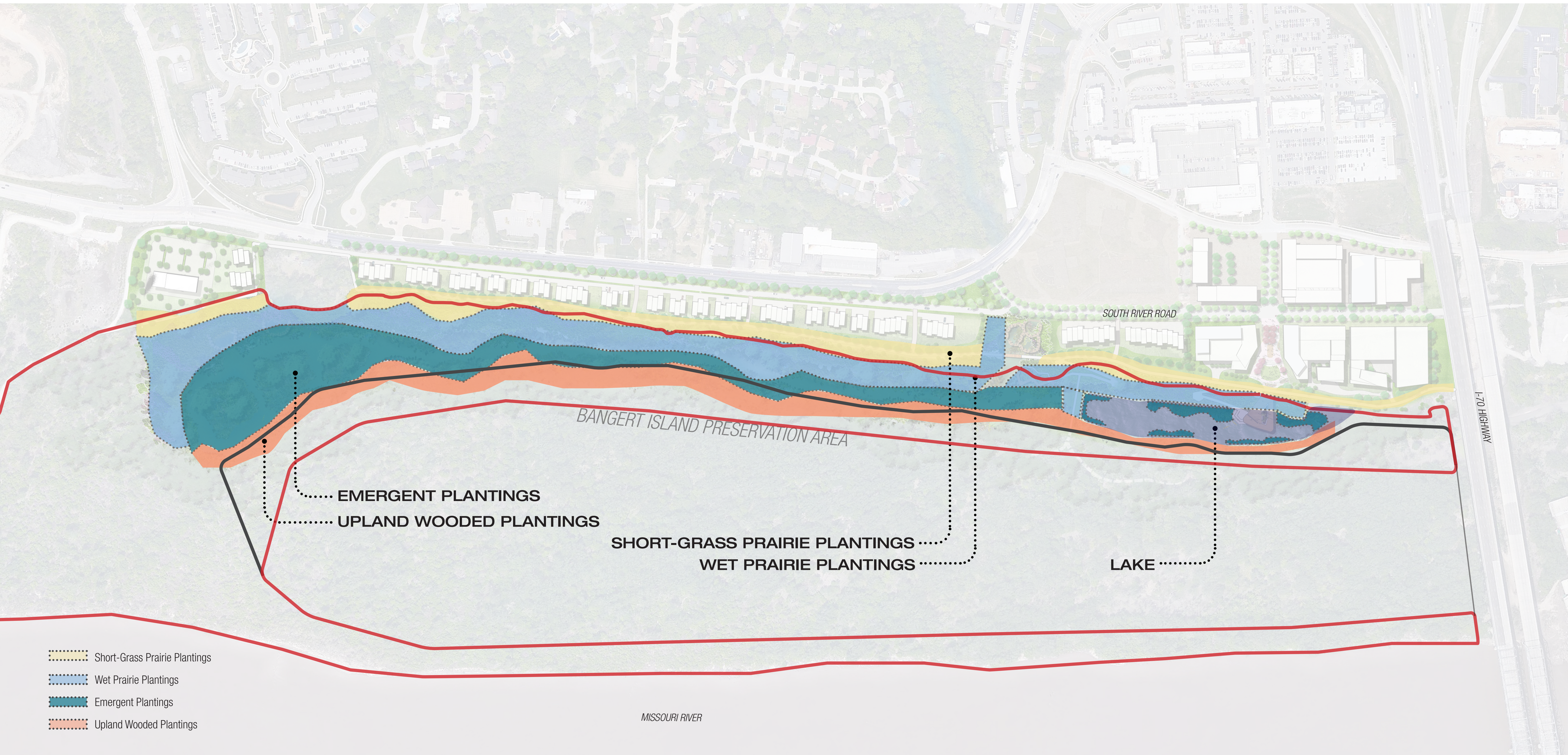


FIGURE 7: RIVERPOINTE PARK HABITAT CREATION PLAN

SCALE 1"=200'

