SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): November 21, 2017


C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota  County/parish/borough: Olmsted County  City: Rochester  
Center coordinates of site (lat/long in degree decimal format):  Lat. 44.00841° N, Long. -92.42057° W.  
Universal Transverse Mercator:

Name of nearest waterbody: unnamed tributary  
Name of watershed or Hydrologic Unit Code (HUC): 07040004  
☑ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.  
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☑ Office (Desk) Determination. Date: October 10, 2017  
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable):¹

☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  

Explain: There are two wetlands, Wetland 1, measuring 0.12 acre, and Wetland 2, measuring 0.01 acre, within the review area. The wetlands are depressional basins located within an undeveloped area and do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. Based upon a review of aerial photographs, United States Geographical Society (USGS) 1:24K Quad and its associated National Hydrography Dataset (NHD), Natural Resource Conservation Service (NRCS) soil survey, National Wetland Inventory (NWI) maps, topography data, and the materials submitted, the wetlands were determined to be hydrologically isolated with no surface water connection to a water of the United States (WOUS). An unnamed intermittent tributary, as identified by the USGS NHD, is located approximately 0.37 mile south of the identified wetlands. Bear Creek, identified by the USGS NHD as a perennial tributary, is located approximately 1.13 miles west of the identified wetlands. The area at the location of the wetlands is identified as non-hydric by the Natural Resource Conservation Service (NRCS). A review of the surrounding topography indicates the wetlands have no topographic connection to the intermittent tributary located 0.37 mile away or any other waterbody. The review area is not within a 100-year floodplain. The wetlands in review are surrounded by non-jurisdictional upland, and have no swales, ditches, pipes, or other means that would provide a surface or subsurface connection to the intermittent tributary located 0.37 mile away or to any WOUS. We have determined that these wetlands are isolated and hydrologically separated from other aquatic resources. The surrounding land use comprises of agricultural, residential, forest land, and transportation uses and do not provide continuous cover or habitat between the wetlands and other aquatic resources. The wetlands are sufficiently far from the nearest tributary to not have an ecological connection to a WOUS.

¹ Supporting documentation is presented in Section III.F.
The waterbodies do not support a link to interstate or foreign commerce because they are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate or foreign commerce. The waterbodies were determined to not be a WOUS and not to be jurisdictional under the CWA.

SECTION III: CWA ANALYSIS
A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A
B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A
C. SIGNIFICANT NEXUS DETERMINATION: N/A
D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A
E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A
F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
   ☑ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
   ☑ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
   ☑ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
   ☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
     Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
   ☑ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
   ☑ Lakes/ponds: acres.
   ☑ Other non-wetland waters: acres. List type of aquatic resource: .
   ☑ Wetlands: 0.13 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
   ☑ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
   ☑ Lakes/ponds: acres.
   ☑ Other non-wetland waters: acres. List type of aquatic resource: .
   ☑ Wetlands: acres.

SECTION IV: DATA SOURCES.
A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
   ☑ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Morgan Ridge Delineation
   ☑ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
     Office concurs with data sheets/delineation report.
     Office does not concur with data sheets/delineation report.
   ☑ Data sheets prepared by the Corps:
   ☑ Corps navigable waters' study:
     USGS Geological Survey Hydrologic Atlas:
       USGS NHD data.
       USGS 8 and 12 digit HUC maps.
     U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Rochester
     USDA Natural Resources Conservation Service Soil Survey. Citation: Olmsted County Soil Survey
     National wetlands inventory map(s). Cite name: 2015 USFWS NWI
     State/Local wetland inventory map(s):
     FEMA/FIRM maps:
     100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
     Photographs: ☑ Aerial (Name & Date): Google Earth 2015
or □ Other (Name & Date):

☑ Previous determination(s). File no. and date of response letter:
☑ Applicable/supporting case law:
☑ Applicable/supporting scientific literature:
☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Project Location
Residences at Morgan Ridge
Sections 5 & 6 of T106N-R13W
Rochester, Minnesota

01,000 Feet

1 inch = 1,000 feet

Project Area (8.57 ac)
Wetland Exhibit
Residences at Morgan Ridge
Sections 5 & 6 of T106N-R13W
Rochester, Minnesota

1 inch = 100 feet

Project Area (8.57 ac)
Wetland Boundary (WSB 7/2017)
Wetlands in Project Area
Transect