

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): **SEP 25 2018**

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2018-02446-RAN, Sagewood, Wetland
B

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Kenosha** City: **Village of Pleasant Prairie**

Center coordinates of site (lat/long in degree decimal format): Lat. **42.5255° N**, Long. **87.863054° W**.

Universal Transverse Mercator: **X:429114.772237 Y:4708485.398779**

Name of nearest waterbody: **Barnes Creek**

Name of watershed or Hydrologic Unit Code (HUC): **04040002**

☒ 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: **September 18, 2018**

☐ 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: **One wetland, W-B, was reviewed within the 10.5-acre property. W-B is a 0.04 acre shallow depression basin that was created in dry land and is incidental to previous grading activities that occurred between 2002-2005. W-B is not a water of the U.S. and this was confirmed by reviewing aerial photographs, WWI, and the NRCS Soil Survey data. The determination of no jurisdiction for W-B is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S.; waterfilled depressions created in dry land incidental to construction activity.**

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):

¹ Supporting documentation is presented in Section III.F.

- ☐ 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): **W-B is not a water of the U.S. pursuant to the preamble to the Corps 1986 regulations (33 CFR Parts 320-330).**

regulations (33 CFR Parts 320-330).

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: 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: **Wetland & Waterway Consulting LLC delineation report dated July 11, 2018 and Construction plans by GreenGard Inc. dated 6-11-04**
- ☒ 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:
- ☐ U.S. 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**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Kenosha County**
- ☐ National wetlands inventory map(s). Cite name:
- ☒ State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **Kenosha County GIS, 1937-2015**
 - or ☒ Other (Name & Date): **Google Earth 2002 and 2005**
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): **WI DNR Artificial Wetland Exemption Determination EXE-SE-2018-30-02708, dated September 6, 2018**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

LOCATION: 47TH AVENUE, PLEASANT PRAIRIE**LEGAL DESCRIPTION:**

Lot 2 of Certified Survey Map No. 2496, recorded in the office of the Kenosha County Register of Deeds, on October 19, 2005 as Document No. 1455403, being a part of the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 23, Township 1 North, Range 22 East of the Fourth Principal Meridian, lying and being in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin.
 NOW KNOWN AS "Expansion Area" for the Sagewood Condominiums at Village Green, a condominium, as recorded in the Kenosha County Register of Deeds office as Document No. 1455410.

Tax Key No. 92-4-122-233-0400

WETLANDS DELINEATED BY WETLAND &
 WATERWAY CONSULTING, LLC.
 MAY 22, 2018

