

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 17 May 2022.

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Seattle District, NWS-2022-380, Pacific Ridge Homes (Benton Square).  
Name of water being evaluated on this JD form: Wetland A, Wetland B

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Washington County: Snohomish City: Everett

Center coordinates of site (lat/long in degree decimal format): Lat: 47.908047 N, Long: -122.258755 W

Universal Transverse Mercator: \_\_\_\_\_

Name of nearest waterbody: Swamp Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A.

Name of watershed or Hydrologic Unit Code (HUC): 17110012 Lake Washington, WA.

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. List other JDs: \_\_\_\_\_

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

Office (Desk) Determination. Date: 5 May 2022.

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. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: \_\_\_\_\_.

**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. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft) and/or \_\_\_\_\_ acres.

Wetlands: \_\_\_\_\_ acres.

**c. Limits (boundaries) of jurisdiction based on: **Pick List** and **Pick List****

Elevation of established OHWM (if known): \_\_\_\_\_.

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland A and Wetland B do not have a surface water or shallow subsurface connection or ecological connectivity to other navigable or interstate waters of the U.S. or tributaries of waters of the U.S. These features are not used by interstate or foreign travelers for recreational purposes, have no habitat or resources of special**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

significance which would attract interstate or foreign travelers, lack bird and wildlife species of special significance which would attract interstate or foreign travelers, support no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce. See Section IV.B. for additional information.

### SECTION III: CWA ANALYSIS

- A. TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS: NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE

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):<sup>4</sup>

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: \_\_\_\_\_.
- Other factors. Explain: \_\_\_\_\_.

Identify water body and summarize rationale supporting determination: \_\_\_\_\_

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).
- Other non-wetland waters: \_\_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

- 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: \_\_\_\_\_ 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: Vicinity Map and Existing Conditions Map provided by Soundview Consultants LLC within Wetland and Fish and Wildlife Habitat Assessment dated 31 March 2022.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.

<sup>4</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- 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: Snohomish WA 1895 (HTMC, 1954 ed.) Scale 1:125000; Edmonds WA 1942 (HTMC, 1944 ed.) Scale 1:62500; Mukilteo WA 1953 (HTMC, 1967 ed.) Scale 1:24000; Seattle WA 1962 (HTMC, 1962 ed.) Scale 1:250000; Seattle WA 1992 (HTMC, 1993 ed.) Scale 1:100000; Mukilteo WA 2011 (US Topo) Scale 1:24000; Mukilteo WA 2020 (US Topo) Scale 1:24000
- USDA Natural Resources Conservation Service Soil Survey. Citation: USDA, NRCS Web Soil Survey accessed May 2022.
- National wetlands inventory map(s). Cite name: USFWS NWI accessed May 2022.
- State/Local wetland inventory map(s): City of Everett Stream and Wetland Inventory maps accessed May 2022; Snohomish County Drainage Inventory maps accessed May 2022; WDFW SalmonScape accessed May 2022; WDFW Fish Passage Inventory Map accessed May 2022;
- FEMA/FIRM maps: \_\_\_\_\_.
- 100-year Floodplain Elevation is: \_\_\_\_\_ (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Historic aerial imagery provided by NETRonline accessed May 2022; Historic aerial imagery provided by Google Earth accessed May 2022  
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:**

Existing Conditions:

The 1.18-acre subject property is currently undeveloped and contains a mix of maintained lawn and grass covered areas in the eastern and southern portion of the site, and an undeveloped partially wooded area in the northwestern corner of the site. Topography onsite is generally flat, with a minimal slope to the west with elevations ranging from 550 feet above mean sea level (amsl) on the eastern portion of the subject property to 540 feet amsl on the western portion of the property. The subject property is located in a residential setting and abuts an access road and single-family residences to the north; 18th Avenue West to the east; 100th Street Southwest to the south; and undeveloped forested areas to the west.

Subject Waters:

Soundview Consultants, LLC identified two wetlands on the subject property (Wetland A and Wetland B) which are subject to this approved jurisdictional determination. Formal site investigations were conducted on 19 February 2021, 25 February 2021, and 8 February 2022. Based on a review of precipitation data from February 2021 and February 2022, the site investigations were conducted during normal conditions for the time of the year.

Wetland A is a 10,401-square-foot (sf) (0.24-acre), Category III, depressional wetland located in the northwest portion of the subject property. Wetland A extends offsite minimally to the north and west. Hydrology for the subject wetland is provided by a seasonally high groundwater table, direct precipitation, and surface sheet flow. Vegetation within Wetland A consists primarily of Pacific willow (*Salix lasiandra*) and black cottonwood (*Populus balsamifera*) with an understory dominated by Pacific willow, reed canarygrass (*Phalaris arundinacea*), and colonial bentgrass (*Agrostis capillaris*). Wetland A is a Palustrine Forested/Scrub-Shrub, Seasonally Flooded (PFO/SSC) wetland.

Wetland B is a 502-square-foot (sf) (0.01-acre) Category III, depressional wetland located entirely onsite within the southwest portion of the subject property. Hydrology for the subject wetland is provided primarily by a seasonally high groundwater table, direct precipitation, and surface sheet flow. Vegetation within Wetland B consists primarily of herbaceous species dominated by soft rush (*Juncus effusus*), perennial ryegrass (*Lolium perenne*), and colonial bentgrass.

Hydrology:

Two roadside ditches, which are not subject to this AJD, were identified along the eastern and southern property boundaries. The ditches appear to have been artificially constructed to convey stormwater, as evidenced by a lack of natural stream morphology such as sorting or defined bed and bank. The ditches are not depicted on historic topographic maps, SalmonScape, or the EPA WATERS map. No evidence of a hydrologic connection between the subject wetlands and roadside ditches was observed during site investigations. Wetland A is located approximately 150 feet from the southern ditch, and 245 feet from the eastern ditch. Wetland B is located approximately 55 feet from the southern roadside ditch, and 300 feet from the eastern ditch. According to the USDA's NRCS Web Soil Survey, the entire subject property is mapped as Alderwood-Urban land complex, 2 to 8 percent slopes, a non-hydric soil. This soil type is moderately well drained with the capacity of the most limiting layer to transmit waters (Ksat) being very low to moderately low (0.00 to 0.06 in/hr). Based on the Web Soil Survey report, the frequency of flooding and ponding associated with this soil type is "none". Based on the low ability of onsite soils to transmit water, the distance between the subject wetlands and roadside ditches, and the lack of physical indicators of surface water connections, it is unlikely that a surface or subsurface connection between the subject wetlands and roadside ditches exist. One offsite wetland, labeled "Wetland 1" on the AJD figure, was identified by Soundview Consultants LLC. Wetland 1 is not subject to this AJD. Wetland 1 is approximately 12,288-square-feet (0.28 of an acre) in size, and is located entirely offsite to the north of the subject

property (north of Wetland A). The extent of Wetland 1 was estimated in the field during site investigations and by utilizing desktop analysis of aerial photography and topography data. No evidence of a surface water connection between Wetland 1 and Wetland A was observed during site investigations. Wetland 1 is separated from Wetland A by an existing road. No culvert connection is present to provide a hydrologic connection between Wetland 1 and the subject property.

Historic topographic maps, the Snohomish County Drainage Inventory, and SalmonScape depict an intermittent or ephemeral stream (labeled "Swamp Creek" on several maps, and "Unnamed" on others) approximately 335 feet west of the westernmost portion of Wetland A. The stream is located approximately 370 feet from the westernmost portion of Wetland B. The feature appears to drain to mainstem Swamp Creek approximately 0.4 of a mile south of the subject property. Swamp Creek outlets to the Sammamish River which flows to Lake Washington, a traditional navigable water (TNW). The stream is not depicted on the EPA WATERS map or the Washington State Fish Passage map; however, the Washington State Fish Passage map does depict a culvert under 100th Street Southwest that would convey flow downstream.

The entirety of the parcel west of the subject property, between the subject wetlands and stream, is mapped as Alderwood-Urban land complex, 2 to 8 percent slopes, based on the Web Soil Survey report. Per information provided in the paragraph above, this soil type has a low ability to transmit water. As such, the potential for a subsurface hydrologic connection is unlikely. A topographic high point is present immediately west of the western delineated boundary of Wetland A which would limit a surface water connection between the subject wetland and the stream to the west. In addition, no evidence of a surface water outlet in Wetland A was observed during site investigations. The presence of impervious surfaces, including residential houses, driveways, and roads, would prevent a hydrologic connection between the Wetland A and potential water of the U.S. to the north, east, and south. Wetland B is similarly bound by impervious surface to the west, south, and east, and by Wetland A to the north. No evidence of a surface water outlet in Wetland B was observed during site investigations.

The City of Everett Stream and Wetland Inventory maps Wetland A, in the location depicted on the AJD figures, at the subject property. The map also depicts the stream and a potential stream-associated wetland to the west of the subject property. Approximately 110 feet of upland is mapped between the subject wetlands and offsite stream-associated wetland. No hydrologic connections between the subject wetlands and offsite features are identified. Based on the low ability of onsite and offsite soils to transmit water, the presence of a topographic high point between the subject wetlands and offsite features, the presence of impervious surfaces that would further limit surface water connections to offsite features, and the lack of observed inlets or outlets in Wetland A and Wetland B, there is no evidence to suggest that a surface or subsurface connection exists between the subject wetlands and offsite stream, or the subject wetlands and any other potential water of the U.S.

#### Nexus to Interstate or Foreign Commerce:

There is no evidence to suggest that Wetland A or Wetland B have historically or are presently used by interstate or foreign travelers for recreational purposes. The subject wetlands have no habitat or resources of special significance which would attract interstate or foreign travelers, lack bird and wildlife species of special significance which would attract interstate or foreign travelers, support no fish or shellfish which could be taken or sold in interstate or foreign commerce, and are not used for industrial, agricultural, or silvicultural activities involving interstate or foreign commerce.

#### Coordination:

Emails requesting concurrence were sent to EPA and to Corps HQ on 10 May 2022. Corps HQ and EPA provided concurrence on 13 May 2022 and 16 May 2022, respectively. Coordination was complete on 16 May 2022.