

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): June 30, 2022

**B. ALBUQUERQUE DISTRICT, FILE NAME, AND NUMBER: Classic Communities-Jayne's Parcel
AJD, SPA-2022-00123.**

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Colorado County/parish/borough: El Paso City: Colorado Springs

Center coordinates of site (lat/long in degree decimal format): Lat. 38.976682° N, Long. -104.668357° W.

Universal Transverse Mercator: 13

Name of nearest waterbody: Sand Creek

Name of watershed or Hydrologic Unit Code (HUC): 11020003-Fountain

- 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: June 2, 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.

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: **The review area for this determination is comprised of 40 individual Wetlands (identified as WT A1 through WT-A40) totaling 9.51 acres and one man-made pond totaling 0.15 acre located on the approximately 141-acre tract. Based on a review of the National Hydrography Dataset (NHD) the nearest mapped potential relatively permanent water (RPW) is Sand Creek located approximately 1,500 feet southeast of the review area. The National Wetland Inventory (NWI) and NHD shows mapped wetland drainages with two mapped ephemeral streams in the eastern and western portion of the review area, however, the February 2022 Core Consultants, Inc., wetland delineation report (Core Report) did not find any defined bed/banks nor ordinary high water mark indicators within these two mapped features. The Core Report determined the mapping layers to be inaccurate and best characterized both features as multiple depressional wetlands separated by upland swales. The upland swales sever a surface connection between the wetlands, pond, and Sand Creek. The Core Report notes that a culvert is present under Vollmer Road in the eastern portion of the review area near WT-A38, however, the outlet channel is comprised of a meandering upland swale with no observed surface connection to Sand Creek. Much of the land south of the JD review area has been previously graded for residential development resulting in altered surface hydrology patterns. Due to their small size and/or disturbed characteristics, Wetlands WT-A1 through WT-A40 and the man-made pond provide limited habitat functions to surrounding areas and exhibit tenuous ecological connections to nearby surface waters. Based on this information, the Corps has determined that Wetlands WT-A1 through WT-A40 and the man-made pond are isolated features with no surface or shallow subsurface hydrologic connection or ecological connection to a RPW or TNW. Wetlands WT-A1 through WT-A40 and the man-made pond do not border, neighbor, nor are contiguous with another water of the U.S. Wetlands WT-A1 through WT-A40 and the man-made pond are not separated from other WOTUS by man-made dikes, barriers, or berms. Wetlands WT-A1 through WT-A40 and the man-made pond do not support a link to interstate or foreign commerce; they are not known to be used by interstate or foreign travelers for recreation or**

¹ Supporting documentation is presented in Section III.F.

other purposes; They do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that Wetlands WT-A1 through WT-A40 and the man-made pond are isolated and therefore not regulated by the Corps under Section 404 of 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: 0.15 acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 9.51 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: February 2022 Core Consultants, Inc. Wetland Delineation Report
- 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 Falcon NW
- USDA Natural Resources Conservation Service Soil Survey. Citation: El Paso County Soil Survey
- National wetlands inventory map(s). Cite name: USFWS National Wetland Inventory
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

- Photographs: Aerial (Name & Date): 2020, 2018, 2017, 2015, 2013, 2010, 2008, 2006, 2005, 2000, 1994
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: