

PURPOSE OF RESUBMITTAL

Wetland Mapping and Response from Army Corps of Engineers

The project site was remapped in August of 2016 to identify all extant wetlands. The mapping was submitted to the Corps to obtain a determination of the extent of Corps designated Jurisdictional Wetlands on the property. The Corp responded in writing on April 12 of this year (just prior to our previously scheduled Planning Board Hearing of May 4), that certain identified wetlands on the site (Wetlands A, B, C, H, I, & Dry Creek Ditch #2 Wetland), were jurisdictional.

In subsequent discussion with planning staff, the Planning Board Hearing was postponed and a meeting was held on May 3 to determine how the applicant could proceed in relation to planning around those remaining wetland areas. It was then agreed that application to the Corps could reasonably be made to remove and replace those wetlands under certain approved methods acceptable to the Corps and the City. It was agreed by the applicant at that time to proceed and make that application to the Corps for a 404 Permit, and thereby not have to revise the previously submitted Site Plan.

Revision to Previously Submitted Site Plan

After discussion internally within the applicant team, the decision was made that an alternate Site Plan should be developed to see if it was possible to redesign the site in such a manner that Wetlands A, B, C, H & I could be retained. In doing so, the following changes were made to the Site Plan:

- No roads or buildings were placed within the Jurisdictional Wetlands or within the 25' Buffer Zones required for Low Functioning Wetlands, and generally, a 165' separation from the southern boundary was held.
- The previously supported breakdown of units that housing staff had requested included a number of single-story garden units (one-story flats). These units were modified and are now two-story stacked flats, in roughly similar configurations as per the previous version. Likewise, the number of duplex units has been reduced, and the triplex, 4-plex and townhouse configurations have increased.
- The previously shown two (possible in the future) connections to any annexable land to the south were removed because of the conflict with wetland areas, and the previously identified future bike path connection to the south has been modified to allow for a single vehicular connection in that same parcel.
- Minor changes to the western zone and area adjacent to the Superphostical Lateral were made to allow for some additional units in those areas.
- The central pocket park was enlarged and the roadways surrounding it were made more conducive to traffic calming, allowing for a slower vehicular speed around the play area for small children.
- A pedestrian bird-watching path was incorporated in to the southern and western open space areas, with boardwalks to allow low-impact crossings over wetlands. Native landscaping will be used to supplement the existing vegetation in the wetlands and buffer areas, focusing on recommended species in the City's revegetation guidelines. These native plantings will improve the habitat conditions of the open spaces in the southern and western areas of the development, increase visual screening, and will provide an aesthetic amenity.
- Significant increases in the amount of open space has been provided on site, thus allowing for some number of additional units (two additional units are shown relative to the previous number – 117 total). However there has been no substantive increase in the density of the proposal.
- The number and size of units remain in accord with percentages of Permanently Affordable Deed Restricted, Middle Income and Market Rate units identified in the Draft Annexation Agreement. Likewise, the target AMIs remain unchanged.

These changes were reviewed with city staff leadership. The applicant suggested that having incorporated these modifications that create no impacts on the Jurisdictional Wetlands and still accommodate the housing goals previously identified by Housing Division for the site, it should no longer be necessary to apply for a Corps permit to impact any portion of Wetlands A, B, C and H.

Staff agreed, and the Site Plan and the corresponding application information has hereby been modified to incorporate the changes noted above.

However, it should be noted that the Dry Creek Ditch #2 Wetland is jurisdictional, and in the future it will be necessary to apply for a Corps Wetland Permit if the Dry Creek Ditch # 2 wetland would be impacted by the construction of a future roadway connection to Kewanee Drive. This roadway crossing will be designed after the City has developed plans for the associated floodway improvements which are to occur within the western 100-foot-wide easement.

LIST OF ATTACHMENTS to Supplement

Corps of Engineers Approved Jurisdictional Determination – April 12, 2017

(Please refer to the Wetland Map included in the Schematic Architectural Sketches packet as a part of this submittal)



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BOULEVARD
LITTLETON, COLORADO 80128-6901

April 12, 2017

Mr. Richard V. Lopez
Boulder Creek Commons, LLC
c/o Lopez Law Office
4450 Arapahoe Avenue, #100
Boulder, Colorado 80303

**RE: Approved Jurisdictional Determination, Hogan Pancost Property
Corps File No. NWO-2016-02005-DEN**

Dear Mr. Lopez:

Reference is made to the Hogan Pancost Property, located in Boulder County, Colorado. You submitted a request for an Approved Jurisdictional Determination aquatic resources associated with this in your request dated January 16, 2017. The study area has been reviewed in accordance with Section 404 of the Clean Water Act under which the Corps regulates the discharge of dredged and fill material, and any excavation activity associated with a dredge and fill project in waters of the United States. The Corps has determined that the following aquatic resources were determined to be non-jurisdictional because they lacked a direct surface connection to a traditional navigable waterway or relatively permanent waterway:

- Wetland D
- Wetland E
- Wetland F
- Wetland G
- Wetland J
- Wetland K
- Wetland L
- Wetland M
- Wetland N
- Super-Phostical Lateral

An approved jurisdictional determination (JD) has been completed for this project. The JD is attached to this letter. If you are not in agreement with the JD decision, you may request an administrative appeal under regulation 33 CFR 331, by using the attached Appeal Form and Administrative Appeal Process form. The request for appeal must be received within 60 days from the date of this letter. If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a Request for Appeal if you do not object to the JD.

This JD is valid for a period of five years from the date of this letter, unless new information warrants revisions of the JDs before the expiration date, or unless the Corps has identified, after a possible public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

If there are any questions call Brooke Davis of my office at 303-979-4120 and reference **Corps**
File No. NWO-2016-02005-DEN.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Downing', with a stylized flourish at the end.

Kiel G. Downing
Chief, Denver Regulatory Office

Attachment(s)

Approved Jurisdictional Determination (April 11, 2017)
Notification of Administrative Appeal Options (January 12, 2017)
Administrative Appeal Process Appendix C

Cc:

Heather Houston, Western Ecological Resources, Inc., 711 Walnut Street, Boulder, Colorado 80302