U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 8/14/2020
ORM Number: LRB-2019-01569 (OMNI Senior Living)
Associated JDs: N/A
Review Area Location[1]: State/Territory: OH City: Mentor Hills County/Parish/Borough: Lake
Center Coordinates of Review Area: Latitude 41.6415 Longitude -81.3491

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☒ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)[2]

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters):[3]				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	linear feet	N/A.	N/A.
Stream 5 (OMNI Mentor Hills)	289	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly	Stream 5 is located in the southeast corner of the site and flows through a ravine from the northeast to southwest, continuing offsite to the southwest. Stream 5 is 289 linear feet in length on-site with bed and banks, a clearly defined flow channel, and has a silt substrate at the channel bottom. This stream has intermittent flow, as determined considering the following information/resources, discussions with the agents from Davey Resource Group, the site visit performed by U.S. Army Corps of Engineers' biologists on June 19, 2020, and a review of the submitted report, "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019."

[1] Map(s)/figure(s) are attached to the AJD provided to the requestor.
[2] If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.
[3] A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			to an (a)(1) water in a typical year.	A review of these resources support that Stream 5 is at the top of the watershed, acting as a headwater, collecting water from multiple smaller ephemeral streams and wetlands to the north on-site and off-site, as well as receiving some groundwater. Taking in the water from these multiple streams and wetlands provides enough water to maintain intermittent flow throughout a typical year. This stream has intermittent flow traveling approximately 0.90 straight miles to the southeast where it enters the East Branch of the Chagrin River which flows approximately 2 straight miles to the east entering the Chagrin River, approximately 5 miles from the mouth of Lake Erie. The Chagrin River is an (a)(1) water from the mouth of Lake Erie to 1.5 miles upstream in the tributary, per its listing as a navigable waterway on the U.S. Army Corps of Engineers Buffalo District's list of Ohio Navigable waterways - https://www.lrb.usace.army.mil/Portals/45/docs/regulatory/DistrictInfo/waterway_oh.pdf. This stream is mapped as a dotted blue-line stream on the USGS 7.5 minute Topographic maps from 1953, 1963, and 1994, which also shows the topography defining a channel for Stream 5, (differing from the ephemeral streams on-site). The topography shown is that is typical of streams with at least intermittent flow. A site visit was performed by Corps of Engineers' staff on June 19, 2020, and at that time no flow was observed in the stream channel, though channel, bed and banks, and the ordinary high water mark pressed on the bank of the defined channel was observed. The APT for the site visit date (June 19, 2020) shows that precipitation was well below the 30-year normal average, but averaged for the previous 90-days, it was reported to be 'normal conditions.' The APT also shows that the area was dry for June 19, 2020. WebWimp records this area as being in the dry season. The PDSI indicates the area to have mild wetness. This data explains that the area was dry at the time of the site visit, so intermittent flow would not have been observed, even though it is a typical year for the area. The photographs of this stream that accompanied the water resources delineation report titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" which was completed on November 4, 2019, showed water flowing through the channel. The APT report for the date of the water resources delineation indicates that the site was within a typical year with normal conditions resulting from the 90-day average. The actual site visit date November 4, 2019 is right in the center of the 30-year average for precipitation, representing normal conditions. The WebWimp indicates the delineation date was conducted during the wet season. The PDSI indicates moderate wetness. It is characteristic of an intermittent stream to be flowing during the wet season, supporting that Stream 5 has intermittent flow. A leaf-off aerial photograph dated April 6, 2012 clearly shows the stream 5 channel with water in it. The APT report notes wetter than normal conditions while showing the 30-day rolling average for precipitation slightly above the 30-year average, with a PDSI of mild drought, and the WebWimp reporting it to be the wet season for the area. The data for this aerial is slightly conflicting since it says it has a mild drought and is wetter than normal, but upon looking at the actual rain events recorded for the area there appears to be only two small rain events within about one month of the date of the aerial photograph being taken (April 6, 2012); thus, this supports that Stream 5 is intermittent since water is shown as being present in the stream. Based on the above information, Stream 5 has intermittent flow and this stream contributes flow to an (a)(1) water and therefore, meets the definition of an (a)(2) tributary.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland G	0.013	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland G is a small wetland on-site located at the eastern subject parcel boundary and extends slightly off-site to the east, abutting a man-made pond where it abuts Stream 5-OMNI Mentor Hills, an (a)(2) water – see above table. Wetland G directly feeds flow into Stream 5 as reported by the water resources delineation report titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019". The photographs contained in the report, dated November 4, 2019 show standing water an emergent vegetation within its boundaries. The April 2012 aerial imagery accessed from Google Earth shows Wetland G to be physically connected to Stream 5 (hydrology for both are visible). The June 19, 2020 site visit also confirmed the abutting nature of Wetland G to Stream 5.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland A (OMNI Mentor Hills)	0.757	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland A does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. Specifically, through the review of the submitted water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019", in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff, the wetland is situated in the northwest corner of the subject parcel, completely surrounded by uplands. The nearest water is an (a)(2) water (Stream 5 (OMNI Mentor Hills)), which does not have any flow or flooding connection with Wetland A. Therefore, Wetland A is excluded as a (b)(1) non-adjacent wetland.

[4] Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.
[5] Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland B (OMNI Mentor Hills)	1.077	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B is a wetland complex extending from the north to mid-section of the subject parcel. It does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland B does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. Specifically, through the review of the submitted water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019", in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff, the wetland contributes flow downstream, but only through an ephemeral feature (Stream 1 (OMNI Mentor Hills)), which is also an excluded feature – See additional details regarding the documentation for Stream 1(OMNI Mentor Hills). The nearest regulated water is an (a)(2) water (Stream 5 (OMNI Mentor Hills)), which does not have any flow or flooding connection with Wetland B. Therefore, Wetland B is excluded as a (b)(1) non-adjacent wetland.
Wetland C (OMNI Mentor Hills)	0.392	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C is a wetland complex consisting of 4 small wetlands located in the southwest quadrant of the subject parcel. It does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland B does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. Specifically, through the review of the submitted water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019", in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff, two of these mapped portions of wetland C are completely surrounded by uplands, while two of these mapped portions of Wetland C complex are connected to ephemeral features. Thus, Wetland C complex contributes flow downstream, but only through ephemeral features (Stream 1 (OMNI Mentor Hills) and Stream 2 (OMNI Mentor Hills)), which are also excluded features – See additional information regarding this determination under these stream names below in the table. The nearest regulated water is an (a)(2) water (Stream 5 (OMNI Mentor Hills)), which does not have any flow or flooding connection with Wetland C. Therefore, Wetland C is excluded as a (b)(1) non-adjacent wetland.
Wetland D (OMNI Mentor Hills)	0.141	acre(s)	(b)(1) Non-adjacent wetland.	Wetland D is a wetland complex consisting of three small wetlands located in the southeast –center quadrant of the subject parcel. It does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland D does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. Specifically,

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				through the review of the submitted water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019", in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff, two of the small wetlands part of the complex are completely surrounded by uplands while the largest one portion flows to the south into an ephemeral stream (Stream 3 (OMNI Mentor Hills)). Thus, the wetland complex contributes flow downstream, but only through an ephemeral feature (Stream 3 (OMNI Mentor Hills)), which is also an excluded feature. The nearest regulated water is an (a)(2) water (Stream 5 (OMNI Mentor Hills)), which does not have any flow or flooding connection with Wetland D. Therefore, Wetland D is excluded as a (b)(1) non-adjacent wetland
Wetland E	0.036	acre(s)	(b)(1) Non-adjacent wetland.	Wetland E is a small wetland on-site located on the southern subject parcel boundary in the center of the site and does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland D does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. The wetland continues off-site to the south and is surrounded by uplands as a result of geomorphic position in the landscape and its adjacency to a fill pad for a gas well to the west. The review of the submitted water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019", in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff, confirms that Wetland E's location into the landscape does not abut, is not adjacent to, and does not contribute flow to any (a)(1) through (a)(3) waters.
Wetland F	0.73	acre(s)	(b)(1) Non-adjacent wetland.	Wetland F is a forested wetland located in the northeastern corner of the parcel, directly abutting and contributing flow to Stream 4 (OMNI Mentor Hills), a (b)(3) excluded water as discussed in the table below. Wetland F does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland D does meet the definition of a wetland, but does not abut an (a)(1)-(a)(3) water. Photographs and data submitted within the water resources delineation report, titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" indicate that the area is wetland and only abuts Stream 4 and does not receive any flooding from any (a)(1)-(a)(3) water. An in-office resource review (listed in Section III), and the June 19, 2020 site visit performed by USACE staff,

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				supported the information contained in the waters delineation report.
Stream 1 (OMNI Mentor Hills)	299	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 is located on the west side of the site and connects/flows to the south through Wetland B and a portion of Wetland C. Stream 1 is 299 linear feet in length with bed and banks, consisting of ephemeral flow through steep, narrow valleys, as reported in the titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" from Davey Resource Group and considering several aerial photographs, topographic maps, and other in-office resources as noted in Section III. Specifically, an aerial dated April 2012 is the most recent leaf-off aerial photograph, which shows the bed and banks of Stream 1. Topographic maps indicate that there is large gradient changes into these streams, indicating that flow is likely only due to occur during precipitation events because of the rapid topographic changes causing water to quickly run-off. A 19JUN2020 site visit performed by Corps staff provided viewing of the stream and confirmation that Stream 1 had no flow during the dry season. The photographs of Stream 1 in the waters delineation report are dated November 4, 2020 and show bed and banks, but no flow. The photographs also indicate that the substrate of the stream is a silt/sediment bottom. The photographs show no other signs of hydrology, no OHWM, blackened leaves, water presence, etc.
Stream 2 (OMNI Mentor Hills)	190	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 is located in the southwest corner of the subject parcel, consisting of 190 linear feet of meandering stream channel in a steep, narrow valley as reported in the titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" from Davey Resource Group and considering several aerial photographs, topographic maps, and other in-office resources as noted in Section III. Stream 1 receives water from a portion of Wetland C and flows to the southeast when it flows. Also, Stream 2 was verified as its size, location and flow regime by a June 19, 2020 site visit performed by Corps staff. The site visit indicated that the stream was dry. Photographs were included in the water resources report, dated November 4, 2019. These photographs showed the stream channel to be dry and covered with recently fallen hardwood leaves, not blackened from water presence. The photographs show that the stream has steep bed and banks, along with some erosion (exposed soil and tree roots). The photographs from November 4, 2019 (wet season) were dry and the June 19, 2020 site visit was also dry (dry season). The APT shows normal

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				conditions for these two dates and rain events within 7 days. These findings are supportive of ephemeral flow for Stream 2.
Stream 3 (OMNI Mentor Hills)	131	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 3 is located on the southern subject parcel boundary, off-center to the east, with abutment from Wetland D to the north. The stream consists of 131 linear feet of steep, narrow valley bed and banks, as reported in the titled "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" from Davey Resource Group and considering several aerial photographs, topographic maps, and other in-office resources as noted in Section III. Also, Stream 3 was verified for its size, location and flow regime by a June 19, 2020 site visit performed by Corps staff. The site visit indicated that the stream was dry. Photographs were included in the water resources report, dated November 4, 2019. These photographs showed the stream channel to be dry and covered with recently fallen hardwood leaves, not blackened from water presence. The photographs show that the stream has steep bed and banks, along with some erosion (exposed soil and tree roots). The photographs from November 4, 2019 (wet season) were dry and the June 19, 2020 site visit was also dry (dry season). The APT shows normal conditions for these two dates and rain events within 7 days. These findings are supportive of ephemeral flow for Stream 3.
Stream 4 (OMNI Mentor Hills)	437	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 4 is located on the eastern side of the subject parcel and receives flow from Wetland F, a (b)(1) excluded non-adjacent wetland. The stream consists of 437 linear feet of channel with bed and banks. The stream flows to the southeast, ephemerally – only flowing during precipitation events, into Stream 5 (an (a)(2) intermittent tributary. The "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" from Davey Resource Group and considering several aerial photographs, topographic maps, and other in-office resources as noted in Section III were reviewed to understand the flow regime of Stream 4. The stream is not visible on the majority of aerial imagery reviewed and is not mapped on any online resources. Stream 3 is not visible on the April 2012 leaf-off aerial photograph and the APT report indicated at that time the area was 'wetter than normal.' The photographs of Stream 4 submitted in the delineation report showed some flow in the channel. The APT report for November 4, 2020-the date of the delineation indicates moderate wetness (WebWimp) and normal

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				conditions. Observations made during the June 19, 2020 site visit did not show any water in the channel.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: "Water Resources Delineation Report – 20 acres, Mentor Hills Drive, Mentor, Lake County, Ohio; December 2019" from Davey Resource Group

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial: Accessed from Google Earth – April 6, 2012

☒ Corps site visit(s) conducted on: June 19, 2020

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☒ USDA NRCS Soil Survey: Web Soil Survey - https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx, accessed July 11, 2020 and August 4, 2020. Also included in the submitted waters delineation report.

☒ USFWS NWI maps: https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/ - accessed July 11, 2020 and August 4, 2020. Also included in the submitted waters delineation report.

☒ USGS topographic maps: https://ngmdb.usgs.gov/topoview/viewer/#12/41.6875/-81.3125 - Quad: OH-Mentor, 7.5 minute series, 1994, 2010, 2013, 2016. Accessed August 4, 2020

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): APT Methodology

The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index (PDSI) and the University of Delaware WebWIMP.

Inputs/Data Sources:

Latitude(s)/Longitude(s): 41.6415, -81.3491

Observation Date(s): April 1, 2012, November 4, 2019, June 19, 2020
Geographic Area(s) (Scope):
Weather Station(s):

Result(s):	**April 1, 2012,**	**November 4, 2019,**	**June 19, 2020**
APT:	**Wetter than normal (ARC-score 16)**	**Normal Conditions (ARC-score 11)**	**Normal Conditions (ARC-score 10)**
PDSI:	**Mild Drought**	**Moderate Wetness**	**Mild Wetness**
WebWIMP:	**Wet Season**	**Wet Season**	**Dry Season**

Conclusion(s):
An APT evaluation was run associated with a leaf-off Google Earth aerial for April 2012, the Waters Delineation Report dated November 4, 2019, and the date of the Corps site visit.
The APT for the site visit date (June 19, 2020) shows that precipitation was not within the 30-year normal range on that date, but averaged for the previous 90-days, it was reported to be 'normal conditions.' The report also indicated that the site visit date is within the 'dry season.' This information points to the area being a 'typical year.' For November 4, 2019, the APT reported that the conditions of the site were normal, during the wet season with moderate wetness. The APT report reviewed in conjunction with the Waters delineation observations, Corps site visit and in-office resource review support the determinations made above for stream flow regime, which is discussed in each individual rationale.

C. Additional comments to support AJD: N/A