

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANTS:** Scott C. Mielke & Lisa Barley Mielke

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2025-0077-V

**COUNCILMANIC DISTRICT:** 5

**HEARING DATE:** July 1, 2025

**PREPARED BY:** Joan A. Jenkins  
Planner III

**REQUEST**

The applicants are requesting variances to allow a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 301 West Haven Drive in Severna Park.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 48,823 square feet of land and is located with road frontage on the north side of West Haven Drive, northeast of Shakespeare Court. The property is identified as 1.06 acres or Parcel B of Parcel 904 in Grid 14 on Tax Map 24. The property is zoned R5 - Residential District. This is a waterfront lot located on Old Man Creek in the Chesapeake Bay Critical Area, designated as LDA – Limited Development Area. The eastern portion of the shoreline is mapped as buffer modified area (BMA) and the remainder is not buffer modified.<sup>1</sup> The site is encumbered by steep slopes along the shoreline, and the expanded buffer to steep slopes. The property is currently improved with a one-story single-family detached dwelling, water access stairs, a pier, and associated facilities. The site is served by a private well and septic system.

**APPLICANT'S PROPOSAL**

The applicants are proposing to demolish the existing dwelling and construct a new, larger, L-shaped, two-story single-family dwelling with an attached two-car garage, a driveway, a waterside patio, a waterside in-ground pool, and associated improvements. The proposed house would be two stories tall (32' +/-) and 30' wide by 68' deep.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands; and § 18-13-104(b) stipulates that the 100-foot buffer shall be expanded beyond 100 feet to include slopes of 15% or

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<sup>1</sup> Zoning application 2018-0291-C granted a critical area reclassification of a portion of the Buffer to be Buffer Modified Area.

greater. § 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 27.01.01 (B) (8) (ii) of COMAR states a buffer exists “to protect a stream tidal wetland tidal waters or terrestrial environment from human disturbance.” § 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance.

The steep slopes present on the property expand the buffer. A portion of the proposed driveway will be within the expanded buffer and the remainder of the driveway, a portion of the dwelling, and walkways will be within the buffer. The limit of disturbance will create temporary and permanent disturbance of an undetermined amount in the buffer and expanded buffer. Actual disturbance to be determined at permitting.

§ 17-8-201(a) of the Anne Arundel Subdivision and Development Code states that development in the LDA and RCA designated areas may not occur on slopes of 15% or greater unless development will facilitate stabilization of the slope, is necessary to allow connection to a public utility, or is to provide direct access to the shoreline. All disturbance shall be limited to the minimum necessary. A small portion of the driveway will create permanent disturbance on the steep slopes of 15% or greater. Actual disturbance to be determined at permitting.

§ 18-4-701 of the Code sets forth the bulk regulations for development in an R5 District. The proposed development will exceed the minimum required setbacks from all property lines; therefore, no setback variances will be necessary.

## **FINDINGS**

This Office finds that this is a large oddly shaped lot with an expansive waterfront. The subject property far exceeds the minimum lot requirement and the minimum lot width requirement for a lot in the R5 District. The property is encumbered by steep slopes and a forest conservation easement along the shoreline. The existing dwelling is located within the BMA. Expansion could occur within the BMA provided that any additions are not forward of the closest facade of the existing principal structure. The addition of a pool and patio in the location of the existing house forces the proposed dwelling to straddle the buffer/BMA line.

The plan shows existing critical area lot coverage of the site is 4,105 square feet. The proposed post-construction lot coverage will be 4,179 square feet, which is below the maximum 7,323 square feet (15%) allowed by the Code. Lot coverage in the BMA will decrease from 2,562 square feet to 1,529 square feet.

The site plan submitted with the pre-file showed the driveway out of the steep slopes, but the current site plan for the variance has changed the steep slope delineation from the pre-file to the current variance submission. Now the driveway in the same configuration is on steep slopes creating the need for the variance to steep slopes.

A review of the County 2025 aerial photograph shows that the nearby properties on the same side of

Old Man Creek are similarly encumbered by steep slopes and are not mapped as buffer modified. Due to the prevalence of steep slopes along the water, variances to disturb the 100-foot buffer and expanded buffer are common. This Office found several approved variances for various development proposals located on the same side of Old Man Creek allowing disturbance to the 100-foot buffer/expanded buffer and/or steep slopes. According to the State Department of Assessments and Taxation records the existing dwelling was built in 1937, before the adoption of zoning or the critical area laws.

The property was the subject of prior zoning applications: 2010-0034-V which granted approval for a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater, however, the house was never constructed. 2017-0157-V also granted approval for a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater; and variance cases 2021-0119-V and 2023-0052-V granted time extensions for the approval of 2017-0157-V, however, that house also was never constructed. The current proposal does not match either of the two previously approved variances.

The applicant's letter explains that the proposed dwelling will be no closer to the water than the current house and that there will be minimal disturbance for the construction of the driveway and turnaround area.

#### Agency Comments

The **Health Department** commented that they have reviewed the on-site sewage disposal and well water supply system for the property and have determined that the request does not adversely affect the systems. There is no objection to the request. The Department commented that the applicant must abandon the existing water well and install a new water well and file revised septic plans to match the approved septic site plans.

The **Development Division (Critical Area Team)** commented that the applicant has not demonstrated full compliance with the variance approval standards. There is no argument that this is a tight site, however, the design of the improvements fails to minimize the impacts to the buffer portion of the property. From a BMA perspective, the placement of the pool within the footprint of the existing dwelling would be allowed; however, doing so on this site results in the proposed home/garage being pushed further into the expanded buffer. In addition, the driveway/parking area is large and could be reduced in order to reduce disturbance to the buffer.

The **State Critical Area Commission** commented that they oppose the request to disturb the Critical Area Buffer. They recognize that the applicant could propose an in-kind replacement to the existing improvements; however, when redeveloping the site, the applicant must comply with the Critical Area development standards. The applicant has every opportunity to redesign the proposed improvements and relocate the proposed pool and pool patio in a manner that conforms to the Critical Area development standards and does result in increased development and impacts to the critical Area Buffer and steep slopes. The current conditions demonstrate that it is possible for the parcel to be developed in conformance with the Critical Area development standards while still providing reasonable and significant use of the entire parcel. The Administrative Hearing Officer can only grant a variance to the critical area program if the Hearing Officer finds that an applicant

has satisfied the burden to prove that the request meets each and every one of the variance standards under COMAR 27.01.12 including the standard of unwarranted hardship. The AHO must make an affirmative finding that the applicant has overcome the presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law and the County's Critical Area Program.

The **Department of Inspections and Permits (Engineering)** commented the following:

1. During the submission of prefile 2025-0022-P, a plan set with five sheets was submitted, including a sheet showing Existing Site Conditions and the Grading & Sediment Control Plan (which shows proposed conditions). However, for this variance, only one sheet was submitted. For clarity, please submit the entire plan set submitted for the prefile application, with all of the sheets included, for this variance application.
2. The comments outlined in the Engineering Review Comment Letter for Prefile 2025-0022-P have not been addressed. Submit the entire plan set with all of these comments addressed accordingly.
3. On the Variance Site Plan, show the property lines and addresses of the adjacent properties.
4. On the Variance Site Plan, there are no stormwater management or ESD devices shown on the property. However, in the Site Plan set that was submitted for prefile 2025-0022-P, ESD devices are shown on Sheet 5. Update the Variance Site Plan to include these ESD devices (see comments 1 and 2).
5. An existing Forest Conservation Easement is shown on the Variance Site Plan. However, for clarity, note the line type and hatching for the existing Forest Conservation Easement in the legend.
6. The Variance Site Plan notes the area of the existing Forest Conservation Easement as 19,861 sq ft (or 0.46 acres); however, the Critical Area Report states that this existing Forest Conservation Easement is 0.44 acres (or 19,166 sq ft). Ensure these values are consistent across all plans and documents.
7. The proposed impervious area and steep slope disturbance area can be reduced by reducing the size of the driveway and removing the portion of the proposed driveway located within the steep slopes.
8. On the Variance Site Plan, label the sidewalk and its material and label the driveway and its material.
9. On the Variance Site Plan, label the width of the proposed driveway.
10. On the Variance Site Plan, label the width of the existing gravel road onsite.

The **Cultural Resources Section** commented that the Cultural Resources Section previously conducted a site visit of this property while reviewing variance 2017-0157-V and determined at the time that there would be no archaeological impact within the current proposed limits of disturbance. Areas of archaeological potential are protected in the forest conservation area. Photo-documentation of the unrecorded historic structure on the property was completed at the time. No adverse effect. If there are changes to the current forest conservation easement or to the scope of development, the Cultural Resources Section would require additional review.

### Variance Requirements

For the granting of a critical area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, this is a lot



developed with an existing dwelling and improvements that is encumbered by a forest conservation easement and steep slopes which expand the buffer. However, denying this variance would not result in an unwarranted hardship. A reasonable and significant use of the parcel can be achieved without a variance and redevelopment can be achieved without disturbance to the Critical Area Buffer and steep slopes.

A literal interpretation of the County's critical area program will not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County. Redevelopment of a property is an opportunity to comply with the Code. Approving a variance to allow non-water dependent improvements in the Critical Area Buffer when there is an opportunity to redevelop the site in a manner that conforms with Critical Area development standards is not a right commonly enjoyed by others. No property owner has the right to construct non-water dependent improvements within the Critical Area Buffer.

The granting of the variance would confer on the applicant special privileges that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. The variance request is solely due to the fact that the applicant desires to redevelop the lot in a manner that increases lot coverage and impacts in the Critical Area Buffer and steep slopes due to the placement of the pool and pool patio, which are non-water dependent improvements.

The variance request would adversely affect water quality or impact fish, wildlife or plant habitat and will not be in harmony with the general spirit and intent of the County's critical area program. The applicant has not overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and has not evaluated and implemented site planning alternatives. It was suggested to the applicants at the pre-file that a revision to the layout would reduce the impact.

Approval of the variances would not alter the essential character of the neighborhood. Approval of the variances will not substantially impair the appropriate use or development of adjacent property, as the dwelling will be located well away from the dwellings on abutting lots. The variance will not reduce forest cover in the limited development area or the resource conservation area, will not be contrary to acceptable clearing and replanting practices, and will not be detrimental to the public welfare.

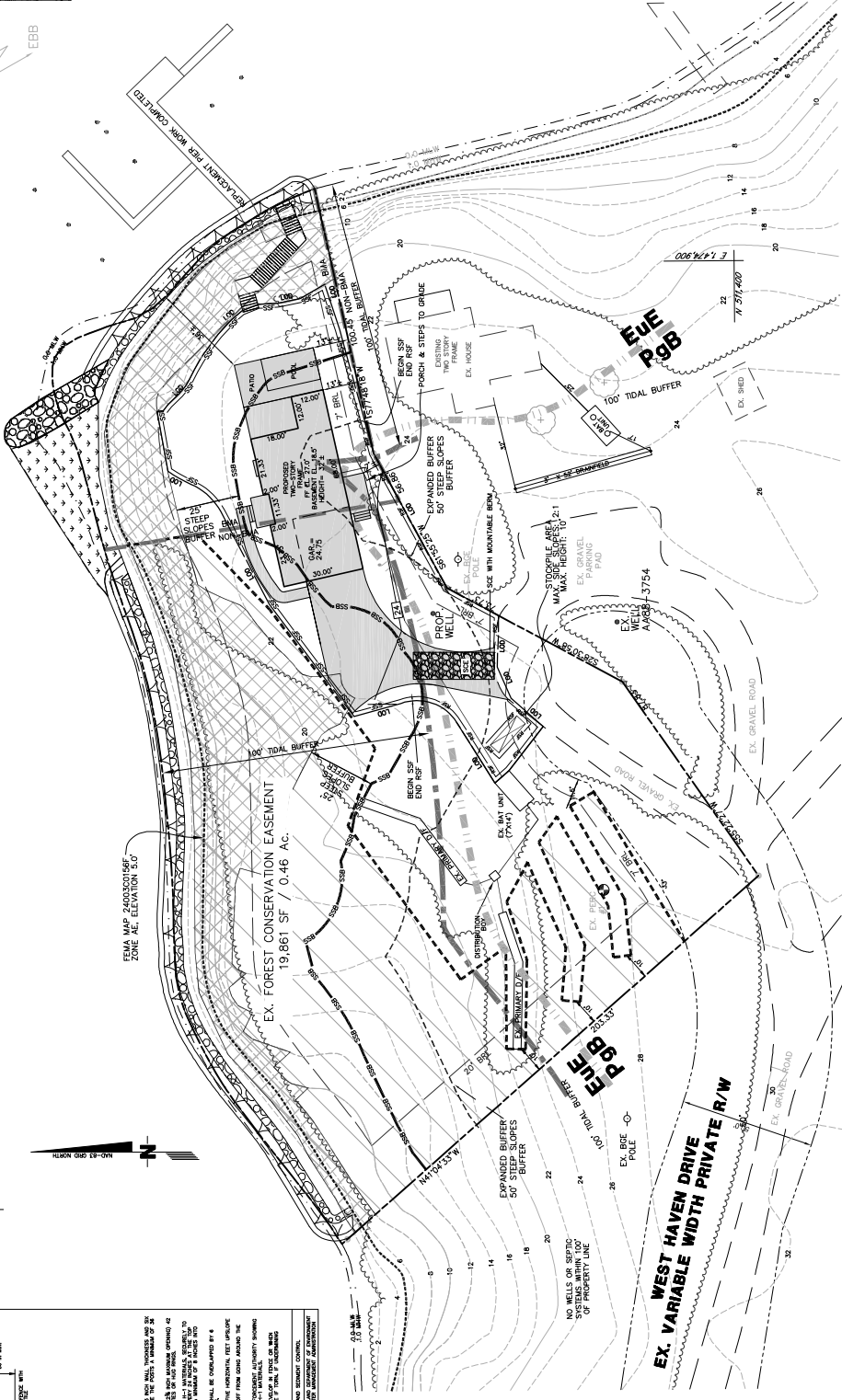
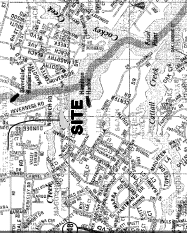
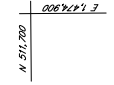
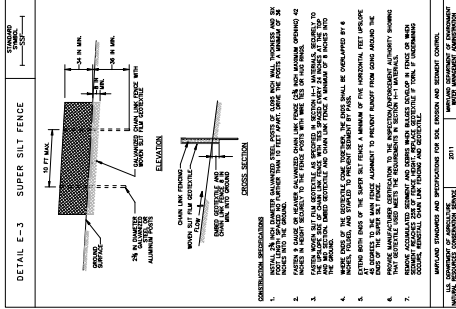
The request for the pool and patio in the BMA portion where the existing house is currently located would be allowed. However, redevelopment of a property is an opportunity to comply with the code. The proposed development includes a waterfront pool and patio. The location of these improvements is forcing the dwelling with an attached garage into the Buffer area when a reasonably-sized house could be built within the footprint of the portion of the proposed dwelling within the BMA thereby lessening the buffer variance required. The driveway is large and a portion could be eliminated to keep the driveway out of the steep slopes thus eliminating the need for a steep slope variance. The pre-file notes indicate that there was a suggestion to revise the layout to reduce impacts to the critical area. While the site environmental constraints were updated from the pre-file to the variance submission, the proposed improvements did not change. Therefore, the

variance requests for the development cannot be considered to be the minimum necessary to afford relief.

### **RECOMMENDATION**

With regard to the standards by which a variance may be granted as set forth in § 18-16-305, under the County Code, the Office of Planning and Zoning recommends **denial** of the critical area variance requests to § 18-13-104 (b) and § 17-8-201(a) to allow less buffer than required and development on steep slopes as shown on the site plan submitted.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



CRITICAL AREA NOTES							
SITE AREA	EX. WOODLANDS (TREE CANOPY)	EX. WOODLANDS (TREE CANOPY)	EXISTING LOT COVERAGE	PROPOSED LOT COVERAGE	MAX LOT COVERAGE (10%)	EXISTING LOT COVERAGE IN SBA	PROPOSED LOT COVERAGE IN SBA
48,823 S.F.	17,822 S.F.	17,822 S.F.	0 S.F.	4,105 S.F.	4,179 S.F.	2,562 S.F.	1,528 S.F.

CRITICAL AREA NOTES		PH
EX. WOODLANDS (TREE CANOPY) WITHIN LDA TO BE CLEARED	EXISTING LOT COVERAGE	
		4,105 S.F.
	0 S.F.	

[illegible]

**OWNER/DEVELOPER:**  
SCOTT & USA MELKE  
301 WEST HAVEN DR  
SEVERN PARK, MD 21146  
CONTACT PERSON:  
(P) 410-798-1494  
(F) wstfract@aol.com

**SOIL CLASSIFICATION CHART**  
HYDRO

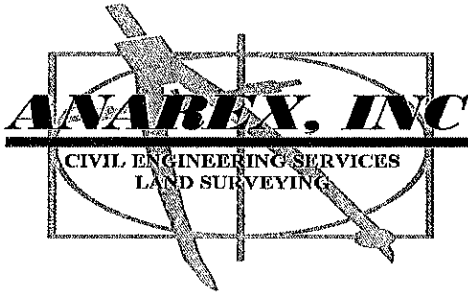
e (S.C.E.)

Proposed Sewer Catchment  
Existing Water Meter  
Proposed Water Meter  
Temporary Stockpile Area  
Proposed Impervious  
Stabilized Construction  
Steep Slopes

	Line
	Drain
	Barrier
	Fence

Existing	Existing	Existing	Existing	Existing	Existing	Limit of D	Reinforced
Soils Listed	Existing S	Existing S	Existing V	Existing F	Limit of D	Reinforced	
EX. 8" S	EX. 15" SD	EX. 8" W.	X	LOD	RF		

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303 Najoles Road - Suite 114  
Millersville, MD 21108

Phone: 410-987-6901  
Fax: 410-987-0589

April 21, 2025

Ms. Sterling Seay  
Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road  
Annapolis MD 21401

Re: **301 West Haven Drive**  
**TM 24, Blk 14, P 904**  
**GP#G02020290**

Dear Ms. Seay,

Please accept this as our formal variance request to the Zoning Regulations on behalf of our client regarding critical area law. The variance requests are to Article 17, Section 8-301(b) prohibiting structures in the buffer or expanded buffer and to Article 17-8-201 to allow disturbance of a steep slope.

We are requesting this variance to allow for a house and improvements to be torn down and rebuilt on an existing lot. The proposed house will be 2 stories tall (32'+/-) and 30' wide by 68' deep with a patio and pool. The proposed house will be no closer to the water than the current house is. The Eastern portion of the site is in the Buffer Modification Area, the Western part of the site is not buffer modified. A portion of the house, walkways and driveways are within the expanded buffer and 55 square feet of a steep slope will be disturbed for the construction of the driveway and turnaround area.

Explanation as required by Article 18, Section 16-305(b)


The topographical conditions and irregular size and shape of this lot cause implementation of the County's critical area program to cause unwarranted hardship on the property. Literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas and will not confer special privilege onto the applicant as the property is being redeveloped in a way similar to other properties in the West Haven community. These variance requests are not results of actions by the applicant and there has been no commencement of development before this application for a variance was filed and does not have any bearing or connection to building on neighboring properties. The granting of this variance will not adversely affect water quality, fish, wildlife or plant habitat as the development will only occur if proper mitigation is provided.

Explanation as required by Article 18, Section 16-305(c)

We believe the granting of this variance is warranted because the requested variance is the minimal necessary to afford relief based upon the size of the lot and the unique physical conditions such as the shape and topography. The house and driveway placement are at the top of the property, on the flattest part of the site where the remaining woods on the slope leading to the water will be protected by a forest conservation easement. Due to the tight nature of the gravel access road, the driveway has been expanded to the Northwest for a turnaround area out of the garage that will cause minimal slope disturbance. The granting of this variance will not alter the character of the neighborhood as the redevelopment will be typical of houses in the surrounding area. This variance will not impair the appropriate use or development of the surrounding property as it will not deny access or the possibility to build on neighboring lots. The granting of this variance will not be detrimental to the welfare of the public. The variance will not be contrary to the clearing and replanting practices in the critical area as clearing is limited to what is allowed by code and will be mitigated accordingly.

If you have any questions or need any additional information, please feel free to contact me at your convenience.

Sincerely,



Michael J. Werner, P.E.

CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
1804 WEST STREET, SUITE 100  
ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: ANNE ARUNDEL COUNTY

Date: 4/10/25

Tax Map #	Parcel #	Block #	Lot #	Section
<u>24</u>	<u>14</u>	<u>904</u>	<u>—</u>	<u>—</u>

Tax ID: 03-000-90002179

**FOR RESUBMITTAL ONLY**

Corrections ☐  
Redesign ☐  
No Change ☐  
Non-Critical Area ☐

\*Complete Only Page 1  
General Project Information

Project Name (site name, subdivision name, or other) 301 WEST HAVEN DRIVE

Project location/Address 301 WEST HAVEN DRIVE

City SEVERNA PARK Zip 21146

Local case number  

Applicant: Last name MIELKE First name SCOTT

Company —

**Application Type (check all that apply):**

Building Permit	<input type="checkbox"/>	Variance	<input checked="" type="checkbox"/>
Buffer Management Plan	<input type="checkbox"/>	Rezoning	<input type="checkbox"/>
Conditional Use	<input type="checkbox"/>	Site Plan	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Special Exception	<input type="checkbox"/>
Disturbance > 5,000 sq ft	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Grading Permit	<input type="checkbox"/>	Other	<input type="checkbox"/>

**Local Jurisdiction Contact Information:**

Last name AACO ZONING ADMIN SECTION First name  

Phone # 410-222-7437 Response from Commission Required By TBD

Fax #   Hearing date TBD

## SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

SINGLE FAMILY DWELLING

Intra-Family Transfer ☐ Yes  
Grandfathered Lot ☐

Growth Allocation ☐ Yes  
Buffer Exemption Area ☒ PARTIAL

### Project Type (check all that apply)

Commercial ☐  
Consistency Report ☐  
Industrial ☐  
Institutional ☐  
Mixed Use ☐  
Other ☐

Recreational ☐  
Redevelopment ☐  
Residential ☒  
Shore Erosion Control ☐  
Water-Dependent Facility ☐

## SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft
IDA Area		
LDA Area	<u>1.12</u>	
RCA Area		
Total Area	<u>1.12</u>	

Total Disturbed Area 

Acres	Sq Ft
<u>0.24</u>	

# of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees		<u>17,002</u>	Existing Lot Coverage		<u>4105</u>
Created Forest/Woodland/Trees			New Lot Coverage		<u>4259</u>
Removed Forest/Woodland/Trees		<u>0</u>	Removed Lot Coverage		<u>4105</u>
			Total Lot Coverage		<u>4359</u>

## VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

### Variance Type

Buffer ☒  
Forest Clearing ☐  
HPA Impact ☐  
Lot Coverage ☐  
Expanded Buffer ☐  
Nontidal Wetlands ☐  
Setback ☐  
Steep Slopes ☒  
Other ☐

### Structure

Acc. Structure Addition ☐  
Barn ☐  
Deck ☐  
Dwelling ☒  
Dwelling Addition ☐  
Garage ☐  
Gazebo ☐  
Patio ☐  
Pool ☐  
Shed ☐  
Other ☐

Applicant: Lisa Barley and Scott Mielke

Site: 301 West Haven Road, Severna Park, MD 21146  
Tax Map 24, Grid 14, Parcel 904

Zoning: R-5

Critical Area Land Use Designation: LDA

June, 2018

Introduction/Purpose:

The applicants recently acquired this 51,593 square foot or 1.18-acre, waterfront parcel located on the tidal shores of Old Man Creek off of the Magothy River in Severna Park, Anne Arundel County. The property is a point of land on the creek and is located at the end of West Haven Road. The property contains an existing older house (1937, per SDAT), which has not been lived in for several years and is in very poor condition. The site is located completely in the Critical Area, with a Limited Development (LDA) land use designation. (See enclosed copy of County Critical Area Map 12.)

Although the existing house is as close as 30 feet to the tidal shoreline (and has stone patios even closer), the property was not mapped as Buffer Modified ("BMA", formerly known as Buffer Exempt) by the County during its 1990's BMA mapping. As part of permitting for a new home on the property (further back from the shoreline), an application is being submitted to Anne Arundel County for a map change to the BMA mapping to include the relevant portion of the property as BMA.

Requirements for a BMA map amendment are set forth in the County Zoning Ordinance at §18-13-301. Most of the requirements are technically survey and engineering in nature, and this portion of this report is limited to a review of the following two requirements:

*(c)(5)(iii) plants, trees and foliage on the property, including details on the species and diameters of trees and a general description of other planting areas;*

*(c)(5)(vi) identification of any habitat protection area, slopes of 15% or greater, expanded buffer, and forest interior dwelling birds on the property and adjacent properties.*

This report is based on the July 2018 site plan developed by Bay Engineering, Inc.



Site visits for this Critical Area study were conducted on May 2 and 11, 2018, by Eric E. See of See Environmental Services, Inc. The site plan previously provided a mapping of the 15% and greater slopes and expanded buffer as specified in item (vi), which are incorporated as part of this report.

General Site Conditions and Setting:

The subject property is located at the eastern end of West Haven Road in Severna Park, which is a gravel road at this point with a small turn around loop. Attached is a copy of an aerial photograph from the County's mapping web page, showing the site and adjoining properties. It is annotated with the approximate property lines and parcel/lot numbers from the SDAT website.

The subject lot is irregularly-shaped and is on a gently sloping upland plateau, with steep wooded slopes sloping down to the tidal shoreline. The existing house is on the eastern end of the site, surrounded by several old flagstone patios and a small yard and part of the driveway loop, the remainder of the site is forested. It has a septic tank that is completely non-functional.

A small section of old concrete block were placed by the previous landowner as riprap at the toe of the steep slopes along the shoreline around the existing pier, on the eastern end of the site, but the remainder of the toe of the slope of the shoreline is unprotected. As a result, a number of trees all along the steep slopes have already fallen or are about to fall into the water below. The shoreline is severely eroded and is not stable. Additionally, there is an existing septic drain field overflow pipe that extends out of the existing slope and directly discharges into the waters of Old Man Creek.

Adjoining lots to the south and west generally contain a mix of woodlands on the steep slopes and large, mowed lawns with scattered shade trees. A forest conservation easement covering 0.44 acres or 37.2% of the woodland on the site was previously platted by the former owner as part of a never-finalized approved grading permit application which was eventually abandoned.

Item (iii): Woodlands and Trees:

Because no guidance is contained in the County Code about what level of detail is required for a description of "plants, trees, and foliage on the property", the following procedure was used: All living trees 4 inches DNH and greater were tagged and their locations approximated on the current site plan. Unless noted as "I-NF" (inaccessible due to very steep slopes, no flag) were marked with a short piece of red-and-white-striped flagging with tree number, species, and DBH (e. g., 1 Chestnut oak 19"). A total of 149 trees were so located, and described in the attached 3-page list.

SEE ENVIRONMENTAL SERVICES, INC.

The Woodbridge Center • 2444 Solomons Island Road, Suite 217 • Annapolis, Maryland 21401

Tel: (410) 266-3828 • E-mail: [ericsee1@outlook.com](mailto:ericsee1@outlook.com)

In summary, approximately 0.70 acres or 59.3% of the 1.18 acre lot is wooded. With the exception of some planted ornamental trees around the existing house, the majority of the woodlands is a “dry site” mixed hardwood forest, dominated by chestnut oak and other oaks in the canopy. English Ivy, Greenbriar and Japanese honeysuckle are the only common “exotic and invasive” species present, limited generally close to the edge of the woodlands around the house, yard, and driveway.

Item (iv): Habitat and FID's:

The required Maryland Department of Natural Resources Environmental Review Statement was obtained and a copy of that Statement is attached to this report. The DNR letter notes that there are no records of rare, threatened, or endangered species for the site, and did **not** specify recommendations for protection of FID's habitat. In absence of such recommendations, DNR effectively concurred with the finding that the woodlands on the subject lot are all within the forest “edge”, and therefore the small area of woodlands on the subject property lacks sufficient size to be FID's habitat. Because the adjoining properties are mostly open, these would be even less likely to support FID's habitat.

**Respectfully Submitted,**

*Eric E. See 7/16/18*

Eric E. See, Principal Investigator  
See Environmental Services, Inc.  
2444 Solomons Island Road, Suite 217  
410-266-3828

References/Attachments:

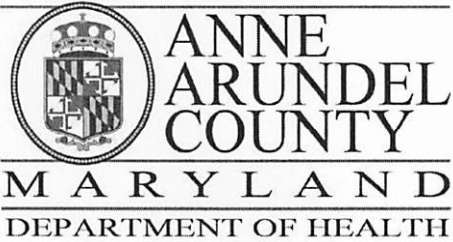
Anne Arundel County. Critical Area Map #24.

Anne Arundel County DPW. GIS aerial photography.

Bay Engineering, Inc., July, 2018 Existing Resources and Final Site Plan

Maryland DNR, June 5, 2018 Environmental Review Statement (ER# 2018.0756.aa)

US NRCS current soils mapping.




J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7095 Fax: 410-222-7294  
Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
**Health Officer**

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health 

DATE: May 2, 2025

RE: Scott C. Mielke  
301 Haven Drive  
Severna Park, MD

NUMBER: 2025-0077-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling and associated facilities with less setbacks and buffer than required.

The Health Department has reviewed the on-site sewage disposal and well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal and well water supply systems. The Health Department has no objection to the above referenced request. Must abandon existing water well and install new water well and file revised septic plans to match the approved septic site plans.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

2025-0077-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

04/29/2025

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

The applicant has not demonstrated full compliance with the variance approval standards. There is no argument that this is a tight site, however, the design of the improvements fails to minimize the impacts to the buffer portion of property. From a BMA perspective, the placement of the pool within the footprint of the existing dwelling would be allowed; however, doing so on this site results in the proposed home/garage being pushed further into the expanded buffer. In addition, the driveway/parking area is large and could be reduced in order to reduce disturbance to the buffer.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

☒ All ACA Users

☒ Record Creator

☒ Licensed Professional

☒ Contact

☒ Owner

Due Date

05/20/2025

Assigned to Department

OPZ Critical Area

Status Date

05/19/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

☐ Display E-mail Address in ACA

☒ Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name

Wes Moore  
*Governor*  
Aruna Miller  
*Lt. Governor*



Erik Fisher  
*Chair*  
Nick Kelly  
*Executive Director*

**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

June 20<sup>th</sup>, 2025

Ms. Sterling Seay  
Anne Arundel County Zoning Division  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**Re: 2025-0077-V; Mielke Variance (AA 0153-25)**

Dear Ms. Seay,

Thank you for providing information on the above-referenced Critical Area variance request to disturb steep slopes and the Critical Area Buffer. The applicant is proposing to raze the existing dwelling and to construct a new dwelling with associated amenities. The improvements on this site will include the proposed dwelling, one attached garage, a proposed patio, and a proposed pool. The 1.18-acre property is waterfront to the Old Man Creek, a tributary of the Magothy River, on lands designated as Critical Area Limited Development Area (LDA) and nearly entirely within the expanded buffer. A portion of the shoreline on the site is mapped as a Buffer Modified Area (BMA). The proposed development will result in an additional 254 square feet of lot coverage and 10,454 square feet of disturbance, which includes disturbance to the non-BMA portion of the site, within the Critical Area Buffer and to steep slopes.

Requested Variance

This office opposes the request to disturb the Critical Area Buffer. The applicants are proposing an increase in lot coverage, including a proposed pool and patio, which will result in lot coverage and disturbance to the non-BMA portion of the site and within the Critical Area Buffer. . While the pool and patio might be within the footprint of the existing dwelling, lot coverage for other associated features, such as the garage and driveway have been shifted into the Critical Area Buffer. We recognize the applicant has the right to propose an in-kind replacement to the existing improvements, however when redeveloping a site, the applicant must comply with the Critical Area development standards. Here, the applicant has every opportunity to redesign the proposed improvements and relocate the proposed pool and pool patio in a manner that conforms to the Critical Area development standards and does not result in increased development and impacts to the Critical Area Buffer and steep slopes. The site currently conforms to the Critical Area development standards, as all existing improvements are located in the BMA. Therefore, the current conditions demonstrate that it is possible for the parcel to be developed in conformance with the Critical Area development standards while still providing reasonable and significant use of the entire parcel.

Maryland's Critical Area law provides that variances to a local jurisdiction's Critical Area program may be granted only if the County's Administrative Hearing Officer (AHO) finds that an applicant has satisfied the burden to prove that the request meets each and every one of the variance standards under COMAR 27.01.12, including the standard of unwarranted hardship. Furthermore, State law establishes the presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law and County's Critical Area Program. The AHO must make an affirmative finding that the applicant has overcome this presumption, based on the competent and substantial evidence presented from the applicant.

### **Variance Standards**

1. *Due to special features of the site or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the local Critical Area program would result in an unwarranted hardship to the applicant;*

Based on the information provided, denying this variance request would not result in an unwarranted hardship.

State law defines "unwarranted hardship" to mean that, without the requested variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot. Given that the site is currently improved with a dwelling unit and associated features within the BMA, it is clear that reasonable and significant use of the parcel can be achieved without a variance and redevelopment can be achieved without disturbance to the Critical Area Buffer and steep slopes. Doing so would conform with the County's Critical Area code. Therefore, denial of the requested variance to develop within the Critical Area Buffer and on steep slopes, would not result in being denied reasonable and significant use of the entire lot.

2. *A literal interpretation of the local Critical Area program would deprive the applicant of a use of land or structure permitted to others in accordance with the provisions of the local Critical Area program;*

Denial of this request would not deprive the applicant the use of the land or structure permitted to others in the Critical Area.

On the contrary, approving a variance to allow non-water dependent improvements in the Critical Area Buffer when there is an opportunity to redevelop the site in a manner that conforms with Critical Area development standards is not a right commonly enjoyed by others. No property owner has the right to construct non-water dependent improvements within the Critical Area Buffer.

3. *The granting of the variance would not confer upon the applicant any special privilege that would be denied by the local Critical Area program to other lands or structures in accordance with the provisions of any local Critical Area program;*

The granting of this variance would confer a special privilege upon this applicant.

The Anne Arundel County Code and the Critical Area law place strict limits on lot coverage and disturbance in the Critical Area Buffer in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant the ability to develop their property in a manner that would be denied to others within the Critical Area, as no individual is permitted to construct non-water dependent improvements within the expanded buffer. This office has previously opposed similar variance requests from others.

4. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The variance request is not based on an existing condition or circumstance caused by the applicant. However, the applicant has the ability to redesign the proposed redevelopment plan and improve the lot in a manner that still complies with the Critical Area development standards.

5. *The variance request does not arise from any conforming or nonconforming condition on any neighboring property;*

The variance request is solely due to the fact that the applicant desires to redevelop the lot in a manner that increases lot coverage and impacts in the Critical Area Buffer and steep slopes to the placement of the pool and pool patio, which are non-water dependent improvements.

6. *The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's local Critical Area;*

As proposed, this variance request would adversely affect water quality and impact fish, wildlife, and plant habitat within the Critical Area.

The Critical Area law and regulations are designed to foster more sensitive development for shoreline areas so as to minimize impacts to water quality and habitat. The cumulative impact of development activity in the Critical Area, even if minimal, has a substantial and negative impact on the Chesapeake Bay. The Critical Area law is tasked with not only maintaining but improving water quality and habitat within the Chesapeake Bay's system. Development which places non-water dependent lot coverage in the Critical Area Buffer and in a manner that will disturb steep slopes can increase the volume and velocity of stormwater runoff flowing down the steep slopes. Impacts to the sensitive and protected resources can be avoided by locating the improvements in a manner that complies with the Critical Area development standards including the County's BMA provisions.

7. *The granting of the variance would be in harmony with the general spirit and intent of the Critical Area law, the regulations in this subtitle, and the local Critical Area program.*

Ms. Seay  
Mielke Variance  
June 20<sup>th</sup>, 2025  
Page 4 of 5

The goals of the Critical Area law are to:

- (1) Minimize adverse impacts on water quality that result from development,
- (2) Conserve fish, wildlife, and plant habitat, and
- (3) Establish land use policies that accommodate development while recognizing that development adversely affects the first two goals.

Granting a variance to construct non-water dependent lot coverage in the Critical Area Buffer when the applicant can construct their desired amenities in a manner that conforms to the Critical Area development standards including the County's BMA provisions, is absolutely not in harmony with the spirit and intent of the Critical Area law and would be contrary to the goals of the Critical Area law.

For the reasons explained above, this office opposes this variance and recommends denial of this request. The variance does not meet each and every standard. Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410)-260-3462 or [jamileh.soueidan@maryland.gov](mailto:jamileh.soueidan@maryland.gov).

Sincerely,



Jamileh Soueidan  
Natural Resource Planner

File: AA 0153-25

CC: Jennifer Esposito, CAC



Ms. Seay  
Mielke Variance  
June 20<sup>th</sup>, 2025  
Page 5 of 5



## OFFICE OF PLANNING AND ZONING

### CONFIRMATION OF PRE-FILE (2025-0022-P)

DATE OF MEETING: 3/20/2025

P&Z STAFF: Sara Anzelmo, Kelly Krinetz, Jean Janvier

APPLICANT/REPRESENTATIVE: Scott Mielke / Matt Seiss, Anarex EMAIL: matt@anarex.com

SITE LOCATION: 301 West Haven Drive, Severna Park LOT SIZE: 1.18 acre ZONING: R5

CA DESIGNATION: LDA BMA: Part or BUFFER: Part APPLICATION TYPE: CA Variance

The applicant proposes to tear down the existing dwelling and associated improvements and to redevelop the property. The proposed house would be 2 stories tall (35'+/-) and 30' wide by 68' deep with a patio and pool. The proposed house would be no closer to the water than the current house. The Eastern portion of the site is in the Buffer Modification Area, the Western part of the site is not buffer modified. A portion of the house, walkways and driveways would be within the expanded buffer, necessitating a variance. There have been several prior variances approved for this site. The current proposal does not match either of the two previously approved variances.

Prior variances: 2010-0034-V, 2017-0157-V, 2021-0119-V (time), 2023-0052-V (time)

Prior buffer map amendment: 2018-0291-C

#### COMMENTS

The **Critical Area Team** commented that the applicant will need to demonstrate full compliance with the variance approval standards with the variance application, particularly whether this is the minimum necessary to afford the applicant relief. From a BMA perspective, the placement of the pool within the footprint of the existing dwelling would be permitted; however, doing so on this site results in the proposed home/garage being pushed further into the expanded buffer. In addition, the driveway/parking area is large and could be reduced in order to reduce disturbance to the buffer. The site is difficult and is encumbered with multiple features; however, it does appear that there could be some revision to the layout that would reduce the impact.

The **Zoning Administration Section** commented that the variance site plan should label the dimensions and height of proposed structures. Zoning Admin concurs with the Critical Area Team's assessment regarding opportunities to minimize the environmental impacts. The applicant is reminded that, in order for a critical area variance to be approved, the applicant must demonstrate and the Hearing Officer must find that the proposal complies with each and every variance standard provided under Section 18-16-305(b) and (c).

The **Engineering Division of the Office of Inspections and Permits** provided the following comments:

1. On the Plan View on Sheet 4 on the grading plans, show the 100-foot Tidal Buffer Line. A label is shown on the plans, but there is no line indicating the location of this feature.
2. On the Plan Views on Sheets 3 and 4 of the grading plans, remove any features from the legend that are not shown in the plan view, such as existing water, existing sewer and existing and proposed water meter.
3. Add the proposed spot elevations from the ESD Plan on Sheet 5 to the Plan View on Sheet 4.
4. The grading shown on the Plan View of Sheet 4 of the grading plans must be consistent with that of the ESD Plan on Sheet 5 of the grading plans.
5. There may be an issue with the West Haven Dr Right of Way line overlapping the shared property line of 301 West Haven Drive and 303 West Haven Drive.
6. The grading permit number found on the charts entitled "Stormwater Management Data 'A'" and "Stormwater Management Data 'B'" on Sheet 5 of the grading plans is entirely unrelated to this prefile application. Please show the correct associated grading permit number, if there is one.

## INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

\*\*\* A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c ) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.

2025-0077-V

Menu Cancel Help

Task Details I and P Engineering

Assigned Date

05/02/2025

Assigned to

Jean Janvier

Current Status

Complete w/ Comments

Action By

Jean Janvier

Comments

1. During the submission of profile 2025-0022-P, a plan set with five sheets were submitted, including a sheet showing Existing Site Conditions and the Grading & Sediment Control Plan (which shows proposed conditions). However, for this variance, only one sheet was submitted. For clarity, please submit the entire plan set submitted for the profile application, with all of the sheets included, for this variance application.
2. The comments outlined in the Engineering Review Comment Letter for Profile 2025-0022-P have not been addressed. Submit the entire plan set with all of these comments addressed accordingly.
3. On the Variance Site Plan, show the property lines and addresses of the adjacent properties.
4. On the Variance Site Plan, there are no stormwater management or ESD devices shown on the property. However, in the Site Plan set that was submitted for profile 2025-0022-P, ESD devices are shown on Sheet 5. Update the Variance Site Plan to include these ESD devices (see comments 1 and 2).
5. An existing Forest Conservation Easement is shown on the Variance Site Plan. However, for clarity, note the line type and hatching for the existing Forest Conservation Easement in the legend.
6. The Variance Site Plan notes the area of the existing Forest Conservation Easement as 19,861 sq ft (or 0.46 acres); however, the Critical Area Report states that this existing Forest Conservation Easement is 0.44 acres (or 19,166 sq ft). Ensure these values are consistent across all plans and documents.
7. The proposed impervious area and steep slope disturbance area can be reduced by reducing the size of the driveway and removing the portion of the proposed driveway located within the steep slopes.
8. On the Variance Site Plan, label the sidewalk and its material and label the driveway and its material.
9. On the Variance Site Plan, label the width of the proposed driveway.
10. On the Variance Site Plan, label the width of the existing gravel road onsite.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

- ☒ All ACA Users
- ☒ Record Creator
- ☒ Licensed Professional
- ☒ Contact
- ☒ Owner

Due Date

05/20/2025

Assigned to Department

Engineering

Status Date

05/21/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

Engineering

Est. Completion Date

- ☐ Display E-mail Address in ACA
- ☒ Display Comment in ACA

Task Specific Information

Expiration Date

Review Notes

Reviewer Name

Reviewer Phone Number

Reviewer Email

ipjanv22@aacounty.org

Jean Janvier

2025-0077-V

Menu Cancel Help

Task Details OPZ Cultural Resources

Assigned Date

04/29/2025

Assigned to

Stacy Poulos

Current Status

Complete w/ Comments

Action By

Stacy Poulos

Comments

The Cultural Resources Section previously conducted a site visit of this property while reviewing variance 2017-0157-V and determined at the time that there would be no archaeological impact within the current proposed limits of disturbance. Areas of archaeological potential are protected in the forest conservation area. Photo-documentation of the unrecorded historic structure on the property was completed at the time. No adverse effect. If there are changes to the current forest conservation easement or to the scope of development, the Cultural Resources Section would require additional review.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

☒ All ACA Users

☒ Record Creator

☒ Licensed Professional

☒ Contact

☒ Owner

Due Date

05/20/2025

Assigned to Department

OPZ Cultural Resources

Status Date

05/20/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Cultural Resources

Est. Completion Date

☐ Display E-mail Address in ACA

☒ Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name








Legend

- Foundation
- Addressing
  -
- Parcels
  - ▭
- Parcels - Annapolis City
  - ▭
- Planning
  - Community Development
    -
  - Zoning
    -
- Utility
  - Sewer
    - Force Main
    - Gravity
    - Low Pressure
- Elevation
  - Topo 2023
    - Index
    - Intermediate



0150300

ft

This map is a user generated static output from an Internet mapping site and is for reference only.  
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
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none

Notes