

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

APPLICANT: John D. and Susan Sundius

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2024-0108-V

COUNCILMANIC DISTRICT: 5

HEARING DATE: August 20, 2024

PREPARED BY: Joan A. Jenkins
Planner III



REQUEST

The applicant is requesting a variance to allow dwelling additions (two decks and steps) with less setbacks and buffer than required on property located at 773 Rolling View Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 18,042 square feet of land and is located with 62+ feet of road frontage on the southwest side of Rolling View Drive, west of Idylwild Drive. The subject property is identified as Lot 64 on Parcel 22 in Grid 4 on Tax Map 40 in Section 1 Block G of the Cape St. Claire subdivision. The majority of the subject property has been zoned R5 - Residential District with a portion zoned OS - Open Space, due to a stream that bisects the property in the southwestern portion of the lot, since the adoption of comprehensive zoning of the Fifth Council District zoning maps effective January 29, 2012.

This is a nonwaterfront property which lies within the Chesapeake Bay Critical Area and is designated LDA - Limited Development Area. The site is encumbered by a stream buffer, steep slopes, and the expanded stream buffer. The site is currently improved with a one-story single-family dwelling with a basement.

APPLICANT'S PROPOSAL

The applicant proposes to replace in-kind two decks and a set of stairs: rear deck 11'-9" by 8'-1" by 15 feet high (approximately 95 square feet); side deck L-shaped 38 feet long by 9 feet wide (290 square feet); and a set of stairs 4 feet wide by 5 feet deep (20 square feet).¹

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. § 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

¹ The expanded buffer line cuts through the set of stairs so a portion of the area of the stairs and the associated LOD are not required to be recognized by variance approval.

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 stream buffer for the stream in the rear (southwest) of the property expands due to the steep slopes. The proposed replacement will include permanent disturbance of approximately 405 square feet and temporary disturbance for the limit of disturbance area, necessitating a variance to this provision as shown on the site plan. Exact buffer disturbance will be determined at the time of permit.

This application does not require a variance to setbacks.

FINDINGS

The property is nearly rectangular, with an angled rear lot line. The site meets the R5 District area and width requirements. The property is encumbered by the 100-foot stream buffer, steep slopes and the expanded buffer. Any disturbance to the majority of the dwelling requires a variance.

A review of the County aerial photograph from 2024 shows a neighborhood of lots of varied sizes. Most dwellings in the immediate area are on one lot with a few on multiple lots. The existing dwelling was constructed in 1969 according to State of Maryland tax assessment records, before the enactment of critical area laws.

The existing critical area lot coverage is 5,936 square feet which exceeds the allowed lot coverage of 31.25% (5,638 square feet) under § 17-8-402(b)(1) of the Code. After construction the lot coverage will not change. Lot coverage is addressed at permitting.

The **Health Department** commented that they have reviewed the on-site sewage disposal and well water supply system for property and have determined that the request does not adversely affect these systems therefore there is no objection to the request.

The **Development Division (Critical Area Team)** commented that there is no objection to in kind repair/replacement of the existing improvements.

The **Critical Area Commission** commented that appropriate mitigation is required.

For the granting of a critical area variance, a determination must be made on the following:

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County’s critical area program would result in an unwarranted hardship or practical difficulty. In this case the presence of the expanded stream buffer makes in-kind replacement or reconfiguration impossible without variance relief. As such relief is warranted to allow the applicants to replace a longstanding amenity area on the rear of the dwelling, the side deck for access to the dwelling, and steps for access to the side yard from the patio.

A literal interpretation of the County’s critical area program will deprive the applicants of rights that are commonly enjoyed by other properties in similar areas by denying the applicant the right to replace their deck. The granting of the variance will not confer on the applicants a special privilege

that would be denied by COMAR, Title 27. This request is not a result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property. There is no evidence that the granting of the variances will adversely affect water quality or impact fish, wildlife or plant habitat and the proposal is in harmony with the general spirit and intent of the County's critical area program. The applicants have overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and have evaluated site planning alternatives.

With regard to the requirements for all variances:

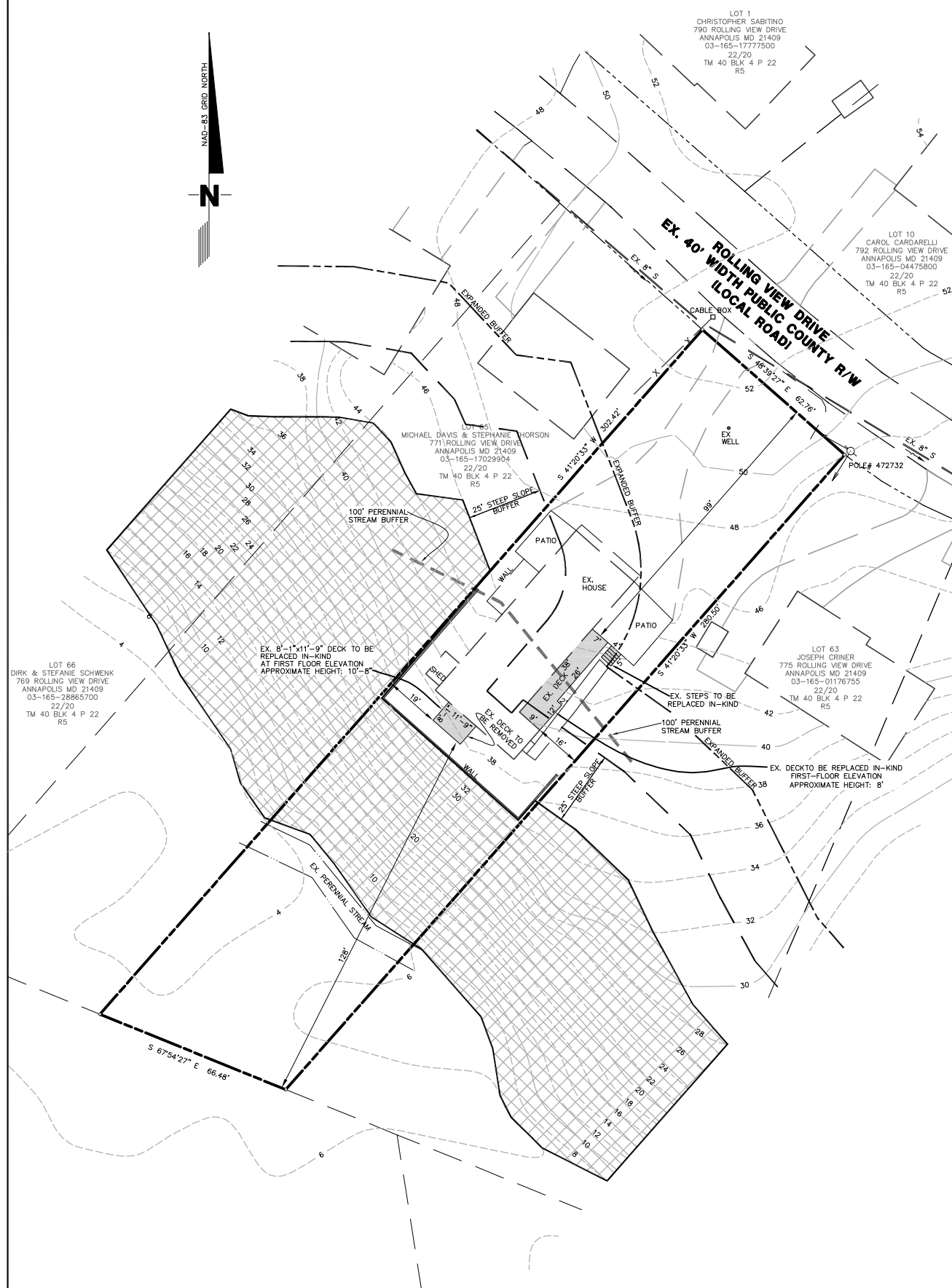
There is no evidence that the replacement of the existing structures will alter the essential character of the neighborhood, impair the use or development of adjacent property or be detrimental to the public welfare. The proposal will not reduce forest cover in the LDA and will not be contrary to acceptable clearing and replanting practices.

The variance as proposed is considered the minimum necessary to afford relief by this Office. The proposal consists of replacing prior improvements exactly in-kind. The proposed replacement will result in no clearing, will keep the lot coverage unchanged, and actually will result in the least amount of disturbance possible. Finally, the County Critical Area team and the State Critical Area Commission have offered no objection to the proposal and as such, the replacement is considered to represent the minimum variance necessary by OPZ.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends **approval** of variances to § 18-13-104(a) construct the two decks and steps with less buffer than required as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) 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.



NOTE: NO NEIGHBORING WELLS WITHIN 30' OF PROPOSED CONSTRUCTION

ANAREX, INC.
ENGINEERS SURVEYORS
EXPEDITERS PLANNERS
303 NAJOLAS ROAD
SUITE 114
MILLERSVILLE, MD. 21108-2506
PHONE: (410) 987-6901

PARTIAL TOPOGRAPHY SURVEY
LOT 64
SECTION 1 - BLOCK G
773 ROLLING VIEW DRIVE
CAPE ST. CLAIRE
3rd District, Anne Arundel County, Md.
See Plat Records A.A. Co.
Plat Book 22 Page 20
Scale: 1"=30' Date MAY, 2024

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:

Tax Map #	Parcel #	Block #	Lot #	Section
40	0022	G	64	1

Tax ID: 10691830

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) Replace decks

Project location/Address 773 Rolling View Drive

City Annapolis Zip 21409

Local case number

Applicant: Last name Sundius First name Suzy & Dan

Company

Application Type (check all that apply):

Building Permit ☐
Buffer Management Plan ☐
Conditional Use ☐
Consistency Report ☐
Disturbance > 5,000 sq ft ☐
Grading Permit ☐

Variance ☒
Rezoning ☐
Site Plan ☐
Special Exception ☐
Subdivision ☐
Other ☒

☒ Deck permit

Local Jurisdiction Contact Information:

Last name AACo Zoning Administration 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:

We are writing today to request a variance for permit B0242671, which is to replace the side and back decks on our home. Both decks are in poor condition, and we have contracted with Fence and Deck Connection to replace them.

Intra-Family Transfer	Yes <input type="checkbox"/>	Growth Allocation	Yes <input type="checkbox"/>
Grandfathered Lot	<input type="checkbox"/>	Buffer Exemption Area	<input type="checkbox"/>

Project Type (check all that apply)

Commercial	<input type="checkbox"/>	Recreational	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Redevelopment	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Residential	<input checked="" type="checkbox"/>
Institutional	<input type="checkbox"/>	Shore Erosion Control	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Water-Dependent Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>		

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area					
LDA Area					
RCA Area					
Total Area					

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		
Created Forest/Woodland/Trees			New Lot Coverage		
Removed Forest/Woodland/Trees			Removed Lot Coverage		
			Total Lot Coverage		

VARIANCE INFORMATION (Check all that apply)

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

<u>Variance Type</u>		<u>Structure</u>	
Buffer	<input checked="" type="checkbox"/>	Acc. Structure Addition	<input type="checkbox"/>
Forest Clearing	<input type="checkbox"/>	Barn	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>	Deck	<input type="checkbox"/>
Lot Coverage	<input type="checkbox"/>	Dwelling	<input type="checkbox"/>
Expanded Buffer	<input type="checkbox"/>	Dwelling Addition	<input type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>	Garage	<input type="checkbox"/>
Setback	<input type="checkbox"/>	Gazebo	<input type="checkbox"/>
Steep Slopes	<input type="checkbox"/>	Patio	<input type="checkbox"/>
Other	<input type="checkbox"/>	Pool	<input type="checkbox"/>
		Shed	<input type="checkbox"/>
		Other	<input checked="" type="checkbox"/> Deck

Critical Area Report Narrative

Suzy and Dan Sundius, owners and residents of 773 Rolling View Drive, Annapolis, are seeking a variance to replace deteriorating decks on the side and back of our house. Our house backs up to a ravine with a small stream. There is a retaining wall that separates the critical area from the back of the house and the location of the back deck. There will be no disturbance of the slope, retaining wall, or vegetation. There will be no change in the runoff or water quality since we are only replacing what is already there.

Thank you for your help in this matter,
Suzy Sundius



Joan Jenkins <pzjenk00@aacounty.org>

2024-0108-V Variance for 773 Rolling View Dr2 messages

Joan Jenkins <pzjenk00@aacounty.org>
To: suzy@flame.digital

Mon, Jul 29, 2024 at 4:06 PM

Ms. Sundius,

I am the zoning reviewer/analyst for the variance application for your property. The Critical Area Project Notification form did not include any calculations of existing critical area lot coverage. While the replacement of the decks and steps does not change the lot coverage it is something that we comment on in our reports and we like to be certain that the lot is within the lot coverage limits. Could you please provide to me via email the amount of existing lot coverage for the property?

Thank you,
Joan Jenkins
410-222-7437

Suzy Shaw <suzy@flame.digital>
To: Joan Jenkins <pzjenk00@aacounty.org>

Mon, Aug 5, 2024 at 5:48 PM

Joan, sorry for the delay. [REDACTED]

I am hopeful that I have captured the information that you need regarding non-permeable surfaces on our property.

House:

back of house 34.7' x 13' = 451.1

main house 57.6 x 25.7 = 1,480.32'

TOTAL HOUSE 1,931.4

Slate patio:

20'6" x 18'10" = 372.8'

TOTAL SLATE PATIO = 372.8

Brick pad (semi-permeable):

11' x 17.9" = 288.4'

TOTAL BRICK PAD 288.4

Driveway:

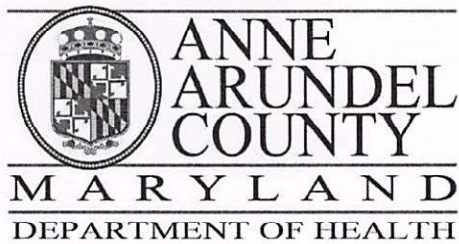
Near house 51.5" x 32'2" = 2588.8'

Narrower area to road 15'10" x 44' = 664.4

TOTAL DRIVEWAY 3,343.8'

Kind regards,
Suzy Sundius

[Quoted text hidden]




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: June 24, 2024

RE: John D. Sundius
773 Rolling View Drive
Annapolis, MD 20409

NUMBER: 2024-0108-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (decks) 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.

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

cc: Sterling Seay

2024-0108-V

Menu Cancel Help

Task Details

OPZ Critical Area Team

Assigned Date

06/10/2024

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

No objection to in kind repair/replacement of the existing improvements.

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

07/01/2024

Assigned to Department

OPZ Critical Area

Status Date

06/10/2024

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



Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

CAC Comments_

1 message

Jennifer Esposito <jennifer.esposito@maryland.gov>
To: Sadé Medina <pzmedi22@aacounty.org>
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Tue, Jun 25, 2024 at 2:48 PM

Good afternoon,

The Critical Area Commission has reviewed the following variance, and we provide the following comments:

- 2024-0120-V; Patel & Chaudhry: Provided that the project results in the removal of 63 square feet or more of lot coverage on the site as indicated in the application material, and provided that the Administrative Hearing Officer finds that each and every one of the Critical Area Variance standards have been met, appropriate mitigation is required.

Additionally, we have reviewed the following variances and appropriate mitigation is required.

- 2024-0108-V; Sundius (AA 143-24);
- 2024-0113-V; Eaton (AA 14-244);

Thank you for the opportunity to provide comments. If you have any questions or concerns, please let me know.

The above comments have been uploaded to the County's online portal.



 facebook_logo.jpg

 twitter_logo.jpg

dnr.maryland.gov/criticalarea

Jennifer Esposito

Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays

1804 West Street, Suite 100

Annapolis, MD 21401

Office: 410-260-3468

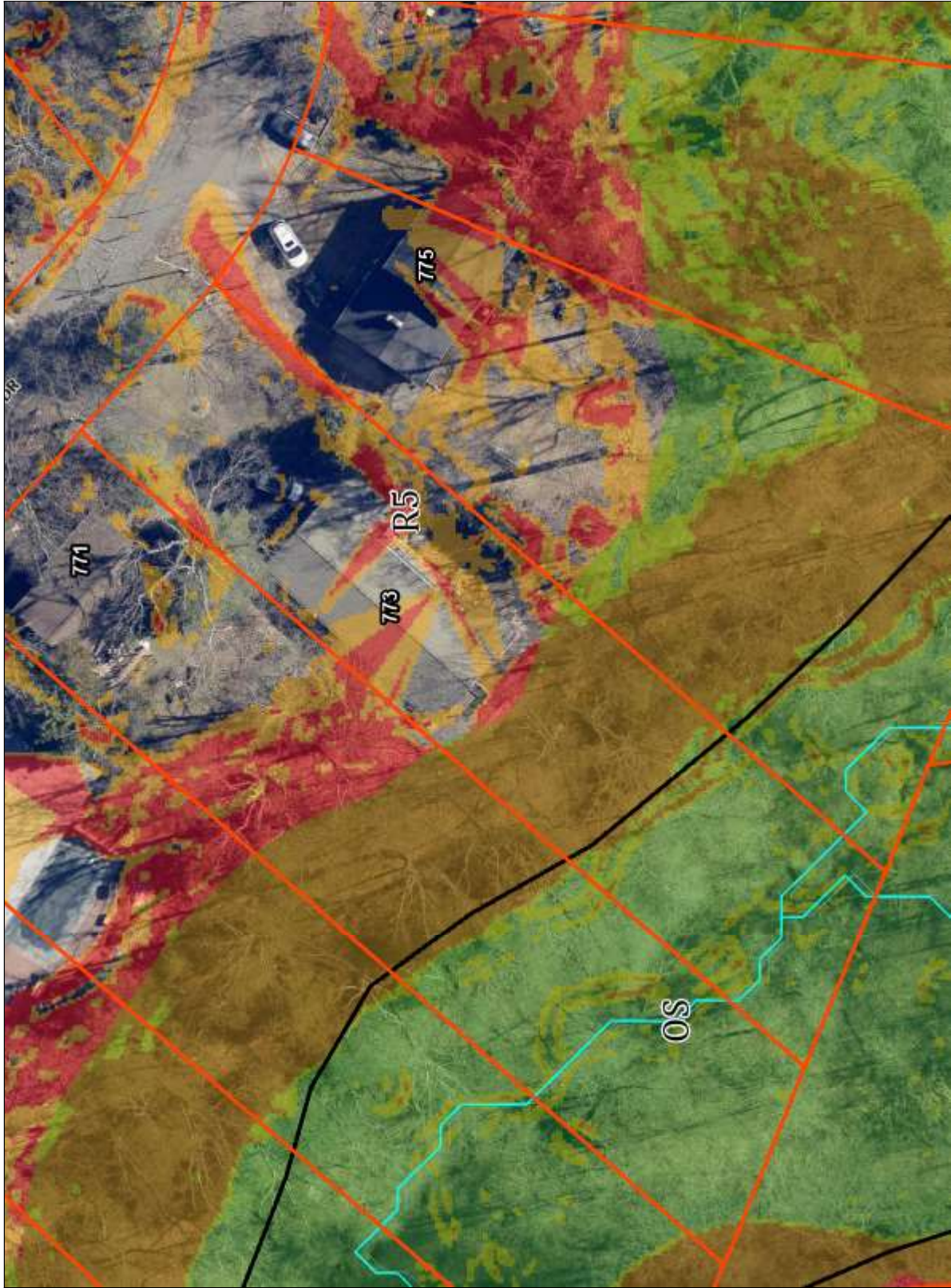
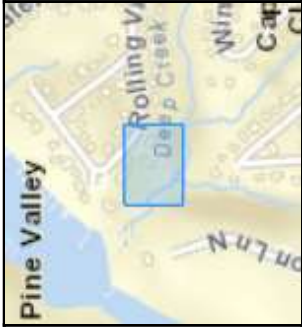
(In office: Mon., Wed., Friday)

Cell: 443-569-1361

(Teleworking: Tues., Thurs.)

jennifer.esposito@maryland.gov

773 Rolling View Drive



Legend

Foundation

Addressing

Parcels

Parcels - Annapolis City

Planning

County Planning

Environment

County Environment

Perennial Streams

Perennial Streams

Perennial Streams

Perennial Streams

Perennial Streams

Perennial Streams


Perennial Streams

Perennial Streams

Notes

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.

none



0 50 100 ft

THIS MAP IS NOT TO BE USED FOR NAVIGATION