

November 14, 2024

Anne Arundel County, Office of Planning and Zoning  
2664 Riva Road, 3<sup>rd</sup> Floor  
Annapolis, MD 21401

**RE: THE DOWNS ~ LOT 107, SEC. 12**  
**1589 Eaton Way**  
**Annapolis MD, 21401**  
**Variance Application**

Sir/Madam:

Attached is a variance request application and associated submittal documents for the above referenced property. Variances to the Anne Arundel County Code are required to acquire building permits to allow modest improvements to the subject property. The requested variance to the Code relates to **Article 17, Section 8-201(a)** for redevelopment on slopes 15% or greater in the LDA and to **Article 17, Section 8-301** for disturbance to the buffer to tidal waters.

The subject property is a legal building lot located in the community of The Downs located in Annapolis. The property is currently improved with a single-family dwelling and associated improvements. The lot is zoned R-1, served with private well and septic, has waterfrontage on Clements Creek in a non-buffer modified section. The property is located entirely within the Chesapeake Bay Critical Area with the majority being within the LDA land use designation, and a small portion within the RCA land use designation. The existing dwelling is surrounded by steep slopes, which encumber most of the property, severely limiting and restricting the areas that allow for property improvements. The primary vegetation that covers the parcel consists of hardwood and evergreen trees, ornamental shrubs, and creeping ground cover common to wooded areas and the community.

The applicants seek approval to rebuild an older undersized patio and deck to allow for adequate outdoor enjoyment. The proposed improvements have been reduced in scope after considering pre-file comments from Anne Arundel County. The design is modest in size and allows increased functionality to the new improvements, but also ensures that the expansion occurs in a manner that minimizes environmental impact. The construction will temporarily disturb a very small portion of steep slopes in the area around the building site; however, this disturbance is primarily concentrated in areas that have already been previously altered. This approach helps to preserve the natural landscape and minimizes disruption to the steep slope area.

Due to the unique physical conditions inherent to the property, the following variances to the Anne Arundel County Code are being requested: **Article 17, Section 8-201(a)** for approximately 246-sf of disturbance on slopes 15% or greater in the LDA and to **Article 17, Section 2-301** for approximately 1,555-sf of disturbance to the expanded buffer. The need for the requested variance arises from the unique physical conditions of the site, specifically the presence of steep slopes and the mapping of the shoreline in a non-buffer modified location.

Denial of the requested variance would constitute an unwarranted hardship and deny the applicant's rights commonly enjoyed by other property owners. The variance request is not based on actions by the applicant and would not confer upon the applicant any special privilege that would typically be denied by COMAR or the local Critical Area Program. With the implementation of stormwater management, the development will not have an adverse effect on water quality or negatively impact fish, wildlife, or plant habitat, and is in conformance with the general purpose and intent of the Critical Area Program. The variance is the minimum necessary to afford relief from the Critical Area legislation. The granting of the variance will not alter the character of the neighborhood, impair the use and development of adjacent properties, reduce forest cover in the LDA/RCA, nor be detrimental to the public welfare.

We believe that these requests meet all the requirements for variance, per Article 18-16-305:

**Requirements for Critical Area Variances.**

1. Unique physical conditions - Specifically topography, as well as the location of the existing dwelling in relation to the slopes and buffer. Denial of the requested variance would constitute an unwarranted hardship on the applicant and deprive them of the right to redevelop and deny reasonable and significant use of the entire property.
2. Rights commonly enjoyed - The proposed improvements are similar and in character to those of surrounding properties. To deny the requested variance would deprive the applicant of rights commonly enjoyed by other properties in the area.
3. Will not confer special privilege - Granting this variance would not confer a special privilege to the applicant. Nearby properties maintain improvements comparable to what is proposed for this project. The applicants made an effort to design the improvements in a manner that considers the location of surrounding environmental features and reduced the scope in accordance with pre-file comments.
4. Not based on conditions or circumstances that are the result of actions by the applicant - Conditions and circumstances are based on the environmental features of the site and the location of the existing improvements, not because of actions by the applicants.
5. Will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area – The proposed development will not cause

adverse impacts to fish, wildlife, or water quality in the Critical Area. Disturbance is minimized only to what is necessary to complete the project. Mitigation will occur in accordance with county regulations and will be addressed during the permitting process. Sediment and erosion controls will be utilized to ensure that construction and grading will not adversely affect the surrounding environmental features located within the Critical Area. These precautions will ensure that water quality, fish, wildlife, and plant habitat will not be adversely affected.

**Requirements for all variances.**

1. Minimum necessary - The improvements are minimal and within the scope of the surrounding properties. The improvements are sited to utilize the footprint of the existing improvements to minimize disturbance.
2. The granting of the variance will not:
  - i. alter the essential character of the neighborhood, and all proposed development will be harmonious with other properties of the surrounding area.
  - ii. substantially impair the appropriate use or development of adjacent properties.
  - iii. reduce forest cover in the LDA/RCA as appropriate mitigation will be required as part of the permit process.
  - iv. be contrary to acceptable clearing or replanting practices required for development of the Critical Area or Bog Protection Area.
  - v. be detrimental to the public welfare.

Thank you for your attention to this matter. Please contact us if we may be of further service during your review of this variance request.

Sincerely,  
DRUM, LOYKA & ASSOCIATES, LLC



Katie Yetman



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

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: \_\_\_\_\_ Date \_\_\_\_\_

Tax Map #	Parcel #	Block #	Lot #	Section
0039	0514	0020	107	12

**FOR RESUBMITTAL ONLY**

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

\* Complete only Page 1  
 General Project Information

Tax ID

Project Name (site name, subdivision name, or other)

Project location/Address

City  Zip

Local case number

Applicant: Last name  First name

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: \_\_\_\_\_ First name \_\_\_\_\_

Phone # \_\_\_\_\_ Response from Commission Required By \_\_\_\_\_

Fax # \_\_\_\_\_ Hearing date \_\_\_\_\_

**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

Replace and expand existing lower level patio and first floor deck with associated improvements

	Yes		Yes
Intra-Family Transfer	<input type="checkbox"/>	Growth Allocation	<input type="checkbox"/>
Grandfathered Lot	<input checked="" 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		Acres	Sq Ft
			Total Disturbed Area	0.05	
IDA Area			# of Lots Created	0	
LDA Area	3.28				
RCA Area	0.05				
Total Area	3.33				

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	2.71		Existing Impervious Surface	0.17	
Created Forest/Woodland/Trees	0.00		New Impervious Surface	0.00	
Removed Forest/Woodland/Trees	0.00		Removed Impervious Surface	0.00	
			Total Impervious Surface	0.17	

**VARIANCE INFORMATION (Check all that apply)**

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.05		Buffer Forest Clearing	0.00	
Non-Buffer Disturbance	0.00		Mitigation	0.00	

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

# Chesapeake Bay Critical Area Report

**The Downs ~ Lot 107, Sec. 12**

Tax Map 39, Grid 20, Parcel 0514

Tax Account No. 02-219-90020547

**Property Address:** 1589 Eaton Way  
Annapolis, Maryland 21401

November 14, 2024

**Property Owners & Variance Applicant:** Nicholas Jones & Judy Graham

**Critical Area Designation:** LDA

**Zoning:** R-2

**Lot Area:** 0.22 Ac.

## Site Description

The subject property is a legal building lot located off Eaton Way in the community of The Downs. The site is currently improved with a single-family dwelling and associated improvements, which are surrounded by steep slopes. The lot lies along the shores of Clements Creek and is completely within the Chesapeake Bay Critical Area, with both LDA and RCA land use designations. The shoreline of Clements Creek is mapped as non-buffer modified, which expands the buffer to 50-ft from the top of steep slopes. The site is zoned R-1 and is served by private septic and well.

## Description and Purpose of Variance Request

The applicant proposes to replace the existing first floor deck and lower-level patio. Due to the unique physical conditions inherent to the property, the following variance to the Anne Arundel County Code is being requested: **Article 17, Section 8-201(a)** of approximately 246-sf of disturbance on slopes 15% or greater in the LDA/RCA and to **Article 17, Section 8-301** of approximately 1,555-sf of disturbance to the buffer.

The applicants seek approval to rebuild an older undersized patio and deck to allow for adequate outdoor enjoyment. The proposed improvements have been reduced in scope after considering pre-file comments from Anne Arundel County. The design is modest in size and allows increased functionality to the new improvements, but also ensures that the expansion occurs in a manner that minimizes environmental impact. The construction will temporarily disturb a very small portion of steep slopes in the area around the building site; however, this disturbance is primarily concentrated in areas that have already been previously altered. This approach helps to preserve the natural landscape and minimizes disruption to the steep slope area.

## Vegetative Coverage and Clearing

The property's primary vegetation is woodland and creeping ivy that is common to wooded areas in the community. The existing wooded area totals roughly 118,000-sf. No trees will be removed for the proposed construction and any reforestation and afforestation requirements for this property will be addressed during the permit phase of this project.

### **Impervious Lot Coverage**

The site currently has 7,407-sf of lot coverage. The proposed impervious lot coverage for this property is 7,589-sf, which is well below the max allowable coverage of 21,753-sf. The site currently has 3,720-sf of coverage by structures. The proposed coverage by structures is 3,952-sf, which is well within the allowable amount.

### **Steep Slopes (slopes > 15%)**

The subject property is vastly affected by steep slopes which encompass almost the entire 3+ acre parcel. Approximately, 246-sf of slopes will be disturbed as part of the proposed construction, all of which is temporary and needed for access.

### **Predominant Soils**

The predominant soil type is Annapolis Fine Sandy Loam: 5 to 10 percent slopes (AsC), 25 to 40 percent slopes (AsF), and 40 to 80 percent slopes (AsG). This soil has a type "C" hydrologic classification and both AsF and AsG are considered hydric soils.

### **Drainage and Rainwater Control**

There appears to be existing stormwater management on site in the form of a level spreader. Stormwater management and sediment and erosion control will be provided for the proposed improvements during the permit phase of the project in accordance with Anne Arundel County design criteria.

### **Conclusions – Variance Standards**

The need for the requested variances arises from the unique physical conditions of the site, specifically the presence of steep slopes and expanded buffer. The proposed construction lies mostly within the footprint of existing improvements. It does not require any more disturbance than if the existing improvements were to be removed or maintained. Denial of the requested variance would constitute an unwarranted hardship and deny the applicant's rights commonly enjoyed by other property owners. The variance request is not based on actions by the applicant and will not confer upon the applicant any special privilege that would typically be denied by COMAR or the local Critical Area Program. With the implementation of stormwater management, the development will not have an adverse effect on water quality or negatively impact fish, wildlife, or plant habitat, and is in conformance with the general purpose and intent of the Critical Area Program. The variance is the minimum necessary to afford relief from the Critical Area legislation. The granting of the variance will not alter the character of the neighborhood, impair the use and development of adjacent properties, reduce forest cover in the LDA/RCA, nor be detrimental to the public welfare. Stormwater Management and reforestation requirements will be addressed during the permit phase of the project. Reforestation will be provided on-site to the extent practicable.



**Reference:**

ADC: The Map People, 2002 Anne Arundel County, Maryland, Street Map Book

Anne Arundel County Office of Planning & Zoning, 2007 Critical Area Map

Anne Arundel County Office of Planning & Zoning, 2007 Buffer Exemption Map

Anne Arundel County, Maryland; Chesapeake Bay Critical Area Mapping Program, 2007, Critical Area Map

Federal Emergency Management Agency, 2015. Flood Insurance Rate Map

First American Real Estate Solutions, 2002, Realty Atlas: Anne Arundel County Maryland

Drum, Loyka and Associates LLC, 2024 Variance Plan

U.S. Department of Agriculture, Natural Resource Conservation Service –2003 Soil Survey of Anne Arundel County Maryland.

State Highway Administration of Maryland, 1989. Generalized Comprehensive Zoning Map: Third Assessment District



## OFFICE OF PLANNING AND ZONING

### CONFIRMATION OF PRE-FILE (2024-0075-P)

DATE OF MEETING: 8/21/2024

P&Z STAFF: Sara Anzelmo

APPLICANT/REPRESENTATIVE: Judy Graham/Katie Yetman, Drum Loyka EMAIL: kyetman@drumloyka.com

SITE LOCATION: 1589 Eaton Way, Annapolis LOT SIZE: 3.33 acres ZONING: R1

CA DESIGNATION: LDA/RCA BMA: No or BUFFER: Yes APPLICATION TYPE: Variance

The proposed improvements include a 4-foot expansion to an existing first floor deck with new outside stairs providing access to existing grade, patio expansion and reconfiguration, and a new retaining wall to minimize disturbance and upgrades to the existing landscaping, with new plant material.

The subject property is located on Eaton Way in The Downs community. The lot is approximately 3.33 acres in area, zoned R-1 and has a Chesapeake Bay Critical Area designation of LDA and RCA. The property is a waterfront parcel, with frontage on Clements Creek. The dwelling is served with a private well and a private septic system. The shoreline of Clements Creek is mapped as non-buffer modified.

The existing waterside patio and deck needs repair. The property owners propose to expand the lower level patio, rebuild the first-floor deck with steps for yard access, and construct a new lower-level deck. The steep slopes and expanded buffer encompass a significant portion of the property, necessitating variances for the required permits. Addressing these areas is essential for making any site improvements. The proposed enhancements are not merely aesthetic; they are vital for maximizing the utility of the waterfront yard, which is currently largely unusable due to the steep slopes and forested area.

#### COMMENTS

The **Critical Area Team** commented that a variance was issued in 2002 for the construction of the existing home, deck and patio. At that time, it was determined that those improvements represented the minimum necessary to provide relief for the steep slopes and expanded buffer on site. While approval for repair or in kind replacement could be supported, further expansion into the buffer and steep slopes cannot.

The **Zoning Administration Section** concurs with the Critical Area Team regarding the proposed expansion beyond the previously approved variance. 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) & (c) of the Anne Arundel County Zoning Ordinance.

#### INFORMATION FOR THE APPLICANT

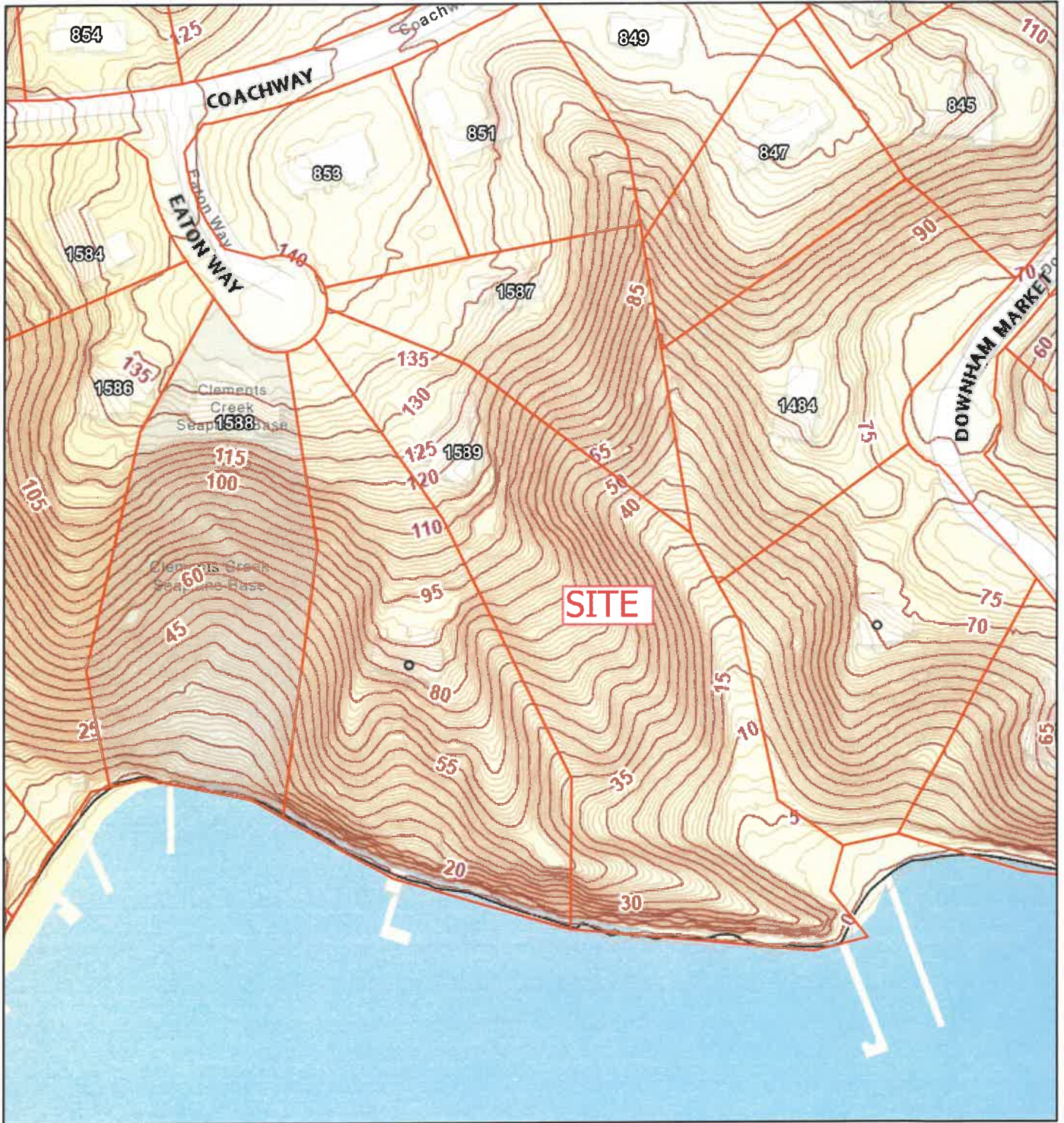
Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office 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.

# Anne Arundel County Engineering Record Drawing and Monuments



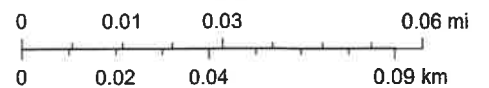
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- Index
- Intermediate
- Local Road Label

- County Boundary
- Address Points
- Parcels

1:2,257



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Anne Arundel County

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