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

APPLICANT: Kerri Buckley ASSESSMENT DISTRICT: 2

CASE NUMBER: 2024-0236-V COUNCIL DISTRICT: 6

**HEARING DATE**: February 25, 2025 **PREPARED BY**: Jennifer Lechner

Planner

#### **REQUEST**

The applicant is requesting a variance to allow dwelling additions (deck and two sets of steps) with less setbacks than required and with disturbance to slopes of 15% or greater on property located at 942 Buttonwood Trail in Crownsville.

#### **LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 9,550 square feet of land, is located with frontage on the west side of Buttonwood Trail, and is identified as Lots 48 - 51 in Block 127 of Section D in the Herald Harbor subdivision, Parcel 23 in Grid 4 on Tax Map 38. The property is zoned R5 – Residential District, and lies entirely within the Chesapeake Bay Critical Area LDA – Limited Development Area. It is currently improved with a one-story dwelling, a covered porch, a deck, a shed, and other associated facilities.

#### **PROPOSAL**

The applicant is proposing to replace an aging deck in-kind (irregular 12' x 13.2') with steps to grade, and to add a new set of steps to grade from the covered rear porch.

#### **REOUESTED VARIANCES**

§ 17-8-201(a) of the Anne Arundel County Code states that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline; and, all disturbance shall be limited to the minimum necessary.

• The proposed deck replacement will disturb slopes of 15% or greater, necessitating a variance. The final amount of disturbance will be determined during permit review.<sup>1</sup>

A review of the bulk regulations for development within the R5 District reveals that a setback variance is not required.

<sup>&</sup>lt;sup>1</sup> Disturbance to the steep slopes and their buffers (§ 17-6-404) may also require a modification, made under separate application, as per § 17-2-108; to be determined during permit review.

2024-0236-V page 2

#### **FINDINGS**

This Office finds that the subject property is generally rectangular in shape and oversized for a lot in the R5 District, with regard to the minimum area of 7,000 square feet and the minimum width of 60 feet. A review of the County aerial photography shows an eclectic mix of dwellings and lots in this neighborhood, with many lots encumbered by steep slopes.

The existing and proposed critical area lot coverage of the site is 2,500 square feet, which is below the lot coverage allowed under § 17-8-402 (31.25%, or 2,968.75 square feet). The existing and proposed coverage by structures was not provided; however, based on the critical area lot coverage, it would be well below the 40% (3,820 square feet) maximum coverage by structures allowed under § 18-4-701.

The applicants' letter explains that the proposed plan is the least intrusive way to restore the failing deck, and that adjacent residences throughout Herald Harbor have also disturbed steep slopes in order to improve their properties with decks.

#### **Agency Comments**

The **Critical Area Commission** noted that the Administrative Hearing Officer must find that each and every one of the Critical Area variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.

The Critical Area Team has no objection to this request.

The **Health Department** has determined that the proposed request does not adversely affect the on-site sewage disposal system, and has no objection.

#### Variance Criteria

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 particular property, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. COMAR defines unwarranted hardship as that, without a variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

In this particular case, the property is encumbered by steep slopes through the rear of the lot, and the existing deck and steps are becoming unsafe. The applicant has proposed to replace the deck in-kind, rather than expanding its footprint.

Due to the physical conditions of the property, there appears to be no other alternative to replace the deck while complying with the County's critical area program. A literal interpretation of that program will deprive the applicant of rights commonly enjoyed by other properties in similar areas of the County. The granting of a variance will not confer on the applicant any special privilege. The variance request is not based on conditions or circumstances that are the result of

2024-0236-V page 3

actions by the applicant, and does not arise from any condition relating to land or building use on any neighboring property.

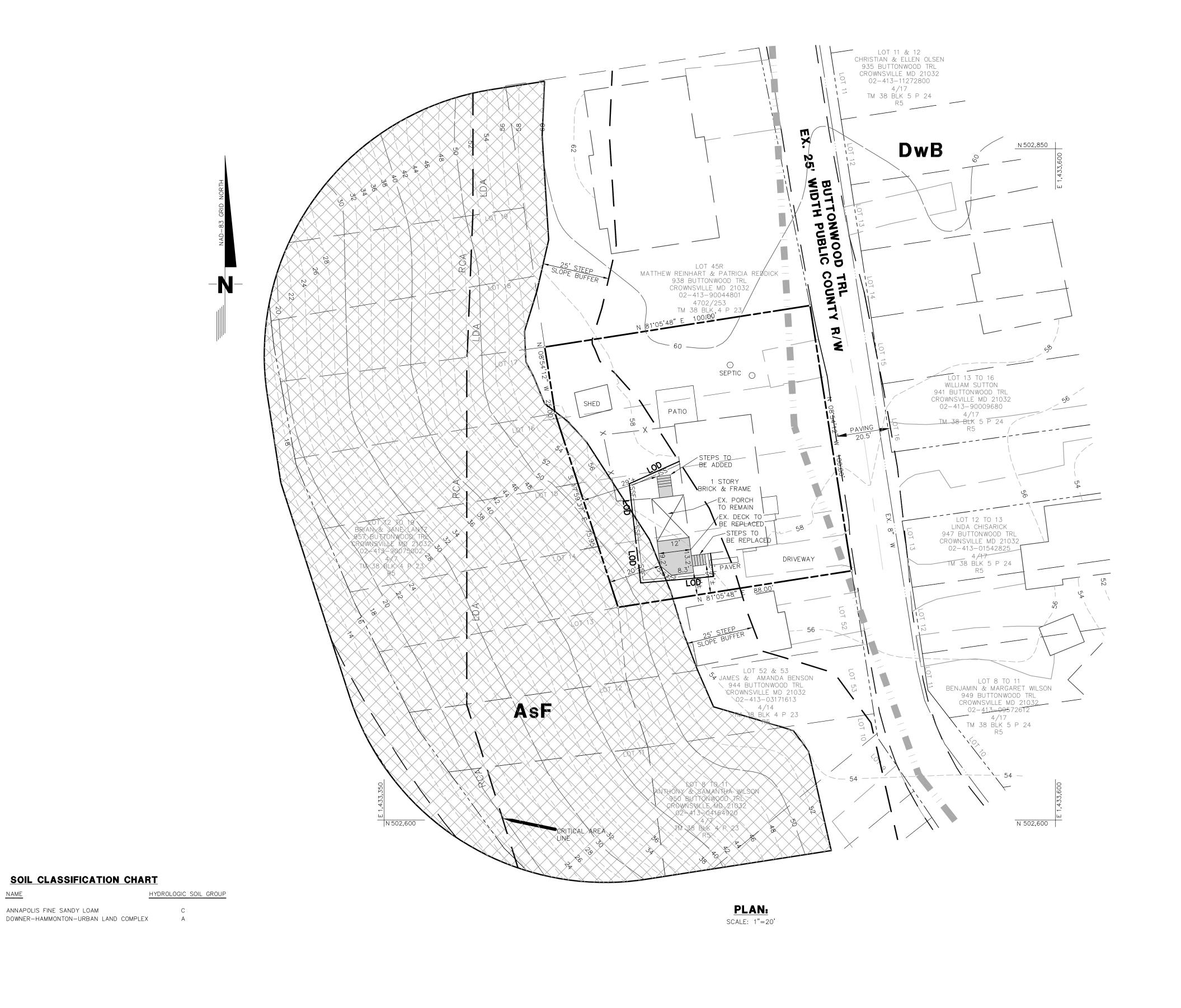
Because this is a replacement in-kind, with no additional clearing, the granting of a variance should not adversely affect water quality or impact fish, wildlife, or plant habitat within the County's critical area and should be in harmony with the general spirit and intent of the County's critical area program. It should not reduce forest cover in the limited development area, nor should it be contrary to acceptable clearing and replanting practices. In addition, the granting of the variance should not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

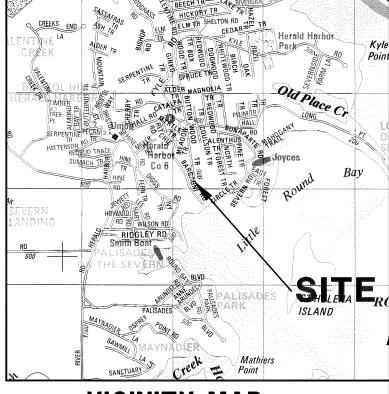
#### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted, this Office recommends *approval* of the Critical Area variance to § 17-8-201 to disturb steep slopes.

If granted, the final amount of disturbance will be determined during permit review.

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.





VICINITY MAP

SCALE: 1" = 2,000'

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### SITE ANALYSIS

1. EXISTING ZONING: R5 2. TOTAL SITE AREA: 9,550 SF 3. PROPOSED DEVELOPEMENT: REPLACE EXISTING DECK, ADD DECK EXTENSION, LANDING AND STEPS.

## **LEGEND**

ANNAPOLIS FINE SANDY LOAM

——152—— Existing Contours Existing Tree Line Soils Line EX. 8" S Existing Sewer

---- X ---- Existing Fence Line ———OHE—— Overhead Lines

Existing Pole Existing Sewer Cleanout Proposed Impervious

Stabilized Construction Entrance (S.C.E.)

**OWNER/DEVELOPER:** SEAN & SARAH DURBIN 122 LIKES ROAD MAYO, MD 21106 (P) C/O 410-987-6901 (E) C/O MATT@ANAREX.COM

#	REVISIONS:	APPROVED BY:	DATE:	



Phone: 410-987-6901

www.anarex.com

LOTS 48-51 BLK 127

**HERALD HARBOR** 

SHEET 1 OF 1

SITE PLAN

942 BUTTONWOOD TRL, MD 21032 GP# TAX ACCOUNT# 02-413-90018523 TAX MAP 38 BLOCK 4 PARCEL 23 DATE: APRIL, 2024 ZONING: R5 ZIP CODE: 21032 SECOND ASSESSMENT DISTRICT ANNE ARUNDEL COUNTY, MARYLAND 303 Najoles Road - Suite 114 Millersville, MD 21108

December 3, 2024

Phone: 410-987-6901

Fax: 410-987-0589

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

> Re: Herald Harbor, Lots 48-51, Block 127 942 Buttonwood Trail Crownsville, MD 21032 T.M. 38 B. 4 P. 23

Dear Ms. Seay,

Please accept this as our formal variance request to the Subdivision and Development Regulations in Article 17 and Article 18 on behalf of our client regarding critical area law. The variance requests are to Article 17, Section 8-201 to disturb steep slopes in the critical area.

We are requesting this variance to allow for the deck near the home to be replaced in-kind and access steps to be added to the porch. The deck is partially within slopes greater than 15%.

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

The topographical conditions of this lot cause implementation of the County's critical area program to cause unwarranted hardship on the property. A variance is necessary to replace an aging deck in-kind. 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 adjacent residences throughout Herald Harbor are also disturbing the buffer and steep slopes in order to improve their properties with decks. 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 and fish as the flow characteristics of the site remain unchanged in the proposed condition as the lot coverage will not be changed and all disturbance will be restored to natural condition. Wildlife or plant habitat will not be adversely affected as the granting of the variance will allow the disturbance to be proposed in-kind of an existing deck with no new clearing of trees and disturbance to wildlife habitat.

#### 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 because the proposed plan is the least intrusive way to restore the failing deck. The granting of this variance will not alter the character of the neighborhood. 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 variance will not reduce forest cover in the LDA not be contrary to the acceptable clearing and replanting practices in the LDA as there is no clearing proposed. The granting of this variance will not be detrimental to the welfare of the public.

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: A	Anne Arundel Cou	nty			Date: November 14, 2023		
	<u>,                                      </u>			<del>,</del>	FOR RESUBMITTAL ONLY		
Tax Map #	Parcel #	Block #	Lot #	Section	Corrections		
0038	0023	127	48-51	N/A	Redesi <b>g</b> n		
					No Change		
					Non-Critical Area		
					*Complete Only Page 1		
Tax ID: 03	-000-03664900				General Project Information		
Project Name	(site name, sul	odivision name	e, or other)	Herald Harb	or		
Project location	on/Address	942 Buttonwo	ood Trail				
					<b> </b>		
City Crownsv	ille				Zip   21032		
[							
Local case nu	mber						
Applicant:	Last name	D1-1			First name   Kerri		
Аррисані.	Last Haine	Buckley			First name   Kerri		
Company N/	Λ						
Company N/	A						
Application	Гуре (check al	l that annly)•					
Application	Type (check al	i tilat appry).					
Building Pern	nit			Variance	$\overline{X}$		
Buffer Manag		П		Rezoning	Ħ		
Conditional L		Ħ		Site Plan	Π		
Consistency F		Ħ		Special Except	ion 🗍		
Disturbance >		Ħ		Subdivision			
Grading Perm		Ħ		Other	H		
Graning : oran					<u> </u>		
Local Jurisdi	iction Contact	Information:	;				
Last name				First name			
Phone #			Respon	nse from Comm	nission Required By		
Eav #				Hooming date			
Fax #				Hearing date			

#### **SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:						
In-kind replacement of deck						
-						
Intra-Family Transfer Grandfathered Lot			Growth Allocation Buffer Exemption Are	Yes  a		
Project Type (check al	l that app	oly)				
Commercial  Consistency Report  Industrial  Institutional  Mixed Use  Other				Recreational Redevelopment Residential Shore Erosion Control Water-Dependent Faci	=	
SITE INVENTORY (I	Enter acro	es or squar	e feet)			
	Acre	es	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area			•	Total Disturbed Area	-	18
LDA Area	0.22		9,550			
RCA Area			9,550 # of Lots Created 0			
Total Area	0.22					
Friday 1	I I'r	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland		0.06	2,500	Existing Lot Coverage	0.07	3,049
Created Forest/Woodland/Trees		0	0	New Lot Coverage	0	0
Removed Forest/Woodland/Trees		0	0	Removed Lot Coverage	0	_
				Total Lot Coverage	0.07	3,049
VARIANCE INFORM	IATION (	(Check all			Acres	Sq Ft
VARIANCE INFORM  Buffer Disturbance	IATION (	Acres	Sq Ft	Buffer Forest Clearing	Acres	Sq Ft
	IATION (			Buffer Forest Clearing Mitigation	1	

# **Chesapeake Bay Critical Area Report**

## 942 Buttonwood Trail

Tax Map: 38 Grid: 4 Parcel: 23 Lots: 48-51

Crownsville, MD

December 2024

Prepared for:

Kerri Buckley 942 Buttonwood Trail Crownsville, MD 21032

#### Prepared by:

Holly Oak Consulting, LLC 303 Sycamore Rd Severna Park, MD 21146 khaines@hollyoakconsulting.com



#### 1.0 - INTRODUCTION

The subject property is located at 942 Buttonwood Trail in Crownsville, Maryland. The property is identified on Tax Map 38, Grid 4, as Parcel 23, Lots 48-51. The site is zoned R5 per the Anne Arundel County Zoning Map. Field work for this report was completed on October 15, 2024 by Kevin C. Haines of Holly Oak Consulting, LLC.

#### 2.0 – EXISTING CONDITIONS

The site contains 0.23-acre all of which is within the Chesapeake Bay Critical Area. More specifically, the site is mapped within the Limited Development Area (LDA). The site falls from east to west towards Bargagni Road. The property is largely developed with a residence, driveway, and accessory structures.

The site is bordered by both residentially developed and undeveloped lots. The site is accessed by Buttonwood Trail to the east.

The United States Department of Agriculture Natural Resources Conservation Service has mapped the soils throughout Anne Arundel County and makes the mapped soils and descriptions available online through the Web Soil Survey. The data that was retrieved on October 2, 2024 and showed two (2) soil types exist in the study area. The soil type and description can be found below. A copy of the soil mapping can be found in *Appendix A*.

Map Unit Symbol	Map Unit Name	Hydric (%)	K-Factor (Whole Soil)
AsF	Annapolis Fine Sandy Loam, 25-40% slopes	5	0.24
DwB	Downer-Hammonton-Urban Land Complex, 0-5% slopes	0	-

#### 3.0 – AERIAL IMAGERY REVIEW & SITE HISTORY

This site is located within the Herald Harbor neighborhood in Crownsville, MD a suburb of the greater Baltimore and Annapolis areas. The surrounding area was largely used as a summering location from the 1920s through the 1950s, when the surrounding areas began to become developed with residential subdivisions. A copy of the USGS Topographical map can be found in *Appendix A*.

Per aerial photos from 1970-2024, the site has remained in a similar vegetative state. Aerial images are available upon request.

#### 4.0 – PROPOSED CONDITIONS

The applicant proposes replacing the existing deck attached to the house. No new disturbance, impervious surface, or forest clearing is proposed.

Forest clearing will not be required for the construction of the deck. Expanded buffer disturbance is required for the deck footing, please refer to the site plan prepared by Anarex, Inc. for the final disturbance calculations.

Stormwater management is not required for this project as the proposal does not include disturbance above 5,000 square feet, and forest clearing is not required.

#### 5.0 – HABITAT PROTECTION AREAS

State and County Critical Area Law identifies certain areas of high environmental value as habitat protection areas (HPAs). Below is a discussion of HPA's existing within the subject site.

#### 5.1 - Steep Slopes

Anne Arundel County designates steep slopes within the Critical Area as slopes of 15% that are at least 6' high. The site includes steep slopes and their buffer and disturbance to both areas is proposed. The disturbance is minimal and has been minimized to footer installation only for the deck.

#### 5.2 - Rare, Threatened & Endangered Species

A request for Environmental Review was submitted to the Maryland Department of Natural Resources Wildlife and Heritage Services on October 15, 2024 and a response is forthcoming. Per initial research of DNR records there does not appear to be records of RTEs within or adjacent to the boundary of this site. RTEs were not noted during the field visits to this site. The site is not mapped as FIDS habitat per MDDNR's MERLIN Online GIS Database.

#### 5.3 - Wetlands, Streams, & 100-Year Floodplain

The site does not contain tidal wetlands, non-tidal wetlands, or streams per the field observations. Furthermore, both the USFWS National Wetland Inventory (<u>Appendix A</u>) and MD DNR Wetland Inventory do not indicate the presence of wetlands or streams within the boundary of the site.

The site is located within the Severn River Watershed (MD 02131002 8-digit).

The site lies within Zone X (areas of minimal flood hazard) per FEMA Flood Insurance Rate Maps #24003C0162F (eff. 2/18/15) as shown in *Appendix A*.

#### 5.4 –Buffer and Expanded Buffer

The site contains an expanded buffer for steep slopes as shown on the plan prepared by Anarex, Inc.

#### 5.5 – Other HPAs Not Contained within Study Area

Several HPAs are not mapped within or adjacent to the study area. MDDNR's MERLIN online mapping database was reviewed and showed that the following HPA's are not located within or near the study area: Submerged aquatic vegetation, shellfish beds, historical waterfowl staging and concentration areas, sensitive species project review areas, and natural heritage areas.

#### 6.0 – EXISTING VEGETATION & WILDLIFE

Much of the vegetation on-site is common for the shores of the Severn River. The canopy cover on and adjacent to the site is dominated by tulip poplar (*Liriodendron tulipifera*) with a mixture of white oak (*Quercus alba*) and American beech (*Fagus grandifolia*) also present.

The unforested portions of the site are vegetated with lawn and landscape beds typical of a residential use.

#### References

Brown, R.G. and M.L. Brown. 1972. *Woody Plants of Maryland*. Port City Press, Baltimore, Maryland.

Eyre, F. H. (1980). *Forest cover types of the United States and Canada*. Washington, D.C. (5400 Grosvenor Lane, Washington, D.C. 20014): Society of American Foresters.

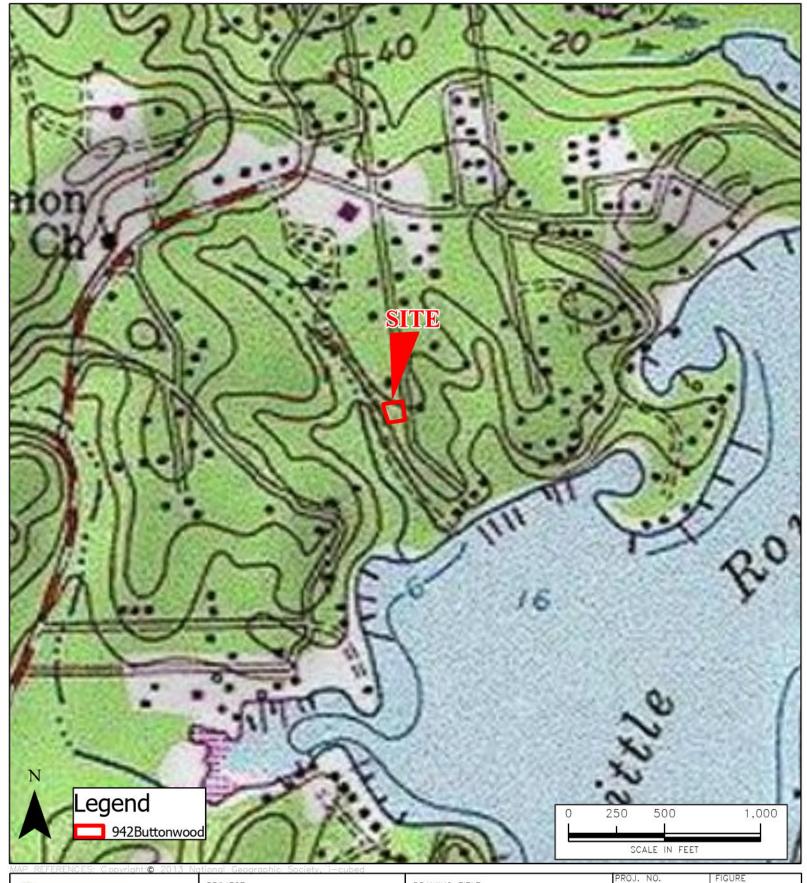
Foell, Stephanie (2004). *McLean Property, Maryland Historical Trust Determination of Eligibility Form.* Baltimore, MD: Maryland Historical Trust.

Jones, Claudia, McCann, Jim, & McConville, Susan. (2001). A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area.

Kaufman, S. R., & Kaufman, W. (2013). *Invasive plants: a guide to identification, impacts, and control of common North American species*. Mechanicsburg, PA: Stackpole Books.

Lerman, S., Nislow, K., Nowak, D., DeStefano, S., Kind, D. and Jones-Ferrand, T. (2017). *Using urban forest assessment tools to model bird habitat potential* -

Maryland DNR (Department of Natural Resources). 1997. *State Forest Conservation Technical Manual*. Third Edition, Ginger Page Howell and Todd Ericson, Editors.





303 Sycamore Rd Severna Park, MD 21146 P: (443) 906-3419 Email: info@hollyoakconsulting.com PROJECT

942 BUTTONWOOD TRAIL

> CROWNSVILLE, MD ANNE ARUNDEL CO.

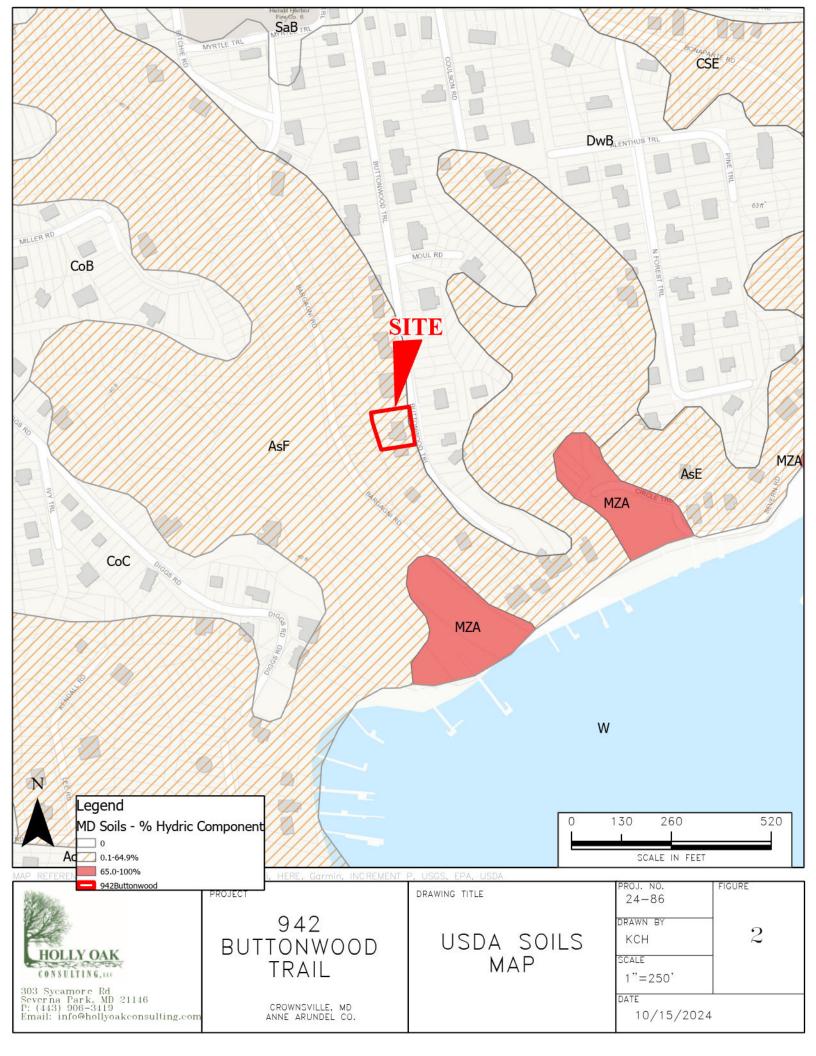
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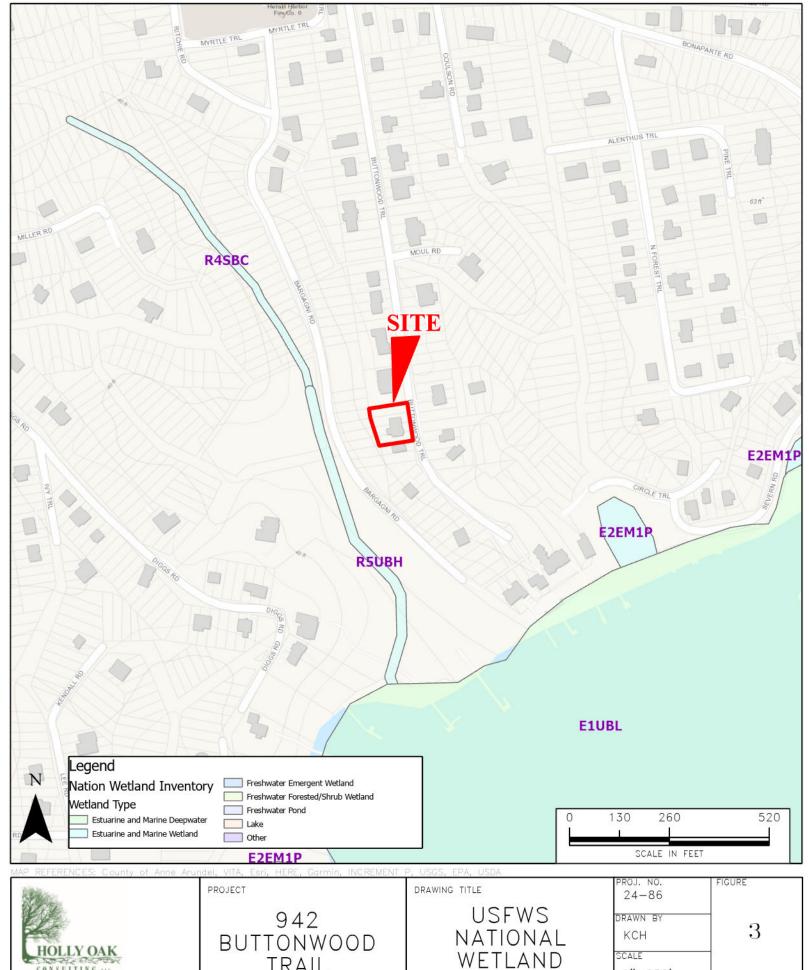
VICINITY MAP PROJ. NO.
24-86

DRAWN BY
KCH

SCALE
1"=500'

DATE
10/15/2024





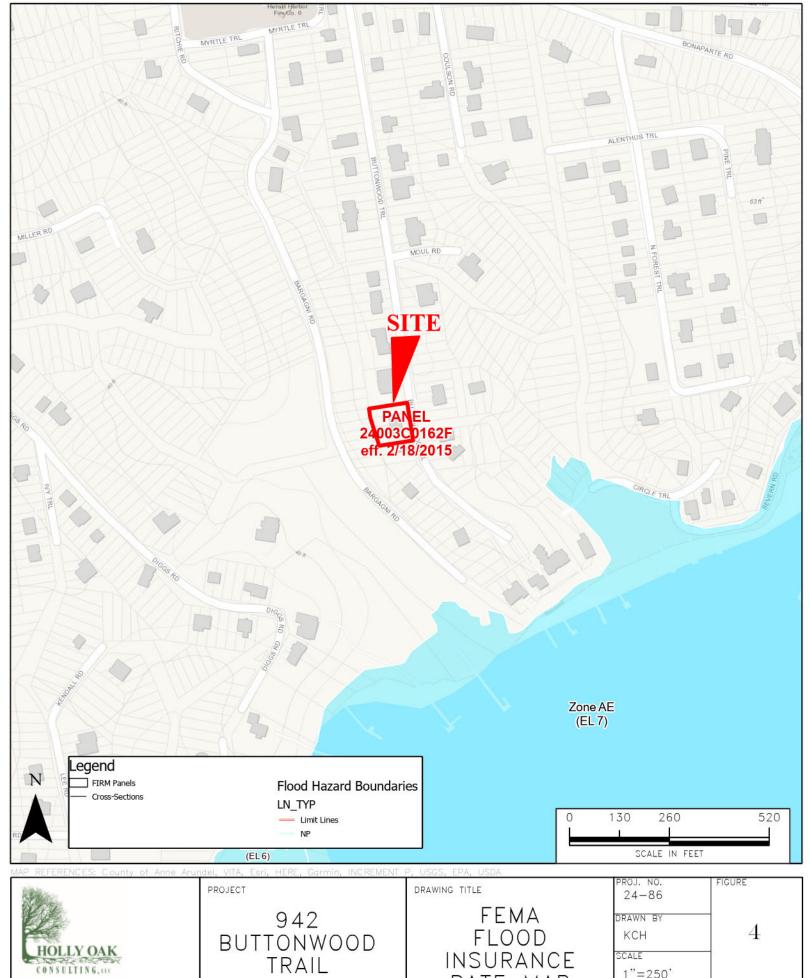
303 Sycamore Rd Severna Park, MD 21146 P: (443) 906-3419 Email: info@hollyoakconsulting.com

BUTTONWOOD TRAIL

CROWNSVILLE, MD ANNE ARUNDEL CO.

WETLAND INVENTORY

1"=250 DATE 10/15/2024



303 Sycamore Rd Severna Park, MD 21146 P: (443) 906-3419 Email: info@hollyoakconsulting.com

CROWNSVILLE, MD ANNE ARUNDEL CO.

RATE MAP

1"=250 DATE 10/15/2024



#### Jamileh Soueidan -DNR- <jamileh.soueidan@maryland.gov>

## CAC Comments: 2024-0223-V; Beer (AA 0350 - 24), 2024-0236-V; Buckley (AA 0001 - 25), 2024-0237-V; Palmer (AA 0002-25), 2024-0101-V; Bahen (AA 0329-24), 2024-0220-V; Tucker (AA 0354-24)

1 message

Jamileh Soueidan -DNR- <jamileh.soueidan@maryland.gov>
To: Sadé Medina <pzmedi22@aacounty.org>
Cc: Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

Tue, Jan 14, 2025 at 3:18 PM

#### Good Afternoon,

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

- 2024-0223-V; Beer (AA 0350 24): It appears that the applicant has reasonable and significant use of the entire parcel with existing improvements, including a deck and screened porch and a recently permitted walkway for riparian access. The proposed project would result in disturbance to the Critical Area Buffer. Were this proposed deck expansion to be denied, the applicant will still enjoy reasonable and significant use of the entire property with the existing improvements. Additionally, the Administrative Hearing Officer (AHO) must find that each and every one of the Critical Area Variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.
- 2024-0236-V; Buckley (AA 0001 25): The project proposes an in-kind replacement of an existing deck and the addition of access stairs within the 25' steep slope buffer. It appears that the applicant has reasonable and significant use of the entire parcel with existing improvements, including a deck and porch. Furthermore, the parcel is currently non-conforming, exceeding the allowable lot coverage limit. The Administrative Hearing Officer (AHO) must find that each and every one of the Critical Area Variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.
- 2024-0237-V; Palmer (AA 0002-25): It appears that the applicant has reasonable and significant use of the entire parcel with the existing improvements, including outdoor amenity space, such as a patio. Additionally, the parcel is already non-conforming, as the property exceeds its allowed lot coverage limit by 300 square feet. It does not appear that the construction of a screened porch with added lot coverage would meet each and every one of the Critical Area variance standards including unwarranted hardship or that this variance would not adversely affect water quality and wildlife or plant habitat, including disturbance to steep slopes. If this request were to be denied, they would still have reasonable and significant use of their lot. Our office would not oppose the siting of the screened porch constructed within the existing footprint of the current lot coverage.
- 2024-0101-V; Bahen (AA 0329-24): See Attached Letter
- 2024-0220-V; Tucker (AA 0354-24): See Attached Letter

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

Best, Jamileh

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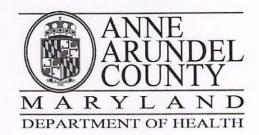


Critical Area Commission for the Chesapeake & Atlantic Coastal Bays dnr.maryland.gov/criticalarea

Jamileh Soueidan (she/her) Natural Resources Planner 1804 West Street, Suite 100 Annapolis, MD 21401

Office: 410-260-3462

Cell: 667-500-4994 (preferred) jamileh.soueidan@maryland.gov



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:

January 8, 2025

RE:

Kerri A. Buckley

942 Buttonwood Trail Crownsville, MD 21032

NUMBER:

2024-0236-V

SUBJECT:

Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (deck and two sets of steps) with less setbacks than required and with disturbance to slopes of 15% or greater.

The Health Department has reviewed the on-site sewage disposal system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal system. 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

## 942 Buttonwood Trail (2024-0236-V)





#### Legend

Foundation

Addressing

0

Parcels



Parcels - Annapolis City



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

Notes



15 30 f

THIS MAP IS NOT TO BE USED FOR NAVIGATION