

## ***Critical Area Commission***

### **STAFF REPORT**

August 20, 2025

<b>APPLICANT:</b>	Anne Arundel County
<b>PROPOSAL:</b>	Refinement - Buffer Modification Area Map Amendment
<b>COMMISSION ACTION:</b>	Concurrence with the Chair's Determination of Refinement
<b>STAFF RECOMMENDATION:</b>	Approval
<b>STAFF:</b>	Jamileh Soueidan
<b>APPLICABLE LAW/REGULATIONS:</b>	Natural Resources Article 8-1809(r)- Proposed program amendments and refinements Code of Maryland Regulations 27.01.09.01(8)

### **DISCUSSION**

On June 5, 2025, the Anne Arundel County Planning and Zoning Officer approved a request to amend the County's Buffer Modification Area (BMA) Map on a 1.12-acre property located in Arnold. The Commission accepted the County's application for processing of the amendment to the Buffer Modification Map on June 20, 2025. The County requested that the Commission review the application as a refinement to the Anne Arundel County Critical Area Program and maps. Chair Fisher determined that the request would be reviewed as a refinement on July 16, 2025.

#### **Site Background and Proposed BMA Extension**

The site of the proposed BMA extension is located at 858 Imperial Road (Tax Map 32, Block 18, Parcel 475), which is designated as an Intensely Developed Area (IDA). The parcel is located on Spriggs Pond, which flows into the Magothy River. It is currently developed with a house, garage, sheds, a pier, a driveway, and walkways. If approved, the BMA will be extended from where it currently ends on the northern portion of this property to include the portion of the property with existing improvements located within the Buffer (e.g., dwelling, patio, septic tank and overflow pipe, and sidewalk). As a condition of approval, the County's Planning and Zoning Officer required areas within the proposed BMA that contain steep slopes and vegetation be placed within a Conservation Easement. Attachment 2 is a site plan which shows the area of the easement as well as the location of the new BMA. Attachment 3 is the County's current BMA map for the area.

The Planning and Zoning Officer's Administrative Decision is included as an attachment.

### **Mapping Modified Buffer Areas: A Brief History**

When writing the Critical Area law and criteria, the State Legislature and the Commission recognized that development within the 100-foot Buffer already existed on some properties, and that applying the Buffer restrictions laid out in the law and criteria to these properties would be unreasonable and create an unnecessary burden on property owners. In order to address this issue and allow some amount of development within the Buffer on these properties, the Commission created Modified Buffer Areas (formerly known as Buffer Exemption areas).

Natural Resources Article 8-1808 and COMAR 27.01.09.01-8 require a local jurisdiction to map areas they wish to designate as Modified Buffer Areas (MBA), referred to as Buffer Modification Areas (BMA) in Anne Arundel County. COMAR also specifies that areas may only be mapped as MBAs if it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development in the Critical Area prevents the Buffer from fulfilling its functions of:

- 1) Providing removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff;
- 2) Minimizing the adverse effects of human activities on wetlands, shorelines, stream banks, waters, and aquatic resources;
- 3) Maintaining an area of transitional habitat between aquatic and upland communities;
- 4) Maintaining the natural environment of streams; and
- 5) Protecting riparian wildlife habitat.

Per COMAR, mapped MBAs must be approved by the Critical Area Commission as part of a local program and mitigation must be provided for impacts to mapped MBAs.

### **Anne Arundel County Buffer Modification Area Mapping Findings For 858 Imperial Road**

Anne Arundel County Code §18-13-304 describes findings the County must make in order to designate a new Buffer Modification Area. The County provided such findings for the proposed request; they are provided below in **bold**.

(a) Findings. The Planning and Zoning Officer shall approve the application if the Planning and Zoning Officer finds that:

- (1) The application is for a lot created on or before December 1<sup>st</sup>, 1985; and

**The lot was created before December 1<sup>st</sup>, 1985, and the principal and accessory structures existed prior to December 1<sup>st</sup>, 1985. Assessment records indicate that a structure existed on the site as early as 1800.**

- (2) There was an error or omission in the original maps and the existing pattern of residential, industrial, commercial, or recreational development in the critical area prevents the buffer from fulfilling the following functions:
  - (i) Providing for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the bay and its tributaries;
  - (ii) Minimizing the adverse effects of human activities on wetlands, shorelines, stream

- banks, tidal waters, and aquatic resources;
- (iii) Maintaining an area of transitional habitat between aquatic and upland communities;
- (iv) Maintaining the natural environment; and
- (v) Protecting riparian wildlife habitat.

**The existing pattern of development in the area proposed to be designated BMA as shown on the site plan includes a dwelling with patio, garage, septic tank, walkways, driveway, overflow and discharge pipes, and pier access all in the Buffer. These structures are in the Buffer to the eastern shoreline; therefore, there is not a fully functioning 100-foot Buffer in this area. These existing structures limit the ability of the Buffer to provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering Spriggs Pond and to minimize the adverse effects of human activities on the shoreline. However, there is a 30-foot vegetated functioning Buffer along the southern property line that should be protected by a conservation easement. Based on the density of the neighborhood, maintaining an area of transitional habitat between aquatic and upland communities is not feasible due to the amount of existing development. No riparian habitat appears to exist on the property.**

#### **Previous BMA Map Amendment Request/Variance Requests for 858 Imperial Road** **2009 Buffer Modification Area Map Amendment Request**

In 2009, Anne Arundel County approved a map amendment to map the entirety of this property as Buffer Modification Area. The County then submitted it to the Critical Area Commission, where it was reviewed as a refinement to the County's Critical Area program. However, after discussion and deliberation in the Program Committee, the Commission recommended the Chair deny the proposal as they did not feel it met the required findings under the Commission's Modified Buffer Area Policy and Anne Arundel County Code. Specifically, the Commission staff's analysis indicated that the existing Buffer on site was still performing protective functions including providing for removal and filtering of sediments and pollutants, as well as providing transitional habitat between aquatic and upland communities. Additionally, the staff analysis highlighted that properties of this size (1.12 acres) were often left out of other jurisdiction's Modified Buffer Area maps because these properties were large enough to redevelop outside of the Buffer. The Chair ultimately agreed with this recommendation and denied the proposed map amendment.

The current BMA Map Amendment request differs from the 2009 request, as discussed in more detail in the staff analysis below.

#### **2009 & 2011 Variance Requests by Previous Owner**

Following the Commission's denial to remap the shoreline as a Buffer Modification Area, the previous owner sought a variance on the property to replace the dwelling and deck. The variance request was denied by the County's Administrative Hearing Officer (AHO). In 2010, upon appeal to the County's Board of Appeal (BOA), the previous owner was granted the variance with the condition that no tree clearing would occur.

In 2011, the previous owner sought a second variance to construct a screened porch and balcony addition within the Critical Area Buffer. The request was denied by the AHO, who noted that the applicants were granted relief from the Critical Area development standards in 2010 with the appeal of the first variance that was granted by the BOA. This variance was subsequently appealed to the BOA but dismissed based on failure of the Petitioner (previous owner) to present testimony on the appeal request.

#### 2024 Variance Request by Current Owner

In 2024, the current owner sought a variance to construct a 390 square-foot addition for an ADA-accessible bathroom onto the existing dwelling within the Critical Area Buffer. The variance request was denied by the AHO, who noted the applicants have the ability to expand away from the shoreline in the portion of their property designated as Buffer Modified Area. The variance was appealed to the BOA, who upheld the AHO's decision to deny the variance request.

#### **Anne Arundel County BMA Requirements**

In 1993, the Commission approved an MBA Policy to assist local jurisdictions in crafting potential MBA code language within their Critical Area programs. However, the Commission does not have regulations applicable to managing development within the MBA; therefore, each jurisdiction's MBA language may be unique to their program.

Per Anne Arundel County Code §17-8-702(a)-(d), for residential lots within the BMA, development within the Buffer is allowed with specific provisions governing: the expansion of lot coverage, in-kind replacement of existing lot coverage, and the construction of new structures. If this BMA is approved, the following requirements would be applicable to the site:

- Expansion of lot coverage – This is permitted within the Critical Area Buffer, provided that no new lot coverage is placed nearer to the shoreline than the closest façade of the existing principal structure;
- In-kind replacement of lot coverage: This is allowed when reconstruction occurs on the same foundation or within the same footprint as previously existing development;
- New structures within the BMA: This is authorized when the structure maximizes the distance between the shoreline and the structure or to accommodate the location of existing and proposed septic systems and utilities. New structures must be compatible with existing patterns of development and must maximize the ability of the Buffer to provide water quality and habitat functions.

Per Anne Arundel County Code §17-8-702(e), mitigation is required for new lot coverage or the replacement of existing lot coverage within the BMA. For every square-foot of additional lot coverage within 100 feet of mean high water, a vegetated buffer shall be planted within the BMA at a ratio of two times the amount of lot coverage (2:1), and if a variance is required, the vegetated buffer shall be planted at a ratio of 3:1 for the additional area granted under the variance.

#### Staff Analysis

Information provided by the County on behalf of the applicant demonstrates that less than a 100-foot Buffer exists on the property between the shoreline and existing development, and that the

existing Buffer is identical to that which was present at the time the County originally mapped its Buffer Modification Areas.

As previously stated, the current BMA Map Amendment request differs from the 2009 request, in two important ways. First, the current application proposes only a portion of the property be mapped as BMA, whereas the 2009 application proposed the entire property (Attachment 2). This portion of the property includes the existing improvements, including the primary dwelling. The portion of the shoreline along the eastern side of the property, which was highlighted as an important Buffer habitat in the previous application, will not be mapped as BMA and all requirements of the 100-foot Buffer, as laid out in Anne Arundel Code and COMAR, will apply. Second, the current application includes the condition that the existing vegetation within the proposed BMA be placed within a conservation easement, thus protecting the existing vegetation and habitat along the shoreline. Additionally, it is important to note that the properties along the shoreline to the west and east of the property in question are all designated Buffer Modified Areas, and all have similar improvements and levels of development (Attachment 3).

### **COMMITTEE RECOMMENDATION**

The request is consistent with the purposes, policies, goals and provisions of the Critical Area law and regulations. On August 8<sup>th</sup>, 2025 the Program Committee voted to recommend the Critical Area Commission concur with the Chair's determination that this text amendment be processed as a refinement to Anne Arundel County's Critical Area program.

Further, because the request meets the requirements under Anne Arundel County Code and COMAR 27.01.09.01-8, the Committee recommends the Chair approve the map amendment as proposed.

### **ATTACHMENTS**

- 1\_ Anne Arundel County Planning & Zoning Officer Administrative Decision
- 2\_ Site Plan
- 3\_ Buffer Modification Area Map and Aerial Imagery

## **ADMINISTRATIVE DECISION**

**JOSEPH LANDSMAN, JR.  
436 CENTURY VISTA DRIVE  
ARNOLD, MD 21012**

**ASSESSMENT DISTRICT: THIRD  
CASE NUMBER: 2025-0053-C  
PREMISE: 858 IMPERIAL ROAD  
ARNOLD, MD 21012**

## **BACKGROUND**

This Administrative Decision is the direct result of an application by Joseph Landsman, Jr. seeking a Buffer Modification Map Amendment for the property located at 858 Imperial Road, Arnold, Maryland pursuant to Article 18, Section 13-301 of the Anne Arundel County Zoning Ordinance. For a property to be eligible for amendment to the buffer modification area map, evidence must prove that the lot contained impervious surfaces as of December 1, 1985 or is an undeveloped lot located between developed lots.

The subject site consists of 45,932 square feet of land. It is located with 75 feet of frontage on the north side of Imperial Road; 120 feet northeast of Century Vista Drive in Arnold. The property is identified as Parcel 475 in Block 18 on Tax Map 32. The site is further described in a Deed recorded in the Anne Arundel County Land Records at Liber 40245, Folio 29. This waterfront property on Spriggs Cove is zoned R5-Residential District, is completely within the Chesapeake Bay Critical Area Overlay, and is classified as an intensely developed area (IDA). The northwestern portion of the shoreline is mapped as a Buffer Modification area and the southeastern part of the shoreline is mapped as Non-Buffer Exempt. The majority of the property is located within a Buffer Modification Area (BMA), the exception being the southeastern portion of the site, which is where the majority of the impervious area lies within the 100' CBCA Buffer. The site is served by public water and a private septic system.

The property is improved with a one-story single-family detached dwelling, a garage, sheds, a pier, a driveway, and walkways.

## **NOTICE**

Notification of this application was posted on the road side and the water side on April 8, 2025, within seven days of the date of filing on April 7, 2025 as evidenced by photographs of the posting. As required by §18-13-302 (c) of the Anne Arundel County Code, the Office of Planning and Zoning on April 8, 2025 provided the Office of the County Executive with the information contained on the public notice signs for dissemination to each community association, person, and organization on the list located in the Council District of the property proposed for an amendment to the buffer modification map. The Notice posted April 8, 2025 requested written comments by April 29, 2025.

## **ANNE ARUNDEL CODE REQUIREMENTS**

In order to qualify for a Buffer Modification Map Amendment, under Article 18-13-304, the Planning and Zoning Officer must find that:

- (1) The application is for a lot created on or before December 1, 1985; and
- (2) There was an error or omission in the original maps and the existing pattern of residential, industrial, commercial or recreational development in the critical area prevents the buffer from fulfilling the following functions:
  - (i) Providing for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
  - (ii) Minimizing the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;
  - (ii) Maintaining an area of transitional habitat between aquatic and upland communities;
  - (iv) Maintaining the natural environment of streams; and
  - (v) Protecting riparian wildlife habitat.

## **EVIDENCE PRESENTED BY THE APPLICANT**

The Applicant believes that a mapping error occurred at the time of adoption of the BMA maps, then known as Buffer Exempt maps, based on the fact that the property contained impervious surfaces prior to December 1, 1985. The dwelling and associated development were located within the 100-foot buffer prior to the adoption of Critical Area Laws, based on 1952 and 1984 Aerial Maps. Since there were structures in the buffer, the shoreline should have been mapped as BMA.

The Applicant states that according to the Maryland Department of Assessments and Taxation (SDAT) records the original structure on the lot was built in 1800. The applicant purchased the property on January 18, 2024 that is improved with a single-family detached dwelling located entirely within the 100-foot buffer as well as a storage shed, paved driveway, concrete walkways, a patio, and a pier. A septic tank and septic drain fields are located within the Buffer. A 4" septic overflow pipe and a 3" detached garage drain pipe are located on the side of the bank and discharge into Spriggs Pond. The total lot coverage on site is 6,518 square feet, consisting of a house, patio, detached garage/storage shed, sidewalks and driveway, with the majority of the lot coverage located in the Buffer as shown on the Administrative Site Plan.

The Applicant states that the shoreline is armored with a stone revetment and the small sloped hillside is primarily covered with English ivy (*Hedera helix*), a common invasive vine. The property contains turf grass throughout, with some garden beds, and a few large canopy trees. It is level and contains very little topographic relief except for the immediate shoreline. The property does not contain significant environmental features, except the shoreline, which is not currently providing any significant biological function. The property will continue to be used for residential purposes with the existing house, detached garage, driveway and shed to remain.

The Applicant states there are five properties adjacent to the subject property, all zoned R5-Residential District, and all developed with a single-family dwelling and associated facilities. The properties directly to the south and north also share the Spriggs Pond shoreline. The property to the north contains a pool which lies 90' from mean high water and is mapped as buffer modified. The property to the south is mapped as non-buffer exempt. Several properties in close proximity to the subject property contain pools, structures, or residences within the 100' buffer.

As justification for the map amendment the Applicant asserts that the existing house, detached garage, septic tank and drain field have been on site for at least 75 years and existed in the 100' Buffer prior to December 1, 1985. The detached garage, due south of the house in the Buffer, has two showers with a 3" drain pipe that drains into Spriggs Pond. There is also a 4" cast iron septic overflow pipe extending from the septic tank which discharges directly into Spriggs Pond. These pipes, septic overflow and drain, flow overland into Spriggs Pond rendering any vegetation on the site useless as untreated septic overflow and drain water discharges directly into the tidal waters. All are shown on Applicant's exhibit E.

The Applicant provided aerial and ground-level photos showing that a naturally vegetated buffer does not exist on this site and asserts that much of the buffer contains impervious surfaces, and the remainder of the buffer contains turf grass, with a few canopy trees and a hedgerow of evergreen trees along the southern edge of the property. The lack of a naturally vegetated buffer reduces the buffer area's ability to remove or reduce sediments, nutrients, and potentially harmful or toxic substances in runoff.

As to adverse effects of human activities, the Applicant notes that almost all of the surrounding properties along the shoreline, except for the property directly to the south are mapped as buffer modified. This property contains a residence which is largely within the buffer, and the property has been maintained in such a way for over fifty years, so that the buffer is not functioning to minimize adverse effects of human activities on wetlands, shorelines, stream banks, tidal wetlands, and aquatic resources.

The Applicant believes that the location of the house on the property and the continued use of the yard prevents establishing a buffer, and therefore, an area of transitional habitat is not possible. It should also be noted that due to the density of the neighborhood, a transition is not feasible since the transition would be from developed areas to tidal waters, which is not the purpose of the buffer. In addition, the Applicant noted that a riparian habitat does not exist on the property, and therefore, there is no ability to protect habitat for riparian areas on this site.

### **PUBLIC COMMENT**

No public comments were received, either in writing or by telephone.



## **AGENCY COMMENTS**

The **State Critical Area Commission** took no position on the application but reminded the County of the requirements in COMAR 27.01.09.01-8 that state that local jurisdictions may request certain portions of the Critical Area be designated as a BMA, where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development in the Critical Area prevents the Buffer from fulfilling the functions of providing for the removal or reduction of sediments, nutrients, and potentially harmful toxic substance in runoff entering the Bay and its tributaries; minimizing the adverse effects of human activities on wetlands, shorelines, stream buffers, and aquatic resources; maintaining an area of transitional habitat between aquatic and upland communities; maintaining the natural environment of streams; and protecting riparian wildlife habitat; in addition to the Buffer having been significantly impacted by development at the time of adoption of the Anne Arundel County Critical Area Program.

For a parcel to be designated as BMA, it must have been of record as of December 1, 1985, and the applicant must show that the Buffer was significantly impacted by development at the time of adoption of the Anne Arundel County Critical Area Program.

This office would like to note that this property was previously the subject of a BMA Mapping Amendment request in 2009. The application was denied by the Critical Area Commission, as it was determined that a portion of the Buffer provided the above-listed functions.

The **Development Division (Critical Area Section)** commented it appears that when the original maps were prepared, the overlap of the buffer from the eastern shoreline negated the fact that the northern shoreline qualified as Buffer Modified. This same concern was echoed in the denial of the previous application. Although there are structures in the buffer to the eastern shoreline, it does not negate the function of the buffer in its entirety.

The Critical Area Section recommends that the portion of the Buffer depicted on the attachment be allowed to be changed to Buffer Modified provided the areas of vegetation and steep slopes within that area be protected by a Conservation Easement. This recommendation would allow the renovations to the existing dwelling per the BMA requirements while still protecting that portion of the Buffer that is functioning and providing protection to the existing waterway.

It is the opinion of the Critical Area Section that the remaining area that is included in this request is correctly mapped and there is not sufficient evidence to remap the entire area as a Buffer Modification Area. Further, the omission is limited to the area outlined in green and this is the only area that qualifies for a reclassification to Buffer Modified status. The remaining area performs the required functions of a buffer and should remain as currently mapped.

## **FINDINGS**

- (1) The application is for a lot created on or before December 1, 1985;

*The lot was created before December 1, 1985, and the principal and accessory structures existed prior to December 1, 1985. Assessment records indicate that a structure existed on the site as early as 1800.*

and

(2) There was an error or omission in the original maps and the existing pattern of residential, industrial, commercial, or recreational development in the critical area prevent the buffer from fulfilling the following functions:

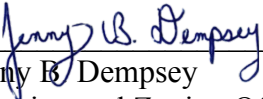
- (i) Providing for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- (ii) Minimizing the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;
- (ii) Maintaining an area of transitional habitat between aquatic and upland communities;
- (iv) Maintaining the natural environment of streams; and
- (v) Protecting riparian wildlife habitat.

*The existing pattern of development in the area shown on the site plan includes a dwelling with patio, garage, septic tank, walkways, driveway, overflow and discharge pipes, and pier access all in the Buffer. These structures are in the buffer to the eastern shoreline; therefore, there is not a fully functioning 100-foot buffer. These existing structures limit the ability of the Buffer to provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering Spriggs Pond and to minimize the adverse effects of human activities on the shoreline. However, there is a 30-foot vegetated functioning buffer along the southern property line that should be protected by a conservation easement. Based on the density of the neighborhood, maintaining an area of transitional habitat between aquatic and upland communities is not feasible since the transition would be from developed areas to tidal water. No riparian habitat appears to exist on the property.*

### **ORDER/DECISION**

Based on the evidence and agency comments, this office finds that there was a partial error in the mapping of the shoreline of Parcel 475 in Block 18 on Tax Map 32 based on the fact that structures that were in the Buffer on December 1, 1985 and that the property should have been mapped as a Buffer Modification Area to the following extent: the triangular area around the existing structures that includes the dwelling, patio, septic tank, sidewalk, 4" septic overflow pipe and other improvements associated with the structure as depicted in green on the attached site plan (Exhibit 1) conditioned on the areas of vegetation and steep slopes within that area being protected by a Conservation Easement. The remaining area that is included in this request is correctly mapped and there is not sufficient evidence to remap that area as a Buffer Modification Area.

This Administrative Decision shall be submitted to the Critical Area Commission for review and approval, as required by § 18-13-304 (b) of the Anne Arundel County Code for final review and approval and as required by § 8-1809 of the Critical Area Law.

  
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Jenny B. Dempsey  
Planning and Zoning Officer

6/4/2025  
\_\_\_\_\_  
Date

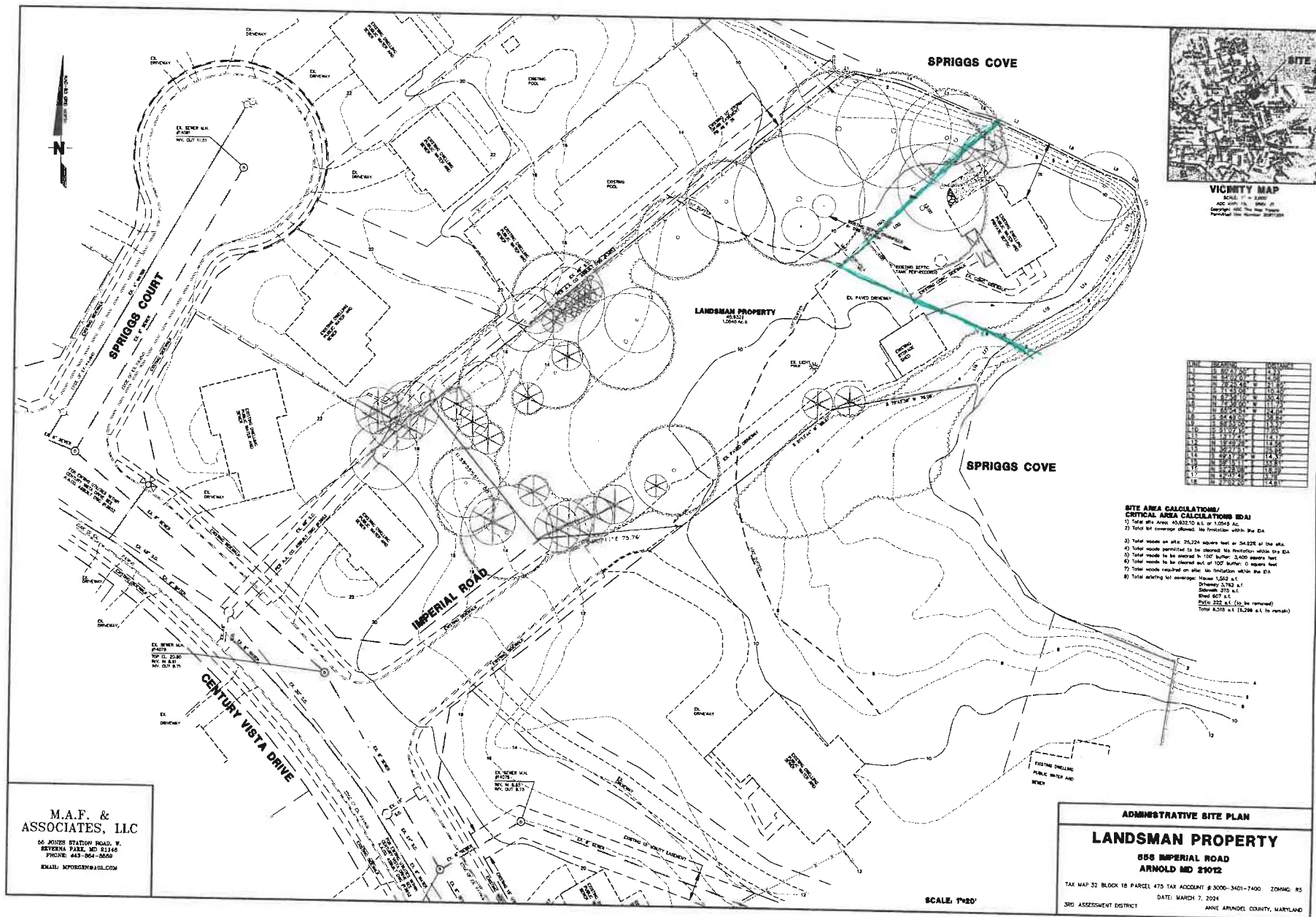





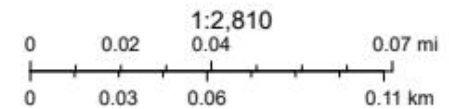
Exhibit 1

# Buffer Modification Area Map



7/14/2025

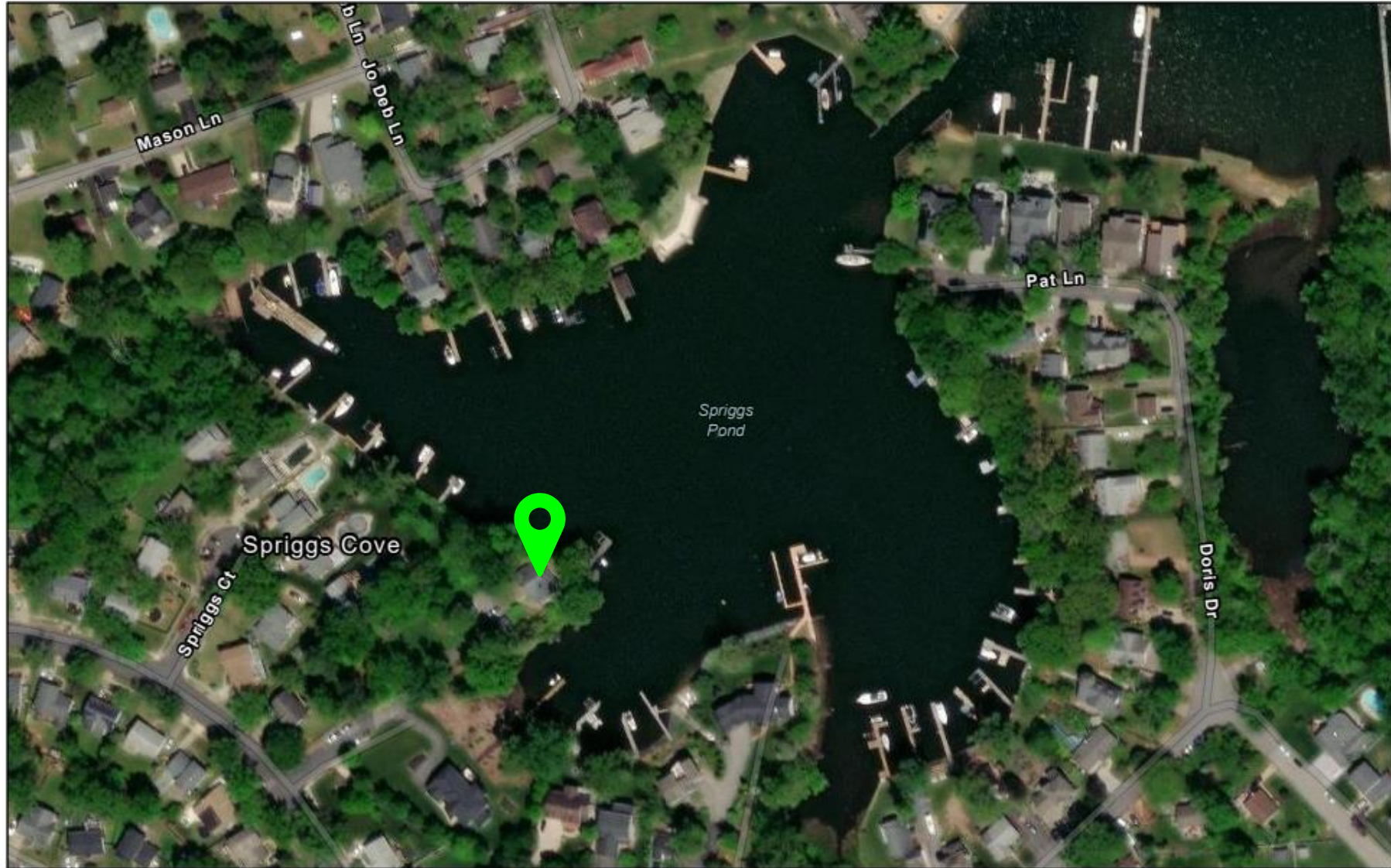
-  Buffer
-  Buffer Modification Area
-  Proposed Buffer Modification Area



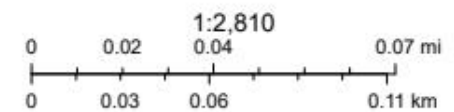
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## Aerial Imagery



7/14/2025



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