



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BALTIMORE DISTRICT
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201

CENAB-OPR-MN

23 April 2024

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ NAB-2024-00021 (3021 Churchville Road/Approved JD).²

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.³ AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.⁴

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ the 2023 Rule as amended,

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

The subject of this approved jurisdictional determination is a 13.3 acre site located at 3021 Churchville Road, Churchville, Harford County, Maryland (39.55547, -76.24516). The overall parcel encompasses approximately 53.56 acres and is identified on the Maryland Department of Assessments and Taxation Map 42 as Parcel 153. The site is located within the piedmont physiographic province of Maryland.

1. SUMMARY OF CONCLUSIONS.

- a. The review area is comprised entirely of dry land (i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area and there are no areas that have previously been determined to be jurisdictional under the Rivers and Harbors Act of 1899 in the review area).

The Corps received a request for a Department of the Army (DA) approved jurisdictional determination on 29 December 2023 for the subject site located at 3021 Churchville Road, Churchville, Harford County, Maryland. The information provided in the request package, supplied by the consultant, included a soil map, USGS topographic map, a site map, and wetland data sheet. On 15 February 2024, the Corps conducted a site visit and walked the entire approximate 13-acre area of review as identified on the enclosed drawing dated 29 December 2023. The northern portion of the site, near Churchville Road, is currently open mowed athletic fields. The southern portion of the site appeared to be in use for agriculture, with planted corn stalks remaining from previous years planting. The soils on the site are mapped as Aldino silt loam and Neshaminy silt loam (U.S. Department of Agriculture, Natural Resources Conservation Service, WebSoil Survey, 2024). These soils are classified as non-hydric. The Aldino silt loam is mapped with minor components of 5% of Watchung, a hydric soil. The Corps observed a soil sample from the area mapped as Aldino silt loam within the area of review and did not observe hydric soil indicators. Based on field observations, supplemental information reviewed by the Corps, and in accordance with the protocol contained within the 1) *Eastern Mountains and Piedmont Regional Supplement Version 2.0* and 2) *1987 Corps Delineation Manual*, the Corps did not observe hydrophytic vegetation, hydric soils, or wetland hydrology indicators within the above-mentioned area of review. The Corps determined the Corps area of review includes only dry land and no jurisdictional waters of the U.S.

2. REFERENCES.

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- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
 - b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
 - c. *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023)
3. REVIEW AREA. The review area is comprised of approximately 13.3 acres, located at 3021 Churchville Road, Churchville, Harford County, Maryland. (Coordinates: 39.55547, -76.24516).
 4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
 5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
 6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ N/A
 7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource,

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

- a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
- b. The Territorial Seas (a)(1)(ii): N/A
- c. Interstate Waters (a)(1)(iii): N/A
- d. Impoundments (a)(2): N/A
- e. Tributaries (a)(3): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁸ N/A
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).
N/A

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. The Corps conducted a site visit on 15 February 2024, with representatives from Geo-Technology Associates, Inc. and Kimley-Horn and Associates, Inc.

⁸ 88 FR 3004 (January 18, 2023)

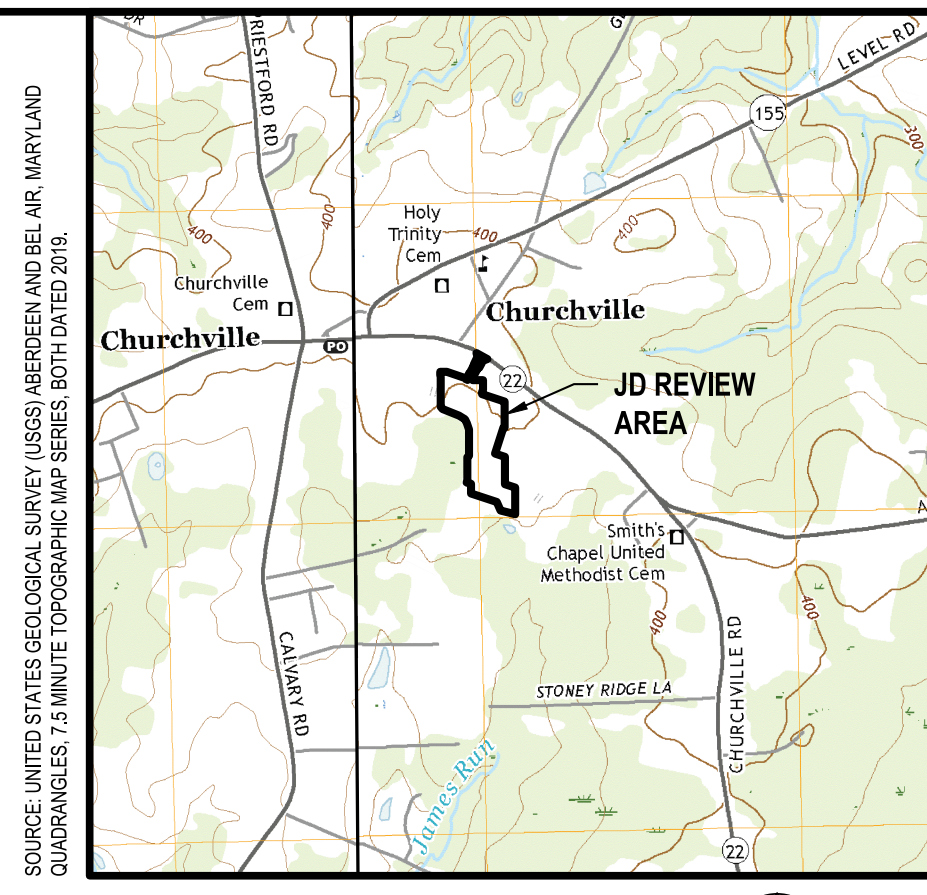
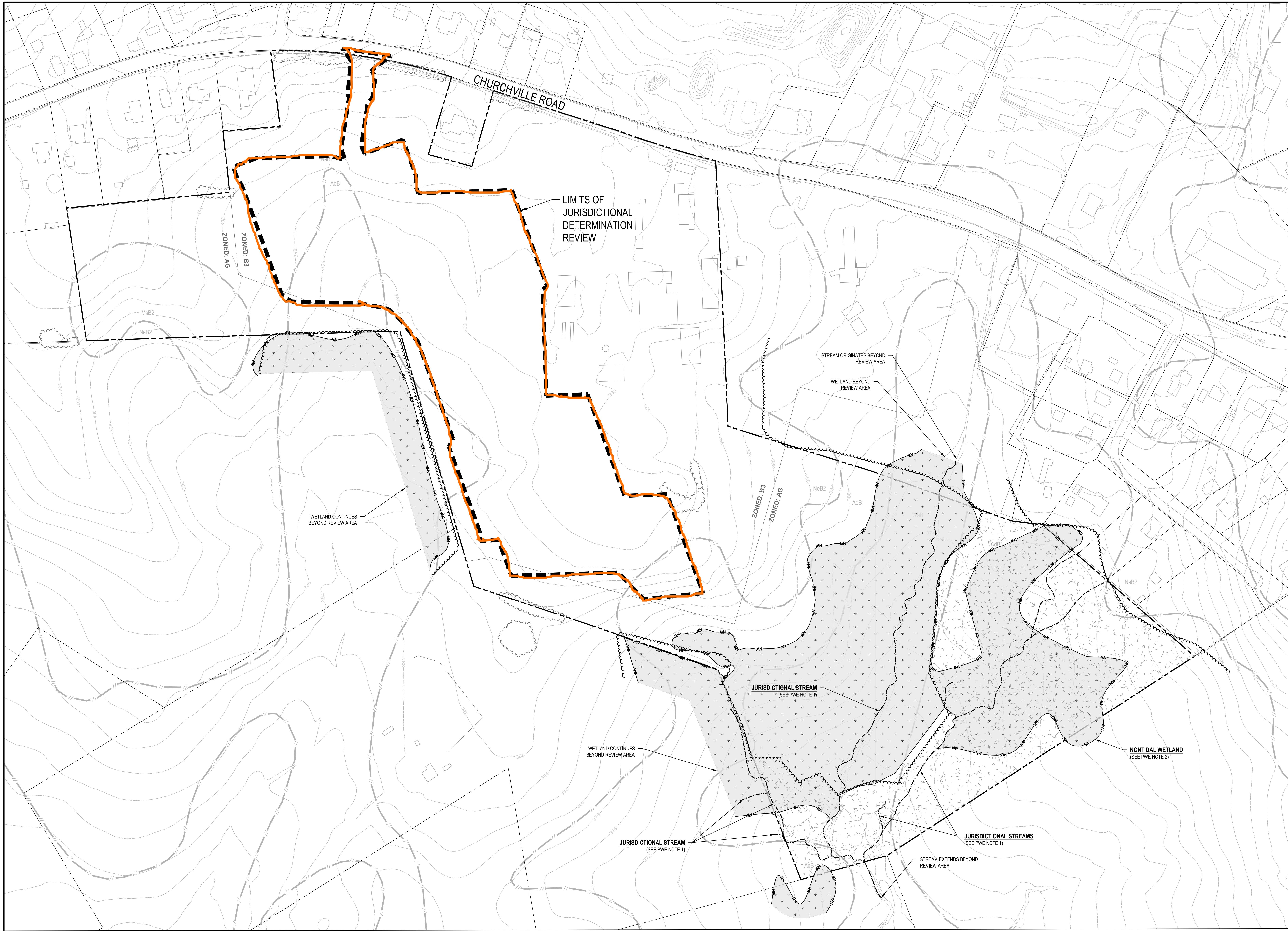
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- b. USGS Topographic Map, provided by requestor, within 29 December 2023 AJD request package.
- c. United States Department of Agriculture, Soil Conservation Service, Soil Survey of Harford County Area, Maryland, issued August 1975.
- d. United States Fish and Wildlife Service, National Wetlands Inventory, Accessed 20 February 2024, <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>.

10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



- PROPERTY OWNER/APPLICANT: KIMLEY HORN AND ASSOCIATES, INC.
1801 PORTER STREET
BALTIMORE, MARYLAND 21230
ATTN: MR. SEAN MILLER P.E.
- PLAN PREPARER: GEO-TECHNOLOGY ASSOCIATES, INC. (GTA)
3445-A BOX HILL CORPORATE CENTER DRIVE
ABINGDON, MARYLAND 21009
ATTN: MATTHEW JEUNETTE
PHONE: 410-515-9446
EMAIL: MJUNETTE@GTAENG.COM
- PROPERTY INFORMATION:
A. ADDRESS: 3021 CHURCHVILLE RD CHURCHVILLE, MD 21028
B. TAX ACCOUNT #: 039722
C. PARCEL(S): 153
D. TAX MAP: 42
E. DEED REFERENCE: 04633/00001
F. ELECTION DISTRICT: 03
G. EXISTING ZONING: B3 (GENERAL BUSINESS), AG (ARICULTURAL)
- ACREAGE: 53.56± ACRES
- THIS PLAN WAS PREPARED ON A TOPOGRAPHIC AND EXISTING CONDITIONS BASE MAP PROVIDED BY KIMLEY-HORN AND ASSOCIATES, INC.
- GTA PERFORMED A PRELIMINARY WETLAND EVALUATION OF THE SUBJECT SITE IN AUGUST 2022. AS A RESULT OF GTA'S FIELD REVIEW, IT IS GTA'S PROFESSIONAL OPINION THAT THERE ARE JURISDICTIONAL "WATERS OF THE U.S.," INCLUDING WETLANDS, PRESENT WITHIN THE OVERALL SUBJECT SITE. THERE ARE NO WETLANDS OR WATERBODIES WITHIN THE JD REVIEW AREA.
- THE SUBJECT PROPERTY GENERALLY DRAINS SOUTH TOWARDS JAMES RUN. IN THE VICINITY OF THE SUBJECT SITE, JAMES RUN IS CLASSIFIED IN THE CODE OF MARYLAND REGULATIONS (COMAR) 26.08.02.08 AS DESIGNATED USE "CLASS I" WATER CONTACT RECREATION, AND PROTECTION OF NONTIDAL WARMWATER AQUATIC LIFE.
- PORTIONS OF THE SUBJECT SITE OCCUR WITHIN THE DEER CREEK 7 TIER II CATCHMENT AREA AS DEFINED IN COMAR 26.08.02.04-1. DEER CREEK 7 TIER II CATCHMENT AREA HAS ASSIMILATIVE CAPACITY REMAINING.
- PER FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAPS (FIRM) NUMBER 24025C0186E, EFFECTIVE APRIL 19, 2016/EFFECTIVE MAY 4, 2015; AND 24015C0177E, EFFECTIVE MAY 4, 2015 THERE ARE NO AREAS OF 100 YEAR FLOODPLAIN DEPICTED WITHIN THE SUBJECT SITE.
- THE SUBJECT SITE IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
- NO ROCK OUTCROPPINGS WERE OBSERVED WITHIN THE SUBJECT SITE.
- GTA SUBMITTED RARE THREATENED AND ENDANGERED SPECIES INQUIRIES TO MARYLAND DEPARTMENT OF NATURAL RESOURCES (MD DNR), WILDLIFE AND HERITAGE SERVICE, AND THE UNITED STATES FISH AND WILDLIFE SERVICE (USFWS) ON AUGUST 23, 2022 AND HAS NOT YET RECEIVED RESPONSES.
- THIS PLAN WAS PREPARED BY GTA FOR THE SOLE AND EXCLUSIVE USE OF CHURCHVILLE SOLAR, LLC. ANY REPRODUCTION OF THIS PLAN BY ANY OTHER PERSON WITHOUT THE EXPRESSED WRITTEN PERMISSION OF GTA AND CHURCHVILLE SOLAR, LLC. IS UNAUTHORIZED AND SUCH USE IS AT THE SOLE RISK OF THE USER.



- JURISDICTIONAL DETERMINATION REQUEST REVIEW AREA
- SUBJECT SITE
- EX. ADJACENT PROPERTY BOUNDARY
- EX. ZONING BOUNDARY
- EX. BUILDING
- EX. ROADWAY
- EX. 2-FOOT CONTOURS
- EX. SOIL BOUNDARY
- EX. TREE LINE
- EX. HEDGEROW, SCRUB/SHRUB, OR GROUPS OF TREES
- <10,000 SQUARE FEET
- APPROX. CENTERLINE OF INTERMITTENT STREAM
- APPROX. LOCATION OF NONTIDAL WETLAND

Soil Code	Soil Description	Watchung	Flats	Depressions, Swales	Prime Farmland		
AdB	ALDINO SILT LOAM, 3-8% SLOPES	YES	WATCHUNG	5	FLATS	0.49	FARMLAND OF STATEWIDE IMPORTANCE
MsB2	MONTALTO SILT LOAM, 3-8% SLOPES, MODERATELY ERODED	NO	-	-	-	0.37	PRIME FARMLAND
NsB2	NESHAMINY SILT LOAM, 3-8% SLOPES, MODERATELY ERODED	NO	-	-	-	0.37	PRIME FARMLAND
WaB	WATCHUNG SILT LOAM, 3-8% SLOPES	YES	WATCHUNG	90	DEPRESSIONS, SWALES	0.28	NOT PRIME FARMLAND

1. UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCE CONSERVATION SERVICE, HARFORD COUNTY AREA MARYLAND SOIL SURVEY DATA VERSION 15, DATED AUGUST 28, 2021.
2. UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCE CONSERVATION SERVICE, HYDRO SOILS LIST BY STATE, AVAILABLE AT https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/NRCSEPR01318623.HTML, ACCESSED ON AUGUST 22, 2022.

= Corps Area of Review

**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, BALTIMORE DISTRICT**

**JURISDICTIONAL DETERMINATION
VERIFICATION MAP**

SITE LOCATION: 3021 Churchville Road, Churchville, Harford County, Maryland

NAB-2024-00021 (3021 Churchville Road/ Approved JD)

CORPS SIGNATURE: _____ **DATE:** April 23, 2024

Enclosure 1

GTA
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**JURISDICTIONAL DETERMINATION REVIEW AREA EXHIBIT
3021 CHURCHVILLE ROAD**

HARFORD COUNTY, MARYLAND

DATE	REVISIONS	JOB NO:	3121729
		SCALE:	1"=100'
		DATE:	DECEMBER 29, 2023
		DRAWN BY:	MAJJSR
		DESIGN BY:	TAS
		REVIEW BY:	TAS
		SHEET:	1 OF 1