



FREDERICK COUNTY BOARD OF APPEALS

November 17, 2022

TITLE: Limited Agricultural Activity

FILE NUMBER: B-22-32 (B273543)

REQUEST: Requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210, Section 1-19-8.325 and Section 1-19-11.100 of the Frederick County Code to allow up to 20 chickens, with no roosters, on a residentially zoned property containing .53 acres.

PROJECT INFORMATION:

ADDRESS/LOCATION: 6618 Tuscarora Drive
MAP/PARCEL: Tax Map 57, Parcel 0194
COMP. PLAN: Low Density Residential
ZONING: (R3) Low Density Residential
PLANNING REGION: Frederick
WATER/SEWER: NPS/NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Laura Fagnano
OWNER: Laura Fagnano
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Michael A. Paone

RECOMMENDATION: Staff recommends approval of the requested Special Exception in accordance with Section 1-19-3.210 (*Special Exceptions*) and Section 1-19-8.325 of the Frederick County Zoning Ordinance.

Enclosures:

Exhibit #1 – Property Site Plan
Exhibit #2 – Aerial Map
Exhibit #3 – Zoning Map
Exhibit #4 – Env. Features Map Exhibit
#5 – Comp. Plan Map

STAFF REPORT

BACKGROUND

The Property is zoned Low Density Residential (R3) and contains .53 acres. Section 1-19-11.100 of the Frederick County Zoning Ordinance defines *AGRICULTURAL ACTIVITY, LIMITED* as “The keeping of farm animals in residential districts on lots with less than 3 acres. Apiaries are excluded from this definition.”

The Applicant is requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210 and Section 1-19-8.325 of the Frederick County Zoning Ordinance to allow up to 20 chickens, and no roosters, on the Applicant’s residentially zoned property. The Applicant has submitted a site plan showing that the proposed pen area will meet the 50 foot setback requirement. (**Attachment 1**)

§ 1-19-3.210 - General Criteria - Special Exception:

- A. An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicant, Laura Fagnano, states that she is the property owner.

- B. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

- 1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of Chapter 1-19 of the County Code; and

The Applicant states that having chickens on lots similar to hers is not uncommon in Frederick County and is consistent with the rural nature of the area.

- 2. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and

The Applicant states that the pens will be cleaned regularly so as to have no impact on adjacent properties in terms of odor and dust. This will contribute to the animals being in harmony with the surrounding community.

- 3. Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other

characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicant states that the chicken coop will be cleaned weekly, or more often if needed and will do what ever we can to limit any noise, fumes or other matters that might impact any adjacent neighbors.

4. Parking areas will comply with the off street parking regulations of Chapter 1-19 of the County Code and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that the approval of the application will not require no additional parking spaces.

5. The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant states that the approval of her application will require no changes to the Property's road access or additional parking

- C. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ [1-198.320](#) through [1-19-8.355](#) of this Code.

See discussion of § 1-19-8.325 below.

- D. A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under Chapter 1-19 of the County Code and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of Chapter 119 of the County Code and may be grounds for termination of the special exception.

The Applicant states that she understands this requirement.

- E. The Board of Appeals shall not grant a special exception unless and until:
1. A written application for a special exception is submitted indicating the section of Chapter 1-19 of the County Code under which the special exception is sought and stating the grounds on which it is requested; and
 2. A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

The Applicant states that she understands the process.

- F. The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicant states that she understands this.

- G. No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicant states she understands this requirement.

- H. If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicant states that she understands this requirement.

- I. A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a

building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that she understands this requirement.

§ 1-19-8.325 Limited Agricultural Activity In The Residential Districts.

A limited agricultural activity shall be permitted in the residential districts where the following provisions are met:

- A. The keeping of farm animals in conjunction with a single family residence, on lots less than 3 acres, shall be permitted in residential districts provided that no pens, stalls, or runs will be located closer than 50 feet of any lot line (see also § [1-19-8.240](#)).

The Applicant states that the chickens, coop, and run will be located 50 feet away from all property lines.

- B. All criteria in § [1-19-3.210](#) and all other provisions of Chapter 1-19 of the County Code shall be met.

The Applicant states that she understands this requirement.

- C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise which can be detected at or beyond the property line.

The Applicant states that the chicken coop and run will be located 50 feet away from all property lines and will be cleaned weekly, or more often when needed. There will be no roosters and the special exception use will comply with this section.

Based on the requirements of Section 1-19-3.210 (Special Exceptions), Section 1-19-8.325 Limited Agricultural Activity in the Residential Districts and the Frederick County Zoning Ordinance, Staff has no objections to approval of this application.

RECOMMENDATION

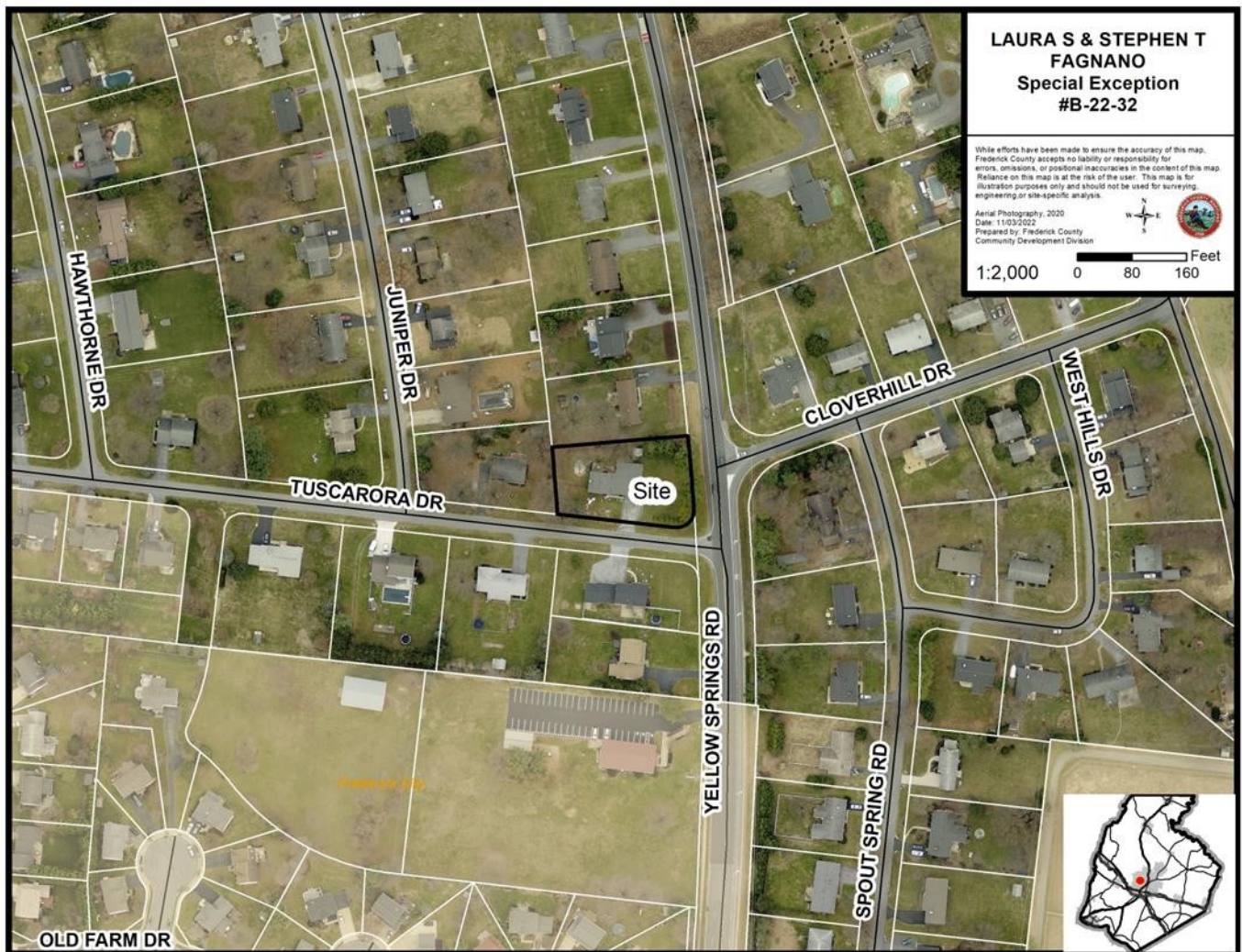
Based on the documentation and discussion in the application and the staff report, Staff recommends approval of the proposed Special Exception.

A decision of the Board of Appeals granting a special exception will be void 5 years from the date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in the accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the Applicant, a time extension may be granted by the Zoning Administrator for a period not to exceed 6 months

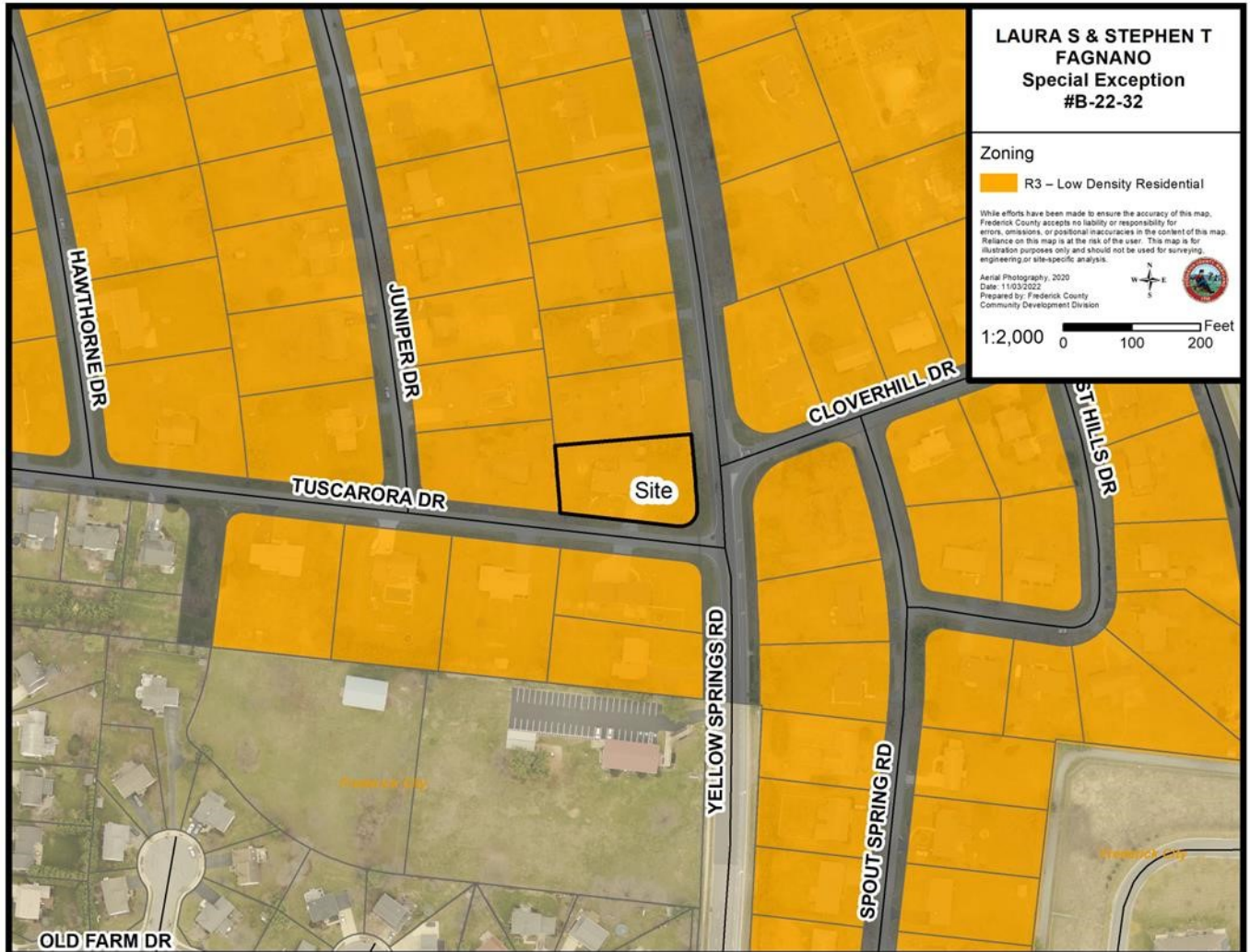
Property Site Plan (Attachment 1)



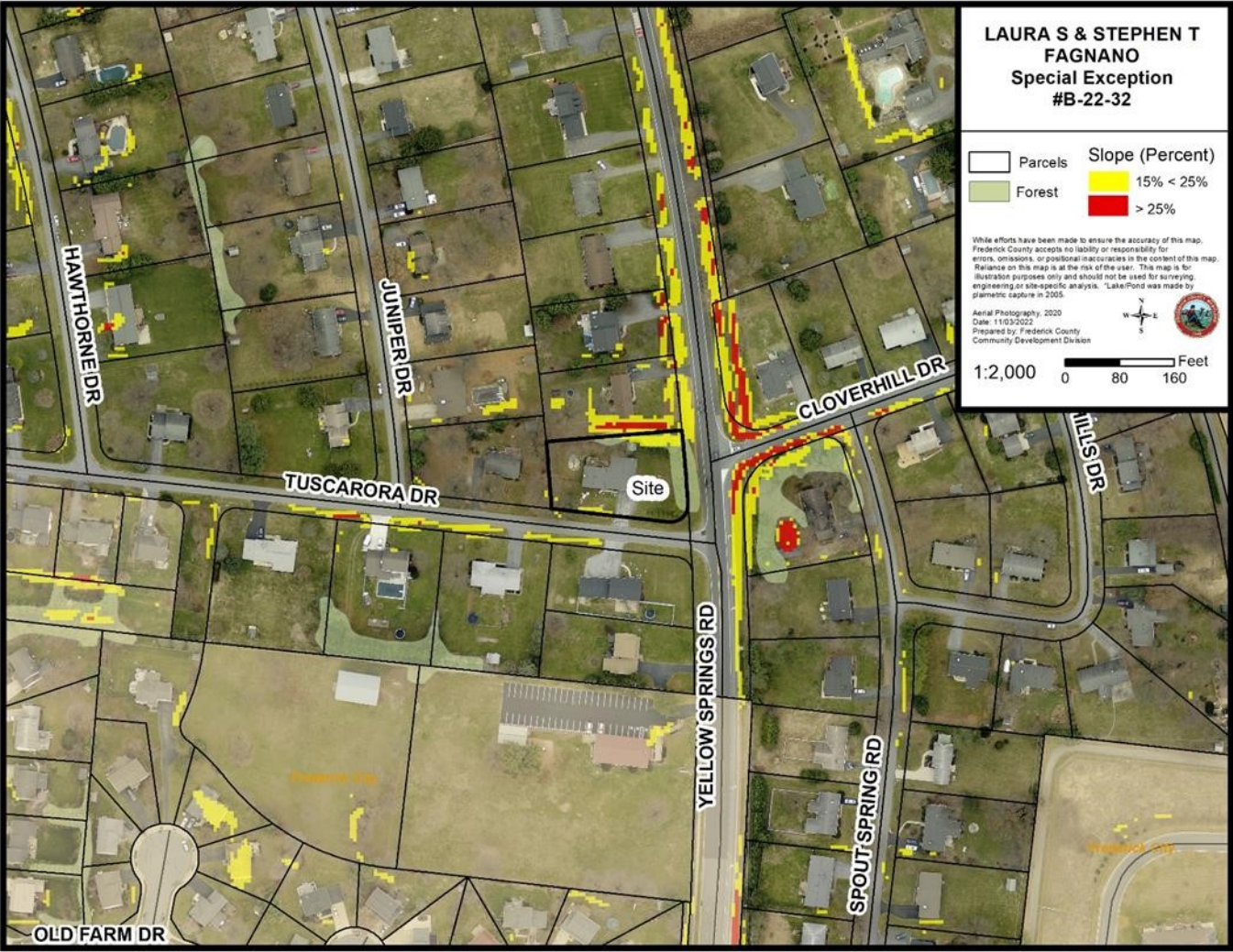
Aerial Map



Zoning



Env. Features



Comprehensive Plan

