



FREDERICK COUNTY BOARD OF APPEALS

APRIL 27, 2023

TITLE: **Fahrner Accessory Dwelling Unit (ADU)**

CASE NUMBER: **B-23-07 (B275058)**

REQUEST: Requesting approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1,000 Sq.Ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Code. The ADU is located in the basement of the primary residence. The ADU is 1,405 Sq.Ft.

PROJECT INFORMATION:

ADDRESS/LOCATION: 6316 Mount Phillip Rd, Frederick, MD. 21703
TAX MAP/PARCEL: Tax Map 76, Parcel 0549
ZONE: Agricultural (A)
REGION: Middletown
WATER/SEWER: W-NPS/S-NPS
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES:

APPLICANT: Michael Fahrner
OWNER: Michael Fahrner
ENGINEER: A&O Const. Serv.
ATTORNEY: N/A

STAFF: Michael Paone, Zoning Planner

RECOMMENDATION:

Based on the findings and conclusions in the application and this staff report, Staff finds that the proposed Special Exception, to allow a 1,405 Sq.Ft. ADU located in the basement of the primary residence, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code, and recommends approval by the Board of Appeals.

ATTACHMENTS:

Attachment 1: Site Plan
Attachment 2: ADU 1st Floor Plan
Attachment 3: Aerial
Attachment 4: Zoning
Attachment 5: Comprehensive Plan
Attachment 6: Environmental Features

Background:

The Accessory Dwelling Unit (ADU) is to be constructed in the basement of the primary dwelling. The basement size is 1,761 Sq.Ft. The ADU is located on Agricultural zoned land with the total ADU size of 1,405 Sq.Ft. and a footprint of 1,405 Sq.Ft. The size of the primary residence is 3,450 Sq.Ft., with a footprint of 1,761 Sq.Ft.

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 states that he is the owner of the subject property and the only name on the deed.

- 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 § 1-19-8.321. Accessory Dwelling Unit Greater than 1,000 Square Feet. and

The Applicant states that the requested ADU in the basement of the main house is consistent with the Frederick County Comprehensive Plan in that it promotes affordable housing for senior citizens and other family members.

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 proposed ADU will be used strictly as a residence. This is consistent with the surrounding rural community.

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 use of the ADU will not add to increase or create any noise, fumes, vibration, or other ill effects on the neighboring properties, and will be consistent with the surrounding residential use.

2. Parking areas will comply with the off-street parking regulations of Section 1-19-8.321(D) 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 there is plenty of parking to accommodate the main house and the ADU in the driveway. The site plan shows where parking can and will be provided.

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

The Applicant states that Mt. Phillip Road is fully paved and striped and is more than adequate to handle any traffic created by the proposed ADU.

- 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 Sections 1-19-8.320 through 1-19-8.355 of Frederick County Zoning Ordinance.

The Applicant states that he understands and agrees to this requirement.

- 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 Section 1-19-3.210. (D) Special Exceptions. 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 Section 1-19-3.210. (D) Special Exceptions and may be grounds for termination of the special exception.

The Applicant states that he understands and agrees to 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 Section 1-19-3.210 under which the special exception is sought and stating the grounds on which it is requested; and

The Applicant states that he understands and agrees to this requirement.

- (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 Section 1-19-210.

The Applicant states that he understands and agrees to this requirement.

- 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 he understands and agrees to this requirement.

- 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 that he understands and agrees to this requirement.

- H If a grant of special exception is denied, no new petition 3for 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 he understands and agrees to 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 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 he understands and agrees to this requirement.

1-19-8.321: The following provisions shall apply to all accessory dwelling units greater than 1,000 square feet in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD and MX districts.

- A. Only 1 accessory dwelling unit may be created on a lot.

The Applicant states that he understands and agrees to this requirement.

- B. Accessory dwelling units greater than 1000 square feet shall be allowed in single-family dwellings, in an accessory structure, or built as a separate accessory structure, on a single-family lot.

The Applicant states that the ADU (1,405 Sq.Ft.) is greater than 1,000 Sq.Ft. The main house in which the ADU is located, is comprised of a total of 3,450 Sq.Ft.

- C. The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.

The Applicant states that he understands and agrees to this requirement.

- D. There must be at least 1 additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The Applicant states that he understands and agrees to this requirement and has ample room on site to provide the 1 space required for ADU parking.

- E. An accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of Section 1-19-8.240(B).

The Applicant states that he understands and agrees to this requirement. The ADU meets the size requirements and is to be used by my parents, therefore meeting the intent of the ADU.

- F. ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnb, or seasonal temporary housing is not permitted.

The Applicant states that he understands and agrees to this requirement. The ADU is for a family member.

- G. The owner of the principal residence shall file an annual statement with the Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

The Applicant states that he understands and agrees to this requirement.

- H. If the ownership of the lot changes, the subsequent owner must provide a statement to the Zoning Administrator as to the continuing use and eligibility of the accessory dwelling unit.

The Applicant states that he understands and agrees to this requirement.

- I. Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

The Applicant states that he understands and agrees to this requirement.

- J. An accessory dwelling unit meeting the provisions of Section 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

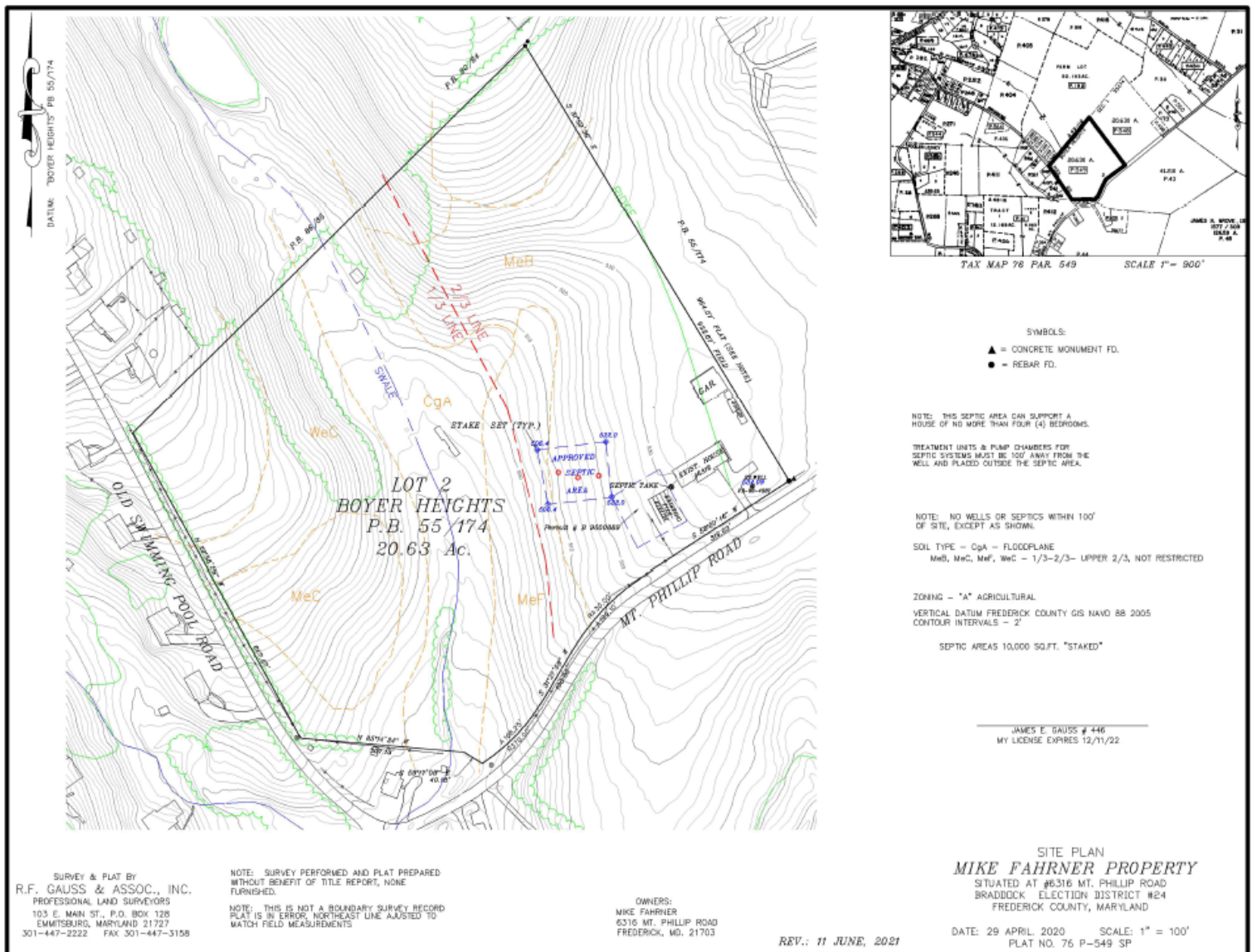
The Applicant states that he understands and that Section 1-19-8.212 does not apply to this application.

RECOMMENDATION

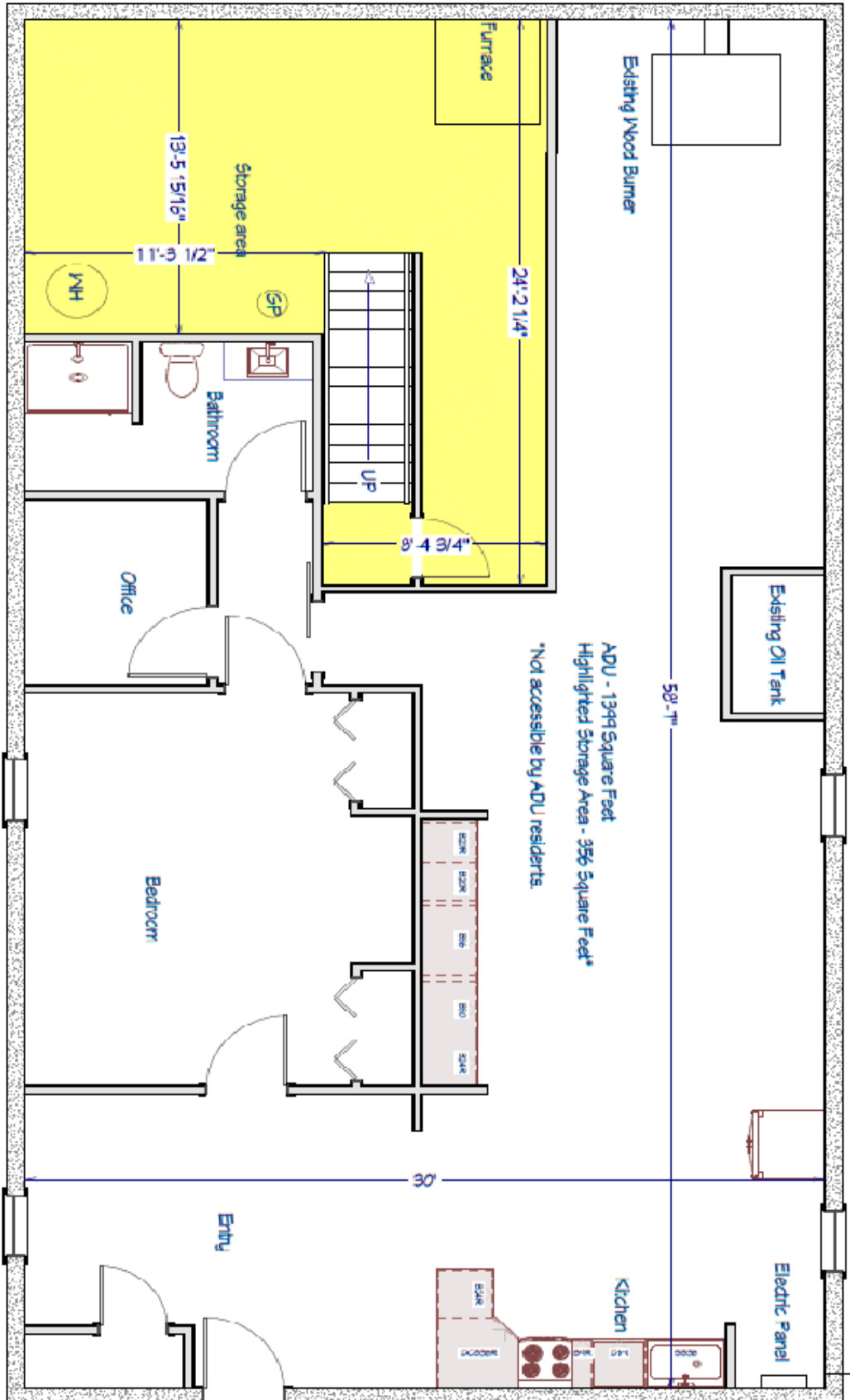
Based on the findings and conclusions in the application and this staff report, Staff finds that the proposed Special Exception, to allow a 1,405 Sq.Ft. ADU located in the basement of the primary residence, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code, and recommends approval by the Board of Appeals.

1-19-3. 210.I: 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.

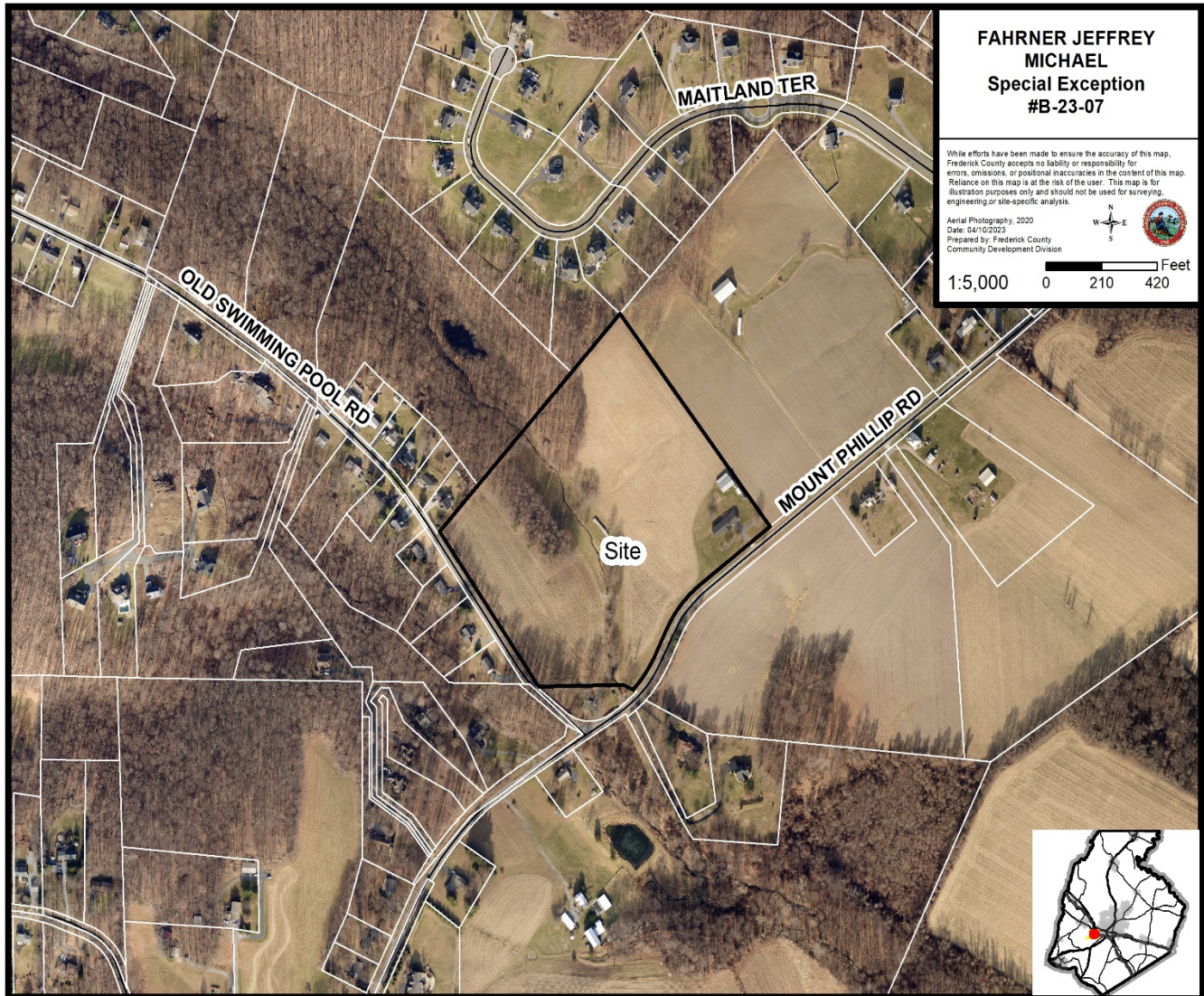
Attachment 1: ADU Site Plan



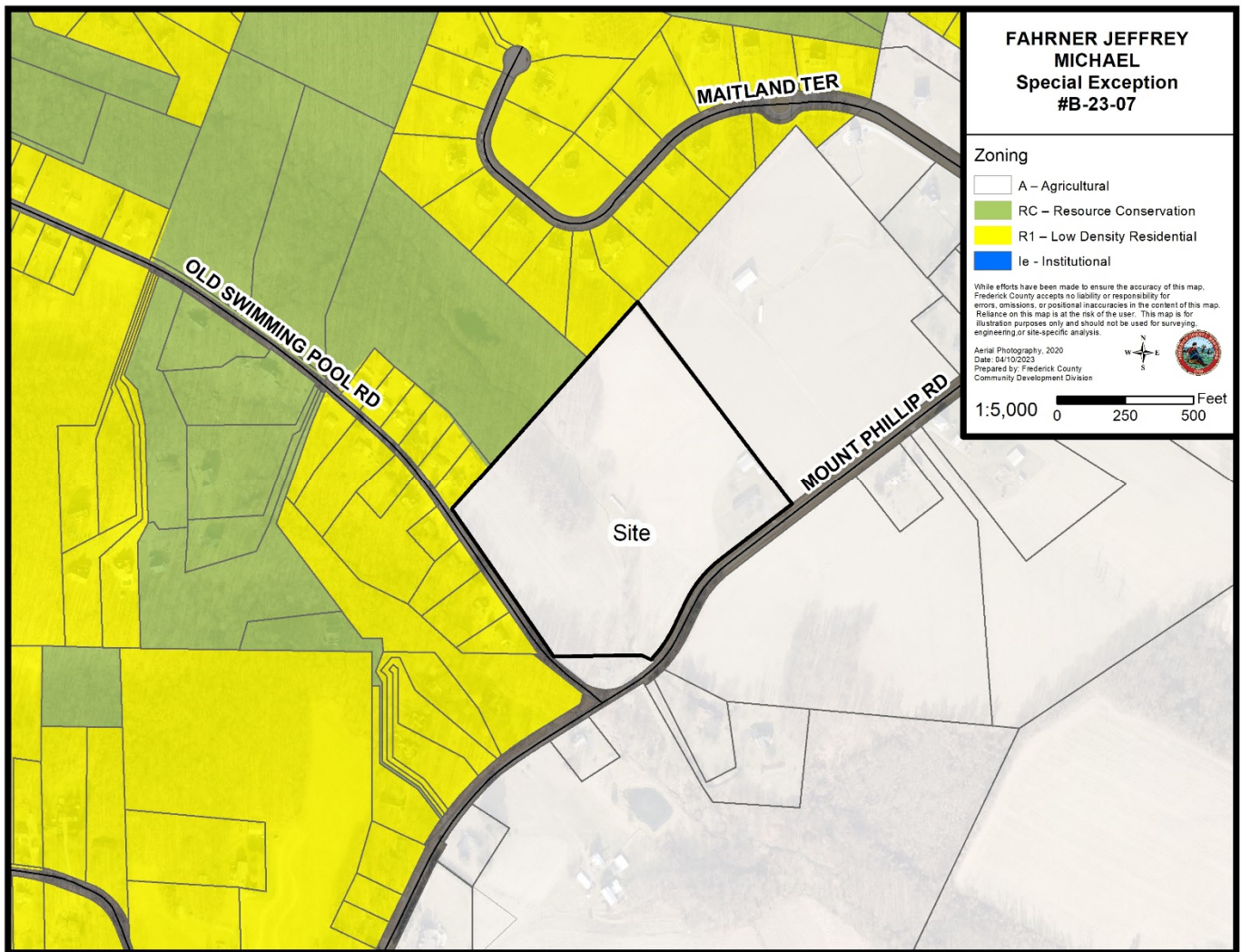
Attachment 2: ADU Floor Plan

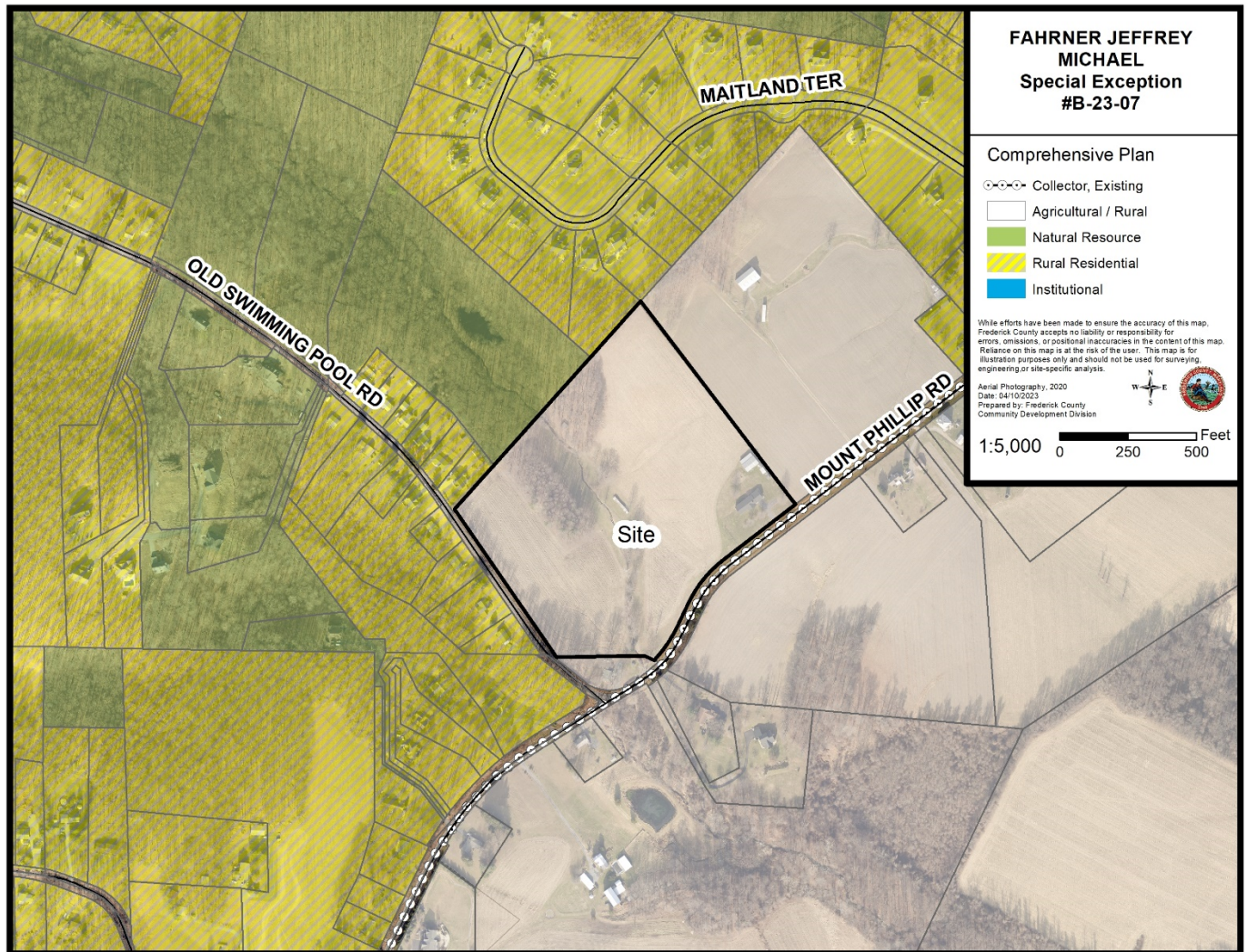


Attachment 4: Aerial Map



Attachment 5 Zoning Map





Attachment 7: Environmental Features

