



## **FREDERICK COUNTY BOARD OF APPEALS**

### **July 27, 2023**

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

**CASE NUMBER:** **B-23-10 (B275149)**

**REQUEST** Requesting approval for a Special Exception to construct an Accessory Dwelling Unit (ADU) in excess of 1,000 Sq.Ft. in accordance with Sections 1-19-3.210 and 1-19-8.321 of the Frederick County Code. The ADU is to be located within an existing pole building. The primary dwelling (main home) is 5,798 Sq.Ft. with a footprint of 3,239 Sq.Ft. The pole building in which the ADU will be located 3,081 Sq.Ft. The ADU size is 1,470 Sq.Ft. This is a one story ADU.

#### **PROJECT INFORMATION:**

ADDRESS/LOCATION:	14416 Stottlemyer, Smithburg, MD 21783
TAX MAP/PARCEL:	Tax Map 018, Parcel 0151
ZONE:	Agricultural (A)
REGION:	Thurmont
WATER/SEWER:	W-NPS/S-NPS
COMP. PLAN/LAND USE:	Agricultural

#### **APPLICANT/REPRESENTATIVES:**

APPLICANT:	Kellgard General Contracting
OWNER:	William and Andrea Bristor
ENGINEER:	Kellgard General Contracting
ATTORNEY:	N/A
<b>STAFF:</b>	Michael Paone, Zoning Planner

**RECOMMENDATION:** Based on the findings and conclusions as set forth in this staff report and the information provided in the application, Staff finds that the proposed Special Exception, to allow a 1,470 sq ft. ADU, detached from the primary dwelling, to be located within an existing 3,081 Sq.Ft. pole building, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

#### **ATTACHMENTS:**

- Attachment 1: ADU 1<sup>st</sup> Floor Plan**
- Attachment 2: Property Site Plan**
- Attachment 3: Aerial Map**
- Attachment 4: Zoning Map**
- Attachment 5: Comprehensive Plan Map**
- Attachment 6: Environmental Features Map**

## **Background:**

The Accessory Dwelling Unit (ADU) is to be constructed within an existing 3,081 Sq.Ft. pole building, which is used for storage. The size of the ADU is based on the size of the primary dwelling which is 5,798 Sq.Ft. with a footprint of 3,239 Sq.Ft. The ADU size and footprint is 1,470 Sq.Ft. The ADU is 1 story.

### **Section 1-19-3.210. SPECIAL EXCEPTIONS.**

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.

**Kenny Gardner states that he is the contractor for the property owners, William and Andrea Bristor for whom the special exception has been requested. They will be referred to collectively as “the Applicant.”**

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 Frederick County Code; and

**The Applicant states that the ADU is consistent with the purpose and intent of the Comprehensive Development Plan in that it promotes affordable housing and has no impact on the surrounding community.**

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 proposed ADU will be used strictly as a residence with no business or commercial operation of any kind and that it will be in harmony with the surrounding residential homes. The Applicant states that the owner's adult child and their family will reside in the ADU.**

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

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

**The Applicant states that there is plenty of parking to accommodate the main house and the ADU in the driveway. Our drive is designed for safety and safe access to the road. One space is dedicated to the ADU.**

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

**The Applicant states that Stottlemeyer Road is more than adequate to support any additional traffic brought on by the addition of an 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 §§ [1-19-8.320](#) through [1-19-8.355](#) of the Frederick County Code.

**The Applicant states that they understand 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 Chapter 1-19 of the Frederick 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 1-19 of the Frederick County Code and may be grounds for termination of the special exception.

**The Applicant states that they understand 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 Frederick County Code under which the special exception is sought and stating the grounds on which it is requested; and

**The Applicant states that they understand and have complied with 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 this section.

**The Applicant states that they understand 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 they understand 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 they understand 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 they understand 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 they understand this requirement.**

**Section 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 zone.**

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

**The Applicant states that only 1 ADU is being requested.**

B. Accessory dwelling units greater than 1,000 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 (1,470 square feet) is greater than 1,000 square feet. The main house is comprised of a total of 5,798 square feet and is on a single-family lot.**

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

**The Applicant states that they understand this requirement and that they owners will continue to reside in the primary residence.**

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 they understand this requirement and will provide the required parking space.**

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 § 1-19-8.240(B).

**The Applicant states that they understand this requirement.**

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

**The Applicant states that they understand this requirement and do not intend to use the ADU as a short term rental.**

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 they understand 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 they understand 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 they understand this requirement.**

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

**The Applicant states that they understand this requirement.**

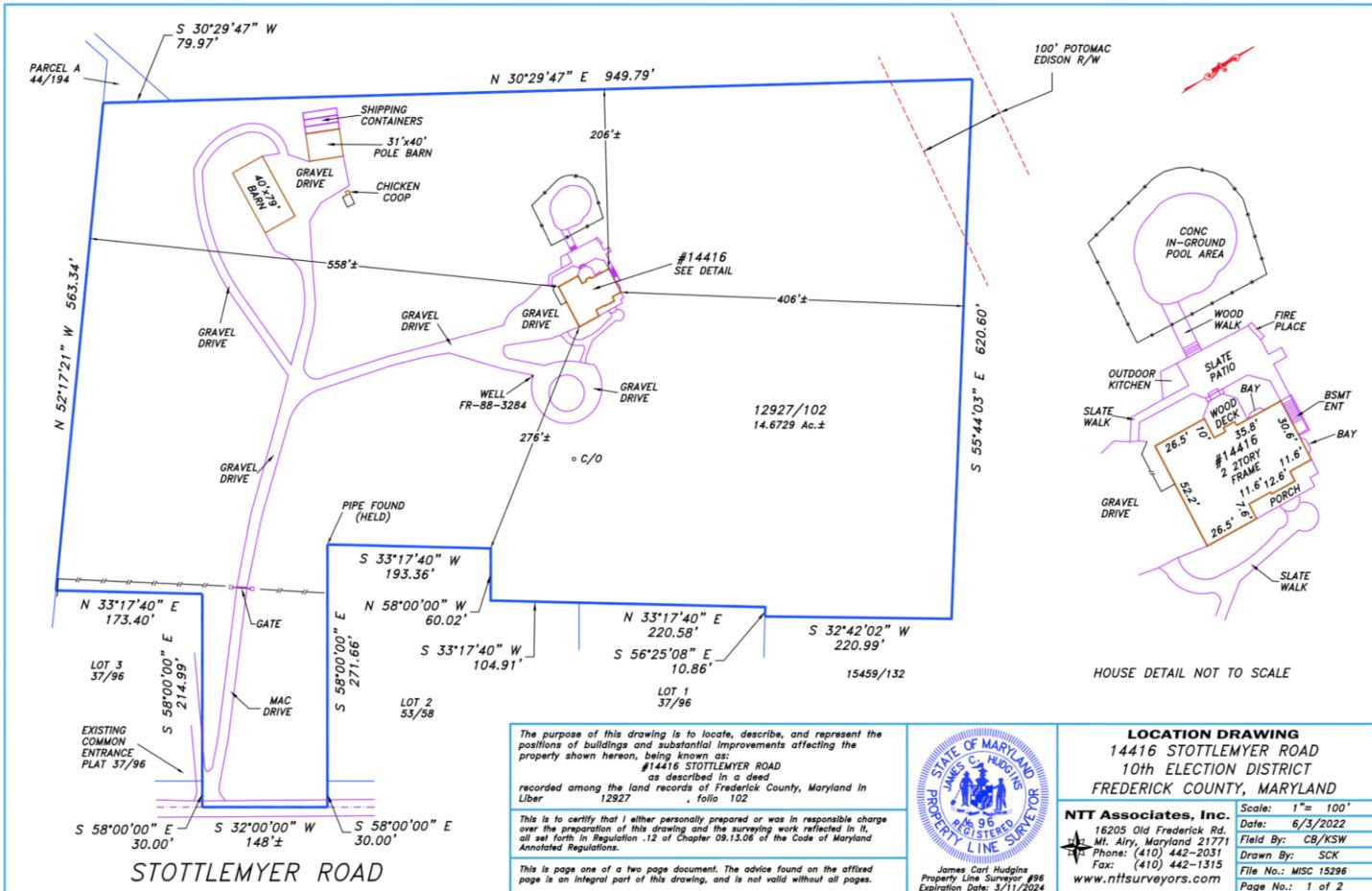
**RECOMMENDATION**

Based on the findings and conclusions in the staff report and information provided in the application, Staff finds that the proposed Special Exception, to allow a 1,470 sq ft. ADU, detached from the primary dwelling, but within an existing 3,081 Sq.Ft. pole building, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

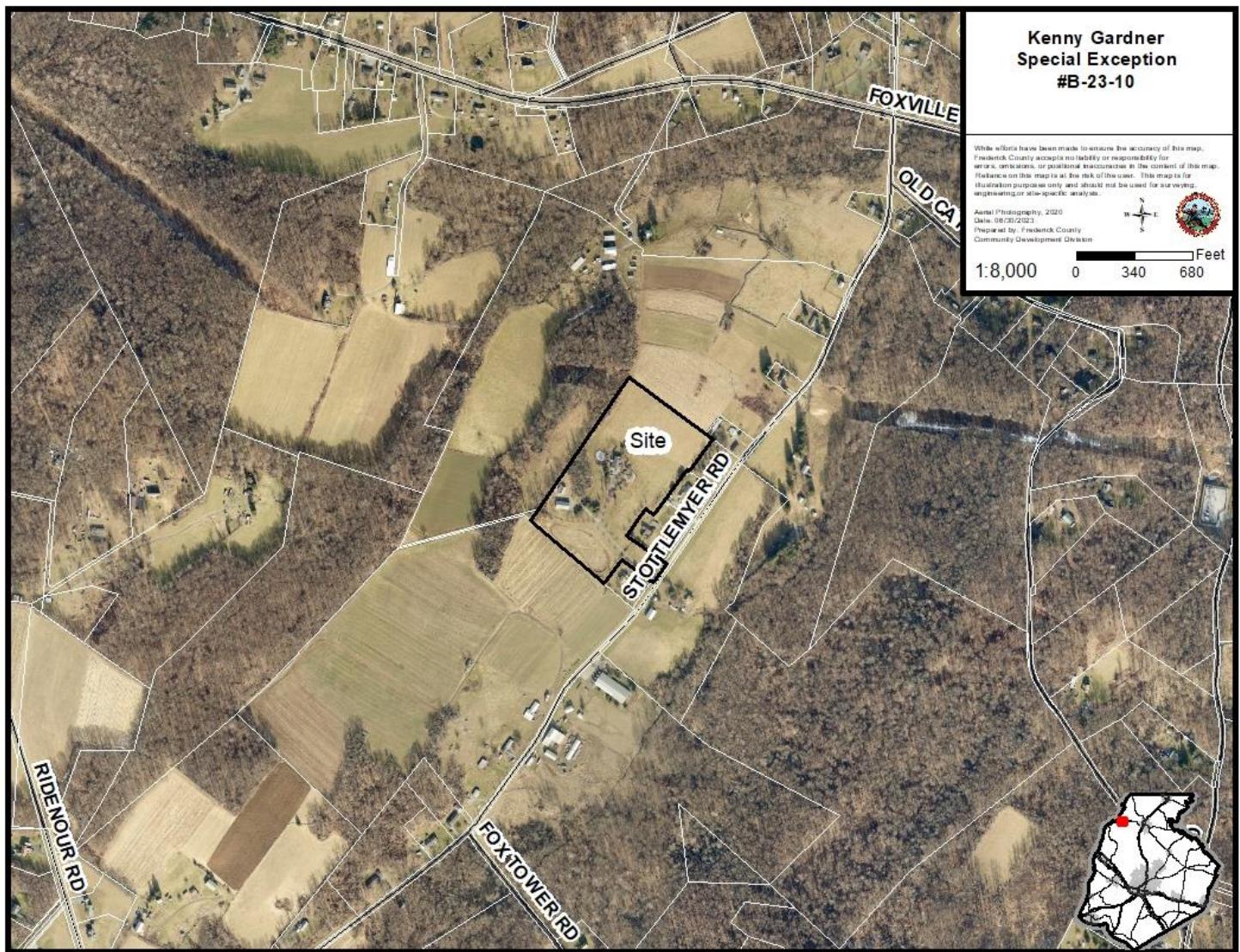
**Section 1-19-3. 210.I: A decision of the Board of Appeals granting a special exception will be void 5 years from the date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received 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 2: Property Site Plan

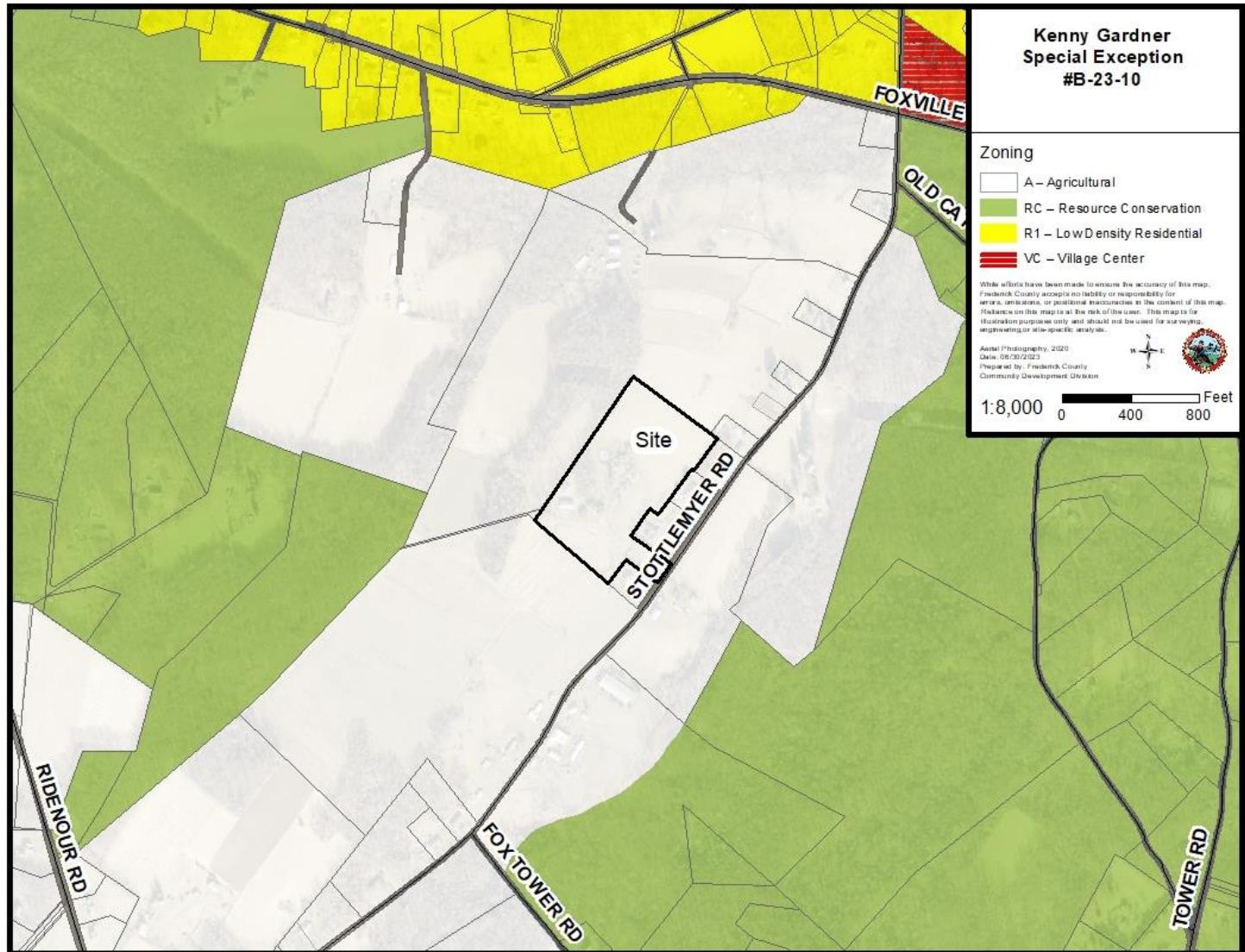


### Attachment 3 Aerial Map



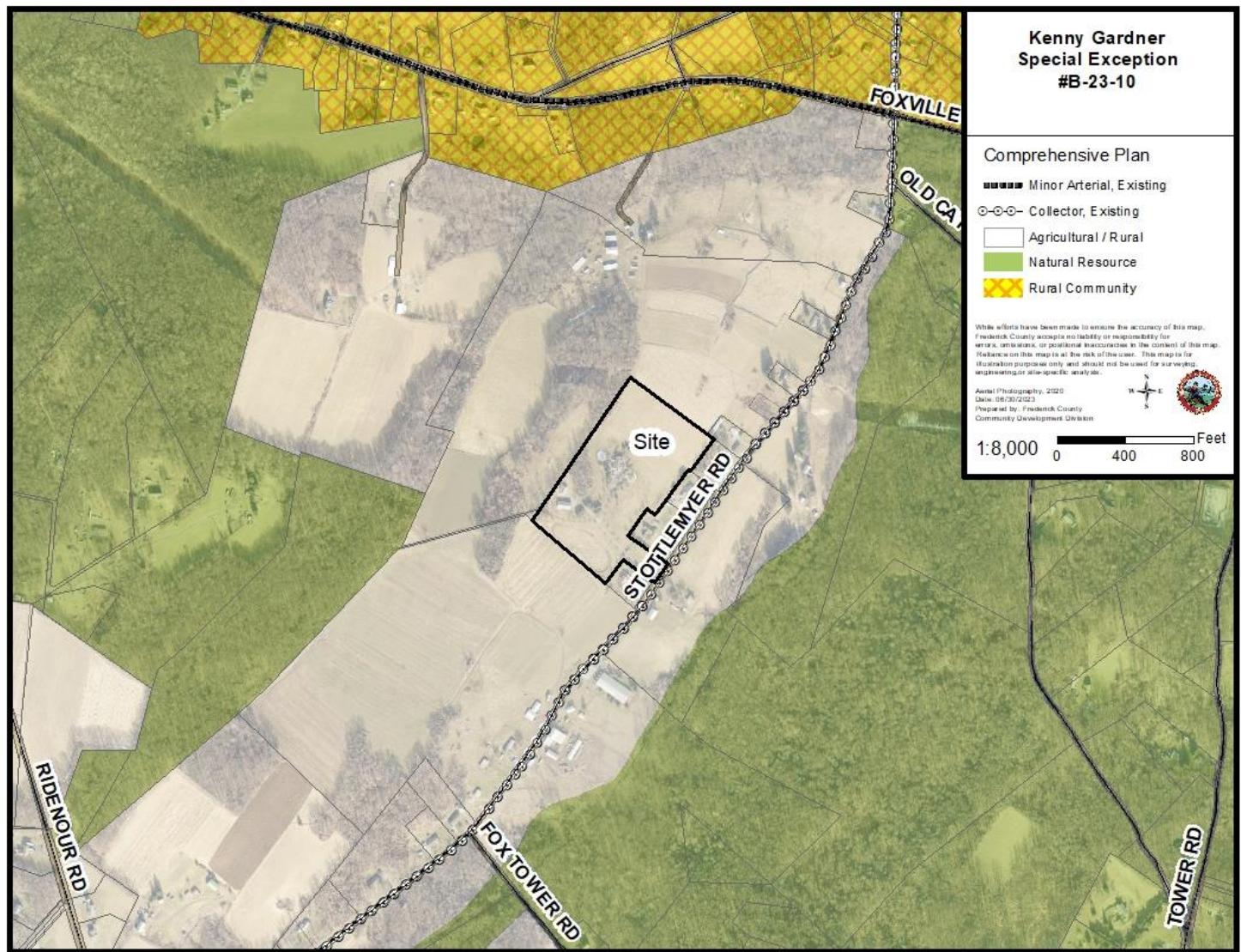
## B-23-10 Bristor Accessory Dwelling Unit

## Attachment #4 Zoning Map



B-23-10 Bristor Accessory Dwelling Unit

## Attachment #5 Comprehensive Plan Map



B-23-10 Bristor Accessory Dwelling Unit

## Attachment #6 Environmental Features

