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## FREDERICK COUNTY BOARD OF APPEALS

### August 24, 2023

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**TITLE:** **Moore: Limited Agricultural Activity**

**CASE NUMBER: B-23-14 B275431**

**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 4 chickens, with no roosters, on a residentially zoned property containing .44 acres.

### **PROJECT INFORMATION:**

Address/Location:	7096 Shale Ct, Middletown, MD 21769
Map/Parcel:	Tax Map 065, Parcel 0145
Comp Plan:	Low Density Residential
Zoning:	(R3) Low Density Residential
Planning Region:	Middletown
WATER/SEWER:	W-3/S-1

### **APPLICANT/REPRESENTATIVES:**

Applicant:	Morgan Moore
Owner:	Morgan Moore
Engineer:	N/A
Architect:	N/A
Attorney:	N/A

**STAFF:** Michael Paone, Zoning Planner

**RECOMMENDATION:** Based on the findings and conclusions in the staff report, Staff has no objection to the approval of this Application for a Special Exception for 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 Code to allow up to 4 chickens, with no roosters, on a residentially zoned property containing .44 acres

### **Attachments:**

- Attachment #1 – Property Site Plan**
- Attachment #2 – Graphic of Coop**
- Attachment #3 – Aerial Map**
- Attachment #4 – Zoning Map**
- Attachment #5 – Env. Features Map**
- Attachment #6 – Comp. Plan Map**

## **BACKGROUND**

The Property is zoned Low Density Residential (R3) and contains .44 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 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 4 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**)

### **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.
- (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 this is a rural area and having farm animals on the property is consistent with the low intensity uses in 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 having a small number of chickens (4) on the property will have no impact on the surrounding properties. The coup and run area will be kept clean and the chickens will not make a lot of noise.
  - (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 having a small number of chickens on the property will have no impact on the surrounding properties. The coup and run area will be kept clean and chickens will not make a lot of noise.

- (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 this Special Exception will have no impact on parking.

- (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 this Special Exception will have no impact on our road or the surrounding roads.

- (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 §§ 1-19-8.325.

The Applicant states that she understands 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 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 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

The Applicant states that she understands 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 she understands 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 she understands 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 she understands and will comply with 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.

### **Section 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 coup and run will be located a minimum of 50 ft from all property lines. Please see **(Attachment #1)**.

- (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.

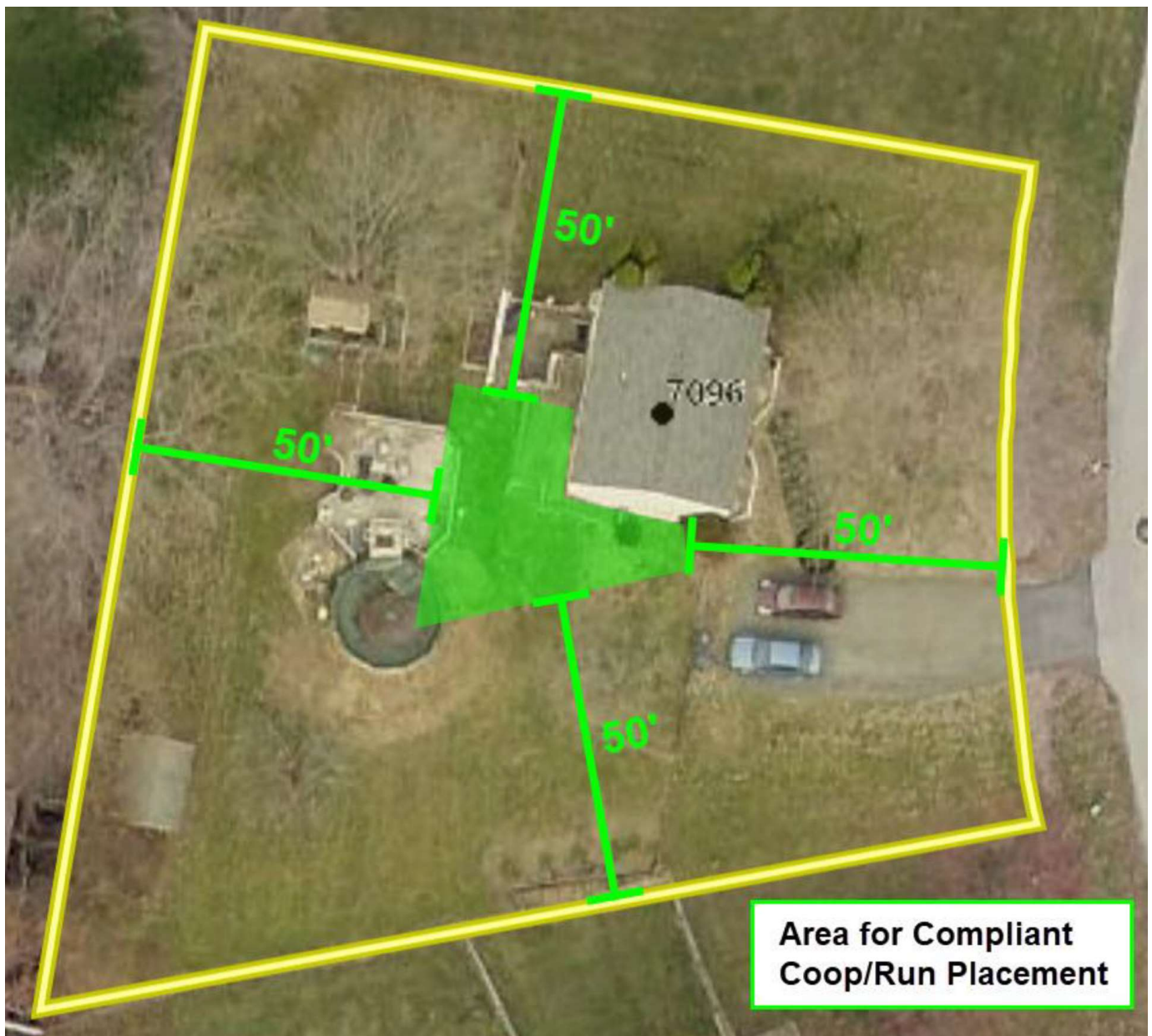
The Applicant states that the pen will be cleaned weekly and that no odors or any noise, will impact the surrounding properties.

## **RECOMMENDATION**

Based on the finding and conclusions in the staff report, Staff recommends approval of the proposed Special Exception, to allow up to 4 chickens, with no roosters, on the subject property as it complies with Section 1-19-3.210, Section 1-19-8.325 and Section 1-19-11.100 of the Frederick County Code.

**§ 1-19-3.210. SPECIAL EXCEPTIONS.** 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: Site Plan**





## Attachment #2: Chicken Coup and Run

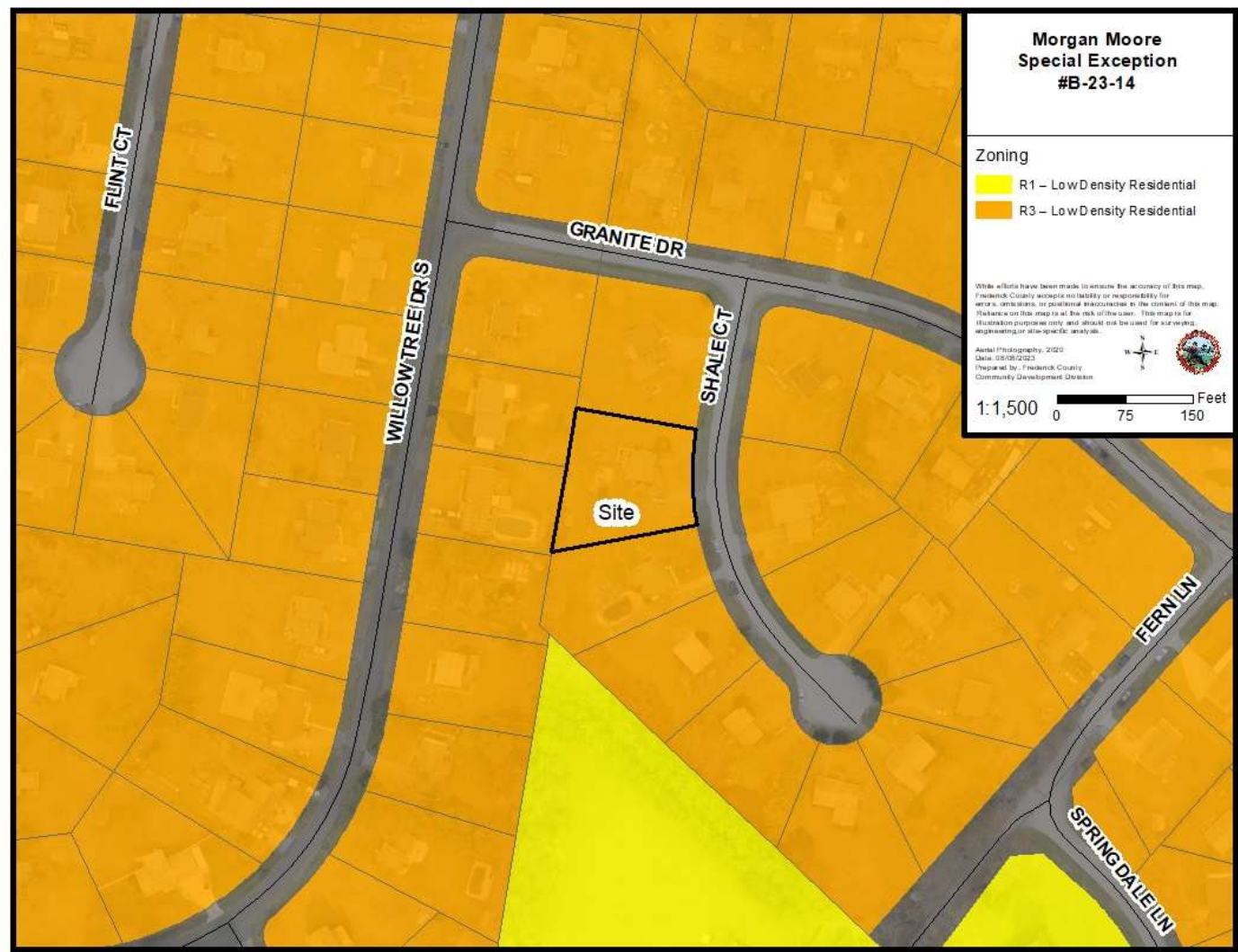


Attachment #3: Aerial Map

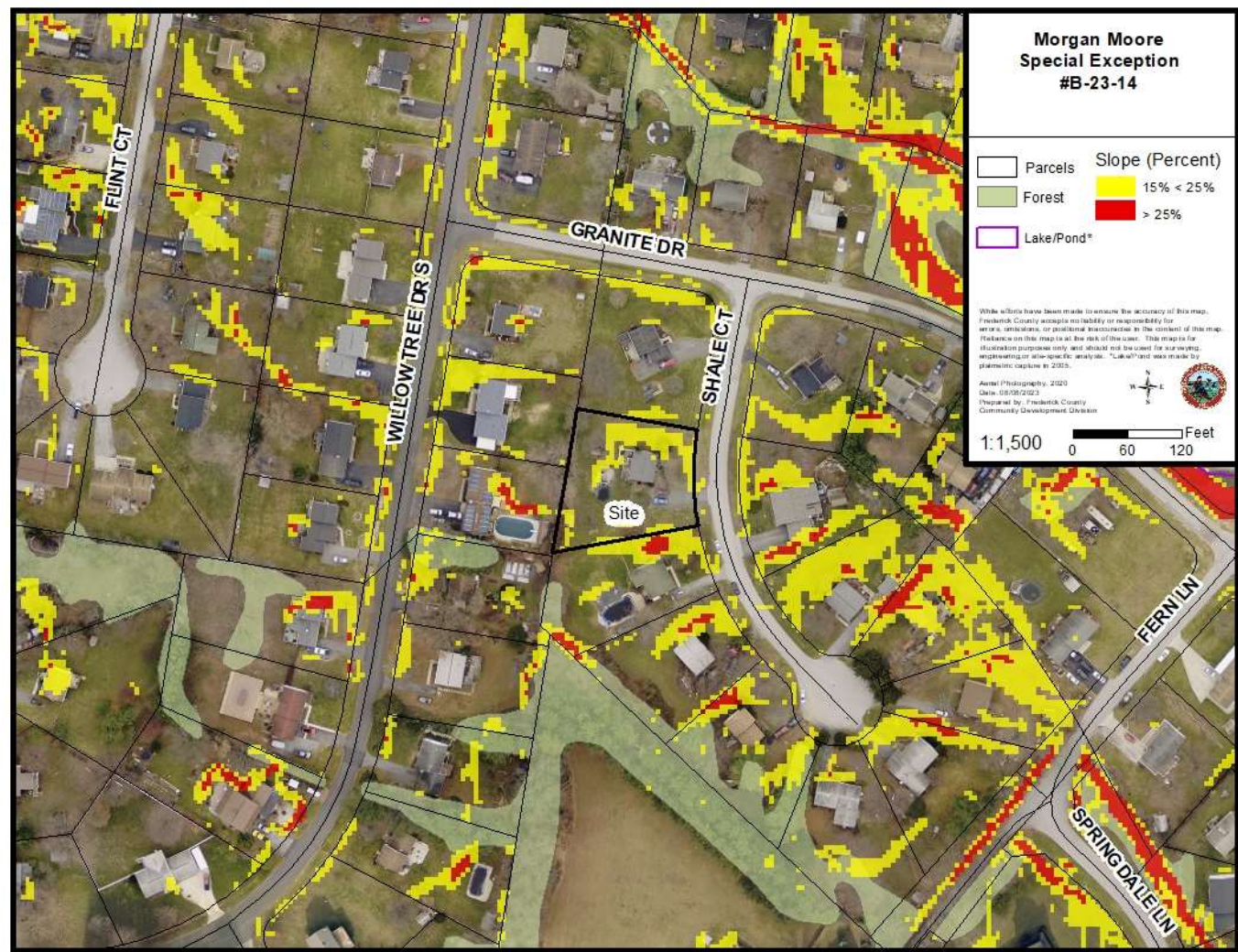




Attachment #4: Zoning Map



Attachment #5: Environmental Features Map





Attachment #6: Comprehensive Plan Map

