



FREDERICK COUNTY BOARD OF APPEALS

September 28, 2023

TITLE: C.E. Rensberger & Family LLC (ADU)

CASE NUMBER: B-23-17 (B275410)

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.¹ The unattached ADU is 1,157 sq. ft. and the property size is 12.44 acres.

PROJECT INFORMATION:

ADDRESS/LOCATION: 3370 Basford Rd Frederick MD 21703
TAX MAP/PARCEL: Tax Map 93, Parcel 0040
ZONE: Resource Conservation (RC)
REGION: Brunswick
WATER/SEWER: W-NPS/S-NPS
COMP. PLAN/LAND USE: Natural Resources (NR)

APPLICANT/REPRESENTATIVES:

APPLICANT: Joel Rensberger
OWNER: Laila Bueckers
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions as set forth in this staff report, Staff finds that the proposed Special Exception to allow a 1,157 sq ft ADU on the subject property complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Code.

Attachment:

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

¹ All Code references herein are to the Frederick County Code unless otherwise specified.

Background:

By way of background, this cottage is for Elaine Mitchell, who is the mother of the main dwelling owner, Laila Bueckers. It is being constructed so they can be close to their children and grandchildren. The primary reason for this is to bring multiple generations of the family together and allow the sharing of family burdens of childcare and elder care. The Property is improved with a single-family home, 3,454 square feet with a footprint of 2,334 sq. ft. The detached ADU is one story, 1,157 sq. ft. with a footprint of the same size, 1,157 sq. ft.

The property is zoned (RC) Resource Conservation and clearing for a residence is limited to 40,000 sq. ft. total for both home sites. The Applicant, C.E. Rensberger & Family LLC, has provided information that indicates they are aware of this and the ADU will not exceed the allowed clearing within an RC zoned property, per 1-19-7.200.C.1 of the Zoning Ordinance.

Special Exception. § 1-19-3.210 Frederick County Code

- 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 this application is made by C.E. Rensberger & Family LLC, whom the owners contracted to be the builder for the ADU.

- 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

The Applicant states that the proposed use is consistent with the purpose and intent of the Comprehensive Development Plan (CDP), in that it provides housing for senior family members or the owners themselves.

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 (small cottage) is in harmony with the already developed neighborhood, although it will be unseen by the neighbors.

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 operations at this ADU are strictly residential and without fumes, noise, vibration, etc.

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

The Applicant states that one additional parking space is provided on the site plan, as an extension of the existing driveway, and over to the wheelchair ramp.

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

The Applicant states Basford Road is a quiet rural route and is adequate to serve the 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 County Code.

The Applicant states that he 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 this chapter 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 this chapter 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 this chapter under which the special exception is sought and stating the grounds on which it is requested; and

The Applicant states that they have completed 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.

- G. 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.

- H. 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.

- I. 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.

- J. 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 districts.

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

The Applicant states that this application is the first and only ADU to be created on the lot.

- 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 this application is for an ADU of greater than 1,000 square feet on a single-family lot, and to be built as a separate accessory structure.

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

The Applicant states that the Owner currently resides in the principal dwelling and will continue to do so.

- 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 one additional parking space is added close to the wheelchair ramp, as shown on the site plan.

- 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 this application for an ADU and complies with all requirements for an ADU, including size and is intended to be used by the owner's mother.

- 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 this application is for family for permanent housing and will not be 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 he understands and will comply with 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 will comply with 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 will comply with 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.

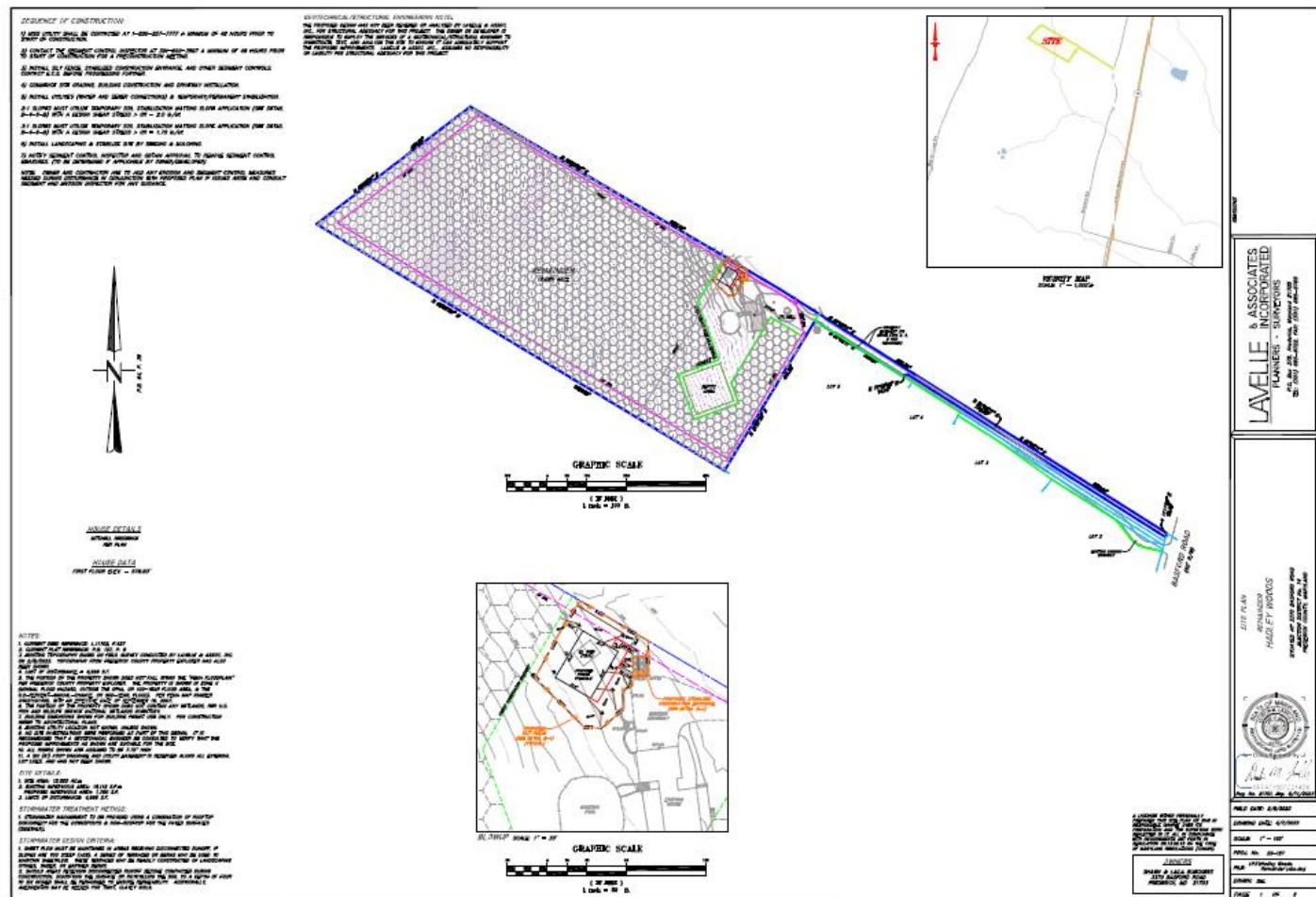
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RECOMMENDATION

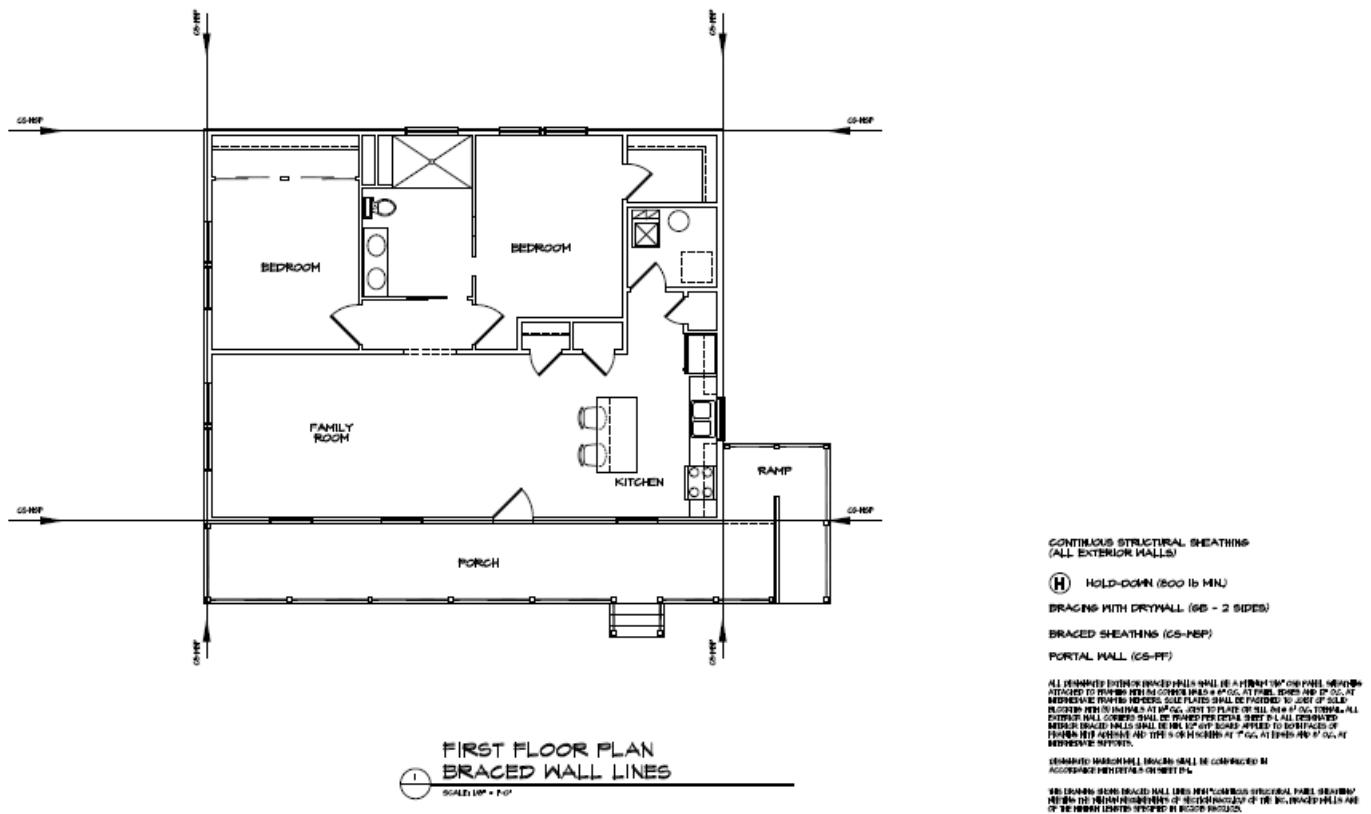
Based on the findings and conclusions in the staff report, Staff finds that the proposed Special Exception, to allow a 1,157 sq ft ADU on the subject property, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Code. Staff notes that this application will be subject to the RC zoning district forest clearing regulations set forth in 1-19-7.200.C.1 of the County Zoning Ordinance.

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



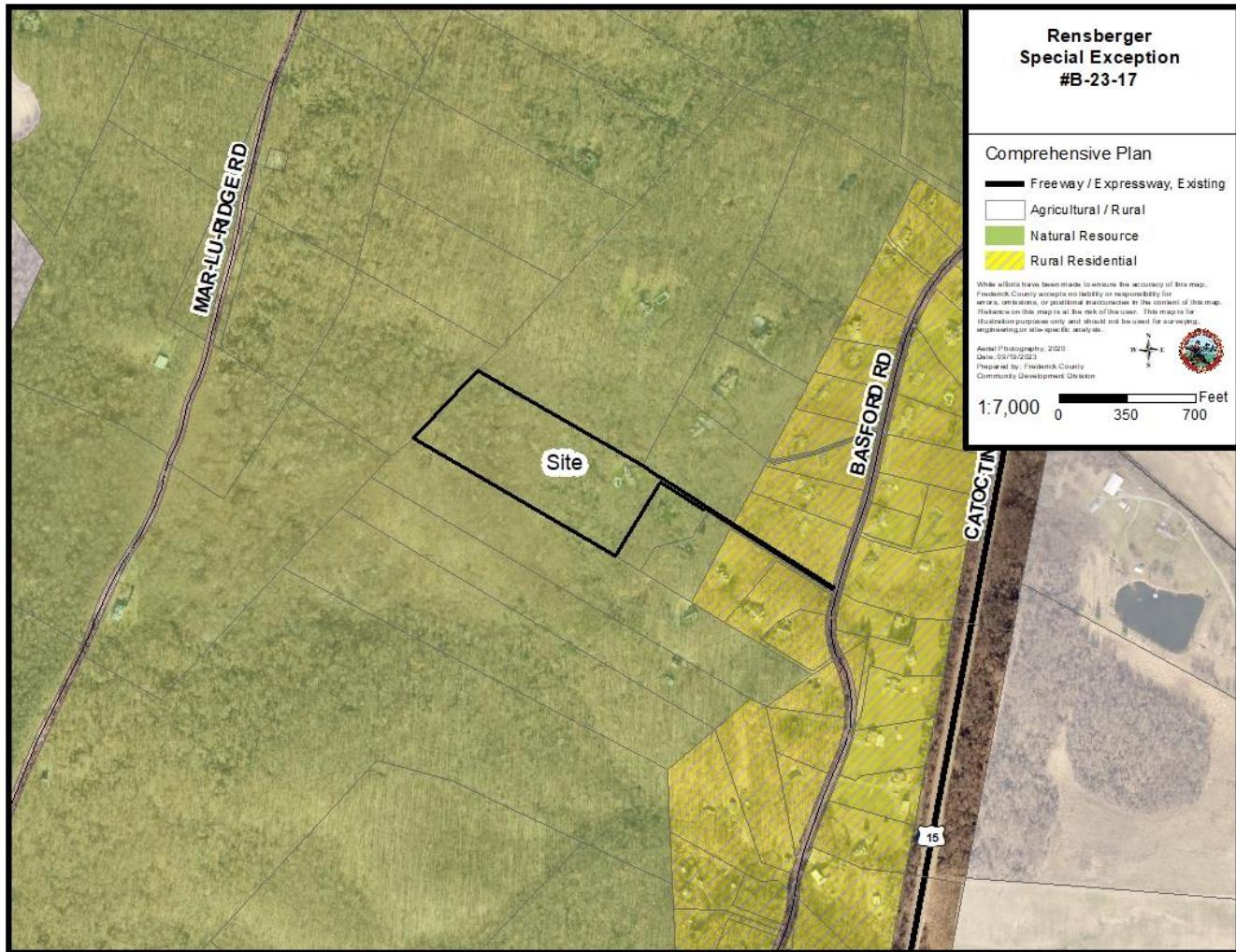
Attachment #2: ADU Floor Plan (1,157 sq. ft.)



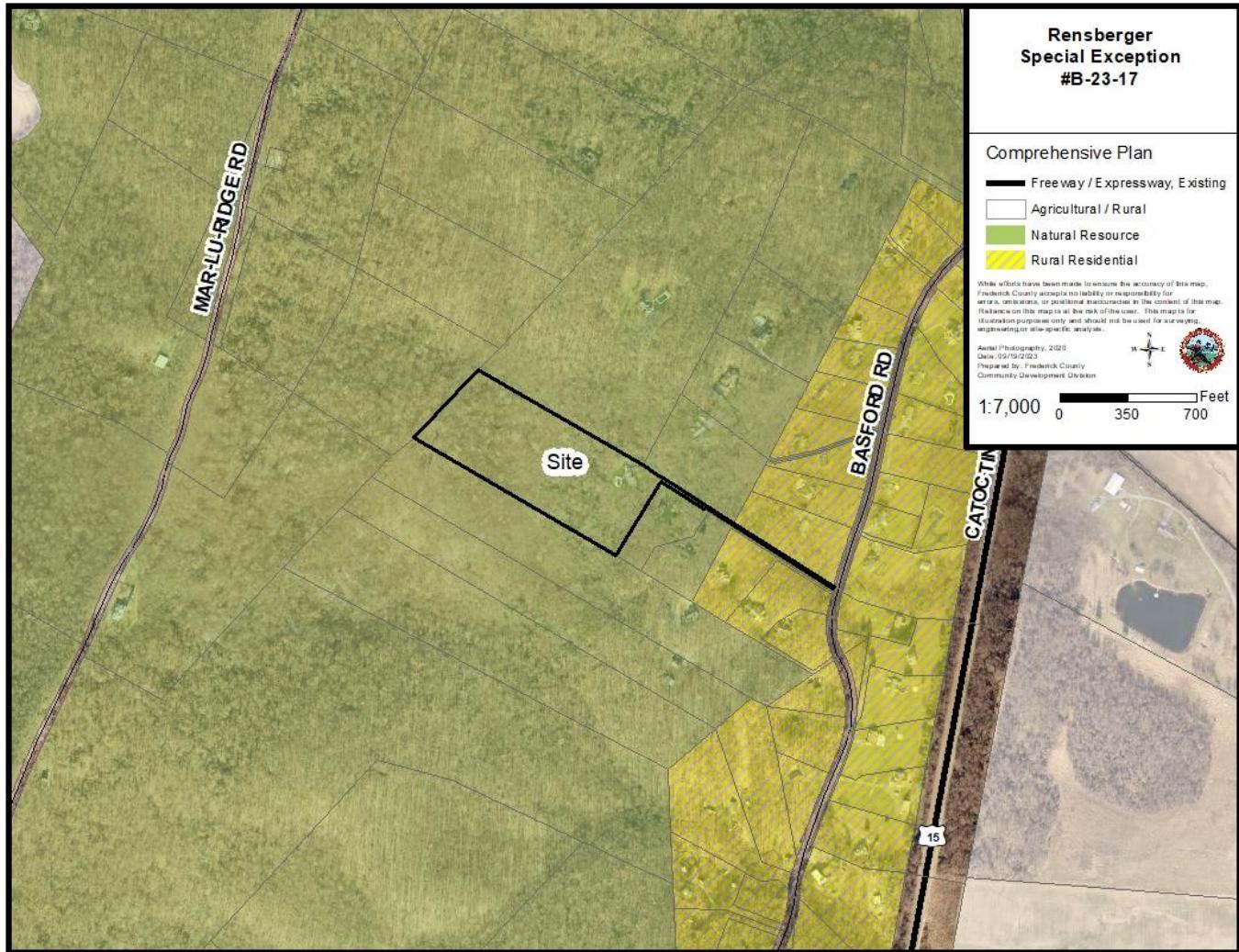
Attachment #3: Aerial Map



Attachment #4: Zoning Map



Attachment #5: Comprehensive Plan



Attachment #6: Environmental Features

