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# FREDERICK COUNTY BOARD OF APPEALS

## OCTOBER 26, 2023

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**TITLE:** 6586 Edgewood Rd: B & R Design Group

**CASE NUMBER:** B-23-18 (B275703)

**REQUEST:** Requesting approval of a request to reduce the required 25 ft. front Building Restriction Line (BRL) to 10 Ft., in accordance with Frederick County Code<sup>1</sup> Sections 1-19-3.220 Variances and 1-19-6.100 Design Requirements. The purpose of the variance is to allow the construction of a single-family residence. Approval of this application would result in a front BRL of 10 Ft.

### PROJECT INFORMATION:

ADDRESS/LOCATION: 6586 Edgewood Rd, New Market MD 21774  
TAX MAP/PARCEL: Tax Map 66, Parcel 0469  
ZONE: (PUD) Planned Unit Development  
REGION: Middletown  
WATER/SEWER: W-1/S-1  
COMP. PLAN/LAND USE: Low Density Residential

### APPLICANT/REPRESENTATIVES <sup>2</sup>:

APPLICANT: B&R Design Group  
OWNER: Recco Nelson  
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 finds that the proposed 15 ft. variance to a 25 ft. front building restriction line in order to construct a single-family residence, complies with Section 1-19-3.220 (Variance), and Section 1-19-6.100 (Design Standards) of the Frederick County Zoning Code. Approval of this Application would result in a 10 ft. front building restriction line (BRL).

### ATTACHMENTS:

Attachment 1: Property Location Map  
Attachment 2: Variance Map  
Attachment 3: Variance Map Continued  
Attachment 4: Aerial Map  
Attachment 5: Comprehensive Plan  
Attachment 6: Environmental Features  
Attachment 7: Zoning

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<sup>1</sup> All Code references herein are to the Frederick County Code unless otherwise specified.

<sup>2</sup> The term Applicant refers to both the Representative and Property Owner.

## **Background**

The required setbacks for this Low Density Residential (PUD) zoned property are front – 25', side – 8', rear – 25'.

The Applicant is requesting a 15 ft. variance to a 25 ft. front building restriction line in order to construct a single-family residence, in accordance with Section 1-19-3.220 Variances, and Section 1-19-6.100 Design Standards. If approved, the variance would result in a 10 ft. front building restriction line. **(Attachment # 2&3)**

## **Sec. 1-19-3.220 General Criteria - Variance:**

Under the provisions of Section 1-19-3.220(C), the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

**The Applicant states that they understand this requirement. This application is requesting relief from the front yard regulations because the lot was recorded prior to the adoption of the Zoning Ordinance and the lot configuration was approved under the Linganore Planned Unit Development (PUD) in 1973.**

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

**The Applicant states that the County Zoning staff directed him to file with the Board of Appeals.**

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

**The Applicant states that the hearing is scheduled for October 26, 2023.**

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

**The Applicant states that they understand this requirement and will comply.**

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

**The Applicant states that special conditions and circumstances exist in that the area of the lot is 4,276 square feet, the lot is a corner lot, therefore it has two front setbacks and two side setbacks for a buildable area of 819 square feet. Also, the lot was legally created prior to the adoption of the current setback requirements.**

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of Chapter 1-19; and

**The Applicant states that without the variance from the BOA, they would not be able to build a single-family unit on this lot. This Owner cannot reasonably place a home on the property due to the current zoning setbacks. The property owner cannot acquire any additional land to the rear of the proposed house location because the land surrounding the lot is noted as Parcel 'B', which is required open space for the PUD.**

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

**The Applicant states that the granting of this variance would not confer any special privilege for them. There are a number of properties in the Lake Linganore community that have received variances to the required BRLs, in order to construct a single-family residence.**

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**The Applicant states that the granting of this variance will be in harmony with Chapter 1-19 of the Frederick County Code and would have no detrimental effect on any adjoining properties. Constructing a single-family residence on this lot will have no negative impact on the surrounding community or public welfare.**

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19.

**The Applicant states that they understand this requirement and will comply.**

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 in said zone.

**The Applicant states that the requested use is permitted, and not prohibited, under the terms of Chapter 1-19 of the Frederick County Code.**

- (F) Except as specified in § [1-19-4.220](#)(C), the Board of Appeals shall not grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

**The Applicant states that they are not requesting the approval of a nonconforming structure.**

- (G) A decision of the Board of Appeals granting a variance will be void 2 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 and will comply.**

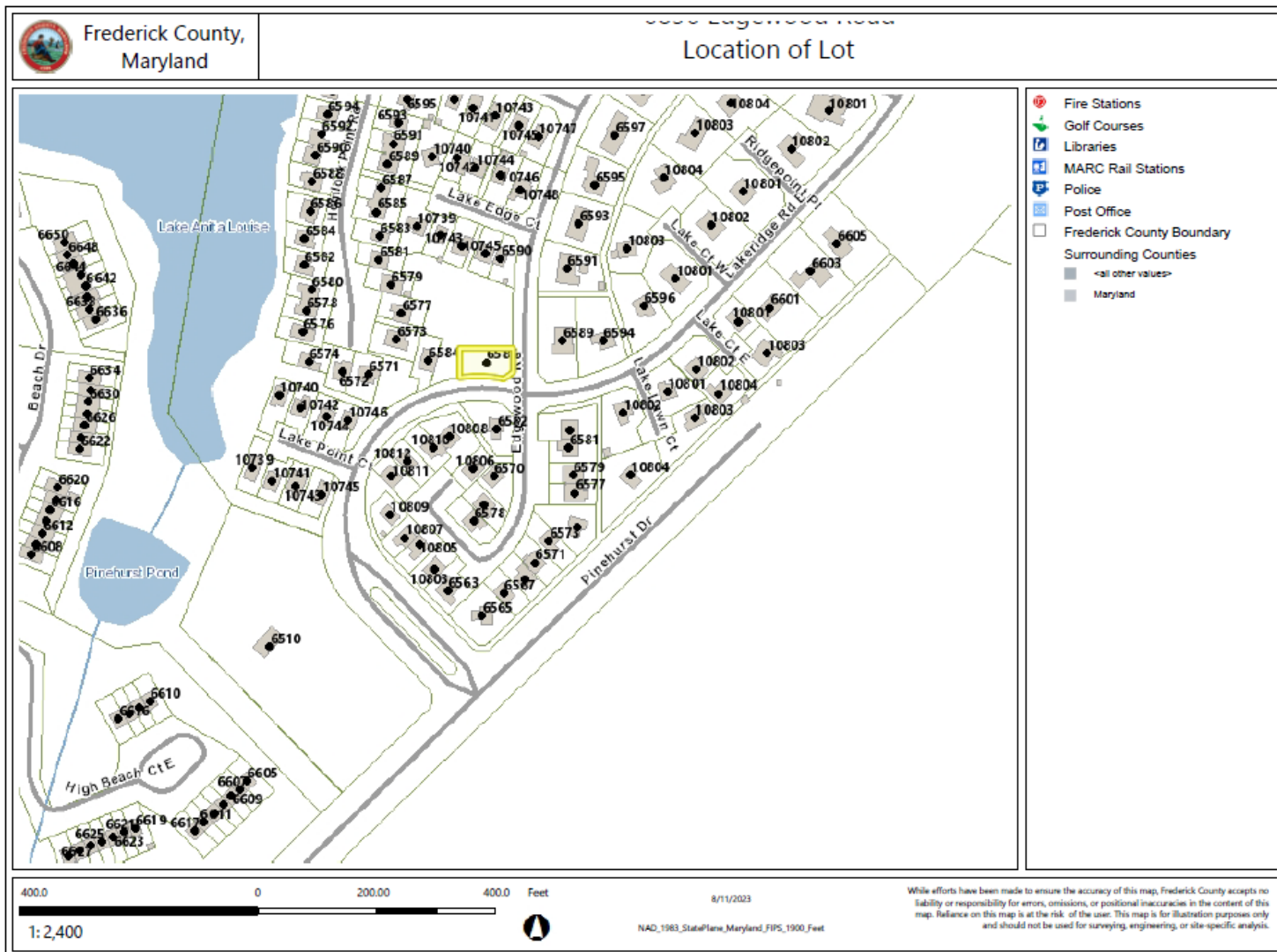
### **RECOMMENDATION**

Based on the findings and conclusions in the staff report, Staff finds that the proposed 15 ft. variance to a 25 ft. front building restriction line, in order to construct a single-family residence, complies with Section 1-19-3.220 (Variance), and Section 1-19-6.100 (Design Standards), of the Frederick County Code.

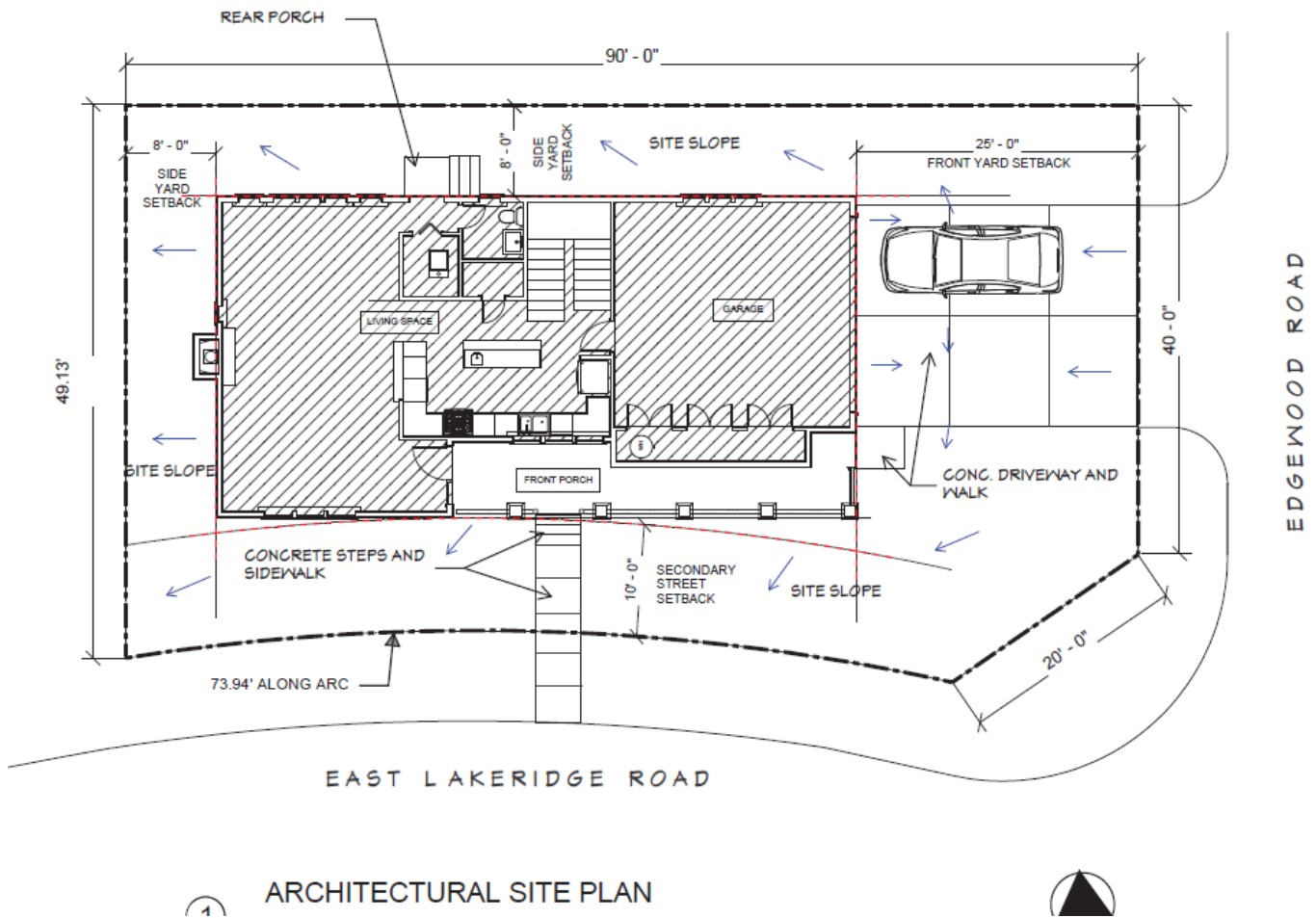
**The Board shall consider approval of a variance in accordance with Section 1-19-3.220 and Section 1-19-6-100, of the Frederick County Code.**

**A decision of the Board of Appeals granting a variance will be void 2 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.**

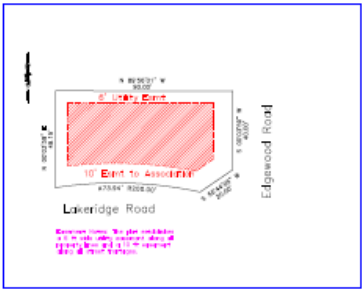
## Attachment 1: Property Location Map



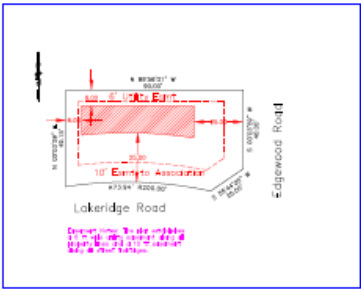
**Attachment 2: Variance Maps**



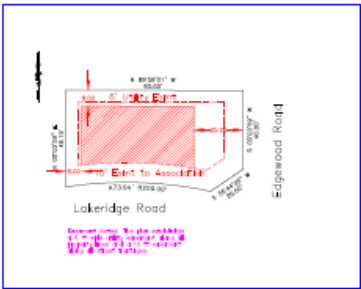
Attachment 3: Variance Maps Continued



Buildable Area based on original plat



Buildable Area based on current zoning requirements



Buildable Area based on Variance request



Eaglehead  
Pinehurst  
Sectopn VI Plat 2  
Courts of Pinehurst  
Lot 579  
6586 Edgewood Rd

SCALE: 1" = 30'      AUGUST-2023      JOB No. 22-112

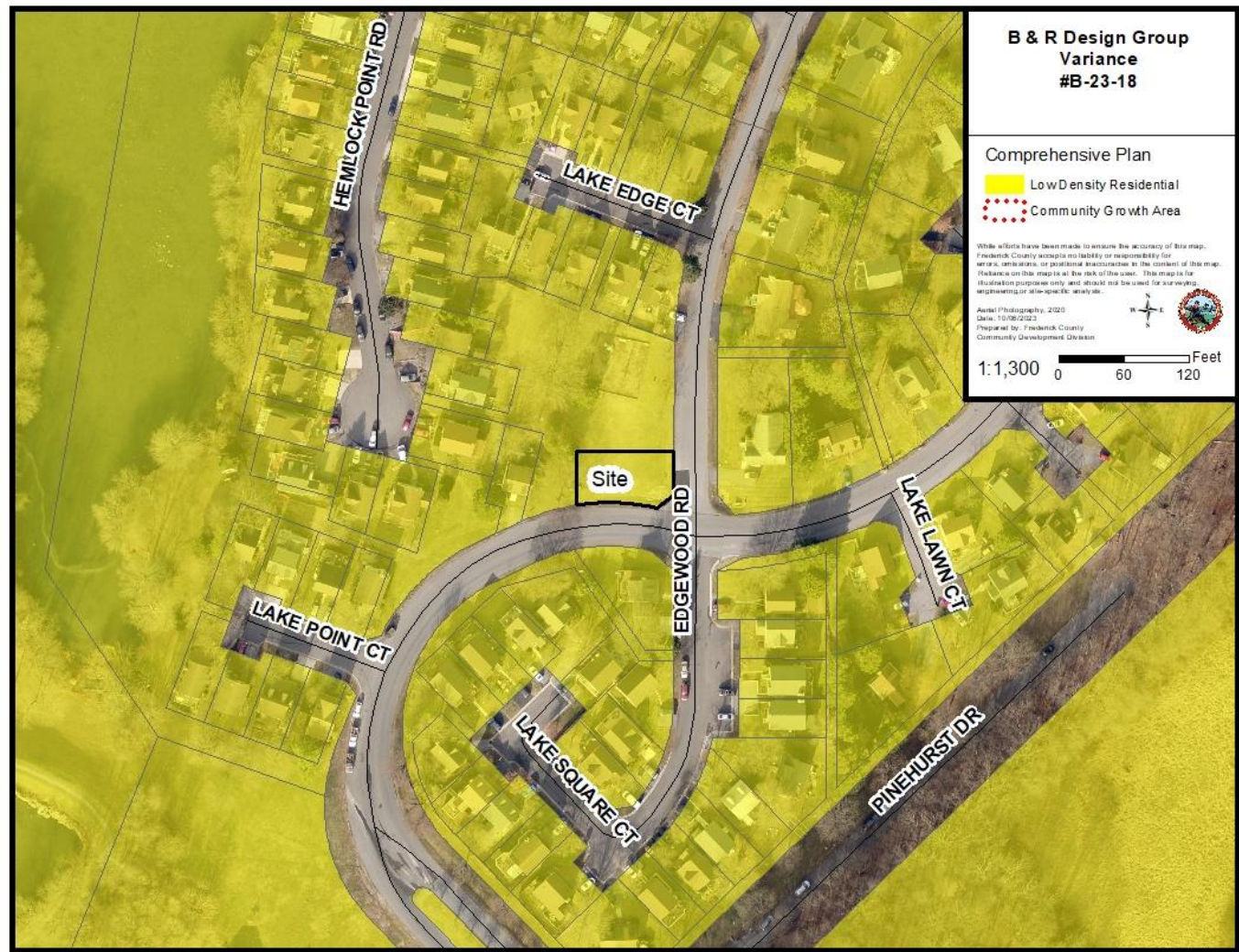


## Attachment 4: Aerial Map



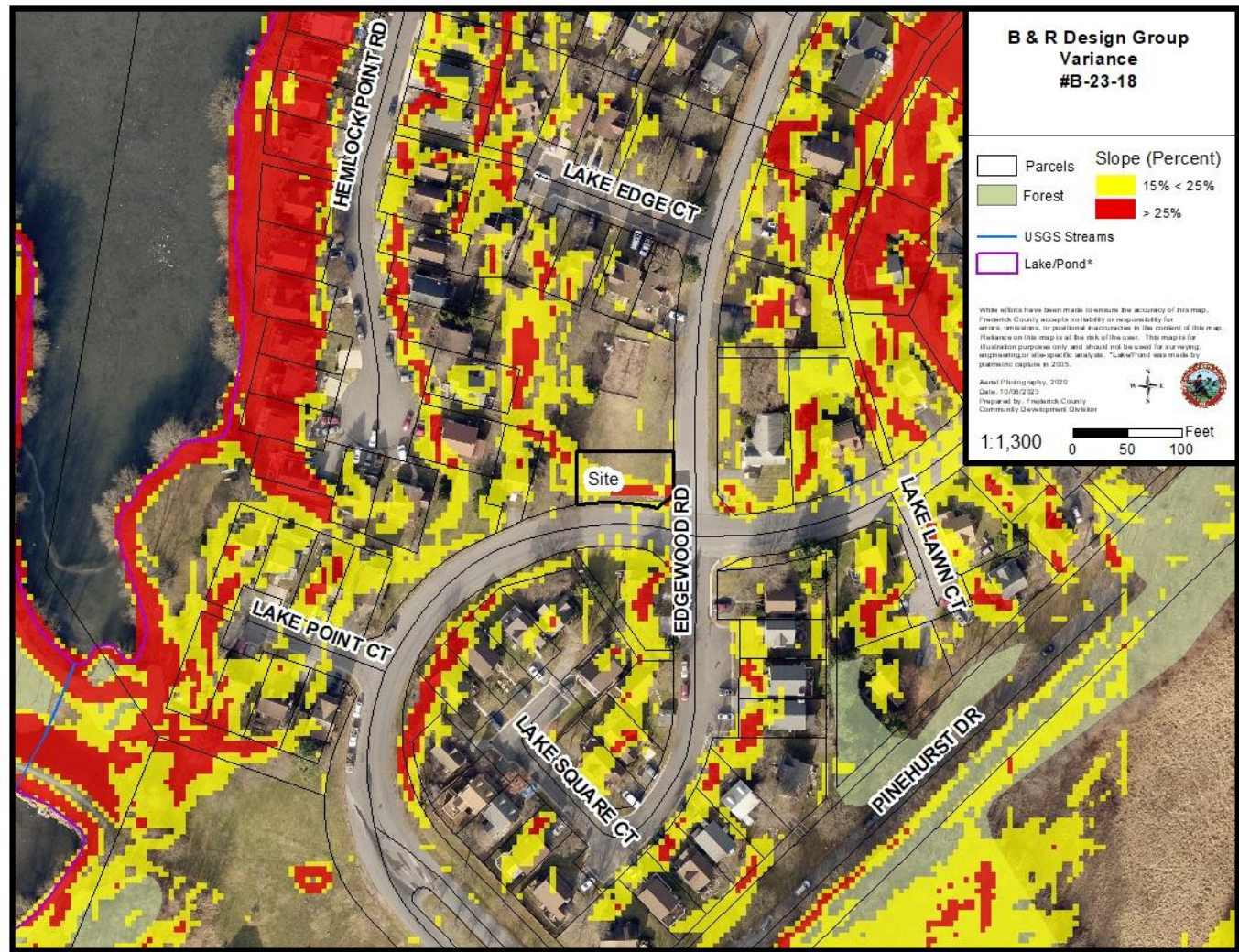


**Attachment 5: Comprehensive Plan**





**Attachment 6: Environmental Features Map**



Attachment 7: Zoning Map

