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# FREDERICK COUNTY BOARD OF APPEALS

## JANUARY 25, 2024

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**TITLE:** Artison Investment LLC

**CASE NUMBER:** B-24-02 (B275832)

**REQUEST:** Requesting approval to reduce the required 300 ft. lot width in the Resource Conservation (RC) District, by 30 ft., providing a minimum lot width of 270 ft., at the front BRL, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Requirements.<sup>1</sup> The purpose of the variance is to allow the construction of a single-family residence.

### PROJECT INFORMATION:

ADDRESS/LOCATION: 7810 Jackson Mountain Dr. Frederick MD 21702.  
TAX MAP/PARCEL: Tax Map 56, Parcel 0381, Size 3.76 Acres  
ZONE: (A) Agricultural  
REGION: Frederick  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Agricultural/Rural

**APPLICANT** Artison Investment LLC  
**ENGINEER:** LaValle and Associates Inc.  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Michael Paone, Zoning Planner

**RECOMMENDATION:** Based on the findings and conclusions in the staff report, Staff finds the Applicant's request for approval to reduce the required 300 ft. lot width in the Resource Conservation (RC) District, by 30 ft., providing a minimum lot width of 270 ft., at the front BRL, to be consistent with 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.

### ATTACHMENTS:

Attachment 1: Aerial Location Map  
Attachment 2: Site Plan  
Attachment 3: Site Plan with Closer View  
Attachment 4: Steep Slope Disturbance Area  
Attachment 5: Comprehensive Plan Map  
Attachment 6: Environmental Features Map  
Attachment 7: Zoning Map

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<sup>1</sup> Unless otherwise stated, all code references are to the Frederick County Code.

## **Background**

The property zoning is Agricultural (A), and the required setbacks for this property are front – 50', side – 50', rear – 50'. The lot is 3.76 Acres. The variance request for lot width only.

The Applicant is requesting a 30 ft. reduction to the required 300 ft. Lot Width requirement to construct an addition to 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 270 ft. Lot Width.

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

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

**The Applicant states that they understand this requirement. The Applicant is requesting a variance to the required 300 ft. lot width in order to construct a single-family dwelling.**

- (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. Zoning staff met with the Applicant and stated that a variance to lot width through the BOA was the only way to obtain approval for the request they were proposing.**

- (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 hearing is scheduled for January 25, 2023.**

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 land has several areas with steep slopes which are typically not an issue with most properties.

- (1) 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 the conditions and circumstances are with the land are not the result of actions taken by the property owner. This lot has strict rules for building in the RC District and requires the Applicant to do everything possible to avoid steep slopes on this lot. The Applicant has done this and the reduction in lot width will help.**

- (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 literal interpretation of Chapter 1-19 would not allow for the adjustment of the house location in order to minimize any impact on steep slopes that the construction of the home might have. The requirement for a 300 ft lot width at the front BRL was not obtainable while making the needed effort to avoid steep slopes.**

- (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. This lot is unique in that it contains steep slopes that we have worked diligently with staff to minimize with the placement of this 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 is in harmony with the general purpose and intent of the Section 1-19-3.220. The granting of the variance will not be injurious to others or detrimental to the public. This variance will have no adverse impact on the surrounding community.**

- (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 with any conditions prescribed by the Board.**

- (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 variance to 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.

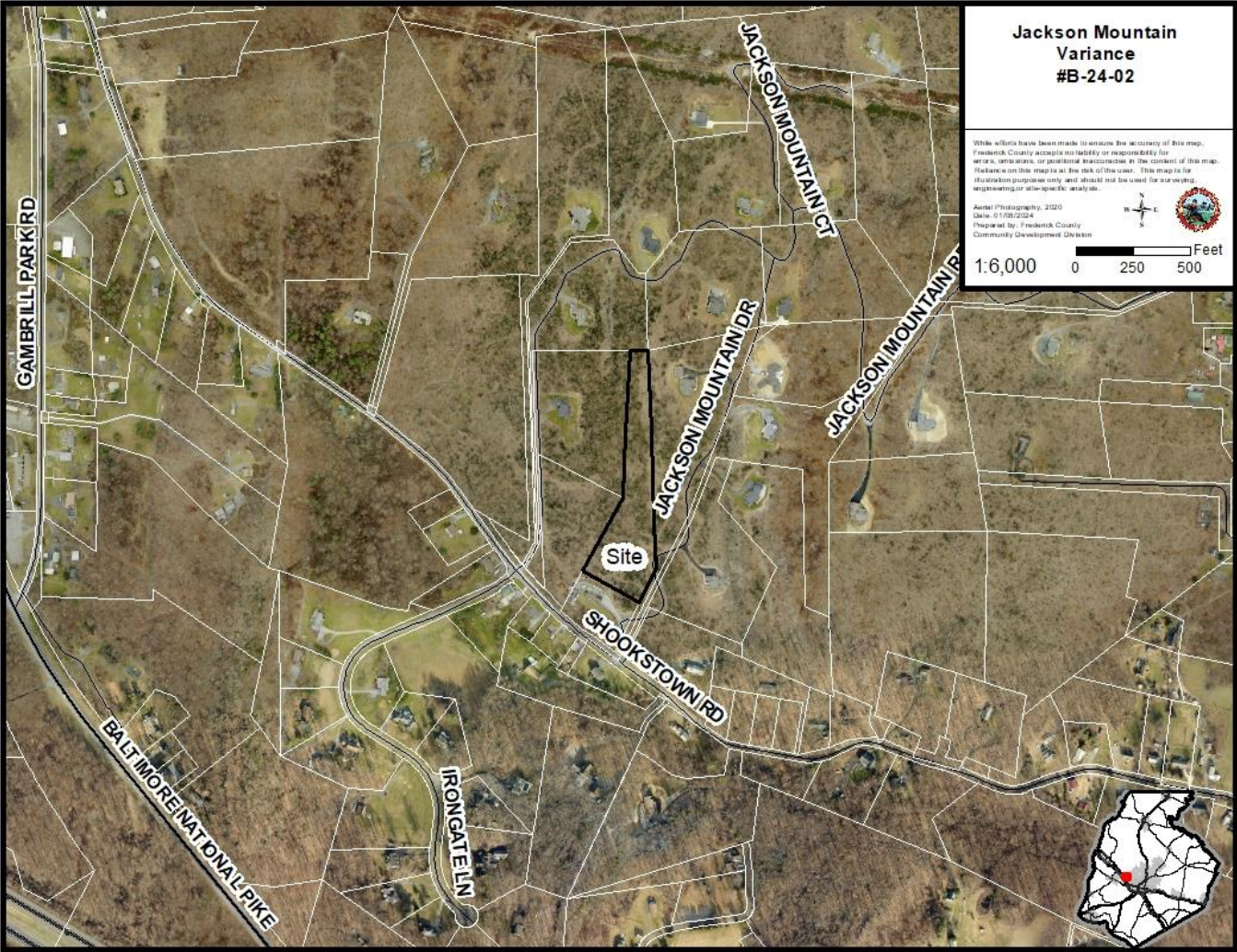
**The Applicant states that they understand this requirement and will comply.**

### **RECOMMENDATION**

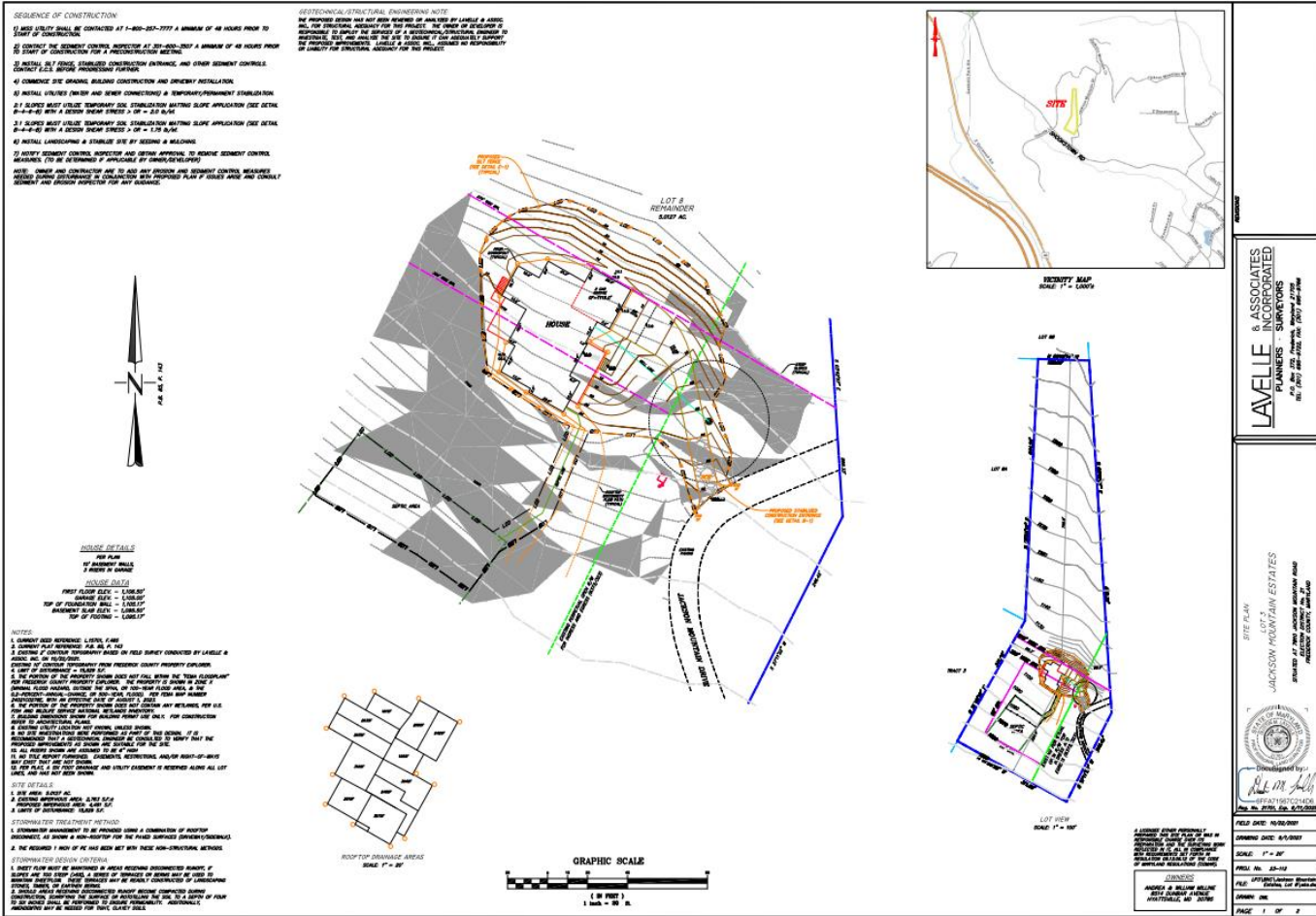
Based on the findings and conclusions in the staff report, Staff finds the Applicant's request for approval to reduce the required 300 ft. lot width in the RC, by 30 ft., providing a minimum lot width of 270 ft., at the front BRL, to be consistent with Sections 1-19-3.220 Variances and 1-19-6.100 Design Requirements.

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

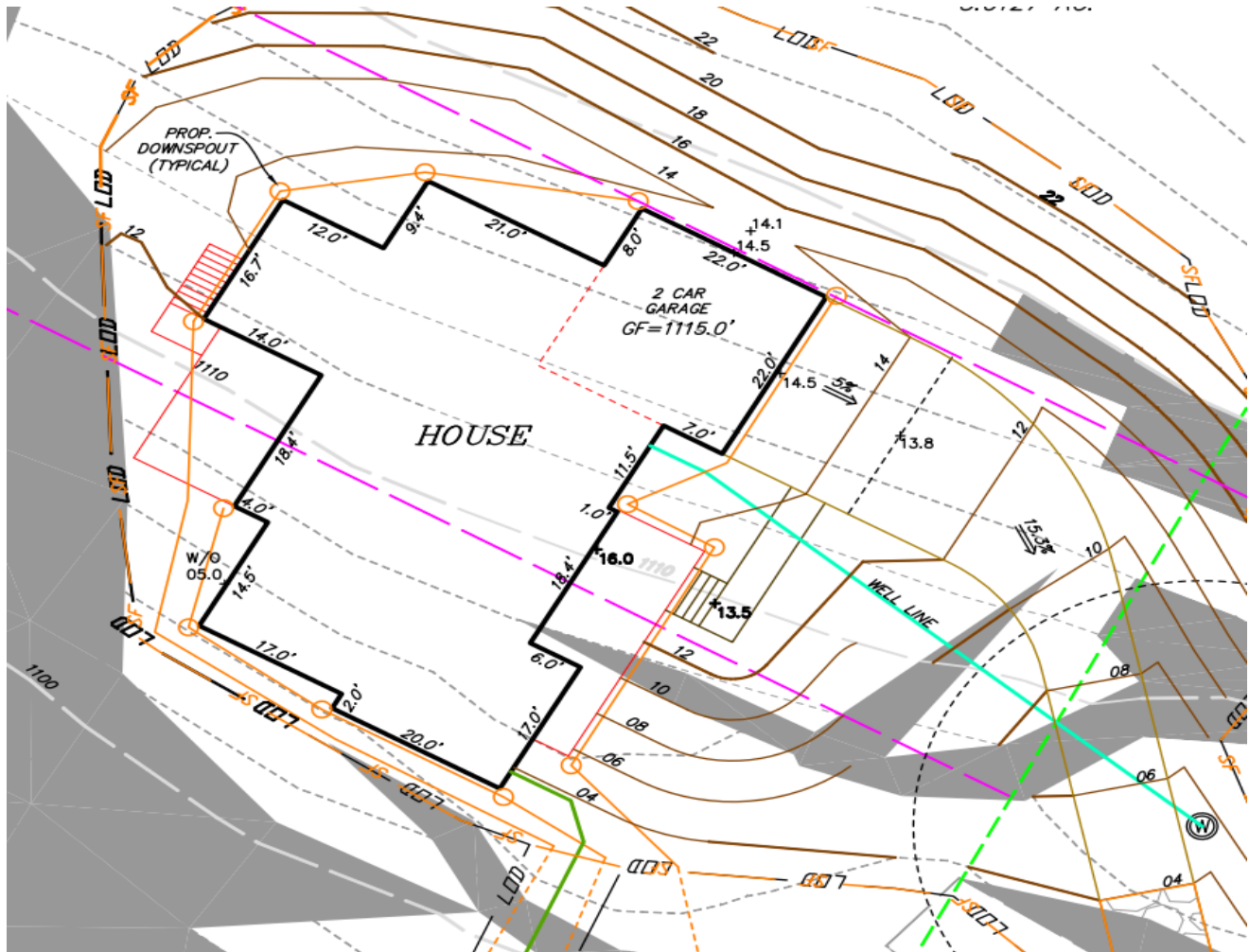
**Attachment 1: Aerial Location Map**



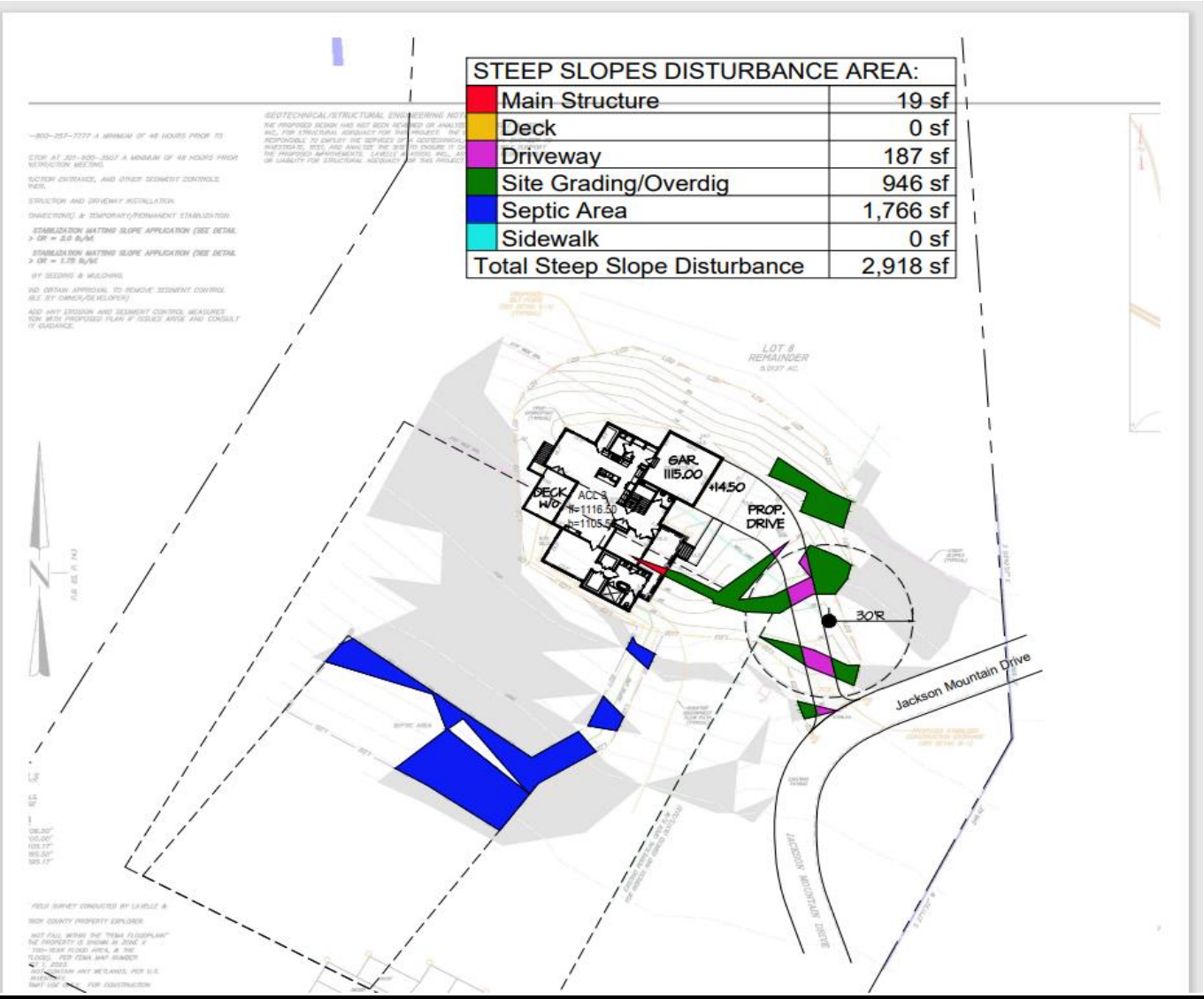
## **Attachment 2: Site Plan**



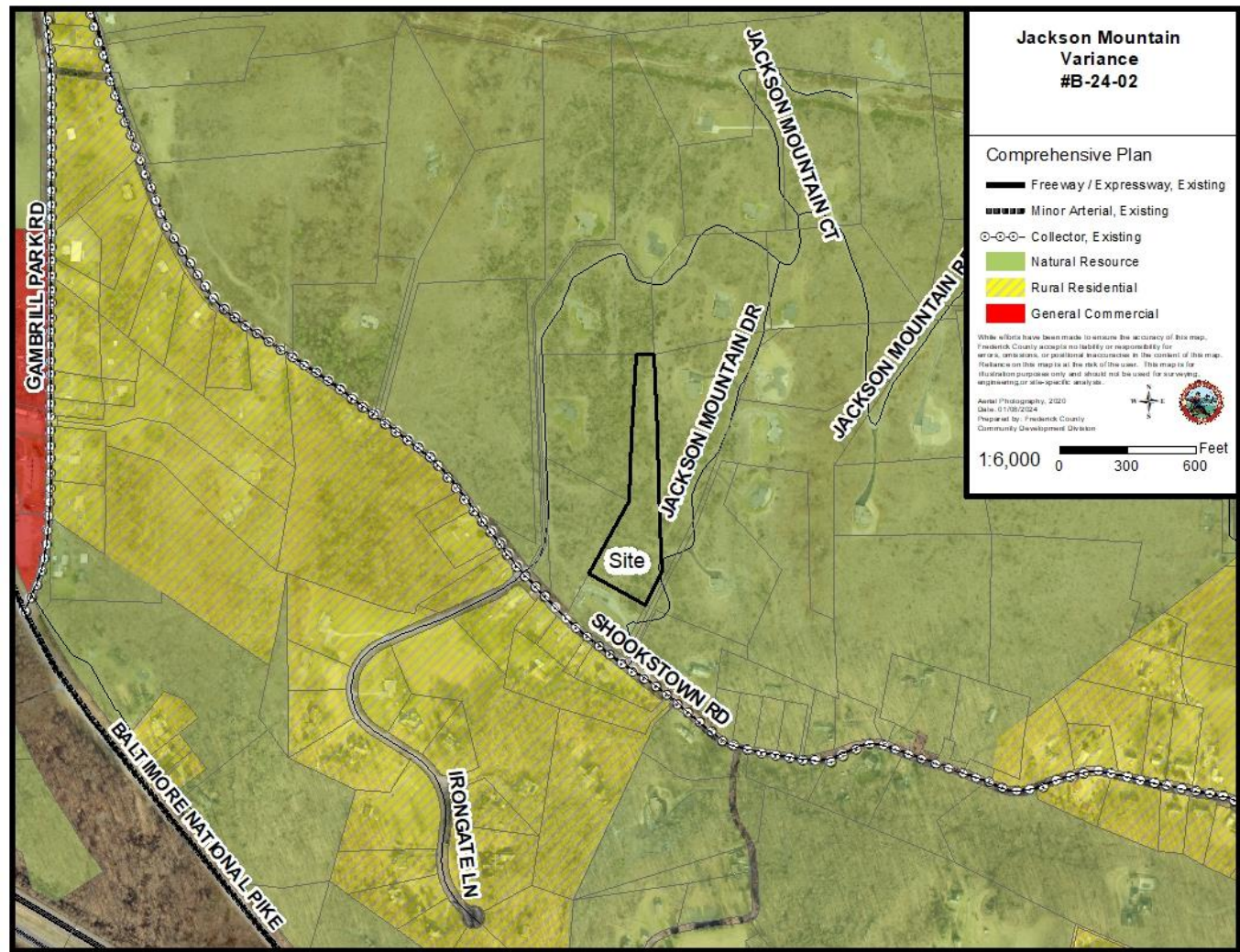
**Attachment 3: Site Plan with Closer View**



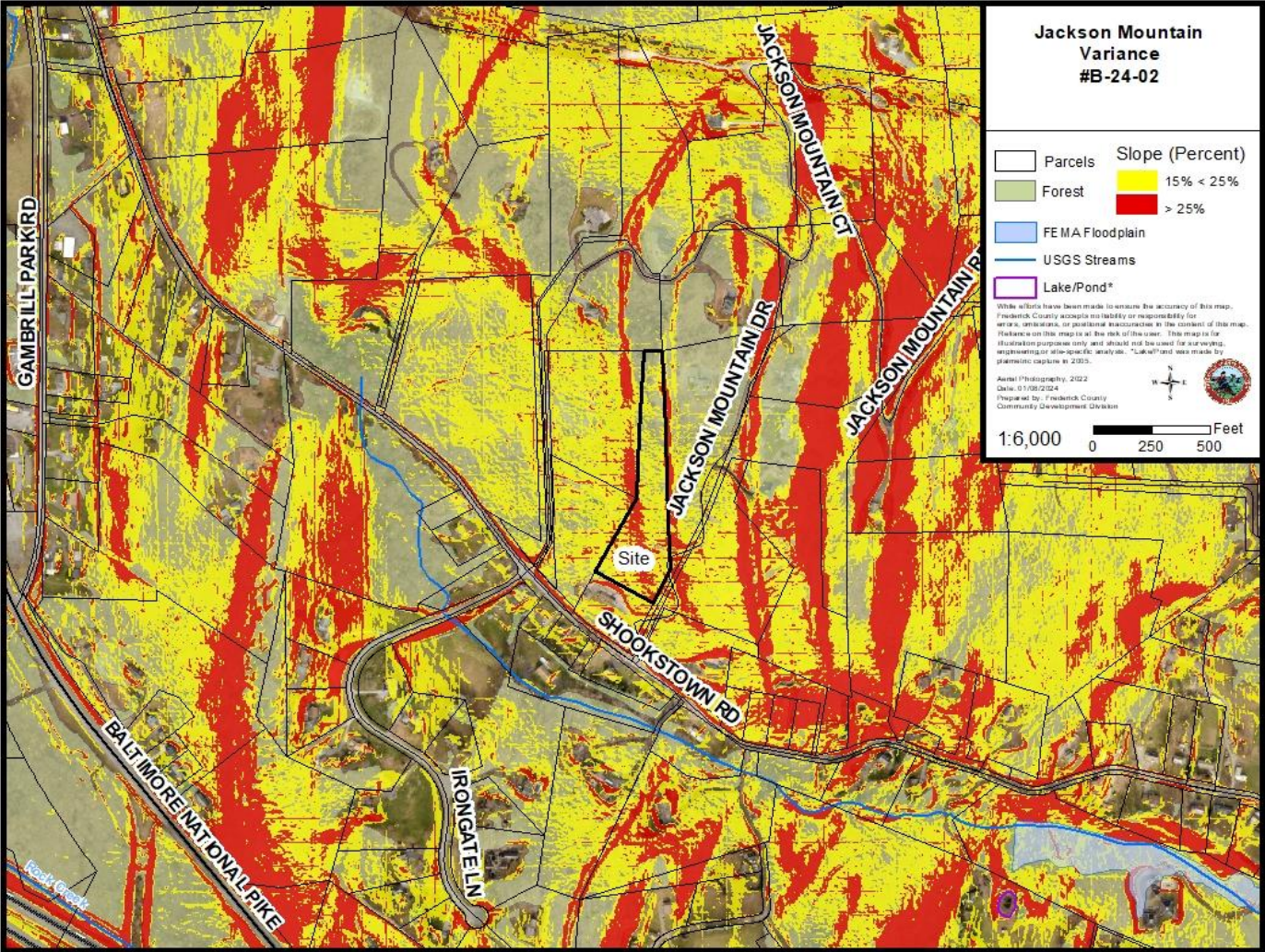
Attachment 4: Steep Slope Disturbance Area



**Attachment 5: Comprehensive Plan Map**



Attachment 6: Environmental Features Map



**Attachment 7: Zoning Map**

