



# FREDERICK COUNTY BOARD OF APPEALS

## JULY 25, 2024

**CASE NUMBER:** B-24-15 (B276432)

**REQUEST:** Requesting approval for an Activity Within a Floodplain for an interior remodel of an existing single-family dwelling in accordance with Frederick County Code<sup>1</sup> Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. This Application is a Substantial Improvement.

### PROJECT INFORMATION:

ADDRESS/LOCATION: 17222 Sabillasville Road  
TAX MAP/PARCEL: Tax Map 06, Parcel 0011  
ZONE: Low Density Residential (R1)  
REGION: Thurmont  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Rural Community

### APPLICANT/REPRESENTATIVES:

APPLICANT: Micks Plumbing and Heating (Owner Representative)  
OWNER(S): Michael and Holly Late  
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. The Applicant meets the standards and requirements contained in Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain.

### Attachments:

**Attachment #1:** Site Plan for Property  
**Attachment #2:** First Floor Plan  
**Attachment #3:** Front Photo of Applicants House  
**Attachment #4:** Rear Photo of Applicants House  
**Attachment #5:** Multiple Pictures from Basement of Applicants House  
**Attachment #6:** Aerial Map of Subject Property and Surrounding Area  
**Attachment #7:** Zoning Map  
**Attachment #8:** Environmental Features Map  
**Attachment #9:** Land Use Map

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

## **Background**

The Applicant<sup>2</sup> is requesting approval for an Activity Within a Floodplain for an interior remodel of an existing single-family dwelling in accordance with Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. This Application is a Substantial Improvement, as defined in Section 1-19-11.100.

The existing dwelling is a single-family home on a residential lot, Zoned (R1). This structure is located within the FEMA Floodplain and is subject to Section 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. The cost of the Applicant's proposed improvements is greater than 50% of the base value of the residence at the time of damage. This work is considered a Substantial Improvement for land within the FEMA floodplain and approval by the Board of Appeals (BOA) is required.

The property is adjacent to a branch of Friends Creek located at the rear of the property. Access to the parcel is from Sabillasville Road. The owners, Michael and Holly Late, plan to use this as a rental property. The original structure was built in 1943. The owners propose to fully gut and renovate the interior of the home. Due to the age and condition of the home, the cost of the improvements will exceed 50% of the market value of the structure and would therefore be classified as a Substantial Improvement.

**Section 1-19-11.100 SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, alteration, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure (less land value) either:

- a) Before the improvement or repair is started; or
- b) If the structure incurred substantial damage and has been restored before the damage occurred. ***SUBSTANTIAL IMPROVEMENT*** occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements will be calculated on a cumulative basis. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements. The term also includes structures which have incurred substantial damage regardless of the actual repair work performed.

## **Section 1-19-9.120 PROCEDURES FOR ACTIVITIES WITHIN THE FEMA FLOODPLAIN.**

- A. The Board of Appeals shall review the following activities within the FEMA floodplain: substantial improvements, substantial improvements due to existing structures substantial damage, replacement or relocated dwelling units (including manufactured homes), the addition of accessory buildings, the expansion or replacement of an existing nonconforming use, or development of an existing parcel of record lying totally within the FEMA floodplain. Applications to allow new structures or fill to be placed in the floodway shall not be considered. The Board of Appeals may grant an application for approval for activity within the FEMA floodplain when the Board specifically finds that:

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

- (1) Failure to grant the application for approval would result in exceptional hardship to the applicant; and

The Applicant states that the renovation to the existing single-family house cannot be accomplished without this approval. The Applicant is not expanding the home and all work is interior.

- (2) The granting of an application for approval would not increase flood heights, add threats to public safety, result in extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

The Applicant states that the location of this renovation creates no additional threats to the public. The use of the property is not being changed, expanded, or modified in any way. There will be no increase to existing footprint to the structure. Since the structure has historically been utilized as a single-family home, the proposed renovations would, in no way, alter the existing use or zoning of the subject structure. All work is interior, with no outside construction.

- (3) The granting of an application for approval would not allow new structures or fill to be placed in the floodway; and

The Applicant states that this proposed renovation is not placing any new structures or fill in the floodway and would be interior renovations only. The footprint of the structure would not be increasing.

- (4) The granting of an application for approval is the minimum necessary considering the flood hazard to provide relief and that public funds may not be available to mitigate the results of the approval; and

The Applicant states that this approval is the minimum necessary consideration, and public funds may not be available to mitigate the results of the approval. There are no public funds used in the rehabilitation of this single-family residence.

- (5) All new structures and substantial improvements to existing structures will have the lowest floor elevated to the greatest extent possible with respect to the 100 year flood elevation, but at least to the Flood Protection Elevation, and a FEMA elevation certificate filed. In addition, all structures, including manufactured homes, must be firmly anchored in accordance with acceptable engineering practices (i.e., FEMA publication 85 "Manufactured Home Installation in Flood Hazard Areas"); and

The Applicant states that additional work may be required including possible first floor elevations. All work will be performed in accordance with applicable rules and regulations.

- (6) The granting of a permit by the Maryland Department of the Environment if located within a FEMA floodplain; and

The Applicant states that they understand this requirement and will comply. All appropriate permits will be applied for in accordance with County and State requirements.

- (7) The action is duly recorded with the deed of the property on which the application for approval is granted prior to the issuance of a building permit. Any expense incurred by the recording is the responsibility of the applicant.

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

- (8) The Board of Appeals shall not grant approval of the above activities for lots containing floodplain created after June 6, 1989.

The Applicant states that the structure being proposed for renovation was constructed in 1943, well before the land was designated a floodplain.

- B. The Board of Appeals will notify the applicant of approval in writing through the Zoning Administrator. The decision of approval and findings shall include the notification that:

- (1) The issuance of a decision to allow construction of a structure below the 100 year flood level will result in increased premium rates for flood insurance.

The Applicant acknowledges that there will be increased insurance premiums due to flood insurance but also an increase in safety for the tenant of the home.

- (2) Such construction below the 100 year flood level increases risks to life and property.

The Applicant acknowledges that the position of the house within the 100 year floodplain increases risks to life and property. This is in part, why they are taking the steps to improve this structure.

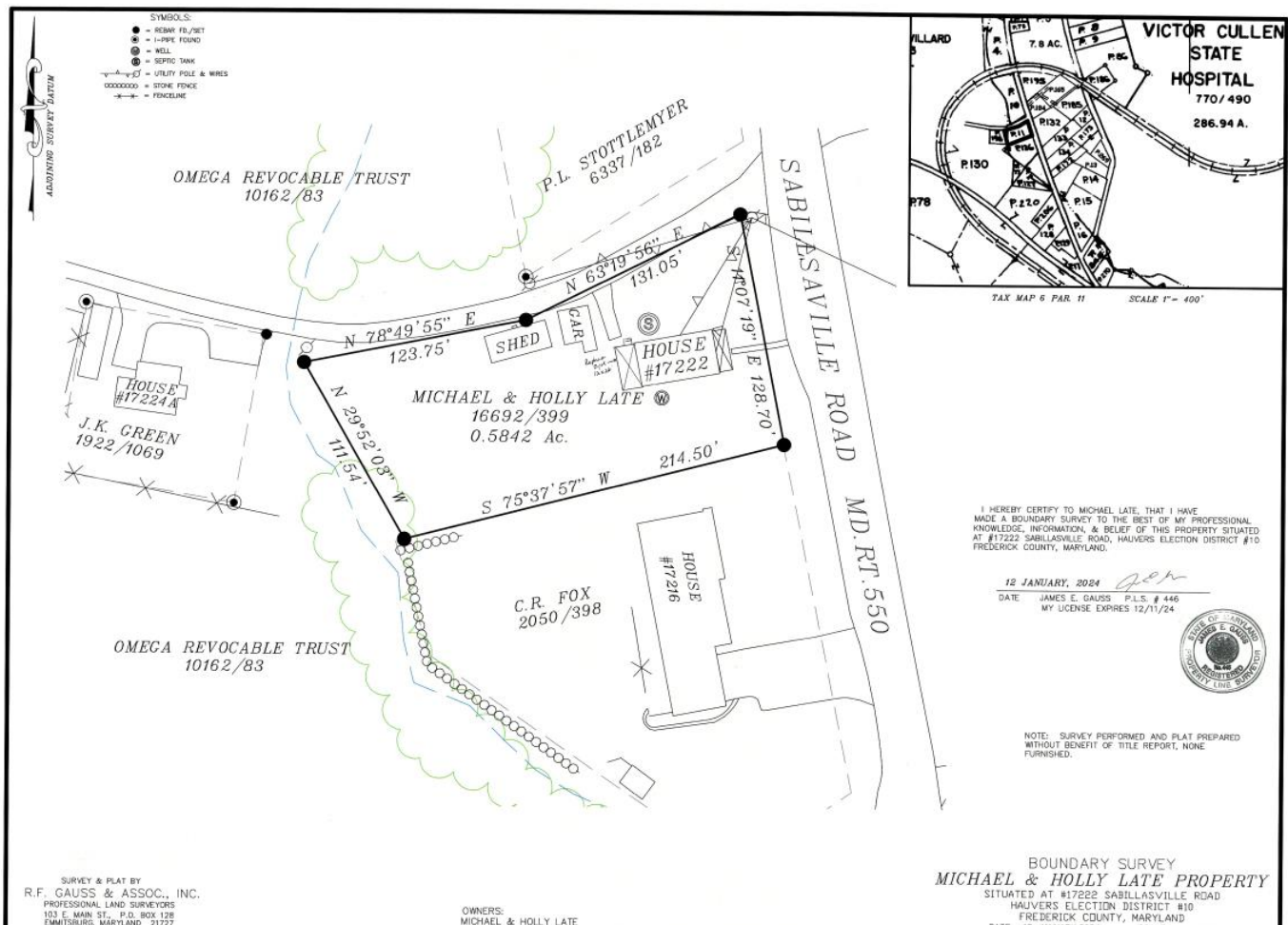
- C. The Board of Appeals will maintain a record of all decisions, including justification for their issuance, and the Zoning Administrator will report such decisions in the county biennial reports submitted to the Federal Emergency Management Agency

The Applicant states that they understand this requirement.

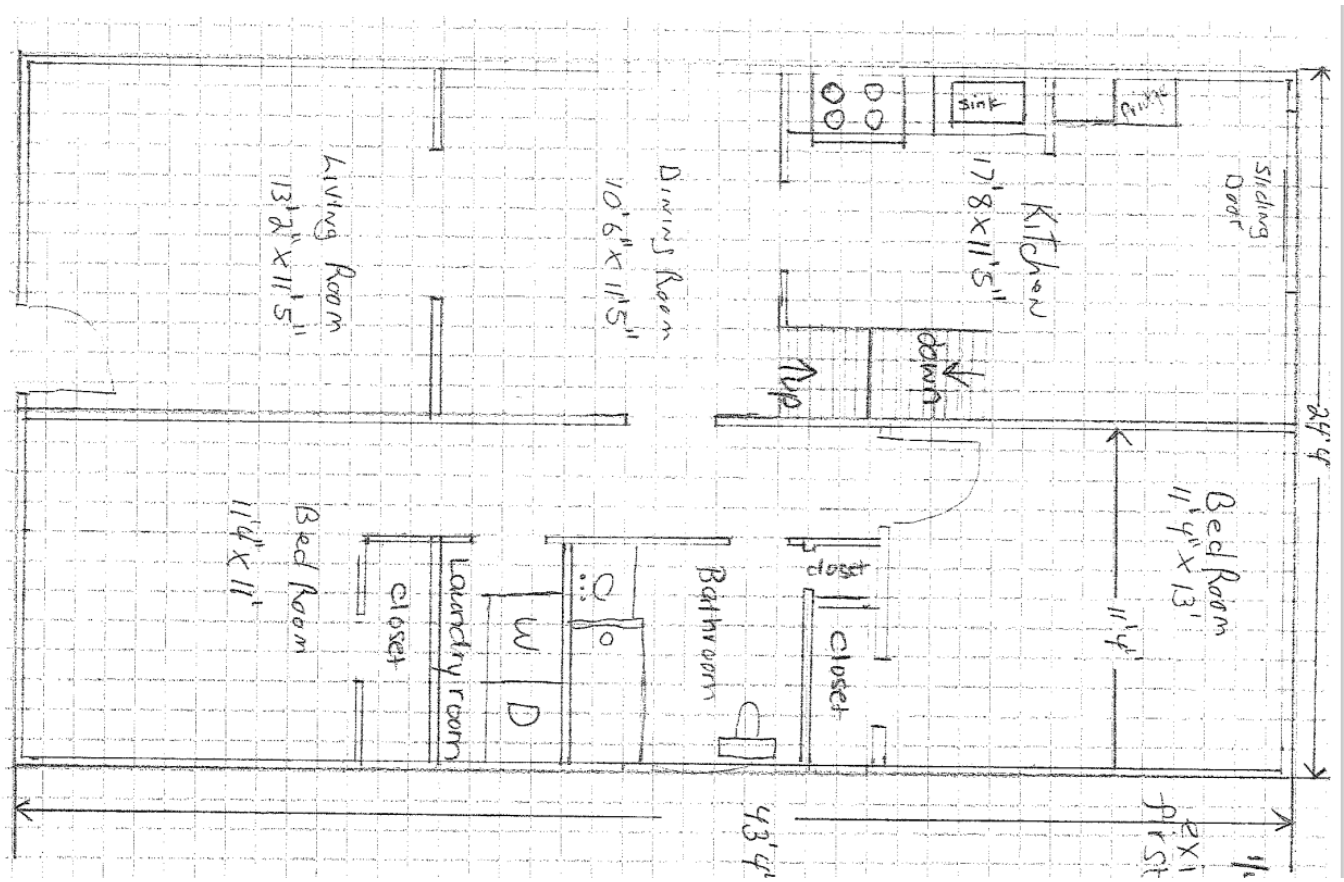
### **Recommendation**

Based on the findings and conclusions in the staff report, Staff has no objection to the approval of this application. The Applicant meets the standards and requirements contained in Section 1-19-9.110 Activity Within the FEMA Floodplain, and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain, to allow for the proposed renovation of the existing dwelling that is located in the FEMA floodplain.

**Attachment #1: Site Plan for Property**



**Attachment #2: First Floor Plan**





**Attachment 3: Front Photo of Applicants House**





**Attachment 4: Rear Photo of Applicants House**





**Attachment 5: Multiple Pictures from Basement of Applicants House**

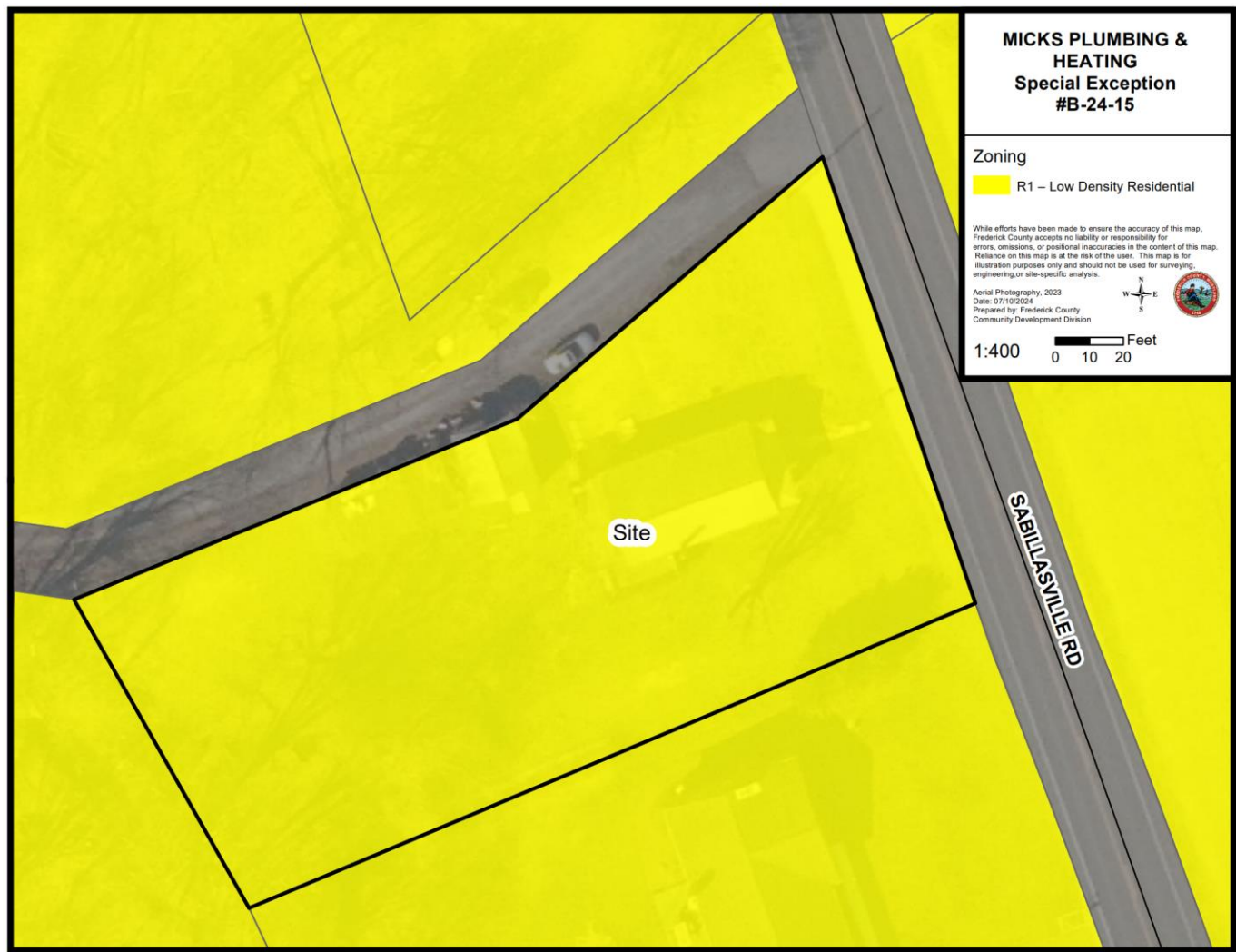


**Attachment 6: Aerial Map of Subject Property and Surrounding Area**

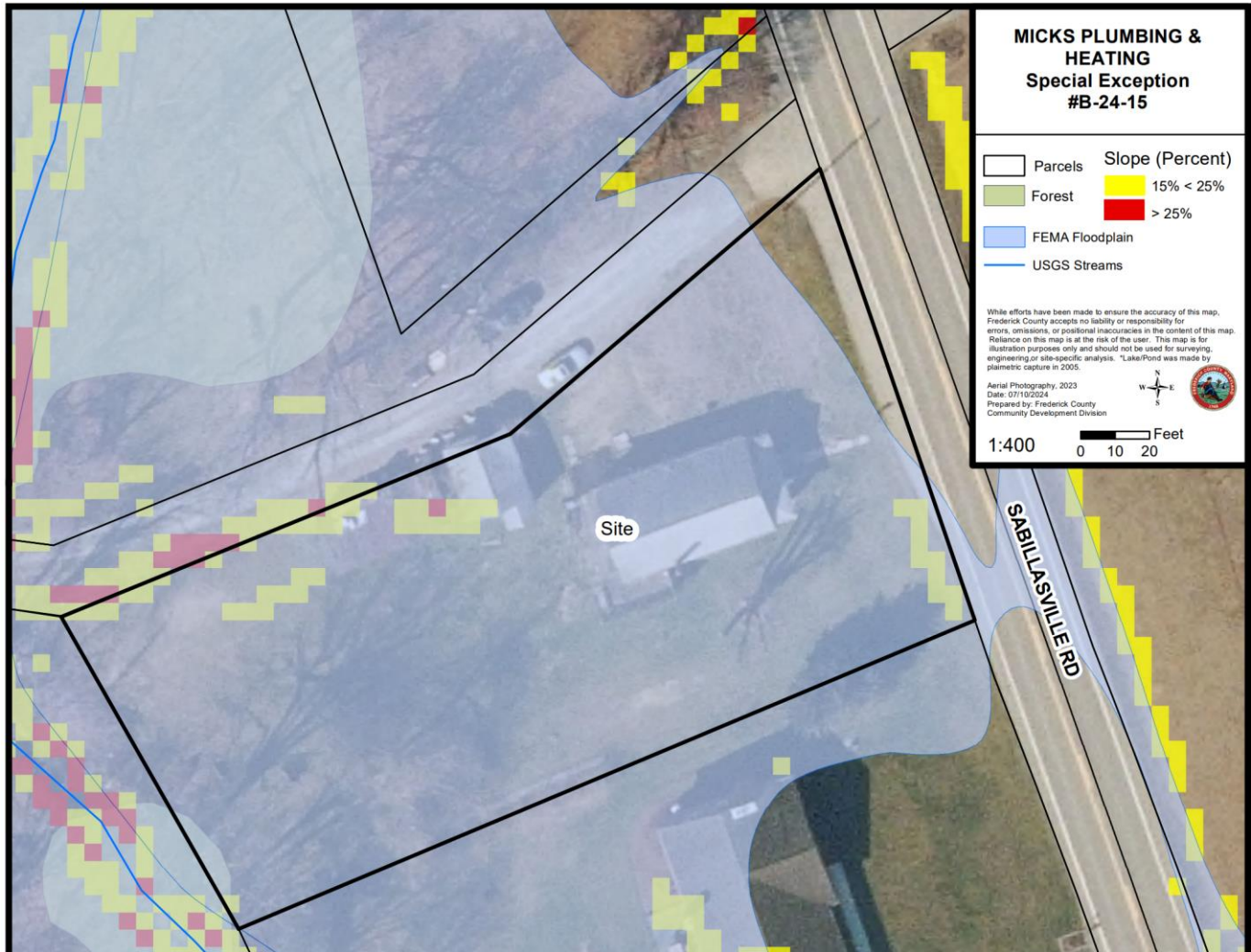




Attachment 7: Zoning Map



**Attachment 8: Environmental Features Map**





Attachment 9: Land Use Map

