



FREDERICK COUNTY BOARD OF APPEALS

October 24, 2024

TITLE: Espinoza - Limited Agricultural Activity

FILE NUMBER: B-24-20 (B276846)

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 10 chickens, with no roosters, on a residentially zoned property containing .75 acres.¹

PROJECT INFORMATION:

ADDRESS/LOCATION: 7403 Hillside Drive, Frederick Md. 21702
MAP/PARCEL: Tax Map 066, Parcel 0618
COMP. PLAN: (RR) Rural Residential
ZONING: (R1) Low Density Residential
PLANNING REGION: Frederick
WATER/SEWER: NPS/NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Madelein Navarro Espinoza
OWNER: Madelein Navarro Espinoza and Jeremy Espinoza
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Michael A. Paone, Zoning Planner

RECOMMENDATION: Staff recommends approval of the requested Special Exception 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 10 chickens, with no roosters, on a residentially zoned property containing .75 acres.

Attachments:

Attachment #1 – Property Site Plan With Setbacks
Attachment #2 – Map of Surrounding Community
Attachment #3 – Aerial Map
Attachment #4 – Zoning Map
Attachment #5 – Env. Features Map
Attachment #6 – Comp. Plan Map

¹ The term Applicant refers to both the Representative and the Property Owner(s).

BACKGROUND

The Property is zoned R1 which allows for low density residential development with a maximum density of 1 dwelling unit per acre.

Section 1-19-11.100 of the Frederick County Code defines *AGRICULTURAL ACTIVITY, LIMITED* as "The keeping of farm animals in residential districts on lots with less than 3 acres.

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 Code to allow up to 10 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**)

§ 1-19-3.210 - General Criteria - Special Exception:

- 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 the property owners are, Madelein Navarro Espinoza and Jeremy Espinoza.

- 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 Frederick County Code; and

The Applicant states that having chickens on lots similar to theirs is consistent with the rural nature of the area and is consistent with the purpose and the intent of the Comprehensive Development Plan.

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 location of the pen, away from neighboring property lines, will be in harmony with the neighborhood and with the surrounding community in that it should not have an impact on surrounding properties.

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 chicken coop will be cleaned regularly and will not create any noise, fumes or other matters that may impact any adjacent neighbors.

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 to achieve maximum safety.

The Applicant states that the approval of the application will not require any additional parking spaces or changes to the driveway access for this property.

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 application will not cause there to be a need for any changes to the property's road access and will not affect traffic.

- 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.

See discussion of §1-19-8.325 below.

- 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 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 and may be grounds for termination of the special exception.

The Applicant states that they understand and agree to 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 the application has been scheduled for BOA review on October 24, 2024.

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 have made a written application stating the grounds upon which it is requested and are complying with the process.

- 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 they understand and agree to 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 there are no plans to expand the Limited Agricultural Activity beyond what is approved and will not change the pen location.

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 they understand and agree to 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 they understand and agree to this requirement.

§ 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 chickens, coop, and run will be located, a minimum of, 50 feet away from all property lines. (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 they understand and agree to this requirement.

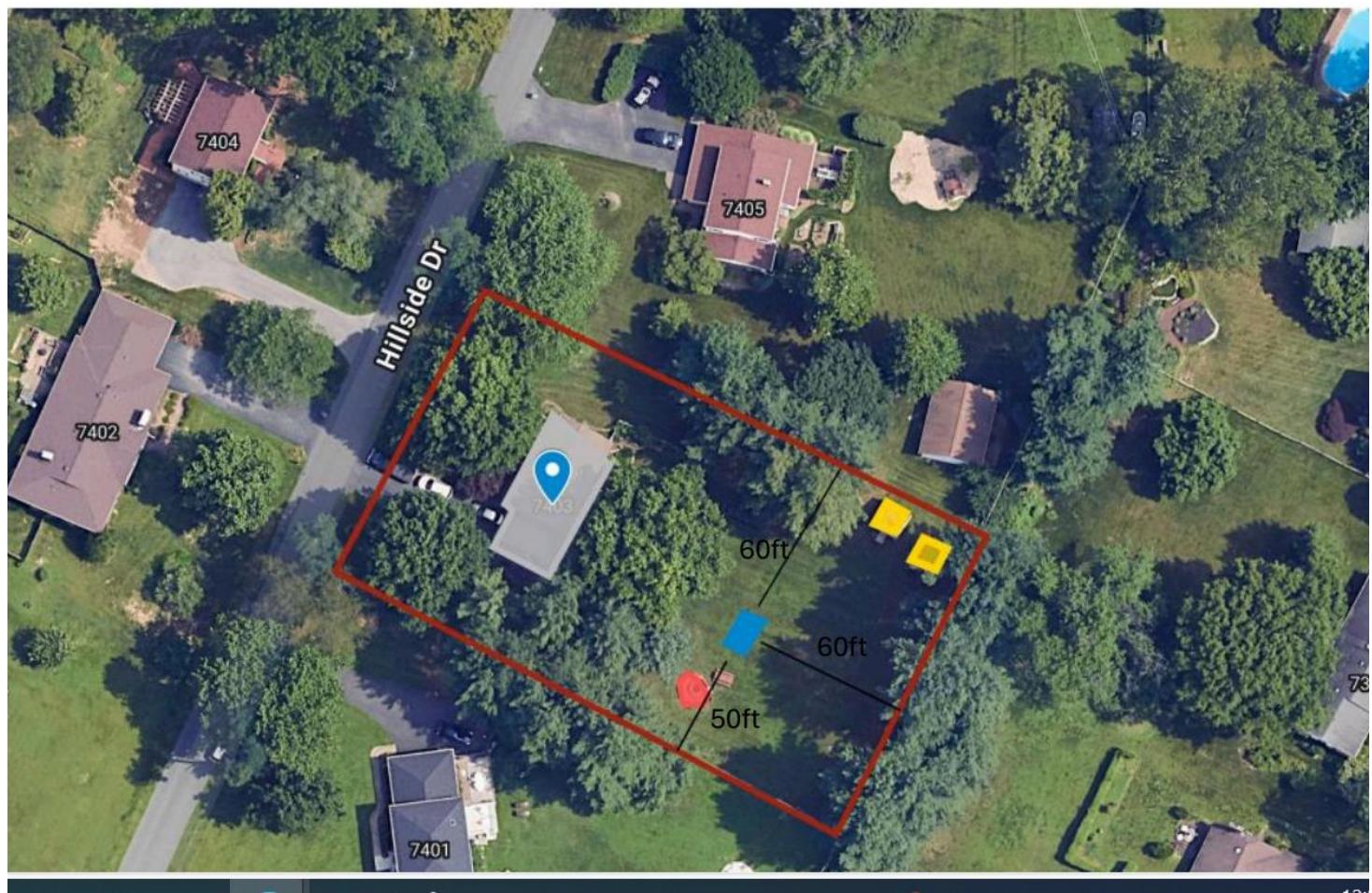
C. The limited agricultural activity shall not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond the property line.

The Applicant states that they understand this requirement and that the chicken coop and run are located 50 feet, or more, from all property lines and will be cleaned regularly. There will be no roosters. The keeping of 10 chickens and no roosters will not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond the property line.

Based on the findings and conclusions in the staff report, Staff does not object to the approval of the requested Special Exception for a Limited Agricultural Activity in the Residential Districts consistent with Sections 1-19-3.210, 1-19-8.325, and 1-19-11.100 of the Frederick County Code to allow up to 10 chickens, with no roosters, on a residentially zoned property containing .75 acres.

§ 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 With Setbacks



Attachment #2: Map of Surrounding Community

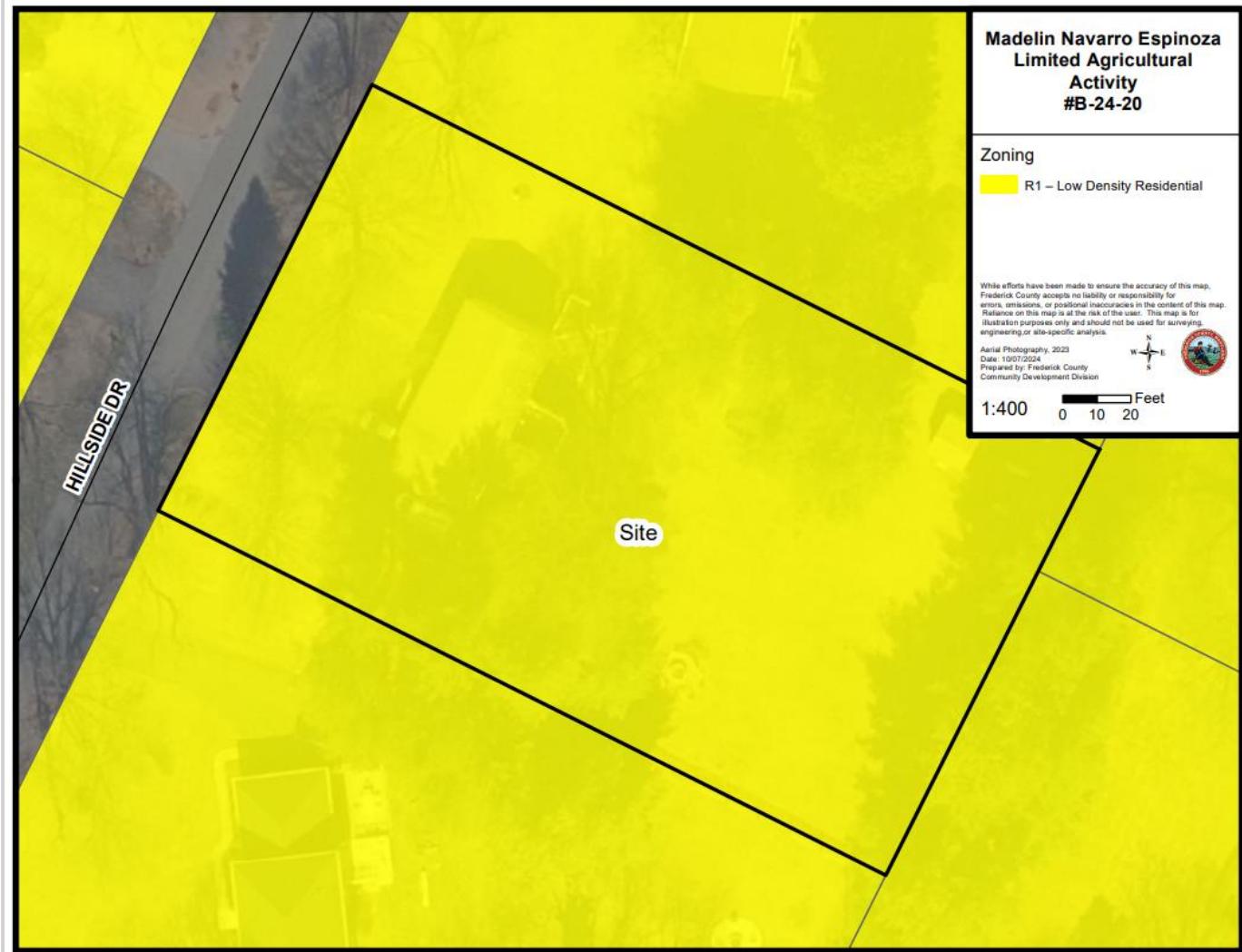
Chicken Coop



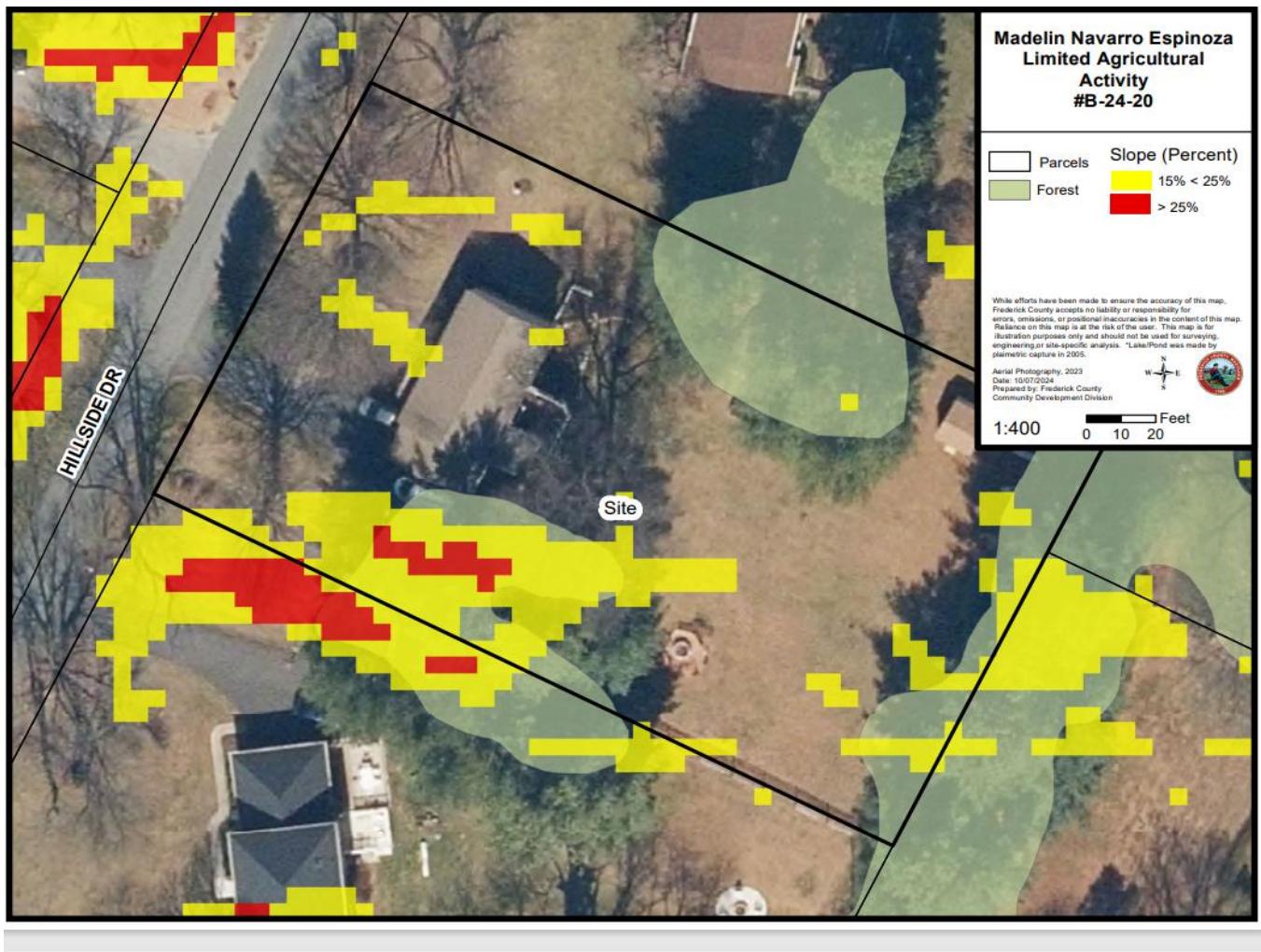
Attachment #3: Aerial Map



Attachment #4: Zoning Map



Attachment 5: Environmental Features Map



Attachment #6: Comprehensive Plan Map

