



FREDERICK COUNTY BOARD OF APPEALS

November 21, 2024

TITLE: Lingg Property Consulting (Owner Representative)
Edwin I. and Penelope Fox Peskowitz (Owners)
Special Exception Rustic Retreat/Camp/Outdoor Club

FILE NUMBER: B-24-23 (B276762)

REQUEST: Requesting Approval for a special exception, Rustic Retreat/Camp/Outdoor Club In RC and A Districts, in accordance with the Frederick County Code, Sections 1-19-3.230 Special Exceptions, 1-19-8.327 Rustic Retreat/Camp/Outdoor Club In RC and A Districts, and Section 1-19-11.100 Definitions¹, for a property located at 13170 B Catoctin Hollow Road, Thurmont Md, 21788 (the "Property")

PROJECT INFORMATION:

ADDRESS/LOCATION: 13170 B Catoctin Hollow Road, Thurmont Md, 21788
MAP/PARCEL: Tax Map 024, Parcel 0101
COMP. PLAN: (NR) Natural Resource
ZONING: (RC) Resource Conservation
PLANNING REGION: Thurmont
WATER/SEWER: NPS/NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Lingg Property Consulting
OWNER: Edwin I. and Penelope Fox Peskowitz
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Michael A. Paone, Zoning Planner

RECOMMENDATION: Staff recommends approval of the requested Special Exception, Rustic Retreat/Camp/Outdoor Club In RC and A Districts, in accordance with the Frederick County Code, Sections 1-19-3.230 Special Exceptions, 1-19-8.327 Rustic Retreat/Camp/Outdoor Club In RC and A Districts, and 1-19-11.100 Definitions.

Attachments:

Attachment #1 – Rustic Retreat Site Plan
Attachment #2 – Rustic Retreat Site Plan Including The Ledge House
Attachment #3 – Aerial Map
Attachment #4 – Zoning Map
Attachment #5 – Environmental Features Map
Attachment #6 – Comprehensive Plan Map

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

Note: All code references herein are to the Frederick County Code, unless otherwise specified.

BACKGROUND

The Property is zoned Resource Conservation ("RC"). The Maryland State tax records for this Property indicate that the Property consists of approximately 25 acres and is located within the Natural Resource Land Use designation area under the Livable Frederick Comprehensive Plan.

Frederick County Code, Section 1-19-11.100 defines ***Rustic Retreat / Camp*** as "A facility or land used for outdoor skills instruction, recreation, temporary lodging, or a retreat for group meetings or instruction, located in a rural setting which may provide meals, rudimentary facilities, and recreational amenities of a rural nature for participants during the period of the retreat or program only."

As per Frederick County Code, Section 1-19-5.310 *Use Table*, a Rustic Retreat/Camp/Outdoor Club may be established in an Agricultural or Resource Conservation zoning district with a Special Exception approval from the Board of Appeals. The proposed use will also be subject to a site development plan approval from the Frederick County Planning Commission.

§ 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 Property owners are Edwin I. and Penelope Fox Peskowitz.

- 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 Rustic Retreats are expressly permitted as a special exception subject to site development plan approval in the RC zoning district in accordance with the Frederick County Code. Further, the Frederick County Code is designed to ensure consistency with the purpose and intent of the Comprehensive Plan. Accordingly, a Rustic Retreat as proposed herein is consistent with the Comprehensive Plan and the Frederick County Code.

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 nature and intensity of the proposed Rustic Retreat is such that it will likely go unnoticed by nearby neighbors and passersby. The Property is quite large in relation to the proposed use. The Property contains 25 acres in the aggregate and the maximum proposed capacity of the Rustic Retreat is 40 persons. The resulting density of the proposed use on a persons per acre basis is 1.6. This density is only about one-half of the density (persons per acre) permitted under these regulations.

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 Property is quite large in relation to the proposed use. The Property contains 25 acres in the aggregate and the maximum proposed capacity of the Rustic Retreat use is 40 persons. The use will not generate any atypical or excessive adverse effects such as noise, dust, fumes, odors, or vibrations. In addition, the use will not cause undue traffic congestion or unsafe conditions on the roads.

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 proposed Rustic Retreat use fully complies with the off-street parking regulations of Chapter 1-19. All parking areas are screened from adjoining residential uses by existing trees and vegetation, and the existing entrance and exit drives are laid out so as to achieve maximum safety as evidenced by the road system evaluation letter submitted as part of this application. This Property and use will be subject to site development plan review and approval, at that time the Parking standards listed in 1-19-6.220.

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 proposed Rustic Retreat will be used on an infrequent and intermittent basis. Further, the proposed Rustic Retreat will not be made available to the general public. As such the proposed use will not generate any significant amounts of traffic to and from the Property.

- 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 understands and agrees to 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 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 understands and agrees 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 has complied with 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 has made a written application stating the grounds upon which it is requested and is 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 understands and agrees 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 will not expand the Rustic Retreat beyond the area shown in the application and approved by the BOA.

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 understands and agrees to this requirement.

- H. 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 understands and agrees to this requirement.

Frederick County Code, Section 1-19-8.327. RUSTIC RETREAT/CAMP/OUTDOOR CLUB IN RC AND A DISTRICTS.

The following provisions shall apply to rustic retreat/camp/outdoor club in RC and A Districts.

- (A) A minimum 10-acre lot size is required.

The Rustic Retreat use will be located on a Property consisting of 25 acres.

- (B) Rustic retreat/camp/outdoor club with a planned capacity of 100 persons or more must have a minimum of 50 feet of frontage with access on a public road having a minimum pavement width of 20 feet to the nearest paved road. If the planned capacity is under 100 persons, there will be no specific road requirements other than the provisions contained in § 1- 19-3.210(B)(5).

The Applicant states that the proposed Rustic Retreat has a planned capacity of fewer than 100 persons and the road system meets all of the provisions in Section 1-19-3.210(B)(5). Specifically, the road system providing access to the proposed use is adequate to serve the Property for the intended use as evidenced by the road system evaluation letter prepared by Michael Nalepa.

- (C) The project will be designed so that an overall density of 3 persons per acre is not exceeded.

The Rustic Retreat site consists of 25 acres. Accordingly, the permitted density would allow up to 75 persons (3 persons x 25 acres). The proposed Rustic Retreat has a maximum capacity of up to 40 persons. Therefore, the resulting density on a persons per acre basis is 1.6 persons per acre.

(D) Total impervious surface area for buildings and parking shall be limited to 4,000 square feet for every 1 acre of lot area up to a maximum of:

- (1) 3 acres for lots of 100 acres or less; or
- (2) 4 acres for lots between 101 and 250 acres; or
- (3) 5 acres for lots of 251 acres or larger.

The total impervious surface area for buildings and parking permitted for this proposed Rustic Retreat is 100,000 sq. ft. (4,000 sq. ft. x 25 acres) or 2.3 acres. The actual amount of impervious surface area for buildings and parking associated with the proposed use is 0.6 acres.

(E) The requirement for all yards is 50 feet.

The Applicant states that the front, side and rear setbacks of all existing structures on this Property is a minimum of 50 feet. No additional structures are proposed.

(F) One freestanding on-premises identification sign no more than 25 square feet in area and subject to a minimum setback of 15 feet is permitted.

The Applicant states that a single freestanding identification sign of no more than 25 square feet in area is proposed. The proposed identification sign will be located a minimum of 15 feet from the Catoctin Hollow Road right-of-way.

(G) Parking shall be limited to that number required by the Frederick County Code and co-located adjacent to the access drive. An increase in the number of parking spaces may be granted by the Planning Commission where the applicant can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission. Parking approved beyond that number required by Frederick County Code, shall be constructed of pervious materials

The Applicant states that 8 parking spaces are required for the proposed Rustic Retreat under the zoning regulations and 8 parking spaces will be provided.

(H) Permanent residential occupancy shall be limited to the resident owner, manager, or caretaker. Applicant's Response: This criterion for approval is satisfied because the Applicant agrees to limit any permanent residential occupancy of the Rustic Retreat premises to the resident owner, manager, or caretaker.

The Applicant agrees to limit any permanent residential occupancy of the Rustic Retreat premises to the resident owner, manager, or caretaker.

(I) Caretaker residence(s) is permitted as an accessory use to a rustic retreat/camp/outdoor club where a specific plan is presented and approved by the Board of Appeals

The Applicant states that they are not proposing a caretaker residence in association with this proposed Rustic Retreat.

(J) Within the RC District: (1) The requirements of § 1-19-7.200 of this Code will be met.

The Applicant agrees to comply with the requirements of §1-19-7.200 of the Frederick County Code.

(K) Insofar as practical at the time of site development plan review, the landscape shall be preserved in its natural state by:

- (1) Minimizing tree and soil removal or disturbance;
- (2) Retaining existing tree lines, forest buffers, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way;
- (3) Siting buildings to protect and enhance the visual relationship between buildings and the natural terrain;
- (4) Reducing visual prominence of proposed structures by building adjacent to woodland edges and not in the center of open space areas on a proposed site;
- (5) Avoiding building on ridge lines, unless alternative site locations are unavailable and existing forest buffers can be retained to reduce visual impacts;
- (6) Opening up views only through selective tree and limb removal rather than clear cutting. Page 9 of 9 Applicant's Response:

The Applicant agrees to comply with (K) (1) through (6) and is not proposing any significant alterations to the Property. Further, the Applicant, insofar as practical, commits to preserving the landscape in its natural state by implementing the site design principles (K) (1) thru (6) as enumerated above.

Conclusion: Based on the findings and conclusions in the staff report, Staff does not object to the approval of the requested Special Exception for a Rustic Retreat/Camp/Outdoor Club In RC and A Districts, in accordance with the Frederick County Code, Sections 1-19-3.230 Special Exceptions, 1-19-8.327 Rustic Retreat/Camp/Outdoor Club In RC and A Districts and Section 1-19-11.100 Definitions.

§ 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.

BOARD OF APPEALS RUSTIC RETREAT SPECIAL EXCEPTION PLAN
SITE PHOTOS

The Lodge House

SITUATED AT FISH CATCHER HOLLOW ROAD
TAX MAP 24, PARCEL B3
P.B. 36, P. 40 FLOWING WATERS FARM LOT 1, SEC. 1
FREDERICK COUNTY, MARYLAND

LAND DESIGN BY: LFC
PRELIMINARY DRAINAGE PLAN: LFC
DESIGNED BY: LFC/DMK
APPROVED PERSON: DMK

PLAN REVISIONS:

NO.	REVISION	DATE
1	REVISION	10/1/2011

SCALE: 1" = 60'

DATE: 10/1/2011

SHEET: 3 OF 3

LFC PROJECT NO.: Pending

Legend:

- EXISTING HOUSE
- PROPOSED ADDITION
- PROPOSED PARKING
- EXISTING DRIVE
- PROPOSED DRIVE
- EXISTING FENCE
- PROPOSED FENCE
- EXISTING STREAM
- PROPOSED STREAM
- EXISTING TREES
- PROPOSED TREES

Notes:

- The information provided herein is for conceptual purposes only, and is based on current regulations and existing information.
- The site plan was prepared using existing aerial photos and maps. Therefore, all of the data should be confirmed on the ground.
- The site plan and the Catalogue Search must be used for general conceptual purposes only. Any density or building square footage limits or other information shown on the plan is not to be used for any other purpose. The plan shows the area information should be verified on the ground.
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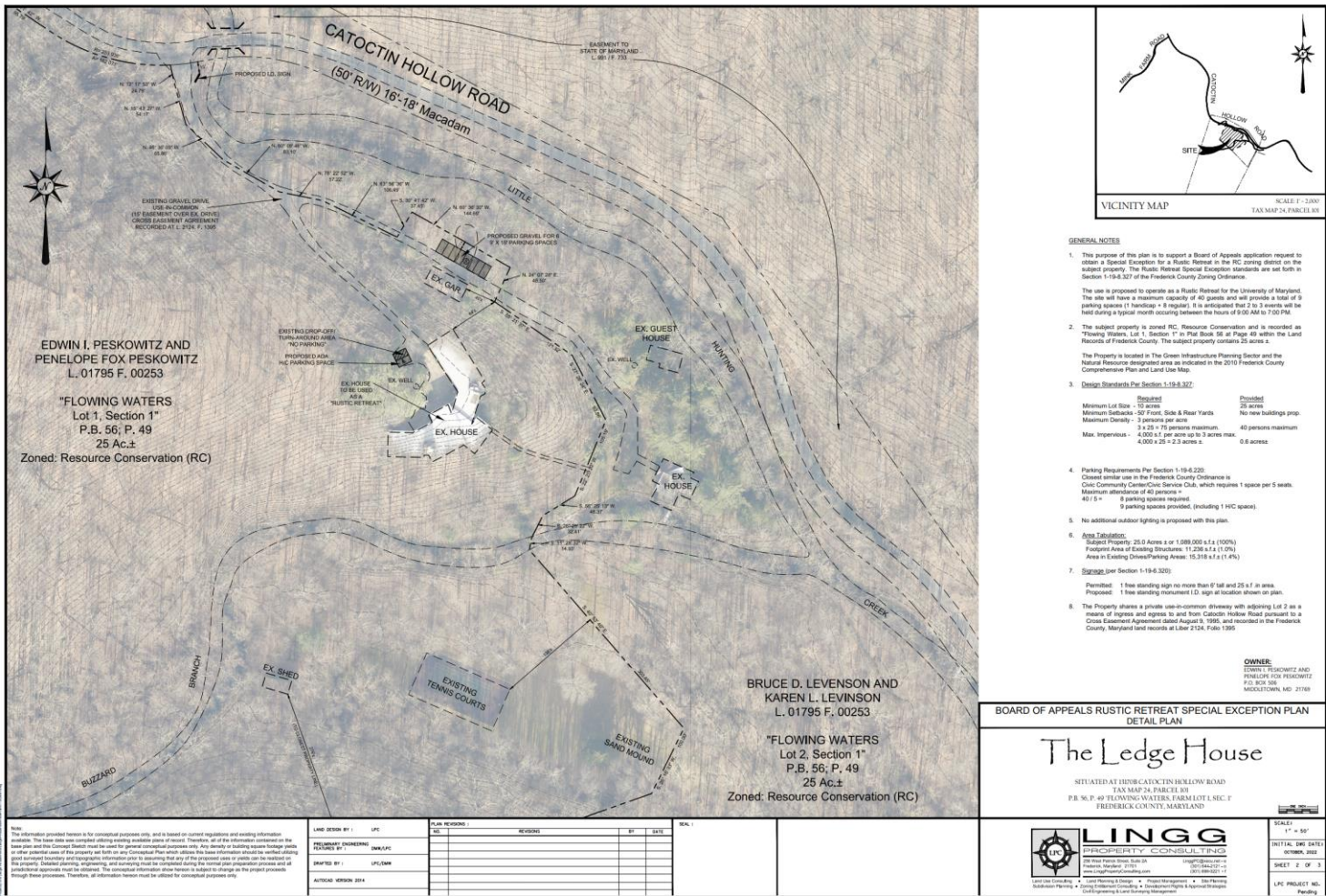
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- PROPOSED ADDITION
- PROPOSED PARKING
- EXISTING DRIVE
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- EXISTING STREAM
- PROPOSED STREAM
- EXISTING TREES
- PROPOSED TREES

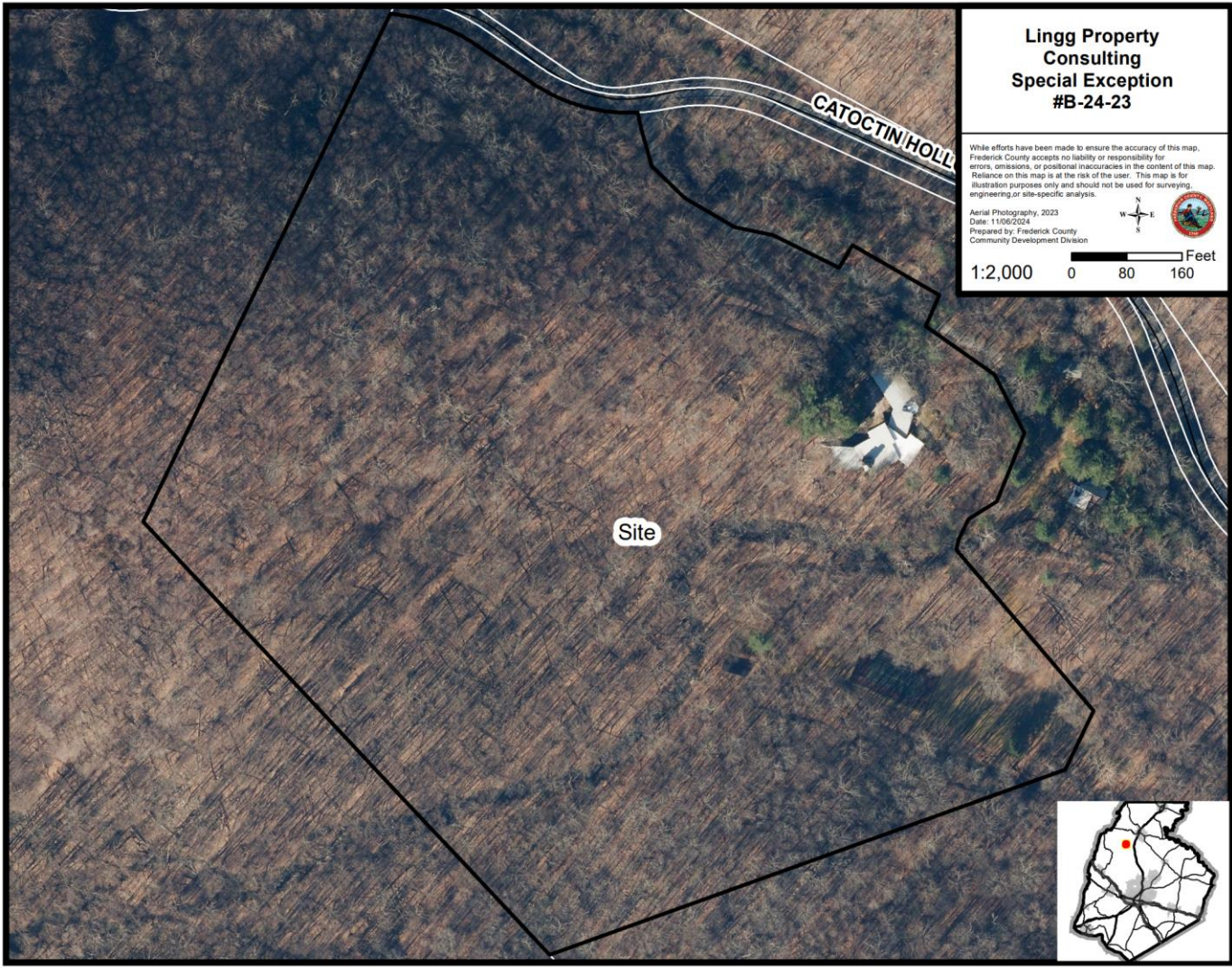
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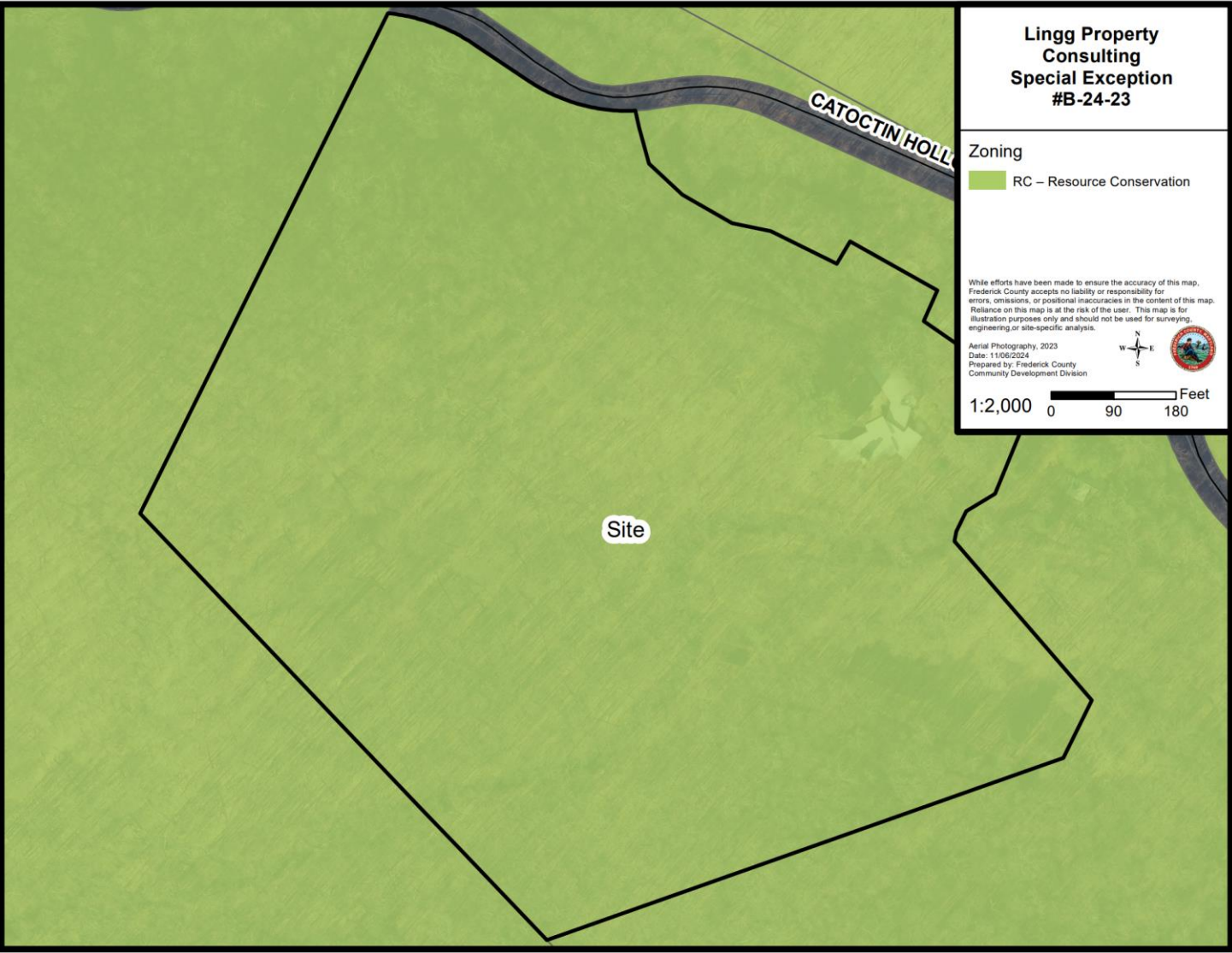
Attachment #2: Rustic Retreat Site Plan Including The Ledge House



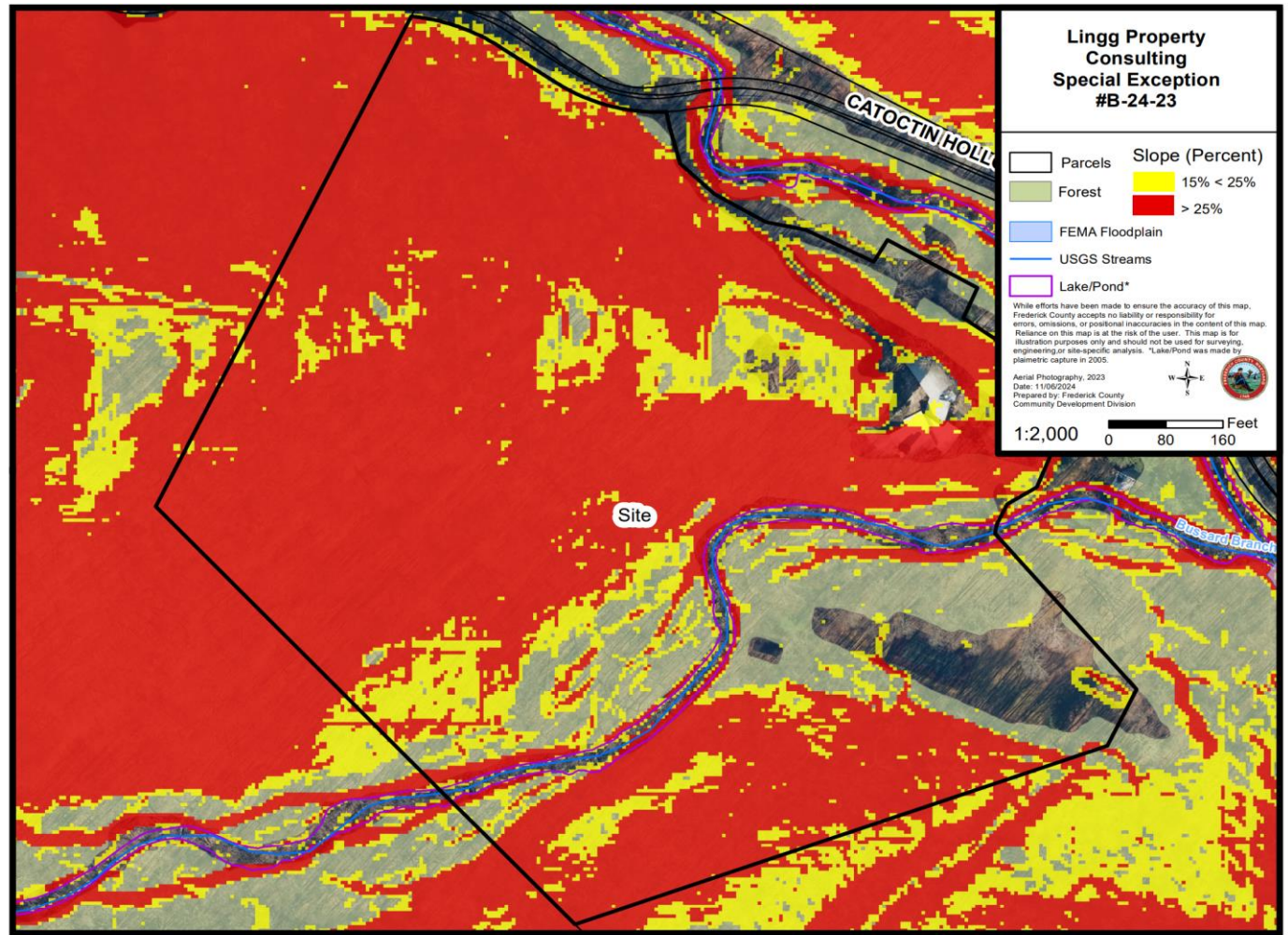
Attachment #3: Aerial Map



Attachment #4: Zoning Map



Attachment 5: Environmental Features Map



Attachment #6: Comprehensive Plan Map

