



FREDERICK COUNTY BOARD OF APPEALS

MARCH 27, 2024

TITLE: Patrick Louis Parker V(Owner)
Noel Manalo (Owner Representative)
James Miller (Owner Representative)

CASE NUMBER: B-25-03 B277107

REQUEST: Requesting approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1,000 SF in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Code. The Property is zoned Resource Conservation (RC) and Agricultural (A). The property is improved with a primary residence of 4,755 SF with a footprint of 2,341 SF (the "Residence"). Applicant wishes to construct a 2,340 SF ADU with a footprint of 1,169 SF on 7.34 acres of land.

PROJECT INFORMATION:

ADDRESS/LOCATION: 9815-9817 Fox Road, Frederick MD 21702
TAX MAP/PARCEL: Tax Map 047, Parcel 0275
ZONE: Resource Conservation (RC)
REGION: Frederick
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Natural Resources

APPLICANT/REPRESENTATIVES:

APPLICANT: Noel Manalo Esq. (Owner Representative)¹
James Miller (Owner Representative)
OWNER: Patrick Louis Parker V
ATTORNEY: Noel Manalo Esq., Offit Kurman

STAFF: Michael Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions in the staff report, Staff finds that the proposed Special Exception, to allow an ADU of 2,340 SF with a footprint of 1,169 SF on the subject property, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

Attachments:

Attachment 1: Plot Plan for Subject Property
Attachment 2: Accessory Dwelling Unit Floor Plans
Attachment 3: Aerial Map of Subject Property
Attachment 4: Zoning Map
Attachment 5: Comprehensive Planning Map
Attachment 6: Environmental Features Map

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

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

Background

The Accessory Dwelling Unit (ADU) is to be constructed as a separate structure on the Property. The ADU is located on (RC) Resource Conservation and (A) Agricultural zoned land, consisting of 7.34 acres, with the total ADU size being 2,340 SF with a footprint of 1,169 SF. The size of the primary residence is 4,755 SF., with a footprint of 2,341 SF. The (A) zoned part of the applicant's property is used for access to Fox Road. All structures including the existing residence and the proposed ADU are located within the (RC) zoned area of the property.

1-19-3.210. SPECIAL EXCEPTIONS

- 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 Patrick Louis Parker V is the owner of the property.

- 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 Applicant states that:

1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter:

The Applicant states that the Application is consistent with the Frederick County Comprehensive Plan and the Livable Frederick Master Plan (LFMP) in several ways. ADU's are needed to provide the opportunity for co-locating intergenerational housing, provide the ability for families to remain together as parents age, and to ensure that households and individuals who require special considerations are supported by family members.

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 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 Property is +/- 7.34 acres with the Residence being located at the northern end of the Property, away from Fox Road. The ADU will be located closer to Fox Road, and once constructed, it will blend with the other large lot residences in the vicinity. As a residential use, there will be no adverse impacts to the neighborhood that are out of character for the vicinity. The ADU is in keeping with the planning and design of the original Fox Wicket subdivision, of which the Property is a part of. For these reasons, the ADU will be in harmony with the appropriate and orderly development of the neighborhood.

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 the Application is for an ADU in the RC zone, as is contemplated by the Zoning Ordinance. Residential uses typical of the Property and its neighborhood are similar to those throughout the RC zone, and the ADU will function in like manner, and therefore will not have an adverse effect on neighboring properties.

4. Parking areas will comply with the off-street parking regulations in accordance with the County Code, and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that the Application meets this requirement by providing one space for the ADU as shown on the site plan submitted with this application.

5. The road system providing access to the proposed use is adequate to serve the intended use.

The Applicant states that the ADU will be served by the same network that has served the Fox Wicket subdivision since the 1990s and before: the ADU will access the existing driveway, which accesses Fox Road, which in turn accesses Bethel Road, an “Existing Collector” road in the County Comprehensive Plan, which are all more than adequate to serve the ADU.

- C. In addition to the general requirements listed above, uses requiring special exception shall be subject to the specific requirements for each used outlined in Sections 1-19-8.320 through 1-19-8.355 of this Code.

The Applicant understands and agrees to this requirement.

- D. The 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 this chapter (Chapter 1-19 of the County Code) and is hereby authorized to add to the specific requirements any additional conditions that may deem necessary to protect the 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 this chapter (Chapter 1-19 of the County Code) and may be grounds for termination of the special exception.

The Applicant understands and agrees to this requirement.

- E. The Board of Appeals may not grant a special exception unless and until:

1. A written application for a special exception is submitted indicating the section of this chapter (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 made in accordance with all applicable zoning regulations.

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 BOA Hearing is scheduled for Thursday, March 27, 2025.

- 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 of activity permitted as a special exception shall be enlarged or extended beyond the limited 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 understands and agrees to this requirement.

- 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 understands and agrees to this requirement.

- I. 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.

The Applicant understands and agrees to this requirement.

Sect. 1-19-8.321 ACCESSORY DWELLING UNITS GREATER THAN 1000 SQUARE FEET

The following provisions shall apply to all accessory dwelling units greater than 1,000 square feet in the RC, A, R1, R3, RS, RS, R12, R16, VC, MXD, PUD and MX districts.

- A. Only 1 accessory dwelling unit may be created on a lot.

The Applicant states that the application is for 1 ADU.

- B. Accessory dwelling units greater than 1,000 square feet shall be allowed in single-family dwellings, in an accessory structure, or built as a separate accessory structure, on a single-family lot.

The Applicant states that the ADU is being built as a separate accessory structure on the Property, which is a single-family lot.

- C. The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.

The Applicant states that the owner of the property, Patrick Louis Parker V, resides in, and will continue to reside in, the principal dwelling.

- D. There must be at least 1 additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The Applicant states that this is understood and agrees to this requirement. At least one additional parking space will be provided and is shown on the site plan submitted with this application.

- E. An accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B).

The Applicant states that the ADU is in the RC Zoning District (Zoning Ordinance § 1-19-5.210). The ADU meets the requirements for an ADU.

- F. ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnb, or seasonal temporary housing is not permitted.

The Applicant states that they understand that the ADU cannot be used in the nature of an extended stay hotel, Airbnb, or for seasonal temporary housing. The Applicant further states that the ADU is for the parents of the Owner.

- G. The owner of the principal residence shall file an annual statement with the zoning administrator verifying that the conditions under which the special exception was granted remain the same.

The Applicant understands and agrees to this requirement.

- H. If the ownership of the lot changes, the subsequent owner must provide a statement to the Zoning Administrator as to the continuing use and eligibility of the accessory dwelling unit.

The Applicant understands and agrees to this requirement.

- I. Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

The Applicant understands and agrees to this requirement.

- J. An ADU meeting the provisions of Sect. 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

The Applicant states that 1-19-8.212 does not apply because the proposed ADU is over 1,000 SF.

Recommendation

Based on the findings in the staff report, Staff finds that the proposed Special Exception, to allow an ADU on the subject property, 2,340 SF in size, with a footprint of 1,169 SF, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

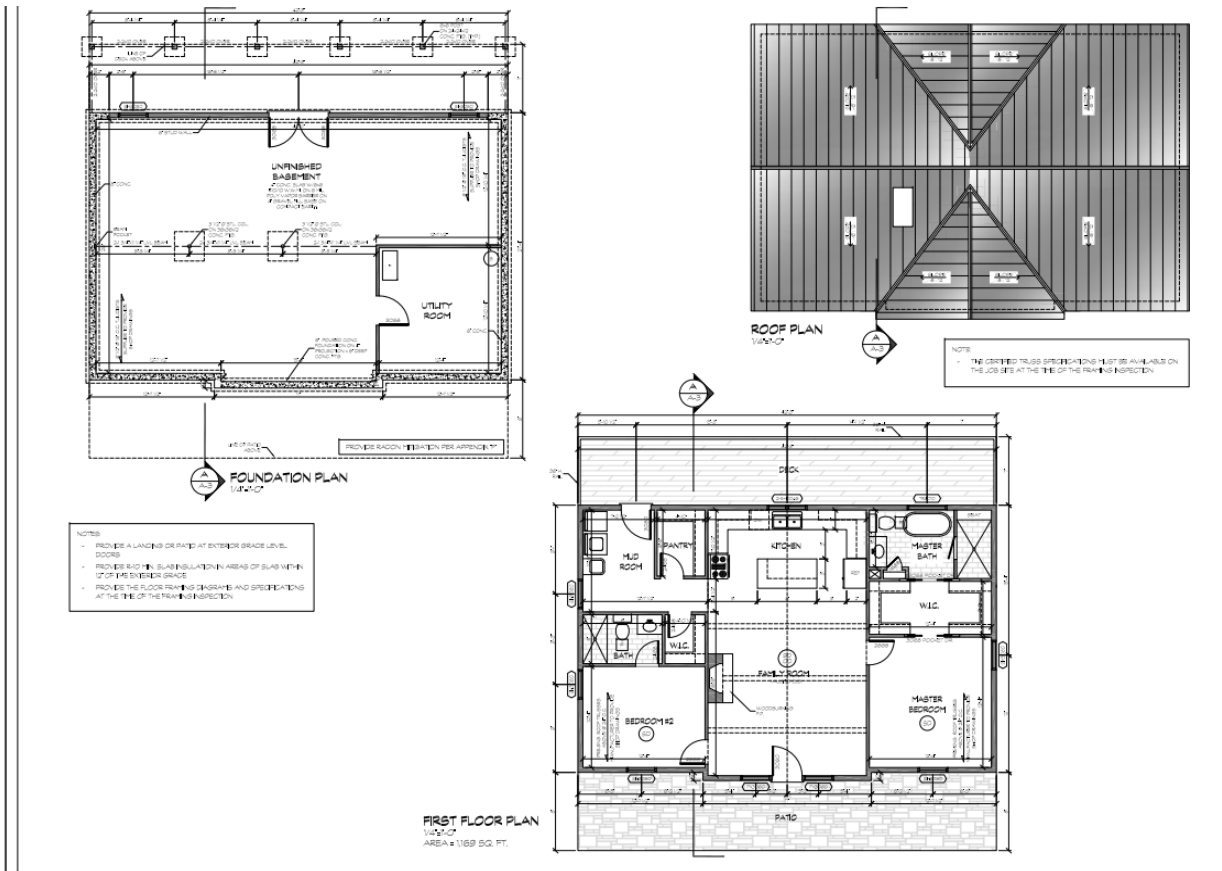
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GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.

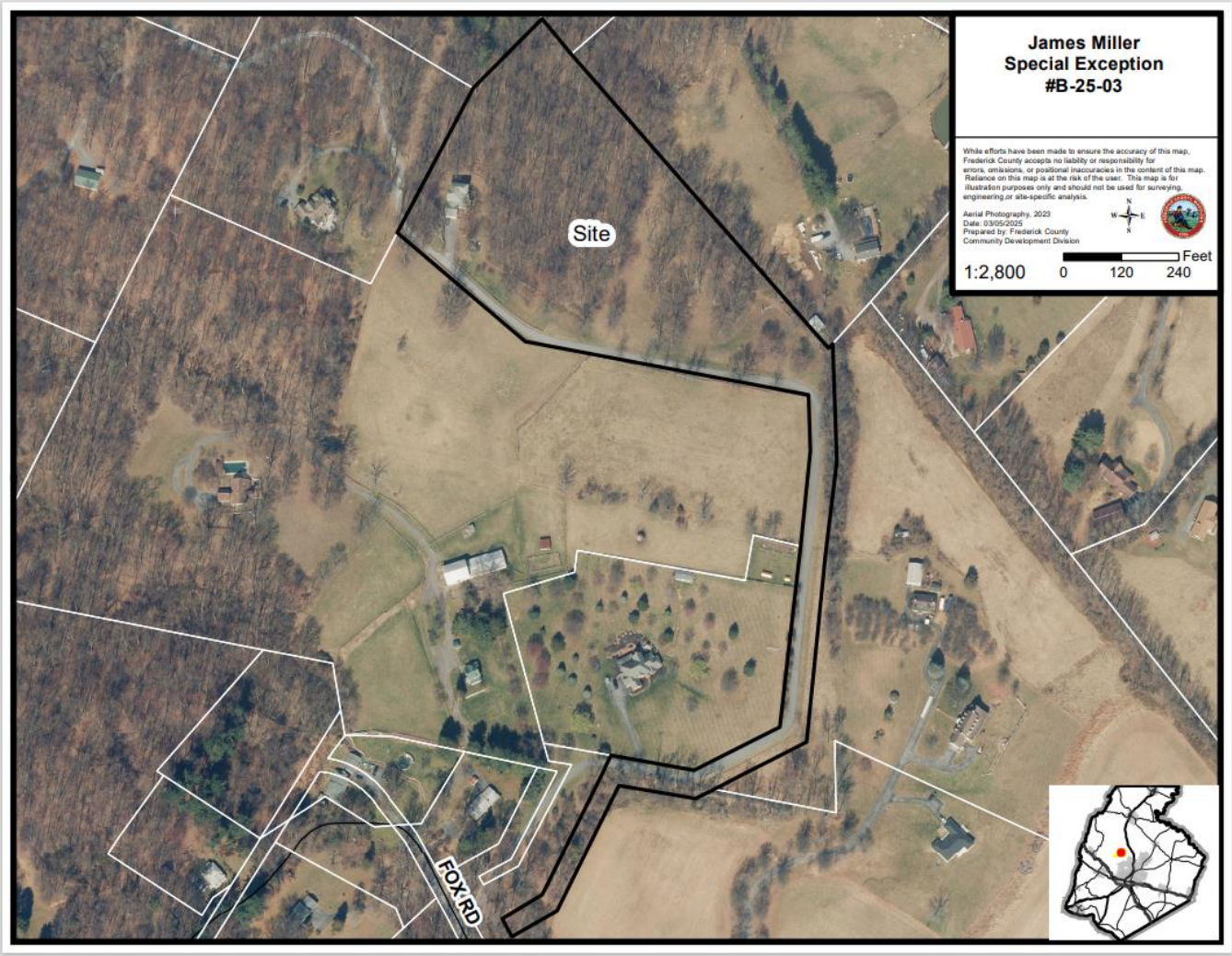
FREDERICK SEIBERT & ASSOCIATES, INC.
2024

SWM PLAN FOR MILLER

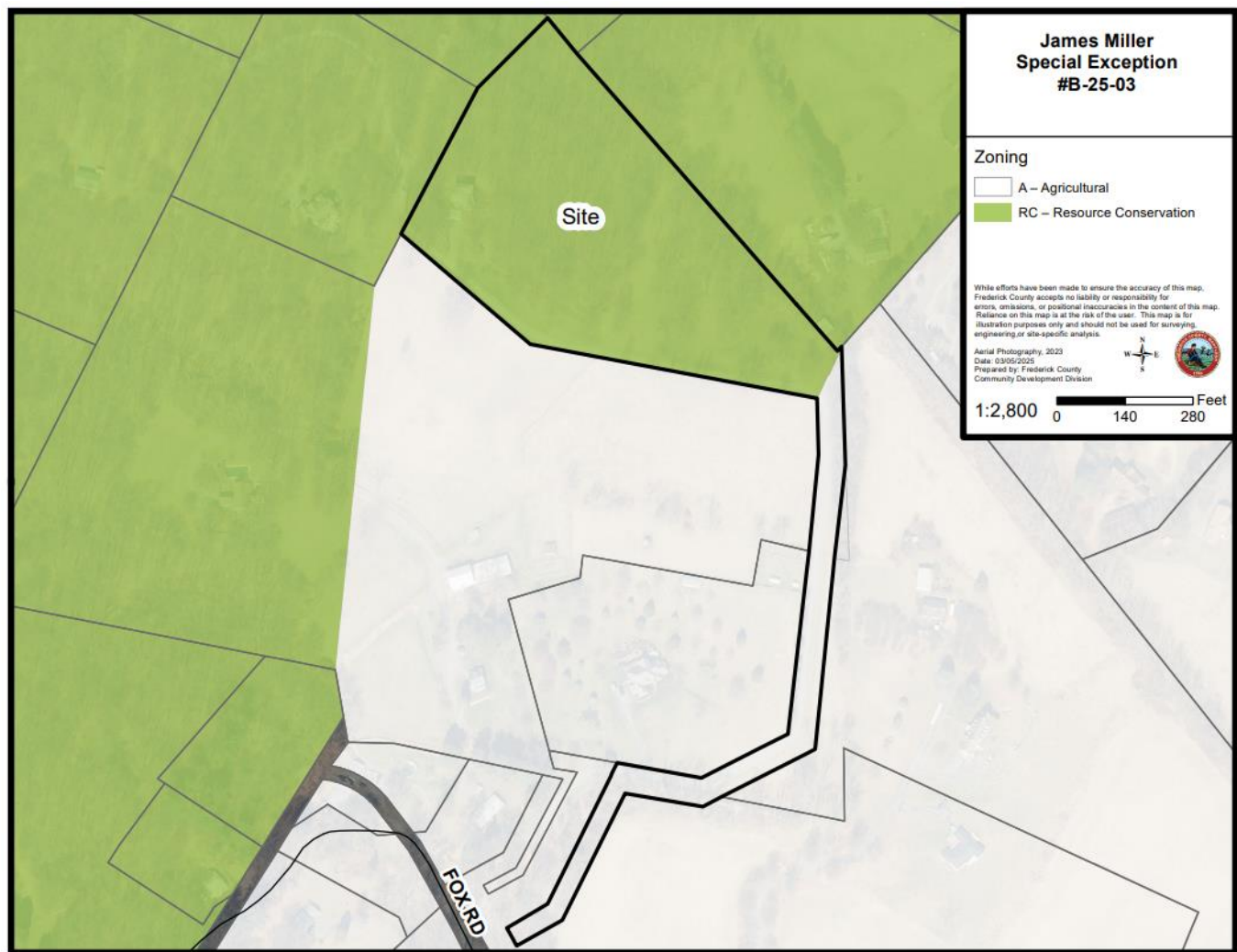
Attachment 2: Accessory Dwelling Unit Floor Plans



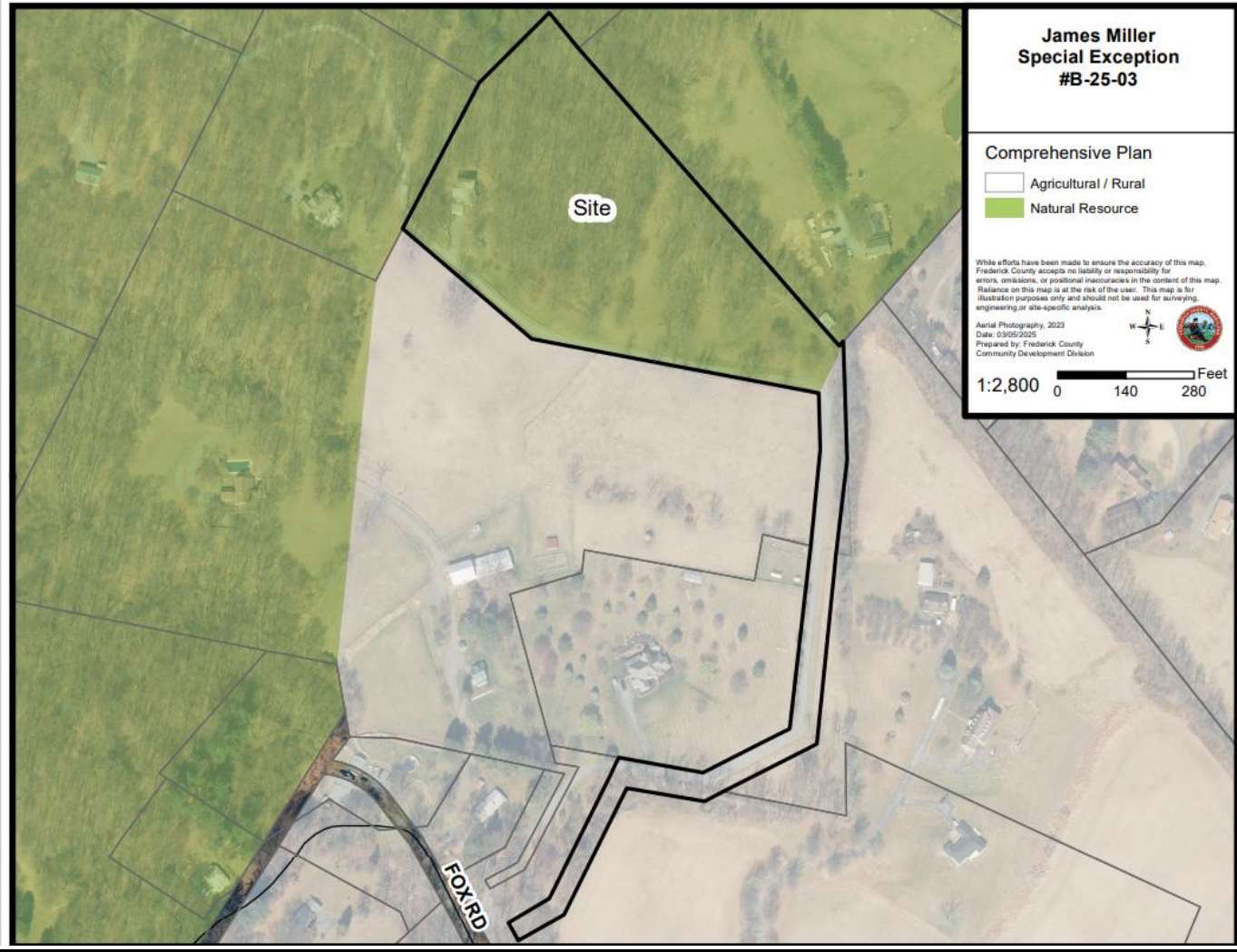
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