



FREDERICK COUNTY BOARD OF APPEALS

April 24, 2025

TITLE:

Michael Kim (Applicant)
Whang-Kyun Shin (Owner)
Grace H S Shin (Owner)

FILE NUMBER:

B-25-06 (B277365)

REQUEST:

Requesting Special Exception Approval to expand a non-conforming golf course use in accordance with Section 1-19-4.230 Nonconforming Uses, by adding to its facilities and constructing a new building which will serve as an event center/banquet hall.

PROJECT INFORMATION:

ADDRESS/LOCATION: 9526 Doctor Perry Road, Ijamsville, MD
MAP/PARCEL: Tax Map 105, Parcel 0050
COMP. PLAN: Agricultural/Rural
ZONING: (A) Agricultural
PLANNING REGION: Urbana
WATER/SEWER: NPS/NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Michael Kim¹
OWNER: Whang-Kyun Shin and Grace H S Shin
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Michael A. Paone, Zoning Planner

RECOMMENDATION: Staff have no objection to the approval of the requested Special Exception to expand a non-conforming golf course use by adding to its facilities and constructing a new building, 7,500 sf, which will serve as a dining facility in accordance with Sections 1-19-3.210 Special Exceptions, 1-19-4.230 Nonconforming Uses, and 1-19-11.100 Definitions.

Attachments:

Attachment #1 – Site Plan of Golf Course
Attachment #2 – New Banquet Building and Parking
Attachment #3 – Aerial Map
Attachment #4 – Zoning Map
Attachment #5 – Comprehensive Plan Map
Attachment #6 – Environmental Features 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

A golf course is not allowed within the Agricultural (A) zoning district in accordance with the Frederick County Code, Section 1-19-5.310.Use Table. The PB Dye golf course was constructed in 1999. The "Golf Course" use was later removed from the Use Table, which created the non-conforming use status. The PB Dye golf course in the A zoning district is a nonconforming use which legally existed on January 24, 1977 or at the time of amendment of Chapter 1-19 of the Frederick County Code, but that does not comply with the regulations of the district in which it is located. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except with the approval of the Board of Appeals.

The Applicant is requesting approval of a Special Exception to allow the expansion of the dining facilities at the nonconforming PB Dye golf course. The PB Dye owner wants to expand its non-conforming use by adding to its facilities and constructing a new building which will serve as a dining facility. The new building will be 7,500 sf. and will allow improvements and expansion of existing uses and services. Currently PB Dye has facilities for and hosts banquets and other functions similar in size to the functions that will be served by the proposed building. The proposed building will improve the banquet facilities, make them more efficient, and allow them to increase their ability to serve the members with a higher quality of service.

§ 1-19-4.230. NONCONFORMING USES.

(A) A nonconforming use is a use which legally exists on January 24, 1977 or at the time of amendment of this chapter but that does not comply with the regulations of the district in which it is located. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except with the approval of the Board of Appeals.

The Applicant states that the Applicant will not change or enlarge any structure not approved by the Board of Appeals (BOA).

(B) The Board of Appeals may grant approval to change the nonconforming use to another nonconforming use where a specific finding is made that:

- (1) No structural alterations are made;
- (2) The proposed use is more appropriate to the district; and
- (3) A nonconforming use will not be changed to a use considered less appropriate to the district;

The Applicant states that he is not asking to change a nonconforming use but is asking to expand the existing nonconforming use by addition a building as described in this BOA Application.

(C) The Board of Appeals may grant approval to expand a nonconforming use. Expansion is limited to the lot that exists on January 24, 1977. Additional acreage or dwelling units will not be added to expand a nonconforming use.

The Applicant understands and agrees to this requirement.

(D) The Board of Appeals may impose conditions within the scope of this chapter on the granting of an approval within this section.

The Applicant understands and agrees to this requirement.

§ 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 Whang-Kyun Shin and Grace H S Shin are the owners of the property that includes the golf course and dining facilities on their land. Michael Kim is the Applicant.

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 the proposed use is consistent with the purpose and intent of the Comprehensive Development Plan. The proposed new building will not change the use of the PB Dye golf course and will have no effect on how PB Dye currently holds banquet events. The new building will allow PB Dye to hold these same services at a higher standard.

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 operations involved or conducted in connection with the gold course 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. As the new building will allow functions and services currently provided by PB Dye to be offered in a better and more comprehensive way, the Applicant claims there will be no adverse effect on 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 that the operations in connection with the requested expansion of the banquet facility use, 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. We see no adverse effect on the neighborhood as specified in the code language above.

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 parking areas will comply with the off street parking regulations and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. Sixty-two (62) additional parking spaces will be required. The existing property has the area to accommodate additional parking spaces and parking will not be on neighborhood roads. Refer to Attachments #1 and #2, showing the additional parking spaces. PB Dye will not move or change the existing entry and exit driveway. The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant further states that the road system providing access to this Property will remain adequate and that the approval of this application will not cause a need for any changes to the Property's road access, and it will not affect traffic.

***Please note that if this Board of Appeals application is approved, this proposal will require site development plan review and approval as well as building permits and approvals prior to occupying any new structure.**

- 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 Sections 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. They will abide by any conditions established by the BOA.

- 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 he has made a written application stating the grounds upon which the special exception is requested and is complying with the process.

2. A public hearing has been held; and the Board made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

The Board of Appeals Hearing is scheduled for April 24, 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 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 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 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.

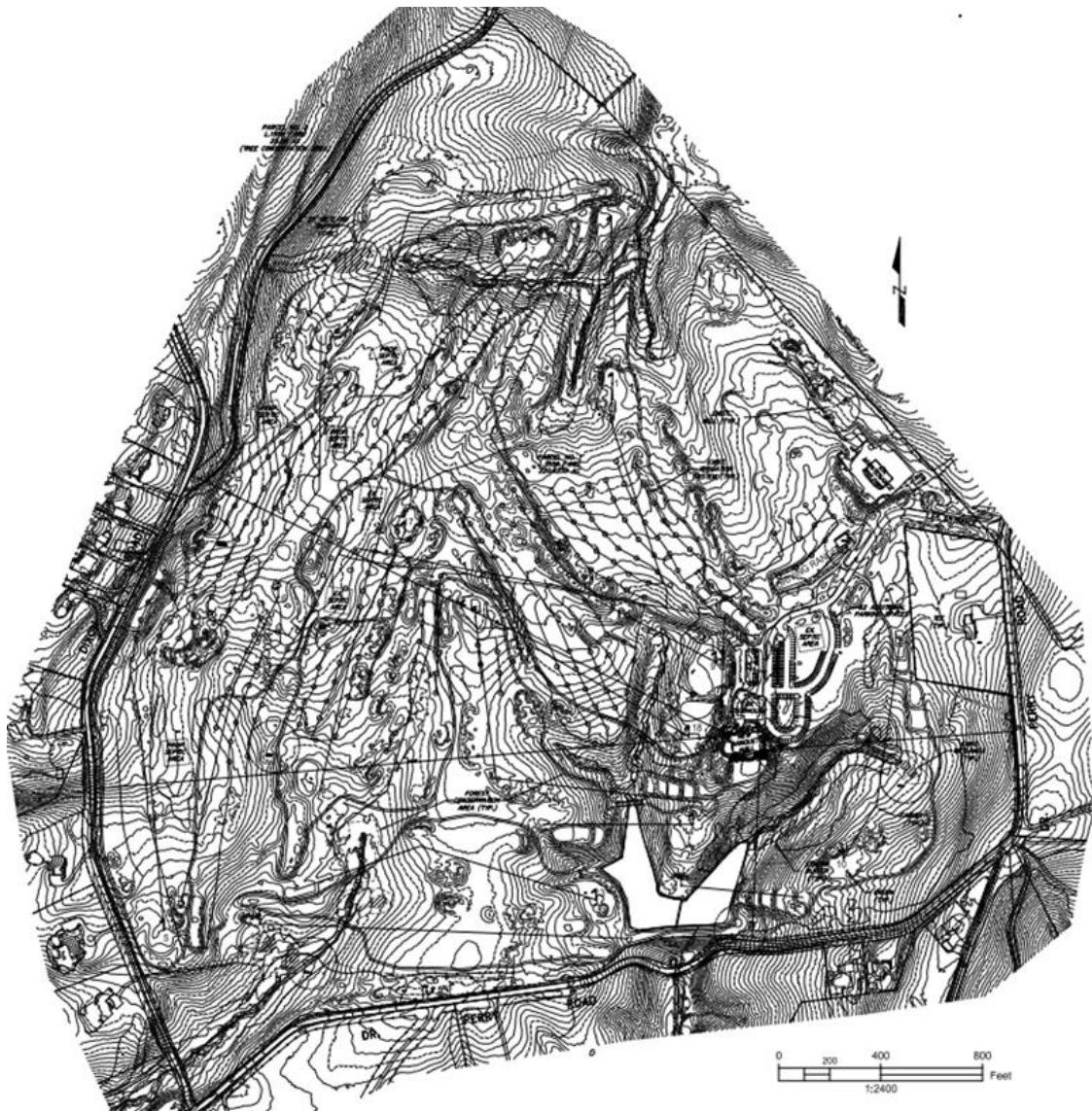
The Applicant understands and agrees to this requirement.

Recommendation

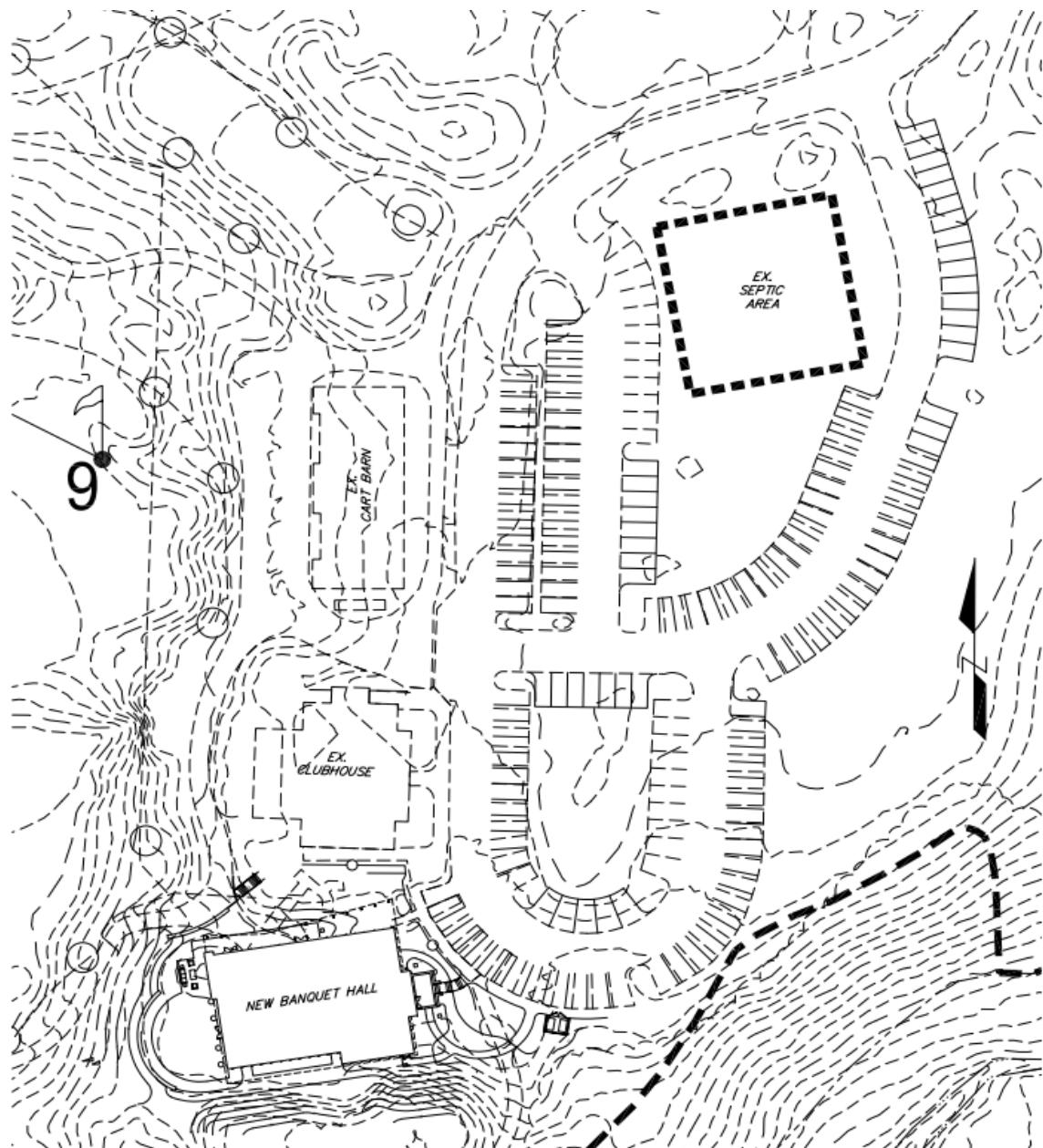
Based on the findings and conclusions in the staff report, Staff does not object to the approval of the requested Special Exception Special Exception to expand a non-conforming golf course use by adding to its existing facilities and constructing a new building of 7,500 sf, which will serve as a dining facility in accordance with sections 1-19-3.210 Special Exceptions, 1-19-4.230 Nonconforming Uses, and 1-19-11.100 Definitions.

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 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.

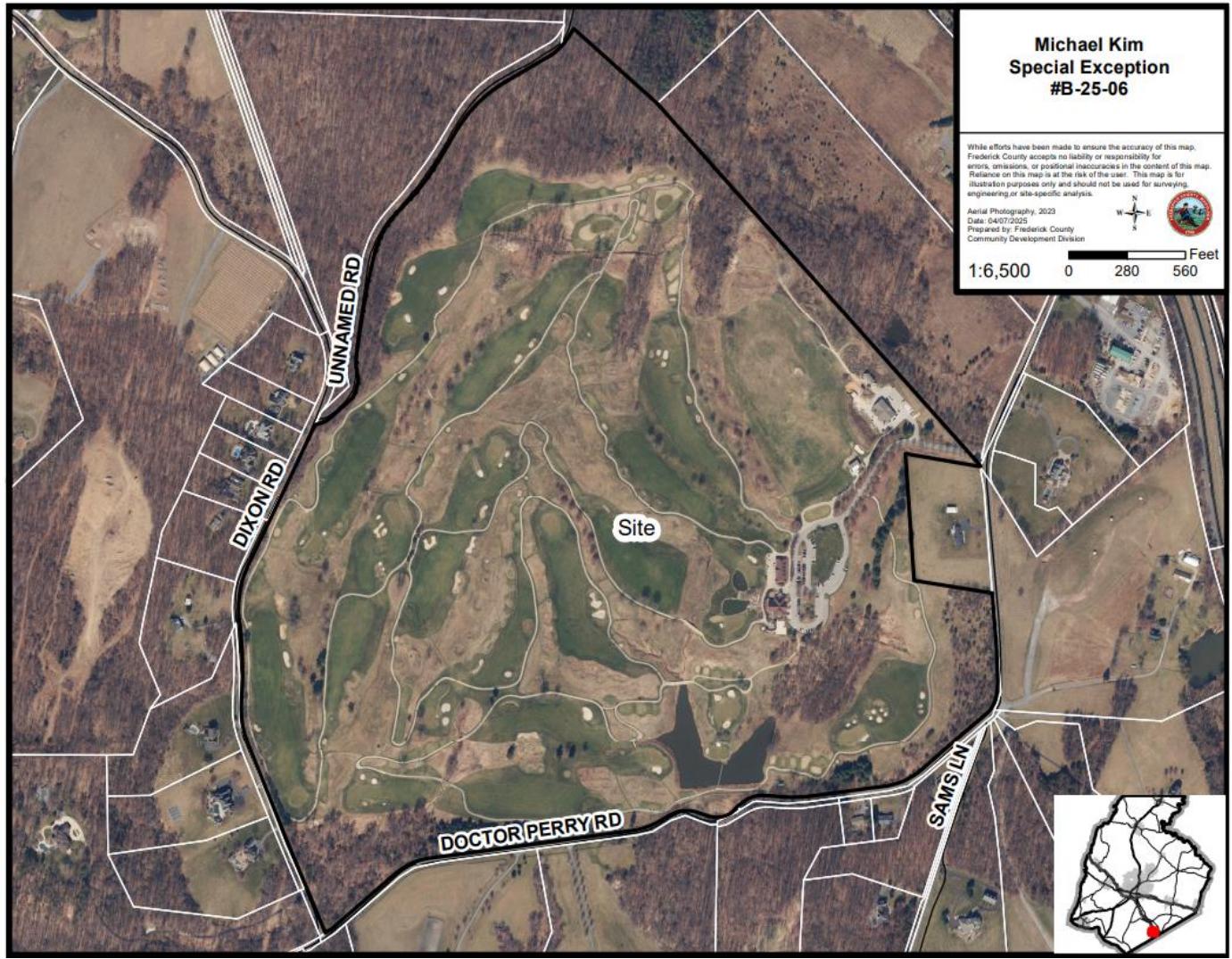
Attachment #1: Site Plan of Golf Course



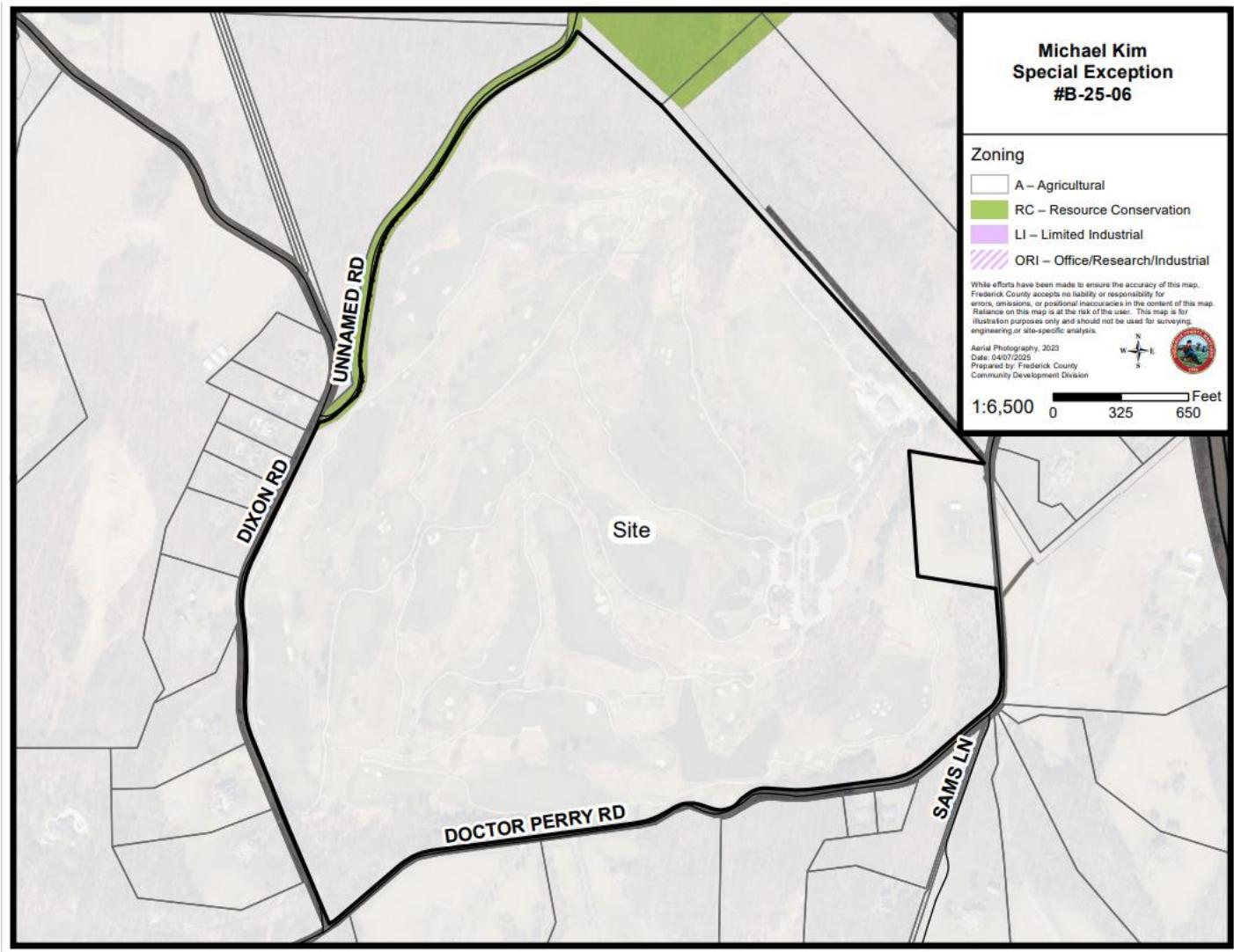
Attachment #2: New Banquet Building and Parking



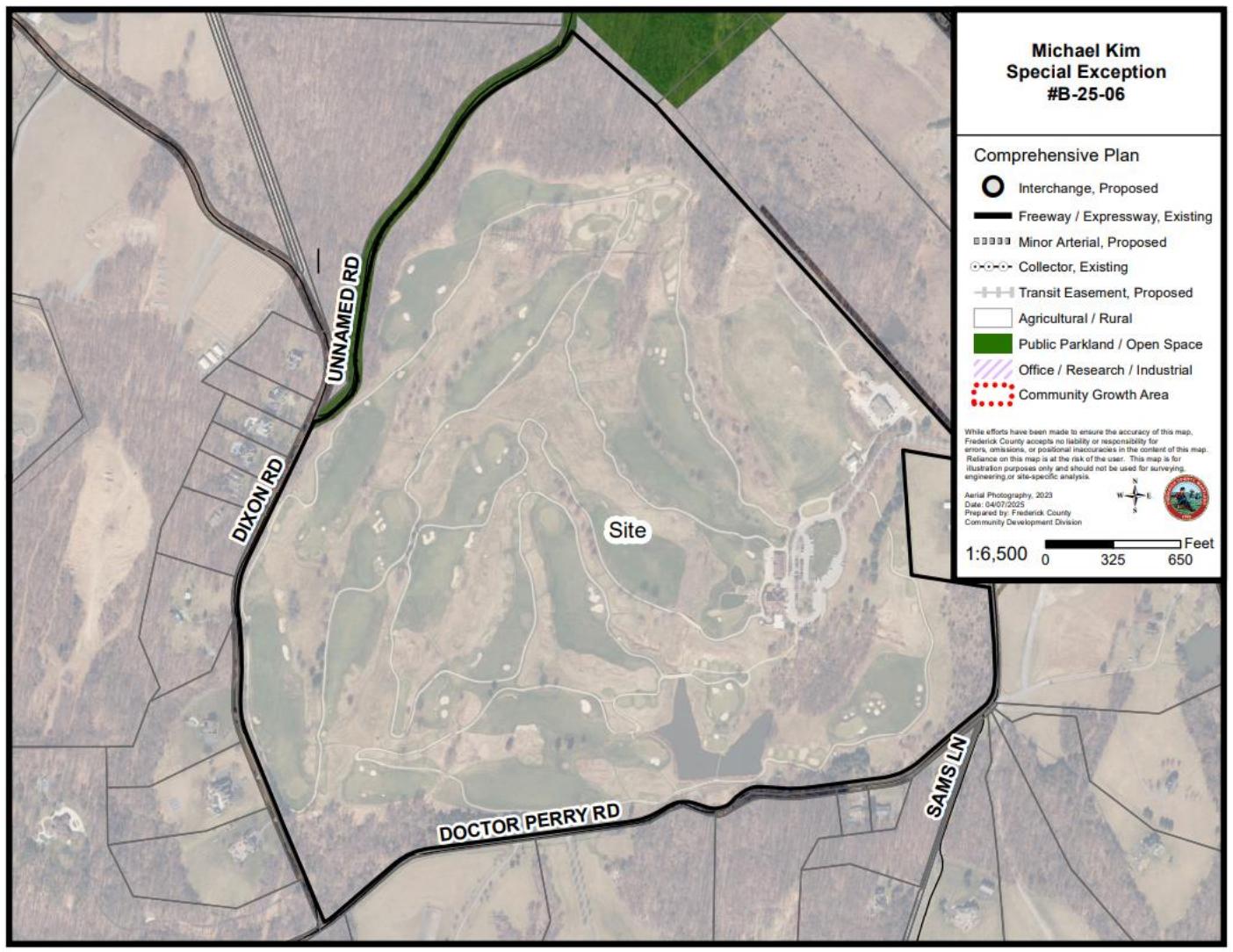
Attachment #3: Aerial Map



Attachment #4: Zoning Map



Attachment #5 – Comprehensive Plan Map



Attachment #6 – Environmental Features Map

