



FREDERICK COUNTY GOVERNMENT

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County Executive

DIVISION OF PLANNING & PERMITTING

Livable Frederick Planning & Design Office

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FREDERICK COUNTY HISTORIC PRESERVATION COMMISSION

STAFF REPORT

October 23, 2025

Address: 12234 Old Frederick Rd, Thurmont **Meeting Date:** November 5, 2025

Applicant: Bogia Engineering, Inc **Report Date:** October 23, 2025

Request: Review and Comment on Special Exception for Proposed Nongovernmental Utility

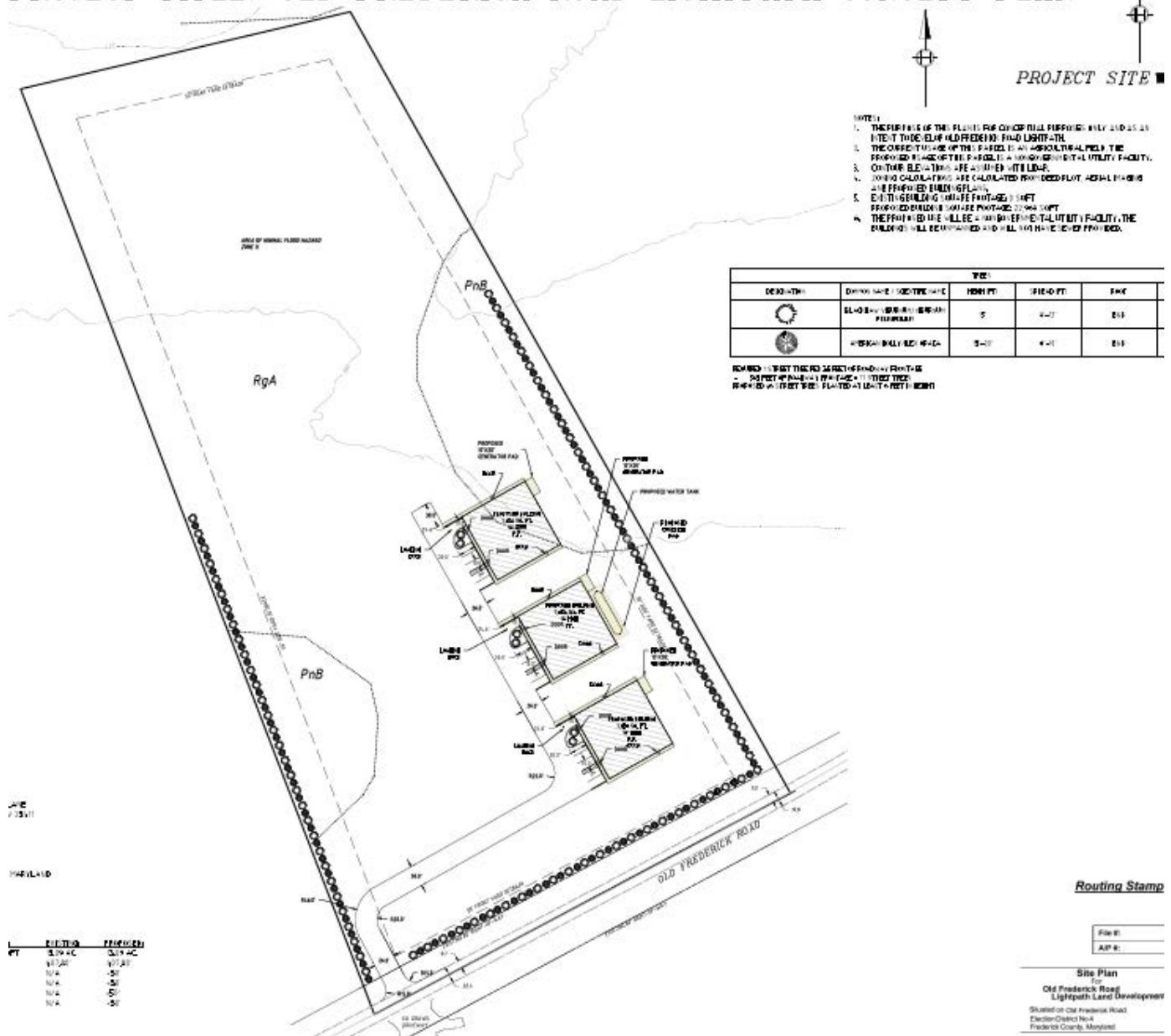
BACKGROUND

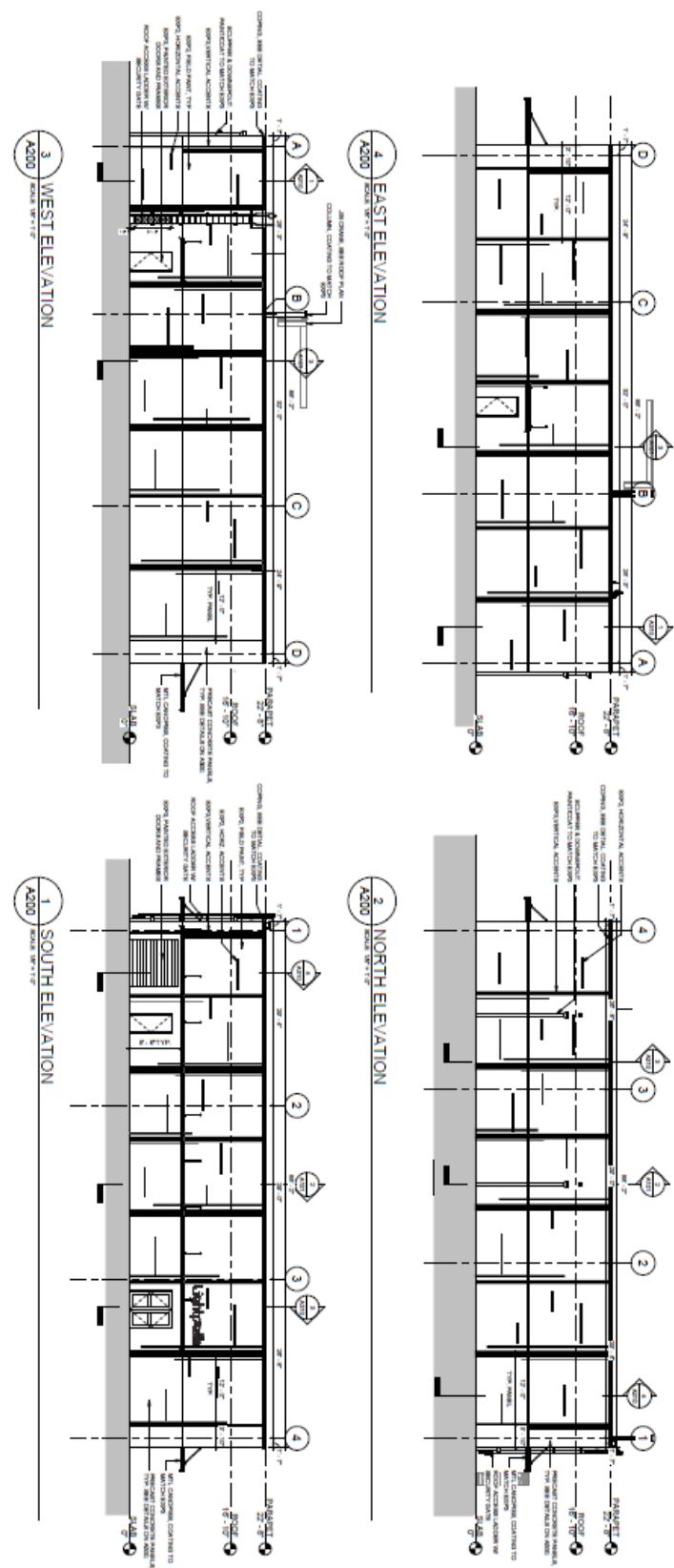
Per section 1-19-8.339(H)(3) of the Frederick County Code, all applications for non-governmental utilities before the Board of Appeals shall be forwarded to the Historic Preservation Commission for review and comment. The Board shall consider comments from the Historic Preservation Commission and shall make findings regarding the project's impact on any historic district, registered historic property, parks, designated heritage area, and other historic or cultural resource. When there is a finding of negative impact based upon evaluation of the above, the Board shall to the maximum extent practicable require mitigation. Required mitigation may include the construction of fences, barriers, mandatory setbacks, the surfacing of access drives, shielding of lighting, or the establishment of buffers, vegetative screening, or landscaping.

PROPOSAL

An application for a Special Exception for a proposed non-governmental utility has been submitted to the Board of Appeals (BOA # B277868). The applicant proposes to construct three non-governmental utility buildings at 12234 Old Frederick Rd in Thurmont, each with a footprint of +/- 7,656.5 SF, to support the local fiber optic network. The building height for all three structures is 22'. According to the applicant, these "distributed facilities allow for localized data routing and signal regeneration, which improves service reliability and minimizes the risk of regional service disruptions." The application is attached.

PROJECT TITLE: OLD FREDERICK ROAD LIGHTPATH CONCEPT PLAN





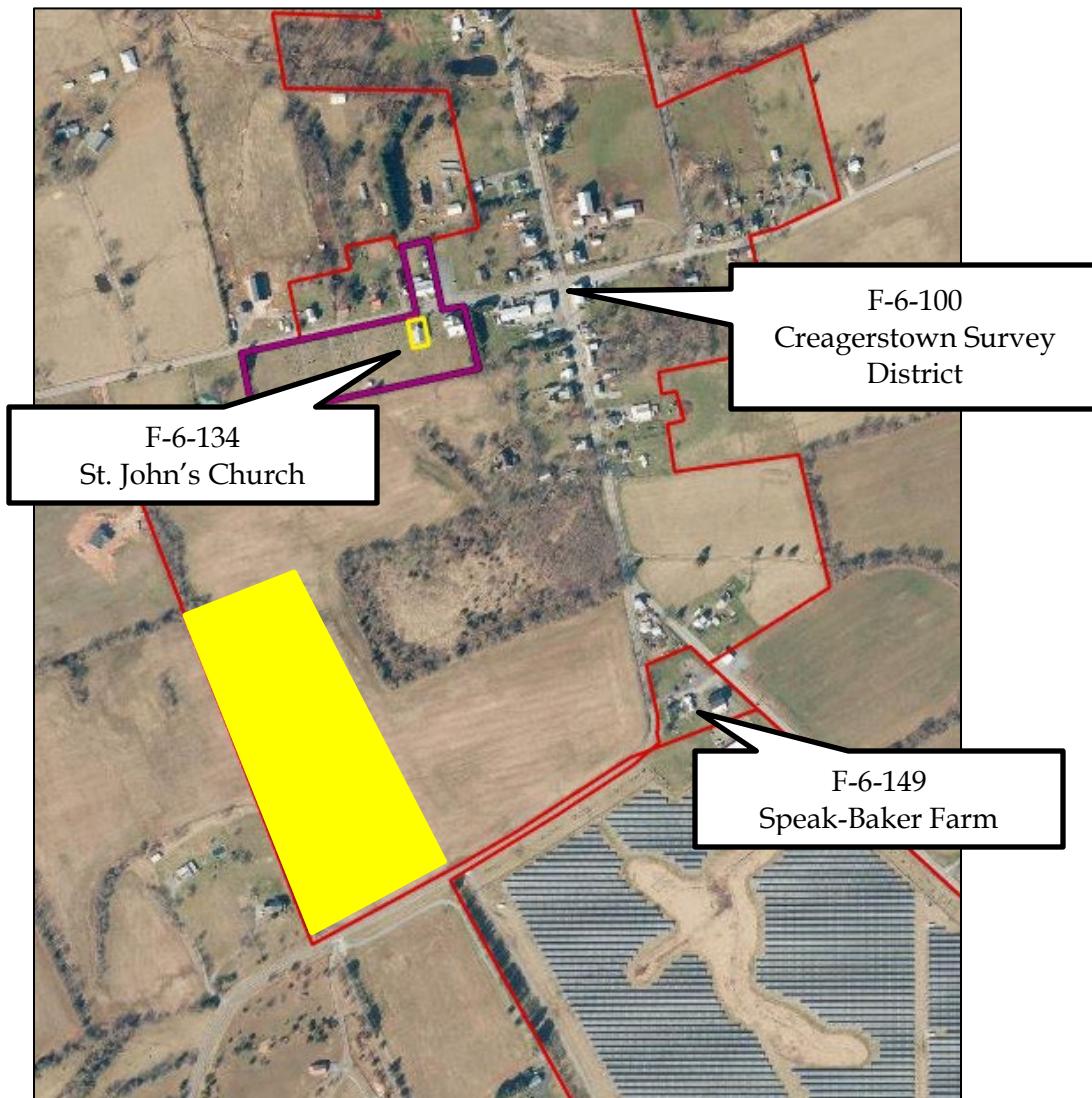
Proposed Elevations of Utility Buildings

STAFF DISCUSSION

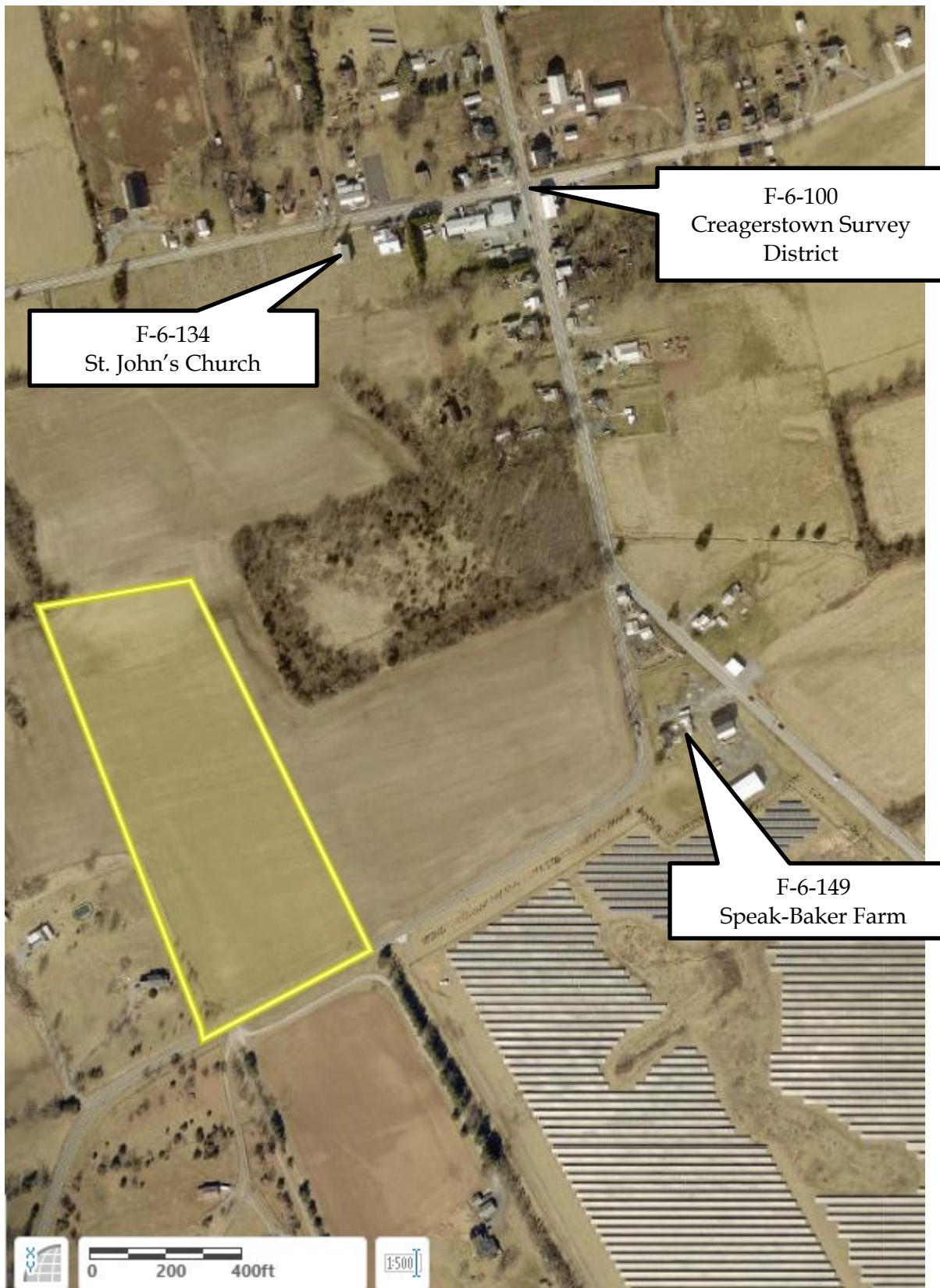
Review of the Maryland Historical Trust's MEDUSA mapping system indicates that there are several documented historic resources located within a ½ mile of the property.

MIHP Inventory	Site Name	Distance to Structure (m)
F-6-100	Creagerstown Survey District	Within
F-6-149	Speak-Baker Farm	335m
F-6-134	St. John's Church	525m
NPS 07000862	St. John's Church	525m

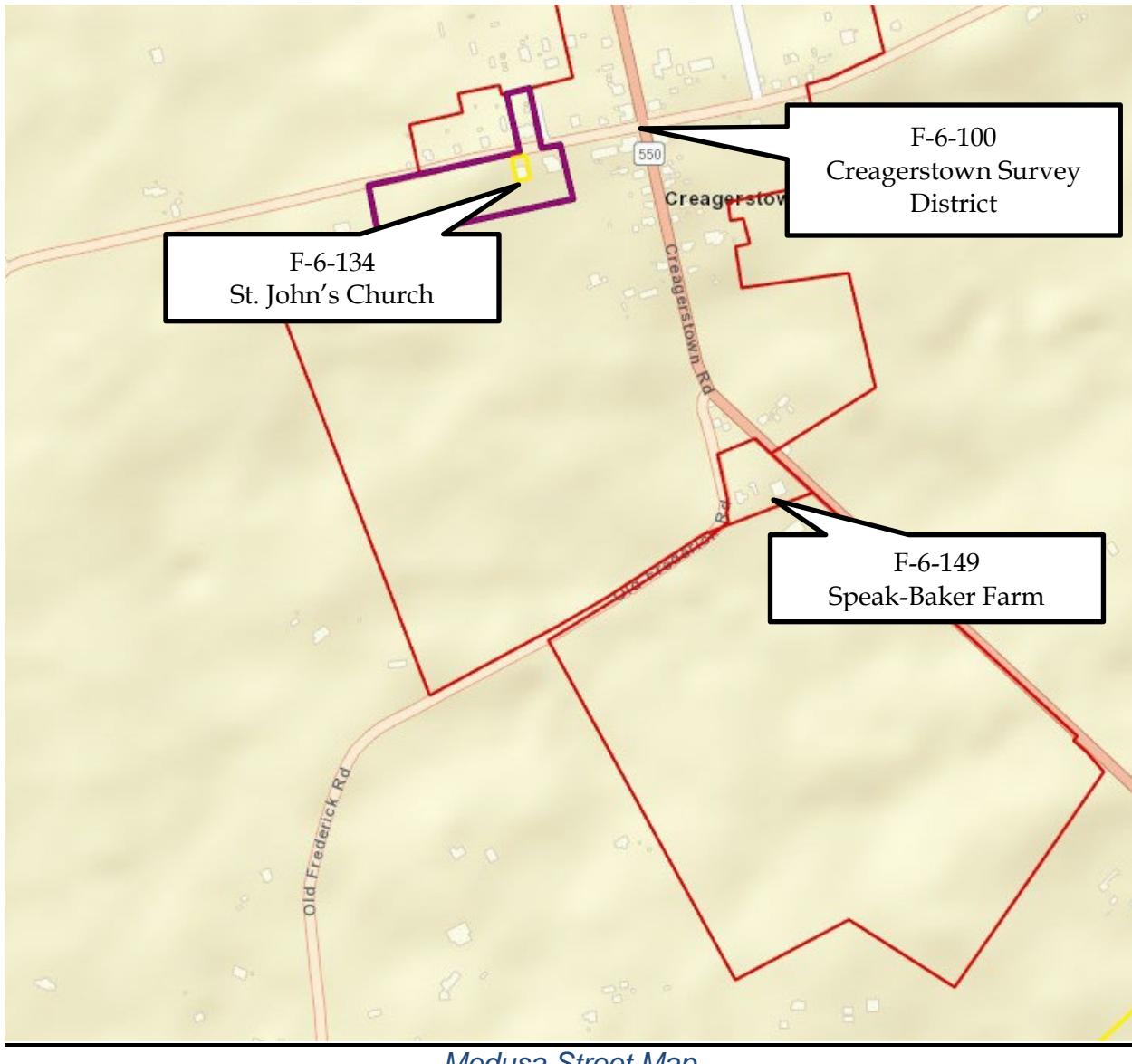
There are no contributing structures to the Creagerstown Survey District on the proposed site. The site was an agricultural field that was part of the farm complex located at 12416 Creagerstown Road until 2013.



*MHT's MEDUSA Cultural Resource Information System. Documented sites
Within a half mile to the project site are labelled with their MIHP Inventory Number.*



Aerial of Subject Site in Relation to Neighboring Creagerstown



Commission Action

The Board of Appeals (BOA) is seeking comments from the Historic Preservation Commission regarding this proposed utility and its potential impacts on any historic district, registered historic property, parks, designated heritage area, and other historic or cultural resource.

If the Commission determines there will be a negative impact based upon evaluation of the above, the Board shall to the maximum extent practicable require mitigation. Required mitigation may include the construction of fences, barriers, mandatory setbacks, the surfacing of access drives, shielding of lighting, or the establishment of buffers, vegetative screening, or landscaping.

**JUSTIFICATION STATEMENT
SPECIAL EXCEPTION FOR NONGOVERNMENTAL UTILITY USE
OLD FREDERICK ROAD**

Cablevision Lightpath LLC (collectively, “Applicant”) submits this request for a special exception for the construction of three +/- 7,656 SF nongovernmental utility buildings per Chapter 19 of the Frederick County Code (“Zoning Ordinance”), Section 1-19-8.339. Applicant is the contract owner of the parcel located along Old Frederick Road, Thurmont, Maryland (Tax ID # 04589861) (the “Property”). The Property is located north of Old Frederick Road and West of Creagerstown Road.

The Property is zoned Agricultural (A) and currently undeveloped and actively used for agricultural purposes. Applicant wishes to construct three +/- 7,656 SF nongovernmental utility buildings, each with a footprint of +/- 7,656.25 SF. As the current use is Agricultural, Applicant is applying for the special exception pursuant to Zoning Ordinance § 1-19-8.339.

Cablevision Lightpath LLC operates multiple 7,656-square-foot utility structures at various strategic locations along the East Coast to enhance the reliability and distribution of fiber-optic infrastructure supporting both residential and commercial end users. The establishment of multiple 7,656-square-foot utility buildings enhances the resilience and scalability of the fiber-optic network by reducing latency, increasing redundancy, and supporting higher data throughput. Strategically distributed facilities allow for localized data routing and signal regeneration, which improves service reliability and minimizes the risk of regional service disruptions. This infrastructure investment is critical to meeting increasing bandwidth demands from both residential and commercial users, ensuring consistent high-speed connectivity and supporting future network expansions.

In support of the request, Applicant provides this justification statement. Below in bold typeface are the relevant provisions of the Zoning Ordinance with responses:

§ 1-19-3.200.1. APPLICATION.

(A) An application for a special exception, variance, approval, or appeal shall be made on forms approved by the Community Development Division
RESPONSE: Acknowledged.

(B) The application for a special exception, variance, approval, or appeal and the information required in subsection (C) below shall be filed with the Zoning Administrator a minimum of 45 days prior to the regularly scheduled monthly meeting of the Board of Appeals.
RESPONSE: Acknowledged.

(C) Required information for a special exception, variance, or approval shall include:

(1) Plot plan or accurate drawing of the property showing the distances of all existing and proposed structures from all property lines, driveways and parking areas.

RESPONSE: Please reference provided site plan.

(2) Name and address of each person owning property adjacent to the subject property.

RESPONSE: Please reference provided site plan.

(3) Plans, architectural drawings, photographs, elevations, specifications or other detailed information fully depicting the exterior appearance of any existing structures on the property, including signs and the proposed construction

RESPONSE: The Property is currently undeveloped and therefore there are no existing structures or signs. Please reference the provided plan for the proposed construction.

(4) In addition, for all applications for a special exception or approval, a statement shall be provided explaining in detail how the use is to be operated. The following information is required to be submitted:

(a) Hours of operation;

(b) Number of anticipated employees;

(c) Equipment involved; and

(d) Any special conditions or limitations which the applicant proposes for adoption by the Board.

RESPONSE: The proposed non-governmental utility buildings are not intended for regular public access and do not maintain standard hours of operation.

Routine system maintenance is performed by 2 to 3 personnel on an intermittent basis, typically occurring 3 to 4 times per month. Proposed site improvements also include a water tank for each building for fire suppression and enclosed generators will be located in the back of the buildings. In jurisdictions where the applicant currently operates similar facilities, facility use and activity levels have been characterized as comparable to those of a sewage pump station in terms of frequency of access and operational intensity.

(D) The application for an appeal shall be filed in accordance with §1-19-3.230 within 30 days after the date of the action or decision being appealed. Required information for an appeal shall include a copy of any written decision that is being appealed and all other information pertinent to the appeal.

RESPONSE: Acknowledged.

(E) Fee shall be paid at the time of filing of application in accordance with the fee schedule established in this chapter.

RESPONSE: Acknowledged.

§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.

RESPONSE: Applicant is the contract owner.

(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 this chapter:

RESPONSE: Based on Frederick County's GIS mapping and the Livable Frederick Master Plan (LFMP), the Property is situated within the area identified as "Agricultural Lands" which indicates the County's objective to preserve rural character while supporting essential services and infrastructure. Despite the Property's location not within a designated growth area, the proposed nongovernmental utility use is in alignment with the LFMP and the County's Comprehensive Development Plan in several ways.

The Application is consistent with the County's desire to minimize impact on the rural and agricultural landscape as the proposed nongovernmental utility buildings are designed to have minimal environmental disturbance and no public daily traffic.

The Application is compatible with surrounding Land use and Zoning as the facility will not require significant grading or site disturbance, and operations are limited to periodic maintenance by 2-3 technicians monthly. This ensures compatibility with adjacent agricultural and residential uses while supporting County-wide infrastructure goals.

The Application represents a necessary and beneficial utility expansion that preserves the existing character and use of the land. The Application is consistent with the following LFMP Visions, Goals and Policies: EC 3.1.1 ("Attract, retain, and grow opportunities to create a business climate in Frederick County that is attractive to firms and supportive of the many diverse groups of people, with diverse expertise and experiences, who wish to

live and work in Frederick County.”); EC 3.1.3 (“Ensure that infrastructure needed to support and maintain Frederick County as a great place to live and work is in place to meet the needs of residents and the business community by expanding, augmenting, or creating new infrastructure as opportunities expand to live and work in Frederick County.”); EC 3.2.1 (“Work to expand opportunities in knowledge-based industries – those industries where production and services are based on a vast knowledge of technical and scientific skills, with workers highly skilled in those areas – such as information technology . . . and other new and emerging technical business opportunities.”); EC 3.3.2 (“Identify and pursue opportunities to efficiently grow economic sectors in the county that blend the advantages provided by local assets with the possibilities offered by regional and global economic trends.”).

(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 was located; and

RESPONSE: The proposed non-governmental utility use consists of three single-story, approximately +/- 7,656-square-foot utility buildings situated on a parcel comprised of +/- 13.09 acres. The Property is an adequate size to accommodate all required setbacks, buffering, and stormwater management in accordance with Frederick County Code. The facility will not be staffed on a daily basis, with only 2–3 personnel conducting routine maintenance on-site approximately 3–4 times per month. No customer access or public traffic is generated by the use.

The non-descript passive use proposed will maintain the mostly agricultural character of the area. In particular, it is directly across Old Frederick Road from the 60-acre Baker Point commercial solar facility.

(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

RESPONSE: The proposed utility buildings are passive fiberoptic support structure that generates no ongoing mechanical activity, industrial processing, or emissions. Operational activity is limited to periodic maintenance visits by 2–3 technicians, occurring only 3–4 times per month, with no public access or continuous on-site staffing.

All equipment will be housed within a fully enclosed structure, designed to meet all applicable building and mechanical code requirements, including sound attenuation and ventilation standards. Auxiliary systems will be appropriately shielded to eliminate off-site impacts. The site layout, building

orientation, and compliance with all County development standards—including setbacks, buffering, and screening—further mitigate any potential for off-site effects.

(4) Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrances and exit drives shall be laid out so as to achieve maximum safety.

RESPONSE: As shown in the application material, the Application meets this requirement.

(5) The road system providing access to the proposed use is adequate to serve the site for the intended use.

RESPONSE: Access to the proposed non-governmental utility facility will be provided via Old Frederick Road, a publicly maintained roadway with sufficient capacity and structural design to accommodate the low-volume vehicular traffic generated by the proposed use. The intended operations involve no daily traffic and only limited monthly site visits by 2-3 maintenance personnel, resulting in negligible traffic generation. Given the minimal traffic demand and infrequent access needs, the road system serving the site is fully adequate to support the intended use under the proposed special exception.

(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 this Code.

RESPONSE: See responses to § 1-19-8.339 requirements, below.

(D) – (I) A special exception approval may be granted in accordance with . . .

RESPONSE: Acknowledged.

§ 1-19-8.339. NONGOVERNMENTAL UTILITY IN RC, A, R-1, R-3, R-5, R-8, R-12, R-16 AND VC DISTRICTS

The following provisions shall apply to a nongovernmental utility in RC, A, R-1, R-3, R-5, R-8, R-12, R-16 and VC Districts.

(A) Minimum setback from all property lines is 50 feet. Structures, fencing or parking are not permitted within the setback area.

RESPONSE: All required setbacks will be maintained, and no structures, fencing or parking areas will not be located within the designated setback areas.

(B) Screening and landscaping is required as approved by the Board of Appeals.

RESPONSE: Screening and landscaping will be provided as required by the Board of Appeals.

(C) Within the RC District, the requirements of § 1-19-7.200 of this Code will be

met.

RESPONSE: Not applicable.

(D) When permitted in any residential district, a nongovernmental utility shall have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting and fencing, deemed necessary by the Board of Appeals.

RESPONSE: Not applicable.

(E) Provide information to indicate the general conditions of use and existing improvements on adjoining properties within a 1,000-foot radius surrounding the subject property.

RESPONSE: The area within a 1,000-foot radius of the subject property is predominantly rural and agricultural in character, consistent with the surrounding zoning designations. Adjoining properties primarily consist of active farmland, wooded parcels, and low-density residential uses, including single-family dwellings located on large lots.

Existing improvements in the surrounding area are limited and generally include single-family homes with associated outbuildings (e.g., barns, garages, sheds) and occasional farm structures.

(F) When approving a nongovernmental utility use, the Board of Appeals may authorize future changes not requiring further Board of Appeals approval within a 10 year period of the initial special exception approval. Such changes shall be limited to the addition, relocation, or modification of foundations or equipment, or additions to existing buildings, within a fence line approved by the Board of Appeals. The site plan must show initially proposed and future buildings and structures as reasonably expected within 20 years or the foreseeable future.

RESPONSE: Acknowledged.

(G) A reasonable effort shall be made by the applicant to contact and inform area homeowner associations and community associations of the proposed use together with an informational meeting.

RESPONSE: Acknowledged.

(H) Tests to determine mitigation requirements. In the event the Board determines to grant the special exception, the Board shall consider the following areas to determine the extent that impact mitigation measures will be required.

(1) The Board shall make findings that the proposed building or structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

RESPONSE: Acknowledged.

(2) The Board shall make findings regarding adverse effects of the project on the character of the surrounding area including impacts from sound, light, visual appearance, impervious surfaces, traffic impacts, and on forest and wildlife impacts.

RESPONSE: Acknowledged.

(3) All applications for nongovernmental utilities before the Board shall be forwarded to the Historic Preservation Commission for review and comment. The Board shall consider comments from the Historic Preservation Commission and shall make findings regarding the project's impacts on any historic district, registered historic property, parks, designated heritage area, and other historic or cultural resource. When there is a finding of negative impact based upon evaluation of the above, the Board shall to the maximum extent practicable require mitigation. Required mitigation may include the construction of fences, barriers, mandatory setbacks, the surfacing of access drives, shielding of lighting, or the establishment of buffers, vegetative screening, or landscaping.

RESPONSE: Acknowledged.

(I) All applications shall include information as to how the applicant has addressed the visual impact of the nongovernmental utility on neighboring county designated preservation areas, such as rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, designated heritage areas, historic sites and sites eligible for designation.

RESPONSE: Acknowledged.

(J) Provide photographs of the existing conditions of the site and area.

RESPONSE: Please reference provided documentation.

(K) Provide photo-documentation that a balloon test has taken place at the proposed site location (for substations only).

RESPONSE: Not applicable.

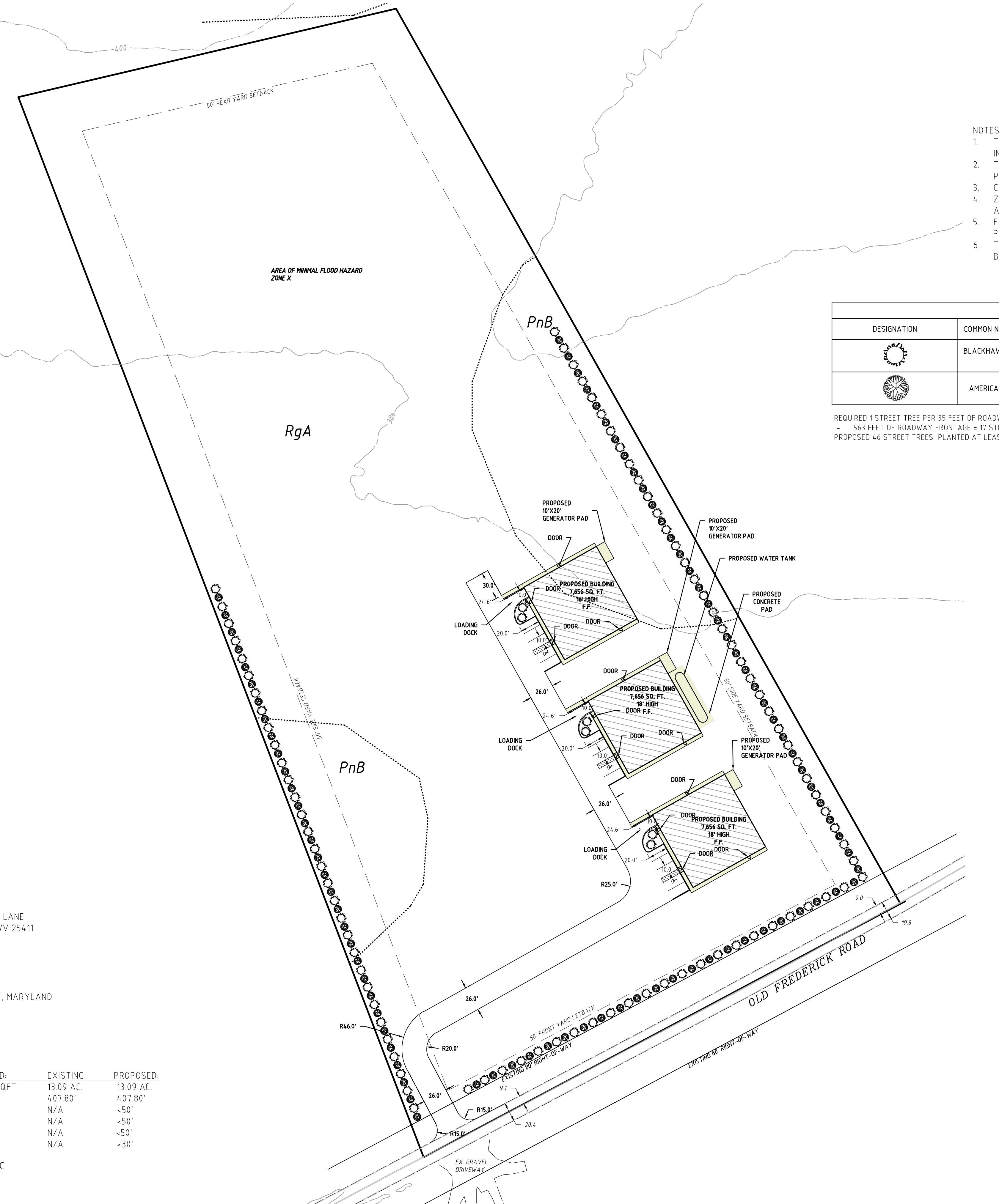
For the above reasons, the Applicant respectfully requests the grant of the special exception. Applicant reserves the right to supplement this application with additional information as may be required. Applicant will provide additional testimony at the public hearing.

Old Frederick Road Site

Parcel ID: 04589861



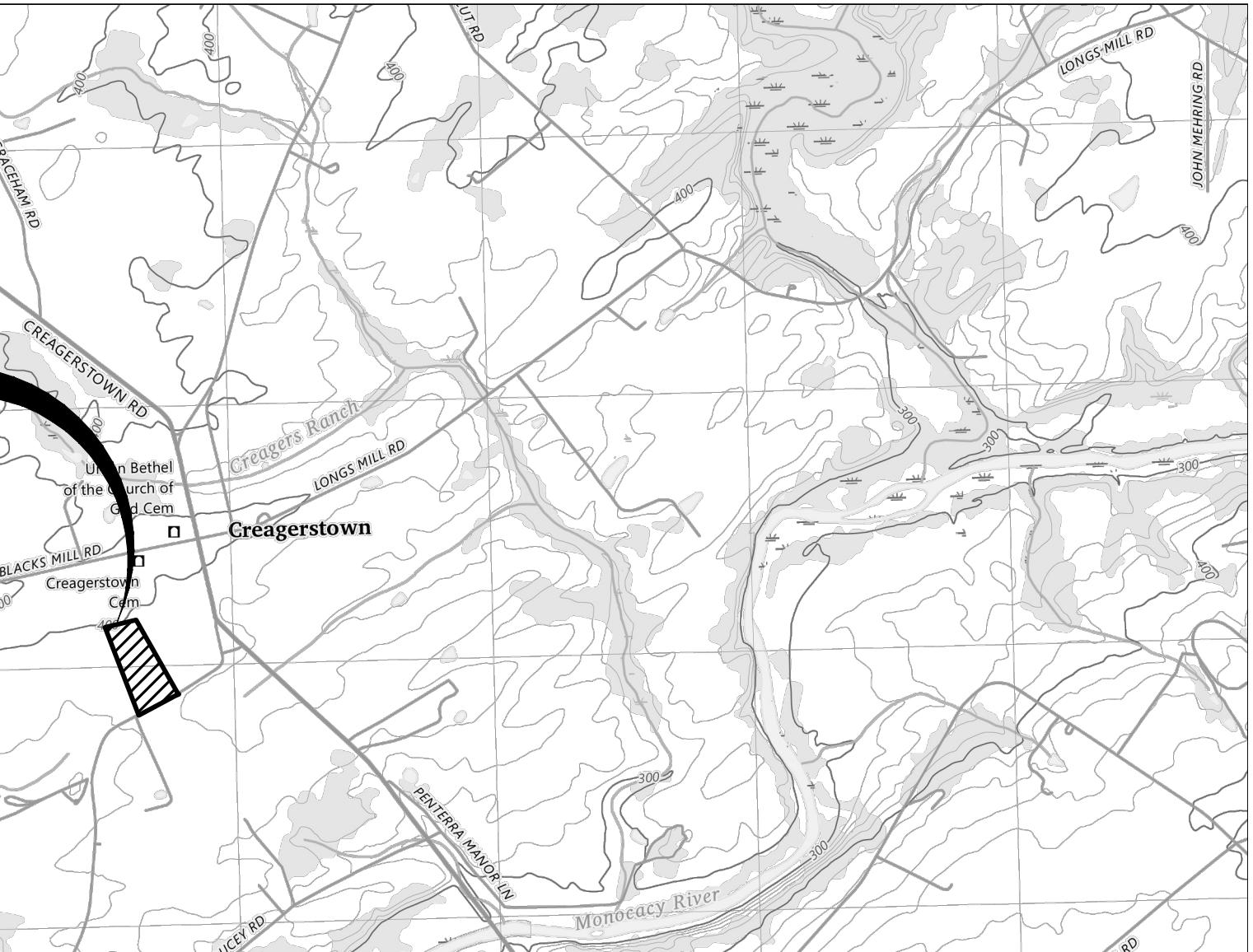
PROJECT TITLE: OLD FREDERICK ROAD LIGHTPATH CONCEPT PLAN



PROJECT SITE

NOTES:

1. THE PURPOSE OF THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY AND AS AN INTENT TO DEVELOP OLD FREDERICK ROAD LIGHTPATH.
2. THE CURRENT USAGE OF THIS PARCEL IS AN AGRICULTURAL FIELD, THE PROPOSED USAGE OF THIS PARCEL IS A NONGOVERNMENTAL UTILITY FACILITY.
3. CONTOUR ELEVATIONS ARE ASSUMED WITH LIDAR.
4. ZONING CALCULATIONS ARE CALCULATED FROM DEED PLOT, AERIAL IMAGING AND PROPOSED BUILDING PLANS.
5. EXISTING BUILDING SQUARE FOOTAGE: 0 SQFT
PROPOSED BUILDING SQUARE FOOTAGE: 22,968 SQFT
6. THE PROPOSED USE WILL BE A NONGOVERNMENTAL UTILITY FACILITY. THE BUILDINGS WILL BE UNMANNED AND WILL NOT HAVE SEWER PROVIDED.



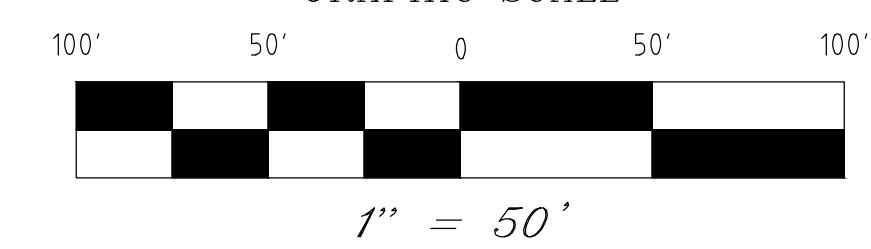
TREES					
DESIGNATION	COMMON NAME / SCIENTIFIC NAME	HEIGHT (FT)	SPREAD (FT)	ROOT	QTY
	BLACKHAW VIBURNUM/VIBURNUM PRUNIFOLIUM	15'	8'-12'	B&B	93
	AMERICAN HOLLY/ILEX OPACA	15'-20'	6'-10'	B&B	86

REQUIRED 1 STREET TREE PER 35 FEET OF ROADWAY FRONTAGE
- 563 FEET OF ROADWAY FRONTAGE = 17 STREET TREES
PROPOSED 46 STREET TREES PLANTED AT LEAST 6 FEET IN HEIGHT



Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
PeB	Penn channery loam, 3 to 8 percent slopes	0.4	2.4%
PnB	Penn silt loam, 3 to 8 percent slopes	3.0	18.3%
RgA	Readington silt loam, 0 to 3 percent slopes	12.9	79.2%
Totals for Area of Interest		16.3	100.0%

LEGEND
EXISTING BUILDING
EXISTING MAJOR CONTOUR
EXISTING MINOR CONTOUR
ADJACENT PROPERTY LINES
EXISTING EDGE OF ROAD
EXISTING BOUNDARY LINE
EXISTING SOILS BOUNDARY LINE
PROPOSED BUILDING
PROPOSED CURB
PROPOSED SIDEWALK
PROPOSED PAVEMENT MARKING
PROPOSED BUILDING HATCH
PROPOSED CONCRETE HATCH
GRAPHIC SCALE



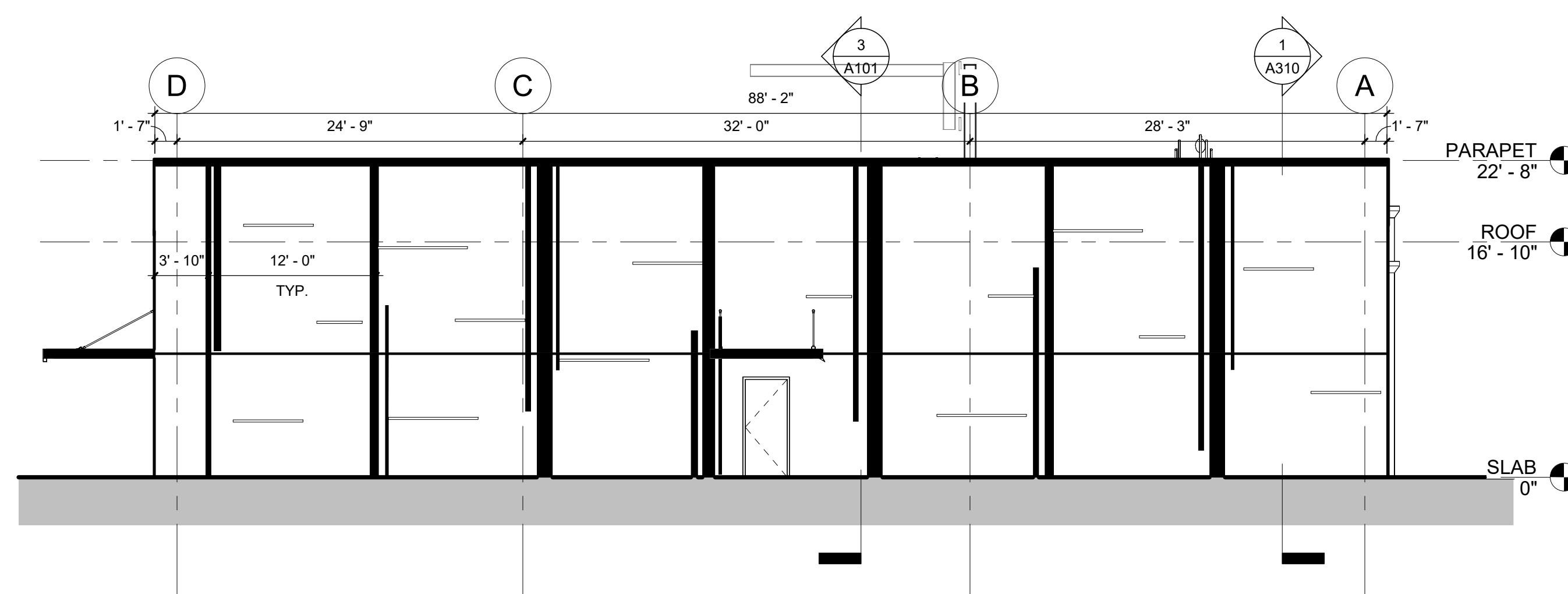
Routing Stamp

File #:
A/P #:

Site Plan
For
Old Frederick Road
Lightpath Land Development
Situated on Old Frederick Road
Election District No 4
Frederick County, Maryland

BEI

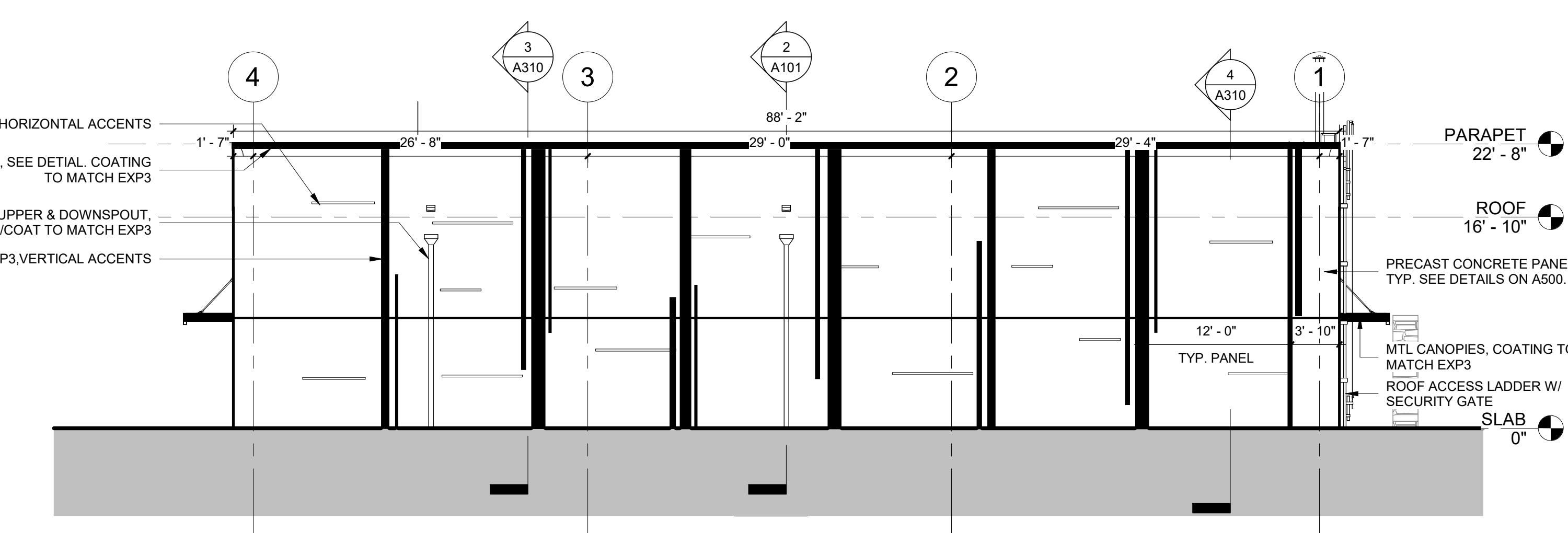
FINISH SCHEDULE							
NUMBER	FINISH TYPE	MANUFACTURER	PRODUCT DESCRIPTION	FINISH TYPE	COLOR	SPECIFICATIO	DESCRIPTION
BASE							
B1	BASE	JOHNSONITE	6" THERMOSET, RUBBER, SURFACE APPLIED	MATTE	(BLACK, TBD)	096513	TYPICAL COVE BASE, THROUGHOUT
CEILING							
CLG1	CEILING	TATE	TATE-GRID, 24X48" - 1 1/2" W/ THREADED ROD HNGRS	LAY-IN	(WHITE, TBD)	095113	EQUIPMENT HALL, STRUCTURAL CEILING
CLG2	CEILING	ARMSTRONG	CALLA 24X48" - NON-TEGULAR, TYP. 15/16" T	LAY-IN	(WHITE, TBD)	095113	RESTROOM, LAY-IN CEILING
FLOOR							
C1	FLOOR	CONCRETE, POLISHED					SEE STRUCTURAL
PAINT							
P1	PAINT	SHERWIN WILLIAMS	SPEEDHIDE PRIMER & DTM ACRYLIC	EGGHELL	(WHITE, TBD)	099123	GENERAL PAINT: WALLS
P2	PAINT	SHERWIN WILLIAMS	SPEEDHIDE PRIMER & DTM ACRYLIC	SEMI-GLOSS	(BLACK, TBD)	099123	ACCENT PAINT - DOORS, FRAMES & TRIM
EXP1	PAINT	SHERWIN WILLIAMS	LOXON PRIMER & CONFLEX ULTRACRETE ACRYLIC	TEXTURED	(GREY, TBD)	099113	PRIMARY EXTERIOR PAINT COLOR
EXP2	PAINT	SHERWIN WILLIAMS	LOXON PRIMER & LOXON XP ACRYLIC	SMOOTH	(WHITE, TBD)	099113	HORIZONTAL BANDING, ACCENT
EXP3	PAINT	SHERWIN WILLIAMS	LOXON PRIMER & LOXON XP ACRYLIC	SMOOTH	(BLACK, TBD)	099113	VERTICAL BANDING, DOORS, CANOPIES AND FLASHING
EXP4	PAINT	SHERWIN WILLIAMS	PROINDUSTRIAL PRO-CRYL PRIMER & DTL ACRYLIC	SEMI-GLOSS	(YELLOW, TBD)	099113	SAFETY PAINTING/STRIPING, AT BOLLARDS
WALL PRO							
WP1	WALL PRO.	WALLGUARD	CORNERGUARD, 2"X2"X8'H	MATTE	(WHITE, TBD)	102600	WHERE INDICATED, SEE FINISH PLAN
WP2	WALL PRO.	WALLGUARD	WAINGSCOTT WALL PROTECTION, 48"X96" DIAMOND PLATE	MILL	SS	102600	WALL PROTECTION WHERE INDICATED, SEE FINISH PLAN



EAST ELEVATION

A200

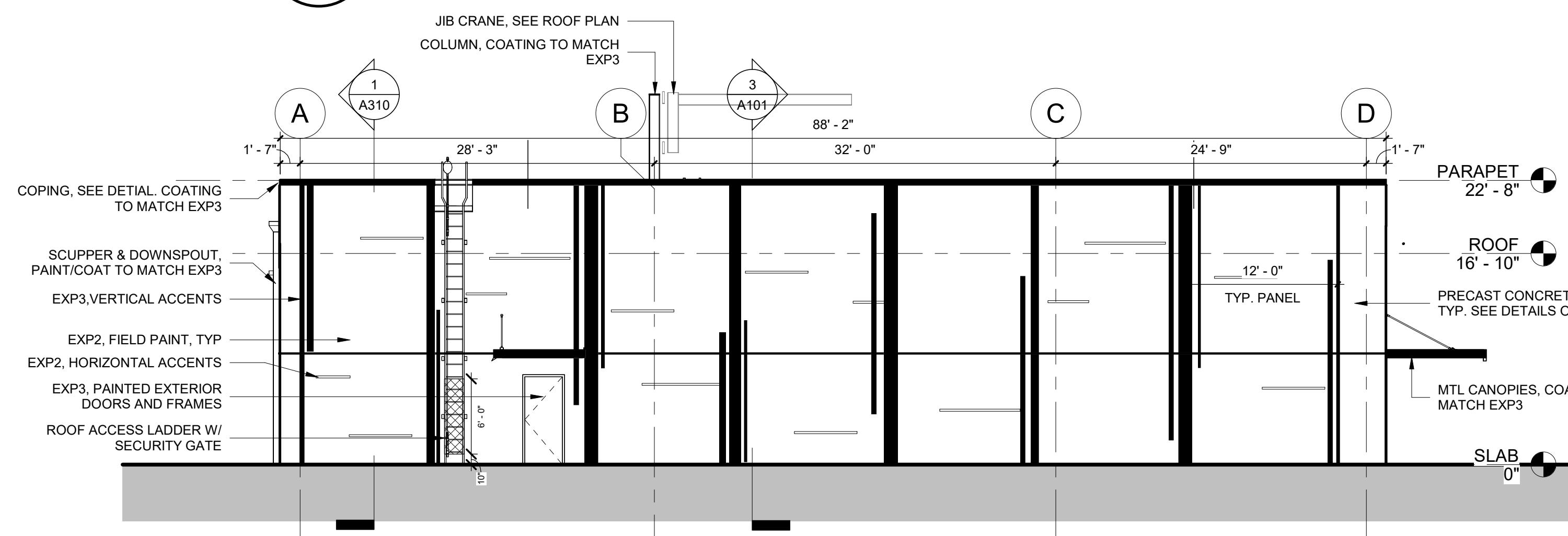
SCALE: 1/8" = 1'-0"



NORTH ELEVATION

A200

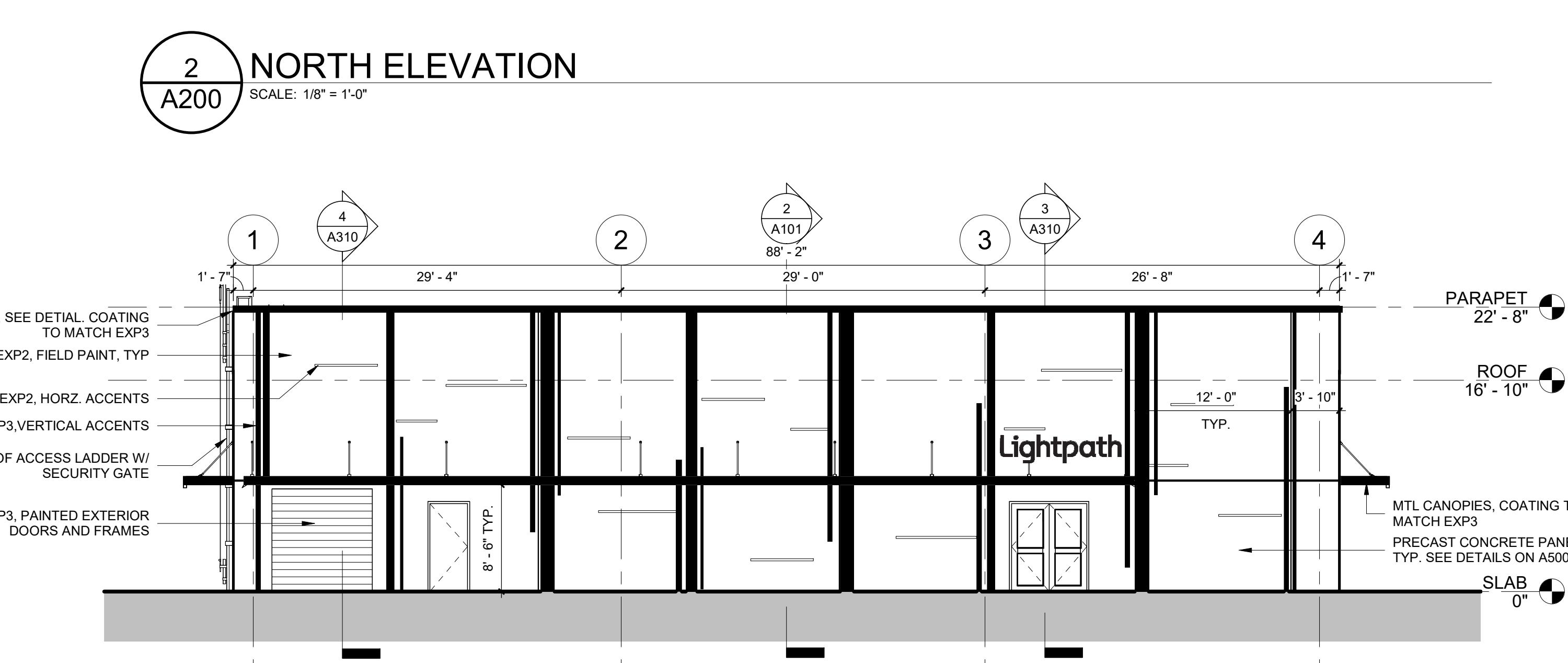
SCALE: 1/8" = 1'-0"



WEST ELEVATION

A200

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

A200

SCALE: 1/8" = 1'-0"

Lightpath

LIGHTPATH INC.

1111 STEWART AVENUE

BETHPAGE, NY 11714

ILA FACILITY

SEALS:

 DRAWING TITLE:
 EXTERIOR ELEVATIONS

 DRAWN BY: RWP
 CHECKED BY: RWP
 DATE: 2025-02-12
 PROJECT NO: 2025-001

 DRAWING NO: A200
 PLOT DATE: 5/9/2025 5:37:42 PM
 RWT FILE: Autodesk Docs/Lightpath Fiber II/A205-001.ARCH.rvt



1
A201 PERSPECTIVE VIEW
SCALE: 1/2" = 1'-0"



4
A201 EAST ELEVATION
SCALE: 3/8" = 1'-0"



2
A201 NORTH ELEVATION
SCALE: 3/8" = 1'-0"



5
A201 WEST ELEVATION
SCALE: 3/8" = 1'-0"



3
A201 SOUTH ELEVATION
SCALE: 3/8" = 1'-0"

Lightpath
LIGHTPATH INC.
1111 STEWART AVENUE
BETHPAGE, NY 11714

ILA FACILITY

SEALS:

DRAWING TITLE:
EXTERIOR ELEVATIONS AND RENDERINGS

DRAWN BY: **RWP** CHECKED BY: **RWP**
DATE: **2025-02-12** PROJECT NO: **2025-001**

DRAWING NO:
A201

OLD FREDERICK ROAD SITE PHOTOGRAPHS









