

## CONNER-PURICELLI EQUESTRIAN FACILITY (6001 WARM SPRINGS DRIVE)

### Description

Request for a Conditional Use approval to allow an equestrian facility in a residential zone to board up to two horses and to provide riding lessons up to two times per day.

PLAN TYPE: CONDITIONAL USE  
NO. CU202203 (CU 22-03)  
COMPLETED: 11-19-2021

MCPB  
Item No. 4  
12-02-2021

2425 Reddie Drive  
Floor 14  
Wheaton, MD 20902

**Exhibit 17**  
**OZAH Case No: CU 22-03**



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**LOCATION:**

6001 Warm Springs Drive (northwest corner of Avery Road and Warm Springs Drive)

**PROPERTY SIZE**

2.0012 acres

**MASTER PLAN ZONE**

2004 Upper Rock Creek Area Master Plan  
RE-2 zone

**APPLICANTS**

Andrew Conner and Estefania Puricelli

**ACCEPTANCE DATE:**

August 19, 2021

**REVIEW BASIS:**

Chapter 59 Montgomery County Zoning Ordinance



**Summary**

- Staff recommends **Approval** of the Connor-Puricelli Equestrian Facility, Conditional Use CU202203, with conditions.
- The Applicants propose a conditional use to allow an equestrian facility in a residential zone to board no more than two horses. There is an existing barn on the property and existing fences separate the back and side yards into two pasture areas from a prior equestrian special exception use on the property. The only exterior change is the addition of two or more small manure composting facilities. The Applicants also desire to conduct occasional riding lessons and to board other people’s horses.
- The Applicants received a forest conservation exemption (Plan No. 42022032E) for the conditional use.
- With the recommended conditions, the proposed use conforms with all applicable requirements and regulations for approval of an “equestrian facility in a residential zone,” Conditional Use (Section 59.3.2.4), and the development standards of the RE-2 Zone (Section 59.4.4.4) of the Montgomery County Zoning Ordinance.
- There will be no notable traffic, circulation, noise, or environmental issues associated with the

## Section I: Staff Recommendation and Conditions of Approval

Staff recommends **Approval** of CU202203 subject to the following conditions:

1. All uses on the site must conform to the Conditional Use Site Plan approved by the Hearing Examiner.
2. No more than two horses may be kept on the property at any one time.
3. The Applicants must not rent out any of the horses in the equestrian facility.
4. The Applicants are limited to providing at most two riding lessons per day.
5. No equestrian events may be held on the property.
6. No identification signs related to the Conditional Use may be placed on the property.
7. Because the existing barn and the two pastures are all less than 100 feet from the nearest dwelling, the Applicants must obtain Variances from the requirements of Section 59.3.2.4.B.1.d and Section 59.4.4.4.b.2.a of the Zoning Ordinance.
8. The Applicants must provide a pasture maintenance plan, feeding plan, or any other documentation the Hearing Examiner requires to demonstrate that the site contains sufficient open pasture to ensure proper care of the horses and that the site will be properly maintained.
9. The Applicants must satisfy the state requirements for nutrient management concerning animal waste.
10. All animal waste storage areas must be located at least 100 feet from the nearest dwelling and must be screened from the road and from neighboring properties.
11. The Applicants must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the premises and operate the conditional use as granted by the Hearing Examiner.
12. This equestrian facility conditional use approval must be renewed every five years.

## Section II: Project Description

### Background

A former owner of the property obtained approval of a Special Exception for a Private Riding Stable (Plan No. SE 87-1) on March 19, 1987 to keep two horses on the property for the personal use by the owner and his family (see Special Exception No. SE 87-1 and Board of Appeals Variance No. BAA-1848 attached and further described in (d) below). Because that approval is no longer valid, Andrew Conner and Estefania Puricelli (“Applicants”) request a new conditional use approval to allow an equestrian facility in a residential zone to board horses for personal use. The Applicants propose keeping no more than two horses in an existing small barn on the Property. There are existing pastures and fences on the Property from the previous equestrian use indicate that animals have been pastured previously on the Property.

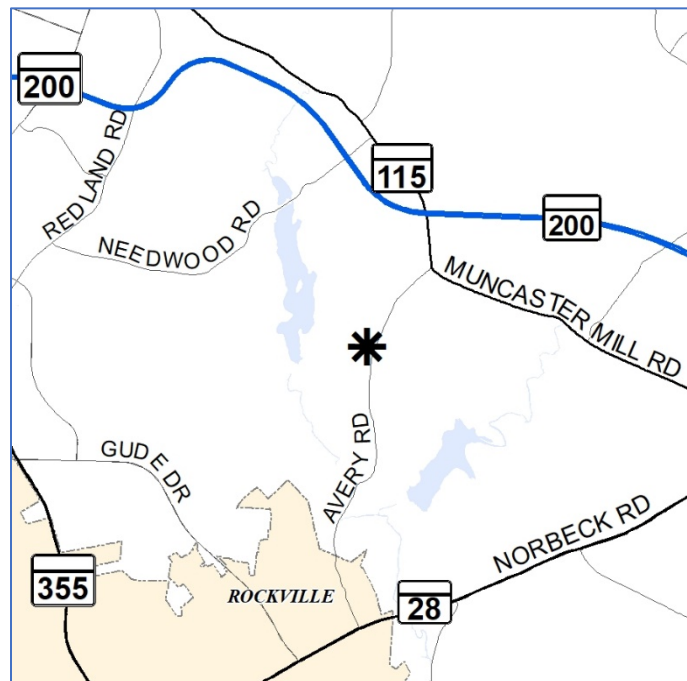


Figure 1. Location map of Property



The Applicants also desire to conduct riding lessons up to two times per day and be able to board other people’s horses.

### Site Description

The Property is located at 6001 Warm Springs Drive in Derwood, with corners on both Avery Road and Amelung Lane (see Figure 2). It is Lot 16, Block A of Plat 11471, “Avery Village” (“Property”). The Property is 2.0012 acres and is improved with a 2,384 square-foot house, a swimming pool, and an 874-square-foot barn. The front yard contains a paved driveway, a grass lawn, and several mature trees. The property gently slopes from southeast to northwest and is enclosed by fencing. Fencing also separates the two pastures and the front yard. No trees will be cut down for this Conditional Use and there are no conservation easements or streams on the Property. Photos of the Property are included in Figure 3 and Figure 4 below.



Figure 2. Subject Property (March 2020 aerial)





Figure 3. Existing barn on the Property (photo provided by Applicants)



Figure 4. View across pasture 1 toward barn and fence separating it from pasture 2. The Applicants' house is on the left. (photo provided by Applicants)

### Neighborhood Description

For the purposes of this application, Staff defines the surrounding neighborhood (“Neighborhood”) as the area located within a 1500-foot radius of the Property (see Figure 5). The Neighborhood is predominantly composed of single-family residential detached houses, although some agricultural activity still occurs on some properties, giving the area a semi-rural feel. There is one historic resource, Barnsley House, at 15715 Avery Road; this



property is less than 200 feet south of the Property and contains an historic house and family cemetery and is still used for agricultural purposes.

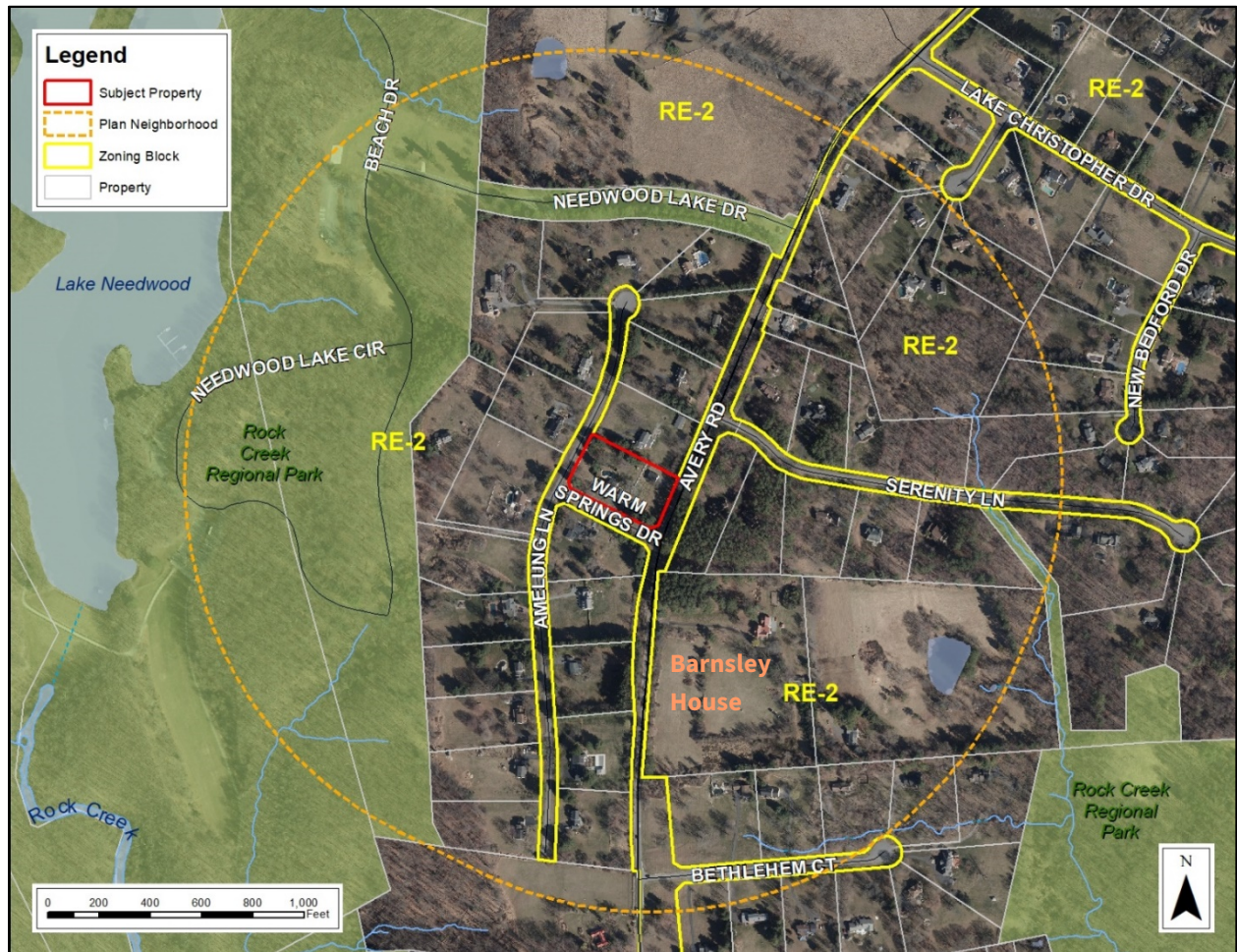


Figure 5. 1500-foot radius Neighborhood of Property. Zoning boundaries are also depicted.

The Property is in the RE-2 zone, as are all properties in the Neighborhood. Rock Creek Regional Park and the Lake Needwood picnic areas and boat ramp comprise the western part of the Neighborhood.

### Zoning and Land Use History

The 2004 *Upper Rock Creek Area Master Plan* (“Master Plan”) and its subsequent Sectional Map Amendment confirmed the existing RE-2 zone for the Property.

A former owner of the property obtained approval of a Special Exception for a Private Riding Stable (Plan No. SE 87-1) on March 19, 1987 (Attachment A) to keep two horses on the property for the personal use by the owner and his family. The conditions of approval of the SE plan were:

1. The special exception will apply to the petitioner only;
2. The subject property shall be fenced and maintained in order to contain the horses;
3. No commercial operation will be conducted on the subject property; this restriction includes the breeding of horses, riding lessons and boarding of horses;

4. Only two horses for the private use of the petitioner are to be permanently located on the property at any one time;
5. All manure is to be either spread and/or removed weekly from the premises so as not to constitute a nuisance;
6. Since the existing barn is less than 50 feet from the nearest property line, the Petitioner must obtain a Variance from the requirement of Section 59-G-2.49(c) of the Zoning Ordinance.
7. The application for such Variance must be filed within 30 days from the date of this Order, or no later than April 20, 1987, and
8. Subsequent to filing for a Variance with the Board of Appeals, verification of such filing and a copy of the Board's decision on the Variance must be submitted to this Office.

The former owner obtained approval of a Variance (Case No. A-1848 [a.k.a. BAA-1848]) on July 16, 1987 (Attachment B) to allow a stable eighteen feet less than the minimum property line setback of fifty feet. The structure was originally a shed that was in conformance with the setback requirements of the Zoning Ordinance at the time it was built. The owner then converted the shed into a stable. Section 59-G-2.49(c) of the Zoning Ordinance in effect at the time stated that "no building can be located less than 50 feet from the nearest property line." The stable is located thirty-two feet from the property line. No opposition was presented to the Board of Appeals. The Variance was granted because:

- The variance requested was the minimum reasonably necessary to overcome the conditions;
- The strict application of the setback would result in undue hardship to the owner; and
- The variance could be granted without substantial impairment of the intent, purpose, and integrity of the General Plan.

Note that the current Zoning Ordinance specifies how close the structure used for a conditional use is to the nearest residential dwelling unit and not to the property line. Details of variances from the new Zoning Ordinance are discussed below.

#### [Proposed Use](#)

The Applicants seek approval of a Conditional Use application to keep two horses on the Property (see Figure 6). An existing stable and fences that create two separate pastures are on the Property from its prior use for horses. The stable is 874 square feet. The two pastures will allow the Applicants to practice rotational grazing to keep the pastures well-managed and to support the health of the horses. The Applicants also propose adding manure composting bins on the Property to handle waste from the horses, although they are also evaluating other options, such as a pick-up service.

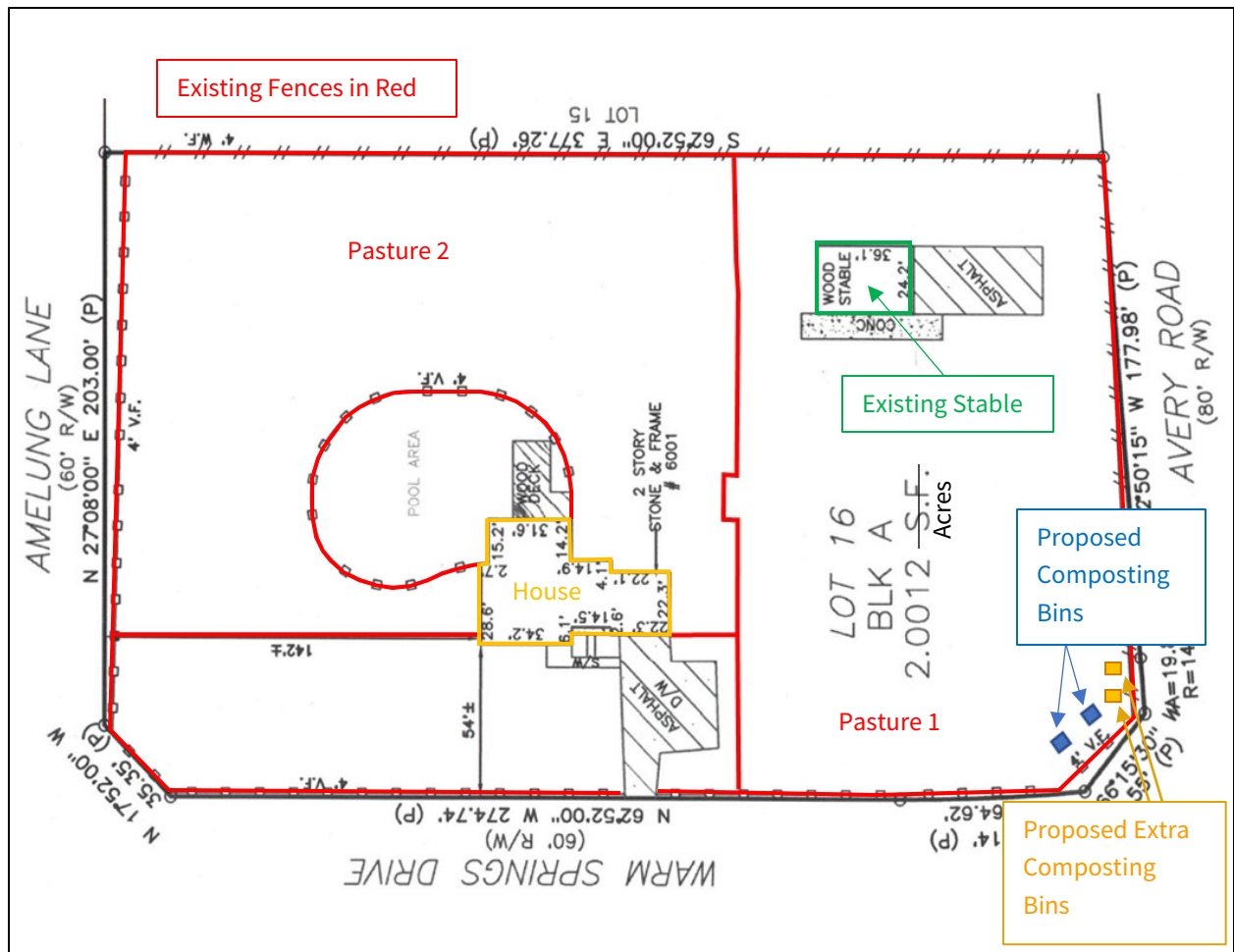


Figure 6. Conditional Use Plan

The Applicants do not currently own horses pending the outcome of the Application. They are considering purchasing horses, adopting horses, fostering horses awaiting adoption, or leasing horses on a seasonal basis and have had discussions with Maryland Horse Rescue and with an area farmer to weigh their options. The Applicants do not intend to hold events on the Property, but desire to conduct riding lessons, hold birthday parties for their children, or hold other non-commercial gatherings that would involve the horses. They also desire to have the option of boarding other people's horses.

The Applicants state that they are both familiar with horses and that Ms. Puricelli has a degree in farm management. She has taken several courses in equestrian activities, has worked with horses as a volunteer at the Equestrian Club at the University of Maryland's College of Agriculture and Natural Resources, and is a riding instructor at Hunt View Riding Academy in Gaithersburg. Mr. Conner grew up riding and working with horses several times a year at his grandparents' farm.

The Applicants propose initially installing two small composting bins for the horse manure. Each bin is 8 feet x 8 feet x 4 feet, or 256 cubic feet, and they would be located in the southeast corner of the Property (see Figure 6 above). They would be concealed from view by the tall wooden fence on the eastern side of the property along Avery Road; the closest house to the proposed bin location is across Avery Road at 5934 Serenity Lane, approximately 200 feet away. The fence is shown in Figure 7 and the bin design in Figure 8.





Figure 7. Google Street View image of fence at the corner of Avery Road and Warm Springs Drive. The Applicants propose two small manure composting bins behind the fence here.

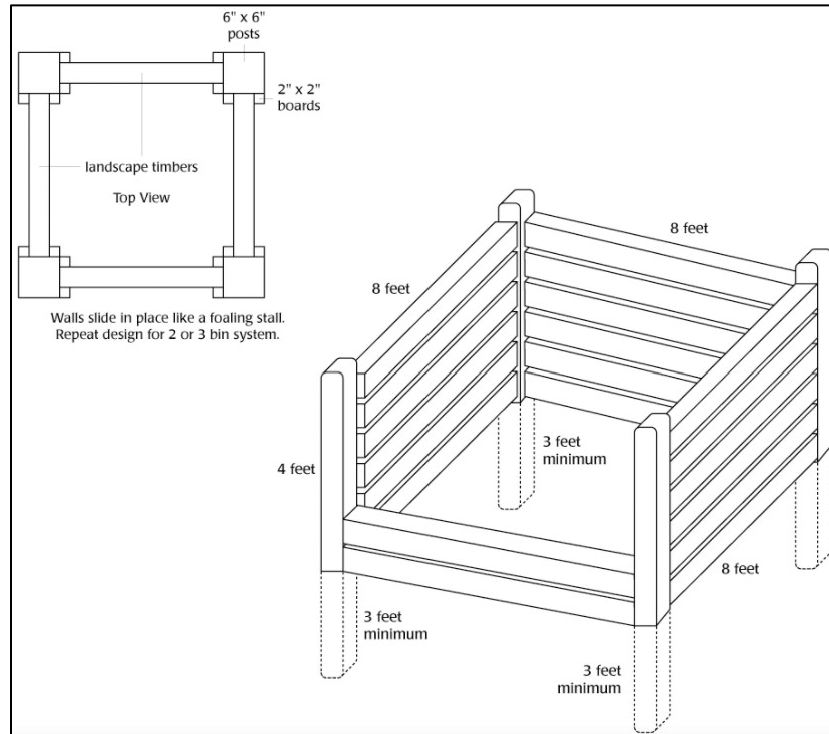


Figure 8. Manure composting bin design provided by Applicants from <https://thehorse.com/136040/build-a-horse-manure-composting-system/>

According to the Applicants, the Maryland Department of Agriculture recommends 1000 cubic feet of manure storage capacity for a 2-3 horse operation. Given the two bins total just over half that, the Applicants are prepared to either add additional composting facilities or hire a service to haul away any excess manure. Ms. Puricelli also plans to offer manure and/or compost to neighbors in a garden exchange group she is connected to.

The Applicants desire to conduct riding lessons up to two times per day. Lessons would last for one hour and there would only be one student per lesson.

Additional traffic the Applicants foresee as a result of this Conditional Use is for occasional hay delivery, manure hauling, and veterinarian or farrier visits. All such activities would be infrequent and would occur during normal working hours. Riding lesson students would generate up to four vehicle trips per day to and from the Property, but the Applicants will not be conducting lessons every day. If the Applicants board other people's horses, the owner or owners of these horses would also make occasional visits to the Property.

### Section III: Analysis and Findings

#### Master Plan

The Property is within the 2004 *Upper Rock Creek Area Master Plan*. The Master Plan does not make any specific recommendations for the Property. However, general goals from the Master Plan do apply to the Proposed Use. From the Master Plan:

*A primary goal of this Plan is to protect environmental resources and maintain stream quality by keeping streams, forests and wetlands in a natural state. ... Of equal importance is preserving residential character. (p. 7)*

and

*Protecting the water resources of the Upper Rock Creek watershed is critical. The entire area is considered the headwaters of the larger Rock Creek watershed that extends into the District of Columbia, and the northern portion of the Upper Rock Creek Planning Area contains the headwaters of two large tributaries, the Mainstem of Rock Creek and the North Branch of Rock Creek. The Planning Area contains exceptionally healthy aquatic ecosystems. In addition, most of the streams flow into Lakes Needwood and Frank in Rock Creek Regional Park. The water quality of these lakes is directly affected by the nutrients and sediments delivered by the streams. (p. 45)*

The segment of Avery Road adjoining the Property forms a ridge dividing the Upper Rock Creek Mainstem Watershed, which drains to Lake Needwood to the northwest of the Property, and the North Branch Watershed, which drains southeast to Lake Frank. The Property, being entirely or nearly entirely in the Upper Rock Creek Mainstem Watershed, drains to the Upper Rock Creek Mainstem and Lake Needwood. The watershed management map from page 50 of the Master Plan places the property within the "Watershed Restoration Area". Although the Master Plan recommended a large Special Protection Area (SPA) covering most of the northern part of the Master Plan area to protect the overall water quality in the Upper Rock Creek Watershed, it does not make any specific recommendations that would apply to the Property, which is not within the SPA.

The proposed Conditional Use will have minimal impact on the established neighborhood. The Property is already configured for horse pasturing, with a stable and fences. The most significant concerns with the Application based on the goals of the Master Plan is whether waste from the horses will adversely affect the Upper Rock Creek watershed and whether residential character is preserved. While the Applicants have still not decided on a final manure management plan, the options they have presented—some combination of composting, spreading on the pastures, and delivery services—are adequate to protect water resources given the small scale of the Conditional Use. Given that the Property already contains the structures necessary for the Proposed Use—with the possible exception of manure composting bins—and currently maintains the appearance of the single-family residential lot that it is, the Application will not diminish the residential character of the Master Plan area.

Development Standards

*Section 4.4.4. Residential Estate – 2 Zone (RE-2)*

*The intent of the RE-2 zone is to provide designated areas of the County for large-lot residential uses. The predominant use is residential in a detached house.*

The predominant use on the Property is residential.

*Table 1. RE-2 Zone, Standard Method Development Standards*

<b>Development Category</b>	<b>Standard</b>	<b>Proposed</b>
Minimum lot area	2 acres	2.0012 acres
Lot width at front building line	150 ft.	~388 ft.
Lot width at front lot line	25 ft.	~388 ft.
Frontage on street or open space	Required	Provided
Density	1 unit per 2 acres	1 unit per 2 acres
Maximum lot coverage	25%	~3.7%
Principal building setbacks:		
• Front	50 ft.	54 ft.
• Side street setback (Avery Road)	20 ft.	177 ft.
• Side street setback (Amelung Lane)	50 ft.	142 ft.
• Side		
○ One side	17 ft.	142 ft./170 ft.
○ Both sides	35 ft.	312 ft.
• Rear	35 ft.	~118 ft.
Minimum setback, accessory structure:		
• Front setback	80 ft.	250 ft.
• Side street setback (Avery Road)	20 ft.	~74 ft.
• Side street setback (Amelung Lane)	50 ft.	~268 ft.
• Rear setback <sup>1</sup>	25 ft.	32 ft.
Height:		
• Principal building	50 ft.	~18 ft.
• Accessory structure	50 ft.	~15 ft.

<sup>1</sup> The typical rear setback for an accessory structure is 12 feet in the RE-2 zone, but is 25 feet in this case (see below).

*Specifications for Accessory Structure Setbacks*

- a. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25’ from a lot line and a minimum of 100’ from a dwelling on another lot.*

The barn is 32 feet from the closest lot line; the barn is approximately 90 feet from the house on the adjacent property to the north (15805 Amelung Lane). The owner of the house has provided a letter of support for the application. Nevertheless, a variance from this standard will be required.

- b. Any accessory structure on a lot or parcel abutting a national historical park must be set back a minimum of 200’ from the national historical park unless the accessory structure is exempted under Section 6.4.3.C.3.*

Not applicable.



- c. *In addition to the front setback minimum, any accessory structure must be located behind the rear building line of the principal building.*

The front line of the barn is behind the rear building line of the house (see Figure 6 above).

- d. *The maximum footprint of an accessory building on a lot where the main building is a detached house is 50% of the footprint of the main building or 600 square feet, whichever is greater. Buildings for an agricultural use are exempt from this size restriction.*

The footprint of the barn is 874 square feet. The building footprint of the house is approximately 2,344 square feet. The footprint of the accessory building is less than 50% of the footprint of the house.

### Transportation

The proposed use will have a minimal transportation/traffic impact since it generates only a small amount of traffic to or from the Property in addition to the vehicular use associated with the existing residence. The Applicants foresee only occasional hay delivery, manure hauling, and veterinarian or farrier visits. All such activities would occur during normal working hours. The Applicants are also contemplating offering riding lessons, which would add a small number of trips per week, and if they are boarding horses that belong to others, the other horse owner(s) would make occasional visits to the Property. No equestrian events will be held on the Property. As the Conditional Use generates fewer than 50 peak hour person trips within either the morning or evening peak hour, no further analysis of the potential transportation impacts is required per the 2021 LATR and the 2021-2024 GIP.

### Parking

There is no parking requirement for the proposed use separate from the required parking for the residential use on the Property. The garage and driveway can accommodate numerous vehicles.

### Screening

#### *Section 6.5.2.B. Agricultural, Rural Residential, and Residential Detached Zones*

*In the Agricultural, Rural Residential, and Residential Detached zones, a conditional use in any building type, except a single-family detached house, must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use. All conditional uses must have screening that ensures compatibility with the surrounding neighborhood.*

The Property abuts other properties within a residential detached zone that are improved with residential uses, so this section applies.

#### *Section 6.5.3.A. Location*

- 1. Screening is required along a lot line shared with an abutting property that is vacant or improved with an agricultural or residential use.*
- 2. Screening may be placed within any required setback. If the required setback is less than the screening width required for the building type in Section 6.5.3, the property must satisfy the required screening width in Section 6.5.3.*

3. Screening must be placed between the lot line and the subject structure or use and extend along the lot line. The screening must extend along the full length of the subject structure or use plus an additional 50% in length in each direction or to the end of the shared lot line, whichever is less.
4. Screening is not required between a lot line and the subject structure or use if the structure or use is separated from the lot line by a surface parking lot. Instead, landscaping must be provided under Section 6.2.9.

The rear lot line of the Property is shared with an abutting property improved with a residential use, so screening is required along this line. For a residential equestrian use, we only require screening for the facility used to house the animals, so in this case the 36.1 x 24.2-foot barn requires screening. Given the orientation of the barn, the 36.1-foot length of the structure will require screening from the rear lot line. With the additional 50% on both ends of the screening, the total screening requirement is 72.2 feet. Figure 9 shows the area where screening is required.



Figure 9. Length of screening required along rear property line shown on 2019 aerial image. The screening must be the length of the barn plus 50% of this length on either side. The screening is required to be eight or twelve feet wide, depending on the selected screening option.

Section 6.5.3.C.7 details the screening that must be provided for a conditional use in a general building in the Agricultural, Rural Residential, or Residential Detached Zones. The two options for providing screening are shown in Table 2.

Table 2. Screening Requirement Options

	Option A	Option B
<b>Dimensions (min)</b>		
Depth	8'	12'
<b>Planting and Screening Requirements</b>		
Trees (minimum per 100')		
Canopy	2	2
Understory or Evergreen	2	4
Shrubs (minimum per 100')		
Large	6	8
Medium	8	12
Small	8	--
Wall, Fence or Berm (min)	4' fence or wall	--

The Applicants have not proposed specific screening on the Property, but have indicated that they are willing to add additional plants to meet the screening requirements. Because there is already a three-rail fence along this lot line, Planning staff assumes Option A will be utilized, although Option B may also be used by the Applicants if desired. Based on Option A above, in addition to the existing fence, the following plants are required:

- $2 \times 0.72 = 1.44 \rightarrow 2$  canopy trees
- $2 \times 0.72 = 1.44 \rightarrow 2$  understory or evergreen trees
- $6 \times 0.72 = 4.32 \rightarrow 5$  large shrubs
- $8 \times 0.72 = 5.76 \rightarrow 6$  medium shrubs
- $8 \times 0.72 = 5.76 \rightarrow 6$  small shrubs

The Applicants had not initially proposed screening for the Conditional Use. As mentioned above, they are willing to provide the necessary planting, but Staff also considered the Alternative Compliance provisions of Division 6.8. Figure 10, below, shows the area where screening is required. There is one mature shade tree on the left and the Applicants have recently planted two small shade trees here. The neighbor had planted a row of evergreen trees here. Note also that the neighbors have a shed which is similar in size and construction to the Applicants' barn.





Figure 10. Area where screening would be required under Division 6.5. The neighbor has recently planted a row of evergreens in this area. The Applicants have also recently planted two trees, circled in red, which are difficult to make out in the photo. Note the shed on the neighbor's property, which is very similar in size and construction to the barn on the Applicants' property. (Photo provided by Applicants)

#### *Division 6.8. Alternative Compliance*

##### *Section 6.8.1. Alternative Method of Compliance*

*The applicable deciding body may approve an alternative method of compliance with any requirement of Division 6.1 and Division 6.3 through Division 6.6 if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will:*

- A. satisfy the intent of the applicable Division;*
- B. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;*
- C. provide necessary mitigation alleviating any adverse impacts; and*
- D. be in the public interest.*

Section 6.5.1 states that “the intent of Division 6.5 is to ensure appropriate screening between different building types and uses.” As stated in Section 6.5.2.B (see beginning of this section), “all conditional uses must have screening that ensures compatibility with the surrounding neighborhood.”

The barn that requires screening has stood in the same location for over 30 years and has been plainly visible from the neighboring property for which screening is required the entire time. There is a similar structure on the neighboring property that would indicate the neighbor does not have any issue with a view of such a structure. Given the semi-rural nature of the Neighborhood, the appearance of the barn, the barnlike appearance of the shed on the neighboring property, the presence of a paddock fence along that property line, and the existing trees on both sides of the property line, Planning staff does not foresee any adverse impacts if no additional screening were to be added. The proposed Conditional Use is inherently compatible with the Neighborhood and satisfies the intent of Division 6.5 without the need for additional screening along the property line. The alternative design, i.e. no additional screening, is in the public interest and satisfies the provisions for the Alternative Method of Compliance to the screening requirements of Division 6.5.

### Lighting

#### *Section 6.4.4.E. Conditional Uses*

*Outdoor lighting for a conditional use must be directed, shielded, or screened to ensure that the illumination is 0.1 foot-candles or less at any lot line that abuts a lot with a detached house building type, no located in a Commercial/Residential or Employment zone.*

Existing lighting includes floodlights near the top of the eaves on both ends of the barn and lighting under the overhang in the front of the barn (see Figure 11). The lights face downwards and do not shine onto the adjoining residential property. No new lights will be added.



Figure 11. Existing lighting on barn: floodlights at tops of eaves on both ends (left) and under roof overhang in front (right). The picture on the left was taken from near the property line and shows that light from the floodlights does not spill onto the neighbor’s property. (Photos provided by Applicants)

### Signage

There will be no signage identifying the proposed use on the Property.



## Environment

Forest Conservation Exemption 42022032E was confirmed for the Property on July 28, 2021 (Attachment C). No ground disturbing activities are proposed.

## Community Concerns

The Applicants submitted a letter of support from Gus Stathes, the owner of the only abutting property (15805 Amelung Lane – Attachment D). Mr. Stathes is aware that his house is less than the required 100 feet from the horse barn (it is approximately 90 feet) and that the Applicants require a variance to enable them to have horses on their property. At the time of technical staff report publication, no other communication has been received from the community either in support of or in opposition to the proposed use.

## **Section IV: Compliance with Conditional Use Requirements**

### *Section 59.3.2.4. Equestrian Facility*

#### *A. Defined*

*Equestrian Facility means any structure or land that is used primarily for the care, breeding, boarding, rental, riding, or training of horses or the teaching of equestrian skills. Equestrian Facility includes events such as competitions, exhibitions, or other displays of equestrian skills.*

The Applicants request approval of a conditional use to allow an equestrian facility in a residential zone to board two horses and to provide riding lessons. The Applicants also desire to board other people's horses.

#### *B. Use Standards*

##### *1. Where an Equestrian Facility is allowed as a limited use, it must satisfy the following standards:*

(Although the Application is for a Conditional Use and is not a limited use, the first requirement of a Conditional Use application is that it also meet the standards of the limited use (see item 2 below), so the limited use standards are discussed first.)

- a. The minimum gross acreage per horse is as follows:*
  - i. for 1-2 horses, 2 acres;*
  - ii. for 3-10 horses, one acre per horse; and*
  - iii. for more than 10 horses, 10 acres plus an additional one-half acre for each horse over 10.*

The Applicants are requesting to keep only two horses, which requires two acres. The Property is 2.0012 acres and therefore meets this requirement. Whether the horses belong to the Applicants or they are boarding other people's horses, no more than two horses will be allowed on the Property at one time.

- b. In the RNC zone, a maximum of 5 horses is allowed.*

Not applicable. The Property is not in the RNC zone.

- c. Any Equestrian Facility that keeps or boards more than 10 horses must meet all nutrient management, water quality, and soil conservation standards of the County and State. A*



*nutrient management plan prepared by a qualified professional and a soil conservation and water quality plan prepared by the Montgomery Soil Conservation District Board must be submitted through a letter of certification by the landowner to DPS, or other relevant agency. Enforcement of the nutrient management, water quality, and soil conservation plans is the responsibility of the State of Maryland. The landowner must obtain all plans within one year after starting operations.*

Not applicable. The Applicant is not keeping or boarding more than 10 horses.

- d. Each building, show ring, paddock, outdoor arena, and manure storage area must be located at least 100 feet from any existing dwelling on an abutting property.*

The barn is approximately 90 feet, Pasture 2 is only 30 feet, and Pasture 1 is also less than 100 feet from the house on the abutting property, so the Applicants are required to obtain approval of variances from this provision. The Applicants have proposed two or more manure composting areas in the southeast corner of their property, at least 200 feet from the nearest house (across Avery Road) and over 260 feet from the house on the abutting property. The Applicants have submitted a letter of support from the owner of the house on the abutting property.

- e. Amplified sound must satisfy Chapter 31B.*

Not applicable. The Applicants do not propose generating amplified sound.

- f. Any outdoor arena lighting must direct light downward using full cutoff fixtures; producing any glare or direct light onto nearby properties is prohibited. Illumination is prohibited after 10:00 p.m. on Friday or Saturday, and after 9:00 p.m. on Sunday through Thursday.*

Not applicable. The Applicants are not proposing outdoor arena lighting. The Applicants are not proposing any new lighting fixtures, and existing floodlights on the barn face downwards and do not produce glare on nearby properties.

- g. Equestrian events are restricted as follows...*

Not applicable. The Applicants are not proposing any equestrian events.

- h. A permit must be obtained from DPS for each event involving between 151 and 300 participants and spectators...*

Not applicable. The Applicants are not proposing any events.

- i. An Equestrian Facility conditional use application may be filed with the Hearing Examiner to deviate from any limited use standard regarding: number of participants and spectators; number of events each year; event acreage; or hours of operation. An Equestrian Facility conditional use approval must be renewed every five years. Before the conditional use is renewed the Hearing Examiner must evaluate the effectiveness of the terms and conditions of the original approval.*

The proposed use is not a limited use in the RE-2 zone and the Applicants are not proposing any deviations from the limited use standards, so the first part of the above section does not apply. The proposed use is a conditional use, so the approval must be renewed every five years.

2. *Where an Equestrian Facility is allowed as a conditional use, it may be permitted by the Hearing Examiner under all applicable limited use standards, Section 7.3.1, Conditional Use, and the following standards:*

See item 1. above for a review of the limited use standards.

- a. *If the subject lot abuts property in the AR zone, screening under Division 6.5 is not required.*

Not applicable. The Property does not abut property in the AR zone.

- b. *In the AR, R, RC, and RNC zones:*

Not applicable. The Property is in the RE-2 zone.

- c. *In the RE-2, RE-2C, RE-1, and R-200 zones:*

- i. *Any Equestrian Facility on less than 5 acres must establish through a pasture maintenance plan, feeding plan, and any other documentation the Hearing Examiner requires, that the site contains sufficient open pasture to ensure proper care of the horses and proper maintenance of the site.*

The Applicant will abide by all of Maryland's requirements for pasture maintenance and feeding. The Applicants have stated that they do not have a formal pasture maintenance plan or feeding plan because it would depend on the type of horses they obtain. The Applicants have provided a preliminary feeding and pasture management plan, which is included as Attachment E. Planning staff recommends conditioning the approval on the development of these plans once the Applicants know what type(s) of horses they will acquire.

- ii. *The Hearing Examiner may limit or regulate more stringently than limited use standards the following:*
  - (a) *the number of horses that may be kept or boarded;*

The Applicants request to board two horses on the Property. The two-acre Property accommodated two horses after receiving special exception approval in 1987. Staff does not know of any reason the Hearing Examiner should allow fewer than two horses on the Property, whether they are owned by the Applicants or by others.

- (b) *the number of horses that may be rented out for recreational riding or instruction;*

The Applicants desire to provide occasional riding lessons on the Property. Planning staff recommends that approval of this Application be conditioned to prohibit renting horses for recreational riding. Staff does not know of any reason the Hearing Examiner should limit the number of horses rented out for instruction, and the Applicants have indicated that they will only be providing lessons on one horse at a time. The Applicants have stated that they will provide riding lessons no more than two times per day; Planning staff has included this as a recommended condition of approval.

- (c) *the number and type of equestrian events that may be held in a one-year period; and*
- (d) *the hours and operation of any equestrian event or activity.*

There will be no equestrian events. Staff recommends that approval of this application be conditioned to prohibit equestrian events on the Property.

- iii. The facility operator must satisfy the state requirements for nutrient management concerning animal waste.*

The Applicants have stated that they do not anticipate the need for a Nutrient Management Plan given the limited number of horses, but that they will “work judiciously to manage the manure on the property to mitigate any impact to the environment through nutrient runoff or leaching.” They have proposed two initial manure composting facilities with impermeable bases and will either add additional composting capacity or hire a service provider to haul away any excess manure. One of the Applicants, Ms. Puricelli, has a degree in farm management from the University of Buenos Aires. Given her background, Planning staff is satisfied that the Applicants will be able to meet this standard. Nevertheless, Planning staff has included a condition that the Applicants will adhere to Maryland’s requirements for nutrient management concerning animal waste and that any new composting or other manure storage facility be located at least 100 feet from the nearest house.

## **Section V: Compliance with Necessary Findings**

### *Section 59.7.1.E. Necessary Findings*

- 1. *To approve a conditional use application, the Hearing Examiner must find that the proposed development:*
  - a. *satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

The Property was subdivided via Plat No. 11471 on March 4, 1977 based on Preliminary Plan No. 119760290. There are no notes on the record plat indicating any restrictions on the Property beyond denying access along the Property’s Avery Road frontage.

Special Exception No. SE 87-1 was approved on March 19, 1987 for essentially the same use: namely, permission to have two horses on the Property for personal use by the owners. Variance Case No. [BA]A-1848 was approved on July 16, 1987 to allow an existing stable eighteen feet less than the minimum property line setback of fifty feet. Both of these previous approvals were allowed to lapse.

- b. *satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;*

With Staff’s recommended conditions of approval and the approval of any necessary variances, the proposal satisfies the specific conditional use standards and requirements of Section 59.3.2.4 Equestrian Facility (see previous section). As described above, the Application, as conditioned, satisfies the general development requirements under Article 59-6.



c. *substantially conforms to the recommendations of the applicable Master Plan;*

The Property is located within the area of the 2004 *Upper Rock Creek Area Master Plan*. There are no major Master Plan concerns that are associated with this application. See Master Plan discussion above.

d. *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposed use will be in harmony with the character of the surrounding neighborhood. The proposed Conditional Use will not result in any notable negative impact on the residential neighborhood in terms of increased traffic, noise, smells, or parking. The Property is already configured with a barn and fences from a prior equestrian use, so there will be little change to the appearance of the Property. The proposed use will be operated in such a manner that it will not interfere with the orderly use, development, and improvement of surrounding properties. Except for the proposed manure composting facilities, the proposed use does not require additional construction or modification of existing improvements. The proposed use will not alter the character of the neighborhood in a manner inconsistent with the Master Plan, which stresses maintaining the residential character and protecting the environment.

e. *will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominately residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

Although several older special exceptions were approved within the Neighborhood in the early 1970s, none of these uses appear to be active. See map in Figure 12 below for the location of the following special exception approvals:

- S1813/S1813M0 – A special exception for a Bed & Breakfast at 15715 Avery Road. There is no evidence that a Bed & Breakfast has been operating on this site in recent history.
- S102 – A special exception to permit a riding stable for up to 20 horses at 15800 Avery Road. This was on the property that was subdivided in the 1970s that includes what is now the Subject Property.
- S230/CBA2897 – A special exception to operate a private riding stable for two horses at 16001 Avery Road. There is no evidence of a stable at this address or any related equestrian activity.
- S266 – A special exception to permit the operation of a private riding stable for 7 horses at 16000 Avery Road. This SE was transferred in 2014, where the use is described as allowing 15 horses. This property has an approved subdivision (Preliminary Plan No. 120090020) that was approved in 2009 for 11 houses. The conservation easements were recorded in early 2020, but the plats have not been approved. There is no evidence from aerial imagery that equestrian activity is currently taking place on the property.
- S309 – A special exception to permit the construction and operation of a private tennis club at 15514 Avery Road. According to our records, this request was denied by the Board of Appeals on April 4, 1973. There is no evidence that a tennis club ever operated on the site.

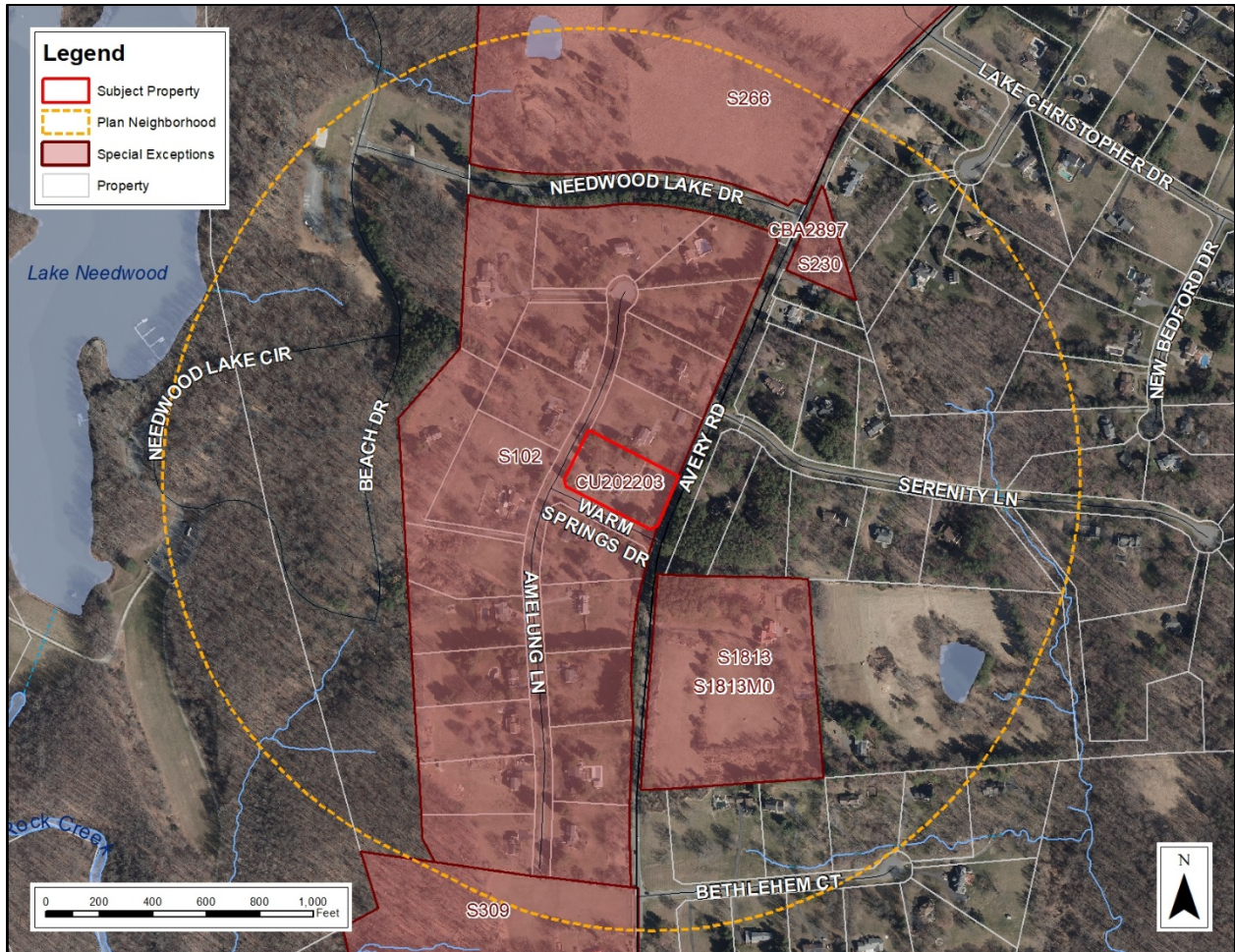


Figure 12. Special Exception and Conditional Use applications in the plan neighborhood (2020 aerial image)

Because there are no active special exceptions/conditional uses in the Neighborhood, the proposed use will not exacerbate the concentration of conditional uses or special exception uses in the area. Given the limited nature of the proposal, the proposed use would not increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the prevailing semi-rural residential nature of the area, and in fact serves to enhance the character of the Neighborhood.

- f. *will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*
  - i. *if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*
  - ii. *if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate*

*public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and*

The Property is already a platted lot, so the Conditional Use is not subject to approval of a preliminary subdivision plan; therefore item *f.i.* above applies and the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities.

#### Water and Sewer Service

The Property is shown as water category W-1 and sewer category S-6. There are no known problems with the water and sewer systems on the Property. No new water or sewer facilities are proposed.

#### Transportation

The proposed use will generate a small number of new vehicle trips. The Applicants expect very infrequent hay delivery, manure hauling, and veterinarian or farrier visits, plus possibly a very small number of students for riding lessons. The trip generation rate falls below the 50-person peak-hour Local Area Transportation Review (LATR) threshold and is exempt from additional review.

#### Other Facilities

The Property is about equidistant from two fire stations: Montgomery County Fire Station #3, located at 380 Hungerford Drive in Rockville, is approximately 3.4 miles (9-12 minutes) southwest of the Property, while Montgomery County Fire Station #28, at 7272 Muncaster Mill Road in Gaithersburg, is approximately 3.3 miles (6-9 minutes) to the north. The Property is about 8.5 miles from Montgomery County Police Department's 1<sup>st</sup> District Station at 100 Edison Park Drive in Gaithersburg and 7.6 miles from the 4<sup>th</sup> District Station at 2300 Randolph Road in Glenmont. The Conditional Use does not generate any school-aged children; a school facilities review is not necessary. The Conditional Use also does not change any storm drainage. The proposed use will have a minimal impact on public facilities.

- g. Will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*

Staff identified seven criteria to evaluate the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment. What must be determined is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. The inherent, generic physical, and operational characteristics associated with an equestrian facility in a residential zone include: (1) stabling; (2) a fenced paddock; (3) sight, odor, and sounds associated with horses; (4) a manure/compost area; and (5) a single-family dwelling in which the owners of the horses live.

Many of the characteristics of the proposed Conditional Use are inherent. The scale and design of the barn and the pastures have operational characteristics typically associated with a very small private equestrian facility in a residential neighborhood and would not be unusual in any respect. The barn and fenced pastures have existed on the property more or less in their current state for decades (one fence was added between pasture #2 and the front yard between 2015 and 2017) and no changes are proposed for these facilities. The Applicants have proposed manure composting bins as far as possible from existing houses in the neighborhood. The sight and



sound of horses have not raised any objections from neighbors and indeed, contribute to the semi-rural character of the area.

The number of horses proposed is two, which is the number allowed for the size of the Property by the Zoning Ordinance. The Property is within a semi-rural community that has had several similar and larger equestrian facilities in the past, as well as other properties with large pastures and other open fields. The proposed application would blend well with the prevailing character of the immediate neighborhood.

- i. The use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*

Staff finds that the size, scale, and scope of the proposed equestrian facility will not adversely affect the semi-rural/residential character of the community. There are no inherent or non-inherent adverse effects associated with this application sufficient to warrant a denial of the proposed Conditional Use.

- ii. Traffic, noise, odors, dust, illumination, or lack of parking; or*

There are no notable traffic, circulation, parking, noise, odor, or environmental issues associated with the application, provided that the recommended conditions are satisfied. The existing barn has minimal lighting that does not spill over onto the abutting property, and the existing driveway is sufficiently large to accommodate the occasional visitors to the Property to service the facility.

- iii. The health, safety, or welfare of neighboring residents, visitors, or employees.*

The proposed use, provided all requirements of the use are satisfied, will have no adverse impacts on the health, safety, or welfare of neighboring residents, visitors, or employees.

- 2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

No modifications to the existing dwelling, barn, or fences are proposed on the Property. The proposed manure composting bins will be hidden from site by an existing solid fence.

- 3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.*

Planning staff finds that the use is compatible with nearby properties.

Conditional Use Findings 4 through 6 are not applicable for this Application.

## **Section VI. Variance**

Because the existing barn and the two pastures are all less than 100 feet from the nearest dwelling, the Applicants must obtain Variances from the requirements of Section 59.3.2.4.B.1.d and Section 59.4.4.4.b.2.a of the Zoning Ordinance.

As discussed in the Development Standards section above, Section 59.4.4.4.b.2.a specifies that:

*Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot line and a minimum of 100' from a dwelling on another lot.*

The barn is 32 feet from the closest lot line, but is approximately 90 feet from the house on the adjacent property to the north (15805 Amelung Lane). Therefore, a variance of approximately 10 feet is needed to meet this requirement.

As discussed in the Use Standards section above, Section 59.3.2.4.B.1.d specifies that:

*Each building, show ring, paddock, outdoor arena, and manure storage area must be located at least 100 feet from any existing dwelling on an abutting property.*

The barn is approximately 90 feet from the neighbor's house. A general definition of a paddock is that it is a typically small and enclosed field for pasturing animals, so both pastures on the properties are considered paddocks. Pasture 1 is approximately 55 feet and pasture 2 is approximately 30 feet from this house. Therefore, variances of 45 and 70 feet are needed.

Pursuant to Section 59.7.3.2.E, granting the Variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

1. *denying the variance would result in no reasonable use of the property; or*
2. *each of the following apply:*
  - a. *one or more of the following unusual or extraordinary situations or conditions exist:*
    - i. *exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;*
    - ii. *the proposed development uses an existing legal nonconforming property or structure;*
    - iii. *the proposed development contains environmentally sensitive features or buffers;*
    - iv. *the proposed development contains a historically significant property or structure; or*
    - v. *the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;*

The proposed use requires the use of a stable to house the horses. There is an existing barn on the property that was used under a prior special exception for this very purpose. The barn is currently a conforming structure when used as a shed, but becomes nonconforming when used to house animals within 100 feet of a house. There are also existing fences on the property that were used before when horses were on the property. These fences become nonconforming when used to define a paddock, which also must not be within 100 feet of a house.

- b. *the special circumstances or conditions are not the result of actions by the applicant;*

Both the barn and the fences existed when the Applicants purchased the property.

- c. *the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The requested Variance is the minimum necessary to overcome the practical difficulties that full compliance with the specific Conditional Use and Development Standards requirements would impose due to the unusual or extraordinary situations or conditions on the property. If the Variance were to be denied, the Applicants would need to move their barn 10 feet further away from their neighbor's house, which would essentially mean rebuilding the structure. The Applicants would also need to install new fencing to keep their horses 100 feet away from the neighbor's house. The neighbor has submitted a letter in support of the Application.

- d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and*

The Variance can be granted without substantial impairment to the intent and integrity of the General Plan and the 2004 *Upper Rock Creek Area Master Plan*. The primary use on the property is residential and is a property which has had horses in the past.

- e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

Granting the Variance will not be adverse to the use and enjoyment of abutting or confronting properties. The Variance would not result in any change in the current conditions or appearance of existing developments on the Property. The requested Variance of 10 feet from the 100-foot setback requirement from a neighboring house for the barn is minor given the fact that the structure meets or exceeds all other required setbacks and other development standards. The requested Variances of 45 and 70 feet from the 100-foot setback requirement from a neighboring house for the paddocks are mitigated by the fact that the neighbor's garage being on the end of their house closest to the fence. The neighbor's letter of support indicates he does not foresee the horses grazing this close to his house will prevent his and his family's enjoyment of their property.

## **Section VII. Conclusion**

The application satisfies all applicable requirements for approval of a Conditional Use as specified in the Montgomery County Zoning Ordinance. The proposed use is consistent with the recommendations of the 2004 *Upper Rock Creek Area Master Plan*. There will be no unacceptable traffic, circulation, noise, or environmental impacts associated with the application provided that the recommended conditions are satisfied.

Based on the foregoing analysis, Staff recommends Approval of Conditional Use CU-22-03, subject to the conditions listed at the beginning of this report.

## **Attachments**

- A. Hearing Examiner's opinion for Special Exception case SE 87-1
- B. Board of Appeals opinion for Variance case [BA]A-1848
- C. Forest Conservation Exemption 42022032E confirmation dated July 28, 2021
- D. Letter of support from Gus Stathes, owner of the abutting property (15805 Amelung Lane)
- E. Proposed lesson schedule, feeding and pasture management plan, and landscaping plan



OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR  
MONTGOMERY COUNTY, MARYLAND

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
279-1341

*11/22/87*  
*Wheate*  
Mar 20 1987  
SILVER SPRING, MD

PETITION OF JAMES C. WHEATE  
for a Special Exception for a  
private riding stable for not  
more than two horses on property  
located at 6001 Warm Springs  
Drive, Rockville, being Lot 16,  
Block A, Lake Meadow Estates  
Subdivision, in the RE-2 Zone.

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Case No. S.E. 87-1

OPINION

This petition was the subject of a public hearing conducted on March 11, 1987, at which time evidence was received in support of the petition and no opposition appeared.

During the public hearing, Mr. Wheate testified that only two horses will be kept on the subject property solely for the purpose of private use by him and his family. After a discussion of the specific provisions to be contained in the conditions of the special exception, Mr. Wheate agreed to the imposition of such conditions.

FINDINGS

Based on the evidence of record and the testimony advanced at the public hearing, I make the following findings and conclusions:

1. The petition for a Special Exception for a Private Riding Stable satisfies the standards and requirements contained in Section 59-6-2.49 of the Zoning Ordinance; and
2. The operation of this private riding stable will not adversely affect the health and safety of the residents in the area, overburden existing public services or be detrimental to the use and enjoyment of adjacent properties or the general neighborhood, provided that the conditions specified below are applied.

ORDER

Therefore, this Special Exception is GRANTED subject to the following conditions.

1. The special exception will apply to the petitioner only;
2. The subject property shall be fenced and maintained in order to contain the horses;
3. No commercial operation will be conducted on the subject property; this restriction includes the breeding of horses, riding lessons and boarding of horses;
4. Only two horses for the private use of the petitioner are to be permanently located on the property at any one time;
5. All manure is to be either spread and/or removed weekly from the premises so as not to constitute a nuisance;
6. Since the existing barn is less than 50 feet from the nearest property line, the Petitioner must obtain a Variance from the requirement of Section 59-6-2.49(c) of the Zoning Ordinance;
7. The application for such Variance must be filed within 30 days from the date of this order, or no later than April 20, 1987; and
8. Subsequent to filing for a Variance with the Board of Appeals, verification of such filing and a copy of the Board's decision on the Variance must be submitted to this Office.

Dated: March 19, 1987

  
Martin Klauer  
Hearing Examiner

COUNTY BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

Telephone  
Area Code 301

279-1226  
DEVELOPMENT REVIEW DIVISION  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Case No. A-1848

JUL

APPEAL OF JAMES C. WHEATE  
(Hearing held June 25, 1987)

OPINION OF THE BOARD

This proceeding is an appeal pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1984, as amended) for a variance from Section 59-G-2.49. The appellant has constructed a stable which requires a variance of eighteen feet (18') less than the minimum property line setback of fifty feet (50').

The subject property is Lot 16, Block A, Lake Needwood Estates Subdivision, located at 6001 Warm Spring Drive, Rockville, Maryland in an RE-2 Zone (Tax Account No. 520612494).

Decision: Requested variance granted.

The appellant, James C. Wheate, appeared and presented binding testimony and exhibits as follows:

He has constructed a shed which he has converted into a stable which extends into the required minimum property line setback by eighteen feet (18') (as depicted in Exhibit No. 3).

The structure was originally a shed which was then in conformance with the setback requirements of the Zoning Ordinance. The owner petitioned for a special exception for a private riding stable (see Case No. SE 87-1). Case No. SE 87-1 was heard by the Hearing Examiner on March 11, 1987 and the petition was granted on March 19, 1987, subject to a condition that the petitioner must obtain a variance from the requirement of Section 59-G-2.49(c) of the Zoning Ordinance which states that: "no building can be located less than 50 feet from the nearest property line". The stable is located thirty-two feet (32') from the property line.

No evidence in opposition was adduced. The applicant was of the opinion that the variance for the stable would increase the utility and value of the property, and, coincidentally, would benefit neighboring home values.

Based on the appellant's binding testimony and evidence of record, the Board finds that the variance requested is the minimum reasonably necessary to overcome the aforesaid exceptional conditions; that the strict application of the setback requirement would result in undue hardship to the owner; and that the variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan.

Accordingly, the requested variance of eighteen feet (18') less than the minimum property line setback of fifty feet (50') is granted, subject to the following condition:

Applicant shall be bound by all testimony and evidence in the record.

The Board adopted the following Resolution:

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled appeal.

The foregoing Resolution was proposed by Helen R. Strang and concurred in by Thomas S. Israel, Chairman, Joseph E. O'Brien, Jr., Howard Jenkins, Jr. and Max H. Novinsky.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 16<sup>th</sup> day of July, 1987.

  
Irene H. Gurman  
Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-months' period within which the right granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.





Forest Conservation Law Applicability for Conditional Uses/Special Exceptions

Property Information

6001 Warm Springs Drive Derwood
Address City
11471 16 A
Subdivision Name Plat(s) Lot(s) Block(s) Tax Map Parcel(s)
01760218
Property Tax ID 1 Property Tax ID 2 Property Tax ID 3 Property Tax ID 4

Applicant (Owner, Contract Purchaser, or Owner's Representative)

Estefania Puricelli, Andrew Conner
Name Company
6001 Warm Springs Drive
Street Address
Derwood MD 20855
City State Zip Code
202 735 4398 estefania.puricelli@gmail.com
Phone Number Email Address

Total Area of Property: 2 acres square feet

Applicant attests that the following statements apply to the subject property conditional use/special exception application:

[X] The application does not propose any clearing or grading activities on or near the conditional use/special exception site. (Requires plan number and M-NCPPC signature below)

OR, all of the following:

- [ ] The application applies to a property of less than 40,000 square feet.
[ ] The property is not subject to a previously approved Forest Conservation Plan.
[ ] The conditional use/special exception proposal will not impact any champion tree as defined by the Montgomery County Forestry Board.
(Not subject to Forest Conservation Law; requires M-NCPPC signature below)

PLEASE NOTE: If regulated activities occur on the property other than what is being attested to, the exemption immediately terminates without action by the Planning Board. The Planning Director may require the submission and approval of a Natural Resources Inventory/Forest Stand Delineation and a Forest Conservation Plan, and may also issue a fine of up to \$1,000 per day.

[Signature] 7/19/2021
Applicant's Signature Date
Estefania Puricelli
Printed Name

For Staff Use Only

M-NCPPC acknowledges that the conditional use/special exception for the above property:

- [ ] is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code.
[X] is exempt from the Forest Conservation Plan requirements under Section 22A-5(q)(1) of the Forest Conservation Law.
Plan Name: 6001 Warm Springs Drive
Plan Number: 4 2022032E

Mariah Clayborne 07/28/2021
M-NCPPC Signature Date
Mariah Clayborne
Printed Name

*Appendix 3: Letter of Support from Gus Stathes*

April 2, 2021

Office of Zoning and Administrating  
Hearings  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

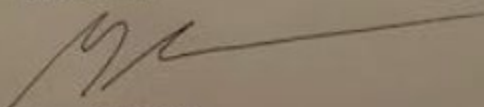
Dear Sir or Madam:

My name is Gus Stathes, I am writing to offer my support for the application from Andrew Conner and Estefania Puricelli for a Conditional Use Permit for an Equestrian Facility at 6001 Warm Springs Drive in Avery Village. I am the owner of 15805 Amelung Lane in Avery Village, and my property is adjacent to that of Andrew and Estefania.

I understand that my house is within 100 feet of the horse barn and surrounding pasture area where the horses will graze, and I am aware that Andrew and Estefania will seek a variance to enable them to have horses on their property despite not fully meeting the criteria of Chapter 59.3.2.4 of the Montgomery County Zoning Ordinance of 2014 that requires: "Each building, show ring, paddock, outdoor arena, and manure storage area must be located at least 100 feet from any existing dwelling on an abutting property." I support their effort to receive a variance.

Please do not hesitate to reach out to me if you have any further questions.

Sincerely,



Gus Stathes  
15805 Amelung Lane  
Derwood, MD 20855

**Example of Schedule for horseback riding lessons:**

In the case the permit is approved, a proposed example of lesson schedule is presented below using the two horses, one horse in the AM and one horse in the PM, considering one day of rest. Note that exact day for resting could vary. The proposed schedule would have to be discussed with student and will be subject to instructor availability. Lessons will be rescheduled or postpone in case of rain, bad footing (extreme mud after a big storm), snow or high-speed winds. Lesson will be offered just to beginner riders, helmets and boots will be mandatory and extra insurance would be purchased.

Number of Lessons per week (example)

Lessons of 1 hour total one horse one student			Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Summer	From 8 to 10	AM	1	1	1	1	1	1	
	From 4 to 7	PM	1	1	1	1	1	1	
Winter	From 11 to 12	AM	1	1	1	1	1	1	
	From 1 to 4	PM	1	1	1	1	1	1	

**Feeding**

Generally, a horse weighing 1,000 pounds consumes 600 pounds of dry matter forage each month. Pastures produce 500 to 2,000 pounds of forage per acre, depending on rain fall, soil type, season and species of plants. Depending on the productivity of the pasture land, supplemental feeding may be required, hay only or hay plus grain, sourced by local farmers. Limit grazing (several hours per day) combined with supplemental feeding will extend the length of the grazing seasons. Horses will need to be housed in the box stall or a dry lot for the period of time they are not on pasture.

**Table 1. Daily Feed Required by the Average 1,000- pound Horse**

1,000-pound horse	Approximate Amounts	
	Hay	Grain
No Work	15-25 lbs.	-----
Light (1-2 hrs/day)	15-20 lbs.	1-3 lbs.
		_____
		(1-1.5 lbs grain/hr of work)
Medium (2-4 hrs/day)	15-20 lbs	3-8 lbs
		_____
		1.5-2 lbs grain/hr of work)
Heavy (4 or more hrs/day)	15-20 lbs	5-10 lbs
		_____
		1.5-2.5 lbs grain/hr of work)
		_____

Only a horse that is worked extremely hard should receive half of its ration in grain. A race horse is an example of a horse in heavy training.

Source: University of Colorado, Extension.

### **Pasture management plan**

For the pasture management, the Horse Pasture Management plan by Maryland State will be followed [https://mda.maryland.gov/resource\\_conservation/counties/seasonalpastmanguide%20\\_2\\_.pdf](https://mda.maryland.gov/resource_conservation/counties/seasonalpastmanguide%20_2_.pdf)

For the “dry lot”, that is, an area where horses are not going to be stepping on the pasture while the pasture is growing or there is moisture saturation in the soil, the inside of the barn will be used, or the asphalt area next to the barn (with an appropriate footing for the horses) will be used. For fencing that area, electric wire can be used (picture below as example).



### **Screening barn area**

Screening must be placed between the lot line and the subject structure or use and extend along the lot line. The screening must extend along the full length of the subject structure or use plus an additional 50% in length in each direction or to the end of the shared lot line, whichever is less.

Two canopy trees have been added to the fence area (circled in red) plus the neighbor added more than 6 evergreens from their side. The trees added are supposed to grow full size in the next year, but additionally, more evergreens can be added into the screening (approximately 6 more would fit) plus 6 more small scrubs.



