

R E S O L U T I O N

WHEREAS, Race Tack Road, LLC. is the owner of a 53.16-acre parcel of land known as Parcels 53 and 216, located in Tax Map 92 in Grid E-2, said property being in the 14th Election District of Prince George's County, Maryland, and being zoned O-S; and

WHEREAS, on February 3, 2009, Race Track Road, LLC. filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 9 lots and 1 parcel; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08056 for Colt's Neck (Conservation Subdivision) was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on April 16, 2009, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on April 16, 2009, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/28/03), and APPROVED Variance Application No. VP-08056, and further APPROVED Preliminary Plan of Subdivision 4-08056, Colt's Neck (Conservation Subdivision), for Lots 1-9 and 1 parcel with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
  - a. Provide a note that building permits for Lots 2 and 5 shall demonstrate a 35-foot-wide buffer outside of the 10-foot PUE where the side and rear yard is oriented toward Race Track Road. The plant material shall be of native plant species and the quantity consistent with Section 4.6 of the *Prince George's County Landscape Manual*.
  - b. Revise and label the buffer to be 35 feet wide and outside of the 10-foot PUE along Race Track Road on Lots 2 and 5.
  - c. Provide the 65 dBA Ldn line consistent with the Phase I noise study, prepared by MCV Associates, Inc. dated August 26, 2008.

- d. Label the 150-foot setback required for Lot 1.
  - e. Provide dimensions for the residential development areas on Lots 1 and 3 from the lot lines, adequate to locate them on the final plat.
  - f. Correct the conservation lot (Lot 1) acreage to 36.33.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
  3. Development of this site shall be in conformance with Stormwater Management Concept Plan 40470-2007-00 and any subsequent revisions.
  4. At the time of final plat, the applicant shall dedicate a 10-foot PUE along the public right-of-way as delineated on the approved preliminary plan of subdivision.
  5. Prior to signature approval of the preliminary plan, the applicant shall provide written evidence from DPW&T that the center line and right-of-way along Race Track Road has been reviewed by DPW&T.
  6. Prior to approval of the final plat, the applicant shall:
    - a. Submit four copies of the final Phase II archeological report for archeological site 18PR950 to the Historic Preservation Section staff of M-NCPPC for review and approval.
    - b. Ensure that all artifacts that have been recovered from archeological site 18PR950 are deposited with the Maryland Archeological Conservation Laboratory in Calvert County, Maryland for permanent curation; proof of disposition shall be provided to the Historic Preservation Section staff of M-NCPPC.
    - c. Establish a conservation easement around archeological site 18PR950 on Lot 3 only, and that shall be reflected on the final plat. The following note shall be placed on the final plat:

“Prior to the approval of permits or any ground disturbance on Lot 3, the application or plan of disturbance shall be reviewed and approved by Historic Preservation staff (M-NCPPC), or the HPC if designated as a Historic Site.”
    - d. The following shall apply to the development of Lot 3 and the following notes shall be placed on the final plat:

“The footprint of the existing dwelling on Lot 3 shall not be enlarged. An increase in the gross floor area is permitted.”

“Prior to the issuance of a raze permit for the existing dwelling on Lot 3 the applicant shall contact the Historic Preservation Section staff (M-NCPPC) who shall monitor the controlled demolition to ensure the avoidance or minimization of disturbance of archeological site 18PR950.”

“If the existing dwelling is razed on Lot 3, no new structures shall be permitted within the limits of 18PR950.”

“A future building envelope on Lot 3 is established by this record plat to avoid the disturbance to archeological site 18PR950 and as approved by the Prince George’s County Planning Board pursuant to Variance application VP-08056.”

7. Prior to the approval of any grading permits or any ground disturbance, the applicant shall install a super-silt fence around the boundaries of archeological site 18PR950 and provide proof of that installation and its placement to the Historic Preservation Section staff (M-NCPPC) for review and approval. The fencing shall remain in place until all construction activities within the Colt’s Neck property are completed.
8. Prior to the issuance of any building or grading permits for Lots 2, 3, 4, and 5, the applicant shall:
  - a. Provide permanent fencing around the perimeter of archeological site 18PR950.
    - (1) If the site is a designated historic site, the design and materials of the fence shall be reviewed and approved by the Historic Preservation Commission through the historic area work permit (HAWP) application process, or
    - (2) If the site is not a designated historic site, the design and materials of the fence shall be reviewed and approved by the Historic Preservation Section of M-NCPPC.
  - b. Provide signage and other appropriate interpretative measures for archeological site 18PR950 such as brochures, web site material, etc., designed to provide public information about the significance of the property. The interpretive measures shall be reviewed and approved by the Historic Preservation Commission.
9. The Type I and Type II tree conservation plans shall reflect the location of archeological site 18PR950.
10. Prior to approval the final plat, the applicant shall include notes regarding the private wells and septic systems which serve Lots 1–9, as determined appropriate by the Health Department.
11. Prior to the issuance of the first building permit, the applicant and the applicant’s heirs, successors, and/or assignees shall provide a financial contribution of \$420 to the Department of Public Works

and Transportation for the placement of two “Share the Road” bikeway signs on Race Track Road, unless modified by DPW&T. If road frontage improvements are required by DPW&T, wide asphalt shoulders are recommended along the subject site’s frontage, unless modified by DPW&T.

12. The applicant shall provide frontage improvements according to county standards along Race Track Road. These may include a left turn lane at the site entrances and any necessary improvements to improve traffic safety per DPW&T guidelines and recommendations.
13. At the time of final plat, the applicant and the applicant’s heirs, successors, and/or assignees shall dedicate to The Maryland-National Capital Park and Planning Commission 2.16 acres (Parcel A). Lands to be dedicated shall be subject to the following:
  - a. An original special warranty deed for the property to be conveyed (signed by the Assessment Supervisor, Washington Suburban Sanitary Commission) shall be submitted to the Subdivision Section of the Development Review Division (M-NCPPC), along with the final plat.
  - b. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges, prior to and subsequent to final plat.
  - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits that include such property.
  - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair, or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel’s Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for permits.
  - e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to the issuance of grading permits.
  - f. All waste matter of any kind shall be removed from the property to be conveyed. DPR shall inspect the site and verify that it is in acceptable condition for conveyance prior to final plat approval.
  - g. No stormwater management facilities, or tree conservation or utility easements shall be

proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.

- h. The applicant and the applicant's heirs, successors, and/or assignees shall submit a letter to the Subdivision Section of the Development Review Division (M-NCPPC), prior to final plat, indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance.
- 14. The applicant and the applicant's heirs, successors, and/or assignees shall place in reservation 51 acres for the Horsepen Branch Community Park, as recommended in the 2006 Bowie and vicinity master plan, per the requirements of Division 7, Sections 24-139, 24-140, and 24-141 of the Subdivision Regulations. This reservation shall be subject to the following requirements:
  - a. The reservation period shall continue for one year and commence with the recordation of a reservation plat with the final plat of subdivision. The reservation area shall also be shown on the final plat. The reservation plat shall comply with all requirements for recording plats among the Land Records of Prince George's County.
  - b. At the end of the reservation period, if the reservation has not been renewed or if the land reserved has not been acquired for public use and proceedings for acquisition have not been initiated, the reservation shall expire. Prior to the expiration of the one-year reservation period and with the written consent of all landowners, the Planning Board may renew the reservation for additional periods of time (not less than one year) if agreeable to the landowners.
  - c. During the reservation period, no building or structure, other than validly approved utilities, roads and public infrastructure, shall be erected upon the reserved land unless otherwise approved by the Planning Board. The M-NCPPC shall be held harmless for the cost of public improvements associated with land in reservation, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges. No trees, topsoil, or cover shall be removed or destroyed, no grading shall be done, and no drainage structures shall be built so as to discharge water upon the reserved land except as provided in Section 24-140(d) of the Subdivision Regulations, and as also authorized by the Department of Parks and Recreation.
  - d. All reserved land shall be maintained by the owner as required by county law. The Planning Board shall be notified immediately upon the sale of any land so reserved.
  - e. If, prior to the expiration of the reservation period, the Planning Board determines that the reservation no longer appears necessary, the Planning Board may cancel the reservation

with the written consent of the owner.

- f. If the land placed in reservation is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair, or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, The M-NCPPC) shall be submitted to the DPR within two weeks prior to applying for grading permits.
- g. All waste material of any kind shall be removed from the property to be purchased by the M-NCPPC. DPR shall inspect the site and verify that it is in acceptable condition for conveyance, prior to purchase.

Prior to final plat, if the Department of Parks and Recreation determines in writing that the purchase of the property is not appropriate at this time or the purchase has occurred, the reservation of the property and the reservation plat shall not be required.

- 15. Prior to signature approval of the preliminary plan, the Type I tree conservation plan shall be revised as follows:
  - a. Revise the noise contour label in the legend to indicate that it is the "unmitigated 65 dBA Ldn Contour."
  - b. After all these revisions have been made, have the qualified professional who prepared the plan sign and date it and update the revision box with a summary of the revision.
  - c. Provide a note indicating the proximity of this development to the Berwyn Rod and Gun Club.
  - d. Remove all reference to proposed woodland bank.
- 16. Development of this subdivision shall be in compliance with an approved Type I Tree Conservation Plan (TCPI/028/03-01). The following notes shall be placed on the final plat of subdivision:

"This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/028/03-01), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department."

17. The following note shall be placed on the final plat of subdivision:

“The adjacent gun club and rifle range to the southwest of the subject property will generate intermittent noise from the firing of pistols and rifles that exceeds the State noise standard of 65 dBA. Persons who reside in the subdivision will hear and notice noise from the firing of pistols and rifles.”

18. Prior to final plat approval, the applicant shall prepare declaration of covenants for the property, and shall include language notifying all future contract purchasers of the proximity of the property to the Berwyn Rod and Gun Club abutting to the west of the community. The declaration of covenants shall include the disclosure notice. At the time of purchase contract with homebuyers, the contract purchaser shall sign an acknowledgement of receipt of the declaration. The liber and folio of the recorded declaration of covenants shall be noted on the final plat along with a description of the proximity of the development to the gun club.
19. The applicant and the applicant’s heirs, successors, and/or assignees, in accordance with the provisions of Council Bill CB-89-2004 and Section 24-122.01(d)(2) of the Subdivision Regulations, shall provide water storage tanks, the availability of water trucks, or other appropriate sources of water for fire extinguishment purposes subject to the approval of the Fire Chief or his designee.
20. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed upon timetable for construction with the appropriate operating agency:
- Jericho Park Road/Race Track Road intersection—The applicant shall conduct a traffic signal warrant study and install a signal if it is deemed to be warranted AND approved by DPW&T.
21. The applicant and the applicant’s heirs, successors, and/or assignees shall utilize fully shielded, full cut-off optic light fixtures with timing devices for all new development, including both on-site and street lighting.
22. The final plat shall indicate that direct vehicular access to Race Track Road from Lots 2, 5 and 6 is denied. Access to Lot 1 is limited to the current existing driveway location which is 366 feet south of the common property line with Parcel 55.
23. The applicant and the applicant’s heirs, successors, and/or assignees shall dedicate 40 feet of right-of-way from the center line of Race Track Road at the time of record plat, as approved by DPW&T.
24. Prior to signature approval of the preliminary plan, if required by the City of Bowie, vehicular

turnaround areas for the provision of public services to Lots 1–9, shall be provided which may include trash and snow removal. The 32-foot-wide private access easement shall be adjusted to include the turnaround areas if an agreement is reached between the applicant and the City of Bowie.

25. Building permits for Lots 2 and 5 shall provide a 35-foot-wide buffer outside of the 10-foot PUE where the side and rear yard is oriented toward Race Track Road. The Environmental Planning Section (M-NCPPC) shall review the building permits to ensure that the plant material is native plant species and the quantity is consistent with Section 4.6 of the Landscape Manual. Vehicular turnaround areas required by the City of Bowie if on Lot 2 may extend into the bufferyard.
26. Prior to the approval of the final plat, a conservation easement agreement shall be recorded in the Land Records of Prince George’s County for the conservation areas on Lots 1 and 3, consistent with the approved preliminary plan of subdivision. The final plat shall indicate the liber and folio of the agreement. The easement agreement shall be approved by the Prince George’s County Planning Board (or its designee) prior to recordation. The easement shall run with the land, and shall be in full force and effect in perpetuity.
27. The final plat shall establish building restriction lines for the areas permitted for residential construction on Lots 1 and 3 as permitted in Section 27-445.12(a)(4), Table 3, of the Zoning Ordinance.
28. The final plat shall include the following note:

“A variance (VP-08056) was granted to Section 27-445.12(a)(4) Table 3 for Lot 3 which permits the existing dwelling and a new replacement dwelling if the existing dwelling is razed to be set back 105 feet from Lot 1, an existing agricultural use and conservation lot. This setback is required from an agricultural use in a conservation subdivision. If the agricultural use is removed, this setback is not required”
29. The final plat shall include the following note:

“This subdivision is a Conservation Subdivision for which the subdivision of land is strictly controlled.”
30. Prior to the issuance of a building permit on Lots 5 and 6, a Limited Detailed Site Plan shall be approved by the Planning Board or its designee, and reviewed by the City of Bowie to provide a 25 foot landscape strip on Lot 6 and address Section 4.6 of the Landscape Manual. Vehicular turnaround areas required by the City of Bowie, if on Lot 6-may extend into the bufferyard. And on Lots 5 and 6, the Limited Detailed Site Plan shall ensure that the front facades and all highly visible end wall shall be constructed of the same material and all highly visible end walls shall have a minimum of four (4) architectural features (including decorative trim, shutters, etc.) and reviewed by the City of Bowie prior to approval.

31. Prior to the approval of building permits for new residential structures, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that the building shells of structures have been designed to reduce noise levels to 45 dBA Ldn or less.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject property is located on the south side of Race Track Road south of Jericho Park Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	Open-Space (O-S)	Open-Space (O-S)
Use(s)	Equestrian and Single-family dwelling	Equestrian and Single-family dwelling
Acreage	53.16	53.16
Lots	0	9 (Including 1 conservation lot)
Parcels	2	1
Dwelling Units:		
Detached	1 (to remain)	9 (8 new)
Public Safety Mitigation Fee		No

4. **Background**—The subject property is located on Tax Map 92 in Grid E-2 and is known as Parcels 53 and 216, and is located in the City of Bowie. The property is 53.16 acres, zoned Open Space (O-S), and is located in the Rural Tier as designated by the *Prince George's County Approved General Plan*. The property was the subject of a previously approved cluster subdivision, Preliminary Plan of Subdivision 4-03025, which was approved for 86 lots (PGCPB Resolution No. 03-188). Subsequent to that approval, the required Detailed Site Plan (DSP-04006) was approved by the Planning Board (PGCPB Resolution No. 04-263(C)), then called up before the District Council, but was not acted on. The property was rezoned from the Rural Residential (R-R) Zone to the O-S Zone and was placed in the Rural Tier from the Developing Tier at the time of the adoption of the 2006 *Approved Master Plan for Bowie and Vicinity and Sectional Map Amendment for Planning Areas 71A, 71B, 74A, 74B*.

The property is improved with a single-family dwelling unit and several accessory buildings and barns. The property is actively used as a horse farm, an agricultural use as defined by Subtitle 27. All of the existing structures are to remain. The applicant is proposing nine lots, including a conservation lot, and one parcel. The minimum lot size in the O-S Zone for the development of a conservation subdivision is 40,000 square feet. Lots 1–8 average 1.67 acres, and Lot 1 (the conservation lot) is proposed at 36.33 acres. A residential development area has been established for the location of a dwelling on Lot 1 of 1.05 acres, the remaining portion of the conservation lot (35.28 acres) will be placed in a perpetual conservation easement for its scenic, agricultural, and environmental value.

5. **Conservation Sketch Plan S-07009**—Section 24-152(f) of the Subdivision Regulations requires the submittal and certification of a sketch plan prior to the submittal of the preliminary plan for a conservation subdivision. The purpose of the sketch plan is to inventory the existing site features and identify the purpose and priorities for conservation. Certification of the sketch plan is not the approval of the subdivision, but the certification that the applicant has completed the sketch plan process and provided adequate information to identify priorities for conservation. The site is located in the Rural Tier and a conservation subdivision is therefore required. The conservation sketch plan was certified on February 28, 2008 and is valid for two years from that date.

The subject property is in the O-S Zone, thus in accordance with Section 24-152(c)(3) of the Subdivision Regulations, a minimum 60 percent of the gross tract area is required to be designated as a conservation lot or parcel. Up to 40 percent of the gross tract area may be utilized for residential development areas. With a gross tract area of 53.16 acres, a minimum of 31.9 acres of conservation area is required. The preliminary plan proposes a 36.33-acre conservation lot (Lot 1), which is being retained in its entirety for its contributory viewshed along Race Track Road and large expanses of woodland and environmental habitat. The preliminary plan proposes existing woodland, sensitive natural features (wetlands), contiguous woodland habitats (both on-site and connections to adjoining properties), scenic vistas into the site, and equine/agricultural buildings as the site characteristics being preserved through the use of the conservation subdivision technique.

The conservation area will be controlled by the individual homeowner, public or private organization, land trust, or corporation. The owner shall assume all responsibility for maintenance and continued protection of the conservation area. An ownership and maintenance agreement, as part of the conservation easement deed, will be required and referenced on the record plat of subdivision. An easement agreement will be recorded in the Land Records of Prince George's County for the conservation area prior to the approval of the final plat. The easement will run with the land and be in full force and effect in perpetuity unless the land is acquired by M-NCPPC.

Conservation Lot 1 (36.33 acres) comprises 68 percent of the site. The majority of the lot will be placed in a conservation easement prior to the approval of the final plat with the exception of an area specifically identified for residential construction (1.05 acres). The residential area established on Lot 1 is consistent with the purposes of this conservation subdivision and does not adversely affect the site characteristics as established for conservation.

In accordance with Section 24-152(j) of the Subdivision Regulations, the Planning Board finds that this preliminary plan conforms to the purposes, regulations, and standards for development of a conservation subdivision. The layout creates the best possible relationship between the development of the site and the conservation of site characteristics as identified in the sketch planning stage and further defined with the preliminary plan process. The preliminary plan results in a significant degree of preservation of site resources. Wide areas of land traditionally kept in pasture/paddock along the Race Track Road frontage are being retained, as are many of the barns and stables on the site. In addition, a significant archeological site is being retained and preserved in place. The preliminary plan proposes more than the minimum 60 percent of the gross tract area as a conservation area, and the plan does an excellent job of providing a contiguous conservation parcel and woodland habitat on site, while retaining linkages to adjoining properties.

6. **Variance to Section 27-445.12 Table 3**—In accordance with regulations set forth in Section 24-152(g) of the Subdivision Regulations, portions of the property have been designated as conservation areas, and these conservation areas have been identified within a conservation lot. An area of the conservation lot has also been designated as the area for residential construction. In this case, the conservation lot exceeds 36 acres in size. Currently, the land included in the conservation lot contains existing woodlands, wetlands, scenic areas, and an operating horse farm. As such, the conservation areas have been identified which reflect these characteristics. The remainder of the property outside the conservation lot is identified as a residential development area as defined in Section 24-152. Included within the residential development area is an existing dwelling, which has been the main residence, historically, of the owner of the horse farm. This variance relates to the setback required by the existing dwelling from that portion of the property which has been identified as the conservation area for agricultural purposes (horse farm) on Lot 1.

Section 27-445.12 of the Zoning Ordinance sets forth bulk regulations for conservation subdivisions. Table 3 contains the requirements for yards. For “Internal yards, Residential Development Area,” a 150-foot setback is required “from agriculturally used land on a conservation parcel or lot.” In this case, the existing house has been located on a lot (Lot 3) separate from the conservation lot. As indicated above, an area has been designated on the conservation lot for construction of a new dwelling. The existing house does not meet the 150-foot setback requirement from the property line which abuts the portion of the conservation lot designated as the agricultural use area. In fact, the dwelling is set back 105.4 feet from the proposed property line. As a result, **a variance of 44.6 feet** is required.

There is another unique circumstance in this variance. During the processing of this application, a Phase I archeological study was required. This study, and a subsequent Phase II study, revealed that a significant archeological site exists on the property. This site surrounds the existing dwelling on proposed Lot 3. The archeological site is significant as discussed in the Historic section of this report. In response to this discovery, the original subdivision application was revised to place the existing house and the area of archeological significance in a single lot, designated as Lot 3. A conservation easement will be established which will limit any future use or development within

its boundaries in the area of the archeological site (18PR950). The existing house, while structurally sound, is not a large residence by modern standards. The applicant anticipates that some future owner may desire to expand the residence to increase the livable area. The Historic Preservation Commission is concerned about any future disturbance in the designated area of archeological significance. Thus, there are restrictions on the ability to expand the footprint of the existing dwelling. The plan has designated an area outside of the area of archeological significance where a future owner could construct a new house, if desired. Since the existing dwelling is located 105.4 feet from the property line abutting the area of agricultural use, the applicant seeks permission to permit the replacement structure to be constructed the same distance from the area of agricultural use on the conservation lot. For the reasons set forth below, the Planning Board finds that the criteria for approving the requested variance are satisfied in this case.

The criteria for approving a variance is set forth in Section 27-230(a) of the Zoning Ordinance as follows:

**(a) A variance may only be granted when the Planning Board finds that:**

**(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The Planning Board finds that the above criteria are met in this case. First, the subject property must have exceptional narrowness, shallowness or shape, exceptional topographic conditions, or other extraordinary situations or conditions. The existing house sits on a knoll, which is the highest point on the subject property. Between the house and the conservation lot is a steep slope. In fact, the house sits approximately 30 feet above the existing barn. The proposed lot line between the conservation lot and Lot 3 has been placed along this slope. Therefore, the property does exhibit exceptional topographic conditions. The property also satisfies the criterion that an extraordinary situation or condition exists. The existence of the significant archeological area which surrounds the existing house was the impetus for locating the house and the archeological area on a separate lot. The conservation easement, which will be associated with the archeological area, will also limit the ability to expand the footprint of the existing dwelling. Should the purchaser of Lot 3 choose at some point in the future to construct a new dwelling, rather than disturb the archeological area, an alternate house location has been identified and will be reflected on the final plat of subdivision. The variance will establish a yard for Lot 3 equal to the existing setback, or 105.4 feet, rather than 150 feet. Since the purpose of the setback from the agricultural use is in recognition of the potential nuisance of such use, the owner of the lot will be fully aware of such impact when any new structure is established, should the agricultural use still exist at that time. The preliminary plan presented by the applicant proposes a 105-foot building setback from the

common property line with Lot 1, which if approved will be reflected on the final plat prior to approval.

**(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

The second criterion is that the strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The regulations governing conservation subdivisions recognize that residential development areas will be created adjacent to conservation areas. However, the regulations do not specifically address the retention of an existing dwelling which may not satisfy the setback required from agricultural uses. As indicated above, the establishment of the proposed lot line is dictated by both the existing topography and the unique archeological feature. The line between the conservation lot and Lot 3 cannot be moved further into the conservation lot without requiring the removal of structures used in conjunction with the horse farm. The type of variance requested in this case is an area variance. The appellate courts of Maryland have made clear distinctions between the criteria applicable to a use variance, which changes the character of the zone district, and an area variance which does not. A use variance is one that permits a use other than that prescribed by the Zoning Ordinance in a particular district. An area variance has no relationship to a change of use. It is primarily a grant to erect, alter, or use a structure, for a permitted use in a manner other than that prescribed by the restrictions of a Zoning Ordinance. The applicant is proposing to construct a permitted use in a manner other than that prescribed by the Ordinance.

In this case, if the Zoning Ordinance is strictly applied, the applicant's options are limited. The existing house cannot be moved. The only other approved septic recovery area is within the area of archeological significance. Thus, an alternative house location cannot be established. Denying the requested variance would prevent full utilization of the property or force the removal of a useable dwelling. Granting the variance will also observe the spirit of the ordinance. The purpose of the conservation subdivision is to preserve the character of the Rural Tier. The proposed layout does that by preserving the existing farm buildings. The location of the existing house, in relation to the agricultural use, will not change and no new structure will be constructed which is located any closer to the Lot 3 property line than that which currently exists.

The applicant has worked with the Historic Preservation Commission to retain the area of archeological significance. This has resulted in changes to the plan. The applicant is also constrained in locating new structures by the location of approved septic recovery areas. The establishment of a lot containing the entire

area of archeological significance will benefit the interests of the general public and allow the applicant to fully utilize the development potential of the property.

**(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Granting the variance must not substantially impair the intent, purpose, or integrity of the General Plan or master plan. The development of the property is consistent with the underlying O-S zoning of the property. The property is also located in the Rural Tier as designated in the adopted master plan. The development of the property under the provisions of the Conservation Subdivision Regulations will preserve the existing characteristics of the property. Finally, only through the proposed development of the property was the area of archeological significance discovered. This plan, and the required variance, will allow this area to be appropriately preserved.

Based upon the above, the Planning Board grants the approval of a variance of 44.6 feet from the required 150-foot setback from the agriculturally used land (Lot 1) for the existing dwelling on proposed Lot 3, and the construction of a new dwelling if the existing dwelling is razed. (Consistent with the 105 foot building setback granted along the property line.)

7. **Environmental**—The site contains a horse barn, stable, sheds, and a house, and is approximately 73 percent wooded. There are streams, wetlands, and 100-year floodplain located on the property in the Horsepen Branch drainage area of the Patuxent River watershed. According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Beltsville, Bibb, Elsinboro, Marr, Matapeake, Mattapex, Othello, and Sassafra series. Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. No designated scenic or historic roads will be affected by the proposed development. The site has frontage along Race Track Road, a master planned collector roadway that is not regulated for noise. The proposal is not expected to be a noise generator. This property is located in the Rural Tier as reflected in the adopted General Plan. The master plan does not indicate any environmental issues specific to the subject property.

The site contains regulated and evaluation areas within the designated network of the *Approved Countywide Green Infrastructure Plan*. The site contains significant regulated and evaluation areas along the southern portion of the property, which according to the approved natural resources inventory (NRI), contains wetlands and a stream system. The regulated and evaluation areas are one of the focuses of the preservation efforts with this application.

An approved Natural Resources Inventory (NRI/047/07) was submitted with the application. There is a primary management area (PMA) which comprises a stream, stream buffers, wetlands, wetland buffers, and 100-year floodplain and associated slopes on the subject property. The Type I tree

conservation plan (TCPI) and the preliminary plan show all the required information correctly in conformance with the NRI. The applicant does not propose any impacts to the PMA for the development of this site.

The forest stand delineation (FSD) indicates four stands totaling 38.67 acres and 40 specimen trees. Preservation of the woodlands on-site should be a priority in the review of this application. In fact, in a conservation subdivision, 100 percent of the woodland conservation is required on-site unless the on-site preservation would adversely impact the purposes and character of the conservation areas. In this case, 100 percent of the woodland conservation is required on-site.

The property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site has previously approved tree conservation plans. A revised Type I Tree Conservation Plan (TCPI/028/03-01) was submitted with the review package. A revised Type II tree conservation plan (TCPII) will be required prior to issuance of any permits for the subject property because the development scenario on this site has changed considerably from previous plan approvals.

The woodland conservation threshold (WCT) for this 53.16-acre property is 50 percent of the net tract area or 24.06 acres. The total woodland conservation requirement based on the amount of clearing proposed is 24.98 acres. As currently shown on the plans, the woodland conservation requirement is proposed to be satisfied by 24.98 acres of on-site preservation and an additional 4.85 acres of preservation for the future establishment of a woodland conservation bank on-site.

The applicant has indicated that the conservation area in excess of the minimum required (4.43 acres) may be utilized for a future woodland conservation bank. There would be no objection to this proposal in so far as that area of land would remain in conservation, either conservation for purposes of the conservation subdivision or woodland conservation as part of a woodland conservation bank. A woodland conservation bank would need to provide the commitment that it could not be removed from the site in the future, because if it were not a bank it would be part of the conservation easement for the conservation subdivision. If the woodland conservation bank is considered an option, it must be established prior to final plat.

The plan requires some technical changes to be in conformance with the Woodland Conservation Ordinance. The label for the 65 dBA Ldn contour should be revised in the legend to indicate that it is the "unmitigated 65 dBA Ldn Contour" and references to the "future tree bank" should be removed. After all revisions have been made, the qualified professional who prepared the plan should sign and date the plan and update the revision box with a summary of the revision.

An approved stormwater management (SWM) concept plan and approval letter was submitted with the subject application. The concept plan shows stormwater management requirements being met through the use of level spreaders on Lots 2, 3, and 8, the use of drywells on Lots 4 and 5, and roof top disconnects on Lots 6 and 7. The plans do not show how stormwater will be managed for proposed Lot 3, which contains the existing house. The Department of Public Works and

Transportation will review the entire site including Lot 3 in their review and approval of the SWM technical approval.

Specimen Trees 29 and 30 are located within the road widening area which is delineated on the preliminary plan and are shown to be removed. The use of level spreaders is proposed on-site and the location of the level spreader shown on Lot 2 has been revised to preserve Specimen Tree 24.

The site is not located in the vicinity of any roadway regulated for noise and the proposal is not expected to be a noise generator; however, the site is located within close proximity to an existing and operational gun club known as the Berwyn Rod and Gun Club. Noise studies and previous reviews and approvals for development on this site demonstrated that no buildings are currently proposed within the 65 dBA Ldn noise contour originating from the gun club.

A Phase I noise study prepared by MCV Associates, Inc., dated August 26, 2008, has been submitted for the subject application and establishes the location of the unmitigated 65 dBA Ldn contour as being 600 feet from the firing range, which is located approximately 240 feet from the southern corner of this site and does not impact the location of any dwelling units. The TCPI accurately reflects the location of the 65 dBA Ldn noise contour based on the study. This information should also be provided on the preliminary plan.

Due to the episodic nature of the noise emitted from the gun club, additional precautionary measures pertaining to noise are appropriate. Prospective purchasers should be notified of the presence of the gun club at the time of contract signing. Conditions are recommended to provide such notice. The recommended disclosure statement is consistent with the Planning Board action on Preliminary Plan 4-05048 known as Renard Lakes (PGCPB Resolution No. 06-33) which required a disclosure to the future residents due to the proximity of the development to the Piscataway Creek Stream Valley Park and gun range (M-NCPPC).

At the hearing, the applicant proposed and the Planning Board included an amendment to Condition 17. The purpose of the amendment was to clarify that even though the noise the proposed dwelling units will be exposed to will not exceed applicable State noise regulations, the noise emitted by the gun club does exceed the State noise standards set forth in the Code of Maryland Regulation normally applicable to property owners. However, it was explained that such gun noise is exempt from the regulations and is not within the authority of the Planning Board to regulate. As a result, the condition provides notice to prospective purchasers of the existence of this noise.

According to the *Prince George's County Soils Survey*, the principal soils on the site are in the Beltsville, Bibb, Elsinboro, Marr, Matapeake, Mattapex, Othello, and Sassafra series. This information is provided for the applicant's benefit. According to the stormwater management plan approval, the Prince George's County Department of Public Works and Transportation may require a soils report in conformance with Council Bill CB-94-2004 during the building permit process review.

8. **Community Planning**—The 2006 Bowie and vicinity master plan shifted the property from the Developing Tier to the Rural Tier. The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, and preservation of the rural character and vistas that now exist. The use of a conservation subdivision is consistent with the visions of the Rural Tier by placing in conservation large amounts of land for woodland and wildlife habitat, dedicating land for recreation, and preserving the rural character and vistas of the agricultural pursuits that currently exist on the property along Race Track Road.

The 2006 Bowie and vicinity master plan recommends strategies for implementing the General Plan policies to retain the rural character for the Rural Tier. The following strategies excerpted from the 2006 Bowie and vicinity master plan (pp. 7 and 8) apply to this development:

**Policy 1: Strategy 4**

- a. **Houses should be set back a minimum of 100 feet from public rights-of-way to preserve scenic viewsheds, wooded areas, open fields, and ridge lines.**
- b. **The layout of the subdivision should preserve and enhance the existing natural features of the site including woodland, wetlands, streams and areas of significant wildlife habitat.**
- c. **Preservation of existing vegetation or the installation of landscaping should be provided to soften and buffer views of houses and other structures. Landscape plants should be native and re-create rural buffers.**
- d. **Architecture should conform to the prevailing rural style, including such elements as roof lines and pitch, entrance drives, porches, lighting and building materials. Vinyl and aluminum siding are discouraged.**
- g. **Grading and drainage should be minimally intrusive. Massive cut and fill should be avoided. The creation of earth mounds, berms for screening, and platforms for house sites should be discouraged.**
- j. **The use of full cut-off optic light fixtures should be encouraged for all new development, including both on-site and street lighting.**

**Policy 2: Strategies**

- 2. **Protect forest interior dwelling species habitat, the sensitive wildlife habitat area located 300 feet inward from the edge of the forest, through the implementation of the Green Infrastructure Plan during the development review process.**

**5. Carefully consider areas within designated evaluation areas in the green infrastructure network. Protect existing areas of connectivity of natural resources and enhance connections where they don't exist.**

The preliminary plan proposes setbacks consistent with the regulations for development in the Rural Tier in a conservation subdivision, with the exception of Lot 3 where the existing dwelling is within 150 feet of the agriculturally used conservation lot. Race Track Road is not a scenic or historic road and therefore, the 100-foot setback in this case is not required. However, the applicant is preserving the viewshed of the horse barns and open space views from Race Track Road into the northeastern portion of the property.

Additional landscaping along Race Track Road is required to soften the views of the sides of dwellings, and as recommended by the City of Bowie. Architecture is not regulated through the use of a conservation subdivision. However, the applicant has proffered a condition, which the Planning Board has adopted, which will require a limited detailed site plan to be reviewed by the Planning Board or its designee prior to the issuance of building permits to address landscaping on Lot 6 and architectural elevations on Lots 5 and 6.

The applicant has minimized grading to the extent possible and does not propose massive cut and fill on this site, as indicated by the preservation of the existing site elements and buildings. The applicant will use full optic cut-off lighting fixtures for the new development. There are no forest interior dwelling species (FIDS) habitat identified on this property, however, the use of a conservation subdivision has allowed the significant preservation of the existing woodland on-site, in keeping with the Green Infrastructure Plan.

The 2006 Bowie and vicinity master plan recommends the provision of “dual bikeway” facilities along Race Track Road, as well as Jericho Park Road and Old Chapel Road, with either a wide sidewalk or side path for pedestrians and recreational cyclists, and wide curb lanes, bike lanes, or shoulders for on-road bicyclists. These facilities may accommodate nonmotorized access to the Bowie State MARC Station and Bowie State University, as well as to other facilities along these corridors as discussed further in the Trails section of this report.

The 2006 Bowie and vicinity master plan recommends that Race Track Road be expanded to four lanes along the eastern edge of the subject property, and to between two and four lanes along the western edge as discussed further in the Transportation section of this report.

9. **Parks and Recreation/Reservation**—The plan has been reviewed for conformance with the requirements of the 2006 Bowie and vicinity master plan, the Land Preservation and Recreational Program for Prince George’s County, current Subdivision Regulations, and existing conditions in the vicinity of the proposed development.

In accordance with Section 24-134(a) of the Subdivision Regulations, the subdivision is

exempt from mandatory dedication requirements because the proposed lots are greater than one acre in size.

The property is 53.16 acres in size and includes five acres of 100-year floodplain along the Horsepen Branch stream valley. The property is bisected by the WB&A Trail which is owned and operated by M-NCPPC. Approximately two acres of the property which is located in the 100-year floodplain is separated from the remainder of the property by the hiker/biker trail. The master plan recommends that a ten-acre park be established at this location which is identified in the master plan and is identified as the Horsepen Branch Neighborhood and Stream Valley Park. In addition, a 70-acre community park and a 50-acre community park are proposed on the master plan within 1.5 miles of the subject property. The Department of Parks and Recreation (DPR) has analyzed the subject property as the potential site for a future community park and the Planning Board has determined that the 53.16-acre site is a viable location. In addition, a significant archeological site (18PR950) was identified on the subject property. A community park can be created on this property to provide needed outdoor recreational facilities to the residents of the surrounding community as per the master plan. In addition, the acquisition of this property for parkland will allow the preservation of the archeological site on public land.

Section 24-121(a)(5) of the Subdivision Regulations states that the plat shall conform to the area master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant plan recommendations no longer applicable, or the District Council has not imposed the recommended zoning. Section 24-121(a)(6) of the Subdivision Regulations states that when indicated by a master plan or the General Plan, or when requested by a public agency, land may be placed in reservation, pursuant to Division 7 of the Subdivision Regulations.

Section 24-139(a)(3) and (4) of the Subdivision Regulations states that the Planning Board, when reviewing a preliminary plat, shall refer to the General Plan, master plans, or amendments and parts thereof, to determine the need for reserving for public use any of the land included in the preliminary plat. Reservation may be required for parks, playgrounds, or other recreational areas; or other public uses.

The Department of Parks and Recreation, to address the parkland needs identified in the master plan (Planning Area 71B), met with the applicant and discussed possible reservation of the subject property for parkland. The applicant agreed to consider the sale of the property to the M-NCPPC. In addition, the applicant agreed to donate approximately two acres of floodplain along the Horsepen Branch stream valley to M-NCPPC. To allow time for negotiations for acquisition of the property, the Planning Board has placed the property in reservation for a period of one year.

In accordance with Division 7 of the Subdivision Regulations, notice of the reservation and a map showing the area of the property to be reserved has been sent to the property owner, the County Executive, the County Council, and the City of Bowie for their comments. DPR staff anticipates that a one-year reservation period would be adequate to further evaluate and negotiate the purchase of the subject property.

A plat showing the survey location of the land reserved will be prepared for public use under the provisions of Division 7. The plat of reservation is required to be filed concurrently with the final plat for the preliminary plan of subdivision (Section 24-139(g)). Both are recorded in Land Records, preserving the Planning Board's approval of the subdivision of the land for nine lots with conditions as required by the Board for the development of the subdivision. The plat of reservation is also recorded in Land Records and prohibits the development of the land (Section 24-140(c)) in accordance with the preliminary plan approval until after the expiration of the reservation period or the property is purchased as intended by the reservation. During the reservation period, the land is exempt from all State, County, and local taxes (Section 24-140(b)). If the reservation plat then expires, the applicant will have the ability to develop the property in accordance with the approved preliminary plan of subdivision and subsequent record plat. If prior to the plat of reservation DPR determines in writing that the reservation of this land is not appropriate at this time, the reservation should not be required.

The Planning Board has placed into reservation, 51 acres for a public park as delineated on DPR Exhibit A, and the dedication of Parcel A (2.16 acres) to M-NCPPC.

10. **Trails**—The 2006 Bowie and vicinity master plan recommends providing a “dual bikeway” facility along Jericho Park Road, Race Track Road, and Old Chapel Road with either a wide sidewalk or side path for pedestrians and recreational cyclists, and wide curb lanes, bike lanes, or shoulders for on-road bicyclists. These facilities may accommodate nonmotorized access to the Bowie State MARC and Bowie State University, as well as a church, school, and park facilities along these corridors.

Subsequent to the approval of the master plan, there have been some sidewalk and road improvements in the area, but the dual-bike facility has not yet been implemented. Sidewalks were constructed on the north side of Race Track Road north of the equestrian bridge, but these sidewalks are not continuous. There are no sidewalks on the west side of the road in the vicinity of the race track. In terms of bicycle use, Race Track Road is a “shared use with bicycles” roadway at this time and appropriate signage should be provided. Future dedication and road widening as required by the Department of Public Works and Transportation should provide sufficient space for a side path or sidewalks along the properties frontage on Race Track Road.

11. **Transportation**—The property is located on the south side of Race Track Road, opposite the Jericho Park Road/Race Track Road intersection. The applicant proposes a residential subdivision consisting of nine lots. One of those lots is currently improved with a residence which will remain. Consequently, an adequacy finding is based on eight net new lots.

Based on the “Guidelines for the Analysis of the Traffic Impact of Development Proposals,” the eight-lot single-family development will generate six AM peak-hour trips, and seven PM peak-hour trips. The subject property is located within the Rural Tier as defined in the General Plan. As such, the subject property is evaluated according to the following standards:

**Unsignalized intersections:** The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Traffic data which was collected less than 12 months ago was evaluated. An analysis of the data revealed that the unsignalized intersection of Race Track Road and Jericho Park Road currently operates with a delay of 65.5 seconds, level-of-service (LOS) F, during the PM peak hour. A level-of-service E, which is deemed acceptable, corresponds to a maximum delay of 50 seconds/car. In light of this finding, the applicant will be required to conduct a traffic signal warrant study. If the signal is deemed to be warranted, and if the permitting agency is prepared to issue the permit for its installation, the applicant will be required to bear the cost of the installation as a condition of approval.

The property fronts on Race Track Road, a planned collector road requiring 80 feet of right-of-way (ROW). The preliminary plan proposes to consolidate individual access to shared access, which is permitted with the use of a conservation subdivision. The plan proposes right-of-way dedication for the future road widening consistent with the 2006 Bowie master plan, along Race Track Road. However, the Department of Public Works and Transportation has indicated in their referral of February 6, 2009 (Abraham to Chellis), that an alignment study for the ultimate centerline of Race Track Road will be required with the review of the street construction permits. Prior to signature approval of the preliminary plan, the applicant should provide written evidence from the DPW&T that the ultimate ROW is correct, and adjust the plan accordingly, if necessary.

Regarding on-site circulation of traffic, there are no issues. Adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

12. **Schools**—The preliminary plan has been reviewed for the impact on school facilities in accordance with Section 24-122.02 of the Subdivision Ordinance and CR-23-2003 and the following was found:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 3	Middle School Cluster 2	High School Cluster 2
Dwelling Units	9	9	9
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	2.16	.54	1.08
Actual Enrollment	6,198	4,920	10,052
Completion Enrollment	134.40	99.84	199.8
Cumulative Enrollment	.96	1.26	2.52
Total Enrollment	6,335.52	5,021.64	10,253.40
State Rated Capacity	4,838	6,356	10,254
Percent Capacity	130.95%	79.01%	99.99%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council Bill CB-31-2003 established a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$8,177 and \$14,019 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The project meets the adequate public facilities policies for school facilities contained in Section 24-122.02 of the Subdivision Regulations, CB-31-2003, and CR-23-2003.

13. **Fire and Rescue**—The preliminary plan has been reviewed for the adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)–(E) of the Subdivision Ordinance.

The preliminary plan is within the required seven-minute response time for the first due fire station Bowie Company 19, using the *Seven Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive

suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn fire and rescue personnel staffing levels.

The Fire/EMS Chief reported that the Fire/EMS Department has adequate equipment to meet the standards stated in CB-56-2005.

The 2006 Bowie and vicinity master plan placed this property into the Rural Tier. Section 24-122.01(d)(2) of the Subdivision Regulations requires that subdivisions in the Rural Tier “provide water storage tanks, the availability of water tanker trucks, or other appropriate source of water for fire extinguishing purposes.”

14. **Police Facilities**—The subject property is located in Police District II, Bowie. The police facilities test is done on a countywide basis in accordance with the policies of the Planning Board. There is 267,660 square feet of space in all of the facilities used by the Prince George’s County Police Department and the latest population estimate is 825,520. Using 141 square feet per 1,000 residents, it calculates to 116,398 square feet of space for police. The current amount of space, 267,660 square feet is above the guideline.

The standard for priority calls response is 10 minutes and the standard is 25 minutes for non-priority calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on February 3, 2009.

Reporting Cycle	Previous 12 Month Cycle	Priority Calls	Non-priority Calls
Acceptance Date February 3, 2009	2/08 - 2/09	8 minutes	10 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for priority calls and 25 minutes for non-priority calls were met March 26, 2009. The Police Chief has reported that the Police Department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George’s County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police personnel staffing levels.

15. **Health Department**—The development is projected to utilize individual sewage disposal and water supply systems. Each of the lots has sufficient percolation tests to accommodate a 10,000 square foot or larger sewage disposal area. Proposed Lot 3 contains an existing dwelling unit, which is currently served by private systems and is to remain and continue to utilize the existing system.

A site plan delineating the sewage recovery area (SRA) and well locations on each lot was revised and approved on January 13, 2009. An additional copy of this approved plan must be submitted to the Health Department prior to final plat approval.

The preliminary plan should be revised to reflect the changes made by the Health Department to the SRA on proposed Conservation Lot 1, Lot 2 and Lots 5–9; and the well locations on Lots 4 and 5.

Final plat notes should be provided which indicate that the lots are to be served by deep-drilled wells. Grouting requirements will be based on the actual well location relative to potential sources of contamination. Information on well construction requirements applicable to these lots may be obtained from the Prince George's County Health Department, Division of Environmental Health. Any specific requirements for an individual well applicable to this subdivision will be provided as part of the well permitting process and not a part of the preliminary plan of subdivision process.

A note should be included on the final plat which sets forth that a minimum 10,000-square-foot area of each lot must remain undisturbed for sewage disposal purposes. Any sewage disposal area located within 50 feet of the planned extent of grading activity or other soil disturbance must be field staked or otherwise protected. Required protective measures must be field verified by the Health Department prior to approval of any grading or building permit application. In accordance with Subtitle 22 of the Prince George's County Code, the sewage disposal area for each lot is sized to accommodate a specified sewage flow based on the size and use of the proposed building for that lot. Any change in the projected sewage flow or change to the designated sewage disposal area may require additional percolation testing. The detailed information on the sewage disposal limitations applicable to the proposed lots may be obtained from the Prince George's County Health Department, Division of Environmental Health.

16. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that a fee-in-lieu of on-site stormwater management is required. The preliminary plan has been reviewed to ensure that the development of this property will not result in on-site or downstream flooding. A Stormwater Management Concept Plan, 40470-2007-00, has been approved with conditions. Development must be in accordance with this approved plan and any subsequent revisions.
17. **Historic**—A Phase I archeological survey was requested on the property through a previous Preliminary Plan of Subdivision (4-08025). Phase I investigations were conducted on the Colt's Neck property in July 2008. One archeological site, 18PR950, has been identified on the northern portion of the Colt's Neck property primarily on proposed Lot 3, with a small portion extending onto proposed Lot 4. Seventy-one artifacts were recovered, including one prehistoric flake, and 70 historic/modern artifacts. A majority of the historic artifacts dated from the late 19th<sup>to</sup> early 20th century, although some mid-19th century artifacts were also found. The portion of the archeological site identified within proposed Lot 4 is composed of sloping terrain that includes a sparse artifact scatter which is likely the result of long-term erosion rather than primary deposition,

and not recommended to be placed in an easement.

Archival research indicates that an eight-acre parcel was purchased by three African-American brothers, Joseph Calvert, James H. Calvert, and William T. Calvert from Joshua T. Clarke in 1874. The brothers later changed the spelling of their last name to Colbert. James H. and William T. Colbert sold their interest in the eight-acre tract to Joseph Colbert in 1891. Joseph Colbert added a 12-acre parcel to his holdings in 1900 and 67  $\frac{3}{4}$  acres in 1902, for a total of 87  $\frac{3}{4}$  acres. Joseph and Harriet Colbert deeded the right-of-way through the southern edge of their property to the Washington and Annapolis Electric Railway in 1901 (now the WB&A Trail). Census records show that Joseph Colbert worked as a railroad laborer probably on either the Washington Branch or the Popes Creek Line of the Baltimore and Potomac Railroad. Joseph Colbert and his wife, Harriet, both died in 1917 and were buried in the Ascension Roman Catholic Church, located just a few miles west of the Colt's Neck property. The Colt's Neck property presumably passed to Joseph and Harriet's seven children, Cecelia Harrison, Serena Fletcher, William Colbert, Joseph Colbert, Abraham Colbert, Elizabeth Wilson, and Louise Colbert. The 1920 Census indicates that Abraham, Cecelia, and Louise Colbert continued to live in their parents' house. By 1930, William Colbert and his family were living on the Colbert property, along with his sister, Louise Colbert.

In 1945, several of the Colbert heirs apparently wanted to sell their parents' land and S. Marvin Peach was appointed as trustee to sell the property and divide the proceeds. The original Colbert home may have burned down, as many burned artifacts were recovered in the archeological excavations. William L. and Gladys Yingling purchased the 87  $\frac{3}{4}$ -acre Colbert farm in June 1946. The Yinglings built the current house on the property (proposed Lot 3) in c.1947 and sold off several smaller parcels next to Race Track Road. Because few archeological sites owned and occupied by African Americans soon after the Civil War have been identified in Prince George's County, Phase II investigations were requested on site 18PR950 to better define the limits of the site, evaluate its integrity, and determine its date of occupation. Phase II investigations were conducted on site 18PR950 in September and December 2008.

Close-interval shovel testing was conducted across the site and eight 1m-x-1m test units were excavated. The remains of a house foundation, consisting of local limonite, were found in three of the test units on the southwestern portion of the site next to the current entrance road into the property. A building appears at that location in the 1938 aerial photograph. Other test units were placed in areas where high concentrations of artifacts were found in the shovel test pit survey. The edge of a gravel road visible in the 1938 aerial photograph was identified in another test unit and deep fills were noted in the test units placed at the northern end of the site. A dense artifact scatter was identified around the existing house foundation on proposed Lot 3 and to the east where another possible building appears in the 1938 aerial photograph. The artifact scatter is less dense in the northern portion of the site in areas that appear to have been plowed.

Archeological site 18PR950 has been determined to be potentially eligible for listing in the National Register of Historic Places under Criterion D—sites that have yielded, or may be likely to yield, information important in prehistory or history. Site 18PR950 represents a rare type of

archeological site in Prince George's County and contains intact cultural features that could shed light on the lives of an African-American family after the Civil War. Historical records indicate the Calverts/Colberts were free blacks in the ante-bellum period and may have been living at site 18PR950 in the mid-19th century. The focus of archeological site 18PR950 is that area located on proposed Lot 3; the standing structures on the property post-date the period of significance for the archeological site and are identified as noncontributing resources.

Archeological site 18PR950 is historically and culturally significant under County Code Section 29-104(a)(1)(A)(i)—it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the County, State, or Nation, and Section 29-104(a)(1)(A)(iv)—it exemplifies the cultural, economic, social, political, or historic heritage of the County and its communities. The period of significance for the archeological site relates directly to the occupancy of the property by the Calvert/Colbert family from at least 1874 until 1946, when the property was sold out of the family.

If the property is acquired by the Department of Parks and Recreation for use as open space and to provide a connection to a nearby trail, there will be an expectation of public access and interpretation. In this circumstance there will be no impact from adjacent new development from within the publicly held parcel.

The applicant's proposal to subdivide the subject property into nine single-family lots will have no impact on the character of the archeological site to be included within proposed Lot 3. The archeological site will remain undisturbed and there will be no expectation of public access on a private lot. Therefore, even the siting of new houses will not impact the character of the subterranean archeological features on proposed Lot 3.

At its February 17, 2009 meeting, the Historic Preservation Commission (HPC) reviewed staff recommendations regarding the significance of archeological site 18PR950 and its associated environmental setting of 3.19 acres (also identified as proposed Lot 3, Colt's Neck Property) as a Prince George's County historic site. Staff recommended that the property, identified as the Colbert Family Farm Site, should be recommended for designation as a historic site based on two criteria:

- a. As the location of an African-American household whose occupants participated in the agricultural economy, as well as the development of new transportation systems (the railroad), site 18PR950 has interest and value as part of the development and heritage of the County, near the town of Bowie (County Code Section 29-104(1)(A)(i)).
- b. As an excellent example of a post-Civil War African-American household that contributed to the racially-mixed population of professionals, craftsmen, and laborers that comprised the town of Bowie, site 18PR950 exemplifies the economic, social, and historical heritage of the County in its late-nineteenth and early-20th century communities (County Code Section 29-104(1)(A)(i)).

The mid-twentieth century standing structures within the Colbert Family Farm Site are outside of the property's period of significance and are identified as noncontributing resources.

The applicant has agreed that the archeological site, 18PR950, is to be preserved in place within proposed Lot 3 and staff concludes that no further archeological investigation is necessary at this time.

Because the property is not included in the inventory of historic resources associated with the Historic Sites and Districts Plan, an HPC recommendation to designate the property would be included as a recommendation in the Historic Sites and Districts Plan amendment, and that the designation would be final with District Council approval of the plan expected in April 2010.

18. **The Historic Preservation Commission (HPC)**—At the February 17, 2009 Historic Preservation Commission meeting, the HPC discussed the importance of archeological site 18PR950 as a post-bellum African-American site with a significant association with a single family that occupied the property for at least 75 years. Testimony was heard from both the applicant and representatives of the Prince George's County Department of Parks and Recreation, both of which were supportive of staff recommendations and the preservation of the archeological site. In its discussion, HPC stated a preference that, if possible, the property should be acquired by the Department of Parks and Recreation for public use.

The HPC voted 9–0 in favor of the recommended designation of archeological site 18PR950, the Colbert Family Farm Site, and its environmental setting of 3.19 acres (also known as proposed Lot 3, Colt's Neck property) as a historic site according to the procedures outlined in the Planning Board's "Guidelines for Archeological Review." The action of the HPC will be reflected in the Historic Sites and Districts Plan and the archeological site will become a historic site upon the District Council's approval of the plan, expected in April 2010.

In addition, HPC recommends conditions to the Planning Board for its review of Preliminary Plan 4-08056. Those conditions have been included in full in the Recommendation section of this report and are consistent with the Planning Board's "Guidelines for Archeological Review." The conditions provide notice to the future homeowners that if Lot 3 is designated a historic site, any modifications to the environmental setting would be subject to the historic area work permit (HAWP) application process. The recommended conditions, in accordance with the guidelines (Section IV.C), are designed to ensure the preservation of the character of the archeological site by limiting the location of new development within Lot 3 to an area that will not impact archeological site 18PR950, requires an archeological easement, and provides for interpretive measures and fencing around the historic site.

These recommendations are consistent with the Planning Board's guidelines, Section C. Phase III Requirements, specifically:

**Preservation in place is generally preferable for archeological sites with high interpretive value, and is encouraged by the Prince George's County Planning Board. The Planning Board may utilize preservation easements or conservation agreements and bonding as ways to preserve significant archeological sites in perpetuity and provide interpretation. If preservation in place is possible: Preservation treatments should incorporate measures to protect the archeological property from natural deterioration, vandalism, and other potential impacts as appropriate. Appropriate preservation-in-place measures include avoidance, protection, and/or historic preservation easements/covenants. An example of an easement agreement is available from Historic Preservation staff.**

**The objective of preservation-in-place treatment is to safeguard the resource for future research, interpretation, and appreciation. If preservation in place is chosen, the archeological site may be eligible to be listed as a historic site on the Prince George's County Inventory of Historic Resources through an amendment to the Historic Sites and Districts Plan, or to an area master plan or sector plan.**

and Section 24-121(a)(18) of the Subdivision Regulations which states:

**Significant archeological sites identified in accordance with the Planning Board Guidelines for Archeological Review should be preserved in place, to the extent practicable and should be interpreted as appropriate.**

19. **Public Utility Easement (PUE)**—In accordance with Subdivision Regulations, Section 24-128(b)(12) for private roads, and Section 24-122(a) when utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents recorded on the record plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a 10-foot public utility easement (PUE) along the public and private rights-of-way as requested by the utility companies.

20. **Water and Sewer Categories**—The adopted 2008 Water and Sewer Plan designates this property in water and sewer Category 6, outside the sewer envelope and in the Rural Tier. Category 6 designates the property to be developed on individual well and septic systems as discussed above in the Health Department section of this report. The 2002 approved General Plan recommends the prohibition of water and sewer extensions into the Rural Tier.

Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or

final plat approval.”

21. **City of Bowie**—On July 7, 2008, the Bowie City Council conducted a public hearing on Preliminary Plan of Subdivision 4-08025, Colt’s Neck. At the conclusion of the hearing, the City Council voted unanimously to recommend approval of Preliminary Plan of Subdivision 4-08025 with conditions. In October 2008, the above plan was administratively withdrawn due to conflicts with the expiration of the statutory review period, and in February 2009, the City received a second plan for this property that addressed the previous technical issues of the first plan. Because the second plan is substantially the same as the first one, the City Council recommends approval of Preliminary Plan of Subdivision 4-08056 with conditions.

The City of Bowie has recommended 15 conditions, most of which have been included in the Recommendation section of this report. Recommended Conditions 2, 4, and 5 relate to specific improvements within the right-of-way of Race Track Road and are under the jurisdiction of DPW&T. The improvements that will be required will be reviewed with the street construction permits for frontage improvements and ultimately approved by DPW&T.

Recommended Condition 10 relates to the two private vehicular access easements which will serve all of the lots proposed. These easements are authorized by Sections 24-152 and 24-128 of the Subdivision Regulations. The easement is not to be conveyed to the City of Bowie at this time. However, the City and the applicant have indicated a desire to come to an agreement which may result in the City taking jurisdiction of these two easements. This could provide for the future residents to be served by City services such as trash pick-up and snow removal.

Recommended Condition 12 relates to specific architectural features. As indicated previously, development of a conservation subdivision is not subject to the review and approval of a detailed site plan. However, at the Planning Board hearing the applicant proffered a condition, which the Planning Board has adopted, which will require a limited detailed site plan to be reviewed by the Planning Board or its designee prior to the issuance of building permits to address architectural elevations on Lots 5 and 6. Specifically, the LDSP should ensure that the front facades and all highly visible end wall shall be constructed of the same material and all highly visible end walls shall have a minimum of four (4) architectural features (including decorative trim, shutters, etc.), as recommended by the City of Bowie. The LDSP should be reviewed by the City of Bowie prior to approval. The applicant should be sensitive to the prevailing practices in the neighborhood regarding rooflines, existing materials, and the number of architectural features proposed on dwellings where they are highly visible from Race Track Road and adjoining lots.

Recommended Condition 15 relates to mitigation of interior noise levels to 46 dBA Ldn, however, based on the noise study submitted by the applicant, the 65 dBA Ldn does not affect any of the proposed dwellings and therefore, dwellings will not be impacted by this level of noise.

Notwithstanding, at the hearing the applicant proposed a new condition which would require a certification by a professional engineer with competency in acoustical analysis at the time of

building permit stating that the building shells of the proposed structures have been designed to reduce interior noise levels to 45 dBA Ldn or less. It was explained that, given the episodic nature of the noise, the condition provides additional protection to ensure that the proper windows and building materials are selected to ensure there is no noise impact. The Planning Director of the City of Bowie supported the additional condition, as did a representative of the gun club. The Planning Board adopted the condition as proposed by the applicant.

Conditions relating to increased landscaping along Race Track Road, the provision of full cut-off optics, and notice to future homeowners of the proximity to the Berwyn Rod and Gun Club have all been included.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Clark, seconded by Commissioner Vaughns, with Commissioners Clark, Vaughns, Cavitt and Parker voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, April 16, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of May 2009.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

OSR:FJG:WC:bjs