

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

October 6, 2025

MCPB No. 25- 076

Preliminary Plan No. 120250110

Friendship Parcel 210 (Ridgewells Catering)

Date of Hearing: September 4, 2025

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on February 5, 2025, Morado Properties LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot on 0.407 acres of land in the IM-1.5, H-45 zone, located 300 feet north of the intersection of Dorsey Lane and River Road, at 5525 Dorsey Lane (“Subject Property”), in the Bethesda/Chevy Chase Policy Area and *2016 Westbard Sector Plan* (“*Sector Plan*”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120250110, Friendship Parcel 210 (Ridgewells Catering) (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated August 25, 2025 providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 4, 2025, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Linden, seconded by Commissioner Bartley, with a vote of 4-0; Chair Harris and Commissioners Bartley, Hedrick and Linden voting in favor. Vice Chair Pedoeem was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120250110 to create one (1) lot on the Subject Property, subject to the following conditions:¹

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

General Approval

1. This Preliminary Plan is limited to one (1) lot of 17,766 square feet for development of up to 18,805 square feet of Artisan Manufacturing and Production uses.

Adequate Public Facilities

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated March 17, 2025 and incorporates them in this Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section, in its stormwater management concept letter dated March 11, 2025, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section, in its letter dated April 10, 2025, with revisions May 3, 2025 and August 8, 2025, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letters, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

7. *Clearing/ Grading/ Demo Condition*

Before approval of a record plat or any demolition, clearing, or grading for the Subject Property, the Applicant must receive Planning Staff certification of this Preliminary Plan.

Record Plats

8. There shall be no clearing or grading of the site before the recordation of plat(s).
9. The record plat must show necessary easements, including those for private alleys, loading access, and fire department access.

Landscape Plan

10. Before issuance of a building permit, a landscape plan must be submitted to and approved by Planning Staff that includes, but is not limited to, the following elements:
 - a) A minimum of two shade trees to be provided in the Property's Dorsey Lane frontage/parking area.

Lighting Plan

11. Lighting

- a) Before Certified Preliminary Plan, the Applicant must include a lighting (photometric) plan.
- b) Before issuance of a building permit, the Applicant must provide certification to Planning Staff from a qualified professional that the exterior lighting conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- c) All new onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- d) Deflectors will be installed on new fixtures to prevent excess illumination and glare.
- e) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the private alleys.
- f) Streetlights and other pole-mounted lights must not exceed the height illustrated on the building permit plans.

- g) On the rooftop of the building, the light pole height must not exceed height illustrated on the building permit plans.

Private Roads

12. The Applicant shall maintain the existing Private Alleys, Dorsey Lane and Clipper Lane, including any existing improvements within the delineated private alley areas (collectively, the “Private Alleys”), subject to the following requirements:
 - a) The record plat will identify the existing Private Alleys.
 - b) The Private Alleys must be subjected by reference on the plat to a Declaration of Restrictive Covenant for Private Alleys recorded among the Land Records of Montgomery County, and by separate covenant in a form approved by the M-NCPPC Office of the General Counsel, outlining the responsibilities of the Applicant. The Covenant will include, but not be limited to the following requirements/conditions:
 - i) The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Alleys and all improvements located within the Private Alleys, in good condition and repair for safe use and operation of the Private Alleys. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every five (5) years, and reserves must be adequate to cover the costs of needed repairs.
 - ii) The Applicant must post and retain signage to notify the public that the Private Alleys are not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Alleys.

Parking and Loading

13. Prior to certification of the Preliminary Plan, an offsite parking agreement meeting the applicable requirements of Section 59-E.3.4 of the 2004 Zoning Ordinance shall be executed and recorded in the Land Records of Montgomery County for the 18 offsite parking spaces necessary to serve the Subject Property. The executed parking access agreement shall be referenced on the plat.
14. An access easement must be executed and recorded in the Land Records of Montgomery County for the purposes of ensuring safe and functional loading access to the Subject Property from the abutting property (5520 Clipper Lane). The executed access easement shall be referenced on the plat.

Certified Preliminary Plan

15. The certified Preliminary Plan must contain the following notes:

- a) *Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures, and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards, such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
- b) *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan must be on-site at all times.*

16. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set.
- b) Include the approved Fire Department Access Plan(s).
- c) Include the executed offsite parking agreement.
- d) Show the minimum 1,777 square feet of required green area.
- e) Provide a lighting (photometric) plan.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*
 - a) *The block design is appropriate for the development or use contemplated*
The block design is existing, and this Application makes no changes to it. The block design is appropriate for the proposed lot and Artisan Manufacturing and Production

uses of Ridgewells Catering kitchen facility. Further, the existing non-residential block design, to be maintained, is of a suitable length and width to accommodate pedestrians, parking, deliveries, and truck maneuvering.

b) The lot design is appropriate for the development or use contemplated

The lot design occupies the same area, shape and orientation as the existing unrecorded parcel. The proposed Artisan Manufacturing and Production use continues the Property's existing use as a food production facility for Ridgewells Catering. The Property's layout is unavoidably a through lot, an interior lot fronting on two streets. This is an unusual circumstance where the narrowness of the existing block of properties, including the Subject Property, located in-between Dorsey and Clipper Lanes, permits no other feasible way to subdivide. As such, the lot design is appropriate for the development and use contemplated.

c) The Preliminary Plan provides for required public sites and adequate open areas

i. Master Planned Sites

The Property is in the North River District of the 2016 Westbard Sector Plan. The Sector Plan does not include specific recommendations for public sites or open areas on the Property.

ii. Local Recreation

The Preliminary Plan does not include dedication of land for public recreation purposes. A rooftop green area will be an amenity space for employees of the facility.

iii. Transportation and Utilities

As the Property fronts on two private alleys (Dorsey Lane and Clipper Lane), no public transportation, utility, or frontage improvements are required and none are provided with this Preliminary Plan.

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

Section 59-7.7.1.C of the current Zoning Ordinance allows for expansion the Property's building floor area by up to ten percent, in accordance with the procedures and standards of the Property's zoning on October 29, 2014 (the 2004 Zoning Ordinance). The Subject Property was zoned I-1 on October 29, 2014, and as such, the development standards of the I-1 zone apply to this Preliminary Plan.

Section 59-7.7.1.C - Expansion of Floor Area

1. Limited Rights under Zoning before October 30, 2014

Until October 30, 2039, on land that is located in a Commercial/Residential, Employment, or Industrial zone, an applicant for an amendment to an existing approval or development, or a modification of an application listed in Section 7.7.1.B.1 may increase the floor area on the site under Section 7.7.1.C.2 or 7.7.1.C.3 following the procedures and standards of the property's zoning on October 29, 2014:

The proposed redevelopment conforms to these criteria regarding expansion of floor area under the zoning applicable to the Property before October 30, 2014. In accordance with Section 59-7.7.1.C.1 and C.2, a ten percent increase in floor area over existing conditions is approved in following the procedures and standards of the Property's zoning on October 29, 2014, which was the I-1 zone.

a. if the building does not exceed the height limits and density of the property's zoning in effect on October 29, 2014;

As illustrated in Table 1 below, the height of any new building will not exceed the height limit of 42 feet/3 stories and density of 18,805 square feet as prescribed by the I-1 zone.

b. if any building on the site is no closer to property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use than any existing structure on the site on October 30, 2014, or satisfies the setbacks of the current zoning; and

A new building will occupy the same general footprint as the existing structure and be no closer to property in a residential detached zone than the existing structure. The closest residential-detached zone properties that are vacant or improved with single-unit living are located over 300 feet west of the Property, beyond Little Falls Parkway. There is a property zoned R-60 fronting on River Road but this property is owned by and operated as a religious institution.

c. when a site plan or site plan amendment is required by the property's zoning on October 29, 2014, a site plan or a site plan amendment is approved under the standards of site plan approval on October 29, 2014.

A Site Plan is not required in the I-1 zone unless a project exceeds three (3) stories (59-C-5.41 of the 2004 Zoning Ordinance). The Application is only proposing a building of up to two (2) stories and therefore does not require a Site Plan.

2. *Commercial/Residential, Employment, and Industrial Zones*

Existing development in a Commercial/Residential, Employment, or Industrial zone may expand by up to the lesser of 10% of the gross floor area approved for the site on October 30, 2014 or 30,000 square feet, except for properties with 2,000 square feet or less of floor area, which may expand by up to 30% of the gross floor area approved for the site on October 30, 2014. Any expansion must satisfy Section 7.7.1.C.1. The gross floor area in a pending application listed in Section 7.7.1.B.1 may be expanded up to the full amount allowed under the property's zoning on October 29, 2014, but once the application is approved, the gross floor area may expand by up to the lesser of 10% of the gross floor area or 30,000 square feet.

The Preliminary Plan allows for an expansion of gross floor area of ten percent (+1,709 square feet), from an existing floor area of 17,096 square feet to a proposed floor area of 18,805 square feet.

As shown in Table 1, a ten percent increase in development density is in accordance with the terms of Section 59-7.7.1.C.1 and Section 59-7.7.1.C.2 as described in the findings above; and with the conditions of approval herein, the Preliminary Plan complies with the development standards for the I-1 zone of the 2004 Zoning Ordinance.

Table 1: Friendship Parcel 210 (Ridgewells Catering) Data Table for the I-1 Zone, Standard Method, Section 59-C.5.3 of the 2004 Zoning Ordinance²

Development Standard	Permitted/ Required	Proposed
Tract Area³	n/a	17,766 sf (0.407 acres)
Prior Dedication	n/a	0
Proposed Dedication	n/a	0

² The development standards of the I-1 zone of the 2004 Zoning Ordinance apply to this Preliminary Plan in accordance with the provision of Sections 59-7.7.1.C.1 and 2 of the 2014 Zoning Ordinance.

³ As Dorsey Lane and Clipper Lane are both private alleys, no dedication of rights-of-way for public use is required.

Development Standard	Permitted/ Required	Proposed
Site Area	n/a	17,766 sf (0.407 acres)
Density⁴	n/a	18,805 sf (1.06 FAR)
Minimum Lot Area	n/a	17,766 sf (0.407 acres)
Building Setbacks⁵	n/a	0 ft

2. The Preliminary Plan substantially conforms to the Master Plan.

a) Land Use

The Property is in the North River District of the 2016 Westbard Sector Plan. The Sector Plan recommends retaining the industrial land uses for the Property and other existing industrial properties along Dorsey Lane and Clipper Lane. The Preliminary Plan continues the existing industrial food production and warehouse uses of the Property, now classified as Artisan Production and Manufacturing under current Zoning Ordinance definitions, associated with Ridgewells Catering operation.

b) Environment

The Sector Plan does not include specific environmental recommendations for the Property. However, it does recommend planting of shade trees in parking lot islands and perimeter areas, and for the implementation of stormwater management improvements that apply to the Proposal.

The Property currently contains no trees or other vegetation and lacks any stormwater management features. This Preliminary Plan adds two shade trees to parking lot islands along the Property's Dorsey Lane frontage. The Plan also includes a stormwater management concept plan that has been approved by MCDPS. Stormwater management consisting of an eight-inch-thick green roof atop the new building is proposed.

c) Transportation

The Sector Plan does not include transportation recommendations that are applicable

⁴ The development density of 18,805 square feet is no more than 10 percent greater than the existing development density of 17,096 square feet (+1,709 square feet).

⁵ Section 59-C.5.33 of the 2004 Zoning Ordinance only requires a 10-foot building setback from lot lines from a street right-of-way, and a "street" is defined as a "public or dedicated way 30 feet or more in width." Clipper Lane and Dorsey Lane are only 15 feet wide and would not qualify as a "street". Therefore, no setback is required.

to the Property. The Preliminary Plan makes no changes of significance to the existing access, loading, or parking arrangements to serve the Property. As shown in Table 1, a total of 29 vehicle parking spaces are required. This quantity of parking spaces is provided, with 11 spaces on-site, along the Property's Dorsey Lane frontage, and 18 spaces in an existing, adjacent off-site parking lot, across Dorsey Lane. The existing, offsite parking lot is owned and operated by the Applicant. As conditioned, an offsite parking agreement meeting the applicable requirements of Section 59-E.3.4 of the 2004 Zoning Ordinance shall be executed and recorded in the Land Records of Montgomery County for the 18 offsite parking spaces necessary to serve the Subject Property, prior to certification of the Preliminary Plan.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a) *Roads and other Transportation Facilities*

i. *Existing Facilities:*

Dorsey Lane and Clipper Lane are private alleys serving the limited number of existing buildings and uses fronting on them.

Dorsey and Clipper Lanes both access River Road, MD-190, a major public thoroughfare. The County's Ride On Bus Route 23 and WMATA Bus Route T2 serve the River Road corridor, with bus stops located within walking distance of the Property.

ii. *Proposed public transportation infrastructure:*

As the Property fronts on two private alleys, no dedication of public right-of-way area is required. No other improvements are required or proposed to public transportation infrastructure.

iii. *Proposed private transportation infrastructure:*

Section 50-4.3.E.4 – Additional Standards for Private Roads

The Preliminary Plan maintains use of Dorsey Lane and Clipper Lane, both existing private alleys, to provide access to the Property. While the Preliminary Plan proposes no physical changes to the existing configuration and condition of the private alleys, this Section of the Subdivision Regulations requires the Applicant to justify the use of the private alleys (in lieu of public roads) for the proposed subdivision, and to provide a list of design elements for the private alleys that fall below current public road standards. Where Dorsey and Clipper Lanes are established and existing, a waiver from certain technical and platting criteria of Section 50-4.3.E.4 generally associated with the creation of private new

roads is included with respect to this Application and approval in accordance with the waiver provisions of Section 50-9 of the Subdivision Regulations.

a. Designating Private roads.

In general, except when a private road is identified in a master plan, the creation of public roads is preferred; an applicant must justify the use of a private road based upon the criteria below and the specific compelling circumstances of the property being developed.

This is a unique, specific, compelling circumstance in which both Dorsey and Clipper Lanes are existing, dead end, private alleys that were established over 100 years ago as common means of access to River Road for the limited number of properties fronting on them. Neither alley was previously dedicated to public use, and both are maintained and operated by the owners of properties fronting them. In this circumstance, MCDOT does not recommend nor request Dorsey Lane or Clipper Lane be dedicated to public use and it would be highly disruptive for all properties fronting on Dorsey and Clipper Lanes for the use of the private alleys to be discontinued.

b. Justification for a private road:

A subdivider who proposes a private road must provide a list of proposed design elements that do not meet public road standards, including context-sensitive road design standards or a previously approved Design Exception, and justify why those design elements are necessary for the proposed development. The justification for a private road must not be based solely on the installation of non-standard amenities that could be addressed under a Maintenance and Liability Agreement with the County.

As they exist as private alleys today, Dorsey and Clipper Lanes most closely relate to the service intent and design standards for public commercial alleys (as defined in Chapter 49 of the Code of Montgomery County). In comparing the existing conditions of Dorsey and Clipper Lanes with the public road standards for commercial alleys, the existing private alleys do not meet the following criteria:

(1) Minimum right-of-way width of 20' for an alley serving any non-residential zoning.

The existing rights-of-way for both Dorsey Lane and Clipper Lane are approximately 15 feet wide but generally allow for up to 20 feet of clear passage for vehicles.

(2) Maximum target speed, to be determined on a case-by-case basis.

Neither Dorsey Lane nor Clipper Lane has a posted speed limit and there are no apparent prior determinations of maximum target speeds for either road.

(3) Paving, with a primary paving section to include 8" concrete approved subgrade or an alternate paving section to include an approved subgrade of 3" bituminous concrete surface course in 2-1½" layers over a 5" bituminous concrete base.

No subsurface investigations within the private alleys were completed to determine the composition of the existing pavement sections.

While Dorsey and Clipper Lanes have adequately supported regular commercial vehicle traffic for many decades, as part of this Preliminary Plan a restrictive covenant for the maintenance of both roadways to ensure they continue to provide access and function as intended is required.

c. Standards.

Private roads must be built to the construction specifications of the corresponding public road concerning paving detail and design data, including surface depth and structural design. The road must be designed in accordance with sound engineering principles for safe use, including: horizontal and vertical alignments for the intended target speed; adequate typical sections for vehicles, pedestrians, and bicyclists; compliance with the Americans with Disabilities Act; drainage and stormwater management facilities; intersection spacing and driveway locations; parking; lighting; landscaping or street trees; and utilities. The width and cross section of a private road must meet the right-of-way specified in a master plan or be equal to the corresponding public road standard unless modified by the Board. Private roads must conform to the horizontal alignment requirements of this Chapter. If a road is allowed to be a private road, the approval of the road will not require the Department of Transportation to approve a Design Exception for any aspect of the road's design.

The Planning Board waives this requirement as described further below. As described in the Finding above, both Dorsey and Clipper Lanes are existing private alleys that were constructed at a time prior to the existence of current

roadway design requirements. This Preliminary Plan maintains the use of Dorsey and Clipper Lanes for access to the Subject Property, with no physical changes to the alleys proposed. The roads currently intersect with River Road at an acceptable grade and alignment and no changes are being proposed.

d. *Road classifications.*

When the Department of Transportation determines that the proposed road is not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility, and future potential transportation or other systemic needs that serve the public on a long-term basis, and is not needed to be part of the network modeled for area capacity, consideration will be given to making the following roads private:

- i. *Only roads classified as either Downtown Street, Town Center Street, Industrial, Neighborhood Street, Neighborhood Yield Street, or Alley may be considered by the Board to be private. All other road classifications must be public unless specifically permitted to be a private road by a master plan.*

While Dorsey Lane and Clipper Lane are existing private alleys, the *Master Plan of Highways and Transitways* classifies the eastern-most 300-foot section of Clipper Lane as a Town Center Street. Neither the *Master Plan of Highways and Transitways* nor the *Westward Sector Plan* provide specific classifications for Dorsey Lane and the western portion of Clipper Lane. Accordingly, they may be designated as private.

- ii. *Private roads with improvements above or below the pavement are only allowed in projects that require site plan review and approval.*

No new private roads are proposed. The Preliminary Plan proposes no improvements above or below the pavement of the existing private alleys Dorsey and Clipper Lanes. Site Plan review is not required.

- iii. *Private roads should not be permitted if they will create a segmented road ownership pattern, unless approved by the Planning Board.*

No new private roads are proposed and no alteration of the existing ownership pattern of the rights-of-ways for Dorsey and Clipper Lanes is proposed. Dorsey and Clipper Lanes have existed as private alleys for over 100 years. Land Records generally show that properties fronting on these

alleys have shared access rights to use them, but do not have any discrete ownership interests of the land within the private rights-of-way.

- iv. *Private roads must not be permitted if they will negatively affect development of other properties.*

No new private roads are proposed. Continuation of the existing access arrangements for Dorsey and Clipper Lane is proposed and appropriate. This maintains the existing development potential of nearby properties, which all depend on these private alleys for access to River Road, the nearest public roadway.

- v. *Except where a Master Plan indicates that a Downtown Street or Town Center Street could be private, a Downtown Street or Town Center Street may be a private road only when it is not required to provide an adequate traffic level of service. A private Downtown Street or Town Center Street may be approved only when the proposed road is either not a connector between two higher classification roads or a road that is not planned to extend beyond the boundary of the preliminary plan.*

Dorsey and Clipper Lanes are existing private alleys that solely provide the limited number of existing properties fronting on them with access to River Road. Both Dorsey and Clipper Lanes are dead end alleys that do not provide connections between other roadways and are not required to provide an adequate traffic level of service.

- vi. *An industrial road may be a private road only when the road is part of roads internal to the industrial site and the road is not a connector between higher classified roads.*

Neither Dorsey Lane nor Clipper Lane is classified as an industrial road and neither existing private alley is a connector between higher classified roads.

- e. *Certification.*

Before the Board may approve a preliminary plan, the subdivider must have an engineer certify that each private road has been designed to meet the standards required by this Section; however, when a site plan is required under Chapter 59, Article 59-7.3.4, the certification may be provided anytime before the approval of the site plan. The subdivider must then certify to the Department of Permitting Services that all construction complies with the design before release of the surety for the road.

As Dorsey and Clipper Lanes are existing and were constructed prior to the existence of the County's current road design requirements, the Applicant's engineer is not able to certify their design and construction conform with the requirements. As such, the Applicant is requesting a waiver from conformance with this requirement.

Section 50-9.3 - Subdivision Waiver – Private Road Requirements

In accordance with the Subdivision Regulations, the Applicant requested waivers from the requirements of Section 50-4.3.E.4.c and Section 50-4.3.E.4.e, relative to roadway design standards and engineer certifications thereof, as discussed in the Findings above, and further requested waivers from the requirements of Section 50-4.3.E.6.b regarding certain platting requirements for the private roadways and Section 50-4.3.E.6.d.i regarding certain required restrictive covenant language for private roadways.

In accordance with Section 50-9.3.A, to grant the Subdivision Waiver, the Planning Board must find that:

To grant a waiver, the Board must find that:

- (1) due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;*

Section 50-4.3.E.4.c of the Subdivision Regulations generally requires that private roads be built to the construction specifications of the comparable public road type. In this case, Dorsey and Clipper Lanes are existing and were created as private alleys well before current roadway design requirements were adopted. As discussed throughout Finding 3, while Dorsey and Clipper Lanes are both most comparable to the modern public commercial alley road type, they do not fully align with those design standards. In this instance, it is not practical to require reconstruction of the existing private alleys to current standards because the Applicant does not own the roads and shares common interests in them with multiple parties, and both roads are existing, serving the businesses and residents that front on the roads. In addition, MCDPS Fire is requiring the Applicant to record fire access easements at specific locations from Dorsey Lane and Clipper Lane to assure adequate fire access and emergency vehicle turn around space. The Planning Board therefore approves the waiver request.

Section 50-4.3.E.4.e of the Subdivision Regulations requires the subdivider to have an engineer certify that each private road has been designed and constructed to meet the standards required by this Section. As noted above regarding Section 50-4.3.E.4.c, Dorsey and Clipper Lane are existing private alleys that do not fully align with their comparable public road type requirements. Thus, the Applicant's engineer cannot certify that Dorsey and Clipper Lanes are constructed to current requirements because they were constructed prior to the adoption of the Subdivision Regulations and current road design requirements and no changes are proposed to the private alleys. Additionally, MCDPS Fire and MCDOT have reviewed the plans and recommended approval with the current private road conditions and inclusion of fire access easements. The Planning Board therefore approves the waiver request.

Section 50-4.3.E.6.b of the Subdivision Regulations requires a private road to be platted as a road parcel, except as allowed by Subsection c, and remain open and unobstructed for use at all times as part of the project's common area. As determined through this Preliminary Plan, ownership of the land comprising the rights-of-way for Dorsey Lane or Clipper Lane is unknown, but Land Records show each Lane as a right-of-way providing non-exclusive access to properties that abut them. The Applicant does not possess the legal authority to plat either roadway within a road parcel. As an appropriate alternative, the Applicant will include notes on their future plat regarding their access easements rights and to show the existing private alleys on the plat without including them in a road parcel. At least two other existing plats (Plats No. 12024 and No. 6482) for land in the vicinity show Dorsey Lane and/or Clipper Lane in this manner. It is the Applicant's intention for both roadways to remain open and unobstructed for use at all times, consistent with the current, existing use of the roadways. As further detailed below, the Applicant shall enter into a restrictive covenant for maintenance of the private alleys, which will further ensure Dorsey and Clipper Lanes remain open for use. The Planning Board therefore approves the waiver request.

Section 50-4.3.E.6.d.i requires all private roads to be recorded with a restrictive covenant approved by the Planning Board showing that the road is designed and constructed in a manner that satisfies the requirements of this Chapter, and the roads accommodate all requirements made by the Montgomery County Fire Marshall for emergency access, egress, and apparatus. The Preliminary Plan accommodates all requirements made by the Montgomery County Fire Marshall, as shown in their approval letter. However, as discussed in the Findings above, as the existing conditions of Dorsey and Clipper Lanes do not fully conform with road design standards

of the Subdivision Ordinance, the restrictive covenant cannot specify such. The Applicant requests to waive the restrictive covenant requirement regarding this certification and the Planning Board approves this waiver request.

(2) the intent of the requirement is still met; and

The above referenced Sections of the Subdivision Regulations are generally intended to ensure the technical aspects for the construction, operation, maintenance and platting of private roads are addressed during the Preliminary Plan process. Unique to this Preliminary Plan, Dorsey and Clipper Lanes are existing private alleys, built prior to modern standards, with access rights shared amongst multiple properties. As discussed in the Findings above, where the Preliminary Plan does not fully conform with requirements, waivers are required either due to practical necessity and/or to request to utilize an alternative means of conforming with the intent of the requirement, and the intent of all requirements is met.

(3) the waiver is:

a. the minimum necessary to provide relief from the requirements; and

The requested waivers are the minimum necessary, in light of the facts and circumstances of this particular application, to provide relief from the four specific requirements discussed above while allowing for platting and future redevelopment of the Subject Property.

b. consistent with the purposes and objectives of the General Plan.

The redevelopment of an aging light industrial building, with a new, similar light industrial building to support the continuation of a long-standing local business is in-line with the purposes and objectives of *Thrive Montgomery 2050* (the General Plan) relating to improvement of the County's economic health and environmental conditions.

b) Local Area Transportation Review (LATR)

The existing light industrial uses of the Property (Artisan Manufacturing and Production use) are to remain unchanged. The proposed 1,709 square-foot increase in the density of the development is estimated to generate one (1) new vehicle trip in the morning peak hour and one (1) new vehicle trip in the evening peak hour. The 2024-2028 *Growth and Infrastructure Policy* requires a transportation impact study for any project that is estimated to generate a net increase of 30 or more vehicle trips in either the morning or evening peak hours. This Preliminary Plan's cumulative increase of

two (2) total peak hour vehicle trips per day is well below the threshold for requiring a transportation impact study. The transportation exemption statement included with the Preliminary Plan application satisfies the LATR review requirement.

c) Schools

The Proposal is relative to an industrial property and uses and will have no impact on public school capacity.

d) Other Public Facilities and Services

The Property is served by public water and sewer and is classified in the W-1 and S-1 categories. Public water and sewer mains currently serve the Property, which will be adequate to serve the proposed subdivision.

Dry utilities including electricity, gas, and telephone are also available to the Property. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect. As conditioned herein, the Preliminary Plan will provide easements necessary to ensure adequate emergency vehicle access and it will provide a restrictive covenant ensuring long-term access and maintenance of the private alleys.

4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.

A Forest Conservation Exemption, designated as NRI/FSD No. 42025040E, was confirmed for the Property on October 21, 2024. Thus, this Application is subject to Chapter 22A Forest Conservation Law but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1) as the activity is occurring on a tract of land less than 1.5 acres with no existing forest, no specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

MCDPS approved the Stormwater Management Concept Plan on March 11, 2025. The plan will meet stormwater management requirements using an eight-inch-thick green roof and partial waiver of the stormwater requirements.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 4.3.M*

The Applicant does not have any notice, actual or constructive, of the existence of a burial site on the Property and none are included in the Montgomery County cemetery inventory.

7. *Any other applicable provision specific to the property and necessary for approval of the Administrative Subdivision is satisfied*

There are no other applicable provisions specific to the Property and necessary for approval of the subdivision.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

October 6, 2025

(which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 3-0; Chair Harris, and Commissioners Hedrick and Linden, voting in favor of the motion, Vice Chair Pedoeem and Commissioner Bartley necessarily absent, at its regular meeting held on Thursday, October 2, 2025, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board