

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

MARCH 27, 2026

MCPB No. 26-20
Preliminary Plan Amendment No. 12020017A
College View Campus
Date of Hearing: March 12, 2026

RESOLUTION

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

WHEREAS, on November 4, 2020, the Planning Board, by Resolution MCPB No. 20-107, approved Preliminary Plan No. 120200170, creating three lots on 4.98 acres of land in the CRT-0.75, C-0.25, R-0.50, H-40 and R-60/TDR-12 zones, located on the east side of Frederick Road, approximately 500 feet north of Cider Press Place (“Subject Property”), in the Germantown East Policy Area and 2009 *Germantown Employment Area Sector Plan* (“Sector Plan”) area; and

WHEREAS, on March 12, 2025, BRL Holdings, LLC (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to reinstate Preliminary Plan No. 120200170 and extend the Adequate Public Facilities (“APF”) validity period by five (5) additional years; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12020017A, College View Campus (“Preliminary Plan,” “Amendment,” 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 February 27, 2026, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 12, 2026, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Pedoeem, seconded by Vice Chair Linden, with a vote of 4-0; Chair Harris, Vice Chair Linden, and Commissioners Bartley and Pedoeem voting in favor; Commissioner Hedrick was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12020017A to reinstate Preliminary Plan No.

120200170 and extend the APF validity period by five (5) additional years by modifying the following condition and adding a new condition:¹

Modified Condition

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facility (“APF”) review for the Preliminary Plan Amendment will remain valid for five (5) years from the current expiration date until November 4, 2032, according to the following development schedule as shown on the Certified Preliminary Plan:

Phase I – Within 60 months or by November 4, 2030

Obtain building permits for up to 45 multi-family units (either Building A or B).

Phase II – Within 72 months or by November 4, 2031

Obtain building permits for up to an additional 97 multi-family units for a cumulative total of up to 142 multi-family units (Building A or B).

Phase III – Within 84 months or by November 4, 2032

Obtain building permits for up to 47,887 square feet of commercial uses (Building C).

New Condition

Plan Validity Period

26. The Preliminary Plan will remain valid for one (1) year from the initiation date of Preliminary Plan Amendment No. 12020017A (as defined in Montgomery County Code Section 50.4.2.G). 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.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

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

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.

consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

Preliminary Plan Reinstatement

Section 50.4.2.H.2.a of the Montgomery County Code states that failure to submit an extension request in a timely fashion will void all non-validated portions of a preliminary plan. Section 50.4.2.H.2.b. further states that the Board may reinstate a Preliminary Plan and establish a new validity period, with or without a new APF review, if the Applicant demonstrates practical difficulty or undue hardship.

2. Effect of failure to submit a timely extension request.
 - a) The failure to submit a written extension request in a timely fashion voids all non-validated portions of the preliminary plan and, where applicable, an approved site plan.
 - b) Where a preliminary plan has been allowed to expire due to the applicant's failure to file a timely request for extension, the Board may reinstate the preliminary plan and establish a new validity period if practical difficulty or undue hardship is demonstrated by the applicant. The Board may require the applicant to get a new APF review and approval by the Board as a prerequisite or condition of its action to extend an expired plan.

For this Amendment, the reinstatement of the Preliminary Plan establishes a new one (1) year Preliminary Plan validity period and extends the existing APF validity period for five (5) years. The reinstatement will allow the Applicant to plat the three lots for the construction of two multi-family residential buildings and one commercial building, and to complete the required public infrastructure and improvements.

As detailed in Table 1 below, the Preliminary Plan was originally approved on November 4, 2020, with a 3-year validity period starting on the 30-day initiation date of December 4, 2020, and expiring on December 4, 2023. The Preliminary Plan does not qualify for any extensions from County Council legislative actions because it was approved on November 4, 2020, approximately three months after the July 28, 2020, cutoff date for SRA No. 20-01.

Table 1: Approved Staged Development Validity Period

Action	Approved Development	Validity Duration	Validity Expiration
Original Preliminary Plan Approval (MCPB Resolution No. 20-107)	120200170	3 years	12/4/2023

3. Grounds for extension.

- a) The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:
 - i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or
 - ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant’s control and not caused by the applicant, have substantially impaired the applicant’s ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.
- b) The applicant bears the burden of establishing the grounds in support of the requested extension.

As detailed in the Statement of Justification for the reinstatement, the Applicant will suffer practical difficulty and undue hardship if unable to complete the final two steps required to plat the three lots. Originally, the Applicant filed the plat for the lots on January 20, 2021, three months after the Preliminary Plan was originally approved. While the plat has been actively under review, the project has experienced challenges and delays attributed to the Pandemic, as well as largely internal issues within the Applicant’s team, all of which contributed to significant delays in addressing agency comments relating to platting and permitting. Ultimately, the Grade Establishment Plan for the plat was approved on March 13, 2024, and the plat review by the Montgomery County Department of Permitting Services (“MCDPS”) was completed on June 5, 2024. The plat was then signed by the applicant and current mortgagor; however, it was deemed ineligible for the Planning Board agenda because the original Preliminary Plan validity period had lapsed.

In addition to the Grade Establishment Plan, the Applicant has filed for a sediment control permit with MCDPS, received approval from the Montgomery County Department of Transportation for a signage and pavement marking plan and temporary traffic control plan, and approval from the Washington Suburban Sanitary Commission (“WSSC”) for a hydraulic planning analysis. Currently, the Applicant is working towards approval of a right-of-way permit from MCDPS, an access permit from the Maryland State Highway Administration, approval of the WSSC system extension plan, and a Maryland Department of the Environment Notice of Intent to Discharge (“NOI”) permit.

The permits and approvals will remain pending until the Preliminary Plan is validated and the plats are recorded. In addition, the public infrastructure and improvements were not constructed for the three lots. By not reinstating the Preliminary Plan, the Applicant would incur practical difficulties and hardships, including the loss of time, effort, and resources invested in civil permitting work and post-approval financing to date. The Applicant’s request for reinstatement would allow them to proceed with platting the three lots and completing the public infrastructure and improvements, per the original Preliminary Plan approval.

4. Planning Board considerations for extension.

- a) The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.
- b) The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project’s viability upon request by the Board or the Director.

The Amendment will reinstate original Preliminary Plan No. 120200170 with a validity period of one year. The one-year period provides sufficient time for the Applicant to complete the platting process by recording the three lots, thus validating the Preliminary Plan. Following completion of the platting process, the Applicant will be able to proceed with construction of two multi-family residential buildings, one commercial building, and the required public infrastructure and improvements.

5. Planning Board Action.

- a) After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.
- b) If voting to approve an extension, the Board must only grant the minimum time it deems necessary for the applicant to validate the plan.
- c) The Board may only grant an extension to a preliminary plan within the plan's APF validity period, unless a further extension is allowed by law.
- d) An applicant may request, and the Board may approve, more than one extension.
- e) Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.

The Amendment will reinstate original Preliminary Plan No. 120200170 with a validity period of one year. The one-year period provides sufficient time for the Applicant to complete the platting process by recording the three lots, thus validating the Preliminary Plan. Following completion of the platting process, the Applicant will be able to proceed with construction of two multi-family residential buildings, one commercial building, and the required public infrastructure and improvements.

The Application to reinstate the Preliminary Plan does not alter the intent of the original approval, and the only changes to conditions of approval are those necessary to complete the record plat process and extend the APF validity period, as detailed below.

Adequate Public Facilities (APF) Validity Extension

Section 50.4.3.J.7 of the Montgomery County Code authorizes the Board to extend the validity period for a determination of APF, subject to the following findings:

7. Extensions.

- a) Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.
 - i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

The Applicant filed the request to extend the current APF validity period on March 12, 2025, before the expiration date of November 4, 2027.

- ii. The applicant must submit a new development schedule or phasing plan for completion of the project for approval.

Per this amendment, the development of the three-lot mixed-use subdivision will remain a multi-phase project, utilizing the phasing plan as originally approved in Preliminary Plan No. 120200170 (Table 2). The Amendment will be subject to the approved APF validity period. All buildings must be constructed prior to the expiration of the APF validity period.

Table 2: Preliminary Plan Validity Period and Adequate Public Facilities Phasing

Phase	Benchmark - See Conditions of Approval for Triggers	Previously Approved		Approved	
		PP Validity Period	APF Validity Period	PP Validity Period	APF Validity Period
I	Obtain building permits for 45 multi-family units (Building A or B) <ul style="list-style-type: none"> • Construct the extension of Cider Barrel Drive and Public Street A to approved public street standards. • Construct a natural surface trail as approved by M-NCPPC Staff, Montgomery College, and the MCDEP 	36 Months (3 Years) from Initiation Date ² 12/4/2020 – 12/4/2023	60 Months (5 Years) from Date of Mailing ³ 11/4/2020 – 11/4/2025	12 Months (1 year) from Planning Board Resolution	60 Months (5 Years) from Expiration ⁴ 11/4/2025 – 11/4/2030

² Initiation Date = 30 days + mailing date of November 4, 2020 (December 4, 2020)
³ Date of Mailing requirement is imposed by Preliminary Plan Condition 2 (November 4, 2020)
⁴ Expiration date is when the extended APF Validity Period lapses.

		Previously Approved		Approved	
Phase	Benchmark - See Conditions of Approval for Triggers	PP Validity Period	APF Validity Period	PP Validity Period	APF Validity Period
	<ul style="list-style-type: none"> Construct a 16-ft-wide asphalt shared use path with a minimum 6-ft-wide buffer from the edge of pavement along the full frontage of MD 355. 				
II	Obtain building permits for 97 additional multi-family units for a total of 142 units (Building A or B) <ul style="list-style-type: none"> Install a traffic signal at the intersection of Oxbridge Drive and MD 355. Improve the southern leg of the Cider Barrel Drive and MD 118 intersection to a right-in, right-out condition. Conduct signal optimization to reduce the average delay at the intersections of Middlebrook Road/MD 355 and MD 118/MD 355 as approved by staff from MCDOT and SHA. 		12 months (cumulative 72 months or 6 years) 11/4/2020 – 11/4/2026		60 Months (5 Years) from Expiration 11/4/2026 – 11/4/2031
		Previously Approved		Approved	
Phase	Benchmark - See Conditions of Approval for Triggers	PP Validity Period	APF Validity Period	PP Validity Period	APF Validity Period
III	Obtain building permits for 47,887 square feet of nonresidential uses (Building C)		12 months (cumulative 84 months or 7 years) 11/4/2020 – 11/4/2027		60 Months (5 Years) from Expiration 11/4/2027 – 11/4/2032

iii. For each extension of an adequate public facilities determination:

(a) the applicant must not propose any additional development above the amount approved in the original determination;

No additional development is proposed.

(b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;

No additional public improvements or conditions are required.

- (c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest;

A traffic study was completed in August 2019 as part of the original Preliminary Plan No. 120200170. This study stated that the approved development generated 104 new trips during the AM peak hour and 106 net new trips during the PM peak hour. No additional development is proposed; therefore, the traffic generated by this project has already been studied and approved. All previous conditions of approval related to transportation improvements will remain in effect; therefore, no new study is needed.

- (d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot; and

Not applicable because the lots are not recorded and are thus not part of a subdivision covered by a previous APF determination.

- (e) if the remaining unbuilt units would generate more than 10 students at any school serving the development, the Board must make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review.

Overview and Applicable School Test

The FY2026 Annual School Test, approved by the Planning Board on June 26, 2025 and effective July 1, 2025, is applicable to this application.

School Adequacy Test

The Application is served by Fox Chapel Elementary School ("ES"), Rocky Hill Middle School ("MS"), and Clarksburg High School ("HS"). Based on the FY2026 Annual School Test, the student enrollment and capacity projections for these schools are noted in the following table:

Table 3: FY2026 Annual School Test Projections (2029-2030 School Year) & UPP Tier Placements

School	Program Capacity	Enrollment	Utilization Rate	Seat Surplus or Deficit	UPP Tier Placement
Fox Chapel ES	665	635	95.5%	+30	No UPP
Rocky Hill MS	1,020	1,043	102.3%	-23	No UPP
Clarksburg HS ⁵	2,020	1,881	93.1%	+139	No UPP

Based on the FY2026 Annual School Test results above, the Application is not subject to any UPP by default. However, if the Application's enrollment impact estimate exceeds an adequacy ceiling shown below in Table 4, a payment will be required.

Table 4 - FY2026 Annual School Test Adequacy Ceilings

School	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Fox Chapel ES	104	163	263
Rocky Hill MS	97	181	334
Clarksburg HS	299	543	846

Based on the School Impact Area classification and net residential units proposed, this project's enrollment impact during an average year throughout its life is estimated to be 17 elementary school students, 9 middle school students, and 11 high school students, as shown below in Table 5.

⁵ Projected enrollment is modified to estimate the impact of Crown HS (CIP P651909), reflecting the scope of the boundary study approved by the Board of Education on March 19, 2024. Due to the delay of the Damascus HS Major Capital Project (CIP P652102), some of the boundary changes can be implemented in phases.

Table 5 - Student Enrollment Impact Estimate (reflects FY2026-2027 Student Generation Rates)

Type of Unit	Net Number of Units	Turnover ES Student Generation Rate	ES Student Estimate	Turnover MS Student Generation Rate	MS Student Estimate	Turnover HS Student Generation Rate	HS Student Estimate
MF Low-rise	142	x 0.123	= 17.466	x 0.064	= 9.088	x 0.083	= 11.786
TOTAL (rounded down)			17		9		11

The enrollment impact estimate does not exceed the adequacy ceilings identified in Table 4. Therefore, a Utilization Premium Payment is not triggered.

Section 50.4.3.J.7.d of the Subdivision Regulations sets forth the specific criteria below that must be satisfied for approval of the extension of the APF determination for a nonresidential or mixed-use subdivision development, as follows:

- d) Nonresidential or mixed-use subdivisions.
 - i. The Board may extend a determination of adequate public facilities for a preliminary plan for nonresidential or mixed-use development beyond the otherwise applicable validity period if:
 - (a) the Department of Permitting Services issued building permits for structures that comprise at least 40% of the total approved gross floor area for the project;
 - (b) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
 - (c) the Department of Permitting Services either issued occupancy permits or completed a final building permit inspection for:
 - (1) structures that comprise at least 10 percent of the total gross floor area approved for the project within the 4 years before an extension request is filed; or

- (2) structures that comprise at least 5 percent of the total gross floor area approved for the project within the 4 years before an extension request is filed, if structures that comprise at least 60 percent of the total gross floor.
- iii. The length of any extension of the validity period granted under 7.d.i must be based on the approved new development schedule under 7.a.ii, but must not exceed:
 - (a) 2.5 years for a subdivision with an original validity period of 7 years or less; or
 - (b) 6 years for a subdivision with an original validity period longer than 7 years.

The Preliminary Plan has not been validated; therefore, the Applicant has not obtained a building permit or commenced construction. Additionally, the Preliminary Plan has 2 years of APF validity remaining because it was originally approved with a phased APF validity period of 7 years. The Applicant is seeking a 5-year extension to the APF validity period to meet the original phased development schedule. Therefore, the Applicant requests a waiver from the findings established under both 50.4.3.J.7.d.i and 50.4.3.J.7.d.iii.

Subdivision Waiver – Section 50.9.1

Section 50.9.1 of the Subdivision Regulations authorizes the Board to modify or waive any portion of the Subdivision Regulations. In granting a waiver, the Planning Board must make certain findings, set forth in Section 50.9.3.A.

Per Section 50.9.3, to grant a waiver, the Planning 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;

As discussed above, since Preliminary Plan No. 120200170 was approved, the Applicant has encountered practical difficulties. To date, the three lots have not been platted, and consequently, the multi-family dwelling units and commercial uses were never constructed. Additionally, the public infrastructure and improvements were not constructed as per the original Preliminary Plan approval. The practical difficulties imposed on the project with the departure of the former development manager, in addition to the

impacts from the pandemic, have prevented the Applicant from validating the Preliminary Plan.

The Applicant has been unable to satisfy the requirements of 50.4.3.J.7.d.i because the Preliminary Plan must be validated and plats recorded before pulling building permits, occupancy permits and constructing infrastructure. Additionally, the Applicant is unable to satisfy the requirements of 50.4.3.J.7.d.iii because they create a practical difficulty by having a 3-phased project limited to 2.5 years. The Applicant needs additional time to secure financing for the project and obtain building permits for the first phase. In this case, the application of these sections is not needed to ensure public health, safety, and general welfare. However, if this Application is approved and implemented, the required improvements associated with this Project will improve elements of public safety by increasing connectivity, upgrading existing pedestrian and bicycle connections, and contributing to a more complete community with much needed housing in Germantown and for students at Montgomery College.

2. the intent of the requirement is still met; and

The intent of the APF review findings is to determine if the public facilities and services, including roads, other transportation facilities, water and sewer service, schools, police stations, firehouses and health clinics are adequate to support proposed development, according to the latest Growth and Infrastructure Policy. Similarly, the findings for extending APF are intended to determine if a new APF review is required and if the Applicant is progressing forward on a development or artificially inflating the development pipeline, which impacts other proposed developments. The Applicant is requesting a five-year extension of the APF, which is reasonable, considering the Preliminary Plan reinstatement and the efforts made to bring this project to fruition. Furthermore, the existing APF approval is valid until November 4, 2027, and no significant changes have occurred in the vicinity of the Subject Property that would necessitate a new APF review. The Applicant will need not only to have the Preliminary Plan reinstated, as discussed above, but also to have the current APF validity period extended so that the three lots can be platted, the project can move forward, and obtain building permits. The intent of the requirement will be met by reinstating the Preliminary Plan and extending the APF validity period. The Applicant will fully comply with the Conditions of Approval by platting the three lots and completing the required public infrastructure and improvements as approved with the original Preliminary Plan No. 120200170 and Site Plan No. 820200140.

3. the waiver is:
 - a. the minimum necessary to provide relief from the requirements; and
 - b. consistent with the purposes and objectives of the General Plan.

As discussed, the Applicant cannot meet the criteria for extending an exclusively non-residential subdivision because the Preliminary Plan must be validated before meeting any of the thresholds are met. As such, a waiver of Section 50-4.3.J.7.d is the minimum necessary to provide relief from the requirements. If approved, this Application, including the waiver, will provide a reasonable amount of time for the Applicant to plat the three lots and complete the public infrastructure and improvements as conditioned by the original Preliminary Plan. Once realized, this subdivision will provide needed housing within Montgomery County. The waiver is consistent with the objectives of the General Plan (*Thrive Montgomery 2050*) because the development will provide needed housing and improvements to connectivity for pedestrian, bicycle, and vehicular infrastructure. The Application will provide up to 142 multi-family units, including 25% MPDUs, which meets the General Plan's recommendation for increasing the overall housing supply to meet the needs of a growing population, and provide housing for students at neighboring Montgomery College. The Application will also provide improved connectivity for Cider Barrel Drive and Frederick Road, in addition to an off-site trail connection for pedestrians to Montgomery College. This meets the General Plan's recommendation to emphasize multimodal transportation by providing connectivity for walking, biking, and transit to-and-from the new residential dwelling units.

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

MARCH 27, 2026

(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 Vice Chair Linden, seconded by Commissioner Bartley with a vote of 3-0-1; Chair Harris, Vice Chair Linden, and Commissioner Bartley voting in favor of the motion, Commissioner Hedrick abstained and Commissioner Pedoeem was necessarily absent, at its regular meeting held on Thursday, March 26, 2026, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

Approved as to
Legal Sufficiency: /s/ Matthew Mills
M-NCPPC Legal Department