

CONSENT ITEM # _____
MCPB 10/5/06

MEMORANDUM

DATE: September 22, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Michael Ma, Supervisor *Ma*
Development Review Division
FROM: Joshua C. Sloan, ASLA *JS*
Development Review Division
(301) 495-4597



REVIEW TYPE: Site Plan Amendment Review
CASE #: 81985066B (formerly 8-85066B)
PROJECT NAME: Germantown Commons
APPLYING FOR: Approval of the required streetscape improvement plan for Parcel H and an extension of the deadline for the implementation of the proposed streetscape improvements.
REVIEW BASIS: Condition #9 of Site Plan Opinion 81985066A, dated October 15, 2003; Montgomery County Zoning Ordinance Section 59-D-3.7.
ZONE: Town Sector Zone
LOCATION: NW Quadrant of Germantown Road (MD 118) and Middlebrook Road
MASTER PLAN: Germantown
APPLICANT: Edens & Avant
FILING DATE: August 2, 2006
HEARING DATE: October 5, 2006

STAFF RECOMMENDATION: Approval of the proposed amendments to Site Plan 81985066A. Approval of the attached Draft Planning Board Resolution for Site Plan 81985066B. All prior approvals, including the conditions of approval, shall remain in full force and effect unless expressly modified through this amendment.

BACKGROUND

1. Original Site Plan Approval

Site Plan 8-85066 was approved by the Planning Board with conditions on August 8, 1985, which is an amendment to Site Plan 8-79037 for a mix of retail, theater, restaurant, and parking facilities on several TS zoned parcels.

This approval included a waiver to allow the construction of a building that crosses a lot line and is situated on Parcels "E" and "F"; the requirement for final landscape and lighting plans, site details, and revised plant selections; revised parking and vehicular patterns; a site plan enforcement agreement and development plan; the requirement to obtain various grading and ingress/egress easements as necessary.

2. Site Plan Amendment A

In 2001, Stomad Centers Germantown Commons, LLC purchased the property (now owned by Edens & Avant) and worked for approximately two years to find tenants to lease space before determining that the shopping center needed to be redeveloped in accordance with modern design and to integrate the space with neighboring uses and the Town Center. Site Plan 8-85066A was approved by the Planning Board with conditions on October 15, 2003 for a total of 199,529 square feet of commercial space for retail use and the renovation of the entire southern section of the landscaping and lighting along the internal driveways and parking areas. The landscaping, lighting, and streetscape improvements for the southern section of the shopping center have been completed.

This approval included several conditions, including adherence to the approved stormwater management concept plan; conditions imposed by Transportation Planning; signature set requirements; site design, lighting, and landscape design requirements and alterations; a site plan enforcement agreement; and site plan additions and amendment submittal requirements (Condition 9, page 4). Most importantly, the opinion stipulates that, "These streetscape improvements must be installed by the completion of building renovation in Parcel H but no later than 36 months after approval of the subject site plan [viz., October 15, 2006]."

PROPOSED AMENDMENT

The applicant filed the subject site plan amendment on August 2, 2006. This amendment fulfills the requirement for submittal of landscape and lighting plans required by Condition 9 of the approved Site Plan 81985066A. This amendment also requests an extension of the deadline for completing these improvements.

Although it was the original intent of the applicant to make these streetscape improvements to Parcel H without any renovation of the existing buildings, Edens & Avant have concluded that they need to make façade improvements to the existing buildings to bring them up-to-date and detail them in a manner similar to the buildings constructed during Phase I. This will greatly enhance the look and feel of this area of the site and make the entire site more pedestrian friendly. The amendment proposes an extension of the deadline to implement streetscape improvements, currently established as October 15, 2006, until August 31, 2008 to allow for the

design, permitting, and construction of façade renovations to the existing structures on Parcel H (Timeline attached). Further, this will allow the applicant to make significant improvements to the streetscape for this parcel as detailed below.

The approved Site Plan 81985066A contains a condition (Condition 9, page 4) requiring the submittal of site plans, landscape plans, and lighting plans for particular streetscape improvements. This condition was originally intended to be reviewed and approved at the staff level, but such staff level amendments are no longer allowed. The proposed amendment addresses all four sections of the condition as follows.

- a. The storefront sidewalk area is being completely renovated and enhanced with planting, lighting, and seating areas to bring the streetscape into congruence with Phase I streetscape improvements.
- b. The north public amenity area is being completely renovated and enhanced to contain the required honey locust street trees, approved furnishings, light fixtures, benches, and paving details. Further, the plantings, seating areas, and a greatly improved clock tower focal feature are included. Again, these improvements will bring this area of the shopping center into congruence with Phase I improvements and make the entire area more inviting and usable by pedestrians.
- c. The pedestrian connection to the rear parking lot has been greatly enhanced by paved sidewalks, lighting, and plant material in a manner that integrates these corridors and the rear parking lot into the entire site.
- d. The lighting plan for the entire project has been updated to show lighting levels for all parcels and where ownership and lease agreements do not allow for replacement and/or renovation of fixtures. The renovated streetscape lighting for the storefront sidewalk area, the north public amenity area, and the pedestrian connection to the rear parking lot conforms to the average max/min ratio of 5:1.

PUBLIC NOTICE

The applicant held a community meeting on July 25, 2006 (Affidavit attached). Three members of the public participated and each of them approved of the proposed architectural and landscape improvements.

A notice regarding the subject site plan amendment was sent to all parties of record by the applicant on August 16, 2006 (Notice attached). It gave the interested parties 15 days from the receipt of the letter to contact the Department of Planning with questions. We received a letter from the Germantown Alliance in support of the deadline extension and streetscape improvements. No additional comments on the proposed amendment were received.

STAFF REVIEW AND RECOMMENDATION

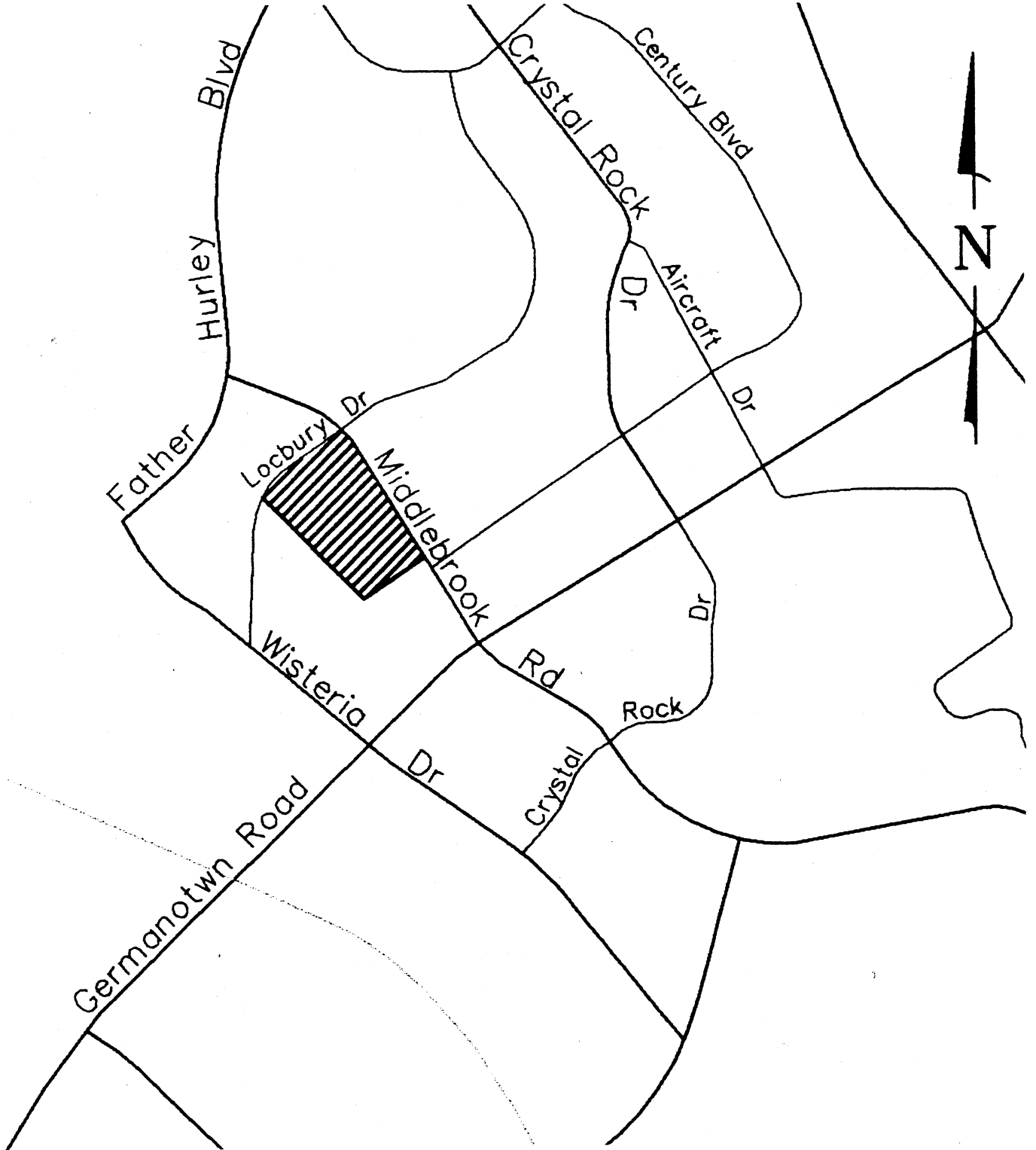
The proposed extension of the deadline to implement streetscape improvements to allow for façade renovations to the existing structures will enhance the final character of the development and allow for a more efficient and cost-effective construction process. The landscape and

lighting plans for the area of Parcel H to be renovated will greatly enhance the visual quality of the site and allow for more use and enjoyment by the public. Staff, therefore, recommends **approval** of the site plan amendment 81985066B.

ATTACHMENTS

- A. Vicinity Map
- B. Construction Timeline
- C. Affidavit
- D. Notice
- E. Draft Resolution

Attachment A: Vicinity Map for Site Plan 81985066B



Attachment B: Construction Timeline for Site Plan 81985066B



September 21, 2006

Memorandum

To: Josh Sloan
Maryland National Capitol Park and Planning Commission
From: David Van Duzer
Rounds VanDuzer, Architects

RE: **Germantown Commons**
Site Plan N 81985006B

As we discussed, Edens & Avant purchased the Germantown Commons Property about a year ago. They have been studying the Center so as to achieve its highest potential. As a result of this study, Edens & Avant has asked Rounds VanDuzer to work with them to design significant façade improvements to most of the remaining two wings of the shopping center. The façade improvements must be installed prior to the installation of the adjacent landscaping and streetscape to avoid damage during building construction. As a result, as described in my time line below, we will need until August 31, 2008 to ensure completion of all of the landscape and streetscape improvements. We are hopeful that we will be able to complete the landscaping in the fall of 2007. However, because we cannot plant in the winter months, we ask for the additional time to ensure that the landscaping survives.

Architectural and Construction Timeline

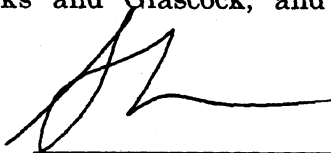
- A. Prepare Design Development and Construction Documents
October 1, 2006-January 26, 2007
- B. Submit Construction Documents To Montgomery County
Plans Review for Construction Permits
January 29, 2007
- C. Montgomery County First Review
January 29, 2007-April 23, 2007
- D. Rounds VanDuzer incorporates county comments
April 23, 2007-May 7, 2007
- E. Montgomery County Final Review
May 7, 2007-June 12, 2007
- F. Owner Architect General Contractor Negotiations
December 2006- May 2007
- G. Award Construction Contract
May 27, 2007
- H. Construction of Façade Improvements
June 11, 2007-October 22, 2007
- I. Construction Landscape Hardscape and Planting
September 10, 2007-November 16, 2007
- J. Project Completion
November 16, 2007

Attachment C: Affidavit of Meeting for Site Plan 81985066B

AFFIDAVIT

I, STACY SILBER, on behalf of EDENS AND AVANT, the owner of Germantown Commons ("Applicant"), being duly sworn depose and say:

1. In preparation for the filing of the Site Plan Application amendment, Applicant held a pre-submission meeting on July 25, 2006, at 7:00 p.m. at the Up County Regional Center, Room B;
2. Invitees included all adjacent property owners and civic associations within a one-mile radius as set forth on Exhibit "A";
3. Representatives of the Applicant included Mr. Brad Dumont of Edens and Avant, Jonathan Fritsch of Rounds VanDuzer, architects, Paul Newman of Macris Hendricks and Glascock, and Stacy Silber of Holland & Knight LLP.



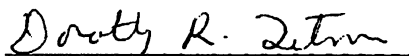
Stacy P. Silber

STATE OF MARYLAND

COUNTY OF MONTGOMERY, to wit:

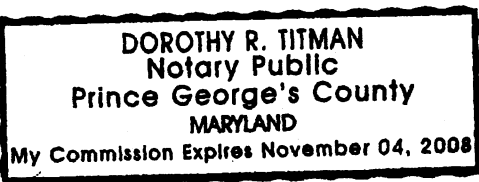
I hereby certify that on Sept. 21, 06 before the undersigned officer, a notary public in and for the State of Maryland, personally appeared STACY P. SILBER, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

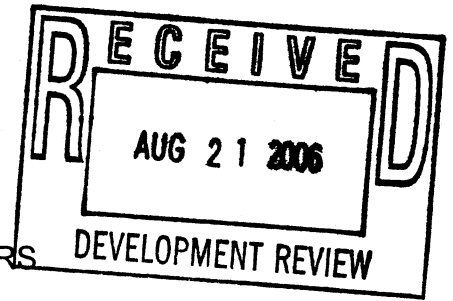


Notary Public

My commission expires:



Attachment D: Notice of Application for Site Plan 81985066B



CORRECTED NOTICE OF APPLICATION
ADJACENT AND CONFRONTING PROPERTY OWNERS
APPLICATION TO BE CONSIDERED BY
THE MONTGOMERY COUNTY PLANNING BOARD

August 16, 2006

(To be sent by the applicant, on his/her letterhead, copies of which are filed with M-NCPPC.)

PRE-PRELIMINARY PLAN _____
PRELIMINARY PLAN _____
PROJECT PLAN _____
SITE PLAN 81985066B (CORRECTED #)

Name of Plan Germantown Commons
Plan Number 81985066B
Current Zoning Town Sector Zone
Number of Proposed Lots/Area Included:
3 Parcels / 19.57 Acres
Geographical Location:
Northwest Quadrant of Germantown Road and Middlebrook Road

The above referenced plan application has been filed with the Montgomery County Planning Board and is being reviewed under the provisions of the Montgomery County Code.

A copy of the proposed plan is enclosed. This plan may change because of specific reviews and changes suggested by M-NCPPC and other county and state agencies. If you have any comments, please send them to the Development Review Division, Maryland-National Capital Park and Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20910-3760.

The Montgomery County Planning Board will hold a public hearing on the above referenced plan application to obtain public comment. Written notification of the public hearing date will be sent to you no later than ten days before the hearing.

Once notified, you will have fifteen (15) days from the receipt of this letter to contact Park and Planning for more information.

Attachment E: Draft Resolution for Site Plan 81985066B

MCPB No. _____
Site Plan No. 81985066B
Project Name: Germantown Commons
Hearing Date: October 5, 2006

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on December 20, 2005, Edens & Avant ("Applicant"), filed a site plan amendment application designated Site Plan No. 81985066B ("Amendment") for approval of the following modifications:

1. Approval of required streetscape improvements to Parcel H,
2. Extension of deadline for the implementation of streetscape improvements; and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated September 22, 2006 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on October 5, 2006, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 81985066B; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is _____ (which is the date that this opinion 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 within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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