



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Staff Report: Site Plan Amendment 82005020A, The Portico

CONSENT ITEM #: _____

MCPB HEARING

DATE: September 10, 2009

REPORT DATE: August 28, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RLK*
Robert Kronenberg, Supervisor *RAK*
Development Review Division

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APPLICATION

DESCRIPTION: Amendment to have the balconies removed from site plan drawings as a result of a settlement agreement for an enforcement action; located at 1203 Fidler Lane, approximately 100 feet southwest of Ramsey Avenue; Silver Spring CBD

APPLICANT: 1203 Fidler Lane, LLC

FILING DATE: July 7, 2009

RECOMMENDATION: Approval of the site plan amendment and adoption of the draft resolution.

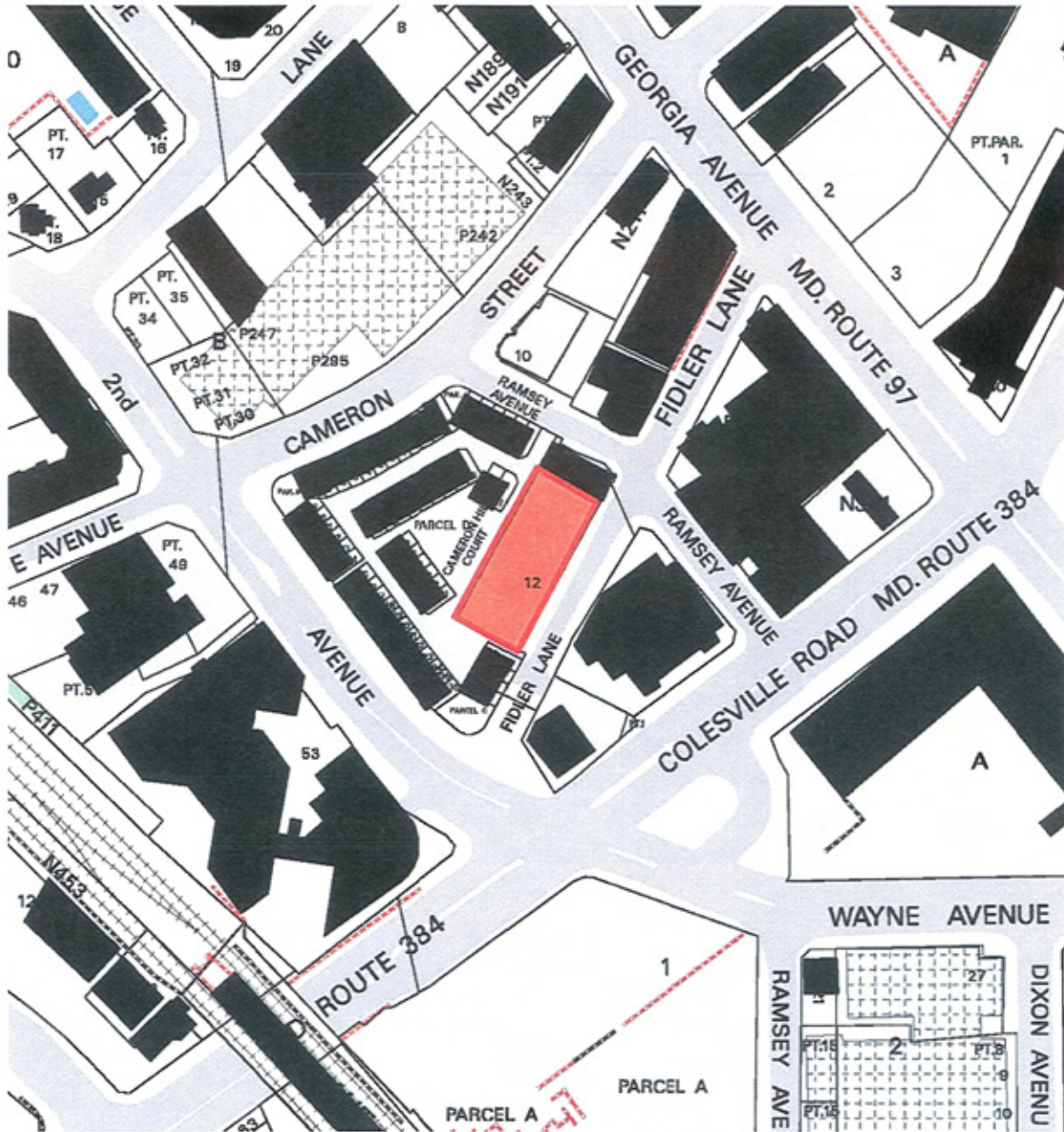
EXECUTIVE

SUMMARY: This amendment will ensure consistency between the certified site plan and the development as constructed. The approved certified site plan delineated balconies that were not constructed but integral to the design of the building and art work. A settlement agreement was reached as a result of an enforcement action. This consent amendment is being filed to satisfy the enforcement action and bring the plan and site into compliance.

SITE DESCRIPTION

Vicinity

The subject site is located at 1203 Fidler Lane, approximately 100 feet southwest of Ramsey Avenue adjacent to the Cameron Hill development, an office building, and a restaurant.



Vicinity Map

Site Analysis

The subject site is currently improved per Site Plan 820050200. There are no known rare, threatened, or endangered species on site. There are no known historic properties or features on site.

AMENDMENT DESCRIPTION

Previous Approvals

Project Plan

This plan is subject to the conditions of Project Plan 92004003A, which was approved for 170,000 gross square feet for 158 residential units, including 24 MPDUs, on February 22, 2005.

Preliminary Plan

This plan is subject to the conditions of Preliminary Plan 12004040A, which was approved for 170,000 gross square feet for 158 residential units, including 24 MPDUs, on February 22, 2005.

Site Plan

This plan is subject to the conditions of Site Plan 82005020, which was approved for 151 multi-family dwelling units, including 23 MPDUs on 0.65 acres on June 14, 2005, as modified by this amendment.

Description and Analysis of Amendment

A notice of violation (NOV) was issued to the Applicant on November 26, 2008 for non-compliance with the site plan, specifically for failure to install balconies that were shown on the site plan. A citation followed the NOV which initiated the settlement agreement between the Applicant and M-NCPPC.

The balconies were an integral part of the building design that created a vision for the art work in the public use space. Staff explored alternatives to the cast-in place balconies, but did not believe installation of balconies after the fact would be a satisfactory aesthetic or functional alternative and believed it would result in significant reconstruction of the occupied building. To satisfy one condition of the settlement agreement between the M-NCPPC and the Applicant due to the enforcement action, this amendment will ensure consistency between the approved certified site plan and the development as constructed by removing the balconies from the plan drawings.

PUBLIC NOTICE

A notice regarding the subject amendment was sent to all parties of record by the Applicant on July 10, 2009. The notice gave interested parties 15 days to review and comment on the amended site plan per Montgomery County Zoning Ordinance Section 59-D-3.7. Staff received inquiries from residents of the Cameron Hills neighborhood requesting further explanation of the amendment, but no opposition to the amendment was received.

STAFF RECOMMENDATION

Based upon the conditions of the settlement agreement, including submittal of an amendment to resolve the violation and payment of a fine, staff recommends approval of this amendment. The

proposed modifications to the site plan drawings ensure consistency between the approved certified site plan and the development. Further, although the lack of balconies significantly alters the aesthetic character of the development, it does not pose a negative impact on the adjacent properties. Staff recommends approval of Site Plan Amendment 82005020A.

APPENDICES

A. Draft Planning Board Resolution