



# County of Fairfax, Virginia

## MEMORANDUM

Office of the County Attorney  
Suite 549, 12000 Government Center Parkway  
Fairfax, Virginia 22035-0064  
Phone: (703) 324-2421; Fax: (703) 324-2665  
www.fairfaxcounty.gov

**DATE:** October 12, 2010

**TO:** Suzie Zottl, Staff Coordinator  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Bette R. Crane, Paralegal *[Signature]*  
Office of the County Attorney

**SUBJECT:** Affidavit  
SEA 80-P-025  
Applicant: Falls Church (E&A) LLC  
PC Hearing Date: 2/16/11  
BOS Hearing Date: Not yet scheduled

**REF.:** 109855

Attached is an affidavit which has been approved by the Office of the County Attorney for the above-referenced case. Please include this affidavit dated 4/27/10, which bears my initials and is numbered 109855, when you prepare the staff report.

Thank you for your cooperation.

Attachment  
cc: (w/attach) *[Signature]* Brenda Reagan, Planning Technician  
Zoning Evaluation Division  
Department of Planning and Zoning



# SPECIAL EXCEPTION AFFIDAVIT

DATE: April 27, 2010  
(enter date affidavit is notarized)

I, Mark A. Drogalis, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)       applicant  
                          applicant's authorized agent listed in Par. 1(a) below

109855

in Application No.(s): SEA 80-P-025  
(enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE:** All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Falls Church (E&A), LLC	1221 Main Street, Suite 1000, Columbia, SC 29201	Applicant/Title Owner
Edens & Avant Investments Limited Partnership	Same as Applicant/Title Owner	Agent for Applicant/Title Owner
Mark A. Drogalis, Esq.	Same as Applicant/Title Owner	Attorney/Agent for Applicant/Title Owner
Steven F. Teets, L.5.	7200 Wisconsin Avenue, Suite 400, Bethesda, MD 20814	Agent
Bradford M. Dumont	7200 Wisconsin Avenue, Suite 400, Bethesda, MD 20814	Agent

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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1(b). The following constitutes a listing\*\*\* of the SHAREHOLDERS of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)

Falls Church (E&A), LLC
c/o Edens & Avant Investments Limited Partnership
1221 Main Street, Suite 1000
Columbia, SC 29201

DESCRIPTION OF CORPORATION: (check one statement)

- [x] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)

Edens & Avant Investments Limited Partnership, sole member of Applicant/Title Owner

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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1(c). The following constitutes a listing\*\*\* of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)

Edens & Avant Investments Limited Partnership
1221 Main Street, Suite 1000
Columbia, SC 29201

(check if applicable) [ ] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

Table with 3 columns: Partner Type, Partner Name, and Description. Includes General Partner (Edens & Avant Administrative LLC) and Limited Partners (E&A Northeast Holdings, LLC; E&A Affiliates, LP; Edens & Avant Properties Trust).

(check if applicable) [X] There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

**Special Exception Attachment to Par. 1(c)**

DATE: April 27, 2010  
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(enter County-assigned application number (s))

**PARTNERSHIP NAME & ADDRESS:** (enter complete name & number, street, city, state & zip code)

Edens & Avant Properties Trust  
c/o Edens & Avant Investments Limited Partnership  
1221 Main Street, Suite 1000  
Columbia, SC 29201

(check if applicable)  The above-listed partnership has no limited partners.

**NAMES AND TITLES OF THE PARTNERS:** (enter first name, middle initial, last name, and title, e.g., General Partner, Limited Partner, or General and Limited Partner)

Trustees: There are eight (8) named individuals who are trustees of the Trust, none of whom hold a 10% or greater interest in Applicant/Title Owner.

Beneficiaries: State Treasurer of the State of Michigan Retirement System, State Employees' Retirement System, Michigan Judges' Retirement System ("SMRS") SMRS holds a 33.274% interest in Applicant/Title Owner; however, no one individual pension beneficiary has greater than a 10% interest in Applicant/Title Owner.

New York State Teachers' Retirement System ("NYSTRS") NYSTRS holds a 32.783% interest in Applicant/Title Owner; however, no one individual pension beneficiary has greater than a 10% interest in Applicant/Title Owner.

E&A Retail Investments LLC ("Retail"). The sole member of Retail is JP Morgan Chase Bank, as Trustee under Amended & Restated Trust dated November 13, 2001, as amended, for its Commingled Pension Trust fund (Strategic Property) (the "JP Morgan Trust") Retail holds a 33.942% interest in Applicant/Title Owner; however, no individual beneficiary of the JP Morgan Trust has a greater than 10% interest in Applicant/Title Owner.

(check if applicable)  There is more partnership information and Par. 1(c) is continued further on a "Special Exception Attachment to Par. 1(c)" form.

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1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

Application No.(s): SEA 80-P-025  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL EXCEPTION AFFIDAVIT**

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3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)

NONE

**NOTE:** Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

*Mark A. Drogalis*

(check one) [ ] Applicant [x] Applicant's Authorized Agent

Mark A. Drogalis, Esq., Attorney/Agent for Applicant/Title Owner  
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 27th day of April, 2010, in the State/Comm. of South Carolina, County/City of Richland/Columbia.

*Jacquelyn L. McClanahan*  
Notary Public

My commission expires: 1/28/14