THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission
Prince George's County Planning Board | Office of the Chairman

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PGCPB No. 2024-087 File No. 5-23065 through 5-23069

R E S O L U T I O N

WHEREAS, Konterra Environs Ventures, LLC is the owner of a 14.97-acre tract of land known as Parcel 4, said property being in the 1st Election District of Prince George's County, Maryland, and being zoned Town Activity Center-Core (TAC-C); and

WHEREAS, on August 12, 2024, Konterra Environs Ventures, LLC filed an application for approval of a Final Plat of Subdivision for 3 parcels and 219 lots; and

WHEREAS, the application for approval of the aforesaid Final Plat of Subdivision, also known as Final Plat 5-23065 through 5-23069 for Konterra Town Center, Plats 6–10, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission at a public hearing on September 5, 2024; and

WHEREAS, new Subdivision Regulations, Subtitle 24, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, pursuant to Sections 24-1704(a) and (b) of the Subdivision Regulations, the associated Preliminary Plan of Subdivision 4-07108 approval remains valid under the prior Subdivision Regulations and the subject final plats of subdivision are being reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the subdivision approval; and

WHEREAS, therefore, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed the application under the Subdivision Regulations, Subtitle 24, Prince George's County Code in existence prior to April 1, 2022; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application; and

WHEREAS, at the September 5, 2024 public hearing, the Prince George's County Planning Board approved the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Final Plat of Subdivision 5-23065 through 5-23069, including a Variation from Section 24-128(b)(12) of the Subdivision Regulations to modify the required 10-foot-wide utility easement along all the proposed private streets; and a Variation from Section 24-128(b)(7)(A) to permit single-family attached dwelling lots, which do not have frontage on a public right-of-way, to be served by alleys, pursuant to the conditions of Preliminary Plan of Subdivision 4-07198.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified with conditions, meets the applicable legal requirements of Subtitles 24 and 27 of the Prince George's County Code and the Land Use Article of the Annotated Code of Maryland.

2. **Background—**The subject property is located west of Konterra Drive, on the north and south sides of Fashion Place, at its intersection with Konterra Boulevard East and has an area of 14.97 acres. It is currently part of two parcels, both known as Parcel 4, and which are described by deed recorded in the Prince George's County Land Records in Liber 40138 folio 244. The site is located on Tax Map 9 in Grid D-3. The property is within the Town Activity Center-Core (TAC-C) Zone; however, these final plats (Plats 6 through 10) were submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations. Under the prior Zoning Ordinance, the site was within the Mixed Use-Transportation Oriented (M-X-T) Zone. Pursuant to Sections 24-1704(a) and (b) of the Subdivision Regulations, applications submitted under a valid subdivision approval, may be reviewed and decided in accordance with the Subdivision Regulations in existence at the time of the approval of the subdivision. These final plats were filed in accordance with a preliminary plan of subdivision (PPS) approval, obtained under the prior Subdivision Regulations, which remains valid.

   The subject site is being platted in accordance with PPS 4-07108 for Konterra Town Center East, which was approved by the Prince George's County Planning Board on July 24, 2008 (PGCPB Resolution No. 08-116) for mixed use development on 402.58 acres. The PPS approved 980 lots and 67 parcels for development of 5.9 million square feet of commercial, office, hotel, and residential uses. The property is also subject to a Detailed Site Plan, DSP-21033, which was approved by the Planning Board on June 30, 2022 (PGCPB Resolution No. 2022-80).

   The final plats contain 219 lots and three parcels and are in conformance with PPS 4-07108 and DSP-21033. However, the applicant requested the Planning Board's approval of two variation requests: (1) a variation from Section 24-128(b)(12) to modify the required 10-foot-wide utility easement along all the proposed private streets; and (2) a variation from Section 24-128(b)(7)(A) to permit single-family attached dwelling lots (which do not have frontage on a public right-of-way) to be served by alleys, as discussed further below.

3. **Setting—**The overall Konterra Town Center site is bounded to the north and east by the right-of-way (ROW) of Konterra Drive; west by the ROW for I-95/495 (Capital Beltway) and south by the ROW of MD 200 (Intercounty Connector). The subject property is specifically located on the east side of the downtown core area of Konterra Town Center and Konterra Boulevard. The site includes two development pods, one on each side of Fashion Place.

   The site is bounded on the west by Konterra Boulevard; and to the south, north, and east by property in the Town Activity Center–Core (TAC-C) Zone within the Konterra Town Center. A ROW containing Potomac Electric Power Company (PEPCO) utilities, a master-planned stream valley trail, and environmental features are adjacent to the site, to the north and east.

4. **Development Data Summary**—The following information relates to the subject final plats of subdivision.

	EXISTING	APPROVED
Zone(s)	TAC-C	TAC-C (Reviewed per prior M-X-T zoning)
Use(s)	Vacant	Mixed Use (Commercial and Residential)
Acreage	14.97	14.97
Lots	0	219
Outlots	0	0
Parcels	2	3
Variance	No	No
Variations	No	Yes, Section 24-128(b)(12) and Section 24-128(b)(7)(A)

The requested variations from Section 24-128(b)(12) and Section 24-128(b)(7)(A) of the prior Subdivision Regulations were received on April 13, 2023 and April 20, 2023, respectively. The variations were reviewed at the Subdivision and Development Review Committee (SDRC) meeting on April 28, 2023, as required by Section 24-113(b) of the prior Subdivision Regulations, as companion requests to Final Plats of Subdivision 5-23065 through 5-23069, titled Konterra Town Center, Plats 6–10.

5. **Variation**—The applicant filed two variation requests; a variation from Section 24-128(b)(12) to modify the required 10-foot-wide public utility easement (PUE) along all private streets, and a variation from Section 24-128(b)(7)(A) to permit single-family attached dwelling lots (which do not have frontage on a public ROW), to be served by alleys. The requirements of the prior Subdivision Regulations and the requested variations are discussed further below.

Section 24-128—Private Roads and Easements

(b) The Planning Board may approve preliminary plans of development containing private roads, rights-of-way, alleys, and/or easements under the following conditions:

(12) Private roads provided for by this Subsection shall have a public utility easement contiguous to the right-of-way. Said easement shall be at least ten (10) feet in width and shall be adjacent to either right-of-way line.

The applicant requested approval of a variation from Section 24-128(b)(12) to modify the PUEs (required for dry utilities) along private ROWs on Plats 6 through 10. The layout of the private ROWs was approved by the Planning Board with PPS 4-07108 on July 24, 2008, and with DSP-21033 on June 13, 2022.

Section 24-113 of the prior Subdivision Regulations sets forth the required findings for approval of this variation request.

There are four criteria that must be met for this variation to be approved (the fifth criterion is not applicable to the zoning of the subject property), which were addressed by the applicant's variation request dated April 12, 2023, incorporated by reference herein. The criteria, with discussion, are noted below.

(a) Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property;

In this particular case, not providing the required PUE in its standard location will not be detrimental to public safety, health, or welfare, or injurious to other properties. Instead of providing 10-foot-wide PUEs along one side of the private roads, 5-foot-wide PUEs are provided along the front and rear property lines of the lots, which will enable appropriate utility service for the dwelling units. The utilities will be sufficient to serve all of the residential lots accessed by those private roads. Therefore, this variation will not be detrimental to public safety, health, or welfare, or injurious to other properties.

(2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;

The conditions of this property are unique due to the standards of prior approvals which encourage the creation of an urban environment for this area. The design standards approved with the PPS 4-07108 and DSP-21033, create an urban environment with the residential units approximately 5 feet from sidewalks along the private streets and approximately 7 feet from the alleys in the rear. Although the 10-foot-wide PUEs are not provided along one side of the private roads, 5-foot-wide PUEs are provided along the front and rear of the lots to serve the community. Also, 10-foot-wide PUEs are located along the public ROWs to allow the continuance of utilities for future development within the Konterra Town Center. The applicant's request to modify the PUE requirement along the private streets is warranted, given the unique nature of the design standards within the development.

(3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and

The variation from Section 24-128(b)(12), is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The final plats and the variation request for the modification of PUEs were referred to the public utility companies. No referred agency opposed this request. The proposed utilities will need to be designed in direct coordination with the individual utility companies, in order to meet all utility service requirements and design standards, at the time of permitting. There are no applicable laws, ordinances, or regulations that will be violated if this variation is granted.

(4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

The overall land development parcel is traversed in the northern section of the property by a fee simple PEPCO ROW, which is 400 feet wide and contains high-voltage transmission lines. Development adjacent to such utilities is subject to required setbacks and buffering. The site is also surrounded by major arterial roads, MD 200 and I-95/495, which creates denied access to half of the site. The alignments and construction of the ROWs were determined by government agencies, and this restriction results in very limited access to the development pods. In addition, the southern and eastern portion of the site is impacted by environmental features such as streams, wetlands, and a floodplain. The property is also adjacent to an area designated to contain rare, threatened or endangered species. These circumstances result in extraordinary situations and conditions upon the subject property that result in confined development areas. Requiring 10-foot-wide PUEs along the private streets would require expansion of lots and development areas that would result in a particular hardship to the property owner, whereas an alternative design can accommodate the necessary utilities in a more compact and urban design that yield the same results.

The required criteria of approval for a variation from Section 24-128(b)(12), for modification of the standard 10-foot-wide PUE requirement along private streets are met. The purposes of the prior Subdivision Regulations and Section 9-206 of the Environment Article are served to a greater extent by the alternative proposal; and PUEs, as provided on the subject plats, are approved.

Section 24-128(b)(7) In Comprehensive Design and Mixed-Use Zones:

(A) For land in the V-L, V-M, R-L, R-S, R-M, R-U, M-U-I, L-A-C, M-A-C, M-X-C, M-U-TC, and M-X-T Zones, the Planning Board may approve a subdivision (and all attendant plans of development) with private roads to serve attached single-family

dwellings, two-family dwellings, and three-family dwellings, but not single-family detached or multifamily dwellings, in accordance with the requirements of Subsections (e) and (f) of Section 27-433 of the Zoning Ordinance, except as hereinafter provided. In all of the above zones, and in the R-R Zone when developed as a cluster subdivision, the Planning Board may approve a subdivision with alleys to serve any permitted use, provided the lot has frontage on and pedestrian access to a public right-of-way. The District Council may disapprove the inclusion of alleys during the consideration of the detailed site plan for a cluster subdivision. For the purposes of this Section, an "alley" shall mean a road providing vehicular access to the rear or side of abutting lots, and which is not intended for general traffic circulation.

(i) The pavement width of private roads may be reduced to not less than a minimum of twenty-two (22) feet when it is determined that the provision of the minimum width is consistent with a safe, efficient, hierarchical street system for a development.

(ii) The pavement width of private alleys shall be not less than eighteen (18) feet when it is determined that the provision of the minimum width is consistent with a safe, efficient, vehicular access to individual lots. Since alleys only provide vehicular access to lots with frontage on a public street, alleys shall not be required to be improved with street trees or curb and gutter, unless a drainage problem has been identified by the Department of Permitting, Inspections, and Enforcement or the Department of Public Works and Transportation.

Pursuant to PPS 4-07108, the applicant submitted a variation from the above requirement, which restricts the use of alleys to serve lots with frontage on a public ROW. The variation is necessary to support the lotting pattern, which includes all lots on Plats 6, 7, 9, and 10. These lots are served by alleys and front on private ROWs and open space, instead of on a public ROW.

Section 24-113 of the prior Subdivision Regulations sets forth the required findings for approval of this variation request.

There are four criteria that must be met for this variation to be approved (the fifth criterion is not applicable to the zoning of the subject property), which were addressed by the applicant's variation request dated April 19, 2023, incorporated by reference herein. The criteria, with discussion, are noted below.

(a) Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this

Subtitle and Section 9-206 of the Environment Article; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

(1) The granting of the variation will not be detrimental to the public safety, health, or welfare, or injurious to other property;

The overall development site has vehicular and pedestrian access to and from public ROWs. It was also demonstrated, at the time of DSP, that all lots are served by a 22-foot-wide fire access road and include a personnel door on each dwelling within 150 feet of the fire access road. Since adequate access to all units is provided via private streets and alleys, there is no need for additional public streets within the development. The provision of these elements, in lieu of public streets, will not affect any adjacent properties. For these reasons, the Planning Board finds that with approval of this variation, the layout of lots on the final plat, as designed, will not be detrimental to public safety, health, or welfare, or injurious to other properties.

(2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;

The standards of prior approvals encourage the creation of an urban environment for this development. PPS 4-07108 and DSP-21033 both utilize private streets and alleys for access to the dwelling units. The design standards and lotting pattern approved with PPS and DSP create an urban environment, with the townhouse units approximately 5 feet from the sidewalks along the private streets and approximately 7 feet from the alley in the rear. These urban standards cannot be met with the current design standards for public roads. The private roads include the same elements found within public roads except that they are designed to accompany an urban setting while still providing life, safety, and accessibility standards. The use of private streets and alleys is necessary to provide circulation and on-street parking for this development. These conditions are unique to the property and not generally applicable to other properties.

(3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation; and

Granting the variation will not be in violation of any law, ordinance, or regulation. The variation from Section 24-128(b)(7)(A), in accordance with Section 24-113, is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The design of this subdivision was reviewed with the PPS and DSP applicable to the subject site and does not change the operational nature of the lot access, which was previously approved.

(4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

The overall land development parcel is traversed in the northern section of the property by a fee simple PEPCO ROW. This ROW is 400 feet wide and contains high-voltage transmission lines. Development directly adjacent to such utilities is subject to required setbacks and buffers. The site is also surrounded by major arterial roads MD 200 and I-95/495, which creates denied access to half of the site. This restriction results in very limited access to the development pods. In addition, the southern and eastern portion of the site is impacted by environmental features such as streams, wetlands, and a floodplain. The property is also adjacent to an area designated to contain rare, threatened or endangered species. These circumstances result in extraordinary situations and conditions upon the applicable land that result in defined development areas. The current standards for urban residential roads are detailed in Department of Public Works and Transportation Standards 100.06 and 100.07. Standard 100.06 for an urban primary residential road includes a 60- to 70-foot-wide ROW with a 36- to 46-foot-wide travel lane, and 5-foot-wide sidewalks on both sides, separated from the travel lane by landscaped strips. Standard 100.07 for an urban secondary residential road includes a 50-foot-wide ROW with a 26-foot-wide travel lane, and 5-foot-wide sidewalks on both sides, separated from the travel lane by landscaped strips. Requiring public streets abutting all lots would require expansion of development areas that would result in a particular hardship to the property owner, whereas an alternative design can accommodate the necessary access and circulation in a more efficient manner for a compact and urban development layout.

Based on the preceding findings, approval of the variation will not have the effect of nullifying the intent and purpose of the Subdivision Regulations and Section 9-206 of the Environment Article, which, in part, is to encourage creative residential subdivision design that accomplishes the purpose of the Subdivision Regulations in a more efficient manner. The variation from Section 24-128(b)(7)(A) to permit the lots included in Plats 6, 7, 9, and 10, that do not have frontage on a public ROW, to be served by an alley, therefore, is approved.

6. **Referral and Comments from other Entities—**The requested variations were referred to the Prince George's County Department of Permitting, Inspections and Enforcement; Washington Gas; Baltimore Gas and Electric Company; Verizon; and AT&T. None of the referred agencies have opposed this request.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Bailey, seconded by Commissioner Washington, with Commissioners Bailey, Washington, Doerner, Geraldo, and Shapiro voting in favor of the motion at its regular meeting held on Thursday, September 5, 2024, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of September 2024.

Peter A. Shapiro
Chairman

By Jessica Jones
Planning Board Administrator

PAS:JJ:MV:tr

APPROVED AS TO LEGAL SUFFICIENCY

David S. Warner
M-NCPPC Legal Department
Date: September 3, 2024