

R E S O L U T I O N

WHEREAS, 1325 G Street Associates, LLP is the owner of a 402.58-acre parcel of land known as Parcels 130 and 4, located on Tax Map 9, in Grid B-2, said property being in the 1st Election District of Prince George's County, Maryland, and being zoned M-X-T; and

WHEREAS, on March 13, 2008, 1325 G Street Associates, LLP filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 980 lots (4,500 DUs) and 67 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-07108 for Konterra Town Center East 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 on July 24, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on July 24, 2008, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on 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 the Type I Tree Conservation Plan (TCPI/05/08-01), and APPROVED Variance Application No. VP-07108, and further APPROVED Preliminary Plan of Subdivision 4-07108, Konterra Town Center East, including Variations from Sections 24-130 and 24-121(a)(3) for Lots 1-980 and 67 parcels with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Include that part of Parcel 4 zoned R-R, to the south of the ICC right-of-way, and label it as an outparcel.
 - b. Revise general note 6.a. to reflect 760 attached dwelling units, as approved with CSP-07003.
 - c. Revise general note 7 to reflect the maximum of 5.9 million square feet of a mixture of commercial, retail, office and hotel uses, consistent with the approved CSP.
 - d. Revise the general notes to include a statement that this site is being developed under the M-X-T optional design.

- e. Revise the development data to reflect the standards approved and proposed, and what variances are required.
 - f. Revise general note 14 to reflect that mandatory dedication is being fulfilled by the conveyance of 41 acres (38 required) of off-site dedication.
 - g. Provide the existing parcel designations.
 - h. Provide a list of parcels and to whom they are to be conveyed.
 - i. Provide the accurate zoning break down and acreage.
 - j. Label to whom each parcel is to be dedicated.
 - k. Revise the zoning line to accurately reflect the R-R Zone, south of the ICC ROW.
 - l. Label the rights-of-way consistent with the master plan.
 - m. Reflect the Planning Board's decision regarding variations to Section 24-121(a)(3) for direct access onto A-56, and 24-121(a)(4), and variance to lot size.
2. Prior to the issuance of permits, a Type II tree conservation plan shall be approved.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan No. 19046-2007-00 and any subsequent revisions.
4. At the time of the first final plat, other than right of way for infrastructure, the applicant, the applicant's heirs, successors and/or assignees shall convey to the M-NCPPC 41± acres of open space located on the west side of I-95 in the northeast quadrant of the intersection of the proposed Intercounty Connector (ICC) and Old Gunpowder Road (as shown on DPR's Exhibit A). The land to be conveyed shall be subject to the following conditions:
- a. An original, special warranty deed along with a metes and bounds description of the property to be conveyed to the M-NCPPC (signed by the WSSC Assessment Supervisor) shall be submitted to DPR for their review and approval along with the final plat of the subdivision of any portion of the CSP-07003, including the residential component. Upon approval by DPR, the deed shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
 - b. The M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to final plat.

- c. The boundaries and acreage of land to be conveyed to the M-NCPPC shall be indicated on all development plans and permits, which include such property.
 - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of DPR. If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, The M-NCPPC) shall be submitted to DPR within two weeks, prior to applying for grading permits.
 - e. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by the M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by the M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. DPR shall inspect the site and verify that the land is in acceptable condition for conveyance, prior to dedication.
 - g. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of DPR.
 - h. The applicant shall terminate any leasehold interests on property to be conveyed to the M-NCPPC.
 - i. No stormwater management facilities, tree conservation or utility easements shall be proposed on land owned by or to be conveyed to the M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
 - j. The 41 acres is to be conveyed "as is" in its present condition, except that the above ground waste matter and materials of any kind and materials shall be removed as per Condition-5 f & g of the CSP-07003. The M-NCPPC shall grant a temporary easement for use and maintenance of the existing road on the dedicated parkland which transverses the dedicated parkland to an existing batch plant on the applicant's property. The temporary easement shall terminate at such time as M-NCPPC is prepared to construct recreational facilities on the parkland or needs exclusive use of this area of the property. The M-NCPPC shall provide 60 days notice of their intent to use the property to the applicant at which time the applicant shall discontinue use of the road and remove the road surface materials and any materials associated with the batch plant.
5. The applicant, the applicant's heirs, successors and/or assignees shall provide on-site private

recreational facilities as determined appropriate at the time of review of the detailed site plans (for the portion of the property including residential component). The recreational facilities shall be constructed in accordance with the standards outlined in the *Park and Recreation Facilities Guidelines*.

6. Prior to signature approval of the preliminary plan of subdivision, any roadway sections that are not consistent with the County Road Ordinance shall have approval of DPW&T or be approved for private maintenance.
7. Development of the site shall conform to CSP-07003, or as subsequently revised.
8. Prior to the approval of building permits, the applicant, the applicant's heirs, successors and/or assignees shall convey to the applicable homeowners association (HOA) or property owners/management association open space land as approved on the detailed site plan. Land to be conveyed to the HOA shall be subject the following:
 - a. Conveyance shall take place prior to the issuance of building permits for dwelling units shown on the DSP..
 - b. A copy of the unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a homeowners association shall be in accordance with an approved detailed site plan. This shall include, but not be limited to, the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements required by the approval process.
 - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a homeowners association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - g. Temporary or permanent use of land to be conveyed to a homeowners association for stormwater management shall be approved as part of the approved DSP.

- h. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.
- 9. The applicant, the applicant's heirs, successors and/or assignees shall submit three original recreational facilities agreements (RFA) to DRD for construction of recreational facilities on homeowners land, for approval prior to the submission of final plats other than right of way for infrastructure. Upon approval by DRD, the RFA shall be recorded among the County Land Records.
- 10. The applicant, the applicant's heirs, successors and/or assignees shall submit a performance bond, letter of credit, or other suitable financial guarantee for the construction of recreational facilities on homeowners land, prior to the issuance of building permits for dwelling units shown on the DSP which included the applicable recreational facilities.
- 11. Prior to the approval of a detailed site plan or final plat, which includes land currently encumbered by "WSSC waterline easement by condemnation to be abandoned and reconstructed" or for areas located in the new alignment, the applicant shall provide evidence of the reconstruction agreement, or WSSC consent.
- 12. Prior to the approval of the first detailed site plan, the applicant should demonstrate the satisfaction of the Health Department regarding issues of environmental site assessment and testing relating to the sand and gravel operation that existed on this site.
- 13. In conformance with the adopted and approved Subregion I Master Plan and consistent with the 2007 planning workshops for Subregion I, the applicant, the applicant's heirs, successors, and/or assignees shall provide the following:
 - a. Provide an asphalt stream valley trail along the eastern edge of Konterra Town Center East as shown on the conceptual trail plan.
 - b. Where the stream valley trail is within homeowners association property, it shall be within a public use trail easement.
 - c. Where the stream valley trail is within a road right-of-way, it shall be a minimum of eight feet wide, separated from the curb by a landscaped strip, and constructed in lieu of a standard sidewalk for that portion of the roadway, unless otherwise modified by DPW&T.
 - d. Pedestrian safety features, traffic calming, and pedestrian amenities will be evaluated at the time of DSP.
 - e. Provide a cross section for the roads accessing the townhouse units as part of the detailed site plan submittal. This cross section shall include standard sidewalks along both sides.
 - f. Designated bike lanes shall be striped and marked in conformance with the 1999 AASHTO

Guide for the Development of Bicycle Facilities.

- g. The public use easement(s) shall include the streetscape for roadways that are to remain publicly accessible, per Exhibit 3.
 - h. Additional necessary public use easements for the public trails (indicated in red on the conceptual trail plan) will be identified at the time of detailed site plan.
- 14. At least 35 days prior to a Planning Board hearing of the DSP, the NRI and the TCPI associated with the CSP and the TCPI associated with the preliminary plan shall be revised and signed. They shall show the entirety of the subject property and a clear delineation of the SHA right-of-way based on submitted documentation of the acreage. This land will be shown as “previously dedicated land” and the plans shall be signed at least 35 days prior to a Planning Board hearing of the DSP.
- 15. Prior to acceptance of the DSP, the Type I tree conservation plan shall be revised as follows and receive signature approval:
 - a. Revise the TCPI as necessary so that both the NRI and the TCPI reflect the legal boundaries of the site.
 - b. Revise the plans to show conceptual grading of the site for the features shown, not for the mass grading of the site. Include the proposed grading for all variation requests.
 - c. Revise the worksheet to be a split-zoned worksheet with columns to reflect the phases (the M-X-T portion is Phase I and the R-R portion is Phase II).
 - d. Revise the worksheet to show the SHA land dedication as “previously dedicated land.”
 - e. Correct all calculation errors on the plans and the worksheet.
 - f. Revise the noise contour on the plan and in the legend to reflect the “65 dBA Ldn unmitigated noise contour.”
 - g. Revise the symbols and line weights on the plans so that they are reproducible in black and white.
 - h. Revise the plans as needed to address other issues contained in the technical staff report and the resulting resolution.
 - i. Revise the plans as needed to address all technical issues for conformance with the Woodland Conservation and Tree Preservation Ordinance.
 - j. Have the revised plan signed and dated by the qualified professional who prepared the plan.

16. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
17. Prior to signature approval of the preliminary plan and Type I tree conservation plan, the Department of Public Works and Transportation must approve the street design. Any significant change to the street design that results in additional impacts to the expanded buffers will require a new preliminary plan.
18. At least 35 days prior to any hearing on the DSP, the trail alignment shall be finalized to ensure that it does not create an impact to the regulated buffers. In order to achieve this requirement, lots may be lost.
19. Prior to signature approval of the preliminary plan, the TCPI shall be revised to reflect the proposed grading and pond outfall alterations as shown on the approved stormwater management concept plan, or provide a revised stormwater concept approval that does not show impacts.
20. Prior to the approval of a building permit for the hotel, certification by a professional engineer with competency in acoustical analysis shall be submitted to M-NCPPC as part of the building permit package. The certificate shall verify that noise mitigation methods have been incorporated in the architectural plans to reduce interior noise levels to 45 dBA Ldn or less from I-95.
21. Prior to the issuance of any building permits within the subject property, the following road improvements shall either; Option 1, (a) have full financial assurances, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency; or Option 2, the improvement shall be fully funded for construction in the applicable CTP or CIP:
 - a. US 1 and Contee Road: Add one additional through lane westbound along Contee Road. Modify signals, signage, and pavement markings as needed.
 - b. US 1 and Muirkirk Meadows Drive: Add a second left-turn lane along eastbound Muirkirk Meadows Drive. Modify signals, signage, and pavement markings as needed.
 - c. US 1 and Ritz Way: Add two additional left-turn lanes along northbound US 1. Modify signals, signage, and pavement markings as needed.
 - d. Van Dusen Road and Contee Road: Add a second left-turn lane along westbound Contee Road. Add an exclusive left-turn lane along northbound Van Dusen Road. Modify signals, signage, and pavement markings as needed.
 - e. Old Gunpowder Road and Greencastle Road: Add a left-turn lane along northbound Old Gunpowder Road. Install signalization if warranted, with warrants to be determined by the submittal of a traffic signal warrant study, prior to the approval of the initial detailed site

plan for infrastructure.

- f. I-95 and Contee Road: Construct the I-95/Contee Road interchange with the general design consistent with the SHA-approved alternative and with lane use consistent with the lane use shown on Exhibit 12A of the January 2008 traffic study
 - g. Contee Road Extended (also referred to as Kenilworth Avenue West): Construct the extension of Contee Road from the I-95/Contee Road interchange to Old Gunpowder Road. Provide signalization and lane usage consistent with the traffic study, with final alignment of the Contee Road Extended/Old Gunpowder Road intersection to be determined by DPW&T at the time of the initial detailed site plan for infrastructure.
 - h. Kenilworth Avenue Extended “East” shall be constructed beginning at the terminus of the Contee interchange and ending at the second project entrance into Konterra Town Center East (Perimeter Drive East). This will form a roadway connection of Virginia Manor Road to the I-95/Contee Road interchange to be constructed on-site as a part of Phase I, with approval of the design of this link to be made by DPW&T at the time of the initial detailed site plan for infrastructure. This roadway shall be constructed within the dedicated right-of-way for the A-56 and the A-6 facilities.
22. Prior to the issuance of any building permits for uses generating more than 3,314 AM and 5,331 PM peak hour trips within the subject property, defined within this condition as Phase II, in consideration of the approved trip rates and the approved methodologies for computing pass-by and internal trip capture rates, the following road improvements shall (a) have full financial assurances, or (b) have been permitted for construction through the operating agency’s access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:
- a. MD 198 and Bond Mill Road/Old Gunpowder Road: Restripe the southbound Bond Mill Road approach to provide exclusive left-turn, through, and right-turn lanes. Modify signals, signage, and pavement markings as needed.
 - b. MD 198 and Sweitzer Lane: Restripe the northbound Sweitzer Lane approach to provide exclusive left-turn and right-turn lanes, and a shared through/left-turn lane. Modify signals, signage, and pavement markings as needed.
 - c. US 1 and Ritz Way: Add a third eastbound left-turn lane along Ritz Way, with provision for three receiving lanes along northbound US 1. Modify signals, signage, and pavement markings as needed. This improvement will not be required if a Regional Center designation is approved for Konterra Town Center via the Subregion I Master Plan.
 - d. Van Dusen Road and Contee Road: Provide an exclusive left-turn lane and a shared through/left-turn lane along westbound Contee Road. Add a second exclusive left-turn lane along northbound Van Dusen Road. Modify signals, signage, and pavement markings as needed. This improvement will not be required if a Regional Center designation is approved

for Konterra Town Center via the Subregion I Master Plan.

- e. MD 198 and Van Dusen Road: Add a second left-turn lane along westbound MD 198, with provision for two receiving lanes along southbound Van Dusen Road. Add a second northbound through lane along Van Dusen Road. Modify signals, signage, and pavement markings as needed.
 - f. Van Dusen Road and Cherry Lane: Add a second left-turn lane along southbound Van Dusen Road. Add a second northbound through lane along Van Dusen Road, with provision for two receiving lanes along northbound Van Dusen Road, north of the intersection. Modify signals, signage, and pavement markings as needed.
 - g. The overpass connection over I-95 between Konterra East and Konterra West shall be scheduled for bonding and ultimate construction by DPW&T at the time of the initial detailed site plan for infrastructure within Phase II. This improvement is not required until after a preliminary plan of subdivision is approved for Konterra Town Center West. This improvement may be eliminated from Konterra Town Center East if warranted with an updated traffic study. The necessary right-of-way, however, will be dedicated within the Konterra Town Center East property.
 - h. The overpass connection over the ICC between Konterra East and properties to the south, with an eventual connection to MD 212 at Ammendale Road, shall be scheduled for bonding and ultimate construction by DPW&T at the time of the initial detailed site plan for infrastructure within Phase II. This improvement may be eliminated from Konterra Town Center East if warranted with an updated traffic study. The necessary right-of-way, however, will be dedicated within the Konterra Town Center East property.
 - i. The construction of MD 201 Extended along Virginia Manor Road and connecting to the I-95/Contee Road interchange shall be constructed on-site as a four-lane divided facility as a part of Phase II, with approval of the design of this link to be made by DPW&T and/or SHA (whichever agency is responsible) at the time of the initial detailed site plan for infrastructure within Phase II. At that time, the design of turning lanes into and out of the site for each site access shall be completed and approved.
23. Total development within the subject property shall be limited to uses which generate no more than 5,965 AM and 8,963 PM peak hour vehicle trips, in consideration of the approved trip rates and the approved methodologies for computing pass-by and internal trip capture rates. Any development generating an impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
24. A traffic phasing analysis will be submitted and reviewed during the processing of the detailed site plan for each phase. This traffic phasing analysis will define the improvements required for Phase 1A, 1B, IIA, and IIB. These above mentioned traffic conditions will be modified to adjust the timing trigger and extent of these improvements for each phase. This phasing analysis will not exceed the

5,965 AM peak hour trip cap and the 8,963 PM peak hour trip cap, unless a future revision to the preliminary plan of subdivision is processed.

25. The transportation improvements expressed herein shall remain in full force and effect unless otherwise modified pursuant to agreement initiated by the Transportation Planning Section of M-NCPPC, the SHA, the DPW&T and concurred by the applicant, and provided any such technical or engineering change maintains the levels of adequate transportation facilities approved herein. Any modification of transportation improvements may not be inconsistent with the Planning Board findings and conditions.
26. The following rights-of-way shall be dedicated at the time of the appropriate final plat, consistent with the rights-of-way shown on the subject plan:
 - a. The right-of-way for A-3 and C-102, shown on this plan as Perimeter Drive West, within a 100-foot (or greater) right-of-way.
 - b. The right-of-way for C-101, shown on this plan as Fashion Place, within a 100-foot right-of-way east of Perimeter Drive East and within a 54-foot right-of-way between Perimeter Drive East and Perimeter Drive West.
 - c. The right-of-way for A-56, shown on this plan as Kenilworth Avenue Extended, within a 150-foot right-of-way.
27. The plan shall be modified to demonstrate the following:
 - a. Dedication providing for four travel lanes along proposed Street B unless modified by a subsequent Master Plan.
 - b. Two easements (one north of Fashion Place and one south of the same) serving Lots 43–47 of Block N and Lots 1–6 of Block S created pursuant to Section 24-128(b)(9) to connect each lot group to Fashion Place and A-56.
28. Prior to signature approval of the preliminary plan of subdivision, any roadway sections described in this plan that are not consistent with the County Road Ordinance shall have approval of DPW&T or be approved for private maintenance.
29. Prior to the approval of building permits the applicant, the applicant's heirs, successors and/or assignees shall demonstrate that a homeowners association has been established and that the common areas have been conveyed to the homeowners association.
30. Pursuant to the approval of VP-07108 the following minimum lot sizes are required for townhouse lots:
 - A maximum of 36 percent of the lot sizes shall be between 1,000 and 1,799 square feet.

- A maximum of 46 percent of the lot sizes shall be between 850 and 999 square feet.
- A maximum of 10 percent of the lot sizes shall be between 630 and 849 square feet.

The Applicant may submit, with any DSP that proposes townhouses, any new variance applicable to design standards, including a new variance for lot size.

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, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING M-X-T/R-R	PROPOSED M-X-T/R-R
Zone		
Use(s)	Vacant	5.9 million square feet of Retail/Office/Hotel/ Public and Residential Uses
Acreage		402.58 (M-X-T 401.77 acres) (R-R .81 acre)
Lots	0	980
Parcels	2	67
Dwelling Units:		4,500 Total
Attached	0	760
Multifamily		3,740
Public Safety Mitigation Fee		No

3. **Urban Design**—The preliminary plan is in conformance with the approved CSP in terms of the general location of uses, street and lotting patterns, and other associated improvements. The development of the site is subject to the requirements of the *Landscape Manual* which will be determined at the time of detailed site plan review.

According to Part 10, Mixed Use Zones of the Zoning Ordinance, development in the M-X-T Zone

can be achieved by employing an optional method. The applicant should clearly indicate on the plan that the optional development method is proposed as indicated to staff. The M-X-T Zone regulations require certain percentages of retail, residential and office/employment uses and the number of townhouse units cannot be more than 20 percent of the total residential dwelling units. The preliminary plan is consistent with the land use requirements of the M-X-T Zone, and approved CSP.

The preliminary plan provides cross sections for most of the proposed roadways. However, additional information should be provided regarding the specifications of the private streets in the attached dwelling unit residential pods. The streets should not be narrower than 22 feet and should be able to accommodate the turn of emergency vehicles. The cross section of the private internal residential streets should be approved at the time of the detailed site plan. The M-X-T regulations require sidewalks to be provided on both sides of all public and private streets and parking lots, and will be incorporated into the private street section.

CSP-07003 shows Parcels AA and AB as residential multifamily dwellings. The preliminary plan, which is a more detailed development plan than the conceptual site plan, now shows the same parcels as a part of the townhouse development pods. Through the review of the preliminary plan, staff recommended revisions to the plan to increase the land area associated with the townhouses in order to increase the ability to provide additional parking and increase on-site circulation specifically surrounding the internal streets for the townhouses. In order to accommodate this, the applicant has revised the preliminary plan and relocated the multifamily dwelling units, shown along the southern alignment of relocated Kenilworth Avenue, to the multifamily parcels. The applicant intends to increase the multifamily buildings vertically if necessary, and has increased the land area associated with the townhouse lots. Therefore, the land bays associated with residential development have not changed; only the land area associated with the types of dwelling units. This modification is not inconsistent with the approved CSP.

Lot Depth Variation to Section 24-121(a)(4)—The Subdivision Regulations require that residential lots adjacent to existing or planned roadways of arterial classification shall be platted with a minimum depth of one hundred and fifty feet. Adequate protection and screening from traffic nuisances are required to be provided by earthen berms, plant materials, fencing, and/or the establishment of a building restriction line, when appropriate.

The applicant filed a variation on June 19, 2008, for a reduction in the required lot depth for townhouse lots along the southern property line adjacent to the ICC, which is identified as an arterial facility (A-44) in the 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62*. Staff has evaluated the lots to ensure adequate distances exist from the dwelling units to the travel lanes. A minimum lot depth of 150 feet is required by the Subdivision Regulations in this case.

Based on the following findings, the Planning Board approves a variation to Section 24-121(a)(4) of the Subdivision Regulations.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of

variation requests. Section 24-113(a) is as follows (**in bold**):

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 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:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property with the densities envisioned by the 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62*.

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

The property has the extraordinary situation of bordering not only on the ICC, which has an arterial road classification, but also an access ramp onto that roadway.

It is important to note the unique orientation of the roadway within the ICC right-of way with respect to the residential areas within 150 feet of the right-of-way. There are no lots proposed within 150 feet of the nearest travel lane. Lots 42–50, Block W (9 lots) do not meet the minimum lot depth of 150 feet from the ultimate right-of-way of the ICC. However, the land between the travel lanes and the subject property are to provide for a single lane access ramp from Virginia Manor Road. The access ramp itself does not provide the volume of traffic associated with an arterial roadway and therefore, the nuisances associated with a roadway with an arterial classification or higher do not affect these nine lots.

Additionally, a portion of the ICC right-of-way is labeled “Rare Threatened or Endangered Species Area” (RTE area), and is not intended for development of the ICC roadway. Rather, this area is considered a Priority One save area, containing wetlands, streams, hydric soils and habitat for a threatened or endangered species. This area has been included in the right-of-way as a means to ensure protection and preservation of this important habitat. Therefore, no ‘traffic nuisances’ as mentioned in Section 24-121(a)(4) impact the residential lots within 150 feet of that section of right of way.

In this case, traffic noise is not a concern. The results of the noise analysis demonstrate that no townhouse lot is within the 65 dBA Ldn noise impact line caused by the projected traffic volumes of the ICC and the associated access ramp. Earthen berms, plant materials and possibly fencing may still be employed to reduce the visual impact of traffic, which will be determined at the time of

detailed site plan.

- (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;**

This plan is in accordance with the *Prince George's County Approved General Plan*. Konterra Town Center East will serve as the Regional Center called for in the General Plan. These lots are unique in that they are located within 150 feet of an arterial roadway, but are not impacted by the 65 dBA Ldn usually associated with a roadway of this classification. Section 24-121(a)(4) is established generally to protect outside activity areas that are normally impacted by the 65 dBA Ldn noise contour within 150 feet of an arterial road. In this particular case, they are not impacted due to the ramp location associated with the ICC, which buffers the lots from direct impact from the main travel lanes.

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

The approval of this lot depth reduction for nine lots will not violate any other applicable law, ordinance or regulation because there are no other applicable law or ordinance that deals with this issue.

- (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 strict letter of these regulations is carried out;**

The ICC dedication has resulted in a property configuration unique to the surrounding properties. The ICC alignment results in a difficult land bay to achieve highest and best use. Therefore, the loss of land due to a SHA taking could result in a hardship to the owner by reducing the number of lots on land that is appropriate for the development of townhouse units.

4. **Variance (VP-07108) to Section 27-258**—By letter dated July 2, 2008 (Dunn to Chellis), the applicant has requested a variance to Section 27-258 of the Zoning Ordinance. Specifically, Section 27-548(h) requires that townhouse lots conform to the following regulations as applicable to the review of the preliminary plan of subdivision:

- (h) Townhouses developed pursuant to a Detailed Site Plan for which an application is filed after December 30, 1996, shall be on **lots at least one thousand eight hundred (1,800) square feet** in size, in the case of a Mixed-Use Planned Community, there shall be **no more than eight (8) townhouses per building group, except when the applicant demonstrates to the satisfaction of the Planning Board or District Council, as applicable, that more than eight (8) dwelling units (but not more than ten (10) dwelling units)** would create a

more attractive living environment or would be more environmentally sensitive. **In no event shall the number of building groups containing more than eight (8) dwelling units exceed twenty percent (20%) of the total number of building groups in the total development, and the end units on such building groups shall be a minimum of twenty-four (24) feet in width. The minimum building width in any continuous, attached group shall be twenty-two (22) feet,**

The applicant's request for a variance from Section 27-548 was specific to the following:

- “1. The minimum size fee simple lot is 630 square feet.
2. That up to 15 units in a row (as approved under CSP for this project) may be built in a group.
3. That units are allowed to be a minimum of 16' wide.
4. That the living space of a single unit can be 1,000 square feet,”

In part, the preliminary plan is the evaluation of the adequacy of the capacity needed to support the development based on the density. The lot size is a function of the preliminary plan of subdivision. Therefore, with this preliminary plan, the variance as it relates to the required lot size only will be evaluated. The variances required for the number of dwelling units in a row, the width and living space requirements will be reviewed with the detailed site plan, if necessary, when the product type of the dwelling units can be evaluated as it relates to these requirements. With the architecture, the Planning Board will be able to fully evaluate the context for the variation requests for the number of dwelling units in a row, the width and living space of the townhouse units. The number of dwelling units in a row will be evaluated with the architecture, to determine the visual impact and appropriate siting. The width of the lot sizes, as it relates to the required living space, will be evaluated with the product type proposed by the applicant with the detailed site plan. The decision by the Planning Board and District Council as it relates to the necessary variances remaining will be reflected on the approved DSP(s) and therefore reflected on the final record plats. The lot widths and number of dwelling units in a row can be modified with the DSP at the discretion of the Planning Board without substantively affecting the adequacy findings of the preliminary plan.

A vision of the Konterra Mixed-Use Development is to provide a variety of housing stock for a variety of income groups and the elderly (1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62*, pg 130). Because the applicant is proposing two types of dwelling units, multifamily and townhouses, as approved by the Conceptual Site Plan CSP-07003, the ability to serve a diversity of income groups is limited. By providing a variety of lot and dwelling unit sizes within the townhouse component of the development, the applicant creates a significantly greater ability to serve different income groups within the same housing type. To accomplish this Master Plan concept goal, a variety of lot and dwelling unit sizes will be necessary.

It is anticipated that minor modifications to the layout will occur through the review of the detailed site plan. However, in no case can the number of dwelling units be increased over that approved by the preliminary plan. In fact, a reduction in the number of dwelling units may occur as the Planning Board considers variances for the number of dwelling units in a row, the lot width and living space variances that may be required with the review of the detailed site plan(s).

Section 27-230 of the Zoning Ordinance sets forth the required findings for approval of a variance request (**in bold**). The applicant requested a variance to allow lots of 650 square feet. Staff supports the variance for townhouse lot size based on the following findings:

A. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.

This specific property is identified in 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62* by name and retained the property in the M-X-T Zone. The Master Plan envisioned the Konterra development as a unique center which would provide a variety of dwelling unit types, which would serve a variety of income groups. In order for the applicant to fulfill the Master Plan recommendations a variation of the strict application of the zoning ordinance is necessary. The lot size standard required by Section 27-548(h) for townhouses does not allow for a variety of lot sizes suitable for an urban town center and did not envision the master plan recommendations specific to this site to provide a variety of housing for different income groups. The vision for the residential component of the Konterra Town Center is one where an urban lifestyle can be supported and where allowances for a different product exist. By providing a uniform lot size the applicant is unable to provide the variety called for in the Master Plan which is specific to this property, and places the owner in an extraordinary situation which could result in an undue hardship upon the owner

B. The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the owner of the property.

The inability of the owner to develop the property in conformance to the master plan, as a result of the strict application of the Zoning Ordinance, results in an undue hardship. Practically, the applicant can therefore not develop townhouses consistent with an urban town center to provide a variety of housing for different income groups. The vision for the residential component of the Konterra Town Center is one where an urban lifestyle can be supported.

C. The variance will not substantially impair the integrity of the General Plan or Master Plan.

The variance will support and assist in the implementation of the specific recommendation for the Konterra East Town Center and will not impair the integrity of the General Plan or Master Plan.

The minimum lot size should be reduced to provide a variety of housing types. The minimum lot

width should be 16 feet, and . In addition, any lots proposed which are smaller than 1,000 square feet or narrower than 18 feet should be carefully evaluated at the time of detailed site plan to ensure a balance of housing stock for different income groups.

The applicant is proposing 730 of 760 townhouse lots below the minimum lot size of 1,800 square feet. The applicant proposes 274 lots between 1,000 and 1,800 square feet; 346 lots between 850 and 1,000 square feet; and 110 lots between 630 and 850 square feet.

The Planning Board approves a variance from the minimum lot size of 1,800 square feet based on the following sliding scale:

- A maximum of 36 percent of the lot sizes will be between 1,000 1,799 square feet.
- A maximum of 46 percent of the lot sizes will be between 850 and 999 square feet.
- A maximum of 10 percent of the lot sizes will be between 630 and 849 square feet.

At the Planning Board hearing on July 24, 2008 the Planning Board agreed with the applicant that to ensure a variety of townhouse units that lot sizes as small as 630 square feet may be appropriate. However, the Planning Board advised that applicant and the applicant proffered that lots between 849 and 650 square feet may not be permitted. The lots between 849 and 650 square feet may be combined with abutting lots to bring the minimum lot size to 850 square feet if determined appropriate by the Planning Board at the time of review of the DSP. The Planning Board noted that the smallest lots approved in the County are 850 square feet. However, in this urban environment alternatives may be appropriate, and should be evaluated with the house types that will be reviewed with the DSP.

5. **Environmental**—The Environmental Planning Section has reviewed Preliminary Plan of Subdivision, 4-07108, and the Type I Tree Conservation Plan, TCPI/05/08-01, stamped as received by the Environmental Planning Section on June 23, 2008, and variation exhibits submitted via e-mail on July 10, 2008.

Background

The Environmental Planning Section previously reviewed zoning case A-9484 which was approved to establish the current M-X-T zoning. No environmental conditions were stipulated as part of the rezoning. The site has an approved Conceptual Site Plan, CSP-07003, and Tree Conservation Plan, TCPI/05/08.

The subject property is covered under a surface mining permit (Permit No. 89-SP-0310-B), issued by the Maryland Department of the Environment, Water Management Administration, effective May 30, 1989, which expires May 30, 2009. The mining permit was issued prior to the implementation of the Woodland Conservation and Tree Preservation Ordinance in 1989; therefore, no tree conservation plan was associated with the mining permit. A grading permit was also not required for the mining,

so enforcement of erosion and sediment controls on the site is the responsibility of the Maryland Department of the Environment. Currently, the mining operation is in the reclamation phase.

Site Description

The site was originally a 488-acre property, zoned M-X-T and R-R, which is now comprised of 401.77 acres of M-X-T zoned land, 0.81 acre of R-R zoned land, and an 85.42-acre dedication of land to the SHA for the ICC right-of-way. A review of the available information indicates that streams, wetlands and 100-year floodplain are found to occur on this property. The site drains into Indian Creek, within the Potomac River basin. Steep and severe slopes are found on-site.

The site has been mined and the previously existing soils, prior to mining, consisted of soils in the Beltsville, Bibb, Croom, Gravel and Borrow Pits, Iuka, Leonardtown, Matapeake, Rumford, Sassafras, and Sunnyside classifications. Due to the extensive mining that has occurred on the property and with the exception of the areas within the 100-year floodplain that were not disturbed during mining operations, the soils now consist primarily of "Gravel and Borrow Pits" along with fill material from reclamation.

According to available information, Marlboro clay is not found to occur in the vicinity of this property. Noise is a major concern on this site. Interstate 95, classified as a freeway, and Van Dusen and Virginia Manor Roads, classified as arterial roads, are existing traffic-related noise generators. A portion of the site is located within the right-of-way for the proposed Intercounty Connector (ICC), identified as A-44, and is an arterial road. An undeveloped master planned road identified as A-3 is being developed as a collector facility through this site, as shown on the preliminary plan and TCPI, but would not generate enough traffic to warrant evaluation for noise impacts. Another undeveloped master planned road, also shown as proposed on the preliminary plan and TCPI, identified as C-101, is classified as a collector road and would not generate enough traffic to warrant evaluation for noise impacts. There are no designated scenic and historic roads adjacent to this property.

Based on available information from the Maryland Department of Natural Resources, Wildlife and Heritage Program, there are no rare, threatened, or endangered (RTE) species found to occur in the vicinity of this property; however, the site does have wetland area with an RTE buffer that was delineated during the environmental study for the ICC. According to the *Approved Countywide Green Infrastructure Plan*, all three network features (Regulated Areas, Evaluation Areas and Network Gaps) are present on-site. This property is located in the Subregion I Planning Area, and the Developing Tier in the adopted General Plan.

Environmental Issues Addressed in the Subregion I Master Plan

The current Subregion I Master Plan and Sectional Map Amendment, adopted in 1990, contains no specific environmentally-related guidelines pertaining to the subject site. The Master Plan predates current ordinances and regulations that will be reviewed with this application.

Prior to the mining of the site, it contained an extensive network of "Natural Reserve" areas as defined in the master plan; however, several of those areas were impacted by past mining operations

and no longer exist. The existing regulated features on the site are within the Countywide Green Infrastructure Plan and the entire site is subject to the Woodland Conservation Ordinance, which will ensure that the development of the site conforms to the environmental issues associated with the master plan as detailed site plans are reviewed.

Conformance with the Green Infrastructure Plan

The implementation section of the Countywide Green Infrastructure Plan contains policies and strategies and recommendations for carrying out each policy. The following policies have been determined to be applicable to the current project. The text in **BOLD** is the text from the *Approved Countywide Green Infrastructure Plan* and the plain text provides comments on plan conformance.

Policy 2—Preserve, protect and enhance surface and ground water features and restore lost ecological functions.

Regulated and Evaluation Areas of the designated network exist on-site. Several of the ecological functions that existed prior to the mining of the site have been lost because areas were graded and the natural drainage of the site was altered. It would not be possible, given the current landscape, to fully restore the lost ecological functions; however, the streams that receive stormwater from the site are in need of stabilization and restoration. The mitigation efforts for this site should focus on stream stabilization and restoration.

A Stream Corridor Assessment was submitted and evaluated.

Strategy 2.1—Help address compliance with total maximum daily load (TMDL) caps established by the state under the Federal Clean Water Act for water bodies in the county where water quality standards have not been met.

Strategy 2.2—Establish and/or maintain adequate buffers to protect and/or restore water quality.

These strategies should be addressed as part of the current land development proposal, however, data does not exist at the present time regarding where restoration is most needed. A comprehensive stream corridor assessment is needed to evaluate the condition of the existing on-site and downstream water courses. The evaluation needs to be completed, so that commitments for restoration can be evaluated as an integral part of the stormwater management system proposed. Appropriate conditions are in place as part of this preliminary plan in furtherance of this policy.

Existing information should also be evaluated to determine if other locations, beyond the downstream portion of Indian Creek, are potential restoration sites. The applicant submitted a letter dated February 5, 2008, stamped as received February 11, 2008, that outlines information from a study done by the Council of Governments in 1989. Because this data is 20 years old, and may not be accurate to date, additional investigation of the sites shown is needed. In addition, the Anacostia River has had a Watershed Restoration Action Strategy completed for the entire watershed. The

study may contain valuable information regarding potential restoration sites.

A condition of the CSP requires that a detailed stream corridor assessment and the associated recommendation be submitted prior to the acceptance of the detailed site plan, as discussed further.

Policy 5—Recognize the green infrastructure network as a valuable component of the County’s Livable Communities Initiative.

Strategy 5.1—View protection and restoration of the County’s green infrastructure network as a necessity and an amenity.

- a. When making policy and land use decisions, elevate the importance of preserving, protecting, enhancing and restoring the green infrastructure network at the same level of concern as providing an interconnected network for transportation and/or public utilities.**

The plan proposes several stormwater management ponds, some of which are re-configurations of existing sediment and erosion control ponds. Because this site is very large, and has few opportunities for restoration of the lost green infrastructure, the re-configured ponds should be designed as amenities and the environmental buffers they encroach upon should be restored. The addition of the stream restoration efforts noted will enhance the restoration of the green infrastructure network on-site and down stream.

Condition 3c of the approved CSP requires that the initial submittal package for the DSP contain an illustrative plan that shows how the stormwater management plans will be designed as amenities.

Zoning Case A-9484

The Environmental Planning Section previously reviewed zoning case A-9484 which was approved to establish the current M-X-T zoning. No environmental conditions were stipulated as part of the re-zoning.

Conformance with CSP-07003

The following conditions were approved by the Planning Board with the CSP. The text in **BOLD** is the text from the conditions and the plain text provides comments on plan conformance.

- 1. Prior to certificate approval of this conceptual site plan, the applicant shall:**
 - b. Revise the Type I Tree Conservation Plan as follows:**
 - (1) Revise the TCPI as necessary so that both the NRI and the TCPI reflect the same acreage of existing woodland and woodland within the floodplain.**

- (2) Revise the worksheet to meet the woodland conservation requirement through the use of on-site and off-site conservation and remove the use of fee-in-lieu.**
- (3) Add reforestation within the 100-foot RTE buffer and add the following note to the plans: “The TCPII shall provide two interpretive signs along the edge of the reforestation area to gain public interest and awareness of reforestation efforts and RTE habitat.”**
- (4) Remove soils from the plan.**
- (5) Show the existing tree line clearly on the plan.**
- (6) Remove woodland preservation from the ICC right-of-way and update the worksheet accordingly.**
- (7) Provide a note on the plan that states who will be constructing the portions of the ICC that are on the subject property. If the applicant is constructing the roadways, the woodland shall be shown as cleared. If the applicant is not constructing the roadways, the woodland shall be shown as retained not part of requirements. The woodland in the right-of-way shall not be shown as woodland conservation. The worksheet shall be adjusted accordingly.**
- (8) Provide hatching and labels to indicate areas of clearing, areas of woodland retained not part of requirements, and reforestation.**
- (9) Provide a summary table on the cover sheet of the TCP and tables on each sheet, similar to the preservation area table currently shown on the plan, and provide acreages of areas to be cleared, areas of woodland to be retained not part of requirements, and reforestation.**
- (10) Provide a note below the specimen tree table indicating how the specimen trees were located.**
- (11) Add the following note: “Off-site woodland conservation shall be provided within the Anacostia watershed to the fullest extent possible. The applicant shall show due diligence in seeking locations in the watershed. Only after all options have been exhausted can off-site mitigation outside the watershed be used. The use of fee-in-lieu to meet the requirements will only be considered during future reviews if the funds are targeted for specific mitigation projects.”**

- (12) Include in the worksheet all woodland clearing for off-site impacts.**
- (13) Have the revised plan signed and dated by the qualified professional who prepared the plan.**

Comment: The revised TCPI for the CSP has not been submitted to date. Some of these conditions are addressed on the TCPI currently under review with the preliminary plan application; however, the TCPI with the preliminary plan must address certain other issues as well as those contained in these conditions, and be in conformance with the TCPI for the CSP, which hasn't been completed yet. This condition cannot be considered addressed until the CSP TCPI has been signed. The submitted NRI, the TCPI with the CSP, and the TCPI with the preliminary plan do not address the entirety of the subject property and will need to be revised as conditioned with this approval.

- c. Eliminate all impacts on the TCPI that are not associated with road crossings, stormwater outfalls and utility connections.**

Comment: The variation request exhibits submitted July 10, 2008, show only the types of impacts described above. The proposed layout and design shown conceptually on the TCPI, with the preliminary plan, show configurations that will make it difficult if not impossible to avoid unnecessary impacts to the stream buffers.

- d. Show the unmitigated 65 dBA Ldn, based on the Phase I noise study prepared by VHB, Inc., and the remainder of the noise study shall be submitted to the record (a description of the assumptions used in the study and the background traffic counts used in the modeling).**

Comment: A 65 dBA Ldn line is shown on the TCPI submitted with the preliminary plan, but it is not labeled as an "unmitigated contour" and should be.

- 2. Prior to certificate approval of the CSP and prior to submittal of the first DSP, the applicant shall:**

- a. Revise the NRI as necessary so that both the NRI and the TCPI reflect the same acreage of existing woodland. Revise the NRI as necessary to reflect any changes to the floodplain based on an approved floodplain study.**
- b. Revise the CSP and TCPI to reflect the expanded buffer shown on the NRI**

Comment: The NRI and TCPI do not show the entirety of the subject property, and as such do not reflect the correct calculations. This issue is addressed below.

- 3. Prior to acceptance of the first detailed site plan, the applicant shall:**

- a. Submit a detailed stream corridor assessment that documents the current**

conditions of the streams located on-site and downstream to the point where the main channel crosses Ammendale Road. The stream corridor assessment shall be conducted using the Maryland Department of Natural Resources' protocol. In addition, the Anacostia River Basin Stormwater Retrofit Inventory and the Anacostia Watershed Restoration Action Strategy shall be evaluated by the applicant for potential mitigation sites for both stream restoration and woodland conservation and this analysis shall be included in the submittal.

- b. Submit a recommendation for stream restoration methods and their locations based on the complete assessment. The methods shall include, but not be limited to, natural re-establishment of stream buffers and stabilization of the channel using natural methods wherever possible. Prior to the final preparation and submission of the stream restoration plan, the applicant shall coordinate a meeting with the Department of Public Works and Transportation and M-NCPPC to discuss the integration of the stream restoration efforts with the stormwater management facilities proposed. The areas of stream restoration shall be evaluated separately for consideration as woodland conservation areas, both on-site and off-site. Reflect the recommendations that result from the above analysis on subsequent detailed site plan design submittals.**

Comment: The stream corridor assessment (SCA) was stamped as received on June 13, 2008. It contains two quotes of note: "The on-site drainage [of the Konterra site] is 41.50% of Ammendale Branch." "In general the stream conditions show signs of long term instability due to land use changes and encroachment of several decades."

The assessment contains photographs and the locations where the photographs were taken, with reference points and a map. The photos taken do not contain a person with the identification number, per the Department of Natural Resources (DNR) protocol.

- 5. The initial submittal package for the first DSP shall contain information regarding any reclamation work performed prior to May 2007, in a format similar the CNA, Inc. letter, to fully document the presence of fill materials on-site. A full soils report shall also be submitted that addresses the soil structure, characteristics and foundation stability. The study shall, at a minimum, clearly define the limits of past excavation and indicate all areas where fill has been placed. All fill areas shall include borings, test pits, and logs of the materials found. The existing borings and test pits in fill areas shall be deep enough to reach undisturbed ground.**

Comment: This issue should be addressed prior to the approval of the DSP. Some additional information has been submitted, but it does not address the condition above with regard to the boring locations and related information.

Environmental Review

The site has a signed Natural Resources Inventory (NRI/050/08) and is currently under review for an -01 revision. The NRI does not include the entire property and will be revised.

According to the current NRI, that does not include the entire site, the remainder of the site contains a total of 12.36 acres of woodland on the gross tract, and 8.42 acres of woodland within the 100-year floodplain. All of the forest stands have a value of “good” or “priority” because the woodland that remains is primarily within the remaining regulated areas. The site has a total of 15 specimen trees.

The existing site features appear to be shown correctly on the TCPI and preliminary plan except for the land area that was not previously included; however, documentation must be provided to validate the acreage of the land transfer to the State Highway Administration (SHA) prior to signature approval of the NRI, TCPI and preliminary plan.

This property is subject to the provisions of the Prince George’s County Woodland Conservation Ordinance because it has a TCPI associated with the CSP. A Type I Tree Conservation Plan (TCPI/05/08-01) was submitted and reviewed with the preliminary plan. The comments regarding this plan are provided below.

As noted above, the exact calculations for the preliminary plan TCPI cannot be provided because the R-R portion of the site is missing and the exact acreage of the SHA right-of-way has not been shown on the plans. An exhibit was provided late in the review period that was not reflected on the plans under review.

The majority of the proposed woodland conservation is appropriately located in environmentally sensitive areas and the reforestation is shown in areas of rare, threatened or endangered species habitats. As additional opportunities for on-site conservation are determined, additional conservation should be sought on-site. The requirements that cannot be met on-site are proposed to be met with off-site mitigation. Some reforestation may also be necessary in and around some of the stream restoration sites both on-site and off-site. All of the areas contained within the stream restoration areas proposed are eligible for reforestation credits, even if the entire area is not planted with trees.

Because the site contains both M-X-T and R-R zoned land, a split-zoned worksheet that is also a phased worksheet is needed. The split-zoned worksheet will allow for the proper calculations of the requirements and the columns showing the phases will allow each portion of the site to meet its own requirements and be considered separately in the future. The worksheet must reflect the accurate depiction of the land areas subject to the application, show the SHA land dedication as “previously dedicated land,” and account for all proposed clearing correctly. All the calculation errors must be resolved. For example, the cover sheet states that the clearing in the floodplain is 1.73 acres and the worksheet states 5.45 acres, and the variation request states that the amount of floodplain on the site is 16.87 acres, but the worksheet states that it is 9.71 acres in size.

The plans, as submitted, were provided in color as a courtesy to the reviewers; however, the plans

should use symbols and line weights that make the information clear when reproduced in black and white. The TCPI should be revised to be legible in black and white.

Variations to Section 24-130 Expanded Buffer Impacts

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. Impacts to these buffers are prohibited by Section 24-130 of the Subdivision Regulations unless the Planning Board grants a variation to the Subdivision Regulations in accordance with Section 24-113 at the time of preliminary plan. Staff will generally not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety; non-essential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which can be designed to eliminate the impacts. Impacts to sensitive environmental features require variations to the Subdivision Regulations.

In a letter dated June 17, 2008 and received June 23, 2008, the applicant provided exhibits for proposed areas of impact to the regulated areas as summarized in the table below:

Impact Number	Impact Type	Comments
1	22,127 square feet for road realignment	Supported
2	40,282 square feet for road realignment/ water and sewer	Supported
3	50,642 square feet for road crossing/ water access	Supported
4	10,279 square feet for sewer access	Supported
5	18,907 square feet off-site sewer connection	Supported
6-8	58,859 square feet for ICC construction	N/A see below
9	Other—SWM outfall reconfigurations	Supported
10	Other—Unknown amount of disturbance for trail and roadway construction	Not supported

Impacts 6–8: At the time that the initial variation requests were submitted, the land area that is now considered part of the SHA right-of-way was part of the subject property and it was not clear who would be completing the work in this area. This is why the applicant was requested to include these impacts in the variation request. Because the area of the right-of-way is no longer part of the subject property, **the variation requests are not applicable**. SHA will need to provide mitigation for those impacts with the permits for that construction.

Impact 9: The letter also indicates that no alteration of the pond outfalls or embankment, currently within the expanded buffer, is planned for the four existing ponds; however, the approved stormwater management concept plan indicates that grading and alterations to the outfalls will be necessary. This apparent discrepancy needs to be addressed prior to signature approval of the preliminary plan by either revising the stormwater management concept approval, to remove grading and structures from the expanded buffer, or by showing the necessary expanded buffer impacts on the plans. This **impact is supported** with review.

Impact 10: The trails plan proposes a trail along the edge of the townhouse units, between the proposed road and the stream buffer. This trail design has not been shown on the TCPI, and in fact, the TCPI shows that there is insufficient land area to place the trail in this location without encroaching on the regulated area. The TCPI also does not show the conceptual grading for the ultimate construction. It appears to only show the mass grading of the site. This potential future **impact is not supported** because it can be avoided with a different lot layout and roadway design.

Impacts 1–5 and Impact 9 are supported; Impacts 6–8 are not required and Impact 10 is not supported. Section 24-113 of the Subdivision Regulations contains four required findings [text in **bold**] to be made before a variation can be granted. These required findings are evaluated for the supported variations.

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 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:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-130 could result in practical difficulties to the applicant that could result in the applicant not being able to develop this property in conformance with adequate stormwater or public utility connections.

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The road crossings and realignments, as well as the water and sewer crossings, are required by Prince George's County to provide for public safety, health and welfare. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

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

Access to the site is limited to the northern and the eastern property boundaries because direct access to I-95, to the west, and the ICC, to the south, is prohibited. Since the expanded buffer runs the entirety of the eastern property boundary, crossings are necessary; otherwise all traffic entering and leaving the site would be restricted to the north side of the property. Public utilities and public access points have been appropriately combined to minimize impacts.

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

The installation of public streets and water and sewer lines are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

- (4) **Because of the peculiar 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 regulation is carried out.**

The expanded stream buffers run the entirety of the eastern property boundary. Without the required public streets, water lines and sewer lines, the property could not be properly developed in accordance with the M-X-T zoning.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-4 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will therefore be served by public systems.

6. **Community Planning**—This application is not inconsistent with the 2002 General Plan Development Pattern policies for Centers in the Developing Tier and conforms to the “Town Center” land use recommendations in the 1990 Approved Master Plan for Subregion I.

GENERAL PLAN, MASTER PLAN AND SMA

2002 General Plan: This application is located in the Konterra (possible future) regional center in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The vision for centers is mixed residential and nonresidential

uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development.

Master Plan: The property is located within the 1990 Master Plan for Subregion I in Planning Area 60 in the northwestern area. The master plan land use recommendation is for town center.

Planning Comments:

The following are recommendations from the 1990 Approved Master Plan for Subregion I, the 2002 *Prince George's County Approved General Plan*, and the 2007 Adopted Master Plan and Endorsed Sectional Map Amendment for Subregion I. While the 2007 Adopted Master Plan for Subregion I has not yet been approved by the District Council, it reflects the Planning Board's recommendations.

1990 Approved Master Plan for Subregion I

The plan recommends that Konterra Town Center contain a mixture of housing types from high-rise multifamily to single-family detached dwelling units. The plan further states, "The number of residential units to be constructed is determined by the transportation holding capacity of the Subregion. In addition, there should be an increased emphasis on single-family detached homes in the Town Center than was originally conceived in the conceptual development plan submitted with the M-X-T rezoning application" (Page 131).

A hypothetical conceptual design plan was created for this plan which contained 12,500 employees and 1,400 dwelling units. The plan states, "...the transportation system will not be able to accommodate the traffic generated without the benefit of extensive Transportation System Management (TSM) measure. In order not to aggravate this problem, it will be necessary to limit development to a maximum of 12,500 employees and 1,400 dwelling units" (Page 133).

The 1990 Master Plan for Subregion I designates the property in the Mixed-Use Town Center land use category. The sectional map amendment retains the existing M-X-T Zone on the subject property.

2002 Prince George's County Approved General Plan

The 2002 General Plan sets the County's development policies. The General Plan identifies Konterra Town Center as a possible future town center with the following definition (page 46):

"Regional Centers are locations for regionally marketed commercial and retail centers, office and employment areas, some higher education facilities, and possibly a sports and recreation complex primarily serving Prince George's County. High-density residential development may be an option at these Centers if the needed public facilities and services, particularly schools and transit, can be provided. Regional Centers should be served by rail or bus mass transit systems."

Policy 3 in the Centers and Corridors section identifies a strategy that encourages the placement of new libraries, schools, police substations, recreation centers, and urban parks within centers (p.53).

Page 97 of the application identifies strategies for addressing schools, fire and police stations stating, "Public facilities such as schools, and fire and police stations should be located outside the M-X-T Zoned area to allow them to serve the growth potential and need of the surrounding communities as well as the Town Center."

The opportunity to construct a grade school within Konterra Town Center should be remain an option as the Planning Department works on developing a policy aimed at creating a variety of urban school models for use in centers and corridors as well as in other land-constrained areas of Prince George's County.

2007 Adopted Master Plan and Endorsed Sectional Map Amendment for Subregion I

This master plan reiterates the 2002 General Plan policies, strategies, and recommendations for Regional Centers.

Page I, Plan Highlights, Development Pattern Element, 3rd bullet:

"...and promote mixed-use development in the center and corridor with a strong emphasis on transit-oriented and pedestrian-friendly design in the Developing Tier."

Konterra is the only designated "center" in the Subregion I area by the General Plan.

Page 9, Development Pattern Elements, Introduction, 1st paragraph:

"...The General Plan places Subregion I within two growth policy tiers, the Developing Tier and Rural Tier and designates one possible future regional center (Konterra Town Center) and one corridor (US 1) within the Subregion I area."

Page 13, Centers and Corridors (Konterra Town Center and US 1/Baltimore Avenue Corridor), General Plan Guidance:

"Subregion I consist of one designated possible future regional center at Konterra...The Konterra Town Center is identified by the General Plan as a possible future location for regionally marketed commercial and retail centers, residential communities, office and employment areas, some higher educational facilities and possibly sports and recreational facilities primarily serving Prince George's County..."

The preliminary plan of subdivision is consistent with the land use plan approved by the CSP-07003, and is consistent with the policies, strategies, and recommendations for Regional Centers and the land use recommendation of the 1990 Approved Master Plan for Subregion I as updated by the 2002 General Plan and to be refined by the 2007 Adopted Subregion I Master Plan (subject to District

Council approval).

7. **Parks and Recreation**—The staff of the Department of Parks and Recreation (DPR) has reviewed the preliminary plan of subdivision application for conformance with the conditions of the approved Conceptual Site Plan, CSP-07003. DPR review considered the recommendations of the 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62*, the Land Preservation and Recreational Program for Prince George's County, current zoning and subdivision regulations, and existing conditions in the vicinity of the proposed development.

Konterra Town Center East will include 4,500 residential dwelling units. Using current occupancy statistics for single-family attached and multifamily dwelling units will result in a population of 11,700 additional residents in the community.

The 1990 Subregion I Master Plan also provides recommendations for parkland acquisition in Planning Area 60 as follows:

Community Parks:

40-acre Community Park in the Van Dusen Road area, west of I-95.
13-acre addition to Fairland Regional Park on its northern boundary.
25 acres in the general area east of I-95, north of the proposed Intercounty Connector and west of Virginia Manor Road.

Regional Parks:

25-acre addition to Fairland Regional Park located on its northern boundary.

The Department of ~~Parks~~ and Recreation (DPR) has evaluated parks and recreational needs and programs in Subregion I communities and found that these communities do not meet the standards of 15 acres of neighborhood/community parks per 1,000 persons nor the 20 acres of stream valley, regional parkland standards per 1,000 persons. Subregion I will need additional parkland to meet the standards in 2020 based on the projected population of the Subregion. As the area's population grows, the M-NCPPC should be ready for future demands on the parks system to provide high quality recreation facilities and programs. It is recognized that there is a need for more ball fields to meet the needs of boys' and girls' clubs, organized youth leagues, and informal pick-up games. By applying the above standards, DPR concludes that 175 acres of additional local and 234 acres of additional regional parkland will be needed to serve the anticipated population of the Konterra Town Center development.

Subdivision Ordinance, Section-24-134, Mandatory Dedication of Parkland requires that in all residential subdivisions, the Planning Board require the dedication and conveyance to the M-NCPPC of suitable and adequate land for active or passive recreation. DPR has evaluated the Preliminary Plan 4-07108 application for conformance with the Subdivision Regulations and found that approximately 253 acres of the 488-acre site includes a residential component and will be subject to

the requirement for the mandatory dedication of parkland. Calculation for the mandatory dedication requirement indicates that 38 acres of open space (suitable and adequate land for active or passive recreation) should be required.

DPR staff met with the applicant and developed a package of off-site parkland dedication and on-site private recreational facilities which includes the following:

- Private recreational facilities: Two private community centers within the residential pods of the planned community, outdoor plazas, enclosed pedestrian space, movie theaters within downtown area, public building parcel (for the future public facilities), open space parcels with SWM pond/lakes and environmentally sensitive areas and a network of pedestrian sidewalks and trails will be provided. These facilities will create an urban environment and provide passive and active recreation facilities for the residents and guests of the Town Center. However, this urban environment will not provide needed space for ball fields and programmed sport activities.
- 41 acres of open space will be dedicated to the M-NCPPC. This property is located on the west side of I-95 in the northeast quadrant of the intersection of the proposed Intercounty Connector (ICC) and Old Gunpowder Road. It is located on the east side of Old Gunpowder Road across the street from the southern portion of Fairland Regional Park.

DPR believes that the addition of 41 acres of developable land to the park system will greatly improve the recreation opportunities provided to the citizens of northern Prince George's County. The need for parkland in this area had been identified in the master plan since the adoption of the 1990 Subregion I plan. For a period of 18 years the need could not be addressed. This application provides an opportunity to address these parkland needs and the needs created by this new development. Through a combination of mandatory dedication (41 acres of off-site dedication), and the applicant providing on-site private recreational facilities, the development addresses parkland needs.

DPR conceptually analyzed the site and determined that this 41-acre parcel can accommodate four ball fields, a picnic area, a playground, and a 250-space parking lot. DPR believes that approximately ten acres of this parcel can accommodate an elementary school in the future if deemed necessary at the time of the new Subregion I Master Plan approval. DPR also agreed to consider the exchange of ten acres with the Board of Education (BOE) to facilitate the construction of an elementary school when BOE budgets funds in their Capital Improvement Program (CIP) for the construction of an elementary school at that location.

In summary, the combination of private and public recreational facilities, parkland dedication as shown on DPR Exhibit A, and provisions of private recreational facilities will satisfy the recreational needs of Konterra Town Center East and the community.

The fulfillment of required mandatory dedication of parkland (Section 24-134) of the Subdivision Regulations is being fulfilled with the off-site dedication of a minimum of 38 acres. The additional

two acres, above that required, and the private on-site recreational facilities are required by the approval of the CSP, but not required for the fulfillment of mandatory dedication of parkland.

The CSP-07003 approval (PGCPB Resolution No. 08-95) Condition 6 is as follows:

- “6. The applicant shall dedicate approximately 41 acres of parkland to the Maryland-National Capital Park and Planning Commission, that is located on the west side of I-95 and north of the proposed Intercounty Connector (ICC), as shown on the Exhibit A attached to DPR’s memorandum. The conveyance of 41 acres of open space to M-NCPPC is an amount of land premised on the proposal of 4,500 dwelling units in Konterra Town Center East. Subject to Planning Board approval, the applicant may count some portion of the dedicated parkland toward satisfying the parkland dedication requirements for Konterra Town Center West residential development or other residential development (up to a total of 4,500 dwelling units) on proximate land owned by the applicant, if this number of dwelling units is not constructed as part of Konterra Town Center East.”

This condition requires the conveyance of 41 acres of off-site parkland, but also includes language that appears to create a “banking” of parkland for other future developments that may be unrelated to the Konterra development. While the condition does indicate that the banking is subject to the Planning Board approval, the banking of dedicated parkland for the fulfillment of the mandatory dedication of parkland for future developments is not currently authorized by the Subdivision Regulations. Condition 6 does not specifically refer to banking for fulfillment of Section 24-134, however it is important to note that there is currently no framework or authority for that to occur if that is the intent. The amount of land to be dedicated is based on the allowable density of the property. While staff is not opposed to this concept, which is similar to the transfer of development rights, the Subdivision Regulations (Subtitle 24) would need to be amended to allow parkland dedication required for adequacy for one subdivision (Section 24-134) to be utilized for another. Essentially, to allow for any excess capacity associated with one development to be transferred to another for the fulfillment of adequacy.

8. **Trails**—The preliminary plan was reviewed for conformance with the Countywide Trails Plan and/or the appropriate area master plan in order to provide the Master Plan Trails.

Pedestrian accommodations and transit-oriented development are a priority for the site, as noted in the Preliminary Subregion I Master Plan and the subject application. The planning charrette held for the Konterra development stressed the importance of creating a town center environment with pedestrian-friendly streetscapes, bicycle accommodations, and numerous internal connections.

The subject application proposes an extensive network of facilities for bicyclists and pedestrians, including bicycle and pedestrian-compatible roadways. All roads include standard or wide sidewalks along both sides and major roads include designated bike lanes. The provision of designated bike lanes will encourage the use of bicycles as an alternative mode of transportation for some trips within the town center, and is in conformance with the 1999 American Association of State Highway and

Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities. The grid street pattern used for much of the site provides many linkages and routes for pedestrians and cyclists and is generally more compatible for non-motorized modes because it disperses the vehicular traffic along more routes.

The road cross sections proposed by the applicant are appropriate but subject to the approval of the Department of Public Works and Transportation. Standard or wide sidewalks are proposed along both sides of all internal roads. Many cross sections have enhanced streetscapes with wide sidewalks and designated bike lanes. The cross sections with enhanced facilities include the main street, which has 15-foot-wide sidewalks and designated bike lanes. Center Street South includes 7-foot-wide sidewalks. The Boulevard, as well as Connector Streets A, B, and C include bike lanes in addition to standard sidewalks. The bike lanes are in conformance with AASHTO guidelines and will greatly increase the amount of striped bike lanes in Prince George's County.

It should be noted that the Adopted and Approved Subregion I Master Plan (1990) does not recommend a master plan trail along the subject site's portion of Kenilworth Avenue Extended (A-56). However, consideration should be given to the provision of facilities for bicyclists and pedestrians at the time of road design and that consideration be given to include a recommendation for a master plan trail/bikeway along A-56 in the updated Subregion I Master Plan. Also, the planned trail along the ICC project ends at Virginia Manor Road and does not impact the subject application.

- **Stream Valley Trail:** The Planning Board continues to support the provision of stream valley or park trails along the internal stream valley or greenway corridors. A trail connection is proposed along the stream valley corridor on the eastern edge of Konterra East. The Preliminary Subregion I Master Plan recommended, "Supplement the sidewalk network by utilizing stream valleys and other greenway corridors as trails and pedestrian walkways" (Preliminary Master Plan, page 48). This issue was also discussed at the time of the April 4, 2008 subdivision review committee meeting. This trail will serve not only recreational needs, but also provide pedestrian access through the townhouse portion of the development. The alignment shown by the applicant on the conceptual trail plan is appropriate. This alignment utilizes the road right-of-way for the crossing of PEPCO. Where the stream valley is implemented along a road right-of-way, the trail shall be constructed at a minimum of eight-feet wide and separated from the curb by a grass planting strip. This trail will be constructed in lieu of a standard sidewalk on that side of the road for the distance it is within the road right-of-way.
- **Public versus Private Roadways:** The Planning Board is concerned that if the roadways are not accepted by DPW&T as part of the public road network, that the extensive sidewalk and bicycle facilities will not be accessible to the public as part of the larger, countywide trail network. This issue should be explored in more detail. As much of the pedestrian and trail network as possible should be open and accessible to the public. Exhibit 3 indicates that the major roads within the subdivision will be constructed within a public use easement (PUE). The streetscape may be included within this PUE. This will ensure that the wide streetscape will remain an open and publicly accessible segment of the pedestrian network.

- **Pedestrian Safety:** Pedestrian safety features will be an important component of the street network. Curb bump-outs, decorative crosswalks, raised crosswalks, pedestrian safety features, pedestrian refuges, and pedestrian amenities should be considered at the time of detailed site plan.
- **Road Cross Section Serving the Townhouses:** Pedestrian access should be provided from the townhouse portions of the site to the rest of the development. No road cross section is included for the roads serving the townhouse units. Sidewalks or internal paths should be provided.
- **Public Trails:** The submitted conceptual trail plan indicates a network of public trails, but indicates that these may not always be in the public right-of-way. At the time of detailed site plan, it will be necessary to determine if any of these trails need to be within a public-use trail easement. Currently, the conceptual trail plan does indicate that the major roads within the town center will be within public use easements.

The Planning Board supports the road cross sections shown on the submitted circulation plan, pending approval by the Department of Public Works and Transportation. Standard or wide sidewalks are included along all roadways and designated bike lanes are provided throughout the town center. However, the applicant should work with DPW&T to make as many of the planned roadways part of the public road network as possible.

9. **Transportation**—The property is located generally between I-95, existing Van Dusen Road, existing Virginia Manor Road, and the planned Intercounty Connector facility.

The applicant prepared a traffic impact study dated August 2007. This was followed by a study dated January 2008, an addendum dated March 2008, and another study dated June 2008. All items were prepared in general conformance with the methodologies in the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.” Given the overall size and impact area of the development, a slightly different methodology was undertaken so that the results would be consistent with other recent regional traffic studies done in the area. The findings and recommendations outlined below are based upon a review of all materials received and analyses conducted by the staff.

Growth Policy – Service Level Standards

The subject property is located within the Developing Tier, as defined in the *Prince George’s County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

Unsignalized intersections: The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy, but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The initial traffic study submittal indicated that the subject property is a regional center, and would be subject to the LOS E standard in accordance with the stated policy in the General Plan for regional centers within the Developing Tier. Given that the site is not currently a designated regional center (it is identified as a “possible future” regional center on Map 2 of the General Plan), a revised submittal demonstrated the LOS D standard appropriate for the Developing Tier.

Analysis of Traffic Impacts

The traffic impact study prepared and submitted on behalf of the applicant analyzed 16 intersections in the vicinity of the subject property. Existing conditions in the vicinity of the subject property are summarized below:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Old Gunpowder Road and Briggs Chaney Road	869	915	A	A
Old Gunpowder Road and Greencastle Road	43.9*	267*	--	--
MD 198 and Old Gunpowder Road	1,393	1,118	D	B
MD 198 and Sweitzer Lane	885	1,199	A	C
MD 198 and Van Dusen Road	1,540	1,559	E	E
Van Dusen Road and Cherry Lane	1,271	1,254	C	C
US 1 and Contee Road	1,135	1,153	B	C
US 1 and Muirkirk Meadows Drive	1,123	968	B	A
US 1 and Ritz Way	1,123	825	B	A
New Contee Road and Old Gunpowder Road	future			
New Contee Road and Sweitzer/I-95 SB Ramps	future			
New Contee Road and I-95 NB Ramps	future			
New Contee Road and Van Dusen Road	future			
Virginia Manor Road and New Contee Road	future			
Virginia Manor Road and Site Access—North	future			
Virginia Manor Road and Site Access—South	future			
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

At this point, the traffic study takes a significant departure from the standard methodology of conducting traffic impact studies as described in the guidelines. Most traffic impact studies include a review of background, or approved development within the study area and assume growth rates for through traffic on the critical roadway facilities. In this circumstance, the traffic study uses 2010 and 2030 forecasts of turning movements provided by the State Highway Administration (SHA). These turning movement volumes were prepared for the Intercounty Connector (ICC) study of the preferred Corridor 1 (master plan alignment) for the ICC. This is the alignment which ultimately received final environmental approval, and is currently under final design for construction by the Maryland Transportation Authority.

Transmittal of the turning movements was accompanied by a letter noting that the forecasts for the ICC were based on Round 6.3, while the current forecasts, at the time of transmittal, was Round 7.0. The letter indicated that all volumes should be used with caution as background for the traffic study.

It is noted that the turning movement volumes were adjusted generally upward to better reflect the actual counts and to better reflect land use changes occurring within the study area.

While individual approved developments are not explicitly added into this type of approach, the 2010 and the 2030 forecasts are reflective both of actual development activity and of larger historical growth trends triggered by economic forces occurring within the Washington region. In most cases, one factor or the other will govern, but these forecasts have the benefit of having regional approval, and they are deemed appropriate for use in a number of planning applications. The use of these assignments affords full consideration of growth outside of Prince George's County, and their use also provides a more appropriate consideration of a number of new transportation facilities within the study area. Without these assignments, findings regarding these new and unbuilt facilities would be reduced to a "guess-timate" of their impact on current traffic rather than information that has been subjected to rigorous internal and public review.

It is noted that, in reviewing the traffic study, SHA offered no comments challenging the study methodology. Given this fact along with the information noted above, it is determined that the background development scenario presented in the submitted traffic study presents a reasonable assessment not inconsistent with the guidelines for the future years 2010 and 2030.

Background traffic for the year 2010 situation is summarized below:

BACKGROUND TRAFFIC CONDITIONS — YEAR 2010				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Old Gunpowder Road and Briggs Chaney Road	870	1,090	A	B
Old Gunpowder Road and Greencastle Road	not given	not given	--	--
MD 198 and Old Gunpowder Road	839	1,119	A	B
MD 198 and Sweitzer Lane	721	1,026	A	B
MD 198 and Van Dusen Road	934	1,188	A	C
Van Dusen Road and Cherry Lane	1,075	1,250	B	C
US 1 and Contee Road	1,411	1,320	D	D
US 1 and Muirkirk Meadows Drive	1,263	1,578	C	E
US 1 and Ritz Way	1,836	2,249	F	F
New Contee Road and Old Gunpowder Road	610	938	A	A
New Contee Road and Sweitzer/I-95 SB Ramps	756	715	A	A
New Contee Road and I-95 NB Ramps	430	552	A	A
New Contee Road and Van Dusen Road	future			
Virginia Manor Road and New Contee Road	future			
Virginia Manor Road and Site Access—North	future			
Virginia Manor Road and Site Access—South	future			

*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.

Under Phase I, the site is proposed for development with 3,458 multifamily residences, 600 hotel rooms, 1,407,400 square feet of retail space, and 1,203,950 square feet of office space. Once again, the traffic study departs from the guidelines by using trip rates in the Institute of Transportation Engineers’ (ITE) Trip Generation Manual instead of the recognized and locally-measured trip rates published in the guidelines. The guidelines indicate that the rates in the guidelines “should be used in all traffic studies, except where it can be demonstrated by acceptable field data that a more appropriate rate is applicable.” While the ITE manual is provided as a source in the guidelines, it should be used “for any uses not cited in the Guidelines.” The justification provided in the traffic study for using different trip rates is not truly a justification, but more of a citation of a handful of mixed-use developments which may or may not be similar to this site with no data and considerable discussion of internal trip capture. The justification is not compelling. With regard to trip generation for the four uses proposed, the following is determined:

- The initial study used trip rates for all residence types that were about 18 percent less than the Planning Board’s published rates for high-rise apartments. Given that the actual unit types will likely be townhouses, stacked townhouses, and low- to mid-rise flats, the conceptual site plan found that this departure from the Planning Board’s own procedures was simply not justifiable with the information given. The final revision of the traffic study utilizes conventional residential rates per the guidelines, and that study will be used to make the finding for this application.
- The initial study used trip rates per hotel room that were about 15 percent less than the Planning Board’s published rates for hotel. The conceptual site plan found that this departure from the Board’s procedures was not justifiable given that the “hospitality” use was shown over a large portion of the conceptual site plan. The final revision of the traffic study utilizes conventional hotel rates per the guidelines, and that study will be used to make the finding for this application.
- The trip rates per 1,000 square feet of office are nearly 40 percent less than the Planning Board’s published rates for general office. The rates used in the traffic study will be deemed acceptable for three reasons. First, it is essential for this site to attain higher levels of employment density in order for it to function as a regional center, which may, in turn, help to justify higher residential densities (and lower overall residential trip rates) within the context of a large mixed-use center. Second, the argument made in the traffic study that a larger aggregation of office space results in a lower per-unit trip rate is a good one, and is widely substantiated by published data. Third, rates of trip making can be better regulated at large employment sites, either through passive means such as the use of parking garages and

control of parking supply, or through more direct means such as the establishment of a transportation demand management district. The office trip generation method is accepted given that the office uses are substantially concentrated within a walkable area.

- The trip rates per 1,000 square feet of retail are similar to the Planning Board's published rates for retail when an allowance for pass-by travel is considered. The rates used in the traffic study will be deemed acceptable for this reason. Furthermore, the argument made in the traffic study that a larger aggregation of retail space results in a lower per-unit trip rate is a good one, and is widely substantiated by published data.

The analyses for internal trip capture shown in the traffic study are done with detail and reasonable assumptions. The written information in the traffic study substantiates the methodology used, and the results make sense. For these reasons, the internal trip capture rates shown in the traffic study are deemed to be acceptable. The trip generation for Phase I, maintaining the residential and hotel trip levels shown in the traffic study, is summarized in the table below:

Trip Generation — Phase I	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Residential Trips	207	830	1,037	899	484	1,383
Hotel Trips	210	180	390	270	210	480
Less Internal Trip Capture	-39	-42	-81	-247	-155	-402
Net Residential and Hotel Trips	378	968	1,346	922	539	1,461
Office Trips	1,208	165	1,373	243	1,184	1,427
Less Internal Trip Capture	-9	-12	-21	-56	-57	-113
Net Office Trips	1,199	153	1,352	187	1,127	1,314
Retail Trips	467	298	765	1,721	1,865	3,586
Less Internal Trip Capture	-51	-45	-96	-189	-280	-469
Less External Pass-By	-33	-20	-53	-276	-285	-561
Net Retail Trips	383	233	616	1,256	1,300	2,556
Net New Trips — Phase I	1,960	1,354	3,314	2,365	2,966	5,331

Total traffic for Phase I of the subject site is summarized below. This table assumes completion of the ICC from US 1 westward, two new interchanges along I-95 (at the ICC and at Contee Road Extended), and a new roadway facility linking Virginia Manor Road to the I-95/Contee Road interchange. It assumes no connection over I-95 between Konterra East and Konterra West to serve Phase I:

TOTAL TRAFFIC CONDITIONS — PHASE I				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Old Gunpowder Road and Briggs Chaney Road	892	1117	A	B
Old Gunpowder Road and Greencastle Road	140*	923*	--	--
MD 198 and Old Gunpowder Road	899	1224	A	C
MD 198 and Sweitzer Lane	770	1166	A	C
MD 198 and Van Dusen Road	964	1322	A	D
Van Dusen Road and Cherry Lane	1122	1301	B	D
US 1 and Contee Road	1526	1467	E	E
US 1 and Muirkirk Meadows Drive	1366	1738	D	F
US 1 and Ritz Way	1886	2341	F	F
New Contee Road and Old Gunpowder Road	617	1002	A	B
New Contee Road and Sweitzer/I-95 SB Ramps	910	928	A	A
New Contee Road and I-95 NB Ramps	694	786	A	A
New Contee Road and Van Dusen Road	1001	1481	B	E
Virginia Manor Road and New Contee Road	1024	1321	B	D
Virginia Manor Road and Site Access — North	future			
Virginia Manor Road and Site Access — South	1115	1496	B	E
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Traffic Impacts for 2010—The traffic analysis makes the following determinations and recommendations for 2010:

1. US 1 and Contee Road: Add one additional through lane westbound along Contee Road to achieve LOS C in the AM peak hour and LOS D in the PM peak hour.
2. Intercounty Connector: This facility is assumed to be constructed by the Maryland Transportation Authority. The roadway has full construction funding shown in the State Consolidated Transportation Program, and the assumptions in the traffic study are consistent with the final design.
3. US 1 and Muirkirk Meadows Drive: Add a second left-turn lane along eastbound Muirkirk Meadows Drive to achieve LOS C in the AM peak hour and LOS D in the PM peak hour.

4. US 1 and Ritz Way: Add two additional left-turn lanes along northbound US 1 to achieve LOS B in the AM peak hour and LOS E in the PM peak hour.
5. Van Dusen Road and Contee Road: Add a second left-turn lane along westbound Contee Road. Add an exclusive left-turn lane along northbound Van Dusen Road. These improvements would achieve LOS B in the AM peak hour and LOS E in the PM peak hour.
6. Old Gunpowder Road and Greencastle Road: Add a left-turn lane along northbound Old Gunpowder Road. Install signalization if warranted. These improvements would achieve LOS B in the AM peak hour and LOS B in the PM peak hour.
7. I-95 and Contee Road: Construct the I-95/Contee Road interchange with the design consistent with the approved alternative and consistent with the lane use shown on Exhibit 12A of the January 2008 traffic study.
8. Contee Road Extended: Construct the extension of Contee Road from the I-95/Contee Road interchange to Old Gunpowder Road. Provide signalization and lane usage consistent with the traffic study, and with final alignment of the Contee Road Extended/Old Gunpowder Road intersection to be determined by DPW&T at the time of the initial detailed site plan for infrastructure.
9. It is further noted that a roadway connection of Virginia Manor Road to the I-95/Contee Road interchange is to be constructed on-site as a part of Phase I, with approval of the design of this link to be made by DPW&T at the time of the initial detailed site plan for infrastructure.

It should be noted that Phase II, as previously discussed, is based on 2030 forecasts of turning movements provided by SHA. These turning movement volumes were prepared for the ICC of the preferred Corridor 1 (master plan alignment) for the ICC. This is the alignment which ultimately received final environmental approval, and is currently under final design for construction by the Maryland Transportation Authority. The 2030 background situation includes the forecasted turning movements plus the assignment for the first phase of the subject property. Background traffic for the year 2030 situation is summarized below:

BACKGROUND TRAFFIC CONDITIONS — YEAR 2030				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Old Gunpowder Road and Briggs Chaney Road	947	961	A	B
Old Gunpowder Road and Greencastle Road	not given	not given	--	--
MD 198 and Old Gunpowder Road	943	1,364	A	D
MD 198 and Sweitzer Lane	1,007	1,285	B	C
MD 198 and Van Dusen Road	1,356	1,695	D	F
Van Dusen Road and Cherry Lane	1,445	1,784	D	F
US 1 and Contee Road	1,637	1,610	F	F
US 1 and Muirkirk Meadows Drive	1,139	1,591	B	E
US 1 and Ritz Way	1,823	2,290	F	F
New Contee Road and Old Gunpowder Road	801	1,260	A	C
New Contee Road and Sweitzer/I-95 SB Ramps	1,008	914	B	A
New Contee Road and I-95 NB Ramps	590	764	A	A
New Contee Road and Van Dusen Road	future			
Virginia Manor Road and New Contee Road	future			
Virginia Manor Road and Site Access—North	future			
Virginia Manor Road and Site Access—South	future			
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Under Phase II, the site is proposed for development with 4,500 townhouse and multifamily residences, 600 hotel rooms, 1,500,000 square feet of retail space, and 3,800,000 square feet of office space. In consideration of the analyses for internal trip capture shown in the traffic study, along with the trip rate discussions presented under Phase I, the following table has been prepared. The trip generation for Phase II (build-out of the site), maintaining the residential and hotel trip levels shown in the traffic study, is summarized in the table below:

Trip Generation — Phase II	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Residential Trips	295	1,313	1,608	1,278	655	1,933
Hotel Trips	210	180	390	270	210	480
Less Internal Trip Capture	-45	-44	-89	-264	-162	-426
Net Residential and Hotel Trips	460	1,449	1,909	1,384	703	2,087
Office Trips	3,030	413	3,443	737	3,598	4,335
Less Internal Trip Capture	-9	-18	-27	-58	-67	-125
Net Office Trips	3,021	395	3,416	679	3,531	4,210
Retail Trips	485	310	795	1,795	1,945	3,740
Less Internal Trip Capture	-54	-46	-100	-198	-291	-489
Less External Pass-By	-34	-21	-55	-287	-298	-585
Net Retail Trips	397	243	640	1,310	1,356	2,666
Net New Trips — Phase II Build-out	3,878	2,087	5,965	3,373	5,590	8,963

Total traffic for Phase II (build-out) of the subject site is summarized below. This table assumes completion of the ICC from US 1 westward, two new interchanges along I-95 (at the ICC and at Contee Road Extended), and a new roadway facility linking Virginia Manor Road to the I-95/Contee Road interchange:

TOTAL TRAFFIC CONDITIONS — BUILD-OUT OF TOWN CENTER EAST				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)	
Old Gunpowder Road and Briggs Chaney Road	947	994	A	A
Old Gunpowder Road and Greencastle Road	324*	781*	--	--
MD 198 and Old Gunpowder Road	1,047	1,504	B	E
MD 198 and Sweitzer Lane	1,138	1,558	B	E
MD 198 and Van Dusen Road	1,473	1,864	E	F
Van Dusen Road and Cherry Lane	1,527	1,992	E	F
US 1 and Contee Road	1,803	1,731	F	F
US 1 and Muirkirk Meadows Drive	1,251	1,724	C	F
US 1 and Ritz Way	1,865	2,389	F	F
New Contee Road and Old Gunpowder Road	873	1,364	A	D
New Contee Road and Sweitzer/I-95 SB Ramps	1,172	1,201	C	C
New Contee Road and I-95 NB Ramps	873	1,106	A	B
New Contee Road and Van Dusen Road	799	1,370	A	D
Virginia Manor Road and New Contee Road	1,000	1,312	B	D
Virginia Manor Road and Site Access — North	648	536	A	A
Virginia Manor Road and Site Access — South	970	1,337	A	D
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the Guidelines, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Traffic Impacts for 2030 (build-out)—The traffic analysis makes the following determinations and recommendations for 2030, beyond those that are required for 2010:

1. MD 198 and Bond Mill Road/Old Gunpowder Road: Restripe the southbound Bond Mill Road approach to provide exclusive left-turn, through, and right-turn lanes to achieve LOS B in the AM peak hour and LOS D in the PM peak hour.
2. MD 198 and Sweitzer Lane: Restripe the northbound Sweitzer Lane approach to provide exclusive left-turn and right-turn lanes, and a shared through/left-turn lane to achieve LOS A in the AM peak hour and LOS D in the PM peak hour.
3. US 1 and Ritz Way: Add two additional left-turn lanes along northbound US 1. Add a third eastbound left-turn lane along Ritz Way, with provision for three receiving lanes along

northbound US 1. These improvements would achieve LOS B in the AM peak hour and LOS D in the PM peak hour.

4. Van Dusen Road and Contee Road: Provide an exclusive left-turn lane and a shared through/left-turn lane along westbound Contee Road. Add a second exclusive left-turn lane along northbound Van Dusen Road. These improvements would achieve LOS B in the AM peak hour and LOS C in the PM peak hour.
5. MD 198 and Van Dusen Road: Add a second left-turn lane along westbound MD 198, with provision for two receiving lanes along southbound Van Dusen Road. Add a second northbound through lane along Van Dusen Road. These improvements would achieve LOS D in the AM peak hour and LOS D in the PM peak hour.
6. Van Dusen Road and Cherry Lane: Add a second left-turn lane along southbound Van Dusen Road. Add a second northbound through lane along Van Dusen Road, with provision for two receiving lanes along northbound Van Dusen Road, north of the intersection. These improvements would achieve LOS D in the AM peak hour and LOS D in the PM peak hour.
7. It is noted that the overpass connection over I-95 between Konterra East and Konterra West shall be scheduled for bonding and ultimate construction by DPW&T at the time of the initial detailed site plan for infrastructure within Phase II.
8. The overpass connection over the ICC between Konterra East and properties to the south, with an eventual connection to MD 212 at Ammendale Road, shall be scheduled for bonding and ultimate construction by DPW&T at the time of the initial detailed site plan for infrastructure within Phase II.
9. It is further noted that the construction of MD 201 Extended along Virginia Manor Road and connecting to the I-95/Contee Road interchange is to be constructed on-site as a four-lane divided facility as a part of Phase II, with approval of the design of this link to be made by DPW&T and/or SHA (whichever agency is responsible) at the time of the initial detailed site plan for infrastructure within Phase II. At that time, the design of turning lanes into and out of the site for each site access shall be completed and approved.

The initial traffic study was referred to the County Department of Public Works and Transportation (DPW&T) and the Maryland State Highway Administration (SHA) for comment. The comments from each agency are attached. Neither agency provided comments that require specific discussion within these findings. DPW&T indicated that any designs for intersections along County roadways would require the use of the Synchro analysis; this can be done at the time that designs are done. There was no discernible difference between the September 2007 and the January 2008 study; nonetheless, the January 2008 study was submitted as the traffic study of record and should be the primary reference for this application. The March 2008 addendum was submitted solely to demonstrate conformance with a LOS D standard.

Plan Comments

At this time, the 1990 Subregion I Master Plan is the document by which conformity with the transportation plan is to be determined. The current conceptual site plan was prepared based on a roadway concept for the area that was developed during 2006 and 2007 as a part of the update to the Subregion I Master Plan. At this time, that updated plan stands without approval, and elements of the updated plan will be reworked, re-released, and reheard at a later date. As a means of demonstrating general conformity between the 1990 plan and the currently proposed roadway network, the following table has been prepared:

Road Designation on 1990 Plan	Facility Type 1990	Facility Type Draft Master Plan	Description on Preliminary Plan	OK
F-1 (I-95)	8+ lane Freeway	8+ lane Freeway	I-95	✓
A-44 (ICC)	6 lane access controlled Arterial	6 lane Freeway	ICC	✓
A-6 (Contee Road, east of site)	6 lane Arterial	6 lane Arterial	Contee Road Extended	✓
A-6 (Contee Road, west of site)	6 lane Arterial	6 lane Arterial	MD 201 Extended	✓
A-56 (MD 201 Ext., north of site)	4-6 lane Arterial	4 lane Major Collector	Van Dusen Road	✓
A-56 (MD 201 Ext., south of site)	4-6 lane Arterial	6 lane Arterial	MD 201 Extended	✓
A-3 over I-95	4-6 lane Arterial	4 lane Major Collector	Primary	✓
A-3 over ICC	4-6 lane Arterial	4 lane Major Collector	Major Collector	✓
C-102	4 lane Collector	4 lane Major Collector	Van Dusen Road Extended and Contee	✓
C-101	4 lane Collector	4 lane Major Collector	Konterra East, east access	✓

The rights-of-way for I-95 (F-1), the Intercounty Connector (A-44), and the proposed interchanges between I-95 and the A-6 and A-44 facilities have reached the stage of an approved design by SHA and/or the Maryland Department of Transportation (MDOT). While these rights-of-way might not conform to the 1990 Subregion I Master Plan, the approved designs govern the right-of-way needs. It

is determined that these rights-of-way are consistent with agency-approved designs, and are acceptable. It is the understanding among staff that the state has initiated a right-of-way acquisition procedure that is informally known as “quick take”; that procedure involves petitioning the court for the right to take ownership of the required future right-of-way with the ultimate price settlement to occur at a future date. Given that the court has allowed the process to move forward, it is determined that needed rights-of-way along A-44 and I-95, along with the needed right-of-way for the I-95/A-6 interchange, are in the process of acquisition and there is no need for a further recommendation regarding right-of-way dedication or reservation by this plan.

The A-3 facility as shown on the Subregion I Master Plan is not reflected on the plan. As noted in the table above, other roadways replicate its approximate routing through the site. The conceptual site plan found that a four-lane roadway along these roadways would be appropriate. The main issue with the current plan is that Street B, which continues the function of A-3 by connecting Konterra East and the future Konterra West over I-95, is shown as a primary roadway. That is, the roadway is shown on this plan as two lanes. It is recommended that the plan be revised to demonstrate a 100-foot right-of-way along Street B within the subject property, with dedication at the time of final plat.

The alignments for A-6, A-56, C-101 and C-102, as shown on the Subregion I Master Plan, are somewhat different from the alignments shown on this preliminary plan. At the time of conceptual site plan review, it was found that the alignments for these facilities were functionally consistent with the current master plan. All of these facilities should be dedicated consistent with the alignments shown at the time of final plat.

The MD 201 Extended facility, located along the northern and eastern sides of the subject site, is proposed to be constructed by the applicant as a four-lane divided facility. Nonetheless, the master plan allows sufficient right-of-way to allow for the ultimate construction of a six-lane divided facility. Although a four-lane facility is deemed to be acceptable for the purpose of serving traffic in the year 2030, the build-out of all vacant zoned land within the Subregion I area necessitates planning for the ultimate six-lane facility.

Variation from Section 24-121(a)(3)—The applicant is requesting a variation from Section 24-121(a)(3) for access to the A-56 facility. Section 24-121(a)(3) of the Subdivision Regulations establishes design guidelines for lots that front on arterial roadways. This section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible. This design guideline encourages an applicant to develop alternatives to direct access onto an arterial roadway.

The plan indicates nine lots with frontage and direct access along A-56, and the variation, if approved, would allow up to nine driveways within a short distance along that roadway. Planning Board approval of such a variation requires that four separate findings be made (the fifth finding does not apply to the subject site, which is in the M-X-T zone).

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests:

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 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:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. However, strict compliance with the requirements of Section 24-121(a)(3) do not result in practical difficulties to the applicant and could create safety issues with nine lots having direct access onto an arterial facility in such close proximity.

- A. That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.**

Direct access to A-56 will be approved by SHA or DPW&T as the permitting authority regarding driveways onto A-56. Both agencies are generally charged with ensuring safe access to roadways.

- B. The conditions of 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 landbays that are the subject of this variation are unique in that they are exceptionally elongated and narrow as compared to the surrounding land bays. To the west is an environmental feature that will be placed in a conservation easement and to the east is the alignment of A-56.

Staff recommends that only one point of access should exist for each pod of development and that an access easement (24-128)(b)(a) be utilized to serve the entire pod, serving as a collective driveway for the parcels.

- C. The variation does not constitute a violation of any other applicable law, ordinance, or regulation.**

There are no existing ordinances or laws that would preclude the granting of this variation.

- D. 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.**

Because of the exceptionally narrow and elongated configuration of these landbays, and the location

abutting the expanded buffer there is extremely limited opportunity to serve these landbays. The area of land to the north of C-101 is roughly 4 acres and the area of land south of C-101 is roughly 5 acres. These are large landbays that can support a large amount of development based on the M-X-T zoning of the property. To provide adequate on-site circulation limited access onto A-56 is appropriate. Additional access may be provided onto C-101 as a collector facility for which direct access is not limited by the Subdivision Regulations.

In summary, the variation from Section 24-121(a)(3) allowing up to nine driveways within a 1,000-foot segment of the A-56 facility is not supportable. **The Planning Board approves two access points onto A-56 only;** An access easement pursuant to Section 24-128(b)(9) to connect each lot group to Fashion Place and A-56, is authorized to the potentially hazardous and unsafe conditions.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code.

10. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 1	Middle School Cluster 1	High School Cluster 1
Dwelling Units	4,500 DU	4,500 DU	4,500 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	1,080	270	540
Actual Enrollment	5,980	1,557	4,191
Completion Enrollment	214.08	56	112
Cumulative Enrollment	304.32	76.20	152.16
Total Enrollment	7,578.40	1,959.20	4,995.16
State Rated Capacity	5,876	1,759	4,123
Percent Capacity	128.97%	111.38%	121.15%

Source: Prince George's County Planning Department, M-NCPPC, January 2007

County Council Bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or

\$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Special Projects Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

11. **Fire and Rescue**—The Special Projects Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(a)(2), Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

Residential

1. Special Projects staff has determined that this preliminary plan is within the required 7-minute response time for the first due fire station, Laurel Fire Station, Company No. 10, using the *7 Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire Department.
2. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn fire and rescue personnel staffing levels.
3. The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

Fire and Rescue Service—Commercial

The existing fire engine service at Laurel Fire Station, Company No. 10, located at 7411 Cherry Lane has a service travel time of **3.22** minutes, which is **within** the **3.25**-minutes travel time guideline.

The existing paramedic service at Laurel Rescue Squad, Company No. 49, located at 14910 Bowie Road has a service travel time of **5.95** minutes, which is **within** the **7.25**-minutes travel time guideline.

The existing ladder truck service at Laurel Fire Station, Company No. 10, located at 7411 Cherry Lane has a service travel time of **3.22** minutes, which is **within** the **4.25**-minutes travel time guideline

12. **Police Facilities**—The subject property is located in Police District IV.

Residential

The standard response time for priority calls is ten minutes and 25 minutes for non-priority calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on March 13, 2008.

Reporting Cycle	Previous 12 Month Cycle	Priority Calls	Non-priority Calls
Acceptance Date March 13, 2008	2/07 - 2/08	8 minutes	11 minutes
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for priority calls and 25 minutes for non-priority calls were met April 22, 2008. The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

Commercial

The approved 2002 General Plan addresses the provision of public facilities that will be needed to serve existing and future county residents. The plan includes planning guidelines for police which is station space per capita: 141 square feet per 1,000 residents.

The police facilities test is done on a countywide basis in accordance with the policies of the Planning Board. There are 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department and the latest population estimate is 825,520. Using the guideline of 141 square feet per 1,000 residents, 116,398 square feet of space for police is needed. The current amount of space, 267,660 square feet, is above the guideline.

13. **Health Department**—The Environmental Engineering Program section of the Health Department is currently working with the applicant to address issues of environmental site assessment and testing relating to the sand and gravel operation that existed on this site. At the writing of this staff report, a final referral has not been filed by the Health Department. Prior to the approval of the first detailed site plan, the applicant shall demonstrate the satisfaction of the Health Department regarding this issue.
14. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that stormwater management is required. A Stormwater Management Concept Plan, No. 19046-2007-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan. The stormwater management concept approval letter was

submitted with the original application; however, a copy of the stormwater management concept plan was not. The approval letter outlines conditions of approval including a required floodplain study and that the applicant should continue to work with DPW&T to investigate and analyze flooding issues along US 1. An approved floodplain study is necessary to establish buffers and woodland conservation areas.

A copy of a stormwater management concept plan was stamped as received on June 23, 2008, but the plan is not an approved plan so it is not clear if this is the plan that is to accompany the concept approval letter. As noted above, there are discrepancies between the stormwater concept plan and the TCPI. Staff will ensure that the stream restoration work be coordinated with the stormwater management facilities.

15. **Historic**—A Phase I archeological survey is not recommended on the property. This plan proposes mixed used residential, retail, office, and hotel uses on 990 lots and 47 parcels. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. This property was extensively mined for sand and gravel and there is very little of the property that has not been impacted by mining, grading or other earth disturbance.

Several archeological surveys related to the widening of I-95, the routing of the Intercounty Connector, and a planning study for the US 1 and MD 201 corridor have been conducted around the boundaries of the subject property. One historic archeological site, 18PR652, was identified in the northeastern portion of the subject property in 2002. This site represents the remains of a late 19th-early 20th century residence. No foundations were identified due to the house having been bulldozed, but a 20th century artifact scatter was noted, along with a concrete watering trough. Site 18PR652 was determined not eligible for listing in the National Register of Historic Places in November 2006.

However, the applicant should be aware that there are four County Historic Sites, Ammendale Normal Institute (PG:60-004), St. Joseph's Chapel (PG:60-007), Muirkirk Furnace Site (PG:60-009), and Abraham Hall (PG:62-023-07) and two Historic Resources, Washington, Berwyn, and Laurel Railroad Culvert (PG:60-009) and Thomas Matthews House (PG:62-023-17) located within a one-mile radius of the subject property. In addition, there are five previously identified archeological sites, 18PR45, 18PR149, 18PR410, 18PR624 and 18PR652 within a one-mile radius of the subject property. Two of these sites, 18PR45 and 18PR624, date to the prehistoric period and three of the sites, 18PR149, 18PR410 and 18PR652 are historic sites dating to the late 19th and early 20th century.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or federal permits are required for a project.

16. **Zoning**—In 1984, a Zoning Map Amendment (A-9482) rezoned the subject site from the R-R Zone to the M-X-T (Mixed Use-Transportation Oriented) Zone. A-9482 contained a larger property of

approximately 1,457.7 acres. However, only about 488 acres of the larger property was rezoned to the M-X-T Zone. The 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 61 and 62* retained the property in the M-X-T Zone and envisioned the Konterra development, which includes the subject site and a 253-acre parcel, as a regional mall, with office, retail and residential uses west of I-95 and with the town center on the east side of I-95. The 2002 *Approved General Plan* identified the Konterra development as a possible future regional center and designated Konterra in the Developing Tier.

The 1991 M-NCPPC official zoning maps include a note with an arrow pointing to the southern boundary of the M-X T Zone which states, “[p]roposed centerline of A-44 Illustrated in approved master plan 3-6-90.” The District Council order (Zoning Ordinance No. 56-1984) for the rezoning of this property to the M-X-T Zone found that the property will be traversed by the planned Intercounty Connector, and “approves the M-X-T Zone for that part of the subject property, about 488 acres in area, lying north of the planned ICC and east of I-95.” The order states that the M-X-T Zone is located on the north side of the ICC, and “adjoins the location of the planned interchange of I-95 and the Intercounty Connector.” The alignment of the ICC at that time was conceptual. At this time the alignment of the ICC appears to have been finalized.

Based on the record of the District Council’s order (Zoning Ordinance No. 56-1984) and the official M-NCPPC Zoning Map, the southern boundary of the M-X-T Zone is consistent with the center line of the ICC right-of-way, as provided on the applicant’s revised preliminary plan.

Parcel 4 is the part of the property that is traversed by the alignment of the ICC. Parcel 4 (Liber 5548 folio 921) is split zoned R-R, south of the center line of the ICC right-of-way, and M-X-T north of the ICC center line. The zoning boundary, as established by Section 27-111 of the Zoning Ordinance, states that the zone boundary line follows the center line of the street unless the boundary lines are fixed by dimensions on the zoning map. In this instance the zoning boundary is not fixed by dimensions on the zoning map. Section 27-111(a)(2) states that where zone boundaries are indicated as approximately following street lines (existing or proposed), the center line of the street shall be considered the boundary.

The ICC right-of-way has been acquired by the State Highway Administration by quick take, and SHA has filed condemnation proceedings with the Circuit Court for Prince George’s County (Case No. CAL 07-32558-61). Since the right-of-way has been conveyed to SHA, the applicant is not responsible for the fulfillment of applicable regulations for that portion of the property (e.g. woodland conservation) nor would the preliminary plan need to include that portion of Parcel 4 zoned R-R, south of the ICC right-of-way. Pursuant to Section 24-107(c)(5) of the Subdivision Regulations, the conveyance of land to a governmental agency for a public use is exempt from a preliminary plan of subdivision and is a legal division of land.

The portion of Parcel 4 located within the R-R Zone (south of the center line of the ICC alignment) was appropriately not included in the conceptual site plan approval (CSP-07003) for the M-X-T Zone. However, staff would recommend that that part of Parcel 4 zoned R-R and located south of the

ICC should be placed in an outparcel for future development as a part of this preliminary plan application.

17. **New Finding**—The subject property is located on Tax Map 9, in Grid B-2 and is known as Parcels 130 and 4. The property is 402.58 acres and zoned M-X-T (401.77 acres) and R-R (.81 acre). The applicant is proposing to subdivide the M-X-T portion of the property into 980 lots and 67 parcels. The subdivision is for the development of 4,500 dwelling units which includes 760 single-family attached (townhouse) and 3,740 multifamily dwellings. Also proposed is 5.9 million square feet of gross floor area for retail, office, hotel and public land uses. The applicant proposes to convey approximately 71.5 acres to the homeowners association (not including 29.96 acres in private streets), 19.7 acres to the KTC Business Association, and 41 acres to the Maryland-National Capital Park and Planning Commission (M-NCPPC) for park purposes as discussed further in the Parks section of this report.

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.

* * * * *

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 Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavitt absent at its regular meeting held on Thursday, July 24, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 18th day of September 2008.

Oscar S. Rodriguez
Executive Director

By Frances J. Guertin
Planning Board Administrator

OSR:FJG:WC:bjs