



The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

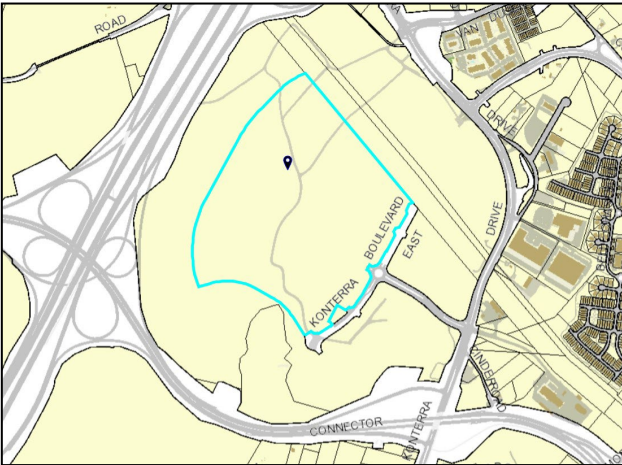
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Final Plat of Subdivision

5-21152

Konterra Town Center East, Plat 2

REQUEST	STAFF RECOMMENDATION
Final Plat of Subdivision	With the conditions recommended herein: <ul style="list-style-type: none">•APPROVAL of Final Plat 5-21152•APPROVAL of a Variation from Section 24-122(a)

Location: Adjacent to the east side of I-95/495 (Capital Beltway) and bounded by Konterra Drive to the north and east and MD 200 (Intercounty Connector) to the south.			
Gross Acreage:	10.98	Planning Board Date:	11/10/2022
Zone:	TAC-C	Planning Board Action Limit:	11/19/2022
Prior Zone:	M-X-T	Mandatory Action Timeframe	30 days
Reviewed per prior Subdivision Regulations:	Section 24-1704(a)	Staff Report Date:	11/02/2022
Lots:	2	Date Accepted:	10/20/2022
Parcels:	0	Informational Mailing:	N/A
Planning Area:	60	Acceptance Mailing:	N/A
Council District:	01	Sign Posting Deadline:	N/A
Municipality:	N/A		
Applicant/Address: Hillary Colt Konterra Core Ventures, LLC 14401 Sweitzer Lane, Suite 200 Laurel, MD 20707			
Staff Reviewer: Mahsa Vatandoost Phone Number: 301-952-4487 Email: Mahsa.Vatandoost@ppd.mncppc.org			

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at http://www.mncppcapps.org/planning/Person_of_Record/. Please call 301-952-3530 for additional information.

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Final Plat of Subdivision 5-21152
Variation from Section 24-122(a)
Konterra Town Center East, Plat 2

OVERVIEW

The subject property is currently known as Parcel 169, as described in a deed recorded among the Prince George's County Land Records in Liber 40138 at folio 232. The property is located on Tax Map 9 in Grids C-2, C-3, D-2, and D-3. The property is within the Town Activity Center-Core (TAC-C) Zone and was previously zoned Mixed Use-Transportation Oriented (M-X-T). This application was submitted for review under the prior Prince George's County Zoning Ordinance and prior Prince George's County Subdivision Regulations, pursuant to Section 24-1704(a) of the Subdivision Regulations because the preliminary plan of subdivision (PPS) approval was obtained under the prior regulations, which remains valid.

The subject site is proposed to be platted in accordance with PPS 4-07108, for Konterra Town Center East, which was approved by the Prince George's County Planning Board on July 24, 2008 (PGCPB Resolution No. 08-116), for mixed-use development on 402.58 acres. The PPS approved 980 lots and 67 parcels for development of 5.9 million square feet of commercial, office, hotel, and residential uses. The property is also subject to a Detailed Site Plan, DSP-08011, which was approved by the Planning Board on February 12, 2009 (PGCPB Resolution No. 09-33).

The final plat contains two lots, Lots 1 and 2, Block I, and is in conformance with PPS 4-07108 and DSP-08011. However, the applicant is requesting the Planning Board's approval of a variation from Section 24 122(a) of the prior Subdivision Regulations, to eliminate the standard 10-foot public utility easement (PUE) requirement on Lots 1 and 2, along the following proposed public streets; the south side of Broadway Boulevard, the east side of Mezzo Street, the north side of Fashion Place, and the west side of Konterra Boulevard East (only along Lot 1), as discussed further below.

Staff recommends **approval** of the final plat and variation based on the findings contained in this technical staff report.

SETTING

The subject property is located adjacent to the east side of I-95/495 (Capital Beltway) and bounded by Konterra Drive to the north and east, and MD 200 (Intercounty Connector) to the south, in Planning Area 60. The downtown core area of the Konterra Town Center East is bounded on the east and west sides by Perimeter Drive East and Perimeter Drive West, and on the north and south

side by North End Road and South End Road. Further to the east of the overall Konterra site is the right-of-way to I-95/495; and to the west is Konterra Boulevard east and undeveloped properties in the TAC-C Zone. Further to the south of the site is green space allocated for a future public building in the TAC-C Zone and the right-of-way to MD 200; and to the north is Potomac Electric Power Company (PEPCO) and Baltimore Gas and Electric (BGE) utility easements and undeveloped properties in the TAC-C Zone.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

- 1. Development Data Summary**—The following information relates to the subject final plat of subdivision application.

	EXISTING	PROPOSED
Zone(s)	TAC-C	TAC-C (previously zoned M-X-T)
Use(s)	Vacant	Mixed Use (Commercial and Residential)
Acreage	10.98	10.98
Lots	0	2
Outlots	0	0
Parcels	1	0
Variance	No	No
Variation	No	Yes, Section 24-122(a)

The requested variation from Section 24-122(a) was received on February 16, 2022 and heard on March 4, 2022, at the Subdivision and Development Review Committee meeting, as required by Section 24-113(b) of the prior Subdivision Regulations, as a companion request to the subject final plat of subdivision.

- 2. Variation**—The applicant filed a variation request from Section 24 122(a) to eliminate the standard 10-foot PUE requirement on Lots 1 and 2 along either side of the following proposed public streets:

- Broadway Boulevard (No PUE along the south side)
- Mezzo Street (No PUE along the east side)
- Fashion Place (No PUE along the north side)
- Konterra Boulevard East (No PUE along the west side on Lot 1)

The variation is necessary to accommodate the development required by Conceptual Site Plan CSP-07003, which was analyzed and approved with the PPS and DSP for the site. The variation has now been filed to meet the technical submittal requirements, and the applicable findings for approval of the variation are outlined below.

Section 24-122 Public Facilities Requirements.

- (a) When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents: Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.**

The standard requirement for PUEs is a 10-foot-wide easement along both sides of all public rights-of-way to ensure adequate and continuous utility access and provision for all development. For purposes of platting, pursuant to PPS 4-07108, the applicant seeks a variation from the above requirement. The applicant proposes to provide the required PUEs on Lot 2 along Konterra Boulevard East. However, the plat does not show the required PUEs along the other proposed public rights-of-way, and instead proposes utilities within the public rights-of-way.

Section 24-113 sets forth the required findings for approval of a variation request.

There are four criteria that must be met for this variation to be approved (a fifth criterion is not applicable to the prior M-X-T-zoning of the subject property), which are addressed by the applicant's variation request, incorporated by reference herein. The criteria, with discussion, are noted below:

Section 24-113. Variations.

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

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

Ten-foot-wide easements for public utilities along both sides of all public rights-of-way ensure utility access will be able to serve the subject site and surrounding development. The applicant, however, proposes to locate utilities on Lot 2 along Konterra Boulevard East, but not along the other proposed public rights-of-way on Lots 1 and 2. The utilities are to be located within the rights-of-way for the referenced public streets, in conformance with the approved DSP-08011, rather than along the streets. Staff finds that the location of the proposed PUEs still provides sufficient space to install the utility infrastructure necessary to serve the development and surrounding properties. Granting a variation to the PUE requirements will not be detrimental to public safety, health, or welfare, or injurious to other property, because the proposed utilities within the rights-of-way for the

referenced public streets are sufficient to serve the subdivision and surrounding properties.

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

The condition of this property is unique, due to the design standard, as envisioned in the DSP and CSP, which defines the development guidelines of the proposed core area of Konterra Town Center East. The property is subject to CSP-07003, which approved the Konterra Town Center East design and architectural standards and street pattern. These development guidelines call for the unique design of the subject site, which may require nonstandard design of rights-of-ways where utilities are placed within them. The applicant's request to eliminate the PUE requirement along either side of the referenced public streets is warranted, given the unique nature of the design guidelines imposed on the subject property.

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

The variation from Section 24-122(a) is unique to the Subdivision Regulations and under the sole authority of the Planning Board. The final plats and variation request for the location of PUEs was referred to the public utility companies. No referred agency opposed this request. The proposed utilities will need to be designed in direct coordination with the individual utility companies, in order to meet all the requirements and design standards, at time of permitting. Staff is not aware of any applicable law, ordinance, or regulation that will be violated if this variation is granted.

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

The overall Konterra Town Center is surrounded by public rights-of-way I-95/495 and MD 200 to the west and south. Also, the property is bounded to the north by 400-foot-wide PEPCO and BGE easements. The property's particular physical surroundings, and the design guidelines envisioned by the CSP and DSP, restrict the location of the standard PUE's, as required, and would result in a hardship on the owner. The requirements of the design guidelines imposed on this development are features that are arguably unique and, in this particular case, the standard PUE requirement would negatively impact the owner's ability to meet the development approved in the CSP for the subject site and surrounding properties. As a result, implementing the standard 10-foot PUE requirement would impact the design of the approved DSP-08011.

By virtue of positive findings for each of the criteria for variation approval, staff finds that a variation from Section 24-122(a), for the elimination of the standard 10-foot PUE requirement on Lots 1 and 2 along the referenced rights-of-way, is supportable. Staff recommends that the elimination of the required PUE on the subject plat be approved.

3. **Referrals and Comments from other Entities**—The requested variation was referred to the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE), the Washington Suburban Sanitary Commission, PEPCO, Comcast, AT&T, and Verizon for review. DPIE responded and had no objections to the request. AT&T responded that they have no facilities in the area. No responses objecting to the approval of this application were provided by any of the other agencies.

RECOMMENDATION

- Approval of Final Plat of Subdivision 5-21152
- Approval of a Variation from Section 24-122(a)