

Case No. SP-08011

Applicant: 1325 G Street Associates, LLP

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION, WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 09-33, to approve with conditions a special purpose detailed site plan for the development character for the 132-acre downtown core area of Konterra Town Center East, and for the supporting infrastructure such as stormwater management ponds in the surrounding environs, for a project referred to as Konterra Town Center East, on property described as approximately 402.5 acres of land in the M-X-T Zone, with the larger Konterra Town Center site located on the east side of Interstate 95, south of Van Dusen Road, north of Muirkirk Road, west of Virginia Manor Road, and the core area surrounded by Perimeter Drive East, Perimeter Drive West, South End Road, and North End Road, Laurel, is:

AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council in this case, with the following changes:

A. The following language on page 3 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[A comprehensive set of design standards (a complete design standards book can be found at www.Konterra.com) illustrated with photos and graphics has been provided with this DSP. The standards are prepared based on the physical layout of the downtown core area as envisioned in the previously approved conceptual site plan, and are related specifically to each developable block of the DSP. The illustrations provided with the

design standards show the character and quality of the proposed development in the downtown core area. The standards have been divided into seven chapters and cover almost every aspect of a built town center environment, from the building design, streetscape, materials, lighting pattern and fixtures, signage, and landscaping to pavement patterns. The standards are in essence the codification of the physical development envisioned by the Conceptual Site Plan, CSP-07003, which will be further defined by this DSP. The standards have been proposed with the intent that they will be utilized as criteria for future permit plan review. The approved design standards will be used by Planning Department staff to review each specific project as the designee of the Planning Board. This arrangement, whereby each proposed permit plan must conform to the design parameters approved in this DSP, will provide the developer with enough flexibility to accommodate the changing market. The design standards are intended to provide a minimum quality assurance for the proposed downtown core development of Konterra Town Center East. The final construction of the downtown core area must be equal to or better than the quality as presented by the proposed standards in this DSP. Konterra Town Center East will have an additional private covenant/leasing agreement, imposed by the owners, to achieve a high-quality development and efficient operation of the downtown core.]

Add:

A comprehensive set of design standards (a complete design standards book can be found at www.Konterra.com), illustrated with photos and graphics, has been filed for this DSP. The standards are based on the physical layout of the downtown core area as envisioned in the previously approved conceptual site plan, and are related specifically to each developable block of this special purpose DSP. The illustrations with the design standards show the character and quality of the development in the downtown core area that the applicant has committed to. The standards have been divided into seven chapters: they cover almost every aspect of a built town center environment, from the building design, streetscape, materials, lighting pattern and fixtures, signage, and landscaping to pavement patterns. The applicant proposes these standards as the codification of the physical development envisioned by the Conceptual Site Plan, CSP-07003, which is further defined in this special purpose DSP. The standards will be the criteria for future permit plan review, under this special purpose DSP. Under this applicant's proposal, the approved design standards are to be used by Planning Department staff to review each specific project, as the designee of the Planning Board. This arrangement, whereby each proposed permit plan must conform to the design parameters approved in this special purpose DSP, will provide the developer with enough flexibility to accommodate the changing market. The design standards provide a minimum quality level for the proposed downtown core development of Konterra Town Center East. The final downtown core area must equal or exceed the quality as presented by the proposed standards in this special purpose DSP. Konterra Town Center East

will have an additional private covenant/leasing agreement, imposed by the owners, to achieve a high-quality development and efficient operation of the downtown core. Such additional private covenant/leasing agreement does not affect the findings and conditions of CSP-07003 nor this special purpose DSP.

B. The following language on page 4 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[The DSP also includes a summary of the approaches and strategies that will be applied to achieve sustainability in the development of the larger Konterra Town Center East. The summary reiterates the applicant's commitment to sustainable urban development. The approaches and strategies to be employed are as follows: to use an integrated design process; to establish compact, complete, and connected neighborhoods; to protect local watersheds and respect wildlife habitat; to minimize carbon dioxide emissions; and to ensure public health and safety in the design and development of Konterra Town Center East.

DSP-08011 allows development solely within the 132-acre downtown core area and allows supportive infrastructure, such as roads and erosion and sediment control ponds, which will be converted to stormwater management ponds after construction, on the remainder of the property shown on the DSP. Any development outside the 132-acre downtown core area shall require either an approval of a revision to DSP-08011 or approval of a separate DSP for that area.]

Add:

This special purpose DSP also includes a summary of the approaches and strategies that will be applied to achieve sustainability in the development of the larger Konterra Town Center East. The summary reiterates the applicant's commitment to sustainable urban development. The approaches and strategies to be employed are as follows: to use an integrated design process; to establish compact, complete, and connected neighborhoods; to protect local watersheds and respect wildlife habitat; to minimize carbon dioxide emissions; and to ensure public health and safety in the design and development of Konterra Town Center East. The sustainability doesn't however, fully address issues of transit and Traffic Demand Management (TDM). The 1990 Subregion I Master Plan reviews these issues at length, in recognition of the long-term transportation inadequacies of the Subregion I area, and proposes the implementation of TDM measures. The Planning Board has not addressed this issue, either, and the applicant must address sustainability. The revised Subregion I Master Plan should also address the issue, particularly with respect to Konterra.

DSP-08011 allows development solely within the 132-acre downtown core area, and allows supportive infrastructure, such as roads and erosion and sediment control ponds, that will be converted to stormwater management ponds after construction, on the remainder of the property shown on the DSP. Any development outside the 132-acre downtown core area shall require approval of a separate DSP for that area utilizing the standard DSP approval process in Part 3, Division 9 of the Zoning Ordinance. The extraordinary use of this special purpose DSP approval process shall not be used outside the 132-acre downtown. Therefore, additional land shall not be incorporated by means of a revision to special purpose DSP-08011.

C. The following language on pages 6 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[Specifically, this DSP includes 2,161 multifamily dwelling units, a 300-room hotel, approximately 2.2 million square feet of various uses, and is in a town center layout that implements many New Urbanism principles and best urban design practices to promote the orderly development of the subject site. This DSP is a further refinement of the land use vision of the downtown core area as approved in the Conceptual Site Plan, CSP-07003. Given its scale, quality of the development, and wide range of uses, Konterra Town Center East will enhance the economic status of the County and provide desirable employment and living opportunities for citizens of the county.]

Add:

Specifically, this DSP includes 2,161 multifamily dwelling units, a 300-room hotel, approximately 2.2 million square feet of various uses, and is in a town center layout that implements New Urbanism principles and best urban design practices, to promote the orderly development of the subject site. This special purpose DSP serves as a refinement of the land use vision of the downtown core area as approved in the Conceptual Site Plan, CSP-07003. Given its scale, development quality, and wide range of uses, Konterra Town Center East has the potential to enhance the economic status of the County and provide desirable employment and living opportunities for citizens.

D. The following language on pages 6-7 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[(4) To promote the effective and optimum use of transit and other major transportation systems;

The proposed downtown core area is located within the geographical center of Konterra Town Center East, which is located between the metropolitan areas of Baltimore and Washington, D.C. and is accessible to major regional highways and the Maryland Area Regional Commuter (MARC) commuter train system. The proposed downtown core area is located close to the intersection of the Intercounty Connector and I-95. Because of the nature of the development, various forms of transportation including pedestrian, bicycle, automobiles, and mass transit are necessary to support the planned downtown core. This area is designed in an urban grid street pattern to maximize accessibility. Sidewalks, bike lanes, and trails have been proposed with the approved CSP for the entire Konterra Town Center East and within this DSP for the downtown core area, which are consistent with the approved CSP. Additional transportation improvements are envisioned in the later stages of the development. These improvements may include bus connections, transit stops from the MARC station at Muirkirk Road and US 1, and a potential Metro station within the office complex in the environs of Konterra Town Center East between the downtown core area and I-95. The success of the proposed development hinges on the effective use of various major transportation systems.]

Add:

(4) To promote the effective and optimum use of transit and other major transportation systems;

The proposed downtown core area is located within the geographical center of Konterra Town Center East, which is located between the metropolitan areas of Baltimore and Washington, D.C. and is accessible to major regional highways and the Maryland Area Regional Commuter (MARC) commuter train system. The proposed downtown core area is located close to the intersection of the Intercounty Connector and I-95. Because of the nature of the development, various forms of transportation including pedestrian, bicycle, automobile, and mass transit are necessary to support the planned downtown core. This area is designed in an urban grid street pattern to maximize accessibility. Sidewalks, bike lanes, and trails have been proposed with the approved CSP for the entire Konterra Town Center East and within this DSP for the downtown core area,

which are consistent with the approved CSP. The Planning Board Resolution envisions additional transportation improvements in the later stages of the development. These improvements may include bus connections, transit stops from the MARC station at Muirkirk Road and US 1, and a potential Metro station within the office complex in the environs of Konterra Town Center East between the downtown core area and I-95. However, the Planning Board Resolution does not fully evaluate these issues even though they are identified as a significant concern in the 1990 Subregion I Master Plan. Further, as noted above, the Planning Board has not taken into account the need for TDM measures. The Planning Board has not determined how these issues are addressed in the Master Plan; its analysis is narrowly focused on the APF issue for the preliminary plan of subdivision, and it is adequate. As noted above, the applicant needs to address transit and TDM measures, and the revised Subregion I Master Plan should also address these issues with respect to Konterra.

E. The following language on pages 8-9 the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[(9) To permit a flexible response to the market; and

The scope of the project and its multiple uses will allow Konterra the flexibility to be responsive to market forces in a variety of sectors. In addition, through approval of detailed design standards as proposed in this DSP, parameters for the overall character of the downtown core area are assured. The Planning Board believes, pursuant to the approved design standards, that permit plans can be reviewed administratively according to the approved design standards if those permit plans meet certain criteria as defined by this DSP. Konterra represents a well-integrated set of complementary uses, which together create a unified sense of place. Phasing development in a realistic and orderly way that establishes the design quality and character of the town center at its beginning will provide a framework that will build market demand and credibility necessary to fulfill the town center's ultimate vision. Approval of this development character in the DSP with its detailed design standards will provide appropriate flexibility to respond to the changing needs of public and private market sectors, while establishing an attractive, harmonious physical framework for development. The mixed-use and multiphase development with diverse products, as shown in the previously approved conceptual site plan for Konterra, and the detailed design standards in this DSP will permit a flexible response to the market. This DSP is in conformance with this purpose of the M-X-T Zone.

(10) To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning.

Detailed design standards in this DSP are intended to provide a framework for future administrative review of each permit plan, and are focused primarily on the urban character and the form of the public realms. The design standards specify detailed architectural design elements such as building height, solar orientation, fenestration, finishing materials, canopies, awnings, and building projections, but the standards do not lock in specific architectural styles. This design-oriented approach will provide an opportunity and incentive to allow freedom of architectural design that will create a unique character for Konterra Town Center East and greatly contribute toward the excellence envisioned in the 2002 approved General Plan for centers.]

Add:

(9) To permit a flexible response to the market; and

The scope of the project and its multiple uses will allow Konterra the flexibility to be responsive to market forces in a variety of sectors. In addition, through approval of detailed design standards as proposed in this special purpose DSP, parameters for the overall character of the downtown core area may be assured. The Planning Board believes, pursuant to the approved design standards, that it can allow for the use of an extraordinary process based on permit plans to be reviewed administratively according to the approved design standards if those permit plans meet certain criteria as defined by this special purpose DSP. Konterra presents the opportunity for a well-integrated set of complementary uses, which together may create a unified sense of place if the design guidelines are adhered to. Phasing development in a realistic and orderly way that establishes the design quality and character of the town center at its beginning will provide a framework that will build market demand and credibility necessary to fulfill the town center's ultimate vision. Approval of this development character in this special purpose DSP with its design standards will provide appropriate flexibility to respond to the changing needs of public and private market sectors, while establishing an attractive, harmonious physical framework for development. The mixed-use and multiphase development with diverse products, as shown in the previously approved conceptual site plan for Konterra, and the detailed design standards in this special purpose DSP will permit a flexible response to the market.

(10) To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning.

Detailed design standards in this special purpose DSP are intended to provide a framework for future administrative review of each permit plan (in lieu of a detailed site plan) and are focused primarily on the urban character and the form of the public realms. The design standards specify detailed architectural design elements such as building height, solar orientation, fenestration, finishing materials, canopies, awnings, and building projections, but the standards do not lock in specific architectural styles. This design-oriented approach will provide an opportunity and incentive to allow freedom of architectural design that will create a unique character for Konterra Town Center East. It is important that the architectural design emphasize traditional regional materials such as brick, stone and masonry as evidenced in most District Council decisions and that such materials and architectural design be of the highest quality. This Decision and Order does not specify any particular percentages required for particular materials; however, it is expected that the applicant and the Planning Department Staff and the Planning Board are aware of the need to emphasize such materials and obtain the highest quality design possible.

F. The following language on page 10-11 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[. . . The information provided on design principles and standards, proposed architectural elements, quality and mix of materials demonstrated in the DSP design standards, and the illustrative plan and renderings all ensure sustainable quality and reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability. . . .]

Add:

. . . . The information provided on design principles and standards, proposed architectural elements, quality and mix of materials demonstrated in the DSP design standards, and the illustrative plan and renderings provide the capability for sustainable quality and reflect a cohesive development capable of sustaining an independent environment of continuing quality and stability. Adherence to the design guidelines and the principles and text of the Subregion I Master Plan (including revisions) will be key elements in attaining the sustainable quality and stability. . . .

G. The following language on page 12 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[(10) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant.]

Conceptual Site Plan CSP-07003 and Preliminary Plan of Subdivision 4-07108 were approved by the Planning Board in 2008. Adequate public facility issues were evaluated in the course of reviewing both applications and were determined to be adequate by the Planning Board. The development contained in this DSP will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant.]

Add:

(10) On the Detailed Site Plan, if more than six (6) years have elapsed since a finding of adequacy was made at the time of rezoning through a Zoning Map Amendment, Conceptual Site Plan approval, or preliminary plat approval, whichever occurred last, the development will be adequately served within a reasonable period of time with existing or programmed public facilities shown in the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or to be provided by the applicant.

Conceptual Site Plan CSP-07003 and Preliminary Plan of Subdivision 4-07108 were approved by the Planning Board in 2008. Adequate public facility issues were evaluated in the course of reviewing both applications and were determined to be adequate by the Planning Board, although it failed to take into account and address concerns identified in the Subregion I Master Plan. The Planning Board continues to rely on its outdated guidelines that it has failed to update (and which are not well-suited for Conceptual Site Plan analysis), and it has ignored the need for more transit options and a plan for Transportation Demand Management for a

dense, urban project such as Konterra Town Center East. The need to address these issues are detailed in the Subregion I Master Plan, and should be addressed in the Sustainability analysis. A condition will be added to address these issues.

H. The following language on page 17 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[(i) The maximum height of multifamily buildings shall be one hundred and ten (110) feet. This height restriction shall not apply within any Transit District Overlay Zone, or a Mixed-Use Planned Community.]

The bulk regulations contained in the DSP do not show any building that is higher than 110 feet. Future permit review will also make sure that this requirement will be met.]

Add:

(i) The maximum height of multifamily buildings shall be one hundred and ten (110) feet. This height restriction shall not apply within any Transit District Overlay Zone, or a Mixed-Use Planned Community.

The bulk regulations contained in the DSP do not show any building that is higher than 110 feet. There is an expectation that in the future there may be buildings that exceed this height limit, and in many areas of Konterra Town Center East such taller buildings could be appropriate. For example, in the center of the core area or along I-95, buildings that exceed the height limit may be appropriate and desirable. This issue should be addressed in the revisions to the Subregion I Master Plan or in revisions to the Zoning Ordinance. Future permit review will address this requirement and ensure that building heights are kept within applicable limits.

I. The following language on page 20 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[The subject DSP has been filed to fulfill this requirement. The DSP consists of site plans and design standards. The detailed site plan divides the downtown core area into 16 developable blocks and one open space block and shows the building envelope of each block with the possible uses. The design standards have been prepared in accordance with the above requirements to codify the development as

envisioned in the CSP. The standards are closely related to the specific physical layout of the downtown core and cover all aspects of a built town center environment as stated in this requirement. The design standards are also illustrated with graphics and photographs that provide information to define the development character and quality of the proposed downtown core area.

The subject DSP is similar in many ways to the Planning Board's previous approvals of detailed site plans for community character, special purpose detailed site plans for signage, and "umbrella" architectural approvals. However, this DSP differs greatly from previous approvals in its scale and complexity. The approval of this DSP will establish parameters, design standards, and site plans for reviewing permit plans. Functionally, this will work by having applicants provide staff with interim permit plans during its permit design process, thus allowing staff to provide input on conformity to the design standards. Variation outside of the percentage guide must be shown to conform to the intent of the design standards or would be subject to review by the Planning Board. The Planning Board has also defined some additional instances which would require Planning Board review and are included in this resolution. The design- and character-driven standards and approval process will not only provide assurance that the desired development quality will be achieved, but also allows the applicant flexibility to respond to the market in a timely fashion.]

Add:

The subject special purpose DSP has been filed to fulfill this requirement. This special purpose DSP consists of site plans and design standards. The detailed site plan divides the downtown core area into 16 developable blocks and one open space block and shows the building envelope of each block with the possible uses. The design standards have been prepared in accordance with the above requirements to codify the development as envisioned in the CSP. The standards are closely related to the specific physical layout of the downtown core and cover all aspects of a built town center environment as stated in this requirement. The design standards are also illustrated with graphics and photographs that provide information to define the development character and quality of the proposed downtown core area.

The subject special purpose DSP is similar in many ways to the Planning Board's previous approvals of detailed site plans for community character, special purpose detailed site plans for signage, and "umbrella" architectural approvals. However, this DSP differs greatly from previous approvals in its scale and complexity. The approval of this DSP will establish parameters, design standards, and site plans for reviewing permit plans. Functionally, this will work by having applicants provide staff with interim permit plans (similar to typical detailed site plans) during its permit design process, thus allowing staff to provide input on

conformity to the design standards. Variation outside of the percentage guide would be subject to review by the Planning Board. The Planning Board has also defined some additional instances which would require Planning Board review and are included in this resolution. The Planning Board review of permit plans under these circumstances will be treated similar to detailed site plan review, with the potential for further review by the District Council. The design- and character-driven standards and approval process is intended to provide assurance that the desired development quality will be achieved, and also allows the applicant flexibility to respond to the market in a timely fashion.

J. The following language on page 24 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[3. Development of this site shall be in conformance with Stormwater Management Concept Plan No. 19046-2007-00 and any subsequent revisions.]

Approved Stormwater Management Concept Plan 19046-2007-00 for the entire Konterra Town Center including the proposed development within the downtown core area covered in this DSP is valid through 2010. The DSP is consistent with the approved stormwater management concept plan.]

Add:

3. Development of this site shall be in conformance with Stormwater Management Concept Plan No. 19046-2007-00 and any subsequent revisions.

Approved Stormwater Management Concept Plan 19046-2007-00 for the entire Konterra Town Center, including the proposed development within the downtown core area covered in this special purpose DSP, is valid through 2010. The special purpose DSP generally is consistent with the approved stormwater management concept plan; however, the Department of Public Works & Transportation has refined the stormwater management techniques to be used, including bio-retention under sidewalks, in median strips of the roadways and in islands in the parking lots. The DPWT refinements are to be followed.

K. The following language on page 25 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[7. Development of the site shall conform to CSP-07003, or as subsequently revised.
The subject DSP is in conformance with approved CSP-07003. See Finding 9 above for a detailed discussion on each applicable condition attached to the CSP.]

Add:

7. Development of the site shall conform to CSP-07003, or as subsequently revised.
The subject DSP is in conformance with approved CSP-07003. See Finding 9 above for a detailed discussion on each applicable condition attached to the CSP. The revisions to the Subregion I Master Plan could have an affect on CSP-07003 and such revisions will need to be taken into account. There is no expectation that such revisions would result in the DSP failing to be in conformance, but any adjustments required by the Master Plan revisions will need to be addressed.

L. The following language on page 28 of the Planning Board Resolution shall be stricken and replaced with the language below.

Strike:

[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.**

There are no townhouses proposed in this DSP. The only residential use proposed in this DSP is a total of 2,161 multifamily dwelling units.]

Add:

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.

The Planning Board had no authority to issue variances of this nature regarding lot sizes, and hence, its actions are void. The applicant must utilize the Detailed Site Plan process to obtain variances for lots sizes. In addition, the Planning Board failed to follow the legal criteria for granting variances. Thus, on a substantive basis, the applicant did not provide legitimate evidence of the need for the requested variances. In essence, the applicant is seeking lot size flexibility, which could be appropriate in the context of the overall Konterra Town Center East. This issue should be addressed during the revised Master Plan for Subregion I or by means of a revision to the Zoning Ordinance to address lot sizes in projects that have significant densities (such as in Centers).

Further, the Planning Board makes a number of findings under its “Planning Board Analysis” and “Additional Planning Board Analysis” on pages 29 through 35 of the Resolution. The following revisions shall supercede certain aspects of those findings.

First, the Planning Board finds that the application is consistent with the 2002 General Plan and the 1990 Subregion I Master Plan, and that the application conforms with the transportation conditions laid out in CSP-07002 and Preliminary Plan of Subdivision 4-07108. As noted above, to be

consistent with the foregoing plans, the applicant needs to address the issues of TDM and transit.

A condition will be added to address this.

Second, the Planning Board is rather expansive in finding that the applicant's proposed permit review process meets the general intent of "this type of DSP for development character and quality except for certain procedural and design standard issues." Because this proposed permit review process is an extraordinary process, a number of additional conditions are imposed to further satisfy the detailed site plan criteria, and this process is limited to the 16-block area that is the subject of this special purpose DSP. This process shall not be used for additional land in Konterra Town Center East outside of the 16-block area.

Third, with respect to permit plan application and the review process discussed under "Design elements," this issue will be addressed in the conditions.

Fourth, with respect to the Design elements discussion regarding lighting standards and full cut-off lighting features, the Planning Board comments and condition on full cut-off lights needs to be placed in context. The full cut-off feature is particularly important on rights-of-way of main roads (such as the perimeter roads) and in parking lots or parking garages. However, along areas that are more pedestrian-oriented, the focus should be on quality design and the harmony of the lighting fixture with the distinct architectural components within each district, street, park and plaza. The general concern with the need for full cut-off lighting shall not be used to discourage the use of decorative traditional lighting fixtures that create a distinct sense of place in a portion of the site.

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to certificate approval of this detailed site plan, the applicant shall:
 - a. Obtain certification of Conceptual Site Plan CSP-07003. Any additional conditions attached to the final approval of CSP-07003 that impact the physical layout of the downtown core area as shown on the subject DSP shall be reflected on the site plans.

- b. Obtain signature approval of Preliminary Plan of Subdivision 4-07108; however, the approval of VP-07108 must be stricken from the approval.
- c. Revise the design standards in accordance with the recommended revisions in this report, and include the design standards book in the certification package for final certification approval.
- d. Expand the existing section on The Promenade in the design standards book to include additional design standards that establish design parameters for the architecture surrounding the central park, including, but not limited to, design, materials, color, street furniture, signage, lighting, shadow and wind analysis, detailed planting schedule, water features, if any, and hardscape; or obtain a separate DSP approval for the central park.
- e. Provide evidence demonstrating that the Health Department approves the applicant's environmental site assessment and testing that is required because of prior sand and gravel mining on this site.
- f. Provide evidence from the utility companies that have jurisdiction over the subject site that all utilities in the core area will be provided within the right-of-way of streets.
- g. Revise the design standards book as follows:
 - (1) Pedestrian pathways or connections through permanent surface parking lots, for which the farthest point exceeds four hundred (400) feet, shall be designed in "Allee" style. A typical design detail shall also be provided in Chapter 5, Landscape Standards.
 - (2) Provide a note in Chapter 7, Lighting Standards, indicating that pole mounted perimeter street and interior parking area fixtures, excepting light fixtures provided by and subject to BG&E requirements, are to be light fixtures with full cut-off optics. All light fixtures located within service court areas are also to be fixtures with full cut-off optics to the extent practicable. Decorative internal street and plaza poles, decorative building-mounted fixtures, and other fixtures used for aesthetic effect or security, including those that may be submerged in water features, will be light fixtures with cut-off optics, to the extent practicable and consistent with the District Council finding above.

On page 103, the Design Intent for Lighting Architecture shall be restated as follows: Light will enhance, feature and complement the distinct architectural components within each district, street, park and plaza to create landmarks.

- (3) Provide an infrastructure chapter to demonstrate how utilities serving the downtown core area will be provided and where the utility easements will be located. All utilities shall be underground. A utility exhibit to scale shall be provided.
- (4) Provide a section on transit access and transportation-friendly initiatives, which shall include:
 - (a) Provision of two or more proposed bus stops within one-quarter mile of the project and provide a discussion on transit and TDM measures in the Sustainability Chapter;
 - (b) Implementation of infrastructure within appropriate areas of the site for multiple support programs promoting shared vehicle usage such as car pool drop off areas, designated parking for vanpools or car share services, ride boards, and shuttle service to mass transit;
 - (c) Options for preferred parking for car share programs;
 - (d) Shared parking;
 - (e) A discussion of how the Applicant will implement the statements on page 22 with respect to the provision of bike lockers and showers for bike users; and
 - (f) Provision for secure bicycle racks in accordance with Leadership in Energy and Environmental Design (LEED) standards, to the extent possible or provide sufficient information on a more appropriate requirement for mixed-use developments. Usage of the bicycle racks shall be monitored throughout the course of development and the number or percentage may be increased or decreased as utility dictates. Modifications of the numbers and/or locations of bicycle racks should be documented with each permit application.
- (5) Revise the standards to state that Project Landmark Signs in excess of 50 feet and Vertical Beacon Signs in excess of 30 feet shall require approval of a separate detailed site plan.
- (6) Revise the standards to clarify that crosswalks shall have distinctive features such as pavers.
- (7) On Page 4 after the sentence discussing Metro extension, add: Transit connections to the MARC line and/or Metro are important aspects to successful urban development of the Town Center and to reducing vehicle dependency.

- (8) On pages 12 and 14 the reference to “bike lanes” in the Recommendations section shall be changed to “bike demarcation” and the term “where appropriate” in the same references shall be changed to “except where infeasible”.
- (9) On page 29, Section 3.5.1 shall be restated as follows: Materials appropriate to the desired overall character of the development will be used, and there shall be an emphasis on traditional regional materials such as brick, stone and masonry.
- (10) Provide a new Sustainability Chapter of the Design Standards for the development and include the narrative submitted with the special purpose DSP in the new chapter. The Sustainability Chapter of the Design Standards, as submitted, shall be amended to include narratives of the following issues:
 - (a) The provision of sustainable roofing systems, inclusive of:
 - (1) Design technologies that incorporate vegetative material on roofs or portions thereof;
 - (2) The use of reflective / “white roof” technology; and
 - (3) The technologies used to collect and convey rain water for irrigation purposes.

The new chapter shall also specify the minimum solar reflectance index (SRI) value for sidewalks and building roofs. The applicant shall seek to incorporate sustainable roofing systems on the roofs or top levels of structures of no less than five percent of the roof area of residential and commercial buildings.

- (b) A narrative on the potential use of Photovoltaic and Geo-thermal installations. As this technology evolves, the applicant shall seek opportunities to incorporate this technology into the project where practicable, particularly seeking to utilize County based labor and materials.
- (c) A narrative on phasing the implementation of the collection of recyclable materials from commercial and multifamily properties. Collections shall commence not later than six months after opening of the initial phase.
- (d) A commitment to using energy efficient consumer appliances where practicable. Residential development shall include the

provision of energy efficient consumer appliances as standard or as optional features.

- (e) A narrative on transit and TDM measures consistent with the discussion of the 1990 Subregion I Master Plan. The known limitations of the regional and local transportation network make it clear that TDM measures in Konterra Town Center East are critical and need to be addressed at the beginning of the project, and not incorporated in later phases. Similarly, the adequate provision of transit opportunities shall be addressed, including the provision of shuttle busses, coordination with regional providers and key destinations. Konterra Town Center East is intended to be a high density regional center in the Baltimore Washington Corridor that is transit serviceable. To justify the density proposed, the Applicant bears some of the burden of addressing the transit needs and TDM measures to reduce traffic impacts. This may include provision of a broader shuttle bus service or subsidy to regional providers to support the level of service that is warranted.
- (11) Provide a note in each chapter indicating that the first permit plans for sites located within the adjoining blocks that front on the main streets shall establish standards for a complementary array of street trees, furniture, and lighting fixtures along each applicable main street. Subsequent permit plans for those main streets shall provide sufficient reference to the approved species of street trees, street furniture, and lighting fixtures for that street on which the project site is fronting.
- h. Modify the plan to make provision for the “Boulevard” standard for the access westward from Perimeter Drive West along the roadway connecting Konterra East and Konterra West.
- i. Revise the entrances to the lots north and south of Fashion Place shown on page 16 of the site plan to align these driveways at the proposed median break.
- j. Revise the Type II tree conservation plan as follows:
 - (1) Remove the proposed reforestation from the rare, threatened, and endangered species (RTE) buffer as it is no longer part of the site, and revise the worksheet accordingly.
 - (2) Revise the worksheet as needed to address other comments.
 - (3) Revise the legend to include any additional lines or symbols as necessary.
 - (4) Revise the symbols and line weights on the plans so that they are reproducible in black and white.

- (5) Remove all duplicate information from the plan including, but not limited to, existing contours.
 - (6) Revise the line type used to depict the 65 dBA Ldn noise contour to be distinct from other features shown on the plan and provide additional labels as necessary.
 - (7) Show all existing woodland located within proposed or existing easements that are to remain as cleared, and revise the worksheet accordingly.
 - (8) Provide a TCP II signature approval block on all sheets of the plan set.
 - (9) Revise the limit of disturbance (LOD) to account for only the disturbance necessary for the proposed grading and structures shown on the plan.
 - (10) Remove proposed reforestation from property that is not part of the subject site and revise the worksheet accordingly.
 - (11) Revise the forest conservation detail to include the following note: "The signs are to remain in place."
 - (12) Revise the Type II tree conservation notes to include optional Note 3 and to replace all references to the "DER inspector" with "county inspector."
 - (13) Provide a specimen tree table on the plan containing the tree number, size, species, condition, proposed disposition, comments and/or special reservation treatments recommended, as well as a note below the table indicating how the specimen trees were located.
 - (14) Have the revised plan signed and dated by the qualified professional who prepared the plan.
2. At the time of permit plans, or site- or project-specific detailed site plans, whichever come first, the applicant shall provide the following with each application:
- a. A statement of justification to provide a detailed description of all applicable design standards and how the proposed permit plan satisfies them.
 - b. A parking tracking table showing the total cumulative required parking spaces to date and the cumulative number of approved parking spaces.
 - c. A development accumulation table showing the approved development including each type of use, the number of the dwelling units, and square footage.

- d. Additional outdoor open spaces, including green area, associated with multifamily residential buildings, except for residential over retail, to the extent practicable. Multifamily residential buildings shall provide a minimum of one fitness room and club room per 300 dwelling units to be used by all residents. The size of the rooms shall be in proportion to the number of residents, to be determined at time of review of each project.
- e. An on-site recreational facility tracking table for the multifamily residential component.
- f. A tracking table showing cumulative sustainability features. The Applicant will utilize programs as a guide and tracking tool that will serve to evidence the commitment to the sustainability initiative. Such criteria to be used may include the National Green Building Standard, Leadership in Energy and Environmental Design Green Building Rating System, Green Globes or similar organizations or criteria. This Condition is intended to complement Condition 10, below.

A copy of these documents shall be provided to the Clerk of the District Council prior to submission.

- 3. Any detailed site plan or permit plan exhibiting one or more of the following conditions shall be reviewed by the Planning Board (in accordance with Part 3, Division 9 of the Zoning Ordinance):
 - a. Deviations from the approved design standards such as height, setbacks, size of the sign face (except landmark signs), etc. quantitatively by more than fifteen percent;
 - b. Increases to the development density by more than ten percent from the overall development quantity in terms of the number of residential dwelling units and square footage for commercial and other uses above the maximums approved in this DSP;
 - c. Significant modifications to the area, quantity, or location of the open spaces or the plazas as shown on DSP-08011 in a manner that adversely impacts the aesthetic quality, design intent, or usefulness of the open spaces or plaza;
 - d. Exemptions from the approved design standards such as partial or complete waiver of parking and loading requirements of the developable blocks, reduction in green open spaces or tree canopy coverage;
 - e. Location of private structures within the air space above, or in the ground below, public rights-of-way (not including decorative structures or utilities approved by the Department of Public Works and Transportation); and

- f. Any other situation which, in the opinion of Planning Department staff, requires the approval of the Planning Board, such as when agreement cannot be reached between the review staff and the applicant, or any unforeseen conditions not included in this report which will have a significant impact on the physical layout of the downtown core area that adversely impacts the design intent.
- 4. The applicant and its successors or assignees shall provide the following:
 - a. The streetscape for roadways that are to remain publicly accessible, per Exhibit 3 in the public use easement(s);
 - b. Sidewalk connections and/or pedestrian walkways as applicable from all garages and surface lots to adjacent buildings;
 - c. The following walkways or the functional equivalent, if feasible in the event of subsequent layout modification, shall be provided:
 - (1) Sidewalk connections from the parking garages to Center Street on Sheet 24.
 - (2) Sidewalks along both sides of the entrance road to the parking garage from North End Road on Sheet 31.
 - (3) Sidewalks along both sides of the main drive aisle from North End Road to the parking garage on Sheet 34.
 - (4) Two pedestrian walkways or sidewalks through the parking area from North End Road to the planned buildings on Sheet 32.
 - (5) Two pedestrian walkways or sidewalks through the large parking area from North End Road to the planned building on Sheet 33.
 - (6) One pedestrian walkway or sidewalk through the parking lot between the office buildings on Sheet 28.
 - (7) One pedestrian walkway or sidewalk through the parking lot between the condominium buildings on Sheet 23.
- 5.
 - a. At the time of detailed site plan for the portion of the site including the stream valley trail, the trail alignment shall be finalized to ensure that it does not create an impact to the regulated buffers.
 - b. The applicant's Recreation Facilities Agreement shall establish trail easement(s) that allow for the construction of a trail connecting the area of the Town Center north of the Pepco land to the southern area of the Town Center. This trail shall be on the east side of the Town Center Core. The applicant shall retain the sole

unrestricted right to vacate, delete, move or reestablish the easement (including removal and replacement of any portion of a trail constructed within the easement) when deemed, in the applicant's sole discretion, such change is necessary for construction of any other portion of the Town Center development, inclusive of infrastructure or some other amenity. The trail shall be constructed no later than completion of 50% of the Town Center's approved residential development.

6. At the time of permit plans including the three roundabouts and all nonstandard roadway sections shown on the site plan, the applicant shall obtain approval from the Department of Public Works and Transportation. The relevant evidence shall be submitted with the permit plan.
7. Noise, stormwater management, and rare, threatened, and endangered species issues shall be addressed during the review of permit plans or site- or project-specific detailed site plans, whichever come first, in which that issue appears. The stormwater management shall adhere to the details developed by the Department of Public Works and Transportation, as revised to include stormwater management techniques for water quality and infiltration for the Perimeter Roads East and West, the South End Road and additional parking lots. These techniques include implementation of bio-retention medians and parking lot capture areas.
8. During the building permit process, the District Council shall establish an advisory "Focus Group" of seven persons, to be comprised of the representatives of area civic associations or local governments from the Laurel, Beltsville and Calverton communities. At least five days prior to any formal building permit submission, the Applicant shall provide the Focus Group with a presentation on the permit plans or preliminary drafts of the permit plans that are the subject of the DSP Design Standards. The applicant shall make available to the Focus Group members the information required to be submitted under Condition 2. Subsequently, the Focus Group may provide written comments to the MNCPPC permits review staff with respect to this special purpose DSP and the DSP Design Standards.
9. The applicant shall implement an internal shuttle that will serve Konterra bus stop locations for regional providers such as CTC, WMATA, and THE BUS. At such time as 50% of the Town Center's residential dwelling units are occupied, the applicant shall have coordinated with the transit providers to establish bus routes or other mass transit from the Town Center to the MARC and/or a Metro Station, which service shall be available during appropriate AM and PM periods.

Frequent service shall be provided to the Muirkirk MARC station for commuters either by regional service providers or by the applicant. If the availability of transit opportunities does materialize, during the review of subsequent detailed site plans for Konterra, the District Council may consider revising these Conditions to ensure the provision of an adequate level of transit service.

This Condition 9 is intended to complement Condition 1.g.(10)(e).

10. No less than 18 months after final action on this special purpose DSP, the applicant and the applicant's heirs, successors and/or assignees shall provide a briefing to the Planning Board and the District Council on the status of the development in regard to permitting, construction, leasing, sustainability and storm water management, compliance with conditions and adherence to the design standards.

With respect to the Sustainability Chapter in the Design Standards, the applicant commits to creating a benefit/saving analysis that will verify the positive impact of various design, construction and operating elements and initiatives. While the applicant shall include a status update on sustainability in its reviews, due to the nature of the early phase development, it is recognized that progress may be more difficult to measure until such time that at least two million square feet of development has been constructed.

Subsequent to the initial briefings, if requested, annual briefings shall be presented at least through the initial stage. Additional or more frequent briefings may be requested by the Planning Board and the District Council. Upon such subsequent review, should the District Council determine that the applicant has not followed the Design Standards or has not been successful in achieving the sustainability goals, it may consider (as it is permitted to do pursuant to the Zoning Ordinance) revising these conditions for future development to ensure compliance with this approval.

Ordered this 21st day of July, 2009, by the following vote:

In Favor: Council Member Bland, Campos, Dean, Harrison, Knotts, Olson and Turner

Opposed:

Abstained:

Absent: Council Member Exum.

Vote: 8-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

By: _____
Marilynn M. Bland, Chairperson

ATTEST:

Redis C. Floyd
Clerk of the Council