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

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PGCPB No. 15-117(A) File No. CSP-98012-02

AMENDED RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Conceptual Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

†WHEREAS, by letter dated December 15, 2023, Andre Gingles, Esq., representing the applicant, requested a waiver of the Prince George's County Planning Board Rules of Procedure (as amended on May 15, 2008) and reconsideration of Condition 2 of PGCPB Resolution No. 15-117 in accordance with Section 10(a) of the Rules of Procedure; and

†WHEREAS, on January 11, 2024, the Planning Board waived its Rules of Procedure and granted the applicant's request for reconsideration due to inadvertence and other good cause and in furtherance of substantial public interest; and

†WHEREAS, at a public hearing on March 21, 2024, the Planning Board heard testimony regarding the reconsideration of Condition 2 of PGCPB Resolution No. 15-117; and

†WHEREAS, the technical staff of the Maryland-National Capital Park & Planning Commission recommended APPROVAL of the reconsideration to amend Condition 2 and Finding 8 of PGCPB Resolution No. 15-117; and

WHEREAS, in consideration of evidence presented at a public hearing on November 5, 2015 †and at the public hearing on the applicant's reconsideration request on March 21, 2024 regarding Conceptual Site Plan CSP-98012-02 for National Harbor, the Planning Board finds:

1. **Request:** The subject application proposes to add 3.14 acres of land (Parcels 41, 42, and 71) to the National Harbor waterfront entertainment/retail complex for the purpose of expanding the complex.

2. **Development Data Summary:**

	EXISTING	**APPROVED**
Zone(s)	M-X-T/R-M/R-R	M-X-T/R-M/R-R
Use(s)	Waterfront Entertainment/ Retail Complex	Waterfront Entertainment/ Retail Complex
Total Gross Acreage	534.03	537.17
M-X-T	420.12 (64.7 Beltway Parcel; 241.4 under water)	420.12 (64.7 Beltway Parcel; 241.4 under water)
R-M	36.61	36.61
R-R	77.30	80.44
Total Square Footage	7,325,000	7,325,000

†Denotes Amendment
Underlining indicates new language
[Brackets] and ~~strikethrough~~ indicate deleted language

Allowable FAR (as approved in CSP-98012)	9,304,938 sq. ft./0.4 FAR
Total FAR (proposed in CSP-98012-02)	7,325,000 sq. ft./0.313 FAR

3. **Location:** The subject property is located southwest of the intersection of the Capital Beltway (I-95/495) and Indian Head Highway (MD 210), west of Oxon Hill Road, and north of Fort Foote Road, in Planning Area 80 and Council District 8. The specified parcels being added to the development are located on the west side of Oxon Hill Road, opposite its intersection with Careybrook Lane.

4. **Surrounding Uses:** The entire property is generally bounded to the north by the public right-of-way of the Capital Beltway (I-95/495) and property owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC) in the Reserved Open Space (R-O-S) Zone; to the northeast by single-family detached residences in the Rural Residential (R-R) Zone; to the east by the public right-of-way of Oxon Hill Road, with residential properties in the R-R, One-Family Detached Residential (R-80), and One-Family Detached Residential (R-55) Zones beyond; to the south by residential properties in the R-R Zone; and to the west by the Potomac River, with approximately 241.4 acres of property under Smoot Bay.

5. **Previous Approvals:** National Harbor has a long approval history and consists of two major land areas, the Waterfront Parcel and the Beltway Parcel. The R-R Zone represents the original zoning applied to the area when it first became subject to zoning authority in 1957. The subject 3.14 acres of additional property, zoned R-R, is not the subject of any previous zoning map amendments.

   All properties zoned Mixed Use–Transportation Oriented (M-X-T) within the National Harbor development were rezoned through eight zoning map amendments approved in the 1980s and 1990s. The M-X-T Zone was originally approved for part of the National Harbor site with conditions in 1983 in response to six individual rezoning applications, A-5619, A 5620, A-5621, A-5635, A-5636, and A-9433, which were consolidated for a waterfront project proposal known as the Bay of America. The property proposed to be added to the CSP is zoned R-R and is located approximately 630 feet from the M-X-T-zoned property.

   The 1984 Approved Subregion VII Sectional Map Amendment recognized the existing M-X-T and R-R Zones for this property. An addition to the M-X-T Zone at the northeast end of the property, along Oxon Hill Road, was approved with conditions by application A-9593 in 1986, in conjunction with a second development proposal known as Port America, currently known as the Beltway Parcel.

   The R-M Zone on the southeastern side of the property, near Oxon Hill Road, was approved with conditions by application A-9825 in 1990, also in conjunction with Port America.

   In 1998, the Prince George's County District Council affirmed the Prince George's County Planning Board's decision (PGCPB Resolution No. 98-110) on Conceptual Site Plan CSP-98012 for National Harbor for approximately 534 acres of land in the M-X-T, R-R, and R-M Zones.

In 2001, Preliminary Plan of Subdivision 4-01048 for the entire 534 acres was approved by the Planning Board pursuant to PGCPB Resolution No. 01-163.

On September 27, 2005, the Prince George's County Council adopted Council Bill CB-20-2005 amending the definition of a waterfront entertainment/retail complex, to permit residential uses.

In April 2006, the *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* (Henson Creek-South Potomac Master Plan and SMA) retained the subject site in the M-X-T, R-R, and R-M Zones.

In 2008, a revision to the CSP was submitted and approved at the Planning Director level for the purpose of adjusting the basic zones (A-E) of the development proposal.

6. **Design Features:** This revision to the CSP proposes to add three R-R-zoned parcels of land, Parcels 41, 42, and 71, to the property area. These R-R-zoned parcels are located at the east end of the existing CSP area, fronting on Oxon Hill Road, and will be part of the Waterfront Parcel. The intent, character, scope, amount, and types of the development, as previously approved, are not being revised with this application, only the land area. Due to the limited nature of the subject revision, all previous conditions and findings of approval, not discussed herein, remain in full force and effect.

National Harbor was approved to be organized into five basic Zones (A–E) and the Beltway Tract, with the provision that the zones may be broken into sub-zones or enlarged, combined, or decreased in size, as warranted by the development. Densities and uses were approved to be allowed to be moved between the zones, so long as the total density is not increased for the project. The five zones were approved as follows:

Zone A:	The Point
Zone B:	Central Waterfront
Zone C:	North Cove
Zone D:	The Pier
Zone E:	Upland Resorts

The original approved CSP provided the descriptions of the character and function of the various zones, and proposed setbacks and height limits, which remain in full force and effect with the subject application. The additional parcels will be part of Zone E, Upland Resorts. Some previously approved plan features will be extended onto the additional parcels, as they will now form an outside corner of the property.

These include the 40-foot buffer zone from all adjacent properties, the 75-foot building restriction line, and the 500-foot depth from the property line within which the maximum building height is 75 feet.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the M-X-T, R-M, and R-R Zones and the site plan design guidelines of the Prince George's County Zoning Ordinance.

a. The subject application does not propose any change in the proposed use, which is a waterfront entertainment/retail complex. Per Section 27-107.01 of the Zoning Ordinance, a waterfront entertainment/retail complex is defined as:

A contiguous land assemblage, no less than twenty-five (25) acres, fronting on the Potomac River, and developed with an array of commercial, lodging, residential, recreational, entertainment, social, cultural, or similar uses which are interrelated by one (1) or more themes. A gas station located within a Waterfront Entertainment/Retail Complex may include a car wash as an accessory use, provided the car wash is within or is part of the building(s) for which design and architecture are approved in the Detailed Site Plan for the gas station.

b. The proposed use is allowed in the M-X-T, R-M, and R-R Zones subject to Sections 27-548.01.02, 27-532.03, and 27-445.08, respectively. All of these Sections have almost exactly the same requirements; however, language from Section 27-445.08 is quoted here since the additional land is zoned R-R.

(b) A Waterfront Entertainment/Retail Complex is permitted in the R-R Zone subject to the following criteria:

(1) Private and/or public vehicular access shall be sufficient to accommodate the traffic generated by the project; and

This determination was made with the original approval, and the conditioned trip caps and required transportation improvements remain in full force and effect as established with the previous approvals, including the preliminary plan of subdivision. The proposed revision involves only the addition of land area and does not propose any revisions to the amount or types of development previously approved. The plan does not specifically call out the proposed use of the additional property.

(2) Setbacks, tree conservation, landscaping and screening, green space, lot coverage, parking, and loading shall be addressed in the Conceptual Site Plan approval. However, the provisions of this Subtitle applicable to such items are not applicable.

The subject application for the addition of land area to the Waterfront Parcel does not propose any changes to the previously approved setbacks, tree conservation, landscaping and screening, green space, lot coverage, parking, and loading, which remain in full force and effect.

Therefore, a condition is included requiring the plan to be revised to indicate the required 100-foot buffer required in Condition No. 31 below.

(c) The requirement for a Detailed Site Plan may be waived by the District Council at the time of its review of the Conceptual Site Plan if the District Council makes the findings required in paragraph (f), below.

The District Council made said determination in the original approval of CSP-98012 (Condition 31 of the Order Affirming the Planning Board Decision), waiving the requirement for a detailed site plan (DSP), except in certain circumstances as discussed below in Finding 8.

(d) An applicant seeking approval of a Waterfront Entertainment/Retail Complex shall submit an application and site plan containing the following information, which information shall also serve as the site design guidelines for such projects:

(1) A general description of the project and the proposed activities;

The subject application for the addition of land area to the Waterfront Parcel does not propose any changes to the previously approved general description of the project and proposed activities.

(2) The proposed traffic circulation system;

The subject application for the addition of land area to the Waterfront Parcel proposes minor changes to the previously approved traffic circulation system in order to provide roadway frontage within the 3.14 acres of land.

(3) The general location and size of all activities;

The subject application for the addition of land area to the Waterfront Parcel and does not propose any changes to the previously approved general location and size of activities. However, a large amount of development has already been constructed, or is in construction currently, on the site. Some of this existing development conflicts with the information shown on the CSP and in the site tabulation table. These should be updated to reflect the current approved and/or built development at this time, so as to reflect the as-built conditions of the site. This update would be for information purposes only, as the use requirements allow for the moving, altering, and revision of all improvements within the established development envelopes previously approved. A condition has been included in this approval requiring such an update.

(4) A text indicating the theme, design, and architectural concepts that will be implemented throughout the property applicable to the use;

The subject application for the addition of land area to the Waterfront Parcel does not propose any changes to the previously approved text indicating theme, design, and architectural concepts.

(5) Information contained in Section 27-282(e), provided that the locations of all improvements may be moved, altered, and revised within an established development envelope. No building permit may be issued without certification of a site plan by the Planning Director. Provided the property is designated in the County General Plan as a Metropolitan Center, the addition of residential dwellings, not to exceed two thousand five hundred (2,500) units, shall not require a revision to an approved Conceptual Site Plan. Building permits for residential dwellings shall not be issued until construction of the convention center/hotel has commenced.

The above underlined text was the subject of CB-20-2005 that amended the definition of a waterfront entertainment/retail complex for the purpose of permitting residential uses. The subject application establishes a development envelope within the area of the additional land which can then contain any improvements, including residential dwellings, as noted in this section. As of June 2015, M-NCPPC has recommended approval in the review of building permits for 670 multifamily units and 230 townhouse condominium units, for a total of 900 residential dwelling units.

8. **Conceptual Site Plan CSP-98012, and its subsequent revision:** Conceptual Site Plan CSP-98012 was approved by the Planning Board on April 23, 1998 with 35 conditions. On June 10, 1998, the District Council affirmed the Planning Board's approval with four additional conditions. A single revision to Conceptual Site Plan CSP-98012-01 was approved on September 9, 2008 at Planning Director level for the purpose of revising the basic zone boundaries (A-E) as established in the original CSP.

The subject CSP application is in conformance with the conditions of previously approved Conceptual Site Plan CSP-98012 and its subsequent revision, which remain in full force and effect. The following conditions warrant discussion and each condition is listed in **boldface** type below, followed by comment:

2. Total development within the Waterfront Parcel of the subject property shall be limited to the following:

a. 2,400,000 square feet of retail, dining and entertainment development within a resort setting

b. 200,000 square feet within a conference center

c. 2,750 hotel rooms

Alternatively, changes in the mix of these uses totaling no more than 5.35 million square feet and generating no more than the number of peak hour trips (3,073 AM peak hour trips and 3,134 PM peak hour trips) generated by the above development may be allowed.

The subject application for the addition of land area to the Waterfront Parcel does not propose any changes to the previously approved development totals listed in this condition. This condition remains in full force and effect.

However, this condition does not address the 2,500 dwelling units allowed through the adoption of subsequent legislation previously noted in this report as CB-20-2005. Nevertheless, all development included in the CSP is subject to the above trip cap, including any development proposed on the additional 3.14 acres of land.

7. Prior to signature approval, the Conceptual Site Plan should be revised as follows:

a. The on-ramp from Oxon Hill Road onto northbound I-295 should be grade-separated at the point where it crosses the northern access roadway through the Beltway Parcel.

b. There should be no access to or from the Beltway Parcel to the above-mentioned ramp, except to allow traffic from the southern access roadway through the Beltway Parcel to merge onto it.

c. Access to the Beltway Parcel should be via the northern and southern access roadways.

This condition was already satisfied, as the original CSP was signed and approved. It should be noted that the additional acreage does not propose any access from Oxon Hill Road.

8. The applicant shall be required to submit a limited Detailed Site Plan for the proposed speed-parking garage located within the Waterfront Parcel. The submittal shall include a parking generation/demand study for the Waterfront Parcel and a plan for meeting this demand within the National Harbor site. Transportation staff considerations in reviewing this site plan will include access to and from the speed-parking lot, potential queuing by traffic entering the speed-parking lot, and the appropriateness of the tandem parking arrangement given demand and turnover rates within the speed-parking lot. An additional consideration will be the sufficiency of the speed-parking lot as a component in meeting the entire parking demand of the site. As a part of Detailed Site Plan approval, a noise study shall be submitted to the Natural Resources Division demonstrating that adequate noise abatement measures have been taken to reduce noise levels to 65 dBA Ldn at the property lines of residential lots. Noise generated by car alarms shall be included in this noise study.

The subject application does not include a speed-parking garage, and this requirement remains intact with this approval should a speed-parking garage be proposed in the future.

9. The access point to Oxon Hill Road in the vicinity of Area E as described in the Conceptual Site Plan shall be for emergency access only.

The subject application does not propose any changes to the previously approved access points to the property and the additional land area, although it has frontage on Oxon Hill Road, is not proposed to have access to Oxon Hill Road. This condition remains in full force and effect.

11. All internal public roadways shall be constructed in accordance with DPW&T's standards. All internal private roadways shall be constructed in accordance with The Maryland-National Capital Park and Planning Commission's requirements. Road design in accordance with AASHTO criteria for public and private roads is required.

12. The final cross sections of roads, both private and public, shall be determined at the time of final design with approval by DPW&T and M-NCPPC at that time.

The two conditions above remain in full force and effect for any roads to be constructed within the land area being added to the area of the CSP.

13. The road access point proposed at Oxon Hill Road into Zone E (Upland Resort) shall be an emergency access only, used only by registered emergency vehicles as defined in Maryland Motor Vehicle Law, Transportation Article 11-118. Final design of access control devices shall be reviewed and approved by the DPW&T and County emergency services agencies prior to issuance of the first building permit for the Waterfront Parcel.

The subject application does not propose any changes to the previously approved access points to the property and the additional land area does not propose access to Oxon Hill Road. This condition remains in full force and effect.

14. The applicant shall construct an internal network of trails connecting all zones to the Speed Parking Garage and to each other. This internal network shall have a connection to Oxon Hill Road parallel and adjacent to the Beltway Parcel.

The National Harbor development has a comprehensive internal pedestrian system consisting of trails and sidewalks that connect all zones in both the Waterfront Parcel and the Beltway Parcel, which were constructed as part of prior approvals. The subject application does not propose any changes to the trail system. This condition remains in full force and effect.

15. The applicant shall construct the Heritage Trail from Rosalie Island to Oxon Hill Road as shown on the Conceptual Site Plan.

The Potomac Heritage National Scenic Trail (Potomac Heritage Trail) has been constructed from the Woodrow Wilson Bridge to Oxon Hill Road.

16. At the time of building permit, the applicant shall indicate location of bicycle racks in appropriate locations throughout the subject property.

This condition remains intact and will be enforced at the time of building permit. Appropriate numbers of bicycle racks may be required for Parcels 41, 42, and 71 at the time of DSP if gross floor area is proposed there in the future.

17. Prior to certificate approval of the Conceptual Site Plan, the Tree Conservation Plan, TCPI/10/98, shall be revised to provide a minimum of 26.98 acres of combined on-site and off-site woodland conservation and a fee-in-lieu not to exceed $431,374.68.

The revised Type I tree conservation plan (TCPI) has been submitted and reviewed and it was found that the plans continue to meet the above condition.

24. The applicant shall, after approval of final archeological reports (Phases I, II, and III) by the Maryland Historical Trust, supply said reports to the Historic Preservation Section of M-NCPPC.

The reports applicable to the areas within the waterfront parcels shall be provided prior to the issuance of any building permits (except construction pursuant to a valid Corps of Engineers permit) for the waterfront parcels and the reports applicable to areas on the Beltway shall be provided prior to the issuance of any building permits for the Beltway parcel.

This condition remains intact; however, the archeology planner stated that no investigations are warranted on the 3.14 acre properties being added to the CSP.

31. Prior to issuance of a building permit for the structures identified below, the applicant, his heirs, successors or assigns shall submit one or more Detailed Site Plans for approval by the Planning Board. The Detailed Site Plan(s), through the use of plans, architectural elevations, sections and perspective sketches, shall address and be limited to the following issues:

a. Demonstrate the orientation and exterior architectural appearance of the proposed speed parking garage in Zone B, the proposed service buildings in Zone E, the proposed gas station in Zone C, and any building within 100 feet of a residential lot (not owned by the applicant, its heirs, successors or assigns), including loading areas, service areas, exterior storage areas and mechanical equipment. Provide plans for the landscape buffer adjacent to these buildings. Illustrate how views from the existing residential areas will be affected by these proposed buildings. Demonstrate plans to mitigate

noise, litter and bright lights from these buildings and headlights from cars. *(emphasis added).*

This condition remains intact and a DSP will be required if any of the specified development is proposed, including any building, including loading areas, service areas, exterior storage areas, and mechanical equipment within 100 feet of a residential lot (not owned by the applicant, the applicant's heirs, successors, or assignees). The Planning Board adopted a condition of approval that the CSP be revised to identify the 100-foot distance from the specified residential lots.

Any requirement for a Detailed Site Plan on the Waterfront Parcel, except as required herein or by Condition No. 8, is waived.

The 3.14 acres of additional land area will be part of the Waterfront Parcel and will, therefore, not be required to submit a DSP, unless a †nonresidential building is placed within 100 feet of a residential lot or one of the types of development specified in Condition 31 is proposed.

32. **All new landscape plantings in landscape buffers adjacent to existing residential development shall provide a minimum of 200 plant units per 100 linear feet of buffer, except that where 4- to 6-foot-high berms are utilized, the plant units may be reduced to 160 plant units per 100 linear feet of buffer. This does not imply that a solid screen is required in all landscape buffers. Some areas of the buffers may remain open to create or preserve desirable views.**

The proposed additional land abuts existing residential development and, therefore, will be required to provide a buffer along the common property line. This will be enforced at the time of DSP or building permit.

34. **There shall be an 8-foot-high fence in the landscape buffer along all abutting residentially-zoned neighborhoods, which fence shall generally be located 10 feet inside the National Harbor property line. A fence shall also be located along Oxon Hill Road and I-295. The fence shall be constructed of materials that are attractive and ornamental in character and have low maintenance requirements, such as aluminum or powder-coated galvanized tubing designed to imitate wrought iron. Details of the fencing materials shall be included in the limited Detailed Site Plan. Black vinyl-coated chain-link fence is allowed along residential property lines if agreed to in writing by the affected homeowner(s).**

The proposed additional land abuts residentially-zoned neighborhoods and Oxon Hill Road. Therefore, the specified fence will be required to be continued across the additional property at the time of DSP or building permit.

9. **2010 Prince George's County Landscape Manual:** Per Section 27-445.08(b)(2) of the Zoning Ordinance, landscaping and screening shall be addressed in the CSP approval and other provisions of the Zoning Ordinance are not applicable. Therefore, this CSP is not subject to the

requirements of the *Prince George's County Landscape Manual.* All landscape-related findings and conditions applicable to the original CSP approval will now also be applicable to all development within the expanded land area. The specified landscape requirements will be enforced at the time of DSP or building permit.

10. **1993 Prince George's County Woodland Conservation and Tree Preservation Ordinance:** The site was previously reviewed in the late 1980s as Detailed Site Plan DSP-88045, prior to the enactment of the Woodland Conservation Ordinance. The site was later reviewed as Zoning Map Amendment A-9593, Conceptual Site Plan CSP-98012 with Type I Tree Conservation Plan TCPI-010-98, Preliminary Plan of Subdivision 4-01048, and Type II Tree Conservation Plan TCPII-038-00 and subsequent revisions.

The current application is for revision of the CSP limits to include three parcels, known as the O'Loughlin property, totaling approximately 3.14 acres. The O'Loughlin portion of the overall property has only been reviewed previously for TCP2-076-06.

The previously approved site, approved under the original CSP-98012, is not subject to the current environmental regulations of Subtitle 27 that came into effect on September 1, 2010 because this is a revision to that approved CSP, and it has a previously approved preliminary plan under the prior regulations. The additional land area is also not subject to the current Woodland and Wildlife Habitat Conservation Ordinance (WCO) effective September 1, 2010 because there are previous TCP approvals for the specific site, and the proposed revisions do not result in a substantial change to the previously approved TCPI or TCPII.

The O'Loughlin property, which is proposed to be added to the CSP, is subject to the current regulations of Subtitle 27 because it has no previously approved preliminary plan, but is not subject to the current WCO because it has a previous TCPII approved under the prior woodland conservation regulations.

This remainder of the CSP site is subject to the provisions of the Woodland Conservation Ordinance because it has previously approved TCPs. This site has a previously approved TCPI that was approved with the original Conceptual Site Plan, CSP-98012.

A revised TCPI has been submitted which shows the proposed expanded land area. Because both land areas under the revised CSP are grandfathered under the 1993 Woodland Conservation Ordinance, the revised TCPI remains grandfathered.

The submitted TCPI has been revised to include the additional land, which is also reflected in the worksheet. The woodland conservation threshold is now 27.45 acres and the overall woodland conservation requirement is 60.64 acres. The TCPI proposes to meet the requirement with 12.15 acres of on-site woodland preservation, 13.79 acres of on-site woodland planting, 1.69 acres of off-site woodland conservation, and 33.01 acres of fee-in-lieu. It should be noted that these requirements have been fulfilled as part of the permit review process.

11. **Prince George's County Tree Canopy Coverage Ordinance:** Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, requires a minimum percentage of tree canopy coverage on projects that require a grading permit for more than 5,000 square feet of disturbance or gross floor area. Properties that are zoned R-R are required to provide a minimum of 15 percent of the gross tract area in tree canopy. Compliance with this requirement will be evaluated at the time of DSP or grading/building permits.

12. **Further Planning Board Findings and Comments from Other Entities:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

    a. **Archeological Review**—The subject property was surveyed for archeological resources in 1998. One Archeological Site, 18PR558 – a twentieth century artifact scatter and masonry structure, was identified on Parcel 42. The masonry structure was identified as a vacant house dating to the third quarter of the twentieth century. Site 18PR558 was determined to be not eligible for listing in the National Register of Historic Places, and no further work was recommended.

    Parcels 41, 42, and 71 have been extensively graded and disturbed. No further archeological investigations are warranted on the subject property. This proposal will not impact any historic or archeological resources.

    b. **Community Planning—**The *Plan Prince George's 2035 Approved General Plan* designates the property within the Established Communities policy area. The proposed use is consistent with the General Plan's Development Pattern goals and policies for the Established Communities policy area.

    The proposed use is not strictly consistent with the residential low-density recommendation of the 2006 Henson Creek-South Potomac Master Plan and SMA. However, a waterfront entertainment/retail complex is an allowed use in the R-R Zone.

    The addition of the three parcels will not alter the intent, character, or scope of the development. Future access from the site to Oxon Hill Road, if proposed, may compound traffic issues for motorists on Oxon Hill Road and residents from adjoining communities. However, no new access points are proposed with the subject application.

    c. **Transportation Planning**—The original Conceptual Site Plan (CSP-98012) was approved for the National Harbor property in 1998. The original National Harbor site of 534 acres included the Waterfront and Beltway parcels. The two named parcels were approved for 7,325,000 square feet of commercial and retail development, and subsequently were the subject of a Preliminary Plan of Subdivision (4-01048). All of the transportation-related conditions of that approval have been met. For the original CSP approval, the following conditions are transportation-related and have been met: Conditions 3, 4, 5, 6, 7, and 10.

The development totals of the approved CSP are not changing, only the land area. Therefore, there are no additional transportation impacts from the proposed revision.

In consideration of these findings, the Planning Board found that the plan conforms to the required findings for approval of the CSP from the standpoint of transportation, in consideration of the requirements of Sections 27-274 of the Zoning Ordinance.

d. **Subdivision Review**—The justification for this application states that the revision to the CSP is for the sole purpose of increasing the limit of the waterfront entertainment complex by the addition of 3.14 acres. The additional acreage is composed of Parcels 41, 42, and 71, which are vacant legal acreage parcels located on Tax Map 104 in Grids E-3 and E-4. These parcels of land have not been the subject of a preliminary plan or record plat. Pursuant to Section 24-107(c)(7) of the Subdivision Regulations, the development of more than 5,000 square feet of gross floor area on this portion of the site (Parcels 41, 42, and 71) will require the approval of a preliminary plan.

The Subdivision Regulations (Subtitle 24) requires that each lot have frontage and direct access onto a public street, unless alternative access is authorized by the Planning Board (Section 24-128), which would occur through the review of a subdivision application. The CSP proposes no uses. Access must be evaluated in accordance with the Subdivision Regulations at the time of preliminary plan or DSP. There are no other subdivision issues at this time.

e. **Trails—**Two master plan trails are in the vicinity of the subject site. The Potomac Heritage Trail has been constructed across the Woodrow Wilson Bridge and through the Beltway Parcel, to Oxon Hill Road. This trail was constructed by the National Harbor applicant pursuant to prior approvals. Continuous sidewalks and designated bike lanes are recommended in the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) along Oxon Hill Road, including the frontage of the subject site. The Prince George's County Department of Public Works and Transportation (DPW&T) is finishing a County Capital Improvement Plan (CIP) construction project for Oxon Hill Road which will include the facilities recommended in the master plan.

The MPOT includes several policies related to pedestrian access and the provision of sidewalks. The Complete Streets section includes the following policies regarding sidewalk construction, the accommodation of pedestrians, and the provision of complete streets:

Policy 1: Provide standard sidewalks along both sides of all new road construction within the Developed and Developing Tiers.

Policy 2: All road frontage improvements and road capital improvement projects within the Developed and Developing Tiers shall be designed to accommodate all modes of transportation. Continuous sidewalks and on-road bicycle facilities should be included to the extent feasible and practical.

Sidewalks have been constructed along the internal roads as development has occurred. Wide outside curb lanes are provided along the major roads internal to the site. Designated bike lanes are being provided along Oxon Hill Road by DPW&T as part of the current CIP project.

Conclusion
The submitted CSP revision involves the incorporation of an additional three parcels into the National Harbor site. Previously approved conditions of approval regarding trails, sidewalk, and bicycle facilities still apply. The Potomac Heritage Trail has been completed through the subject site, and the necessary sidewalks and bike lanes are being completed along Oxon Hill Road by DPW&T through a current CIP project. No additional recommendations or conditions of approval are necessary at this time.

f. **Prince George's County Department of Parks and Recreation (DPR)**—In a memorandum dated October 2, 2015, DPR indicated that they had no comments on the subject application.

g. **Environmental Planning—**The Planning Board reviewed an analysis of the application's conformance with the Woodland Conservation and Tree Preservation Ordinance incorporated into Finding 10 above, along with the following summarized comments:

(1) The additional land has an approved Natural Resources Inventory (NRI-137-05-01). The area is partially wooded and contains no regulated environmental features. An NRI for the remainder of the site is not required because it is grandfathered. No additional information is required with regard to the existing conditions.

(2) A copy of the approved stormwater management concept letter and plan were not included in the application. The overall site is mostly already developed in accordance with previous stormwater concept approvals and, because no additional development is proposed with this request, a concept approval plan and letter are not required at this time.

(3) The predominant soil types, according to the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), are in the Christiana, Croom, Russet, and Sassafrass Series. Christiana soils may contain clay deposits that can affect structural foundations.

This information is provided for the applicant's benefit. The County may require a soils report in conformance with Prince George's County Council Bill CB-94-2004 if building permits are needed. No further action is needed as it relates to soils.

h. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)—**In a memorandum dated September 21, 2015, DPIE provided the following comments on the subject application:

(1) The property is located south of the Capital Beltway (I-495); west of Oxon Hill Road and National Harbor Boulevard.

(2) This Conceptual Site Plan revision is to add Parcels 41, 42 and 71, a total of 3.14 acres.

(3) Internal subdivision streets shall be constructed in accordance with the Department of Public Works and Transportation's (DPW&T) Specifications and Standards.

(4) Full-width, 2-inch mill and overlay for all existing County roadway frontages are required.

(5) Any proposed and/or existing Master Plan roadways, which is a County-maintained roadway, and subdivision roads within the property limits, must be coordinated with the Maryland-National Capital Park and Planning Commission (M-NCPPC), and DPW&T. These roads may also require rights-of-way reservation, dedication and/or road construction, in accordance with DPW&T's Specification and Standards. Additionally, coordination with the State Highway Administration (SHA) is required for the proposed roadway connections/interchange adjacent to this property.

(6) The Stormwater Management Concept Plan No. 44632-2014, which covers Parcels 41, 42 and 71, has not been approved.

(7) The proposed site development will require an approved DPIE site development technical plan to comply with environmental site design (ESD) to the maximum extent practicable (MEP) requirements, and an approved/final erosion/sediment control plan, prior to the permit issuance.

(8) All stormwater management facilities/drainage systems, including recreation features, visual amenities and facilities are to be constructed in accordance with the DPW&T's Specifications and Standards. Approval of all facilities are required prior to permit issuance.

(9) All easements and maintenance agreements are to be approved by DPIE, and recorded prior to the technical approval/issuance of permits.

(10) The applicant needs to provide adequate sight distance in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards for all intersections within the site.

(11) Sidewalks are required along all roadways within the property limits in accordance with Sections 23-105 and 23-135 of the County Road Ordinance. Any new sidewalk installation is to match existing sidewalks in the area. Additionally, sidewalks must be kept open for pedestrians at all times.

(12) Conformance with DPIE's and/or DPW&T's street tree and street lighting Specifications and Standards is required, with lighting fixtures to match those in existence in the area. Adjustments to street lighting, where necessary to accommodate the improvements constructed under this scenario, are required.

(13) All improvements within the public rights-of-way, dedicated for public use to the County, are to be in accordance with the County's Road Ordinance, DPW&T's Specifications and Standards, and the Americans with Disabilities Act (ADA). Additionally, all breaks made in the median for pedestrian crosswalks shall have proper sight distance and be ADA accessible.

(14) A soils investigation report, which includes subsurface exploration and a geotechnical engineering evaluation for public streets, is required.

(15) This memorandum incorporates the Site Development Plan Review pertaining to Stormwater Management (County Code 32-182(b)). The following comments are provided pertaining to this approval phase:

(a) Final site layout, exact impervious area locations are not shown on plans.

(b) Exact acreage of impervious areas has not been provided.

(c) Proposed grading is not shown on plans.

(d) Delineated drainage areas at all points of discharge from the site have not been provided.

(e) Stormwater volume computations have not been provided.

(f) Erosion/sediment control plans that contain the construction sequence, and any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD devices and erosion and sediment control practices are not included in the submittal.

(g) A narrative in accordance with the code has not been provided.

DPIE's comments, as applicable, including approval of the stormwater concept, are required to be addressed prior to issuance of permits, at the time of technical plan approvals.

i. **Prince George's County Police Department—**The Police Department did not provide comments on the subject application.

j. **Prince George's County Health Department—**In a memorandum dated September 2, 2015, the Health Department provided the following comments:

(1) There is an increasing body of scientific research suggesting that artificial light pollution can have lasting adverse impacts on human health. Future plans should provide details confirming all proposed exterior light fixtures will be shielded and positioned so as to minimize light trespass caused by spill light.

Issues regarding lighting have been addressed in the previous CSP approval, such as in Condition 31a in Finding 8 above, and are not proposed to be changed with the subject application.

(2) As a water conservation measure, the developer should consider design for and implementation of water reuse practices for the proposed buildings and landscaping on the site.

The Planning Board suggests that the applicant consider incorporating water conservation measures in all future development on the site, such as through the use of greywater recycling.

(3) Scientific research has demonstrated that a high-quality pedestrian environment can support walking both for utilitarian purposes and for pleasure, leading to positive health outcomes. Indicate how the project will provide for pedestrian access to the site by residents of the surrounding community. Scientific research has demonstrated that a high quality pedestrian environment can support walking both for utilitarian purposes and for pleasure, leading to positive health outcomes. Indicate how development of the site will provide for safe pedestrian access to amenities in the adjacent communities and provide a safe and easy onsite pedestrian circulation.

See the previous discussion of the trails for the development as discussed in Finding 12e.

(4) The site is adjacent to an arterial roadway and therefore subject to associated noise impacts to occupants of proposed residential and office space uses. Noise can be detrimental to health with respect to hearing impairment, sleep disturbance, cardiovascular effects, psycho-physiologic effects, psychiatric symptoms, and fetal development. Sleep disturbances have been associated with a variety of health problems, such as functional impairment, medical disability, and increased use of medical services even among those with no previous health problems. Future plans should include details regarding modifications/ adaptations/mitigation as necessary to minimize the potential adverse health impacts of noise on the susceptible population.

Noise issues have been addressed in the previous CSP approval and the subsequent preliminary plan approval, and are not proposed to be changed with the subject application.

(5) The public health value of access to active recreational facilities has been well documented.

Future plans should include details regarding the location of active recreational facilities within one-quarter mile of the proposed office buildings and/or residences.

This is noted.

(6) Living in proximity to green space is associated with reduced self-reported health symptoms, better self-rated health, and higher scores on general health questionnaires.

This is noted. Future plans will have to continue to show conformance to the Tree Canopy Coverage Ordinance, as applicable.

(7) Research shows that access to public transportation can have major health benefits. It can be good for connectedness and walkability. Indicate on the plans to connect neighboring communities through public transportation.

Issues regarding public transportation and connectedness have been addressed in the previous CSP approval and are not proposed to be changed with the subject application.

(8) There are over ten existing carry-out/convenience store food facilities and no grocery store/markets within a one-half mile radius of this site. Research has found that people who live near an abundance of fast-food restaurants and convenience stores compared to grocery stores and fresh produce vendors, have a significantly higher prevalence of obesity and diabetes. Future plans should include additional details regarding retail facilities offering healthy food choices to occupants/residents of the area.

This is noted. The Planning Board encourages the applicant to be considerate in their choices of tenants to ensure that there are high-quality healthy food choices for the future residents.

(9) During the construction phases of this project, no dust should be allowed to cross over property lines and impact adjacent properties. Future plans should indicate intent to conform to construction activity dust control requirements as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.

Future DSPs and/or permit plans for the property should indicate the applicant's intent to conform to the mentioned requirements.

(10) During the construction phases of this project, no noise should be allowed to adversely impact activities on the adjacent properties. Future plans should indicate intent to conform to construction activity noise control requirements as specified in Subtitle 19 of the Prince George's County Code.

Future DSPs and/or permit plans for the property should indicate the applicant's intent to conform to the mentioned requirements.

(11) Recent case studies demonstrate the value of stakeholder input in enhancing positive outcomes of health impact assessment review. The developer should identify and actively engage project stakeholders during the development review process.

This is noted.

13. As required by Section 27-276(b)(1) of the Zoning Ordinance, the CSP will, if approved with the proposed conditions below, represent a most reasonable alternative for satisfying the site design guidelines without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.

14. Section 27-276(b)(4) of the Zoning Ordinance provides the following required finding for approval of a CSP:

(4) The plan shall demonstrate the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

The original area of the CSP is not subject to this requirement, as it has a previously approved preliminary plan under the prior regulations. They also noted that the additional land is subject to this regulation because it has no previously approved preliminary plan, but that it contains no regulated environmental features. Therefore, this requirement is not applicable.

15. All conditions of the previous approvals remain intact and in full force and effect as discussed herein.

†16. **Reconsideration Proceedings:** By letter dated December 15, 2023, the applicant requested reconsideration of Condition 2 of PGCPB Resolution No. 15-117, in accordance with Section 10 of the Rules of Procedure, and a waiver of Section 10(a) of the Rules of Procedure to allow for such reconsideration more than 14 days after the date of notice of the final decision on CSP-98012-02. Condition 2 read as follows:

2. Prior to the issuance of any building permit for a structure placed within 100 feet of a residential lot (not owned by the applicant, its heirs, successors or assigns) shall be subject to DSP approval.

In their letter dated December 15, 2023, the applicant proposed to have Condition 2 revised as follows, to not require a DSP for residential uses:

> **2. Prior to the issuance of a permit for non-residential buildings or structures proposed within 100 feet of any residential lot (not owned by the applicant, its heirs, successors, or assigns), a Detailed Site Plan for the property which is the subject of the permit shall be approved by the Planning Board or its Designee.**

A hearing on the applicant's waiver and reconsideration requests was held on January 11, 2024. In accordance with Section 10(d) of the Rules of Procedure, notice of the January 11, 2024 hearing was mailed to all parties of record on December 29, 2023. At the January 11, 2024 hearing, technical staff made a presentation to the Planning Board on the applicant's requests, in which they noted receipt of one opposition letter which argued that the applicant should have contacted specific community groups in conjunction with the reconsideration request. Technical staff explained that all required notice had been sent to the parties of record. The applicant's attorney spoke in support of the reconsideration request. Based upon the testimony received and the entire record, the Board voted to waive its rules of procedure and grant the applicant's reconsideration request, based upon inadvertence and other good cause and in furtherance of substantial public interest. Specifically, Condition 2 of PGCPB Resolution No. 15-117 carried forward Condition 31a of the District Council's approval of CSP-98012. At the time of the CSP-98012 approval, residential uses were not permitted within the National Harbor development and, therefore, not contemplated in Condition 31a. Later, when the Board adopted PGCPB Resolution No. 15-117, residential uses were permitted in the National Harbor development. However, due to inadvertence in the drafting of Condition 2, several words were deleted from the original Condition 31a, and it was not modified to consider the residential uses now permitted on the property. In addition, the continuation of residential development – per the compatibility and setbacks established with approved CSP-98012-02 – is good cause to allow for reconsideration of Condition 2 of CSP-98012-02.

The Planning Board held a public hearing on March 21, 2024 to receive testimony on the merits of the applicant's request for reconsideration. Pursuant to Section 10(f) of the Rules of Procedure, notice of the March 21, 2024 reconsideration hearing was mailed to the parties of record on January 23, 2024. In addition, although not required by Section 10(f) of the Rules of Procedure, the applicant also posted notification signs at the subject property and provided an affidavit so confirming, per Section 27-135.03 of the prior Zoning Ordinance. In correspondence and testimony at the March 21, 2024 hearing, citizens questioned whether the signs met all the requirements of Section 27-135.03. Both technical staff and the applicant responded to the notice sign issues raised by the community and noted that all required notice had been given, in accordance with Section 10(f). Specifically, Section 10(f) requires mailed notice of a reconsideration hearing and states that an applicant "may," but is not required to, post notification signs. Accordingly, all applicable notice requirements for the reconsideration hearing were met. At the March 21, 2024 reconsideration hearing and in a technical staff report dated February 8, 2023, technical staff recommended that Finding 8 and Condition 2 of PGCPB Resolution No. 15-117 be revised to clarify that a DSP is only required for nonresidential

development within 100 feet of an off-site residential lot, as doing so would be more consistent with the antecedent Condition 31a of CSP-98012. In brief, technical staff explained that no DSP should be required for residential development within 100 feet of off-site residential lots in that: (1) residential development is compatible with existing residential uses; and (2) existing setback and buffer requirements for the National Harbor development ensure compatibility. The applicant's attorney spoke and emphasized that revising Condition 2, as requested, would be more consistent with Condition 31a, which was imposed to address compatibility between certain service and entertainment uses and adjacent residential uses when the National Harbor development consisted solely of nonresidential uses.

Several community members testified in opposition to the reconsideration. They raised general issues, such as noise and views related to the National Harbor development, but not related to the required findings for the merits of the reconsideration request. Also irrelevant to the required findings for the merits of the reconsideration request, community members stated general concern with the Board's waiver of the Rules of Procedure at the January 11, 2024 hearing. Finally, community members stated that a DSP should continue to be required for residential development within 100 feet of off-site residential lots for transparency and to give residents an opportunity for input.

†17. **Reconsideration Findings:** As noted in Finding 16 above, Condition 2 was in response to Condition 31a of the District Council's approval of CSP-98012. This condition reads, as follows:

> **31. Prior to issuance of a building permit for the structures identified below, the applicant, his heirs, successors, or assigns shall submit one or more Detailed Site Plans for approval by the Planning Board. The Detailed Site Plan(s), through the use of plans, architectural elevations, sections and perspective sketches, shall address and be limited to the following issues:**
>
> **a. Demonstrate the orientation and exterior architectural appearance of the proposed speed parking garage in Zone B, the proposed service buildings in Zone E, the proposed gas station in Zone C, and any building within 100 feet of a residential lot (not owned by the applicant, its heirs, successors, or assigns), including loading areas, service areas, exterior storage areas and mechanical equipment. Provide plans for the landscape buffer adjacent to these buildings. Illustrate how views from the existing residential areas will be affected by these proposed buildings. Demonstrate plans to mitigate noise, litter and bright lights from these buildings and headlights from cars. (emphasis added).**

Upon review of the resolution for CSP-98012-02 (PGCPB No. 15-117) and the original District Council decision, the Planning Board concurs that Condition 2 does not fully comport with the intent of Condition 31a, which was to require a DSP when incompatible uses were proposed adjacent to existing residential areas. When the original Condition 31a was drafted, residential uses were not permitted under the "Waterfront Entertainment Retail Complex" use, pursuant to Council Bill CB-44-1997. Hence, the initial CSP was approved without mention, contemplation,

or consideration of residential uses and guidelines for or placement of the same. However, CB-20-2005 permitted the addition of residential dwellings (not to exceed 2,500 units) to the National Harbor development, without a requirement to revise the CSP, and did not require nor add specific design guidelines for residential uses/buildings. When CSP-98012-02 was approved, residential development had already commenced at the National Harbor property. The Board concurs that the effect of the wording of Condition 2 of CSP-98012-02, to require a DSP in situations with compatible development, residential adjacent to residential, was not the intent. The CSP approval already includes buffering provisions adjacent to all existing residential lots, including a minimum 40-foot buffer zone and a 75-foot building restriction line, which remain in effect regardless of the requirement for a DSP.

Therefore, the Board concurs with the applicant's revised Condition 2. However, the Board's approved condition differs from the applicant's requested wording because it does not allow for the Board's designee to approve the required DSP, as the original Condition 31a does not allow for that designation. Regarding the findings, the Board has also revised Finding 8 to clarify that a DSP is required only for nonresidential buildings.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the Type I Tree Conservation Plan (TCPI-010-98-01), and further APPROVED Conceptual Site Plan CSP-98012-02 for the above-described land, subject to the following conditions:

1. Prior to certificate of approval of the conceptual site plan (CSP), the following revisions shall be made, or information shall be provided:

    a. Update the CSP and Site Tabulation Table to reflect current approved and/or built development on the site at this time, with clarifying notes as necessary.

    b. Revise the Type I tree conservation plan (TCPI) to provide a TCP approval block.

    c. Adjust the approvals sheet to reflect the previous certificates of approval.

    d. Revise the CSP to show a 100-foot distance from adjacent residential lots not owned by the applicant, the applicant's heirs, successors, or assignees.

2. Prior to the issuance of any building permit for a †nonresidential structure placed within 100 feet of a residential lot (not owned by the applicant, its heirs, successors or assigns), †[~~shall be subject to DSP approval~~] a detailed site plan for the property, which is the subject of the permit, shall be approved by the Prince George's County Planning Board.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

* * * * * * * * * * * * *

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 Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Shoaff, and Hewlett voting in favor of the motion, and with Commissioner Bailey absent at its regular meeting held on Thursday, November 5, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of December 2015.

†This is to certify that the foregoing is a true and correct copy of the reconsideration action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Geraldo, seconded by Commissioner Bailey, with Commissioners Geraldo, Bailey, and Shapiro voting in favor of the motion, and with Commissioners Doerner and Washington absent at its regular meeting held on Thursday, March 21, 2024, in Largo, Maryland. The adoption of this amended resolution based on the reconsideration action taken does not extend the validity period.

†Adopted by the Prince George's County Planning Board this 11th day of April 2024.

Peter A. Shapiro
Chairman

Jessica Jones

By Jessica Jones
Planning Board Administrator

PAS:JJ:JK:rpg

Laura Tallerico

Approved for Legal Sufficiency
M-NCPPC Office of General Counsel

†Denotes Amendment
Underlining indicates new language
[Brackets] and ~~strikethrough~~ indicate deleted language