

C O R R E C T E D   A M E N D E D   R E S O L U T I O N

WHEREAS, Summit Associates, L.L.C. is the owner of a 533.47-acre parcel of land known as 104C-2, said property being in the 12th Election District of Prince George's County, Maryland, and being zoned M-X-T; and

WHEREAS, on May 31, 2001, Petersen Companies, Inc. filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 98 lots and 8 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-01048, National Harbor, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on July 26, 2001, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

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

WHEREAS, on July 26, 2001, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

\*[NOW, THEREFORE, BE IT RESOLVED, that] WHEREAS, on July 26, 2001, pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plat\*[n[t] of Subdivision 4-01048, National Harbor for Lots 1-27, Block A, Lots 1-71, Block B and Parcels 1-8 with [the following] 21 conditions , and

\*WHEREAS, the opponents of this preliminary plan appealed the Planning Board's approval to the Circuit Court, which upheld the Planning Board's approval; and

WHEREAS, the opponents appealed further to the Court of Special Appeals; and

WHEREAS, on June, 27, 2003, the Court of Special Appeals reversed the decision of the Circuit Court and remanded the case to the Circuit Court to be remanded back to the Planning Board; and

WHEREAS, the Circuit Court remanded the case per the Court of Special Appeals order, instructing the Planning Board to receive additional information regarding:

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- \*a.      A noise study.
- b.      Adequate Public Facilities issues relating to the trip cap established by the District Council at the time it approved the Conceptual Site Plan.
- c.      A water quality study.
- d.      Engineering studies relating to over-water construction; and

WHEREAS, the Planning Board heard testimony and received evidence on these issues at its regular meeting on November 6, 2003.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan 4-01048, National Harbor, for Lots 1-27, Block A, Lots 1-71, Block B, and Parcels 1 – 8, with the following conditions:

- 1.      At the time of final plat, the applicant, heirs, successors and/or assigns shall dedicate to M-NCPPC, Rosalie Island, designated as Lot 70 on the submitted preliminary plan.
- 2.      Land to be dedicated to M-NCPPC shall be subject to the following:
  - a.      An original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, the Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the first Final Plat.
  - b.      M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to sewer extensions, adjacent road improvements, drains, sidewalls, curbs and gutters, and front-foot benefit charges prior to and subsequent to Final Plat.
  - c.      The boundaries and acreage of land to be conveyed M-NCPPC shall be indicated on all development plans and permits which include such property.
  - d.      The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to

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warrant restoration, repair or improvements made necessary or required by M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.

e. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.

f. Dumping of waste matter of any kind shall be prohibited on land to be conveyed to M-NCPPC.

g. No stormwater management facilities, or tree conservation or utility easements shall be proposed on lands owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.

3. The applicant, heirs, successors and/or assigns shall submit a letter to the Subdivision Section indicating that the Department of Parks and Recreation has conducted a site inspection and found the land to be dedicated to M-NCPPC in acceptable condition for conveyance. The letter shall be submitted with the final plan of subdivision.

2. Prior to the signature approval of Preliminary Plan 4-01048, the applicant, heirs, successors and/or assigns shall designate the proposed area/parcel, acceptable to the Department of Parks and Recreation, for the 50 parking spaces for use by park visitors, the  
\*\*[A]"staging and unloading area"[@], approximately 0.5 acre, and handicapped parking in Zone C, or in some other section of the development proximate to the Rosalie Island.

3. The applicant, heirs, successors and/or assigns shall be responsible for the construction of the Potomac Heritage Trail as shown on the Preliminary Plan or as is described in an amended RFA. The applicant shall provide safe and efficient trail passage within the site. Boardwalks, bridges, drain pipes or other structures may be used where the necessary to ensure dry passage along the trail system.

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4. At least two weeks prior to applying for the construction permit to construct the Potomac Heritage Trail, the applicant, heirs, successors and/or assigns shall submit to the Department of Parks and Recreation (DPR) and/or the DPW&T a performance bond letter of credit or other suitable financial guarantee, in an amount to be determined by DPR and/or DPW&T.

5. Prior to the issuance of the building permit for the ~~\*\*[A] "Speed Parking Garage",~~ the applicant, heirs, successors and/or assigns shall submit a noise study to the Environmental Planning Section demonstrating that adequate noise abatement measures have been taken to avoid any significant impact to existing residential structures.
6. Prior to signature approval, the preliminary plan shall be revised to include the 40-foot-wide buffer zone shown on the Conceptual Site Plan around the edge of most of the National Harbor property.
7. Prior to signature approval of the preliminary plan, the applicant shall submit to the Subdivision Section a copy of its written agreement with the Fire Department regarding the provision of a fire boat required by Condition 36 of the conceptual site plan.
10. The applicant, and the applicant's heirs, successors, and/or assigns shall provide the following:
  - a. An internal network of pedestrian connections connecting all portions of the development to parking and to each other. This internal network shall have connections to Oxon Hill Road parallel and adjacent to the Beltway Parcel.
  - b. The Heritage Trail from Rosalie Island to Oxon Hill Road (exclusive of the portion to be constructed by the SHA), as shown on the conceptual site plan. This trail will run from Rosalie Island (where the trail shall connect to the trail on the planned Woodrow Wilson Bridge), cross Smoot Bay, and continue up and adjacent to the Beltway Parcel to Oxon Hill Road.
  - c. Bicycle racks in appropriate location throughout the subject property. These shall be shown on the building permits.
    - a. A trail along Oxon Hill Road providing pedestrian and bicycle access for the neighboring communities, subject to approval by DPW&T. The trail shall extend from the applicant's property through or along M-NCPPC property on the west

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side of Oxon Hill Road to the entrance of the site of the Jaycees building. This trail shall be asphalt and a minimum of eight-feet wide.

- e. A trail along the boundary between the applicant's Beltway Parcel and M-NCPPC property surrounding the Oxon Hill Manor, to maintain a sufficient buffer around the Oxon Hill Manor, with sufficiency of the buffer to be determined by the Department of Parks and Recreation. A rest area shall

be provided along the section of the trail adjacent to the Beltway Parcel. Special attention shall be paid to proper stabilization of the escarpment running parallel and northwest of the trail. The escarpment shall be reforested if conditions permit.

The Recreational Facilities Agreement specified in Condition 23 (required prior to issuance of building permits) of the approval Conceptual Site Plan shall include these trails and a timing mechanism for their provision.

11. \*[Total development within the Beltway Parcel of the subject property shall be limited to the following:

- a. 200,000 square feet of retail space.
- b. 1,220,000 square feet of general office space.
- c. 850 hotel rooms.
- d. A visitors' center.

Alternatively, other permitted uses which generate no more than 2,702 AM peak hour trips and 2,565 PM peak hour trips.]

Total development within the Beltway Parcel of the subject property shall be limited to the following:

- a. 200,000 square feet of retail space.
- b. 443,000 square feet of general office space.
- c. 850 hotel rooms.
- d. A visitors' center.

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Alternatively, other permitted uses which generate no more than the number of peak hour trips (1,226 AM peak hour trips and 2,565 PM peak hour trips) generated by the development shown on the currently approved Conceptual Site Plan SP-98012 may be allowed. Upon the modification of said conceptual plan (or approval of a succeeding application), the above level of development may be modified to allow the above uses, except that a maximum of 1,220,000 square feet of general office space may be allowed (or other uses generating no more than 2,702 AM and 2,565 PM peak hour vehicle trips).

1. 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.
    - a. 200,000 square feet within a conference center.
  - c. 2,750 hotel rooms.
  - d. A visitors' center (alternative site).

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.

1. Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the SHA access permit process, and (c) have an agreed-upon timetable for construction with the SHA or the DPW&T:
  - a. Provision of a third southbound through lane along MD 210 at MD 414/Oxon Hill Road. The length of this lane and the necessary transition sections north and south of MD 414/Oxon Hill Road will be determined by SHA as part of the permitting process.
14. Prior to the issuance of any building permits within the Beltway Parcel of the subject property, the following road improvements shall (a) have full financial assurances, (b) have been permitted for construction through the SHA access permit process, and (c) have an agreed-upon timetable for construction with the SHA or the DPW&T:

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- a. Provision of two lanes in each direction along Oxon Hill Road, with a free right-turn lane southbound at the Beltway Parcel entrance, and exclusive left-turn lanes northbound at the Beltway Parcel entrance and the entrance ramp to I-295 northbound.
- b. Provision of at least dual left-turn lanes exiting the Beltway Parcel onto northbound Oxon Hill Road and a single right-turn lane onto southbound Oxon Hill Road, with the final design of the Oxon Hill Road/Beltway Parcel exit/entrance ramp to northbound I-295 to be determined by SHA and/or DPW&T.
- c. Provision of a four-lane approach on the ramp from southbound I-295, with a free right-turn lane,

a through lane and dual left-turn lanes.

1. Prior to the issuance of any building permits within the Beltway Parcel for uses generating more than 1,054 AM peak hour trips and 2,202 PM peak hour trips, the ramps on the west side of the Beltway Parcel connecting the site to the Interstate Highway system shall (a) have full financial assurances, (b) have been permitted for construction through the SHA and/or the FHWA LAPA permit process, and (c) have an agreed-upon timetable for construction with the SHA, with opening coinciding with the opening of the development. These ramps generally include:
  - a. Ramps providing direct connections from northbound I-95 to the Waterfront Parcel and the west side of the Beltway Parcel.
    - b. A ramp providing a direct connection from the Waterfront Parcel to southbound I-95.
  - c. Ramps providing direct connections from southbound I-295 to the Waterfront Parcel and the west side of the Beltway Parcel.
  - d. A ramp providing a direct connection from the Waterfront Parcel to northbound I-295.
  - e. Ramps providing direct connections from southbound I-95 to the Waterfront Parcel and the west side of the Beltway Parcel.
  - f. Ramps providing direct connections from the Waterfront Parcel and the west side of Beltway Parcel to northbound I-95.
  - g. Ramps connecting the Waterfront Parcel and the Beltway Parcel.
    1. Prior to the issuance of any building permits within the Waterfront Parcel, the ramps on the west side of the Beltway Parcel connecting the site to the Interstate Highway system shall (a) have full financial assurances, (b) have been permitted for construction through the SHA and/or the FHWA LAPA permit process, and (c) have an agreed-upon timetable for construction with the SHA, with opening coinciding with the opening of the development. This ramp system is generally described in Condition 4 above. The SHA may, as a part of the IAPA, allow temporary ramps connecting to I-95 northbound, I-95 southbound and I-295 northbound. In no event, however, shall building permits be issued for any portion of the Waterfront Parcel based upon the exclusive access via Oxon Hill Road.
    2. The access point to Oxon Hill Road in the vicinity of Area E as shown on the preliminary plan shall be for emergency access only.
  1. Prior to the issuance of building permits within the Waterfront Parcel, the applicant, heirs, successors and/or assigns shall demonstrate to the satisfaction of the transportation

planning staff, DPW&T and SHA strategies sufficient to meet the mode share and average vehicle occupancy goals that have been assumed in the traffic study. Such strategies could include (but not be limited to) provision of water taxi service along the Potomac, provision of shuttle bus service to airports and other regional hubs, provision of tour bus services to the National Mall or other area tourist attractions, preferred parking or other incentives for use by tour buses and provision of local transit services. Strategies could also include Intelligent Transportation System (ITS) services along the ramps entering the site such as lane use signage, cameras, variable message signs and highway advisory radio, and the provision of traveler information within hotels and at public kiosks within the retail and entertainment venues.

19. The transportation improvements expressed in Conditions 13, 14 and 15 shall remain in full force and effect unless otherwise modified pursuant to agreement by the Transportation Planning Section of M-NCPPC, the SHA, the DPW&T and the applicant provided any such change maintains the level of adequate transportation facilities approved by the Planning Board herein. Subsequent to the construction of all transportation improvements, the collective development intensity may be developed without regard to specific parcels.
1. The extensive use of the A-A cross section, which is a 24-foot roadway with a sidewalk on one side of the street, will be reviewed at the time of Detailed Site Plan. The right-of-way proposed for the A-A cross-section is sufficient to allow sidewalks on both sides if needed to ensure that pedestrians are adequately served. Decisions at Detailed Site Plan will be primarily based on the adjacent land uses proposed; however, most locations where the A-A cross-section is proposed may be considered for sidewalks on both sides.
21. At the time of final plat, the applicant, heirs, successors and/or assigns shall dedicate 40 feet from the center line along Oxon Hill Road. Improvements within the dedicated right-of-way shall be determined by DPW&T.
- \*22. Private roadways within the Waterfront Parcel, if located within 300 feet of residential property lines that are not a part of National Harbor, shall be constructed with noise barriers and/or berms located between the roadway and the residential property line. These attenuation features will be designed such that day and night time noise decibel levels will not exceed those prescribed by the Code of Maryland ("COMAR"). Noise barrier construction materials may be concrete, metal panels, masonry block, wood, or other materials that provide similar acoustical benefits or proposed buildings that provide the required attenuation. Earth berms may be constructed at a maximum 2:1 (horizontal:vertical) slope. A combination of earth berm, sound barrier and/or sound attenuation or reduction system/devices, may be used to satisfy the requirement. Nothing herein shall modify COMAR's applicability to motor vehicles on public roads. Proposed noise attenuation information verifying that the proposed measures adequately address the requirements of COMAR shall be submitted as part of the permit application for private road construction.



23. Private roadways within the Waterfront Parcel, if located within 300 feet of adjoining residential property lines, not a part of National Harbor, shall be posted with signage prohibiting heavy truck traffic between the hours of 10:00 p.m. and 7:00 a.m. The maximum speed limit on such roadways shall be 30 miles per hour.

24. Waterfront Parcel parking lots in use between 10:00 p.m. and 7:00 a.m., located within 500 feet of residential property lines not a part of National Harbor, shall include noise barriers, and/berms and/or sound attenuation or reduction system/devices, designed to meet COMAR requirements.

25. Waterfront Parcel parking garages, including any Speed Parking Garage, located within 500 feet of residential property lines not a part of National Harbor shall be designed with ramps to upper levels either within the facility or on a side of the garage that is minimally 200 feet from the closest residential property line. Parking garage walls along the boundaries of residential properties, not a part of National Harbor, shall be closed. If adjacent ground level attenuation suffices to provide acceptable COMAR noise levels for adjacent or proximate parking garages, the wall enclosure need not be provided. Any Speed Parking Garage requires approval of a Detailed Site Plan consistent with Conceptual Site Plan Condition No. 8.

26. For any building with ground mounted cooling towers in excess of 500 tons (provided said building is located within 150 feet of adjoining residential property lines not a part of

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\*\*National Harbor), the applicant shall provide information at time of building permit application evidencing that the design of the air conditioning system and cooling towers include equipment locations, shields, screening, variable frequency operations or similar sound attenuation measures to insure compliance with the requirements of COMAR.

27. The design of any amusement park attraction or outdoor theatre shall include sufficient setbacks, orientation, barriers, berms or reduction system/devices to meet the requirements of COMAR for any electronically amplified sound emanating from the attraction. No more than 1,000 square feet of any theatre with outdoor performances shall be open to property lines of adjacent residential properties. The design and construction of venues that will attract evening visitation will be focused toward the waterfront. Music emanating from these venues shall be oriented away from the property boundaries of the abutting residential properties not a part of National Harbor and comply with any COMAR requirements. Information demonstrating compliance with this condition and COMAR shall be provided as a part of any amusement park or outdoor theatre permit submission.

28. Outdoor festivals, concerts, bands, displays or fireworks will generally be oriented to areas in proximity of the waterfront.

29. Outdoor thrill rides or roller coasters commonly found at theme or amusement parks will not be part of any entertainment venue, theme park or amusement park developed by National Harbor unless the specific outdoor thrill ride or roller coaster is allowed pursuant to approval of a Detailed Site Plan. At time of Detailed Site Plan submission, a Noise Study shall be submitted that demonstrates how regulated noise from the proposed uses will be at or below COMAR requirements at the abutting residential property lines that are not part of National Harbor.

30. Interior noise levels for the living areas of hotel and/or on-site residential uses shall not exceed 45 dBA.

31. On the Waterfront Parcel, construction noise attenuation measures shall be implemented in order to insure adherence to COMAR requirements. As part of applications for building permits, the applicant shall provide a noise attenuation plan which shall meet the COMAR requirements and shall include any measures or combination of measures such as or similar to the following:

a. Construction of temporary noise barriers with no gaps or holes between the construction site and noise sensitive receptors.

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b. Implementation by DER of restrictions on nighttime operations.

c. Use of piles of excavated materials as barriers between noisy activities and noise-sensitive receptors.

d. Equipment placement on the site as far away from noise-sensitive receptors as practical.

e. Use of ambient sensing, manually adjusting, or detector type backup alarms on appropriate equipment.

f. Use of "noise tents" to reduce the noise from jack hammering.

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g. Construction shall comply with hours of operation permitted by the DER.

h. A method of providing public notification to adjacent residents of construction activity that will result in higher noise levels at particular periods.

i. Control of gratuitous construction noise (including, but not limited to, engine revving, excessive air braking and loud use of horns) that is not necessary for actual construction.

32. As construction of the proposed facilities commences, a method of public notification indicating where to direct noise inquiries shall be established. Such information may be part of general information available to the public. A copy of the proposed public information plan shall be submitted to the Development Review Division with the first building permit application.

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

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The subject property is located along the Potomac River, south of I-95 and the Woodrow Wilson Bridge in the Oxon Hill/Fort Foot community.
3. Conformance with CSP-98012 Staff has reviewed the proposed preliminary plan and finds it generally in conformance with the Conceptual Site Plan, SP-98012, approved by the

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District Council on June 10, 1998. The District Council Notice of Final Decision contained several conditions that apply to the subject application, as indicated below. A discussion of the conformance with conditions specific to transportation and parks can be found in those sections of this report.

**Condition 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.**

**Condition 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.**

Comment: These conditions are satisfied. A further discussion of these issues is found in the Transportation finding (Finding 7) of this report.

**Condition 13: The road access point proposed at Oxon Hill Road into Zone E (Upland Resort) shall be an emergency access only....**

Comment: The proposed location for the emergency access point on Oxon Hill Road is not shown on the Preliminary Plan and must be added prior to signature approval.

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

Comment: Prior to signature approval, this must be shown, in its entirety, on the preliminary plan.

**Condition 19: Adequacy at the Piscataway Wastewater Treatment Plant shall be determined prior to approval of the Preliminary Plat of Subdivision.**

Comment: The Washington Suburban Sanitary Commission has determined that this facility is adequate.

**Condition 35: Compliance with State noise regulations shall be determined with regard to sound generated by National Airport, the Capital Beltway and the subject property prior to approval of the Preliminary Plat of Subdivision.**

Comment: The Environmental Planning Section has reviewed a noise study and map prepared by Mary C. Giles of Loiderman Associates, dated April 8, 1998. The heart of the report is a copy of pages A-184 through A-198 of Appendix A: The Physical Environment M-X-T Conceptual Site Plan for PortAmerica\*\*[@]; prepared by Dames and Moore, dated March 9, 1988. Staff reviewed this document in detail in 1988 when the Concept Plan included a significant amount of residential structures. At that time we determined that except for that area near the Capital Beltway, exterior noise from combined airport and highway noise would not exceed 65 dBA (Ldn) and none of the residential areas were significantly impacted. The test for residential use is more stringent than that for commercial uses. Since the CSP and Preliminary Plan have no residential component, staff concludes that noise from external sources is not significant.

Staff does have some small concern that the site may generate noise. We expect that traditional holidays, e.g., the 4th of July and New Year's Eve, will see their share of crowds, fireworks, and noisemakers. Outdoor activities, such as festivals or music bands, may occur and generate noise which would impact neighboring residential properties. The State of

Maryland has a noise ordinance which should be sufficient to regulate any instances.

The proximity of the principal ingress/egress and the speed parking garage to existing residences is a concern. Prior to the issuance of the building permit for the speed parking garage, a noise study should be submitted to Environmental Planning Section demonstrating that adequate noise abatement measures have been taken to avoid any significant impact to existing residential structures.

**Condition 36: Prior to the approval of any subsequent plans for the subject property, the applicant and the County Fire Department shall enter into an agreement to provide a Fire Boat to adequately cover the properties along the coastal areas and boats on the Potomac River, and the provision of an office to accommodate a crew of six persons near the Fire Boat.**

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Comment: Staff has discussed this condition with the Fire Department. The applicant is working closely with the Fire Department to fulfill this condition. The discussions are now centered around the specifications of the boat. Prior to signature approval of the preliminary plan, the written agreement must be submitted to the Subdivision Section.

The Urban Design Section also recommends that the 40-foot-wide buffer zone shown on the Conceptual Site Plan around the edge of most of the National Harbor property also be shown on the preliminary plan.

4. Environmental Issues - The Environmental Planning Section previously reviewed the myriad of applications filed on the subject property and listed in the Overview. The environmental issues have been addressed previously, and today most of the site has been mass-graded under approved permits. No historic or scenic roads are affected by this proposal. No rare/threatened/endangered species are known to occur in the project vicinity. According to the Water and Sewer Service maps produced by the Department of Environmental Resources (DER), the property is in categories W-3 and S-3. A Stormwater Concept Plan was approved by DER on December 11, 2000. The soils information included in the review package indicate that no problematic soils occur in the proposed development area.

This site is subject to the provisions of the Woodland Conservation Ordinance because it is more than 40,000 square feet in size and contains more than 10,000 square feet of woodland. A Tree Conservation Plan is required to satisfy the requirements of the Woodland Conservation Ordinance. TCPI/10/98 was approved with CSP-98012. The proposed subdivision has no effect on the approved Tree Conservation Plan. No further action is required at this time.

The approval of a Chesapeake Bay Critical Area Plan is required prior to approval of the subdivision of any land within the Chesapeake Bay Critical Area. Chesapeake Bay Critical Area Plan CP-88013 was originally approved by the Planning Board on January 22, 1988. The proposed subdivision has no effect on the approved Chesapeake Bay Critical Area Conservation Plan. No further action is required at this time.

5. Community Planning - The *1981 Subregion VII Master Plan* recommends development of a waterfront center as the preferred development type for this location. Identified as the Smoot Bay Waterfront Center, the master plan text contains extensive discussion about the uniqueness of the site and the development opportunity.

This property lies on part of the remains of the 18<sup>th</sup>-century Addison Plantation. The Beltway Parcel contains the site of the original Addison Plantation house and family cemetery. John Hanson, first President of the Continental Congress under the articles of Confederation, died while visiting his nephew at this house, and is reported to be buried in this cemetery. Oxon Hill Manor, Historic Site 80-1, built in 1929 for diplomat Sumner Wells, is located on property adjoining to the east of the Waterfront parcel and south of the Beltway Parcel.

The 1984 Sectional Map Amendment for Subregion VII classified this property in the M-X-T and R-R Zones. In 1990, a portion of the property was reclassified from the R-R Zone to the R-M Comprehensive Design Zone by Application A-9825. In 1997, the District Council amended the Zoning Ordinance via CB-44-1997 defining a "[A]" Waterfront Entertainment/Retail Complex "[@]" as a permitted use subject to consolidated site plan review procedures.

6. Parks and Recreation - The subject subdivision is located within the area of approved Conceptual Site Plan SP-98012. District Council Resolution # SP-98012 established requirements for public recreational facilities to serve residents in the community and in the development area. The following conditions of the approved SP-98012 are related to the provision of public recreational facilities and need to be further clarified in the Preliminary Plan, 4-01048:

**Condition 21: The construction plans for Rosalie Island Park shall include a "[A]staging and unloading area" "[@]" for utilization by the Department of Parks and Recreation, which area shall be located within Zone C as close to the park as possible. To the extent**

practicable, a park entrance feature shall be constructed in connection with the staging area. The trail system from the parking area to Rosalie Island shall be sufficient in design to allow for use by emergency, police and maintenance vehicles. Handicapped parking for Rosalie Island visitors shall be provided within Zone C as close to the park as possible. Alternatively, during hours when the park is open to visitors, the same number of handicapped parking spaces shall be made available for use by park visitors within Zone C. A total of 50 parking spaces shall be provided. Twenty shall be for the exclusive use of park patrons and 30 may be shared with the Visitors Center.

**Condition 22:** Prior to issuance of any grading permits for roads adjacent to any trail, the applicant shall provide for review and approval by the department of Parks and Recreation (DPR) construction plans for the section of the trail adjacent to the road. Trails and trail connectors shall be generally shown on the Conceptual Site Plan. Trail shall be field located and the location shall be approved by DPR prior to

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construction. The applicant shall provide any structures needed to insure dry passage along the trail. Both trails discussed below shall be 10 feet in width and shall be constructed in accordance with the Parks and Recreation Facilities Guidelines.

- a) The trail along the boundary between the applicant's Belt way Parcel and M-NCPPC property surrounding the Oxon Hill Manor shall be constructed so as to maintain a sufficient buffer around the Oxon Hill Manor, with sufficiency of the buffer to be determined by DPR. A rest area shall be provided along the section of the trail adjacent to the Beltway Parcel. Special attention shall be paid to proper stabilization of the escarpment running parallel and northwest of the trail. The escarpment shall be reforested if conditions permit.
- b) The applicant shall also provide, subject to approval by the Department of Public Works and Transportation and DPR, a trail along Oxon Hill Road providing pedestrian and bicycle for the neighboring communities. The trail shall extend from

**the applicant's property through or along DPR property on the west side of Oxon Hill Road, to the entrance of the site Jaycees building.**

**Condition 23: Prior to issuance of any building permits for National Harbor, all existing Recreational Facilities Agreements (RFA) shall be amended to be consistent with the preceding conditions. These amended RFA's shall supersede any RFA's of record applicable to the property and shall include language specifying appropriate timing mechanisms for provisions of Rosalie Island Park and the specified trails.**

The applicant is required to designate and construct the **\*\*[A]** staging and unloading area **” [ @ ]** and handicapped parking for Rosalie Island visitors in Zone C (as shown on approved Conceptual Site Plan SP-98012). The area shall be as close to Rosalie Island as possible for the emergency, police, and maintenance access to the park. The staging and unloading area should be designated on the preliminary plans as a separate parcel for future conveyance to M-NCPPC. Staff determined that approximately one acre of land is needed to accommodate the required uses.

**\*\*Denotes correction**

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**Underlining denotes addition**

The applicant has designated Lot 70, part of Rosalie Island (3.18" acres), to be dedicated to M-NCPPC for park use. This land should be conveyed at the time of the approval of the first final plat in National Harbor.

The applicant has not designated a parking area of 50 parking spaces for park visitors within Zone C. The area should be designated on the plan for the future dedication of the land to M-NCPPC.

7. Trails - Several trails have been required by the Conceptual Site Plan and the master plan, including a waterfront trail linking the center at Oxon Cove Park to the north and Fort Foote Park to the south (the Potomac Heritage Trail). Appropriate conditions of approval are incorporated into the staff recommendation.
8. Transportation - The applicant submitted a traffic study dated May 2001 in support of the application. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals (Guidelines)*. The study was referred to both the county Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA). The comments of DPW&T are attached; SHA comments were not received in time for incorporation into the staff's referral.



Staff Analysis of Traffic Impacts

Most of the issues regarding transportation were discussed in great detail during the review of Conceptual Site Plan SP-98012 for National Harbor. To the greatest extent possible, the transportation staff's current findings attempt to build upon the findings made regarding that case in 1998. The current case does add some wrinkles, however; so staff will focus upon the changes between the conceptual plan and the current plan while taking new data into consideration.

The applicant has prepared a traffic impact study in support of the application using new counts taken in April 2001. The traffic impact study prepared and submitted on behalf of the applicant analyzed the following intersections:

MD 210/MD 414  
MD 414 (Oxon Hill Road)/Park-and-Ride entrance/Roadway A  
MD 414 (Oxon Hill Road)/Ramp E-1/Roadway B

Existing conditions in the vicinity of the subject property indicate no operational problems within the study area and are summarized as follows:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/MD 414	1178	1055	C	B
MD 414/Park-and-Ride entrance/Roadway A	945	1157	A	C
MD 414/Ramp E-1/Roadway B	planned			

A review of background development in the area was conducted by the applicant in cooperation with transportation staff, and two significant approved but unbuilt developments were identified in the immediate area. The applicant has assumed a growth in through traffic along MD 210 of 2.1 percent per year, and a growth rate along MD 414 of 1.25 percent per year.

Most notably, the background scenario includes funded projects to rebuild the Woodrow Wilson Bridge, which carries I-95/I-495 over the Potomac River, reconstruct the I-95/I-495/I-295 and the I-95/I-495/MD 210 interchanges, and reconstruct and widen Oxon Hill Road between MD 210 and the Oxon Hill Manor. These projects are fully funded in either the state Consolidated Transportation Program or the county Capital

Improvement Program, and may therefore be included. Adjustments to existing traffic based upon changes in ramp locations have been properly made in the traffic study. Review of these changes would have been eased by providing a figure(s) showing precisely the impact of the changes, rather than just a summary figure.

Background traffic conditions are summarized below:

<b>BACKGROUND TRAFFIC CONDITIONS</b>				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/MD 414	851	1190	A	C
MD 414/Park-and-Ride entrance/Roadway A	448	585	A	A
MD 414/Ramp E-1/Roadway B	904	828	A	A

The application is a plan for a mixed-use development. While the development for the Waterfront Parcel is virtually unchanged from the conceptual plan from a trip generation standpoint, the Beltway Parcel has changed from a primarily retail to a primarily office proposal. From the standpoint of the transportation staff, this has raised a trip cap issue that will be further explained below. The staff will proceed to analyze the applicant's proposal, and continue by discussing the trip cap question. The following table compares the development levels shown in the conceptual plan with the development levels proposed in the current traffic study:

<b>Comparison of Development Levels Approved SP-98012 Versus Traffic Study for 4-01048</b>		
Use	Quantity under SP-98012	Quantity under 4-01048
<b>Waterfront Parcel</b>		
Waterfront Development	5,350,000 square feet of mixed-use hotel, conference, and entertainment facilities	5,350,000 square feet of mixed-use hotel, conference, and entertainment facilities
<b>Beltway Parcel</b>		
Visitors' Center	Yes	Yes
Retail	725,000 square feet	200,000 square feet
Office	200,000 square feet	1,220,000 square feet
Hotel	1,000 rooms	850 rooms
Note: While the traffic study indicates 1,425,000 square feet of office space, the applicant has revised this quantity downward.		

Table 1, attached, summarizes site trip generation as analyzed by the transportation staff. Staff's assessment differs from that of the applicant on a number of counts:

- a. Staff's assessment uses the trip generation rates given in the *Guidelines*, while the applicant's traffic study uses rates from the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*. The ITE rates were originally used in analyzing the Conceptual Site Plan so that identical numbers would be published in staff's referrals as well as environmental documents which were being prepared at that time. However, it was noted by staff and by DPW&T that the ITE rates for general office were far different (and far lower) than those published in the *Guidelines*. For the purpose of performing an adequacy test, staff believes that the rates in the *Guidelines* are more consistent with past practices, and will produce a more valid test.
- b. Staff views the visitors' center as an accessory use within the property. As such, staff would assume that all trips generated by the visitors' center are either pass-by trips (already on the roadway) or are associated with other uses, such as the hotels or the waterfront complex. Therefore, the trip generation for the visitors' center is shown as zero.
- c. The proposed retail component is much smaller than that originally proposed by the conceptual plan, and should therefore draw a larger portion of its business from a more localized area. Therefore, the staff has assumed that 40 percent (rather than 10 percent) of the retail trips are associated with the adjacent office and hotel development. The resulting trip reduction is approximately one-half of that assumed in the original 1998 National Harbor traffic study\*\*[C]; it simply reflects the smaller size of the retail center versus the larger size of the office component near it.

The National Harbor development as proposed by the applicant would generate 2,702 AM and 2,565 PM peak hour vehicle trips within the Beltway Parcel and 3,073 AM and 2,842 PM peak hour trips within the Waterfront Parcel. The Waterfront Parcel was analyzed using the same parameters which were used to analyze it during the conceptual plan; staff's findings for SP-98012 should be reviewed if more clarification is needed.

The transportation staff thoroughly reviewed the trip distribution used in the traffic study, and it was not immediately apparent that the trip distribution had the same basis as that used in the conceptual plan. Furthermore, no trips were distributed down Oxon Hill Road, and the transportation staff specifically found while reviewing the conceptual plan that trips from the subject property would use Oxon Hill Road\*\*[C]; an estimate of two percent was used. In the end, the staff found great similarity between the prior and the current trip distributions. In consideration of Oxon Hill Road impacts, the staff has analyzed the proposal using the following trip distribution:

West on I-95/I-495	24.4%	
South on Oxon Hill Road	2.0%	
South on MD 210		7.5%
East on MD 414		8.1%
East on I-95/I-495		32.2%
North on MD 210	4.9%	
North on I-295		
	21.0%	

Total traffic operations under future conditions without improvements (but with all improvements needed for site access or otherwise funded), as analyzed by the transportation staff, are summarized below:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/MD 414	1181	1442	C	D
MD 414/Park-and-Ride entrance/Roadway A	796	893	A	A
MD 414/Ramp E-1/Roadway B	1178	1156	C	C

\*\*Denotes correction

[Brackets] indicates deleted language

Underlining indicates new language

The Prince George's County Planning Board, in the *Guidelines*, has defined services levels exceeding LOS D as an unacceptable operating condition at signalized intersections. With the improvements which are fully funded in place, and with access improvements to be constructed by the applicant, the critical intersections would operate at LOS D or better in both peak hours with the development of the subject property.

At this point, it is necessary to discuss the trip cap which was placed on the subject property and more specifically the Beltway Parcel during the review of SP-98012. Condition 1 of the District Council order affirming the Planning Board's decision in SP -98012 states that different permitted uses generating no more than the number of peak hour trips (1,226 AM peak hour trips and 2,565 PM peak hour trips) generated by the above development may be allowed ~~\*\*[ @ ]~~ within the Beltway Parcel. Noting the trip generation summary in Table 1, while the PM peak hour trips conform to this condition, the number of trips generated in the AM peak hour do not exceed the conceptual plan cap by 1,476 trips.

The CSP trip cap is actually (1) the reflection of the finding of adequate public facilities for transportation and (2) the mechanism for its implementation and compliance. Thus the cap on density, and alternatively the trips that density generates, is not intended to cap

development, but rather to ensure conformance with the adequacy finding. The new development plan (with an increased office component and a smaller retail component) is not inconsistent with the CSP inasmuch as the crucial finding of the CSP is adherence to the adequate public facilities requirements, and the mechanism applied at both the conceptual plan and the subdivision stages remains the same. The resulting intent of a trip cap condition is, in part, to ensure that development density does not exceed adequacy, as well as to define a practical development potential for the benefit of other parties. Toward that end, it would seem reasonable to find that the intent of the condition to limit development density with the provision of adequate transportation improvements is met regardless of the cap, provided development does not exceed the capacity of area intersections.

Since adequacy is met with the larger development, the Planning Board finds that the proposed increase to 1,220,000 square feet of office on the Beltway Parcel is in substantial conformance with the approved CSP.

\*\*Denotes correction

[Brackets] indicates deleted language

Underlining indicates new language

<b>TOTAL TRAFFIC CONDITIONS</b> <b>with revised development level to conform to the trip cap in SP-98012</b>				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/MD 414	1018	1351	B	D
MD 414/Park-and-Ride entrance/Roadway A	632	769	A	A
MD 414/Ramp E-1/Roadway B	1181	1044	C	B

To conclude this discussion of the trip cap, the Planning Board finds that the intent of the Conceptual Site Plan condition - to limit development density with the provision of adequate transportation improvements - is met, because that development does not exceed the capacity of area intersections with the imposition of the transportation related conditions included in this resolution.

DPW&T had numerous comments concerning site trip generation and distribution. The transportation planning staff's analysis has faithfully taken these comments into consideration in its analysis of the application, and believes the findings accurately reflect the

impact of an approvable level of development on area transportation facilities. SHA comments will be forwarded once they are received.

#### Plan Comments

The most significant concern of staff has been in determining that the proposed street cross sections are indeed adequate. While pavement widths are indeed adequate (given that on-street parking will be largely banned), staff is very concerned about the extensive use of the A-A cross section, which is a 24-foot roadway with a sidewalk on one side of the street. Given the density proposed for the site and the interrelationship of the mixed uses proposed, the subject development will need to be supported by an extensive pedestrian network. The right-of-way proposed for the A-A cross-section is sufficient to allow sidewalks on both sides. While staff will base decisions at Detailed Site Plan on the land uses proposed, it is very likely that the applicant should consider sidewalks on both sides of the A-A cross-section along the following streets: Private Streets 2, 3, 4, and 5; Private Street C between Street A and Street E; Private Street E, and the private streets within the area bounded by Street A, Street C, and Street E. There may be other portions of streets which require sidewalks on both sides of the street.

With further clarification by the applicant, the transportation staff has determined that vehicular access within and between both development parcels and the overall highway network is acceptable and in conformance with the approved conceptual plan. An emergency access point is shown between the Waterfront Parcel and Oxon Hill Road. This access point will be used for emergency access only in accordance with SP-98012. Adequate right-of-way is shown along the Beltway, the I-295 interchange, and the upper portion of Oxon Hill Road. Adjacent to the Waterfront parcel, Oxon Hill Road is a Master Plan collector, and the plan should indicate dedication of 40 feet from the existing center line.

Based on the preceding findings, adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code. The trip cap related to the Beltway Parcel has been discussed at great length in this report, and staff recommends a condition that the trip cap as approved by the District Council be retained, and other transportation-related conditions included in this report.

9. Schools - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.01 and 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2001) (CR-4-1998). The proposed subdivision is exempt from the adequate public facilities test for schools because it is a mixed use development with no residential units proposed.
10. Fire and Rescue - The Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public fire and rescue facilities.

- a. The existing fire engine service at Oxon Hill Fire Station, Company 21, located at 7600 Livingston Road, has a service response time of 4.55 minutes, which is beyond the 3.25-minute response time guideline.
- b. The existing ambulance service at Oxon Hill Fire Station, Company 21, has a service response time of 4.55 minutes, which is beyond the 4.25-minute response time guideline.
- c. The existing paramedic service at Allentown Road Fire Station, Company 47, located at 10900 Fort Washington Road, has a service response time of 7.52 minutes, which is beyond the 7.25-minute response time guideline.
- d. The existing ladder truck service at Accokeek Fire Station, Company 24, located at 16111 Livingston Road, has a service response time of 16.75 minutes, which is beyond the 4.25-minute response time guideline.

These findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*. To alleviate the negative impact on fire and rescue services due to the inadequate service discussed, the Fire Department recommends that all commercial structures be fully sprinkled in accordance with National Fire Protection Association Standard 13 and all applicable Prince George's County laws.

11. Police Facilities - The proposed development is within the service area for District IV-Oxon Hill. In accordance with Section 24-122.1(c) of the Subdivision Regulations, existing county police facilities will be adequate to serve the proposed National Harbor development.
12. Health Department - The Health Department notes that there is a portable concrete mixing plant on the property close to residences. Prior to final plat approval, the Health Department requests that the applicant be required to submit a noise study and an operations plan outlining measures for dust suppression and control of pH from the concrete runoff.
13. Stormwater Management - The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 988001050, was approved with conditions at the time of Conceptual Site Plan review. To ensure that development of this site does not result in on-site or downstream flooding, development must be in accordance with this approved plan.
- \*14. Remand of the Court of Special Appeals—The subject preliminary plan was originally approved on July 26, 2001. The subdivision consists of approximately 533.47 acres of land in the M-X-T Zone. The applicant proposed the subdivision of the site into 98 lots and 8 parcels for mixed retail, office, waterfront entertainment and resort uses. Access to

the site will be via a proposed public road from Oxon Hill Road. The resolution for approval (PGCPB 01-163) was adopted on July 26, 2001.

An appeal of the Planning Board's action was filed with the Circuit Court of Maryland, which upheld the Planning Board's approval. That case was appealed to the Court of Special Appeals, (Case No. 151 Md. App. 558). The Court order ended with the following:

"Judgment of the circuit court for Prince George's County affirming decision of the Prince George's county planning board to approve preliminary subdivision plan 4-01048 reversed. Case remanded to Prince George's Planning Board for further administrative proceedings consistent with this opinion."

On October 1, 2003, the applicant filed a request that the Planning Board take the appropriate action as ordered by the court. With the request, the applicant submitted supporting documentation required by the court order. The Planning Board hearing was scheduled for November 6, 2003 and notice was sent to all parties of record on October 23, 2003, in accordance with Section 10f. of the Planning Board\*\*[=]'s Rules of Procedure.

\*\*Denotes correction

\*Denotes amendment

[Brackets] denotes deletion

Underlining denotes addition

Additional information with regard to 4-01048, as remanded to the Planning Board by the Maryland Court of Special Appeals on June 27, 2003, was submitted by the applicant and has been reviewed. The additional information includes a water quality study dated September 25, 2003, a noise analysis study dated October 1, 2003 and a letter from the Department of Environmental Resources. The staff has reviewed the supplemental information and recommends that the Planning Board find that this information sufficiently addresses the issues raised in the remand.

### **COMPLIANCE WITH THE OPINION AND REMAND OF THE COURT**

The Court of Special Appeals (CSA) remanded the case for the Planning Board to address four issues.

1. Noise Study.
2. APF issues relating to transportation.
3. Water Quality Study.
4. Engineering Studies Regarding Over-Water Construction

#### **I. Noise Study**



The court noted that Conditions 13 of the approval of Zoning Map Amendment A-5635 and Conceptual Site Plan, CSP-98012 were not fully addressed at the preliminary plan stage. These conditions required the following:

**ZMA A-5635**

**Condition 13:** **The Comprehensive Concept Plan shall include a noise study demonstrating the amount of external noise caused by traffic from National Airport and the Capital Beltway, as well as the anticipated effects of noise from the proposed development on adjoining residential areas.**

**CSP-98012**

**Condition 35.** **Compliance with State noise regulations shall be determined with regards to sound generated by National Airport, the Capital Beltway and the subject property prior to the approval of the Preliminary Plat of Subdivision.**

\*Denotes amendment

[Brackets] indicates deleted language

Underlining indicates new language

A noise study dated October 1, 2003 was submitted for review. The noise study includes information regarding sound generated by aircraft using National Airport, sound generated by traffic on the Capital Beltway and sound that may be generated on the National Harbor property. Staff have reviewed the noise study with regard to the mandatory noise exposure limits set forth in COMAR 26.02.03.03, Table 2 to determine if the anticipated noise generated by the National Harbor project complies with state noise regulations. The study does not include information regarding the concrete batch plant which is associated with the construction of the new Wilson Bridge not National Harbor. The construction of  
the Wilson Bridge is a project of the Maryland State Highway Administration and is outside of the approval authority of the Planning Board. Staff has included in the backup a document titled "Summary of Woodrow Wilson Bridge Project Construction Impact Studies and Mitigation Efforts for the North Potomac Vista Community" that addresses the measures being taken by the Maryland State Highway Administration to mitigate this noise.

The study examines the individual impacts of aircraft noise and traffic-generated noise associated with the Capital Beltway. The federal regulations are used in the study because COMAR specifically exempts the two primary noise sources: motor vehicles on public roads and aircraft operations. The results are shown on Figure 4 (page 16). COMAR 26.02.03.03 B(2)(e) exempts public roads from the mandatory noise exposure limits set forth in COMAR 26.02.03.03, Table 2 and COMAR 26.02.03.03 B(2)(f) exempts aircraft from the mandatory noise exposure limits set forth in COMAR

26.02.03.03, Table 2. The noise contours provided are used to evaluate the portions of the site that may not be appropriate for residential uses. The exterior noise levels for residential outdoor activity areas should not exceed 65 dBA (Ldn) and the interior noise levels of residential structures should not exceed 45 dBA (Ldn). The study clearly demonstrates compliance with state noise regulations regarding sound generated by the National Airport and the Capital Beltway because residential uses with outdoor activity areas, such as single-family residential uses, are not proposed within the 65 dBA noise contour.

The study considers a series of possible sources of noise that may be generated from entertainment, retail and office uses on the National Harbor property that may affect adjoining residential areas. Standard models have been used to calculate potential noise emissions from on-site traffic on private roads, parking lots and garages, a speed parking garage, air conditioning equipment (HVAC) and family amusement park attractions. Attenuation measures for various types of noise emissions are discussed. The study clearly demonstrates that with proper mitigation, noise from the National Harbor site would not exceed the mandatory noise exposure limits set forth in COMAR 26.02.03.03, Table 2.

\*Denotes amendment

[Brackets] indicates deleted language

Underlining indicates new language

Staff has reviewed the noise study in detail and determined that the National Harbor project would comply with state noise standards if several conditions are imposed.

## **II. APF Issues Relating to Transportation**

The Planning Board imposed the following condition:

**11. Total development within the Beltway Parcel of the subject property shall be limited to the following:**

**200,000 square feet of retail space.**

**1,220,000 square feet of general office space.**

**850 hotel rooms.**

**A visitors' center.**

**Alternatively, other permitted uses which generate no more than 2,702 AM peak hour trips and 2,565 PM peak hour trips.**

The condition was based on the following finding:

“Condition 1 of the District Council order affirming the Planning Board\*\*[=]’s decision in SP-98012 states that \*\*[A]”different permitted uses generating no

more than the number of peak hour trips (1,226 AM peak hour trips and 2,565 PM peak hour trips) generated by the above development may be allowed”\*\*[@] within the Beltway Parcel. Noting the trip generation summary in Table 1, while the PM peak hour trips conform to this condition, the number of trips generated in the AM peak hour do not they exceed the conceptual plan cap by 1,476 trips.

“The CSP trip cap is actually (1) the reflection of the finding of adequate public facilities for transportation and (2) the mechanism for its implementation and compliance. Thus the cap on density, and alternatively the trips that density generates, is not intended to cap development, but rather to ensure conformance with the adequacy finding.”

The court found that:

\*\*Denotes correction

\*Denotes amendment

[Brackets] indicates deleted language

Underlining indicates new language

“[T]he Planning Board could not disregard the AM trip cap because it resulted from a condition on a zoning map amendment that remained mandatory and binding under the District Council’s resolution approving the conceptual site plan. ... this trip cap limits development of the Beltway Parcel; it is a ceiling that only the District Council itself can raise.”

Therefore, the Planning Board adopts a condition that limits the applicant to the trip cap established by the District Council unless the applicant receives District Council approval to raise the limit, with an ultimate trip cap of 2,702 AM and 2,565 PM peak hour vehicle trips.

### **III. Water Quality Study**

The court noted that Condition 14 of Zoning Map Amendment A-5635 was not addressed. Condition 14 reads:

**Condition 14: The comprehensive concept plan shall include a water quality study which addresses the following:**

- a. Effects on Smoot Bay from construction of pilings, bulkheads, dredging and fill operations, and all other**

**activities required for development above the water;**

*Comment:* Pages 3-5 of the water quality study discuss in detail the effects of construction, dredging, fill operations and other activities on Smoot Bay. Staff recommends that the Planning Board find that this condition has been adequately addressed.

**b. Changes to water quality of Smoot Bay which may result from proposed inland and shoreline development;**

*Comment:* Pages 5-8 of the water quality study discuss in detail the changes to water quality that may result from the proposed development. Staff recommends that the Planning Board find that this condition has been adequately addressed.

\*Denotes amendment  
[Brackets] indicates deleted language  
Underlining indicates new language

**c. All potential pollution which may result from the operation of the proposed marina, such as fuel spills, seepage of pollutants from engines and bilges, pollutants leaching from hulls, and disposal of effluent from marine sanitation devices; and**

*Comment:* Pages 8-9 of the water quality study discuss in detail the potential pollution that may result from the proposed marina. Staff recommends that the Planning Board find that this condition has been adequately addressed.

**d. The flushing characteristics of Smoot Bay.**

*Comment:* Pages 9-11 of the water quality study discuss the flushing characteristics of Smoot Bay. Staff recommends that the Planning Board find that this condition has been adequately addressed.

The water quality study dated September 25, 2003 also contains significant excerpts from the Final Environmental Impact Statement (FEIS) that was published by the National Capital Planning Commission in cooperation with the US Army Corps of Engineers (the lead federal agency in the National Environmental Protection Act compliance for this project) and the Maryland State Highway Administration. The FEIS is a matter of public record. The water quality study clearly demonstrates that each of the individual items

listed in Condition 14 of A-5635 have been addressed.

**IV. Engineering Studies Regarding Over-Water Construction**

The court noted that Condition 18 of Zoning Map Amendment A-5635 and Condition 18 of Conceptual Site Plan CSP-98012 were not fully addressed. These conditions read, respectively:

**ZMA A-5b35**

**Condition 18: For uses proposed above the water, the comprehensive concept plan shall include engineering studies for review by the Department of Licenses and Permits to indicate techniques for constructing proposed pilings or other over-water development.**

\*Denotes amendment

[Brackets] indicates deleted language

Underlining indicates new language

**CSP 98012**

**Condition 18: Prior to certificate approval of the Conceptual Site Plan, the applicant shall submit for review and approval by the Department of Environmental Resources, engineering studies to indicate techniques for constructing proposed pilings or other over-water development.**

By letter dated July 24, 2000, Reynaldo S.P. de Guzman, Supervisor, Engineering Plan Review Section, Permits and Review Division, Prince George's County Department of Environmental Resources (the successor agency to the Department of Licenses and Permits), notified M-NCPPC that the proposed techniques to be used for construction of pilings and over-water structures have been reviewed and deemed acceptable.

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

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Harley, with Commissioners Eley, Harley, Vaughns and Hewlett voting in favor of the motion, and with Commissioner Squire absent at its regular meeting held on Thursday, November 6, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of November 2003.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JD:rmk

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[Brackets] indicates deleted language  
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