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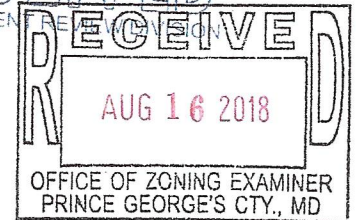
Bradley S. Farrar
L. Paul Jackson, II*
* Also admitted in the District of Columbia

June 7, 2018

SE-4807

VIA FIRST CLASS MAIL

Ms. Cheryl Summerlin
Prince George's County Planning Department
Development Review Division
14701 Governor Oden Bowie Drive
Upper Marlboro, MD 20772



RE: SE-4807 ~ MGM National Harbor Casino RTB

Dear Ms. Summerlin

In this request, MGM Growth Properties LLC ("Applicant") is requesting approval of this Special Exception for the Establishment of a Retail Tobacco Business ("RTB") within a specially designed venue located within the interior of the existing MGM National Harbor Casino ("MGM Casino") that opened in December 2016. It should be emphasized that this application is not requesting any expansion or enlargement of the of the building floor area, or any modifications that will be visible to the exterior of the MGM Casino. The Applicant merely intends to reconfigure an existing interior area to meet the spatial needs of the RTB.

This application is filed pursuant to Sections 27-107.01 (Definitions), §27-317(a) (general Required findings for Special Exceptions), §27-415.01 (specific Special Exception standards for Tobacco shops or electronic cigarette shops), and §27-547 (Uses Permitted in Mixed Use Zones) of the Prince George's County Zoning Ordinance (the "Zoning Ordinance"). The Applicant is not requesting any variances or departures in conjunction with this application.

I. Site Description and Property History

1. **Site Description and Location:** The MGM Casino and hotel complex is located on an approximately 23.0635-acre (1,004,646 square foot) site that was recorded in the Land Records of Prince George's County in Plat Book: SJH 243, Plat No: 61. The MGM Casino is also identified with a street address of 101 MGM National Avenue, National Harbor, Maryland 20745. The subject site is generally located approximately one-mile northeast of the Woodrow Wilson Bridge, in the southwest quadrant of the intersection of the Capital Beltway (I-95/495) and Indian Head Highway (MD 210), in Planning Area 80 and Council District 8. The tract is south of I-95/495, and west of Oxon Hill Road, with frontage on Oxon Hill Road to the east, National Avenue to the north, and Harborview Avenue to the south. The Beltway Parcel is on an elevated plateau overlooking the waterfront entertainment/retail complex portion of National Harbor.

SE 4807 ZHE EXHIBIT # 4(a)

2. Surrounding Uses: The subject site has a long narrow configuration (approximately 3,400 feet long and 600 feet wide) stretching northeast to southwest along the Capital Beltway (I-95/495), which forms the northwest boundary of the parcel. The Beltway Parcel also has approximately 1,200 feet of frontage on Oxon Hill Road. The land across I-95/495 from the Beltway Parcel is occupied by the Oxon Hill Children's Farm, owned by the National Park Service. On the south and east sides of the site is land owned by The Maryland-National Capital Park and Planning Commission (M-NCPPC), Betty Blume Neighborhood Park, and the grounds of Oxon Hill Manor. Across Oxon Hill Road to the east is the Salubria office building and the Tanger Outlet shopping center. The Addison Family Cemetery (Historic Site 80-050), which will be preserved and incorporated into this plan of development, is located within the north side of proposed Parcel 5.

3. Previous Approvals and History: The site is a part of the larger development known as National Harbor, which has a long approval history and consists of two major land areas, the Waterfront Parcel and the Beltway Parcel. All M-X-T-zoned properties 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 with conditions for part of the National Harbor site 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 Rural Residential (R-R) Zone represents the original zoning applied to the area when it first became subject to zoning authority in 1957. 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 for the waterfront center known as Port America. The Residential Medium Development (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 project.

Originally, the subject property was approved with Preliminary Plan of Subdivision 4-88081, then known as Port America, and adopted by the Prince George's County Planning Board in June of 1988. The preliminary plan approved 12 parcels (Parcels A-L) and 3 outlots, for a total of 82.13 acres.

After the approval of 4-88081, the site was approved the Beltway Parcel was cleared of trees, graded, and stabilized in the late 1980s in accordance with that approved Detailed Site Plan DSP-88045.

Detailed Site Plan DSP-88087 was approved in October of 1988. Subsequently, the land area of Parcel L, 17.51 acres, was dedicated by deed to the Maryland State Highway Administration (SHA) for the Capital Beltway (I-95/495). The remainder of the site, 64.62 acres, was recorded in accordance with the approved preliminary plan and DSP into 11 parcels (Parcels A-K), 7 outlots (Outlots A-G), and 3 rights-of-way dedicated for public use

(North Port America Grande Boulevard, South Grande Boulevard, and Port America Grande Boulevard) in Plat Book NLP 153, plat 56 through 59, in June of 1990.

A Vacation Petition (V-06004) to vacate a total of 64.45 acres was approved by the Planning Board (PGCPB Resolution No. 06-287) in January of 1990. This vacation petition included Subdivision Plat NLP 153, plat 56 through 59 in their entirety, except for Outlots E, F, and G (0.17 acre) which were conveyed to the M-NCPPC (recorded in Liber 7684 at Folio 513).

In 1998, the Prince George's County District Council affirmed the Planning Board's decision 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, including the subject site.

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

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

In 2008 and 2014, revisions to the CSP (01 and 02 respectively) were submitted and approved for the Waterfront Parcel only, which did not affect the Beltway Parcel.

Detailed Site Plan DSP-07073 was approved by the Planning Board on July 9, 2009 for 6,600 square feet of commercial uses on the current proposed Parcel 7, as well as a large paved area for recreational/outdoor exhibition, displays, entertainment, or performance uses on proposed Parcels 4 and 5 (shown as Parcel-A at that time). Detailed Site Plan DSP-07073-01 for a 1,078,237-square-foot entertainment establishment of a commercial nature with a video lottery facility on Parcel 4-A was approved by the Planning Board on May 8, 2014 and subsequently appealed to the District Council. The Council heard the case on July 14, 2014 and issued an order of approval for the application on July 21, 2014. Detailed Site Plan DSP-07073-03 for minor signage, landscaping, and architectural changes to Parcel 4-A was approved by the Planning Director on October 14, 2015.

The site also has an approved Stormwater Management Concept Plan, 48280-2007-00, pursuant to which the stormwater pond for the Beltway Parcel was constructed and is in Betty Blume Park on M-NCPPC-owned land. In addition, Stormwater Management Concept Plan 46294-2015, dated November 19, 2015, applies to the subject site.

According to the online permit records maintained and published by Prince George's County Department of Permitting, Inspections & Enforcement (DPIE), the subject property's site construction began with the issuance of rough grading permits during or around late summer through early winter 2014; and, after the issuance and completion of work associated with over 350± permits, the MGM Casino held its grand opening on December 8, 2016.

II. Compliance with Zoning Ordinance Standards

1. **Sections 27-107.01 (Definitions):** The Zoning Ordinance defines a retail tobacco business as follows: *“(202.1) Retail Tobacco Business: A retail store where the primary use is the retail sale of tobacco products and tobacco smoking accessories which may include on site consumption in accordance with Section 19-131 of the County Code and the incidental sale of food and or beverage provided the gross floor area of the food and or beverage area does not exceed forty-nine percent (49%) of the gross floor area.”*

RESPONSE: Smoking is not prohibited by this Section in a retail tobacco business as defined by Section 27-107.01(a)(202.1) of the County Code, where a food and beverage area are incidental, provided that it complies with the standard for ventilation of such a facility as defined under Subtitle 4 of the County Code.

According with the floor plan submitted prepared by the Applicant’s architect, Hamilton Anderson Associates in conjunction with the subject SE-4807 application, the instant proposal (Exhibit A) “Proposed Retail Tobacco Store Floor Plan” demonstrates that the design complies with the requirements of the County Code.

Section 19-131 of the County Code states that:

“(a) It shall be unlawful for any person to smoke or use an electronic cigarette in any eating and drinking establishment open to the public except as provided in (b) below.

(b) Smoking is not prohibited by this Section in the bar and dining area of an eating and drinking establishment that:

(1) (A) Is a club as defined in the State alcoholic beverages law and has a valid use and occupancy permit issued by the Department of Permitting Inspection and Enforcement;”

RESPONSE: A valid use and occupancy permit 22447-2014-U was issued by the Department of Permitting Inspection and Enforcement (DPIE) on February 17, 2017 (Exhibit B).

“(B) Has an alcoholic beverages license issued to private clubs under the State alcoholic beverages law;

and

(C) Allows consumption of alcoholic beverages on its premises;

or

(2) Is licensed pursuant to Section 6-201(r)(13) of the State alcoholic beverages law.”

RESPONSE: A valid alcoholic beverage license was issued in accordance with the State alcoholic beverages law on November 4, 2016 and has been successfully renewed in each year since. A copy of the current 2018 Facility Liquor License issued on March 29, 2018, is attached as (Exhibit C).

“(c) Use of an electronic cigarette is not prohibited by this section in a facility that has been awarded a video lottery operation license by the Maryland Video Lottery Location Commission under State Government Article, Title 9, Subtitle 1A.”

RESPONSE: The MGM Casino is operating a video lottery operation in accordance with its valid license issued by the State of Maryland on December 7, 2016 (Exhibit D).

“(d) Smoking is not prohibited by this Section in a retail tobacco business as defined by Section 27-107.01(a)(202.1) of the County Code, where a food and beverage area are incidental, provided that it complies with the standard for ventilation of such a facility as defined under Subtitle 4 of the County Code.”

RESPONSE: According to mechanical designed prepared for the RTB by Hamilton Anderson Associates, the heating, ventilation, and air conditioning system (HVAC) is designed with capacities in accordance with Chapter 4 and 5 of the International Mechanical Code for Smoking Lounges located in Retail Stores and Public Spaces pursuant to Subtitle 4 of the County Code. A critical component of the HVAC system is that it provides the proper percentage exchange of the room’s air with outside air that is either heated or cooled to match the ambient temperature of the room.

2. Sections 27-415.01. Tobacco shops, electronic cigarette shops or a retail tobacco business: Pursuant to Section 27-415.01 of the Zoning Ordinance, the District Council must make the following findings in order to grant the special exception application.

(a) *Tobacco shops, electronic cigarette shops, or a retail tobacco business may be permitted by Special Exception, subject to the following:*

(1) *The structure in which the use is proposed shall be located at least three hundred (300) feet from any school, library, park, recreational facility, and historic site, resource, or district identified on any applicable Historic Site and District Plan, a National Register Site, or an Historic District. This provision shall not apply to a Retail Tobacco Business within a Recreational or Entertainment Establishment of a Commercial Nature with Video Lottery Facility uses in accordance with Section 27-548.01.04 of this Subtitle.*

RESPONSE: The MGM Casino DSP-07073-01 was approved by the Planning Board (PGCPB Resolution No. 14-36) on June 9, 2014, and affirmed by the District Council on July 14, 2014, as an entertainment establishment of a commercial nature with a video lottery facility. Therefore, the above referenced standard does not apply to the proposed RTB application.

However, if the standard did apply, the subject application would still comply with this standard as follows:

1. The closest school to the MGM Casino is identified as the Oxon Hill High School; located at - 6701 Leyte Drive, Oxon Hill, Maryland 20745, measured 3,330± feet to the east (i.e., front door to front door);
2. The nearest public library to the MGM Casino is identified as the Oxon Hill Library located at - 6200 Oxon Hill Road, Oxon Hill, Maryland 20745, measured at over 7,000± feet to the northeast of the MGM Casino's west entrance;
3. The nearest park or recreation facility to the MGM Casino is the Betty Blume Park located over 300 feet to the northern property boundary of the park, over 1,000 feet to the closest active improvements occurring in the south side of the park; and
4. The nearest park or recreation facility to the MGM Casino is the Addison Family Cemetery located approximately 600 feet to the northeast of the MGM Casino's west entrance.

(2) In its final decision to approve a Special Exception for the use, the Council may impose other reasonable requirements deemed necessary to safeguard the health, safety, morals, and general welfare of the community, taking into account the character of surrounding properties and the general neighborhood, and any other uses on the subject property.

RESPONSE: The Applicant agrees to comply with this standard.

(3) No Special Exception shall be permitted for a tobacco shop, electronic cigarette shop, or a retail tobacco business located within 2,000 feet of another tobacco shop, electronic cigarette shop, or a retail tobacco business.

RESPONSE: The subject application complies with this standard. The closest tobacco retailer identified as being proximate to the front entrance to the MGM Casino is identified as "Tobacco Land - Tobacco Shop", located approximately 5,550 feet northeast at 6259 Livingston Road, Oxon Hill, Maryland 20745.

3. Conformance With Section 27-317(a) Pursuant to Section 27-317(a) of the Zoning Ordinance, the Zoning Hearing Examiner must make the following findings in order to grant the special exception application.

(a) A Special Exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;*
- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;*

RESPONSE: The approval of this Special Exception for the Establishment of a Retail Tobacco Business (“RTB”) within a specially designed environmentally controlled venue located within the interior of the existing extremely successful MGM Casino is in harmony with the purposes of the Zoning Ordinance (Section 27-102(a)), and with the purposes of the M-X-T Zone as memorialized in the approved recreation and entertainment complex.

The fundamental purpose of the Zoning Ordinance, as found in Section 27-102(a), is to protect the health, safety, and welfare of the public and to promote compatible relationships between the various types of land uses. The establishment of the RTB in a controlled space (i.e., area), represents an incidental element within the interior of the existing MGM Casino. Upon completion, the proposed RTB and existing MGM Casino will continue to be in conformance with the requirements of the Zoning Ordinance, and continued use will not adversely affect these fundamental purposes of the Zoning Ordinance.

(3) *The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;*

RESPONSE: The subject site was rezoned to the M-X-T Zone through several zoning map amendment applications. The 2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area retained the subject site in the M-X-T Zone. The previously approved conceptual site plan for the larger development, including the Beltway Parcel, specifically defines a mix of retail, commercial office, hotel, and a visitor’s center.

The Beltway Parcel was envisioned in the CSP as a high-density urban environment with 725,000 square feet of retail space, 200,000 square feet of general office space, 1,000 hotel rooms, and a 50,000-square foot visitor’s center, or other uses not exceeding the designated trip cap. At the time of the preliminary plan of subdivision, the plan called for the same mix of uses, but with an increase in the amount of office space (to 443,000 square feet) and a reduction in retail space (to 200,000 square feet) and hotel rooms (850) and a visitor’s center, or other uses not exceeding the designated trip cap. The current MGM Casino is developed as a landmark building, fulfills to the vision of a high intensity development that was intended when the property was placed in the M-X-T Zone. The proposed RTB is designed in support of the wishes of a segment of the MGM Casino’s patrons.

(4) *The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;*

RESPONSE: The proposed use is subject to County and State regulations relating to the conduct and safety of such operations which protect the health, safety, and welfare of residents nearby and workers on-site. The Applicant proposes to install a high-volume HVAC system specially designed for the RTB, in which the heating, ventilation, and air conditioning system (HVAC) is designed with capacities in accordance with Chapter 4 and 5 of the International Mechanical Code for Smoking Lounges located in Retail Stores and Public Spaces pursuant to Subtitle 4 of the County Code. A critical component of the HVAC system is that it provides the proper percentage exchange of the

room's air with outside air that is either heated or cooled to match the ambient temperature of the room. The proposed HVAC system will meet the dual purpose of providing a venue for patrons to enjoy their cigars, while also affording an environment of clean fresh air.

- (5) *The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood;***

RESPONSE: The MGM Casino site is not abutting existing residentially-zoned neighborhoods and is more than 550 feet from residential development. The site has a long, narrow configuration (approximately 3,400 feet long and 600 feet across) stretching northeast to southwest along the Capital Beltway, which forms the northwest boundary of the parcel. The Beltway Parcel also has approximately 1,200 feet of frontage on Oxon Hill Road. The land across the Capital Beltway (I-95/495) from the Beltway Parcel is occupied by the Oxon Hill Children's Farm, owned by the National Park Service. South and east of the site is land owned by the Maryland-National Capital Park and Planning Commission (M-NCPPC), Betty Blume Neighborhood Park, and the grounds of Oxon Hill Manor. Across Oxon Hill Road to the east is the Salubria office building and the Tanger outlet shopping center. The Addison Family Cemetery, which will be preserved and left undisturbed in this plan of development, is located on the northwest side of the Beltway Parcel, outside of the subject proposed development.

- (6) *The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and***
- (7) *The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).***

RESPONSE: There are no proposed exterior site work, grading, or manipulation associated with the proposed RTB; therefore, this standard does not apply. This site is subject to the provisions of the Woodland Conservation Ordinance because it has previously approved tree conservation plans. This site has an approved TCP1 and TCP2 (TCPI-010-98 and TCPII-023-01) which were originally approved with Conceptual Site Plan CSP-98012 and Detailed Site Plan DSP-07073 respectively. The approved type II tree conservation plan (TCPII) shows the site cleared of all woodland with an off-site woodland conservation requirement of 17.39 acres.

- (b) *In addition to the above required findings, in a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted:***

- (1) *where the existing lot coverage in the CBCA exceeds that allowed by this Subtitle, or***
- (2) *where granting the Special Exception would result in a net increase in the existing lot coverage in the CBCA.***

RESPONSE: The Subject Property is not located within the Chesapeake Bay Critical Area Overlay Zone.

III. Conformance with Section 27-102(a)

(a) *The purposes of the Zoning Ordinance are:*

(1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

RESPONSE: The approval of this Special Exception for the Establishment of a Retail Tobacco Business (“RTB”) within a specially designed venue located within the interior of the existing extremely successful MGM Casino is in harmony with the purposes of the Zoning Ordinance (Section 27-102(a)), and with the purposes of the M-X-T Zone as memorialized in the approved recreational and entertainment complex.

The fundamental purpose of the Zoning Ordinance, as found in Section 27-102(a), is to protect the health, safety and welfare of the public and to promote compatible relationships between the various types of land uses. The establishment of the RTB in a controlled space within the interior of the MGM Casino, is in conformance with the requirements of the Zoning Ordinance and its continued use will not adversely affect these fundamental purposes of the Zoning Ordinance.

(2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

RESPONSE: As mentioned previously, the subject site was rezoned to the M-X-T Zone through several zoning map amendment applications. The 2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area retained the subject site in the M-X-T Zone. The previously approved conceptual site plan for the larger development, including the Beltway Parcel, specifically defines a mix of retail, commercial office, hotel, and a visitor’s center.

The Beltway Parcel was envisioned in the CSP as a high-density urban environment with 725,000 square feet of retail space, 200,000 square feet of general office space, 1,000 hotel rooms, and a 50,000-square foot visitor’s center, or other uses not exceeding the designated trip cap. At the time of the preliminary plan of subdivision, the plan called for the same mix of uses, but with an increase in the amount of office space (to 443,000 square feet) and a reduction in retail space (to 200,000 square feet) and hotel rooms (850) and a visitor’s center, or other uses not exceeding the designated trip cap. The current MGM Casino is developed as a landmark building, fulfills to the vision of a high intensity development that was intended when the property was placed in the M-X-T Zone. The proposed RTB is designed in support of a segment of the MGM Casino’s patrons.

(3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

RESPONSE: The implementation of design of iconic MGM Casino building achieved economies of scale and savings in energy when compared to construction of multiple individual projects occupying the same land area. This intensive use of the land, for over a million square feet of mixed-use development, at the gateway to the state of Maryland and Prince George's County provides for optimum land use planning. The unique building design is in accordance with the applicant's commitment to energy savings. The site design implements additional stormwater management techniques above those that were previously approved for the site, provides for a roadway to connect two state highway roadways and provides for a major entertainment destination within the County, the State and the region.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*
- (5) *To provide adequate light, air, and privacy;*
- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*
- (7) *To protect the County from fire, flood, panic, and other dangers;*
- (8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

RESPONSE: The above five standards are not applicable to the RTB being designed for a controlled space within the interior of the MGM Casino.

- (9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

RESPONSE: The Planning Board found in their approval of the MGM Casino (PGCPB Resolution No. 14-36) that National Harbor as a whole promotes the orderly development of land in the vicinity of the Woodrow Wilson Bridge at an important interchange of I-95/495 and will maximize private development potential. The mixture of uses on the subject property help to conserve the value of land, thus allowing for a market to be created that would sustain a long-term source of employment opportunities for County residents.

- (10) *To prevent the overcrowding of land;*

RESPONSE: The approval and subsequent implementation of the land use proposed for the property will not add to the overcrowding of land. There are no buildings or other structures proposed for the property under this application. This application is not requesting any expansion or enlargement of the of the building floor area, or any modifications that will be visible to the exterior of the MGM Casino.

- (11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;*

RESPONSE: The goal of the subject application is to afford an opportunity for existing guest of the MGM Casino to enjoy their cigars which will have a negligible if any impact on traffic. The permitted occupancy of the existing structure will not be impacted by this application.

- (12) To insure the social and economic stability of all parts of the County;*

RESPONSE: The MGM Casino DSP was approved as a development capable of sustaining itself as an entertainment center. The addition of the RTB enhances the mix of entertainment uses and the arrangement and design of the building and hotel will sustain an independent mixed-use compact development envisioned in the approved conceptual site plan.

- (13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;*

- (14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and*

- (15) To protect and conserve the agricultural industry and natural resources.*

RESPONSE: The above three standards are not applicable to the RTB being designed for a controlled space entirely within the building interior of the MGM Casino.

IV. Conformance with Purposes of the M-X-T Zone as stated in Section 27-542(a) of the Zoning Ordinance

The subject application has been reviewed for compliance with the purposes of the M-X-T Zone.

The purposes of the M-X-T Zone as stated in Section 27-542(a) of the Zoning Ordinance include the following:

- (1) To promote the orderly development and redevelopment of land in the vicinity of major interchanges, major intersections, major transit stops, and designated General Plan Centers so that these areas will enhance the economic status of the County and provide an expanding source of desirable employment and living opportunities for its citizens;*

- (2) *To implement recommendations in the approved General Plan, Master Plans, and Sector Plans, by creating compact, mixed-use, walkable communities enhanced by a mix of residential, commercial, recreational, open space, employment, and institutional uses;*
- (3) *To conserve the value of land and buildings by maximizing the public and private development potential inherent in the location of the zone, which might otherwise become scattered throughout and outside the County, to its detriment;*
- (4) *To promote the effective and optimum use of transit and reduce automobile use by locating a mix of residential and non-residential uses in proximity to one another and to transit facilities to facilitate walking, bicycle, and transit use;*
- (5) *To facilitate and encourage a twenty-four (24) hour environment to ensure continuing functioning of the project after workday hours through a maximum of activity, and the interaction between the uses and those who live, work in, or visit the area;*
- (6) *To encourage an appropriate horizontal and vertical mix of land uses which blend together harmoniously;*
- (7) *To create dynamic, functional relationships among individual uses within a distinctive visual character and identity;*
- (8) *To promote optimum land planning with greater efficiency through the use of economies of scale, savings in energy, innovative stormwater management techniques, and provision of public facilities and infrastructure beyond the scope of single-purpose projects;*
- (9) *To permit a flexible response to the market and promote economic vitality and investment; and*
- (10) *To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning. (CB-84-1990; CB-47-1996; CB-78-2006)*

RESPONSE: As discussed previously in the statement, the MGM Casino DSP-07073-01 was approved by the Planning Board (PGCPB Resolution No. 14-36) on June 9, 2014. After extensive deliberations, both the Planning Board and the District Council affirmed, and public hearings found that the MGM Casino and the National Harbor as a whole generally complied with the purposes and standards of the Zoning Ordinance, the general plan and master plans, as well as promote the orderly development of land in the vicinity of the Woodrow Wilson Bridge at an important interchange of I-95/495 and will maximize private development potential. The proposed mixture of uses on the subject property enhance the value of land so as to allow for a market to be created that would


sustain a long-term source of employment opportunities for County residents. Both the Planning Board and the District Council concluded that the proposed application is in conformance with the purposes of the M-X-T Zone.

To reiterate prior discussions and testimony, the RTB application represents a request for a single use (e.g., tenant) within the interior of the existing MGM Casino. The Applicant merely intends to reconfigure a portion of the existing interior area to the needs of the RTB, without any impact, expansion or enlargement of the of the building floor area, or any modifications that will be visible to the exterior of the MGM Casino. Thus, the proposed RTB and the MGM Casino will continue to meet the purposes of the M-X-T Zone.

V. **Conclusion:**

Based on the foregoing the Applicant is confident that sufficient evidence and supporting testimony to support that favorable required findings can therefore be made by the Hearing Examiner.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arthur J. Horne, Jr.", written over a horizontal line.

Arthur J. Horne, Jr.

AJH/fms

EXHIBIT A PROPOSED RETAIL TOBACCO STORE FLOOR PLAN



FLOOR PLAN - AREA BREAKDOWN

Total Square Footage of Operation: 2,038 SF

Retail Sale and Consumption of Tobacco Products:

Retail:	344 SF
Humidor:	249 SF
½ Retail (Lounge):	367.5 SF
½ of Shared Back Entry:	<u>185 SF</u>
Total:	1,145.5 SF (56.2%)

Food and Beverage:

Bar and Service:	340 SF
½ Retail (Lounge):	367.5 SF
½ of Shared Back Entry:	<u>185 SF</u>
Total:	892.5 SF (43.8%)

EXHIBIT C

17 B(EF) 867

STATE OF MARYLAND 2018-2019

Alcoholic Beverage License

Beer, Wine and Liquor License, Class B, Entertainment Facility (On Sale)

ENTERTAINMENT FACILITY

PRINCE GEORGE'S COUNTY, to wit:

MGM National Harbor		MGM National Harbor, LLC
101 MGM National Avenue	Oxon Hill	Maryland 20745-
Alison	Bybee	Authorized Person
Melonie	Johnson	Authorized Person
Max	Fisher	Authorized Person

is licensed by the State of Maryland to keep and to sell Beer, Wine and Liquor, at the establishment described, for consumption on the premises only.

Issued under authority of Alcoholic Beverage Article of the Annotated Code of Maryland and amendments thereto.

In Testimony whereof, the Seal of the the Board of License Commissioners for Prince George's County is hereto affixed.

Date Issued: 3/29/2018

This license shall continue in force until May 31, 2019.

Cost of License \$22,000 00

ATTEST:



Board of License Commissioners for Prince George's County

ADDITIONAL PERMITTED PRIVILEGES

			Exempt
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**State of Maryland
State Lottery and Gaming Control Commission
Video Lottery and Table Games Operation License**

Issued to

MGM National Harbor, LLC

Effective for a period of 15 years
Beginning on the 8th day of December, 2016

Maximum square footage of gaming floor: 125,281

Maximum number of video lottery terminals: 3,321

Located at 101 MGM National Avenue, National Harbor, Prince George's County, Maryland 20745


Redacted For Security
Gordon Medenica, Secretary

12/7/16
Date