



PGCPB No. 10-73

File No. 4-09031

RESOLUTION

WHEREAS, C & P Telephone Company of MD is the owner of a 2.94-acre parcel of land known as Tax Map 67, Grid B-4, also known as Parcel 3, said property being in the 18th Election District of Prince George's County, Maryland, and being zoned I-1 (Light Industrial); and

WHEREAS, on April 23, 2010, Verizon Real Estate Transactions filed an application for approval of a Preliminary Plan of Subdivision for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-09031 for Verizon Site at Central Avenue 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 June 24, 2010, 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 June 24, 2010, 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 pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-09031, Verizon Site at Central Avenue, including a Variation from Section 24-121(a)(3) for 2 lots with the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Revise note 21 to reflect "A 10-foot Public Utility Easement is provided along all rights-of-way for Lot 1 and the disconnected PUE for Lot 2 along Westhampton Avenue shall be fully connected upon the redevelopment of Lot 2."
 - b. Combine notes 11 and 12 to reflect "Water and Sewer Category 3".
2. Prior to approval of the final plat, the following notes shall be placed on the plat:
 - a. "Development of this site shall be in conformance with Stormwater Management Concept Plan 21894-2009-00."

- b. "Access to Central Avenue (MD-214) shall be limited to out-bound access only (Right-Out).
3. At the time of final plat, the applicant shall dedicate a ten-foot public utility easement (PUE) along Westhampton Avenue and Central Avenue. Lot 1 shall provide the full PUE along Central Avenue and Westhampton Avenue. At the time of final plat, Lot 2 shall provide a ten-foot PUE along 258+/- linear feet of Westhampton Avenue from the south property corner to the building. Upon the redevelopment of Lot 2, before issuance of building permits, the applicant shall dedicate a ten-foot PUE along the 30+/- linear feet of Westhampton Avenue frontage currently occupied by a building at the northern corner of Lot 2.
4. Development on the site shall be limited to the existing uses on Lot 1 and Lot 2 (generating 0 AM and 0 PM weekday peak-hour trips). Any additional development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation.
5. Any new development or modifications of the subject property shall require the approval of a new preliminary plan of subdivision prior to the approval of building permits for residential uses.
6. Prior to final plat approval, the applicant shall apply for a permit through the Maryland State Highway Administration (SHA) access permit process to modify the access point for Lot 1 to function as a right-out only access onto Central Avenue (MD 214).
7. Prior to final plat approval, the applicant shall designate that the Central Avenue access point on Lot 1 as a right-out only by use of appropriate signage.
8. Prior to final plat approval, the applicant shall provide evidence to M-NCPPC of the removal of the barbed wire from the fence on the subject property.

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. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	APPROVED
Zone	I-1	I-1
Uses	Industrial	Industrial
Acreage	2.94	2.94
Lots	0	2
Parcels	1	0
Building	16,914 square feet	16,914 square feet
Public Safety Mitigation		No

3. **Environmental**—The 2.94-acre site is located in the southeast quadrant of Central Avenue (MD 214) and Westhampton Avenue. A review of the available information indicates that there are no streams, wetlands, 100-year floodplain, areas of severe slopes, and areas of steep slopes on highly erodible soils on the site. There are no Marlboro clays found on the site. Central Avenue is a master planned arterial roadway. Noise mitigation is not required because there are no residential or residential-type uses proposed. The soils found to occur on the site, according to the *Prince George's County Soil Survey*, are in the Sunnyside series. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic or historic roads adjacent to this property. The site is in the Southwest Branch watershed of the Patuxent River Basin. This property is located in the Developed Tier as delineated on the 2002 *Prince George's County Approved General Plan*.

Master Plan Conformance

The subject property is located within the 1985 1986 *Approved Master Plan and Adopted Sectional Map Amendment for Suitland-District Heights and Vicinity, Planning Areas 75A & 75B*. There are no specific environmental recommendations or design standards that require review for conformance. The environmental requirements for woodland conservation, stormwater management and noise are addressed in the Environmental Review Section below.

Countywide Green Infrastructure Plan Conformance

The site does not contain any elements within the designated area of the *Approved Countywide Green Infrastructure Plan*.

No additional information is required with regard to green infrastructure.

Environmental Review

- a. The preliminary plan application has a signed Natural Resource Inventory (NRI/024/09), dated November 30, 2009 that was included with the application package. The site does not contain any regulated features. The existing site information is correctly shown on the NRI and the associated plans.

No additional information is required with regard to the Natural Resource Inventory.

- b. This property is exempt from the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because it contains less than 10,000 square feet of woodland on-site. A standard Letter of Exemption for this site was issued on November 30, 2009. A Type I tree conservation plan is not required at this time.

No additional information is required with regard to woodland conservation.

- c. Copies of the approved stormwater management concept letter and associated plan (21894-2009) were submitted with this application. According to the approval letter, no stormwater management is required for this site.

No additional information is required with regard to stormwater management.

4. **Community Planning**—The property is in Planning Area 75A. The 2002 General Plan places the property in the Developed Tier, which envisions a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. This site is located within the Developed Tier Corridor. The Developed Tier Corridor contains a higher intensity of residential and nonresidential land uses, and a greater mix of uses that are regional in scope, than the Developing Tier Corridors. This development should occur at selected Corridor nodes and be planned as a transit-oriented development

Master Plan Conformance

The subject property is located within the August 2009 Preliminary Subregion 4 Master Plan and Proposed Sectional Map Amendment. The master plan retained this property in the I-1 Zone and added a Development District Overlay Zone. (DDOZ)

The master plan was approved by the County Council on June 1, 2010, pursuant to County Council Resolution CR-49-2010. The property is located in the Central Avenue

East Development District Overlay Zone (DDOZ) as designated in the plan. The purpose of the DDOZ is to establish regulations that supplement the regulation of the underlying industrial zones. The DDOZ regulations for the Business Park Character Area revised the list of permitted uses and development standards and regulations regarding landscaping, screening, fencing, lighting, building intensity and materials. The new regulations are intended to ensure that new development and redevelopment in this area will result in an attractive, low-intensity functional business park that provides a distinctive gateway on Central Avenue to the Subregion 4 Master Plan area.

5. **Parks and Recreation**—The Department of Parks and Recreation (DPR) reviewed the above-referenced preliminary plan application. The application is not subject to the requirement for mandatory dedication of parkland because no residential uses are proposed.
6. **Trails**—This proposal was reviewed for conformance with the Approved Countywide Master Plan of Transportation (MPOT) and the August 2009 Preliminary Subregion 4 Master Plan and Proposed Sectional Map Amendment (area master plan).

Area Master Plan and MPOT Recommendations

The area master plan recommends dedicated bike lanes along Central Avenue (MD 214). These improvements will be constructed by the Maryland State Highway Administration (SHA) in the future during road widening or other improvements. Sidewalks exist along MD 214 and West Hampton Avenue to serve the subject property. The proposal does not include any new construction or propose any road widening or other improvements.

Evaluation of the Preliminary Plan for the I-1 Zone

Based on the preceding analysis, the Planning Board concludes that adequate bicycle and pedestrian transportation facilities exist to serve the proposed subdivision as required under Section 24-123 of the Subdivision Regulations.

7. **Transportation**—The subject preliminary plan of subdivision proposes to subdivide a developed parcel into two parcels, with no new square footage or development proposed. Therefore, no additional data is required, which results in a de minimus impact finding.
 - a. The application is a preliminary plan of subdivision for a commercial subdivision consisting of a two parcels. No further development is proposed on either lot. Lot 1 to the north will continue to be used by the applicant as it is currently used, to house the applicant's (Verizon) land line switching operations. Lot 2 which fronts Westhampton Avenue will continue to be used for parking and servicing vehicles and for storing equipment outdoors. Therefore, it is determined that the proposed subdivision would generate a net of 0 AM and 0 PM weekday peak-hour vehicle

trips. Any additional development on Lot 1 or Lot 2 shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation.

- b. The traffic generated by the proposed preliminary plan would impact the intersection of Central Avenue and Westhampton Avenue.
- c. The subject property is located within the Developed Tier, as defined in the *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:
 - (1) Links and signalized intersections: Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better.
 - (2) Unsignalized intersections: *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.
- d. The critical intersection of Central Avenue and Westhampton Avenue is not programmed for improvement with 100 percent construction funding within the next six years in the current Maryland Department of Transportation "Consolidated Transportation Program" or the Prince George's County "Capital Improvement Program."
- e. No recent turning movement counts are available at the critical intersection of Central Avenue and Westhampton Avenue. The subdivision is intended to create two parcels from a single recorded parcel that is developed, and no additional development is proposed to occur as a result of the subdivision. Due to the limited trip generation of this site, the Planning Board finds that 0 AM and 0 PM peak hour trips will have a de minimus impact upon delay in the critical movements at the Central Avenue and Westhampton Avenue. Nonetheless, because this finding is based on the fact that no additional development is proposed, a condition is required to cap any additional development at 0 AM and 0 PM peak hour trips.

Based on the preceding findings, the plan conforms to the required findings for approval of the preliminary plan of subdivision pursuant to Section 24-124 of the Subdivision Regulations with conditions.

8. **Schools**—The proposed development has been reviewed for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the Adequate Public Facilities Regulations for Schools (CR-23-2001 and CR-38-2002) and the subdivision is exempt from a review for schools because it is a nonresidential use.
9. **Fire and Rescue Service**—The subject subdivision plan has been reviewed for the adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B) through (E) of the Subdivision Regulations.

The subject property is within the seven-minute required response time for the first due fire station using the *Seven-Minute Travel Times and Fire Station Locations Map* provided by the Prince George's County Fire/EMS Department.

Fire/EMS Company #	Fire/EMS Station	Service	Address	Actual Travel Time (minutes)	Travel Time Guideline (minutes)	Within/Beyond
8	Chapel Oaks	Engine	6305 Addison Rd	2.68	3.25	Within
8	Chapel Oaks	Ladder Truck	6305 Addison Rd	2.68	4.25	Within
5	Capitol Heights	Paramedic	6061 Central Av.	3.73	7.25	Within
8	Chapel Oaks	Ambulance	6305 Addison Rd	2.68	4.25	Within

10. **Police Facilities**—The proposed development is within the service area of Palmer Park District III, in Palmer Park.

The police facilities test is performed on a countywide basis for non-residential development in accordance with the policies of the Planning Board. There is 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department and the July 1, 2009 (U.S. Census Bureau) county population estimate is 834,560. Using the 141 square feet per 1,000 residents, it calculates to 117,672 square feet of space for police. The current amount of space, 267,660 square feet, exceeds the guideline.

11. **Health Department**—The Prince George's County Health Department reviewed the subject application and has no comments to offer at this time.

12. **Stormwater Management**—The Department of Environmental Resources, Development Services Division, approved a Stormwater Management Concept Plan (21894-2009-00) for the proposed development on October 7, 2009. Development must be in accordance with this approved plan, or any approved revision thereto.
13. **Cemeteries**—There are no known cemeteries on or near the subject property.
14. **Historic Preservation**—The proposed subdivision will have no effect on identified historic sites, resources, or districts.
15. **Public Utility Easement**—A ten-foot public utility easement (PUE) is provided along the frontage of the property along Central Avenue. The applicant is proposing a PUE along Westhampton Avenue that is impeded by an existing building on proposed Lot 2. If at the time of final plat the applicant presents evidence that the utility companies are not requiring the PUE for the entirety of Lot 2 then the PUE may be omitted along that portion of Westhampton Avenue where the existing building is located not be shown on the record plat.
16. **Water and Sewer**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.”

The 2008 Water and Sewer Plan placed this property in water and sewer Category 3, Community System.
17. **Use Conversion**—The subject property is zoned I-1. While the subject application is not proposing any residential development, if legislation or rezoning would permit such a land use, a new preliminary plan must be approved if residential development is to be considered.
18. **Access Variation**—Section 24-121(a)(3) of the Subdivision Regulations establishes design guidelines for lots that front on arterial roadways. This section requires that lots be developed to provide direct vehicular access to either a service road or an interior driveway.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision

Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121(a)(3) would result in practical difficulties for the applicant not being able to functionally continue service to this property.

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

For several decades, the existing access to the property (Lot 1) from Central Avenue has not proved to be detrimental to public safety, health, welfare, or injurious to other property. Therefore, there is no reason to expect that it will not continue to operate in such a manner. The use of Lot 1 is to remain the same.

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

These conditions are unique to this site in that the access in question is existing and has been in continuous operation for decades. No additional access to Central Avenue/MD-214 is proposed at this time. Again, Lot 2 will not have access through Lot 1 to existing Central Avenue/MD 214 entrance.

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

The State Highway Administration (SHA) has jurisdiction over the existing and proposed right-of-way of Central Avenue (MD 214). There are no other applicable laws, ordinances, or regulations which govern direct access to an arterial roadway.

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

The current application would subdivide Parcel 3 into two lots. The Central Avenue access has existed for decades. It is used by Verizon, but not as frequently as its main entrance located on Westhampton Avenue. The property's particular physical surroundings that justify the variation pertain to the Verizon building's location on the site. At certain times, access for loading and unloading large equipment and other components for the building warrant entering and existing the site from Central Avenue. In certain instances, the Central Avenue access provides better and safer access for such purposes. The Verizon building was planned and located in anticipation of using the Central Avenue access. It would be a hardship, and not merely an inconvenience, for Verizon if Verizon were faced with trying to obtain safe and convenient access only from its Westhampton Avenue access for such purposes.

In summary, it is found that the variation for access to MD-214 (Central Avenue) is supportable. However, the following issues must be addressed:

- a. The access point should be signed as a right-out only (no entrance from Central Avenue). The applicant shall apply for a permit through the Maryland State Highway Administration (SHA) access permit process to modify the access point for Lot 1 to function as a right-out only access onto Central Avenue (MD 214).

It is recommended that the access be limited to a right-out only. The applicants request was evaluated for the approval of the variation, and shall be approved with conditions.

19. **Variance to Section 27-474(b), Section 27-474(e), and Section 27-465 of the Zoning Ordinance**—The subject property is currently in the I-1 Zone. This application is proposing to subdivide the existing parcel into two lots. After subdivision, the newly subdivided properties would be used for the same general purposes for which they are used now. Verizon would continue to use the Central Avenue Lot (Lot 1) to house its land line switching operations, also known as its "Central Office" functions. The Westhampton Lot (Lot 2) would be used for parking and servicing vehicles and for storing equipment outdoors. No new structures are expected to be erected on either lot in the foreseeable future. The subdivision of the existing parcel into two lots would bring the site out of conformance with the Zoning Ordinance with respect to green area. The existing building, located at the southern end of the property would require a variance of up to 25 feet for the 25 feet minimum building setback. Additionally, proposed Lot 2 would require a variance of the entire 10 percent green space requirement, as it is currently totally paved. The entire site currently has an eight-foot-tall perimeter security fence with barbed wire that the applicant is proposing to remain.

Section 27-474(b) of the Zoning Ordinance sets forth certain regulations regarding setbacks which apply specifically to the I-1 Zone. Section 27-474(b) requires a 25 foot setback from the street. However, the proposed lot is within 8 inches of the property line and the Westhampton Avenue right-of-way.

Section 27-474(e) of the Zoning Ordinance sets forth certain regulations regarding building coverage and green area which apply specifically to the I-1 Zone. Section 27-474(e) requires a 10 percent minimum green area. However, the proposed lot is entirely paved and was used as a parking lot for the existing building at the northern edge of the property.

Section 27-465 of the Zoning Ordinance sets forth certain regulations regarding fences and walls which apply specifically to the Industrial Zones. Section 27-465 states specifically that "unless otherwise provided, fences and walls (including retaining walls) more than six feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings. However, the property has an existing eight-foot-tall fence with barbed wire located along Westhampton Avenue and Central Avenue.

The criteria governing the grant of a variance are set forth in Section 27-230 of the Zoning Ordinance. That section provides that a variance may be granted when the Planning Board finds that:

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

There are unique conditions relating to the subject property that warrants the granting of the variance requested. The property is irregularly shaped and narrows at the southern edge of the property. The unique conditions and the shape of the property presents an extraordinary situation for the property and therefore a variance is being requested.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

Requiring strict conformance with the provisions of Section 27-474(b), Section 27 474(e), and Section 27-465 of the Zoning Ordinance for this application would in fact unreasonably prevent the applicant from using its property for a permitted purpose.

However, enforcing a provision requiring the minimum setback for existing buildings would limit the applicant's ability to manage the property. The subdivision line being created by this application would create a peculiar and unusual practical difficulty upon the applicant. In effect the applicant is not changing how the site is utilized or functions.

- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Finally, the granting of this variance will not substantially impair the intent, purpose, or integrity of the 2002 General Plan or the August 2009 Preliminary Subregion 4 Master Plan and Proposed Sectional Map Amendment. A variance from Section 27-474(b), Section 27-474(e), and Section 27-465 of the Zoning Ordinance will not change the use or purpose of the existing development for the subject property. The site is within the Developed Tier and this application is in conformance with the Development Pattern polices of the General Plan and the industrial land use recommendations of the master plan as discussed in the Community Planning Section of this report.

In summary, the Planning Board recommends approval of the variance from Section 27-474(b), Section 27-474(e), and Section 27-465 of the Zoning Ordinance with conditions, allowing proposed Lot 2 to have not have a 25-foot setback and 0 percent green area. Additionally, proposed Lot 1 and Lot 2 will continue to have use of an existing 8 foot tall fence on the property, but must remove barbed wire. The approval of this variance should not be used for any new development on either Lot 1 or Lot 2. This variance is applicable to the existing development on site. Any future development will be subject to zoning standards applicable at that time.

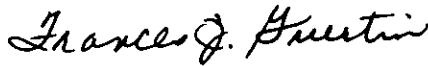
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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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 Cavitt, seconded by Commissioner Squire, with Commissioners Cavitt, Squire, Clark, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, June 24, 2010, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of July 2010.

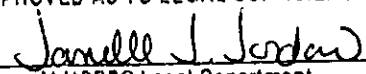
Patricia Colihan Barney
Executive Director



By Frances J. Guertin
Planning Board Administrator

PCB:FJG:JT:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 7/8/10