

## **Holland Township Planning Board**

### **Minutes of the Regular Meeting**

**September 11, 2017**

The meeting was called to order by the Chairman Rader:

“I call to order the September 11, 2017 Meeting of the Holland Township Planning Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 8, 2016 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 8, 2016 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only.

#### **Flag Salute**

Chairman Rader asked all to stand for the Pledge of Allegiance

#### **Identification of those at the podium**

Present: Casey Bickhardt, Dan Bush, , Dave Grossmueller, Michael Keady, Mike Miller, Carl Molter, Dan Rader, Tom Scheibener, Duane Young, Todd Bolig, Esq., Court Reporter Lucille Grozinski, CSR, and Maria Elena Jennette Kozak, Secretary.

Excused Absent: Ken Grisewood, Bill Burr, Engineer, and Elizabeth McKenzie, Planner.

Let the record show there is a quorum.

#### **Minutes**

A motion was made by Tom Scheibener and seconded by Dan Bush to dispense with the reading of the minutes of the August 14, 2017 meeting and to approve the minutes as recorded. All present were in favor of the motion with the exception of Casey Bickhardt who abstained. Motion carried.

#### **Conceptual Plan**

There was no Concept Plan scheduled at this time.

#### **Old Business:**

There was no Old Business scheduled at this time.

#### **New Business:**

There was no New Business scheduled at this time.

#### **Completeness Review:**

There were no Completeness Reviews scheduled at this time.

#### **Resolution**

Block 9 Lot 20.01– Pivotal Utility Holdings Inc. dba Elizabethtown Gas Company – 231 Adamic Hill Road – Minor Site Plan – 45-day completeness deadline July 14, 2017. Deemed Complete July 10, 2017. Public Hearing and approved with conditions August 14, 2017. Resolution Submitted for memorializing - Board Action needed. Resolution submitted to all by Attorney Bolig as follows:

#### **HOLLAND TOWNSHIP PLANNING BOARD**

**RESOLUTION APPROVING THE APPLICATION  
FOR SITE PLAN, AND CONDITIONAL USE  
APPROVAL FROM §100-44 and §100-51(C),  
PURSUANT TO N.J.S.A. 40:55D-67,  
FOR BLOCK 9, LOT 20.01,  
BY APPLICANT, PIVOTAL UTILITY HOLDINGS, INC.  
d/b/a ELIZABETHTOWN GAS COMPANY**

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WHEREAS, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company, 520 Green Lane, Union, New Jersey (the “Applicant” or “Pivotal”) has applied for Site Plan and Conditional Use Approvals for Block 9, Lot 20.01, in the Township of Holland, County of Hunterdon, State of New Jersey (the “Subject Property”) which is situated in Holland Township’s “R-5” Zone;

WHEREAS, Pivotal’s application, dated May 15, 2017, was filed on May 30, 2017 (the “Application”) with the Holland Township Planning Board (the “Board”);

WHEREAS, Applicant proposes the installation of a remotely controlled sectionalized valve on the Subject Property which includes above-grade valve equipment, perimeter fencing, vegetative buffering, and a permeable paver driveway (all components of which are collectively referred to as the “Valve Station”);

WHEREAS, Charles T. Brown, III, 199 Adamic Hill Road, Milford, New Jersey and Randall K. Brown, 231 Adamic Hill Road, Milford, New Jersey, are the title owners of the Subject Property (the “Owners”);

WHEREAS, the Applicant has filed the Application with the written consent of the Owners with the Owners having each certified their agreement to be bound by any decision reached and any conditions that may be imposed by the Holland Township Planning Board relating to the Application;

WHEREAS, the Application was before the Board for the determination of completeness on July 10, 2017;

WHEREAS, the Board, on July 10, 2017, on recommendation of the Board’s Engineer, deemed the Application complete, subject to the grant of two waivers, specifically, Checklist “F” Items F-34 and F-37, and a waiver of Item F-17 which was to be fulfilled by the Applicant as a condition of approval;

WHEREAS, on August 14, 2017, the Application was the subject of a public hearing at which appeared the Applicant, Pivotal, through the Applicant’s professionals, Rich Valenti, Esq., of Morris, Downing & Sherred, L.L.P., Newton, New Jersey; and James F. McGoldrick, P.E., of Paulus, Sokolowski & Sartor, L.L.C., Wall, New Jersey.

WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Applicant:

- A-1 Single sheet document entitled “Overall Site Plan Exhibit”, dated August 14, 2017;
- A-2 Single sheet document entitled “Site Plan Rendering Exhibit”, dated August 14, 2017; and
- A-3 State of New Jersey, Highlands Water Protection and Planning Council, letter of exemption dated June 5, 2017, authored by Highland’s Executive Director, Margaret Nordstrom to Richard Padgitt, P.E., of Paulus, Sokolowski & Sartor, L.L.C.

WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Planning Board:

- B-1 Memorandum of William H. Burr, IV, P.E., to the Planning Board, dated July 6, 2017; and
- B-2 Memorandum of Elizabeth McKenzie, A.I.C.P., P.P., to Planning Board, dated June 25, 2017.

WHEREAS, the Planning Board of Holland Township having reviewed the exhibits submitted by the Applicant, and the Board having heard and considered the evidence and testimony given by the Applicant's professionals, and from the public in attendance, and the Board having heard from the Township's professionals, William H. Burr, IV, P.E., of Maser Consulting, P.A.; Elizabeth C. McKenzie, A.I.C.P., P.P.; and Todd L. Bolig, Esq., with respect to the Application, the Board made the following **findings of fact**:

1. The Board had jurisdiction to proceed as all necessary notices were served and published in accordance with law;
2. All taxes for the Subject Property have been paid;
3. Application fees were paid and review escrows established;
4. The Application has been deemed complete by the Board;
5. **James F. McGoldrick, P.E.**, the Applicant's Engineer, after being duly sworn according to law and qualifying as an expert in his respective field, testified during the hearing, and which testimony is part of the record in this matter, that:
  - A. **The Subject Property:** The property which forms the subject of this Application encompasses a single lot, Block 9, Lot 20.01 consisting of approximately 58 acres. The Subject Property consists, predominantly, of actively farmed, open fields. The Property has no site constraints including Flood Plains, Freshwater Wetlands or Riparian buffers.

Adamic Hill Road is to the south of the proposed site. The Pivotal easement, measuring 55' x 60', and within which the Valve will be situated, is co-located within JCP&L's 250' wide right-of-way as depicted on A-2. The Valve will be accessed by way of 12' wide driveway also to be within JCP&L's right-of-way. The Valve will be set back 140' from the right-of-way line, and is 300' feet from the Property's line.

B. **Proposed Use of Subject Property:** Applicant proposes to construct a Valve Station containing a “Sectionalizing Block Valve” on a new 12” “transmission” line which shall replace approximately 3.25 miles of the existing 10” transmission line located within Holland Township.

The purpose of utilizing this type of sectionalized valve is improve public safety without any enhanced risk by enabling: 1. The constant monitoring of “pressure differentials” along the line; and 2. Enhanced response times to issues within the line which, with this type of valve, can be addressed remotely as opposed to requiring manual execution on-site.

The genesis of the within Application is twofold: A request made four years ago by New Jersey’s Board of Public Utilities to Pivotal, and second, the utilization of Sectionalizing Valves is mandated by both Federal Regulation, Title 49, §192.179, as well as New Jersey Administrative Code, *N.J.A.C.* 14:7-1.9, respectively.

Applicant proposes to install the sectionalized valve within a fenced area having dimensions of 28’ by 20’. The Valve and the fenced area shall be located atop a 4” thick gravel pad of bluestone having a dimension of 45’ by 38’.

C. **Traffic:** Traffic to, from, and upon the site is expected to be minimal. Testimony was provided that there would be approximately one (1) trip per month for the purpose of conducting routine maintenance and inspections of the Valve Facility located on the Subject Property. Once construction is completed, maintenance vehicles will consist of pickup trucks.

There will be a single entrance to the Valve consisting of a “modest” driveway apron to be approximately 10’ deep, 12’ wide, with 18’ “flares” at the point where the driveway contacts Adamic Hill Road. The apron will be paved. The driveway itself will not be paved but will consist of “grass pavers” to both permit water permeability and to maintain the character of the Subject Property.

- D. **Site Security:** Applicant proposes to construct an eight foot (8') high, black vinyl coated chain link fence, constructed of 1" square chain-link fencing, around the perimeter of the Valve's easement. Said fencing shall have dimensions of 28' by 20' and contain a single swing-type gate. Applicant will not utilize any type of barbed or razor-type wire on the fencing. Applicant proposes to affix a manually operated flood-type light atop a 12' pole for the illumination of the site for night inspections. The Applicant also proposes the installation of emergency placards identifying the name of the site, street address of the site, and an ownership and emergency contact number. Applicant testified that the site is monitored at all times remotely.
- E. **Trees & Buffering:** Engineer McGoldrick testified that trees could neither be planted above the proposed 12" transmission lines due to potential damage of the line by tree roots nor could any vegetation over three (3) feet high be planted in the JCP&L Co. ROW. Mr. McGoldrick testified that the Valve site is only visible when travelling west to east on Adamic Hill Road but is "naturally screened" when heading in a westerly direction. Mr. McGoldrick testified that he would modify the landscape buffering, in conjunction with the recommendations of the Board's Engineer and Planner, to utilize the most suitable landscape materials in the most appropriate locations outside of the JCP&L Co. ROW to buffer the Valve site from view, and to do so in a manner which would appear to conform naturally to the agricultural use of the remainder of the Subject Property.
6. **Michael Reading**, employee of Pivotal, holding the title "Supervisor Real Time Controls", after being duly sworn according to law, testified during the hearing, and which testimony is part of the record in this matter, that the sectionalizing valve stops "flow downstream from the valve" and does so by the wireless reporting of "pressure differentials" to a monitoring station. He testified that there are no other valves "upstream" of this valve until the valve located at the Warren Glen tap station. Finally, he testified that vines were not a permitted vegetative buffer as vines can cause security and maintenance issues for Pivotal.
7. At the public hearing, the Application was opened to the public in attendance for the purpose of eliciting testimony from the Applicant.

A. John Beriont, 216 Adamic Hill Road, after being duly sworn according to law, questioned Applicant's Engineer as to: The total height of the Valve's perimeter fencing, and the rationale for the types, height and location of the vegetative buffer proposed by the Applicant. Mr. Beriont also inquired as to the type and height of proposed lighting on site.

B. Roberta "Bobbi" Beriont, 216 Adamic Hill Road, after being duly sworn according to law, questioned Applicant's Engineer as to whether the Valve generate any noise (to which the answer was in the negative).

C. Ted Hardwick, 181 Bellis Road, after being duly sworn according to law, questioned Mr. Reading as to whether the Valve would have self-testing capabilities and as to the manner in which the signals would be transmitted to the monitoring station.

8. At the conclusion of the Applicant's testimony and following questioning by the public in attendance, the public hearing portion of the meeting was opened, and closed, with no comments from the public in attendance.

9. No expert testimony was presented in opposition to the Application.

WHEREAS, the Planning Board of Holland Township reviewed the exhibits submitted by the Applicant and the Board heard and considered the evidence and testimony given by the Applicant, the Applicant's attorney, Applicant's Engineers and Planner, and the Board having heard from the Township's professionals and the public in attendance with respect to the Application, the Board makes the following

**Conclusions of Law:**

1. The Planning Board of Holland Township has jurisdiction in this matter with all required parties having been properly noticed in accordance with law;
2. The Application, having been filed on May 30, 2017, is subject to the Holland Township Ordinances in effect on that date in accordance with, and pursuant to, *N.J.S.A. 40:55D-10.5*, commonly referred to as the "Time of Application" rule;
3. The use sought by the herein Applicant on the Subject Property is a conditional use set forth by Holland Township Ordinance §100-44 provided that all of the conditions pertinent to a parcel in the Township's "R-5" Zone, as set forth in Holland Township Ordinance §100-51(C), are satisfied, to wit:

- A. The approving authority must find that the proposed location will not be detrimental to the public safety and health and is reasonably necessary for the service, convenience and welfare of the public.
  - B. No equipment or apparatus other than overhead or underground transmission or distribution lines shall be located closer than 35 feet to any lot line.
  - C. All areas of the lot not devoted to buildings and structures, parking areas and drives and required screening, shall be landscaped with grass, trees and shrubs.
  - D. A permanent visual screen shall be provided either around the perimeter of the lot or around the structures or security fence on the lot. Such screening shall be approved by the approving authority based upon the nature of the structures to be screened, the existing vegetation on the lot and the potential visual impact of the proposed structures on adjoining lots. As a minimum, evergreens shall be provided wherever screening is required.
4. The Applicant's unrefuted testimony concerning the proposed Valve's benefits in terms of constant remoted monitoring and the resultant enhanced safety to the public, as well as Applicant's agreement to provide appropriate landscape buffering in conjunction with other conditions set forth as a condition of approval, Applicant has satisfied all of the conditions as set forth by Holland Township Ordinance §100-51(C).
  5. The utilization of Sectionalizing Valves is mandated by both Federal Regulation, Title 49, §192.179, as well as New Jersey Administrative Code, *N.J.A.C.* 14:7-1.9, respectively.
  6. The proposed Valve construction on the Subject Property, located within the New Jersey Highlands Planning Area, qualifies for Highlands Act Exemption No. 11 [*N.J.S.A.* 13:20-28(a)(11)].

**WHEREAS, on August 14, 2017, the Holland Township Planning Board voted with respect to the Application and the attendant requested relief, as follows:**

**A. TO GRANT THE FOLLOWING:**

Site Plan, and Conditional Use Approval pursuant to Holland Township Ordinance, §100-44 and §100-51(C), and *N.J.S.A.* 40:55D-67.

**B. SPECIFICALLY CONDITIONED UPON THE FOLLOWING:**

1. Compliance with all conditions as set forth in the Memoranda of William H. Burr, IV, P.E., to the Planning Board, dated February 10, 2017, and May 5, 2017;
2. Compliance with all conditions as set forth in Memorandum of Elizabeth C. McKenzie, A.I.C.P., P.P., to the Planning Board, dated June 25, 2017;
3. Applicant shall utilize an eight foot (8') high, black vinyl coated chain link fence, constructed of 1" square chain-link fencing, around the perimeter of the Valve's easement. Applicant will not utilize any type of barbed or razor-type wire on the fencing.
4. Applicant may affix a manually operated, flood-type light, on a pole not higher than 12' above ground level for the illumination of the site during night inspections and/or repairs.
5. There shall be no display of commercial or product advertising anywhere on the Subject Property, however, the Applicant shall be permitted to install a sign or placard at the Valve Station which identifies the street address, the owner of the Valve Station, and the appropriate emergency contact information. Said sign or placard shall be maintained with current information at all times.
6. The Applicant shall post a maintenance guarantee for a period of two years from the date of installation of the landscape buffering, for the landscaping and vegetative cover installation in the amount recommended by the Board's Engineer.
7. The use of herbicides shall not be permitted as an acceptable maintenance practice.
8. The Applicant shall revise its landscaping plan to the satisfaction of the Board Engineer and Planner.
9. The access driveway apron shall be paved. The balance of the access driveway shall be constructed of grass pavers, of a type approved of the Board Engineer.
10. The Applicant shall submit a Maintenance Plan to be reviewed and approved by the Board's professionals, which provides for the Applicant's continued maintenance of all required plantings, e.g., trimming, pruning and watering, as well as a schedule of specific maintenance activities to be conducted. The Maintenance Plan shall also include notes as to maintenance and watering to ensure the proposed buffer plantings survive with no water source or irrigation present on site.
11. This approval is subject to a post-construction inspection of the landscaping by the Board's Engineer, and any minor modifications to the quantity and location of landscaping required when deemed reasonably necessary by the Board's Engineer to adequately screen the Valve Station;

12. All parking, including temporary parking during construction shall be on-site, with no parking or idling permitted on or along any public road.
13. This approval shall be subject to all State, County and Township statutes, ordinances, rules and regulations affecting development in the Township, County and State.
14. The approval herein memorialized shall not constitute, nor be construed to constitute any approval, direct or indirect, of any aspect of the site plan, or of the proposed improvements which are or may be subject to the jurisdiction of any third party agencies and require review and approval(s) by any third party agencies.
15. Applicants shall comply with all other applicable rules, regulations and ordinances of the Township of Holland, the effect of this decision being merely to approve the Site Plan.
16. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, if any, to the extent same are not inconsistent with the approvals, terms and conditions set forth herein.
17. This approval is subject to review of the application by the Board Engineer and his confirmation that all plans conform to the comments contained in his memoranda of February 10, 2017, and May 5, 2017, and the Board Planner's memorandum of June 25, 2017, and the conditions set forth herein or as such conditions have been revised by mutual agreement between the Applicant and the Board's Engineer.
18. The Applicant shall submit one copy of all revised plans in electronic form in addition to other required copies.
19. Applicant, as may be applicable, will be required to pay an affordable housing fee pursuant to L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 to 8.7).
20. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The Applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing resolution shall not be released to the Applicant unless all outstanding escrow fees have been paid and the Applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
21. The time within which Applicant shall have to obtain a construction permit and complete construction of this project shall be governed by N.J.S.A. 40:55D-49. In the event that a construction permit is not obtained, or if such permit is obtained but work not completed

- within the timeframe as set forth pursuant to N.J.S.A. 40:55D-49, all relief granted in this memorializing resolution shall expire and automatically become null and void.
22. Approval of this Application shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
  23. The within approval, and the use of all property subject to the within approval, are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the Subject Property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or department having jurisdiction over any aspect of the Subject Property and/or the use of the Subject Property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.
  24. All improvements shall conform to applicable construction standards and other applicable regulations as set forth in Federal, State, County and Municipal Statues, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
  25. Applicant shall comply with both Federal Regulation, Title 49, §192.179, as well as New Jersey Administrative Code, *N.J.A.C.* 14:7-1.9, respectively.
  26. The terms and conditions of this approval shall be binding upon the Applicant, and the Applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the Application and the property in its entirety, and the non-compliance with any term or condition by the Applicant or their successors or assigns shall be deemed a material default subjecting the Application to revocation of this approval. The request to change any single condition, since all conditions are integrally related, shall open the entire Application to the Planning Board for re-consideration, possible re-approval subject to new terms and conditions in addition to those terms and conditions presently existing in this approval.
  27. The acceptance by the Applicant of this approval and reliance thereon by the Applicant for the purpose of commencement of construction of improvements within the project in

accordance with the approval, shall operate as an acknowledgment and agreement by the Applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

28. The Applicant shall submit fully conforming revised Plans and Reports to address each condition imposed herein by the Board prior to any authorized Township official executing the Applicant's Plans.
29. The Applicant shall submit Plans revised to include Notes listing each condition of approval that applies specifically to construction limitations and procedures. Said Plans shall specifically state: "There is a Resolution of the Holland Township Planning Board granting Site Plan Approval, dated September 11<sup>th</sup>, 2017, which sets forth other on-going conditions and legal requirements which are not identified on the Plans."

**ROLL CALL VOTE**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush	X		X			
David Grossmueller			X			
Michael Keady			X			
Michael Miller			X			
Carl Molter			X			
Dan Rader			X			
Thomas J. Scheibener		X	X			
Duane Young			X			
Casey Muench (Alt.)						Absent
Ken Grisewood (Alt.)			X			

**Motion Carried.**

**THIS RESOLUTION OF THE BOARD IS ADOPTED ON SEPTEMBER 11, 2017**

**ROLL CALL VOTE**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush						
David Grossmueller						
Michael Keady						
Michael Miller						
Carl Molter						
Dan Rader						
Thomas J. Scheibener						
Duane Young						
Casey Muench (Alt.)						Ineligible
Ken Grisewood (Alt.)						

## Motion to Approve Resolution \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Maria Elena Jeanette Kozak, Secretary  
Holland Township Planning Board

\_\_\_\_\_  
Dan Rader, Chairperson  
Holland Township Planning Board

Everyone had the proposed resolution available prior to the scheduled meeting. Comments, Concerns corrections were submitted and reviewed prior to the scheduled meeting. All professionals reviewed the document. Chairman Rader asked if there were any other questions and no response was given. A motion was made by Dan Bush and seconded by Tom Scheibener to memorialize the proposed resolution as distributed. At a roll call vote, all present were in a favor of the motion with the exception of Casey Bickhardt who abstained. Motion carried.

### **Public Hearings**

There were no Public Hearings scheduled at this time.

### **Sub-Committee Status and Updates:**

The Highlands Council Subcommittee is working with the Highlands Council Planner to move forward with various tasks including the Land Use Ordinance, the Zoning Map and the Agriculture Plan. The Land Use Ordinance and the Zoning Map will be distributed to all as soon as authorization is released. Please look for emails from Secretary Kozak. The Ordinances and supporting documentation will be introduced by the Township Committee at the scheduled meeting of October 3, 2017 and then the Planning Board will review the documents for consistency with the Master Plan at the scheduled meeting of October 9, 2017. The Township Committee will have a Public Hearing at their meeting of November 8, 2017. Planner Green will appear at the Planning Board Meeting and the Township Committee Public Hearing.

Planner Subcommittee will schedule interviews soon and report updates.

### **Public Comment**

Ted Harwick – Bellis Road –Expressed his dissatisfaction with Holland Township moving forward with the Highlands Council project. Ted Harwick shared a statement that Democracy is protecting the minority from the majority. Mike Keady stated that the documents will be available to the public as well as available on our township website and all are encourage to read the documents and to attend the public hearing to ask questions. Mike Keady also reminded everyone that this is not a new subject but actually a continuation of what Holland Township has committed to and the public was involved with in public hearings.

### **Executive Session**

There was no Executive Session scheduled at this time.

### **Adjournment**

Mike Miller made a motion to adjourn. Motion approved. The meeting ended at 7:40 p.m.

Respectfully submitted,  
*Maria Elena Jennette Kozak*  
Maria Elena Jennette Kozak  
Secretary