

**TOWNSHIP OF FALLS  
PLANNING COMMISSION MEETINGS  
NOVEMBER 25, 2014**

**Meeting commenced:** 7:30 p.m.

**Meeting adjourned:** 8:15 p.m.

**Members present:** Binney, Goulet, Miles, Perry, Rittler

**Members absent:** Shero, Vergantino

**Also present:** Stephen Harris, Esquire, and Zach Freshner, CESO engineer, representing U.S. Venture

**For the Township:** Joseph Jones, P.E. (T&M Associates); Tom Bennett, CCEO & Zoning Officer; Diane Beri, Recording Secretary

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**Item #1: Silvi Concrete – CNG Facility, 355 Newbold Road, Fairless Hills, PA 19030; TMP #13-028-060-001; Zoned PIP. Owner: Silvi Major Subdivision and Preliminary/Final Land Development; Installation of CNG fueling station for public use**

Stephen Harris, Esquire, presents the application. U.S. Venture is the developer of the compressed natural gas (“CNG”) public fueling station at the Silvi property. We have been before the Zoning Hearing Board and have been granted all the variances necessary to develop this site for both public and private use. There are four different lots for subdivision with the lot line running through the middle of the compressor area, basically through the middle of the public facility and down through the middle of the employee parking lot.

The land on the one side is owned by John and Larry Silvi and is zoned PIP. The land on the other side is owned by Riverside Inc. Complex and it is zoned Farming and Mining. This land was acquired as a 1031 tax-free exchange – the way a piece of property is sold and another piece of property is purchased for the same purpose and there is no capital gains tax at the time of the transaction. Ultimately, when it is sold you have to pay the taxes, but in reality it is a tax-deferred exchange. We cannot merge these two parcels into a single parcel because of the tax consequences. That is the reason we have lots 3 and 4, instead of just lots 1 and 2. That is what drove many of the variance requests before the Zoning Hearing Board, all of which were granted, and is the subject of some of the comments in T&M’s review letter.

The site plan shows the private CNG facility previously approved by this Board and the Zoning Hearing Board for Silvi’s use with their vehicles. The site plan also shows the public CNG facility before this Board for consideration, and the Silvi employee parking which is being moved down below with a new entrance. There is going to be one-way traffic in and out of the public facility. The natural gas will come from the main in the street down to the compressor compound. It will then be compressed and will run out to the public facility, with a run into two fast fueling stations so the trucks can pull up and if they need a quick fill-up, it will be compressed and the pressure is sufficient to fill up the truck. The public facility is low-pressure; they come in at night, they hook up their truck, the pressure fills them overnight. The compressor compound is located equal distance from the two fast fueling areas.

Member Binney states that in some of the correspondence that was provided this was going to revert back to Silvi after 10 years. Is that correct?

Atty. Harris says that Silvi has the option to buy it after 10 years and has every intention to do so at that time.

Member Binney questions why this cannot be a lease.

Atty. Harris states that it is, but the Municipalities Planning Code requires that when you lease a portion of a property it states that it is a subdivision. So, we are required to create the subdivision in order to be able to lease it to a third party.

Member Binney states that he disagrees. How do cell tower companies do it?

Atty. Harris states that there is a set of cases that say billboards and cell towers do not have to do it. We would love not to have to subdivide this property – we would not have gone to the expense of going to the Zoning Hearing Board. If you read the definition of a subdivision in the MPC, it is land divided by a lease, which is what this is.

Member Binney states that they have numerous properties down at the steel mill which is leased. My point is that I don't believe it is good precedent from a planning standpoint to create lots that do not meet the zoning requirement of the district within which they lie. In other words, you are asking to subdivide a lot which is .63 acres on a piece of property that would require a 50 acre parcel.

Atty. Harris says that we have received all the variances we need to do that. We believe we need that subdivision in order to rent to U.S. Venture. If the Township's position is that we do not have to physically subdivide, just go through the land development plan approval, we're happy. We filed it this way because we believe we have to. If the Township's position is no, you don't need it subdivided, you can have this lot and lease it to a third party and all that you need is land development plan approval, more than half of the items on the Township engineer's letter disappear. If the Planning Commission's recommendation is that you don't need a subdivision, just land development plan approval, we can accept that.

We are not trying to force something that the Township doesn't want, but we think that we need it.

Member Binney says that I've seen other cases where there has been lease parcels that have been developed and a third party owns it or leases it, and I just don't see the difference. If there is a difference legally and this is necessary, fine. But if it's not necessary, I would rather not see the creation of small lots.

Atty. Harris says that he would suggest they go through T&M's letter, and if at the end, the Planning Commission makes a recommendation to the Board of Supervisors to consider whether or not there has to be a subdivision – we would have no objection to that.

Member Binney clarifies that he has no objection to what they are trying to do, but he'd like to see it done right and the right way to do it is to not create these small lots that don't conform.

Atty. Harris states they have no objection to this recommendation.

Mr. Jones states that we have successfully handled projects at the steel mill in that fashion. They still prepare a Record Plan that gets recorded, but on the Record Plan it is shown as a lease line and not a property line.

Atty. Harris states they have no objection to that recommendation.

Mr. Jones adds that we would still have to treat the line as a subdivision line for the purpose of the zoning review so we would still have the setback issues and they typically get variances for those, which you already have.

#### **T&M's Review Letter dated November 18, 2014**

All items are will comply with the exception of the following:

##### *Zoning Ordinance*

209-28(G)(2) This should have been included when we went before the ZHB. We have been in touch with the

ZHB solicitor and I believe this will be resolved without the necessity of going back to the ZHB. As it stands now, we believe it will be included in the ZHB decision, so this comment should go away.

*Subdivision and Land Development Ordinance*

191-29(G) If the Township is comfortable with showing the lines to create the leasehold without the formality of subdividing those lots, while at the same time recognizing that we have to comply with the zoning ordinance as far as where those lot lines are, we are agreeable to that.

191-31 (A)

191-31(D)(2) Requesting a waiver – road widening

Member Binney asks how many additional trucks or cars do they anticipate utilizing at the service station other than the Silvi trucks that are already there.

Zach Freshner responds that the first year was 8 trucks a day, in addition to what Silvi has currently. It increases up to 20 by year five.

Member Binney asks who would be the target users.

Mr. Freshner replies probably people that are already traveling on those roads, surrounding industrial sites, such as the K-mart personnel (which are switching over their fleets to CNG).

191-36(A)

191-34(D) requesting a partial waiver – 700 foot clear sight line distance in both distances. We are requesting to follow the PennDOT standard of 450 feet.

Mr. Jones states that they would be comfortable working with the applicant and the traffic engineer.

Member Binney asks how the Silvi trucks get into the facility.

Atty. Harris states that they come in by their maintenance garage.

Member Binney asks if Silvi trucks will be coming in off Newbold and making a left onto the Silvi property.

Atty. Harris states no, because the entranceway is one way.

Member Binney asks if there will be a fence preventing that.

Atty. Harris states no, probably treadles. We don't want the public to access the Silvi site.

191-37(B) Requesting a waiver – curbing

191-39(G) Requesting a waiver – sidewalks

191-45(C) Requesting a partial waiver -- easements

191-51(B) Requesting a partial waiver – subdividing of individual lots

Discussion occurs about obtaining a NPDES permit – the applicant has just applied.

191-61 Requesting a waiver – sidewalks along property frontage

191-62(B) Requesting a waiver – future right of way issue

191-78(C)(2) Requesting a partial waiver – aerial photo in lieu of detailed survey.

191-80(C)(5) Requesting a waiver insofar as this will be handled at the construction phase.

Member Binney asks if this comment is specific to the filling stations for Silvi trucks.

Atty. Harris says he doesn't think so since we already have approval for Silvi – this is directed at the public facility,

Member Binney asks if the pipe is going to be traversed under by vehicles.

Atty. Harris states the pipe being brought into the compressor station is underground, the piping to the public filling station is all underground, the piping to the head of the private facility is underground, but the racks to which the trucks will pull up will be above ground.

Mr. Jones states that T&M was not looking for structural details, but more clarification as to what that will look like, whether it's protected by bollards, etc.

Atty. Harris states this section is a will comply.

Atty. Harris asks for recommendation of preliminary and final land development subject to complying with T&M's letter of November 18, 2014, subject to the Planning Commission's recommendation that a subdivision is not required, simply showing the lease line division should be shown, and subject to the waivers identified.

Member Binney states that we don't like to move something to the Board of Supervisors that has 8 pages of comments from the Township engineer, but if you can revise the plans before you get to the Board of Supervisors, I would be willing to make the recommendation.

Atty. Harris agrees to revise the plans. Now that we have received all the variances, we are hopeful that we can get a preliminary / final recommendation and the Township will give us a permit for the compressor station, at our risk, subject to the appropriate hold harmless, so we can begin work on the compressor station, while we are finishing up the land development plan approval.

Member Binney states that the Bucks County Planning Commission mentions handicapped parking spaces. Are there handicapped parking spaces required?

Mr. Jones states that there would be for a public parking lot, yes.

Discussion occurs regarding handicapped parking with a determination that the handicapped spots would be close to the Silvi building and that the public CNG facility has received a waiver from the parking requirement.

No other Board questions.

Member Rittler makes a motion to APPROVE preliminary and final land development of U.S. Venture, Inc. (Silvi Concrete) for the public CNG facility, TMP #13-028-060-001 and #13-028-06, based on Remington and Vernick's letter of October 17, 2014 and T&M Associates' letter dated November 18, 2014, with waiver requests for 191-31(A), 191-31(D)(2), a partial waiver of 191-34(D), 191-36(A), a waiver for 191-37(B), 191-39(G), a partial waiver for 191-51(B), a waiver for 191-61, 191-62(B), and a partial waiver for 191-78(C)(2). We also recommend the Record Plan show a lease parcel rather than a subdivision, if legally permitted.

Member Goulet seconds the motion.

**All in favor 5-0. APPROVED FOR PRELIMINARY AND FINAL LAND DEVELOPMENT**

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**Item #2: Approval of minutes**

Member Goulet has a correction to the minutes.

**All in favor 5-0.**

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**Meeting adjourned at 8:15 p.m.**