

WEST DEER TOWNSHIP PLANNING COMMISSION MINUTES
February 22, 2024

The Meeting was called to order with the following members in attendance:
Alan Banks, Rich Hollibaugh, Jake Oresick, Robert Bechtold, David Harrison, Dan Maltese, and Patrick Stark.

Absent Members: None.

Other Attendees:

Dorothy Moyta, West Deer Township Zoning & Planning Dept.
Joseph Shook, Assistant Township Manager, Zoning Official
Scott Shoup, Shoup Engineering

Outline and Order of Meeting

- A. Approval of January Minutes
- B. Comments from Supervisors
- C. Old Business
 - 1. Projects (Continued from previous meeting(s))
- D. New Business
- E. Public Comment
- F. Comments/Discussion by PC Members and/or Staff
- G. Adjournment

Approval of January 25, 2024 Meeting Minutes

The December Meeting Minutes were approved with some corrections. First motion by Mr. Bechtold and second motion by Mr. Banks to **RECOMMEND APPROVAL**; voting was unanimous.

Approval of November 8, 2023 Special Meeting Minutes

The November Meeting Minutes were not approved and tabled until a full list of Conditions that were sent to the Supervisors from the November 8th PC Special Meeting are reflected in the minutes. The November 8th Meeting Minutes will be looked at and discussed at the March Meeting. Also Mr. Oresick wants the Planning Commission member who dissented from not recommending the Tyche Well Pad to be named in the meeting minutes. Mr. Shook will consult with Mr. Robb on this matter. This information needs to be provided, First motion by Mr.

Hollibaugh and second motion by Mr. Oresick to **TABLE** until the March meeting; voting was unanimous. Mr. Maltese and Mr. Harrison abstained from voting.

Comments from Supervisors.

Mr. Wiegand, a current supervisor, wanted to make a comment regarding the Zoning Ordinance now in under consideration. He was told that he was not able to make a comment as the proposed Zoning Ordinance was not on the agenda for this month's PC Meeting.

Mr. Wiegand questioned why his comments and other resident's comments that were emailed in to Ms. Moyta subsequent to January's PC meeting were not distributed to the Planning Commission Members so that the members had time to go over them prior to the March meeting when the proposed Zoning Ordinance will be discussed.

Mr. Shook directed Ms. Moyta not to share the comments with the Planning Commission members as the proposed Zoning Ordinance was not on the agenda.

Old Business

The Zoning Ordinance is being revisited and will be on the agenda for the March 28, 2024 Planning Commission Meeting. It will again go to the Supervisors, Planning Commission, County and Public Hearing. Mr. Shook is working with Mr. Shoup on editing the Zoning Ordinance and Map between now and the March Supervisor Meeting and then further along as needed.

New Business

Hayden-McGowin Lot Line Revision Plan

Randy Miller of Urban Terrain Surveying, LLC introduced the project.

Mr. Shoup went over Comments letter dated February 15, 2024.

Comments/ Questions from the Planning Commission Members/ Presenters were as follows:

1. Mr. Stark said that they don't normally review see these type of lot lines revisions.
2. Mr. Shoup said that lot line revisions are handled on a case-by- case instance, but the County is now requiring that these be reviewed. The lot lines that have previously been changed and with amendments can now just go through the Supervisors.
3. Mr. Bechtold asked if they were looking to add to the size of the property. Mr. Miller said that they were looking to follow the natural contours in dividing the property.
4. Mr. Maltese asked if there could be more subdivisions within these parcels. Mr. Shook said that they could divide further if they could meet the requirements of the Township Zoning Ordinance.
5. Mr. Hollibaugh asked if stormwater would need to be looked at in this or further subdivisions.

No Public Comment on Hayden-McGowin Lot Line Revision Plan

First motion by Mr. Banks and second motion by Mr. Bechtold to **RECOMMEND APPROVAL**, voting was unanimous of the Hayden – McCowin Lot Line Revision Plan with the following conditions:

1. Satisfy all comments in the Scott Shoup Engineering letters dated 2.15.2024 and 2.26.2024.
2. Satisfy all comments in the Allegheny County review letter dated 2.20.2024.

Public Comment 3 Minutes Maximum was Permitted

1. **Josh Wiegand, West Deer Township Supervisor**, (as a resident) voiced some commentary that was previously sent to the Planning Commission but wasn't distributed. Mr. Wiegand wanted to confirm that the proposed Zoning Ordinance would be placed on the agenda and come back to the Planning Commission in March. Mr. Wiegand also questioned exactly what the approved process/ schedule was for passing the proposed Ordinance from the Township to Allegheny County for Commentary. Mr. Wiegand said that it didn't make any sense that the Supervisors would vote on adopting before the Public Comment Hearing took place.

Mr. Hollibaugh also wanted to know what the process was. Mr. Shook said that the Zoning Ordinance will go back to the Supervisors in March.

Mr. Hollibaugh asked if the proposed Zoning Ordinance would be sent back to us before being sent to Allegheny County (since it cannot be changed in any way after it is sent.) Mr. Stark said that currently that answer appears to be in question.

Mr. Stark wanted to revisit the By-Laws at the March meeting. Specifically, they may need to be amended with the clarification and clear intention that the residents of West Deer Township need to and will be heard at the Planning Commission meetings. Additionally, the Zoning Ordinance has been being worked on for 5 years – the Comprehensive Plan has not been updated for 14 years and clearly needs to be updated. Also, the Planning Commission member, the Zoning Hearing Board Members, and the Supervisors should have communication lines open; currently there is no communication. Do members have emails ? Mr. Stark said that items in question will be added to the March Agenda.

2. **Nancy Stohr of 1219 Nicklaus Way** passed out a handout dated 2.5.2023 to the Planning Commission Members. This had been previously emailed but was not permitted to be emailed to the Supervisors. *The entire transcript of Ms. Stohr's handout is attached.*

3. **Victoria Austin of 19 Hemlock St** said that last month the possibility of water from creeks being used by Olympus was mentioned. She recalled that Mr. Robb had said in the past that all water usage was being controlled by the DEP. The Zoning Ordinance should protect the community; there seems to be a contradiction here. She thought the DEP was controlling fracking. Additionally, she thought that Olympus would have had to provide locations of waterways to be used, equipment and decibel levels prior to usage of the waterways. Ms. Austin said that the Township refers to the Zoning Ordinance frequently - why aren't they following the Zoning Ordinance as it refers to the gas wells, fracking, and the waterways?"
4. **Mary Kay Kalivoda of 702 Crystal Ct.** said that the "right hand doesn't know what the left hand is doing." She felt that the Planning Commission was wasting their time if none of the information gathered was being communicated or looked at by the Supervisors. She also feels that the Supervisors need to know and understand distances from the wells before they vote. She also believes that waivers for fracking need to be addressed. Also, a timeline to adopt the Zoning Ordinance needs to be set forth and the Zoning Ordinance needs to have teeth.

Comments/ Discussion By PC Members/ Staff/ Others

Mr. Stark wanted several items to be on the March Planning Commission Agenda. The items are as follows:

1. Zoning Ordinance and Zoning Map: Discussion.
2. Concert Venue; Discussions regarding the proposed conditions that were put forth, specifically how the ticket sales were done.
3. Planning Commission By-Laws
4. Sunshine Act: Written explanation of the Sunshine Act and written explanation of guidance that can be followed.
5. Tyche Well Pad: Which of the Planning Commission recommendations were approved by the Supervisors and what conditions were dismissed by the Supervisors.
6. Communication between the Planning Commission, the Zoning Hearing board, and the Supervisors to be legally explained as to how this is accomplished. (This needs to include how the Sunshine act segues into this communication.)
7. PSATS: How does Zoning Ordinance adoption get accomplished in accordance with this document ?
8. Discussion of the Indiana and West Deer Township Joint Comprehensive Plan 2010.
9. Clarification in the form of a document to explain the process and timeline regarding the rollout of the new Zoning Ordinance and new Zoning Map.

First motion by Mr. Bechtold and second motion by Mr. Hollibaugh to **RECOMMEND APPROVAL**, voting was unanimous of the all 9 items noted to be added to the March Planning Commission meeting agenda with the following conditions:

1. There will be no tampering with the Agenda items.

Additional Discussion Included:

1. Mr. Harrison asked whether the proposed new Zoning Ordinance and Map will be place on the website. Mr. Shook said yes – 30 days before the Public Hearing.
2. Mr. Harrison was asked how long as a supervisor he had to review the ordinance before voting or whether the supervisors were able to have meetings to discuss any of the issues.
3. Ms. Austin would like to see the timeline for the adoption of the new proposed Zoning Ordinance and Zoning Map placed on the website.
4. Several Planning Commission members thought that a week wasn't long enough to read through all the agenda information that was sent out previous to the meeting.
5. Several Planning Commission members felt that communication between the Planning Commission and the residents that exists now must be preserved.
6. Mr. Hollibaugh asked if the Planning Commission emails could be placed in the newsletter.
7. Mr. Banks commented that Mr. Robb had said that emails could be under subpoena if needed. The Planning Commission should only be using West Deer emails. Mr. Shook is working on assigning all Planning Commission members West deer Township emails.
8. Ms. Kalivoda asked who emails should be directed to. Mr. Shook said that emails should be sent to Daniel Mator, Township Manager.
9. Mr. Hollibaugh asked if agenda items could be added up to the time of the meeting.

Adjournment

First motion by Mr. Oresick and second motion by Mr. Stark to **ADJOURN THE MEETING**. Voting to adjourn was unanimous.

The March Planning Commission meeting will be held on March 28, 2024. The meeting time and agenda will be posted on the web site.

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
1	Page 12 Section 210-7 Meaning of Words Deep Well	DEEP WELL- An unconventional well, or any pierced or bored hole drilled or being drilled into or below the Marcellus Shale rock formation for the purpose of, or to be used for, producing, extracting <u>or injecting</u> gas, oil, petroleum or another liquid related to oil or gas production <u>or storage, including brine disposal.</u>	DEEP WELL- An unconventional well, or any pierced or bored hole drilled or being drilled into or below the Marcellus Shale rock formation for the purpose of, or to be used for, producing, extracting <u>or injecting</u> gas, oil, petroleum or another liquid related to oil or gas production <u>or storage, including brine disposal.</u>	The references to injecting a storage/brine disposal should be removed because an Injection Well is defined separately and is not permitted, per page 174 Section J.2. (See Item #2 in this list)	Jack Rearick
2	Page 20 Section 210-7 Meaning of Words Injection Well	INJECTION WELL – A process used to place waste related to oil and gas, such as brine, deep underground into porous rock formations for storage. While a production well is used to extract oil or gas from the subsurface, injection wells are used to <u>safely</u> dispose of waste generated from those production operations or, in some cases, to increase production from nearby producing wells. <i>This definition is more a description of the process than the definition of the well itself.</i>	We suggest using this definition, which is also being used by Oakmont Borough and some others: INJECTION WELL / DRILLING - Those wells and activities used to place fluids and/or gases underground into porous geologic formations for permanent storage. These underground formations may range from deep sandstone or limestone, to a shallow soil layer. Injected fluids and/or gases may include carbon dioxide, fresh water, waste water, brine (saltwater), or water mixed with chemicals. Injections wells include all EPA classes of injection wells.	It needs to be clear that the storage is not temporary, but permanent. In addition, there is should be no presumption of "safety", if anything Brine injection in injection wells is at best controversial as to the level of safety. Brine injection is a potentially hazardous, highly industrial activity. It requires handling of hazardous chemicals, which are potentially radioactive and large amounts of heavy truck traffic. "Wastewater injected into disposal wells may, in some circumstances, migrate to the surface or into freshwater aquifers. Toxins can migrate to groundwater through leaks, cracks, or nearby abandoned wells, and multiple cases of groundwater contamination associated with wastewater disposal wells have been identified." nih.gov - https://www.ncbi.nlm.nih.gov/articles/PMC4816143	Jack Rearick
3	Page 26 Section 210-7 Meaning of Words Public Notice	A notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and placing of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.	<i>Recommend this be updated to include posting on the Township Website, Facebook Page, etc</i>	In our digital age, newspapers, etc. are becoming less common and less read. This definition and the townships practices need updated to include electronic publication and other prominent means of notifying residents.	Roth Stump

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4	Page 32 Section 210-7 Meaning of Words Shallow Well	A pierced or bored hole drilled or being drilled into the ground but above the Marcellus Shale rock formation for the purpose of, or to be used for, producing, extracting <u>or injecting</u> gas, oil, petroleum or another liquid related to oil or gas production <u>or storage, including brine disposal.</u>	A pierced or bored hole drilled or being drilled into the ground but above the Marcellus Shale rock formation for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production- or storage, including brine disposal. This definition lacks a reasonable depth definition. "Above the marcellus Shale Rock formation" is too broad. In South Western PA, the depth can be 8,000 feet...which does not seem "shallow". In general it appears somewhere between 1,000 feet to 3,000 feet is the maximum depth of a Shallow Well. Lastly, should there be a separate definition of a Potable Water well (which needs little or no setback for safety reasons) .vs. a Shallow Gas / Oil Well which does need a reasonable (300feet?) setback? Should "related infrastructure" be further defined / clarified?	The references to injecting a storage/brine disposal should be removed because it is incompatible with a Shallow Well, especially with a setback of only 300 feet. Also, an Injection Well is defined separately.	Jack Rearick
5	Page 38 Article V Section 210-9 Zoning District Descriptions	I Industrial -- The I district allows for manufacturing, laboratories, warehouses, and <i>related infrastructure.</i>		Does this leave it open to interpretation what related infrastructure would be?	Roth Stump or Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
6	Page 40 Section 210-12 Authorized Land Uses by District	In the Non—Residential Uses section of the table: - O&G Production is allowed in 10 of 11 zoning districts, the only one not allowed is Residential/Rural Estates. - Shallow Well sites are allowed in 9 of 11 districts - Deep Well Sites in all residential areas.	Oil and Gas production, Deep well sites, and Injection Well Sites should be limited only to zoning districts where it is appropriate. Industrial, Commercial, and perhaps Rural. These highly industrial activities should be removed from all Residential districts.	The current draft ordinance creates a double-standard favoring one industry over another. This is due to the fact that Oil and Gas Industry is the only for-profit, non-essential, business / industrial activity allowed in most zoning districts and residential areas. Allowing this exception is contrary to the definitions of residential zoning districts. This creates a double-standard that is a preference for one industry over others. It is a direct violation of PA case law, based on the 2016 ruling by the PA State Supreme Court in the Robinson case. In which the ruling stated "No industry is supposed to get special treatment according to the state constitution." According to our understanding, it is not permitted as defined under PA case law, the MPC, and the state constitution.	Jack Rearick
7	Page 42 Section 210-12 vs Page 158	Authorized Land Uses by District, non-residential, see "Deep Well Site" in alphabetical chart	Chart lists conditional use for deep well site in R, RE, R-1, R-2, R-3 and I zoning districts.	Page 158 18.1.1. states conditional use for deep well site in R, R-1, R-2, R-3 and I zoning districts. RE or Residential Estate District is listed in the chart, but not in the text for a conditional deep well site. In addition, it creates a double standard as mentioned in item 6 above.	Vicki Austin

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
8	Page 158-176 Article XXV Section 210-162 18. Gas and Oil Production	Through-out the Oil and Gas Conditional Use Section of the Ordinance the term "shall" is used. It is our understanding that "Shall"="Must" in legal terms. For example the statement: "The well owner/well operator shall establish and perform a minimum once a day routine cleaning/sweeping of the paved access road surface..." means they must do it. However, there is no enforcement clause to state what happens if they don't do it? This leaves open the idea that the enforcement is arbitrary which could be challenged when the township needs to take an enforcement action.	This section, and perhaps the entire ordinance, should be reviewed for references to areas where the Township would need to take corrective action, and define what that correction active action is, or at least have a "catch-all" section that outlines possible corrective actions for violations to a particular section of the ordinance.	If enforcement appears to be arbitrary it could be challenged, preventing the Township from protecting the residents, and possibly having a legal action.	Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
9	Page 158 Article XXV Section 210-162 18.a.1.	A Deep Well Site which would be placed more than <u>Six Hundred and Fifty (650) feet from any existing principal structure and One Thousand (1000) feet</u> from an existing residence or business, located off the property where the Deep Well Site is sited may be permitted as a conditional use in the R, R-1, R-2, R-3 and I zoning districts provided such property upon which the Oil and Gas Well Site would be placed is five (5) continuous acres or more in size. Otherwise, such siting and/or use shall be prohibited in the residential and commercial zones not otherwise permitted above.	A Deep Well Site which would be placed more than <i>Two Thousand (2,000) feet</i> from an existing residence or business, located off the property where the Deep Well Site is sited may be permitted as a conditional use in the R, R-1, R-2, R-3 and I zoning districts provided such property upon which the Oil and Gas Well Site would be placed is five (5) continuous acres or more in size. Otherwise, such siting and/or use shall be prohibited in the residential and commercial zones not otherwise permitted above. In addition, language needs to be added to require a <i>3,000 foot setback for schools, playgrounds, and senior living/care facilities.</i>	First, there are two separate distances cited here, where only one is required. Secondly, while 1,000 feet is better than what was in the 2012 ordinance, it is still not protective of health, safety, welfare, and property values of residents in the area. Zoning setbacks are based on a presumption of safety. Based on all recent evidence in numerous health studies which indicate that a minimum of 2,000-2,500 feet is needed. Additional facts are that the Pennsylvania DEP documents sent by Moody's to residents near the Leto well pad has a 3,000 foot radius for water testing. Olympus own applications submitted for all of their well pads show a 1 mile radius evacuation area. We should have a minimum of 2,000 feet for any primary residence or business. Setbacks exists to be protective, all studies indicate that children and older adults are the most vulnerable to the health affects of gas development and production and must have a greater distance for protection. Finally, the townships tax base and property values must be considered. As the township-acknowledged in it newsletter, businesses do not generate tax revenue at the rate of modern residences. Fracking wells too close to housing developments, potentially discourages development and related property values and tax revenue.	Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
10	Page 158 Article XXV Section 210-162 18.a.1.	"A waiver can be obtained from the adjoining land owners for deep well sites that are placed closer than the prescribed minimum distances but shall not be placed any closer than Five Hundred (500) feet from an existing principal structure. The waiver shall state that the Township, its departments, agents, officers, employees, or volunteers shall be held harmless against all claims made by the owner(s), operator, or third-party agencies except for those claims relating to any negligent, willful or intentional acts of the Township, its departments, agents, officers, employees, or volunteers."	This should be stricken from the ordinance for the reasons noted.	a) A waiver preempts the jurisdiction of the Zoning Board and allows a single property owner to subjugate the health, welfare, safety, and property values of others in the area without the opportunity for a public hearing. b) The only mention and use of the term "waiver" is in the O&G conditional use section. The ability to waive a setback /business / industry / use in the zoning ordinance. This creates a double-standard that is a preference for one industry over others. It is a direct violation of PA case law, based on the 2016 ruling by the PA State Supreme Court in the Robinson case. In which the ruling stated "No industry is supposed to get special treatment according to the state constitution." c) Section 605 of the MPC states that zoning districts must have "uniform use" and "an average reciprocity of advantage, in which all property owners are placed under the same restrictions". This allows a single property owner to waive that for everyone in their district. d) The waiver clause has the statement about holding the township, supervisors, etc harmless. Does't this imply an admission of possible harm caused by having a setback less than 1000 feet? It is assumed that a setback distance is established to protect residents, having a waiver implies an unsafe distance is allowed, is that the intent? e) Since the waiver is not signed by neighbors or adjoining property owners, it leaves the township and supervisors open to more lawsuits by residents who perceive harm and did not sign the waiver, and other businesses or industries who want the same waiver. f) Finally this opens the door for many difficult unanswered questions that the township may have to deal with. For example:	Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
11	Page 158 Article XXV Section 210-162 18.a.2.	Of great concern for all residence is the setback for a shallow well only being 300' because of the definition of Shallow Well. The definition of Shallow Well (as mentioned earlier) should not include injection wells, or relatively deep wells requiring industrial activity within 300 feet of a home/business/school, etc. In addition, Allowing shallow non-water producing wells in 9 of 11 districts a double-standard, in direct opposition to the use of Residential areas, and in opposition to Section 605 of the MPC.	We assume it is not the Township's intention to allow Brine Injection facilities, or other industrial activity within 300' of a home. This could be best remedied by: a) Update the Deep Well, Shallow Well, and Injection Well definitions as indicated earlier in this spreadsheet. b) Limit "Industrial" shallow wells and Injection wells to only Industrial zoning districts with appropriate, protective setbacks of 2500 feet or more.	Brine injection is a potentially hazardous, highly industrial activity. It requires handling of hazardous chemicals, which are potentially radioactive and large amounts of heavy truck traffic. It can compromise potable water supplies in the vicinity and is very likely to reduce property values in the vicinity of non-commercial/industrial areas. "Wastewater injected into disposal wells may, in some circumstances, migrate to the surface or into freshwater aquifers. Toxins can migrate to groundwater through leaks, cracks, or nearby abandoned wells, and multiple cases of groundwater contamination associated with wastewater disposal wells have been identified." nih.gov - https://www.ncbi.nlm.nih.gov/articles/PMC4816143 The MINIMUM distance from any structure that could be used or occupied by people should be at least 2500 feet.	Jack Rearick
12	Page 159 Article XXV Section 210-162 18.a.3.	A Natural Gas Compressor Station or any similar facilities performing the equivalent functions which would be located more than One Thousand Two Hundred (1200) feet from any principal structure located off the property where the Natural Gas Compressor Station or similar facility is located may be permitted as a conditional use in the R, R-1, and I zoning districts. Otherwise, such use shall be prohibited in the residential and commercial zone not otherwise permitted above.	We recommend the setback be changed to 2500 feet and limited to Industrial zoning districts only.	Compressor stations are highly industrial, extremely noisy, and likely to experience repeated expansion over a series of years. These should be restricted to the Industrial District like gas processing plants. Allowing them outside of industrial areas creates a double-standard, and all of the issues mentioned earlier (item #10)	Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
13	Page 159 Article XXV Section 210-162 18.a.5.b and 18.a.5.c	A Natural Gas Dehydration Facility designed to release zero (0) emissions not located on a well pad which would be placed more than Three Hundred (300) feet from any principal structure located off the property where the Natural as Dehydration Facility is sited may be permitted as a conditional use and placed on a minimum of one (1) continuous acre or more in the R₁, R-1, and I zoning districts.	Dehydration Facilities are part of Gas Processing and should not be allowed in Residential Districts. Should be restricted to Industrial District only.	Reasoning is similar to what has been already provided, regarding the industrial nature, double-standards, etc. (See items 10 & 12)	Jack Rearick
14	Page 162 Article XXV Section 210-162 18.e.1.e	A location map of the Oil or Gas Well Site showing the location of derricks, drilling rigs, equipment and structures and all permanent improvements to the site and any post construction surface disturbance in relation to natural and other surroundings. <i>Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the transportation of personnel and/or development and use of the site. Such location shall be configured to allow the normal flow of traffic on public streets shall be undisturbed.</i>	Allowing "parking areas" at oil and gas operation sites IN RESIDENTIAL areas violates the approved uses - see chart of Non-Residential Uses at beginning of this document.	As stated earlier this is a double-standard favoring one industry over another. (See item #10) This is another reason why oil and gas should not be allowed in residential districts.	Jack Rearick
15	Page 168 Article XXV Section 210-162 18.g.3.d	Exemption from the standards established in this subsection may be granted by the Township upon a showing by the well operator that it is not feasible to meet the setback requirements from surface tract property lines and that adequate safeguards have or will be provided to justify the exemption. Exemptions to drilling rig location shall never be less than 1.1 times their height from any property line, public or private street, or building not related to the drilling operations on either the same lot or an adjacent lot.	Remove this clause. NO EXEMPTIONS SHOULD BE GRANTED!	As explained in the Waiver section above (item #10) the PA Supreme Court has ruled that special rules/exceptions CANNOT be given to any one individual or industry. Rules must be applied equally for all uses and all applicants.	Jack Rearick

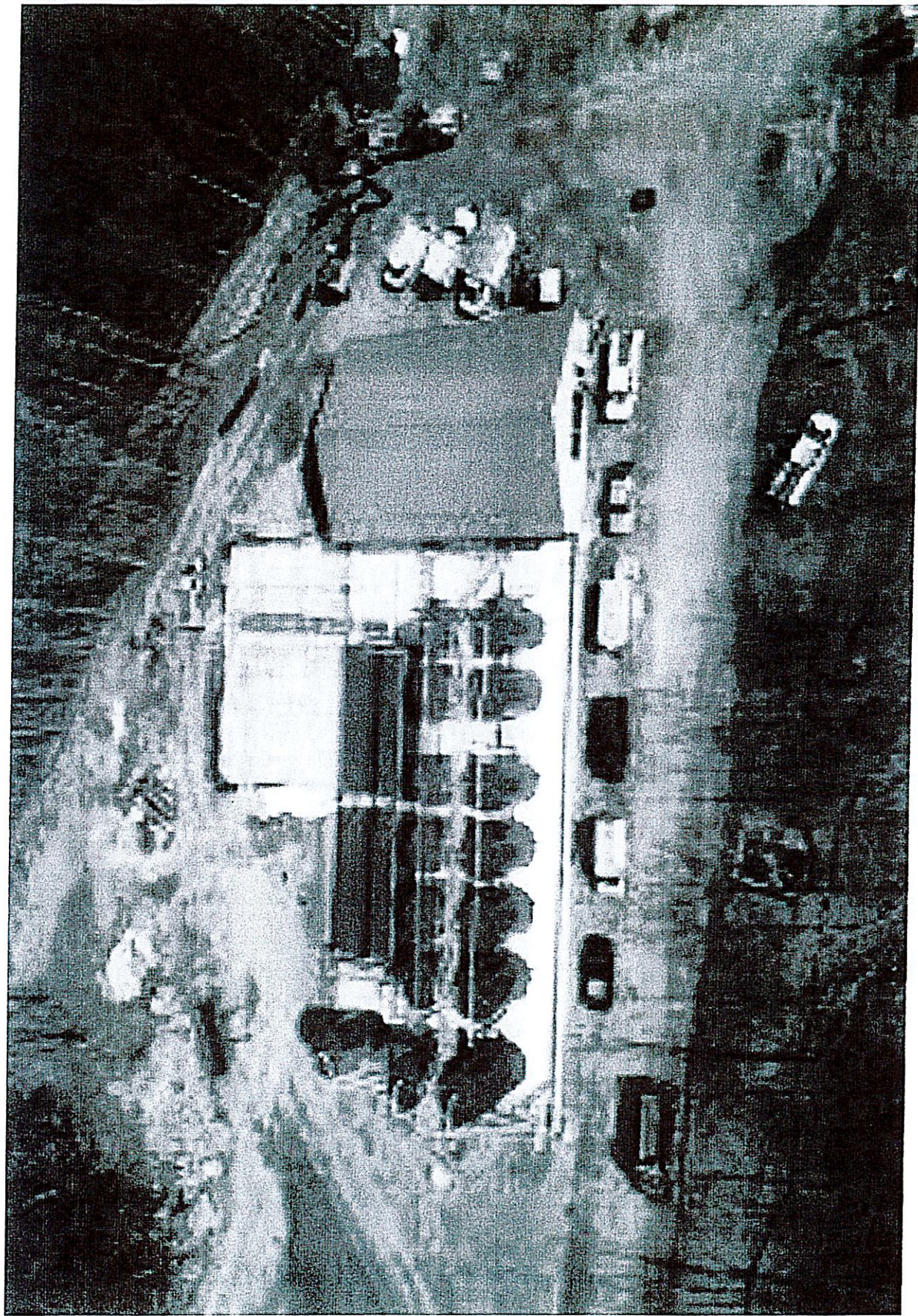
Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
16	Page 168 Article XXV Section 210-162 18.g.3.e.	Drilling pads, Natural Gas Compressor Stations Natural Gas Processing Plants or Natural Gas Dehydration Facilities shall be set back One Thousand (1,000) feet from buildings or sites registered or eligible for registration on the National Register of Historic Places or the Pennsylvania Register of Historic Places.	These are all industrial uses and should be in the appropriate Industrial or commercial zoning districts. In addition, shouldn't a larger setback of at least 3,000 feet be considered, since Olympus own evacuation zone for well pads is a 1 mile radius?	As explained in the Waiver section above (item #8) the PA Supreme Court has ruled that special rules/exceptions CANNOT be given to any one individual or industry. Rules must be applied equally for all uses and all applicants. These are Industrial uses that are not allowed for any other industry.	Jack Rearick
17	Page 168 Article XXV Section 210-162 18.g.3.e.	<i>The applicant shall provide the Township and their consultant documentation of the established ambient noise level prior to starting oil or gas drilling and/or production operations. The noise generated during the oil and gas operations or the Natural Gas Compressor Station, the Natural Gas Processing Plant, Interconnect or the Natural Gas Dehydration Facility shall not exceed the average ambient noise level established in § 210-162.A. 18(g)(6) b. by more than:</i> 1. 5 decibels during drilling activities, 2. 10 decibels during hydraulic fracturing operations. 3. 5 decibels for a Natural Gas Compressor Station, Natural Gas Processing Plant, Interconnect or a Natural Gas Dehydration Facility. 4. Allowable increase in § 210-162.A. 18(g)(6)d. shall not exceed the average ambient noise level for more than five (5) minutes within any one-hour period.	Documentation of ambient noise study should be required to be submitted as part of the application and/or within the confines of the Conditional Use hearing proceedings. The Township should be given the opportunity to see the sound study results before rendering a decision.	Why would the Township allow ANY exceedences of establish sound/noise standards? The sound standards are what is considered protective. NO EXCEPTIONS should be allowed, for all of the many reasons cited above.	Jack Rearick
18	Page 171 - 172 Article XXV Section 210-162 18.g.6.f.	Exemption from the standards established in this subsection may be granted by the Township during the drilling stage or at the Oil or Gas Well Site, or the Natural Gas Compressor Station, at the Natural Gas Processing Plant, at the Interconnect or at the Natural Gas Dehydration Facility for good cause shown and upon written agreement between the applicant and the Township.	Remove this clause. NO EXEMPTIONS SHOULD BE GRANTED!	As explained in the Waiver section above (item #10) the PA Supreme Court has ruled that special rules/exceptions CANNOT be given to any one individual or industry. Rules must be applied equally for all uses and all applicants.	Jack Rearick

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19	Page 171 - 172 Article XXV Section 210-162 18.g.k. & L.	If sound studies cannot guarantee that noise levels are capable of meeting a noise level under the maximum allowable standard an engineered sound barrier or other engineered sound sound mitigation shall be utilized to comply with the noise levels prescribed. Sound barriers when required shall be in place prior to all activities that would exceed the acceptable levels of noise as prescribed in the sound study.	What happens if the sound barriers fail to remedy the noise complaints? What actions can/will the Township take to protect impacted residents?	Enforcement actions need to be clearly stated, for the same reasons stated earlier.	Jack Rearick
20	Page 173 Article XXV Section 210-162 18.H.8	A traffic impact study or description of the plan for transportation and delivery of equipment, machinery, water, chemicals, products, materials, waste products and other items that will be utilized or produced in the siting, drilling, stimulating, completion, alteration and operation of the well pad and any accessory use within the well site. Such description shall include documentation and expert testimony for the following.	The traffic study must be required at the time of application and for public hearing proceedings. It is important the Township and the residents have an opportunity to review the findings of such a report before any decision is rendered.	If the traffic study is not required as part of the Application, how will the Township establish that "traffic on Township roads shall remain undisturbed?"	Jack Rearick

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
21	Page 174 Article XXV Section 210-162 18.i	Impoundments 1) An impoundment is an accessory to a well pad and is located within the boundaries of the well site with the well pad that it services and other accessory uses. 2) An impoundment shall only be used to store fresh water. 3) An impoundment cannot be used to store impaired water. 4) All impoundments shall be surrounded by the fence that is required by this section to surround the entire well site. 5) As an accessory to a well pad, the freshwater impoundment shall only be used to service the well pad that it is accessory to and not as a centralized impoundment facility or to service any other well pads.	1) What size restrictions will be placed on the impoundment? If no size restrictions, why? 2) "Fresh water" should be changed to read "potable water" or another term that implies clean ground water. The Oil and Gas industry incorrectly uses the term "fresh" to mean "fresh to that site." It is very misleading and needs to be clarified. IMPORTANT: Water that is identified using the industry's term "fresh" could, in fact, be "produced" water that has fracking pollutants. 3) Who will test the water in any/all impoundments included on well pad locations to ensure there are no fracking pollutants, radio active materials or other harmful risks? And if pollutants or other contamination is found, what is the Township's plan for requiring a safe remedy? Will any fines be imposed? Will stop work order be issued if violations occur? 5) What is the legal definition of "service the well pad?" How will the Township ensure compliance? What will the Township do if it is discovered that the impoundment is servicing other well sites?	The Township would not allow someone to build a farm pond that had no size restrictions. Residents safety must be protected, an impoundment that contains something other than potable water, or water that is clearly defined as "ground and rain water containing NO industrial pollutants or chemicals" poses a health and safety danger to the residents in the immediate vicinity. As mentioned earlier, the ordinance needs to be clear about how the Township will enforce the terms of the ordinance.	Jack Rearick
22	Page 176 Article XXV Section 210-162 18.m.5.	Well operator, at well operator's sole cost and expense, shall test the effluent of all water wells and water sources used by any residence or business within <u>one thousand (1,000) feet</u> of any Oil and Gas Well Site. The water test shall, at a minimum, establish the base chemical composition of such well and surface water supplies prior to the commencement of any Oil and Gas Development. All test results shall be provided, by certified mail, to the Township and to each owner of the surface rights to the real property upon which such water well or water source is located.	Well operator, at well operator's sole cost and expense, shall test the effluent of all water wells and water sources used by any residence or business within <u>three thousand (3,000) feet</u> of any Oil and Gas Well Site. The water test shall, at a minimum, establish the base chemical composition of such well and surface water supplies prior to the commencement of any Oil and Gas Development. All test results shall be provided, by certified mail, to the Township and to each owner of the surface rights to the real property upon which such water well or water source is located.	It is our understanding that the PA DEP requires 3,000 feet for water testing. The Township should adopt the same distances as the PA DEP requires.	PA DEP

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
Additional Corrections / Changes					
23	Page 13 Dehydrator Gas	A device used to remove water and water vapors from gas. Gas dehydration can be accomplished through a glycol dehydrator or a dry-bed dehydrator, which use a liquid desiccant and a solid desiccant, respectively. Gas dehydrators are designed to handle only water and gas vapors.	No change needed to definition itself - See suggestion to the left.	This device would be necessary for site operation and therefore needs to be included in original site application.	Roth Stump
24	Page 16 Food Prep Business	A business, including a catering business, that prepared food for consumption off-premises, has no on-site seating, and is not open to the public for <u>dining</u> .	Spelling Correction: "dinning" should be "dining"		Roth Stump
25	Page 17 Funeral Home	A structure used for the embalming of the deceased for burial, but not including cremation, and for the display of the deceased and ceremonies connected therewith before burial or cremation.	No change needed to definition itself - See suggestion to the left.	Crematory is explicitly not allowed per the definition of a funeral home. However, Crematory is not mentioned or defined anywhere else. Does this result in excluding one business/industry over others, and create any legal issues for the Township? (We have no idea about this, just noting it.)	Roth Stump
26	Page 77 Section 210-104 B. Step 3 (C) Item 3.	The Board within sixty (60) days following the conclusion of the public hearing or within 180 days after the date of filing the application, whichever occurs first. Official written communication to the developer, shall be either:	The phrasing of this sentence is difficult to understand? What is it trying to indicate?		Roth Stump
27	Page 82 Section 210-104 F. Item 5.	Should the Final Development Plan as submitted contain variations from the PRD given tentative approval, the Board of Supervisors may refuse to grant final approval and shall hold a public hearing for comment on the application as revised within forty-five (45) days from filing of the Application for Final Approval <u>so</u> advise the developer in writing	Grammar, correction "so" to "to".		Roth Stump

Item #	Page / Section #	Current Wording	Suggested Change/Correction	Reason / Facts for change	Contact Person for ?s
28	Page 170 Article XXV Section 210-162 18.g.5.d & f	d. Any operation or activity producing glare <u>shall be so conducted that direct and indirect illumination from the source of light shall not cause illumination from the source of the light shall not cause illumination in excess of one half (1/2) foot-candle when measured at any adjoin property line.</u> e. Flickering or intense sources of light shall be so controlled as not to cause a nuisance across any lot lines. f. Temporary waivers may be applied for specific times in the drilling/fracking of the wells that require more illumination due to safety concerns of the workers and community. A waiver request shall include documentation including, specific lighting plans, <u>expert testimony the need for additional lighting to ensure safety and estimated time frame of needed additional lighting.</u> The Township may require additional lighting/glare screening for adjoining properties if a waiver is obtained	In section d. and f. the highlighted areas are difficult to read and are grammatically incorrect. We are not sure what the intended verbiage should be?	Grammatical errors	Roth Stump
29	Page 173 Article XXV Section 210-162 18.H.6 (Noise)	Sound studies shall take into account all activities on site for each phase of the development...	What about off-site noise created by pumps placed on temporary water lines? Excessive heavy truck traffic on township roads, etc?	Shouldn't sound studies include all sources of sound used in the well development? Especially from diesel pumps operating in stationary locations at temporary water sources?	Roth Stump
30	Page 182 / Section 28.a)	Buffer yards between a Municipal Administration Facility and adjacent residential lots or a designated residential zoning district shall be increased by ten (10) feet in width.	Buffer yards between a Municipal Administration Facility and adjacent residential lots or a designated residential zoning district shall be increased by ten (10) feet in width, <u>from 22 to 22.</u>	It is unclear at this point what the 10 foot increase is to be? It should either be clearly defined here, or a reference added to where it can be found	Roth Stump



Penneco Injection Well Facility
Plum Borough, PA

