

WEST DEER TOWNSHIP PLANNING COMMISSION MINUTES
January 25, 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.
Joseh Shook, Assistant Township Manager, Zoning Official

Outline and Order of Meeting

- A. Approval of December 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 December 14, 2024 Meeting Minutes

The December Meeting Minutes were approved with some corrections. First motion by Mr. Oresick and second motion by Mr. Bechtold to **RECOMMEND APPROVAL WITH CORRECTIONS DISCUSSED**; 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 are reflected in the minutes. The November 8 meeting Minutes will be looked at and discussed at the February 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.

Comments from Supervisors.

Mr. Wiegand wants to hear comments from the Zoning Ordinance and Gas Wells regarding:

1. Setbacks
2. Zoning Districts R-1, R-2, R-3.
3. Waiver regarding setback – 1000’.

Mr. Wiegand will further comments to Ms. Moyta.

Old Business

The Zoning Ordinance is being revisited and will be on the agenda in a future Planning Commission Meeting. It will again go to the Supervisors, Planning Commission, County and Public hearing. Mr. Shook will be working on editing the Zoning Ordinance between now and the February Supervisor Meeting and then further along as needed.

New Business

There was no new business.

Public Comment 3 Minutes Maximum was Permitted

1. **Victoria Austin of 19 Hemlock St.** passed out a handout regarding the water and the proposed Gas Wells. She says that residents are being approached by Olympus to purchase the ability to run surface water lines across their property for \$500 + \$1.00 for every lineal foot of line. Ms. Austin feels that Olympus is not acting in good faith. *The entire transcript of Ms. Austin’s comments is attached.*

Mr. Hollibaugh asked Mr. Maltese if this was a violation against Olympus. Mr. Maltese said that he must excuse himself from Olympus related items but not gas wells in general. Mr. Maltese said that at the time of the Olympus application , the source of the water for fracking was not known. Also, water withdrawal is under the direction of the DEP. The quantity of water is key. Mr. Hollibaugh asked if the quantity was governed by the DEP. Mr. Stark asked if this water issue is in the purview of the Planning Commission or the DEP. Mr. Oresick sees that there could be a difference between the DEP or a violation that Code Enforcement can see. How is compliance in this issue enforced ?

2. **Jack Rearick of 37 Corbriwood Lane** will email his comments to Ms. Moyta this week. His concerns are with setbacks and safety. He says that the PA MPC (Municipalities Planning Code) says that the public will be protected with a margin of safety. He feels that the minimum setback to the wells should be 1000’; please take the Zoning Ordinance back to 1000’. Regarding water extraction, Olympus never said anything about removing water from creeks to use for fracking. He said that Olympus spoke about using water lines from Oakmont Water Authority. Mr. Rearick was also concerned about how enforcement will be handled with the Gas Well construction and extraction. He said

to consider adding enforcement and penalties to the Zoning Ordinance. Mr. Rearick said that the double standards are illegal against PA State law.

Mr. Hollibaugh asked if roads were included in the 33 conditions that were given to Olympus.

Mr. Shook said that it was included in Findings of Fact and Conclusions.

3. **Yvonne Hutchinson of 425 Bairdford Rd.** passed out a handout regarding the water and the proposed Gas Wells. She read the comments. *The entire transcript of Ms. Hutchinson's comments is attached.*
4. **Mary Kay Kalivoda of 702 Crystal Ct.** passed out a handout. She said that there are a lot of problems surrounding waivers and PA environmental rights to clean air and water. A neighbor or landowner cannot waive your rights to clean air and water; this provision in the Zoning Ordinance appears to be slanted. Only the Zoning Hearing Board can waive rights in West Deer Township. *The entire transcript of Ms. Kalivoda's comments is attached.*
5. **Dave Kalivoda of 702 Crystal Ct.** passed out a handout explaining how he feels that the Zoning ordinance is not ready for primetime. *The entire transcript of Mr. Kalivoda's comments is attached.*
6. **Paul Mitsch of 1248 Nicklaus Way** asked if the Planning Commission was going to read the comments from the Supervisors regarding the Zoning Ordinance. Mr. Stark said yes. Mr. Mitsch pointed out several areas of concern and confusion in the Zoning Ordinance to include: Article 4, P 12: Meaning of Words to include injection wells, page 26, Oil and Gas Development; the Well site – including stimulation by explosives. Mr. Mitsch said that this is beyond belief - who is going to approve explosives ? Mr. Mitsch asked who reviewed this Zoning Ordinance ? Mr. Stark answered EPD. (Environmental Planning and Design)
7. **Bob McCaughan of 936 Copper Creek Trail** said that there are at least 2 places in the Zoning Ordinance where the word Borough appears in lieu of the correct word Township. He said that it looks like a lot of cut and paste with no proof reading. This speaks to a bigger picture opening the Township up to lawsuits. The entire document needs more attention to detail and proof reading.
8. **Lindsay Lewetag of 17 Fir St.** said that she received a letter from Olympus Energy about several things regarding the Gas Wells. She has 5 children and is concerned about safety. Mr. Stark said that she should reach out to her attorney.

Comments/ discussion By PC Members/ Staff/ Others

1. Mr. Hollibaugh said to Ms. Hutchinson that the Planning Commission will be reviewing the handout. He is concerned with transparency and advises attending the Supervisor's meeting.
2. Mr. Harrison said that the gas wells regularly use monitored explosives for drilling. No vibrations are felt as they are down 8000' and use smaller explosives. As well, the explosives are well below the abandoned coal mines.
3. Mr. Stark said that explosives are monitored by the DEP.

4. Mr. Harrison said that more explosives are currently being used on Cedar Ridge Road for the new Ridgewood Heights housing plan than will be used at the gas wells.
5. Mr. Hollibaugh asked about setback waivers – how will they be handled ?
6. Mr. Harrison said that you would need to get waivers from every resident along the street or road for the waiver to pass. (Mr. Rearick said that it would be inappropriate to create waivers for Oil and Gas and not others.)
7. Mr. Hollibaugh said that after the Zoning Ordinance left the Planning Commission's hands, they cannot be responsible for the changes and errors that were made by the Supervisor's or other entities.
8. Mr. Banks said that the Planning Commission has been working on the Zoning Ordinance for 3 years; he is sorry about the typos. He asked why more people weren't more passionate about this 3 years ago.
9. Mr. Hollibaugh said that it would be a better Zoning Ordinance with more community involvement.
10. Mr. Stark said that people should point out the typos. Mr. Shook will be working to update the Zoning Ordinance going forward.
11. Mr. Mitsch wants to review what the Court Reporter transcripts from the Tyche Public Hearing and Zoning Ordinance Public Hearing.
12. Mr. Harrison asked how many gas wells will be drilled in the Township. Mr. Stark said that Olympus wouldn't answer that question. Mr. Banks had previously asked for an overall comprehensive plan of how all the wells, interconnect, compressor, and pipelines were connected.
13. Mr. Harrison said that in his opinion, he advised residents to get their water tested if they received a letter.
14. Mr. Hollibaugh said that Olympus wanted the water to be tested to have a baseline for future comparison.
15. Mr. Stark would like to have further discussion on the Indiana and West Deer Townships Joint Comprehensive Plan 2010. He said that the Zoning Ordinance is both responsive and connected to the Indiana and West Deer Townships Comprehensive Plan 2010..
16. Mr. Shook said that there's a lot of overlap between the Zoning Ordinance and the Comprehensive plan. Also, there's little appetite from Indiana Township at this time to revisit the Indiana and West Deer Townships Joint Comprehensive Plan 2010.

Adjournment

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

The February Planning Commission meeting will be held on February 22, 2024. The meeting time and agenda will be posted on the web site.

It has come to my attention that area landowners are being approached by Olympus and their agents and asked to sign a 1-year contract to run above ground water lines or hoses across their properties, to supply water from our creeks to proposed wells. One resident was presented with a 1-year contract for \$500 + \$10 per linear foot. This person was told "We'll be taking water from several creeks around here".

The oil & gas development definition 210-6 (167) in our ordinance includes "TRANSPORTATION OF WATER USED FOR SUCH ACTIVITIES"

The Gas & Oil portion of our ordinance, section 18.e.1.g:

e) Conditional Use Application:

1) The applicant shall provide to the Township at the time of submitting its Conditional Use application:

g. A narrative and map describing the manner and routes for the transportation, delivery and removal of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the Oil or Gas Well Site.

m. shall submit.....a narrative describing the environmental impacts of the proposed project on the site and surrounding land and measures proposed to protect or mitigate such impacts.

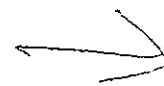
u. The site plan shall be prepared by an engineer licensed in Pennsylvania and include but limited to the following:

4. Location(s) of water line(s).

3) Any modification to an existing and approved Oil or Gas Well Site that materially alters the size, location, number of wells or accessory equipment or structures, or any modification to an existing Natural Gas Compressor Station, Natural Gas Processing Plant, Interconnect, Natural Gas Dehydration Facility or equivalent facility and use shall require a modification of the Conditional Use application required under this Ordinance.

The definition of oil and gas development in our ordinance, 210-6 (167):

The well site preparation, construction, drilling, redrilling, hydraulic fracturing, non-hydraulic fracturing (including stimulation by explosives), and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary.



At NO point in our hearings were local waterways mentioned as a source of water for the wells. These wells can use 1.2 million gallons of water for completion, and 3.5 million gallons of water for fracturing. If this water is extracted from our waterways, it could cripple the delicate ecosystem, with temporary, permanent and cumulative negative impacts. Our waterways include several protected and imperiled species. Our wetlands are subject to regulation, this may be a concern under section 404 of the Clean Water Act, and also the Fish & Boat Commission.

Withdrawal of fresh water would require large and noisy diesel transfer pumps, and personnel to tend to these pumps. Where will their pumps be located? What is their decibel level? Will they run 24/7? How often and how many workers will be tending the pumps? How many gallons will be extracted?

The Olympus plan to utilize our fresh water creeks and streams is a modification of their conditional use.

I request that West Deer government require Olympus / Hyperion to immediately cease and desist all actions including contract activity pertaining to freshwater extraction.

This land use and water transport must be submitted for public notice, with full transparency as required.

Failing to do so is a clear violation of township ordinances.

01/25/2024

Victoria Austin

ZONING MEETING – JANUARY 17, 2024 and
PLANNING MEETING – JANUARY 25, 2024
Comments of Yvonne and Robert Hutchinson

Fracking releases methane, benzene, formaldehyde, and nitrogen oxides, none of which is beneficial to one's health or general welfare. The very first article of the new zoning regulations states:

[Article I, p. 9 (p. 1)] § 210-1 GRANT OF POWER Pursuant to the authority contained in the Pennsylvania Municipalities Planning Code, Act 247, as reenacted and amended, and for the purpose of promoting health, safety, morals or the general welfare, the Board of Supervisors of West Deer Township are hereby empowered

By the admission of Olympus at the Leto hearings, fracking will put approximately 1,084 trucks per day, 24 hours a day, seven days a week, per well during active fracking periods. In what way will allowing fracking "lessen congestion on the road and highways"? In what manner will clogged and unpassable roads "secure safety from panic and other danger."?

West Deer Fire Department #3 has a new building at the intersection of Oak Rd. and Rte. 910. With the Leto and Tyche well pads each producing over 1,000 trucks per day, how do you propose firefighters reach the station and get the firetrucks out? How will fracking trucks in each direction and an ambulance or fire truck manage to pass on Oak Rd. or Bairdford Rd. near the Tyche well?

You are placing our safety on the testimony of Olympus's "expert" who mapped out our roads on a video game rather than driving the roads and observing how little room for error actually exists.

Bairdford and Oak Rds. and Rte. 910 will not be able to sustain the damage from the constant truck traffic. You are in effect subsidizing Olympus for the use of our County roads and placing the burden for repair on the backs of Allegheny County taxpayers.

[Article II, p. 10 (p. 2)] § 210-4 PURPOSE AND OBJECTIVES The Board of Supervisors of West Deer Township, County of Allegheny, and Commonwealth of Pennsylvania, do ordain that: A. Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion on roads and highways; to secure safety from panic and other danger; to promote health and the general welfare to avoid undue congestion of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements. It

is not the intent of this Ordinance to restrict, control or place hardship upon the continued agricultural use of land within its area or jurisdiction and control.

7. Transportation To supply a circulation system that provides safe and convenient movement of people and goods, with the least possible infringement upon other values.

The regulations on shallow wells will allow injecting brine and wastewater into the ground. That would allow any fracker to seriously cut expenses for waste that would not have to be hauled away or remediated. Would that allow local auto repair shops to just bury old oil in the ground rather than pay to have it hauled away and remediated. Would that allow the tire companies to just set up a burn pit for old tires. The regulations on one industry should not be more favorable than on other industries.

[Article IV, p. 13 (p. 5)] § 210-7 MEANING OF WORDS Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated:

[Article IV, p. 32 (p. 24)] 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 or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.

Why are constraints more stringent for me than for frackers. The Township is allowing frackers in a residential neighborhood.

[Article IV, p. 27 (p. 18)] HOME BASED BUSINESS, LOW IMPACT – A business administered or conducted as an accessory use clearly secondary to the use as a residential dwelling. The business must satisfy the following requirements: (A) The business shall be compatible with the residential use of the lot and surrounding residential uses. (B) There shall not be more than 2 customers, clients, or patients at any given time on the premise. (C) All customer parking shall be contained on business owner's property. (D) All signage must comply with the sign provisions for residential districts contained within the Zoning Ordinance. (E) The business shall not involve hazardous materials or processes, or create offensive or objectionable noise, vibration, odors, heat, dirt, or electrical disturbance perceptible by the average person beyond the lot line or party walls of a multi-unit building. (F) All storage, service, repair, handling or transport of goods or equipment must be in an enclosed structure that is compatible with the surrounding structures. (G) The business may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood. (H) All equipment and work vehicles must be screened with appropriate screening. (I) The business portion of the land shall not exceed 49% of the total area of the lot. (J) Hours of operations shall be limited to 8am-7pm. (K) The township may attach additional conditions pursuant to this section, in order to protect the public's health, safety, and welfare. These conditions may include but are not limited to increased setbacks.

I cannot believe this would be allowed in a residential neighborhood.

Even when you drive through a blasting zone during highway construction, they require two-way radios and the like to be turned off to decrease the likelihood of premature detonation.

[Article IV, p. 34 (p. 26)] OIL AND GAS DEVELOPMENT or DEVELOPMENT- The well site preparation, construction, drilling, redrilling, hydraulic fracturing, non-hydraulic fracturing (**including stimulation by explosives**), and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas. The definition does not include natural gas compressor stations and Natural Gas Processing Plants or facilities performing the equivalent functions.

Newspapers no longer reach many people at all. This needs to be updated to reach the maximum number of people in our township.

The dinky little signs posted to let us know about the fracking meetings had lettering so small and were in places where I felt unsafe pulling over and walking over to read them. You can and should do better than that.

[Article IV, p. 37 (p.29)] 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

18. Gas and Oil Production

1) Classifications:

1) A Deep Well Site which would be placed more than Six Hundred and Fifty (650) feet from any existing principal structure and One Thousand (1000) feet 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 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 (emphasis supplied).

The planning commission should be aware of PA Environmental Rights Amendment to the PA Constitution, Section 27- gives the people right to clean air, pure water, etc. The Commonwealth is a trustee of these rights. In Robinson Township V. Commonwealth, 83 A.3d 901 (2013). The PA Supreme Court was asked to review PA Act 13. The Court looked beyond the charade of adopting the law for “environmental” purposes. The Court held that the purpose of Act 13 was “to provide a maximally favorable environment for industry operators to exploit Pennsylvania’s oil and gas natural resources . . .”, not to protect the environment. The court made the constitutional obligation binding on all government, state and local.

*Our proposed conditional use ordinance is attempting to provide a maximally favorable environment for industry operators by establishing a special rule, a double standard, for gas and oil to the exclusion of any other resident or businesses. <https://www.attorneygeneral.gov/taking-action/43rd-statewide-grand-jury-finds-pennsylvania-failed-to-protect-citizens-during-fracking-boom/>. After setting an appropriate objective safety standard of 1,000 from an existing residence or business, the code would then permit an arbitrary waiver by ordinary private adjoining landowner, something that is in the jurisdiction of the Zoning Hearing Board. Nowhere else in the Code is a waiver permitted by a private citizen. This is a double standard. The new code does not define which landowners. What happens if two landowners waive their rights, and another does not? How can a West Deer resident know definitively if the 1,000 foot setback will apply to them?

*Further, if it is the right of a homeowner to keep gas development at least 1,000 from their home, public policy requires that no individual neighbor should be able to waive that landowner’s rights. This is arbitrary and capricious. This is the Township’s failure to restrain the actions of private parties, prohibited under the Robinson Township case.

*How close is too close for a deep well setback? A recent University of Pittsburgh School of Public Health (2023) study shows that children living up to one mile from a fracking well are five to seven times more likely to develop lymphoma than children living five miles from the well. Another study found that people with asthma had a 4 to 5 times greater chance of having an asthma attack if they lived within 10 miles of an active unconventional well.

see https://paenv.pitt.edu/assets/Report_Asthma_outcomes_revised_2023_July.pdf and https://paenv.pitt.edu/assets/Report_Asthma_outcomes_revised_2023_July.pdf

the PA Attorney General Fracking Study of 2020 recommended a 2500 foot setback from a deep well site and a Penn State University study concluded that a 500’ minimum is not enough

<https://www.attorneygeneral.gov/wp-content/uploads/2020/06/FINAL-fracking-report-w.responses-with-page-number-V2.pdf>

https://etda.libraries.psu.edu/files/final_submissions/19816

** Pursuant to Section 18 ((1)(a) on page 158, a Deep Well Site may be permitted as a conditional use in the R, R-1, R-2, R-3 and I zoning districts, in all districts but Residential Estate (RE). Does that mean that owners of larger parcels, as RE parcels are defined, affluent owners are afforded protection, but other residential residents are not? Is this setting up a special set of rules for the RE areas?

**According to the chart on page 42, the township is permitting oil and gas development in 10 of 11 districts. Robinson Township stands for the proposition that "drill everywhere" rules are unconstitutional. If the township is establishing a special set of rules for oil and gas, that could be an unconstitutional rule. Oil and Gas is the only industry permitted in non-industrial areas. Are we setting up the township for expensive future litigation?

** This proposed ordinance is not ready for prime time:

1. The entire end section looks as though it was lifted from another localities' ordinance.
2. The documents defines Deep Well Site on page 12 as follows:
DEEP WELL SITE- The areas occupied by the facilities, structures, materials and equipment, whether temporary or permanent, necessary for or incidental to the preparation, construction, drilling, fracturing, production or operation of a Deep Well. This definition also includes any exploratory wells but excludes well pad access roads. If multiple areas are used, then the total combined areas shall be considered the Deep Well Site area.
*** This definition should include all possible components of a Deep Well Site and require that they be included any application. It should also require that if an applicant fails to include any component in its application, that it will be precluded from any further application for that component at a later time. Each component must individually comply with the setback requirements.
3. Page 176 requires testing of water at a distance of 1,000'. Page 163 requires testing within three- thousand (3,000) feet of any Oil and Gas Well Site with different criteria.
4. Page 174 refers to the township as a Borough.
5. The proposed ordinance has various lists of oil and gas components, but such are not standardized.
6. There are various things that an oil and gas company "SHALL" do. There are not consequences if the applicant fails to do what is required.

I'm speaking against this zoning ordinance as it is not yet ready to be adopted for the following reasons.

1. According to the chart on page 42, the draft ordinance allows gas and oil production in 10 of 11 districts.

Does the township intend that this draft ordinance establish a “special set of rules/allowances” for oil and gas production? This was ruled unconstitutional by the PA Supreme Court in the Robinson Township case. Is the Township playing favorites?

2. While in this chart Gas and Oil Production is permitted in 10 of 11 districts, the following activities are allowed as follows:
apartments – 4 districts, medical offices – 4 districts, day care centers – 4 districts, libraries – 3 districts, post offices – 3 districts, places of worship – 9 districts, Heavy manufacturing - 1 district, light manufacturing – 2 districts.

The Township is permitting gas and oil production in more places than it would permit a place of worship (p.43). The township is permitting gas and oil production in 9 more districts than heavy manufacturing, and manufacturing would have far less traffic and less environmental risks, and could employ more local residents over a longer period than gas and oil.

Deep well sites are permitted in more residential districts than apartments and duplexes, day care homes, and group care centers, all of which present less traffic and environmental risks than gas and oil.

The Township is limiting some of the for-profit operations to just a few zoning districts, in comparison to the for-profit oil and gas production which the township allows in all but one zoning district. This is a double standard.

3. Parking areas are permitted in only in 5 non-residential districts, parking is permitted in residential areas for oil and gas operations only (page 43). In so many ways, the Township is playing favorites on behalf of Oil and Gas Production, which it favors over other allowed uses in districts.
4. Page 175 (m) (5), Surface and Ground Water section , requires the well operator at its expense to test the effluent of all water wells and water sources used by any residence or business within one thousand (1,000) feet of any Oil and Gas Well Site. This is inconsistent with proposed Conditional Use Application requirement in section (e) (1) q. (page 163.), which requires the well operator, at well operator's expense, to test the effluent of all water wells, developed springs and surface waters used by any residence or business within three- thousand (3,000) feet of any Oil and Gas Well Site. Also, the stated criteria are different from the application section.
5. Page 174 (k), the Insurance section, mistakenly refers to a “Borough.” This word should be changed to Township.