TOWNSHIP OF INDIANA

PLANNING COMMISSION

AUGUST 22, 2018

A regular meeting of the Indiana Township Planning Commission was called to order at 6:00 p.m. by Chairman Thomas Ceponis with the Pledge of Allegiance. The meeting was recorded on an audio cassette.

The roll was called and Planning Commission members present were Thomas Ceponis, David Geahry, Pat Miller, and Michael Rouggie. Cecil Tranquill did not attend. Also in attendance were Code Enforcement Officer Jeffrey S. Curti, Recording Secretary Jacquelyn Rouggie, Engineer Robert Herring, P.E./Project Manager from Nichols and Slagle Engineering, and Solicitor Katherine Janocsko with Tucker Arensberg.

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REGULAR MEETING MINUTES OF JULY 25, 2018

Mr. Rouggie made a motion, seconded by Mr. Miller, to approve the July 25, 2018, Regular Meeting Minutes as presented. Motion carried unanimously.

DEVELOPMENT PROPOSALS

DIAMOND MULCH - SITE PLAN

Commission Members were presented with a site plan consisting of a new building, asphalt parking lot, and detention basin on an existing vacant lot. The property is located south of McClellan Road, approximately 0.2 miles east of the intersection with State Route 910. The property is zoned "LI" Light Industrial. Jim Echard, President of BAI Group, Inc., was present to represent the applicant Diamond Mulch, Inc.

Mr. Echard stated he was not the individual from BAI Group that drew the plans; Engineer Kevin Clark from BAI Group did. Mr. Echard said Diamond Mulch would like to add onto their existing wood mulching business. He said the new building will be used for a staging area, provide space to work on equipment, extra storage area, etc. He said Chapter 105 of the Permit with the DEP requires them to have the Township review their plans first due to issues since the property is located in a flood plain. Mr. Herring stated a representative of the DEP has contacted them, and provided them with a new "Stormwater Consistency Letter". He asked Mr. Echard if they were ready to address the DEP's concerns in the letter; Mr. Echard said they are reviewing the concerns.

Mr. Echard said he was not familiar with the plan. He stated they simply wanted to be sure someone from BAI group was present at the meeting to represent the applicant. Mr. Herring said the Township Engineer prepared a review letter, which was dated August 16, 2018. Mr. Herring briefly went over the items in the letter for the Planning Commission so they would be familiar with what will be presented for the Site Plan in the future.

Mr. Curti asked what will be the main use of the building. Mr. Echard stated that to his knowledge will be an extra building which Diamond will use to add onto their existing business.

Mr. Herring said the Township Engineers have also put together a Stormwater Management Plan review letter, as well as a Floodplain Management review letter for the applicant. Mr. Herring stated Floodplain Management review letters are rarely done; they are only done for properties that are in a Zone A Floodplain area. Mr. Herring said the applicants are required to have a Hydrology & Hydraulics (H&H) Study done.

Ed Banks, who is a fireman with the Dorseyville VFD, said it appears as if the building may be used to store flammable materials. He asked if there are any issues with not having a fire hydrant in close proximity. Mr. Herring said the applicant will be required to get a letter from the local Fire Chief that the proposed fire control is adequate. Mr. Herring said there are many items that still need to be addressed with the Site Plan. Mr. Echard agreed and said they would like to be tabled at this time so they may address the items as requested by the Engineers.

Mr. Geahry made a motion, seconded by Mr. Rouggie, recommending the DIAMOND MULCH - SITE PLAN be tabled based on the large number of unaddressed outstanding items in the Engineer's review letters dated August 16, 2018.

Motion carried unanimously.

RICHMONT ESTATES - PLANNED RESIDENTIAL DEVELOPMENT (PRD) - TENTATIVE APPROVAL (3rd/Revised Submittal)

Commission Members were once again presented with a revised tentative approval request for a development known as Richmont Estates. This PRD consists of the development of Parcel 726-L-322 (12.7 acres) and a majority of Parcel 726-L-312 (21.2 acres) into 53 lots. The PRD is comprised of 44 single-family houses and 9 townhouse structures (50 dwelling units), for a total of 94 dwelling units. The property is located off of Rich Hill Road, approximately 0.4 miles north of the intersection with Jacoby Road. The property is zoned "MDR" Medium Density Residential. Steven Victor, ASLA, with Victor-Wetzel Associates, was present to represent the applicant, Leslie Road Associates, LLC.

Mr. Victor showed a Power Point presentation of the proposed plan. He said the requested letter regarding the approval of the existing gas line relocation from Marley Ventures has been submitted to the Township. He said Range Resources also submitted a letter stating that they do not plan to do any future drilling on the site. Mr. Victor said the tree mitigation remains to be the biggest issue. He said to

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meet the Township Ordinance requirement, which is to plant 3 trees for every 1 that is removed, is impossible to meet. He showed on the plan where they would like to plant various street trees, buffer trees, and other plantings. He said a letter was submitted from James Edson, an ISA Board Certified Arborist with Bartlett Tree Experts, who did a review of the various types of existing trees and plantings that could be done. He described the findings of the Arborist. He said 120 shrubs and trees are proposed at the entrance into the plan for screening. Also, 40 more will be planted around the monument. Mr. Victor said it is obvious that due to roadways, sidewalks, detention basins, etc. needing to be built that it is impossible to meet the Township's 1-to-3 replacement ratio; there just is not enough room. The applicant is requesting a ***waiver*** on this density requirement, however they are proposing to replant a mixture of 2,257 trees, shrubs, seedlings, mature trees, etc. In order to get closer to the 2,254 required tree replacement, they are proposing about the same number of plantings but would like to vary the types. ***The Planning Commission members would like the Developer to increase the 191 street trees from 2 ½" to 3" and that the tree reforestation be increased by an additional 191 trees at 2 ½" cal. The remaining 931 reforestation trees shall be saplings.***

Mr. Herring said there was no need to review the Engineer's letter again from July 18, 2018 since it was already reviewed by the Planning Commission at their last meeting. Mr. Herring said for "tentative" approval, only three items remained outstanding. Mr. Herring said the Township would like to abide by the 3-to-1 replacement requirement, however he understands the hardship this creates within this plan. Mr. Herring said street trees cannot be counted as being replacement trees, which they are being used in their replacement count. Mr. Herring stated the Township requires seedlings to be 3" in caliper. The Developer is proposing using saplings that are only 3'-4' high, and 1/2" - 3/4" inch in diameter. Mr. Miller asked if any 3" caliper trees could be used for street trees. Mr. Geahry agreed some of the trees could be a bit larger. Commission Members discussed the various types and sizes of trees being proposed.

Mr. Curti said the Developer is requesting a ***waiver*** of the 125 degree requirement for the roadway; the Developer would like to have a 90 degree bend on the road. Mr. Curti asked if the Developer would consider extending the roadway in front of Lot 7f slightly further so it would not interfere with entrance/exit of the driveway. Mr. Victor said yes, that is not a problem to extend it.

Susan Solomon of 502 Kellingwood Drive, expressed that she feels a lot of trees in the area are hearty and that there are a wide variety of types. Mr. Ceponis said the arborist will ensure this remains in the plan. Mr. Victor agreed that a variety of hard and soft woods will be used. Linda Lusk of 420/421 McDade Lane, said she is concerned about the amount of trees being removed from the hillside. The Commission Members pointed out to her on the Power Point how they are not being

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removed in the area she is concerned about. Mr. Ceponis added that the Developer is putting in a lot of pipeline to move the water run-off away from the properties on McDade Lane. Mr. Victor showed her this and explained how the pipes will connect to the pipe on Jacoby Road and how swales are being created to reduce the water flow. Mr. Curti explained by doing this, there will be a lot less water issues in the area with it being diverted into the new storm drain. Jean McDade of 416 McDade Lane, asked what would happen if the Detention Basins fail to work correctly. Mr. Victor explained how they are designed and built to not fail, and said there are emergency measures in place in the event something would happen to cause them to not work properly. He said the Township will own and maintain the facilities. Mrs. McDade said in the nearby Forest View development, the Detention Basin failed and caused a big water issue. Mr. Victor asked who owns that Basin. Mr. Curti said the Developer has not turned it over to the Township yet. He also said the water issue was due to a breach in an underground pipe which separated, which the Township repaired. He said the water problem was not due to a default in the Detention Basin, and the Township Public Works Department are required to inspect and maintain the basins, and clear them of any debris if needed.

Mrs. Lusk asked if there was any review done regarding increased traffic. Mr. Victor said a Traffic Study was done and is available for inspection at the Township office. Mrs. Lusk asked if the intersection of Rich Hill Road and Route 910 was included. Mr. Herring said it was not because they are only required to do the study within a one-half mile radius of the entrance to the development. He added that the Study found no further enhancements are needed. Caleb Smith of 304 Rich Hill Road, asked if street lights are proposed within the plan. Mr. Victor said only at the entrance into the plan at this time. Mr. Herring reminded that the Developer is only seeking “tentative” approval of the plan tonight; a lot of items are taken care of during the “final” approval submittal, such as the lighting. Mr. Smith asked if there will be sidewalks on both sides of the streets. Mr. Victor said there will be, except at the entrance of the plan where the mailboxes will be clustered. Mr. Smith said he feels the Developer is proposing a better reforestation plan.

Rob Rivett of 310 Rich Hill Road, asked if the Developer got permission from the DEP or the County to dump water into the creek yet. Mr. Victor said a NPDES Permit is required, but this is not applied for until after tentative approval is received. Mr. Rivett said he contacted James Summer with the DEP, and he said neither the County or the DEP have contacted them about the plan. Mr. Rivett said he feels the grading issues are being exceeded by what the Township Ordinance states about slope allowances. He Victor said that nowhere in the plan is a 2-to-1 slope being exceeded, which is the maximum allowed by Ordinance. Mr. Rivett said some existing slopes already exceed the slope. Mr. Herring agreed, but stated there are not any new ones being created. However, the Ordinance does state that no more than 25% of slope areas with existing grades between 25-40% may be stripped of vegetation or disturbed. The Developer is requesting a ***waiver*** from this provision

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to a 33% disturbance area. Mr. Rivett asked if core samples have been done on the soil; he said there is a lot of clay in the area. Mr. Victor said yes, they have been done by a Geotechnical Engineer and the land was found suitable to build on. Mr. Ceponis explained the process further, and said usually Engineering studies are done as well. Mr. Rivett said he is very upset that the Developer keeps changing the plan, estimated home prices, etc. Mr. Ceponis explained that Mr. Victor is not the builder, so he only knows estimates on the home prices that the builders give him. Mr. Ceponis said it is not a requirement for the Developer to give the Planning Commission and residents the exact prices. Mr. Rivett continued that he had traffic, as well as many other concerns about the plan, including the fact that townhouses have been added. He said the initial plan was only to be single family dwellings.

Ken Wolfe of 347 Melody Lane, said the plan is now at 44 single family homes and 50 townhouses for a total of 94 homes. He asked why the Developer cannot reduce the number of homes being proposed, as he feels this is too many homes for the area. He also questioned why the nearby truck depot in Harmar was not taken into consideration as far as additional traffic. He said he has traffic concerns for the people living in the area who use Rich Hill Road to walk, and children riding and playing along the roadway. Mr. Ceponis asked if the Developer meets the Township's Zoning Ordinance requirements. Mr. Herring stated they do meet the requirements, and the Planning Commission cannot deny the plan just because the residents do not want the plan to be built. Mr. Wolfe asked if since the Township is granting waivers to the Developer, why the Developer can't concede and build less homes. Mr. Wolfe said he feels the Township's Board of Supervisors should have the authority to be able to force the Developer to build a smaller development. He also asked why the Developer is not staying within the ½ acre minimum lot size as stated in the Ordinance for this Zoning District. Mr. Curti explained that this plan is not a multi-subdivision; it is a PRD. The lot sizes for a PRD do not conform to the traditional sizes in a multi-subdivision. There are different restrictions for a PRD. Mr. Wolfe said he feels the people that already live in the area have lived there longer, and they should have the right to ask that the number of new residents be taken into consideration. Mr. Victor once again showed a picture of the PRD on his Power Point, and explained how they conform to what the Zoning Ordinance allows. He stated that according to the Ordinance the developer could build even more homes.

Karen Smith of 304 Rich Hill Road, asked what the consistency is of the buffer of trees. Mr. Victor said they vary in different areas throughout the plan. Mrs. Smith said the Township is a very wooded area, and feels the plan does not fit into the community. She also feels the number of homes should be reduced to allow for less trees being removed. Mr. Ceponis said he feels the number of trees in any development are reduced because homes, streets, etc. need to be built. He stated a plan of any size will cause a reduction in tree density, no matter what size home is built.

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David Gaggini of 354 Rich Hill Road, said he feels the Traffic Study should have included a larger area, even if it is not required. He said he feels the entire length of Rich Hill Road, from the plan to Route 910, should have been taken into consideration. He expressed concerns about the tree density being reduced and the types of trees proposed. He said he feels the plan could be changed to keep the area more wooded, or if not, then the Developer should be required to replant more trees elsewhere throughout the Township. He feels no waivers should be granted, and said he thought that nine (9) were being granted. Mr. Curti said the Developer has taken care of six of the original waivers, and they are now only asking for three. Mr. Ceponis clarified that one of the waivers is being done at the request of the Township to enhance the diversion of water away from McDade Lane. Mr. Herring said as for the 90 degree road bend waiver, this was an item that both the Planning Commission and the Board of Supervisors agreed upon.

The Commission Members discussed the issue regarding tree densities and types. They feel that the Developer should increase the 191 street trees from 2 ½" to 3" and that the tree reforestation be increased by an additional 191 trees at a 2 ½" caliper. The remaining 931 reforestation trees should be saplings.

Mr. Geahry made a motion, seconded by Mr. Rouggie, recommending the RICHMONT ESTATES - PRD - TENTATIVE APPROVAL (3rd/Revised submittal) be approved, based on the items in the Engineer's review letters dated July 18 and 19, 2018 mostly being addressed for the Developer's TENTATIVE approval. Furthermore, that the Developer provide the tree calipers as recommended by the Planning Commission. The following conditions are to be part of their recommendation:

1. ***The PC members would like the developer to increase the 191 street trees from 2 ½" to 3", and that the tree reforestation be increased by an additional 191 trees at 2 ½" cal. The remaining 931 reforestation trees shall be saplings***
2. ***No more than 25% of slope areas with existing grades between 25-40% shall be stripped of vegetation or disturbed. The Applicant is requesting a <u>waiver</u> from this provision to a 33% disturbance area.***
3. ***A 90 degree intersection is only permitted at the junction of public streets. The roadway layout be redesigned to consolidate the two roadways and provide a minimum 125' horizontal radius for cul-de-sac streets. The Township Engineer would like them to consider their original loop and swoop layout they originally submitted. The Applicant is requesting a <u>waiver</u> of the horizontal radius requirements by providing a 90-degree bend.***

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4. The required replacement of trees being removed and replanted. The applicant is requesting a <u>waiver</u> on the required density of the tree replacement. The Ordinance requires for every tree removed, that three be replanted.

Motion carried unanimously.

OIL & GAS ORDINANCE CHANGE CONSIDERATIONS

Ms. Janocsko said she understands oil and gas operations are a hot topic recently in the Township since Range Resources began their Marcellus Shale project. She said she understands residents have expressed an interest in changes being made to the Township's existing Oil & Gas Ordinance #371, which was passed in 2013. She said oil and gas wells are currently permitted as a Conditional Use in all Zoning Districts except the "VR - Village Residential" and "TR - Trailer Residential". She stated she understands the Ordinance was updated due to changes at that time to the State's Act 13 Oil and Gas Regulations. Ms. Janocsko briefly summarized Act 13, stating it puts limitations on what municipalities are permitted to enact on well operations. She said since the Township Ordinance was passed, the Supreme Court ruled that municipalities are now allowed to put more regulations on oil and gas drilling. Ms. Janocsko read an excerpt from the Supreme Court's June 2018 decision in Gorsline v. Bd. of Sup. of Fairfield Twp., where the Court held that regulation of oil and gas operations is a local issue that must be tailored to local conditions.

She said at the last Board of Supervisor's meeting, the Board was given a copy of the Borough of Churchill's Ordinance, and the Board suggested it be used as a model to update the Township's Ordinance.

Mr. Ceponis said Commission Members were given a copy of Churchill's Ordinance prior to tonight's meeting to review and suggest any changes they feel deemed necessary. Mr. Ceponis said he feels Churchill's Ordinance is good to use as a "model" for Indiana's updated Ordinance. He suggested it is more detailed. Ms. Janocsko said Churchill's Ordinance was passed in 2016. She said she attended the Meeting tonight to address any specific questions anyone may have about starting the procedure to amend Indiana Township's Ordinance.

Susan Solomon of 502 Kellingwood Drive, said she is concerned about how close fracking is allowed to be near schools and agrees that well drilling should not be permitted in the densely populated "VR" and "TR" zoning districts. She said drilling should only be permitted in industrial zoned districts. Vanessa Lynch of 3726 Saxonburg Boulevard, agreed with Ms. Solomon, and added she thought the Planning Commission was supposed to instruct the Board of Supervisors as to what changes should made at tonight's meeting. Mr. Curti said the Board of Supervisors will appoint a special "in-house" Board to discuss the two Ordinances, compile a

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"draft" of a new Oil & Gas Ordinance, and then present it to the Planning Commission again for their comments. After that, a Public Hearing will be held for public comment/suggestions. Mr. Curti said a copy of Churchill's Ordinance was given to the Township to review as a potential "model" for the Township to use by Mrs. Lynch. Mrs. Lynch said she hopes to protect residential areas.

Ed Banks of 3697 Saxonburg Boulevard, asked if they could be given an overview of the differences between Indiana Township's Ordinance vs. Churchill's. Ms. Janocsko summarized the many differences. She said Churchill's Ordinance is much tighter than Indiana Township's since it is more current. She said since the Township's Ordinance was drafted back in 2013, the Township could only do what was permitted by Act 13 at that time. She said Churchill's addresses a lot more items, such as procedures to follow, traffic issues, noise concerns, DEP guidelines, etc. Mr. Banks questioned Act 13. Ms. Janocsko said the Township needs to pass an Ordinance to regulate items as per Act 13. Mr. Rouggie asked if Act 13 can overrun the Township's Ordinance as to what is permitted. Ms. Janocsko said no, due a ruling from the Supreme Court.

Joan Congdon of 27 Crest Drive, asked if a moratorium could be put in place until the new Township Ordinance is passed to stop oil and gas drilling companies from trying to apply for Permits before the Ordinance is in place. Mr. Curti said he has not received any information of any new applications for drilling operations. Mr. Herring said if an application comes in the Township has to accept it. Ms. Janocsko said the Township always has the right to discuss a plan with an applicant, should a new request to drill come in during that time frame. Even though an official "draft" may not be in place, the applicant can be asked to make changes. Elyssa Weiss of 134 Dennis Drive, asked if a "Pending Ordinance Doctrine" could be applied and an applicant be told their submission must be considered pending until the new Ordinance is passed. Ms. Janocsko said once again, a new applicant could be asked to comply with the provisions in the "model" Ordinance until one is officially adopted. Ms. Weiss asked about timeline restrictions and feels a Doctrine should be put in place immediately, and stated she also has legal concerns. Mr. Curti said he can discuss all of this with the Township Solicitors. He said the Ordinance is simply intended to "better the community". Ms. Janocsko asked if Ms. Weiss heard of someone planning to come in with a well or drilling application. Ms. Weiss stated she has not. Ms. Weiss asked if there is a provision in the M.P.C. that could be followed; Ms. Janocsko said no. Mr. Curti said all resident concerns can be considered if a new application is submitted.

Karen Knutson of 6 Edgehill Drive, also questioned if the "Pending Ordinance Doctrine" process could be initiated. Ms. Janocsko said that is currently being discussed. Ms. Knutson asked why the Township cannot simply accept Churchill's Ordinance at tonight's Planning Commission meeting. Mr. Curti said Churchill's Ordinance needs to be amended so it conforms to the needs of Indiana Township and furthermore comments need to be considered. Mr. Rouggie asked if the

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Planning Commission is being asked to make changes or just make recommendations to changes made. He said he personally does not feel qualified to officially make changes to the Ordinance. Mr. Curti agreed. He said that is why an "in-house" Board needs to meet and "draft" an Ordinance for consideration of adoption. Mrs. Lynch asked why the Planning Commission cannot vote tonight to initiate a "Pending Ordinance Doctrine" immediately. Mr. Ceponis told her the Planning Commission is a recommending body only; they cannot officially vote to adopt anything. Mrs. Lynch asked if a new Permit is applied for between the time of the new Ordinance being adopted, if the Applicant would follow the Ordinance currently in place. Mr. Curti said yes. Katherine Maiehoefer of 121 Black Oak Drive, asked why the possibility of "grand-fathering" cannot be used. She said Range Resources well site was approved two years ago, but wonders why they can't be told they need to change their current plan to be in accordance with what will possibly be in place. Ms. Maiehoefer said she is disappointed that Range Resources can proceed with their current plan as it was approved. Mr. Curti said they followed the Ordinance that was in place at that time.

A resident from Black Oak Drive questioned why the Cove Run Road spur was not completed prior to the start of Range Resources drilling. Mr. Curti said this is not an issue being discussed tonight. Mr. Banks asked if oil and gas operations are covered by eminent domain. Ms. Janocsko said they are not; eminent domain does not apply, and oil and gas operators must purchase or lease the land that they plan to use."

Mr. Ceponis made a motion, seconded by Mr. Miller, recommending the Board of Supervisors proceed with the process to open the Township's Existing Oil and Gas Ordinance #371 for changes/modifications, and to also use the Borough of Churchill's Ordinance as a "model" during the process.

Motion carried unanimously.

Ms. Janocsko reminded the Planning Commission is a recommending body only and are just suggesting the Board of Supervisors start the process of amending the current Ordinance.

CORRESPONDENCE:

LETTER OF RECOMMENDATION

Each Commission Member received a copy of the Planning Commission's Letter of Recommendation sent to the Board of Supervisors, which was written as a result of the Commission's July 25, 2018 regular meeting.

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ADJOURNMENT

Mr. Rouggie made a motion, seconded by Mr. Geahry, to adjourn the August 22, 2018, Planning Commission Regular Meeting. Motion carried unanimously.

The meeting was adjourned at 8:10 p.m.

Jacquelyn A. Rouggie, Recording Secretary

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