

TOWN OF RIB MOUNTAIN
PLANNING COMMISSION MEETING
May 14th, 2014

Chairman Tom Muellner called the meeting of the Planning Commission to order at 7:00 p.m. Members present included Lee Benes, Jim Hampton, Christine Nykiel and Tom Steele. Also present were Zoning Administrator Dan Dziadosz and Assistant Zoning Administrator Jeff Kussow. Laura McGucken was excused and Kevin Mataczynski was absent.

MINUTES:

Motion by Tom Steele to approve the April 23rd, 2014 regular planning commission meeting minutes. Seconded by Jim Hampton. Motion carried 5-0.

PUBLIC HEARINGS: **NONE**

CERTIFIED SURVEY MAP APPROVALS: **NONE**

NEW BUSINESS: **NONE**

- a) *Donald & Nancy Hall Zoning Map Amendment Pre-Application Discussion for part of the property addressed 6300 Laurel Road to be rezoned from Estate Residential-1 (ER-1) to Countryside Residential-5ac (CR-5ac); Parcel # 34.202807.001.000.00.00; PC Docket # 2014-09*

Mr. Kussow explained that this item was a preliminary discussion for a proposed rezoning of part of the property addressed 6300 Laurel Road to be rezoned from Estate Residential-1 (ER-1) to Countryside Residential-5ac (CR-5ac), for the purpose of constructing a single family house with an outdoor wood burning unit and the keeping of a few livestock animals as husbandry, low density. Mr. Kussow explained that outdoor wood burning units are not permitted within the property's current zoning, but is a conditional use in a CR-5ac zoning district. He also explained that husbandry, low density is permitted within the property's current zoning and the proposed new zoning through conditional use. He reminded the Planning Commission that they had recommended at the 4-23-14 meeting to restrict husbandry and the keeping of animals in ER-1 & CR-5ac zoning districts through a zoning text amendment. Mr. Kussow explained the maps included within the agenda packet which outlined the proposed area to be rezoned, showed surrounding zoning with acreages of the surrounding parcels in the area, and showed an aerial view of the general area.

Donald and Nancy Hall explained their proposal and plans for the property if the rezoning was approved. They stated that they would like to build a house with an outdoor wood burning unit and raise a few cattle as pets. He explained further how the property is owned and the potential future subdivisions of the property between him and his brother. He explained that some of the neighbors around the subject property already have wood burning units.

Tom Muellner explained spot zoning and this issues it causes in community planning and development. He explained that when a rezoning is proposed, it is ideal to rezone properties that are contiguous with the same zoning as the proposed zoning. Mr. Dziadosz stated that the existing outdoor wood burning units were approved before the ordinance was changed to prohibit outdoor wood burning units in the ER-1 zoning district. He stated the purpose of

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changing the ordinance was due to neighbor conflicts with smoke constantly traveling to neighboring properties.

Don Hall questioned if the wood burner could be permitted if it were placed within an accessory building. Mr. Kussow stated that a detached energy system is any energy system that is not located within the primary structure, so it would still be held to the same standards.

The commission questioned and commented. Tom Steele agreed that spot zoning is not a sound planning practice when considering rezoning a property. Lee Benes also agreed.

Don Hall questioned why the greenhouse was permitted to have spot zoning for UDD. Dan Dzasdosz stated the UDD zoning may be used for residential uses. He stated a UDD would require a predominate public benefit, and the greenhouse public benefit was to relocated a business that was on Rib Mountain Drive, which was a poor and underutilized use for a property along Rib Mountain Drive and is technically classified as an agricultural use.

Chairman Muellner stated that he does not want to give a recommendation at this meeting and would like to discuss this further when the entire commission is present. He stated that he would like to table this item until the next meeting.

Christine Nykiel questioned if there are any special exceptions within the Town Zoning Code. Mr. Kussow stated that there are no special exceptions, but conditional use is the closest thing to a special exception within the zoning code.

Don Hall suggested an agreement that if the adjacent properties were subdivided and developed into one acre lots, the outdoor wood burning unit would be required to be removed. Mr. Kussow stated that another option would be to apply for a variance and explained the general variance procedure. Chairman Muellner explained the difficulties involved with a variance.

Jim Hampton stated that the commission should discuss husbandry on this property. Mr. Kussow explained that the current ordinance allows husbandry in this property's zoning through conditional use approval, but stated that the Plan Commission expressed that they would prefer the ordinance be changed to not allow husbandry in the current zoning district and the proposed CR-5ac district. Chairman Muellner stated that applying for a conditional use for husbandry before the code change is an option, but may be difficult. He stated that Plan Commission only gives a recommendation to Town Board, and Town Board can take the Plan Commission's recommendation or go against it.

Don Hall stated that the property is used for a pasture and questioned why he wouldn't be able to raise a few animals if he were to build a house. Mr. Kussow stated since he has been with the Town, he has never seen that property used as a pasture. Mr. Hall stated that the property is all fenced in pasture. He also stated that the property is taxed as pasture.

Chairman Muellner stated that this agenda item will be placed on the next agenda for discussion.

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- b) *Town Board recommendation for a Zoning Text Amendment to RMMC Sec. 17.056(3)(a) Passive Outdoor Public Recreational and Sec. 17.056(3)(b) – Active Outdoor Public Recreational; PC Docket #2014-04*

Chairman Muellner stated that the commission should not spend any more time on this item since the Planning Commission spent a considerable amount of time reviewing the ordinance, gave a recommendation to the Town Board, and Town Board decided to go a different direction. Mr. Kussow stated that no action is required. He explained that the commission could still give a recommendation for conditions such as requiring a 5 acre minimum. Dan Dziadosz stated that the positive thing about requiring a conditional use is that the surrounding properties will be noticed. Ms. Nykiel stated that 300 feet may not be a large enough area to notice. Mr. Dziadosz stated increasing the noticing area could be an additional condition recommendation. Mr. Dziadosz stated that these could be recommendations to Town Board when the item goes to public hearing. The commission questioned and commented on the purpose of the ordinance amendment and the uses that would be permitted.

John Beatty questioned Liberty Park and its non-conformity. He questioned if the commission is against changing the ordinance to make Liberty Park conforming. Ms. Nykiel stated that the issue is broader than permitting a single use at Liberty Park or making it conforming, where the issue is defining where active uses are permitted within the Town. Ms. Nykiel stated that the concern of the commission is permitting an active outdoor use that is in a residential neighborhood. The commission and Mr. Beatty discussed.

OLD BUSINESS: NONE

CORRESPONDENCE / QUESTIONS:

- a) *Planning Commission Re-Appointments*

Mr. Kussow explained that Planning Commission re-appointments were tabled until the next Town Board meeting.

- b) *Home Occupation Discussion***

Dan Dziadosz explained that there are a couple of properties with larger accessory buildings in the community, and that potential buyers of these properties are questioning the Town if the accessory buildings may be used for home occupations, such as artist studio, wood shop etc. He stated that the zoning code only permits home occupations to use 25% of the primary building and not accessory buildings. He questioned what the difference is if someone is running a home occupation out of their attached garage or basement vs. an accessory garage. The commission discussed existing home occupations within the Town. Jim Hampton questioned if the Town should permit the construction of an accessory building solely for the purpose of running a home occupation. Tom Muellner stated that he does not have an issue with approving a building for that purpose. Mr. Kussow questioned if the 25% maximum area restriction would also apply to the accessory building. Chairman Muellner stated applying that restriction would be reasonable.

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The commission questioned and commented. Mr. Hampton questioned if the Town would approve a primary house addition for the purpose of a home occupation. Chairman Muellner stated that he does not see an issue with that if it is legally approved. The commission questioned and commented. Mr. Kussow stated that he opposes this code modification to permit home occupations in accessory building because he feels this would turn a residential area into a mini-industrial/commercial area. He also expressed concern regarding enforcement since home occupations are permitted uses which do not require special approval by the Town or inspections. He stated that it is easy to control the 25% area restriction in a house since there needs to be living area, but it is more difficult to control this use in an accessory shed since the entire shed could ultimately be transformed into the home occupation use without the Town knowing. He stated that he does not see an imminent need and that neighboring communities do not allow home occupations in accessory buildings. Ms. Nykiel questioned why this has already been researched. Mr. Kussow stated that there are circumstances within the Town where this is an existing potential issue, such as Snap-On tool dealers. The commission questioned and commented. Chairman Muellner stated that this should be looked at for possible change and he believed that it can be effectively managed. Mr. Kussow suggested requiring a conditional use approval.

John Beatty questioned if someone would be able to run a gun dealership out of his house. Mr. Kussow stated that it would not be permitted. Mr. Beatty questioned if someone would be able to sell motors from his property. Mr. Kussow stated that there are only certain uses permitted as a home occupation and the proposed home occupation would need to be thoroughly reviewed by staff.

Mr. Kussow questioned if a commercial kitchen/bakery would be permitted as a home occupation. Chairman Muellner stated he is not comfortable with that use as a home occupation. Mr. Dziadosz explained a proposed licensed commercial kitchen to bottle food products. He stated that the individual is currently doing this out of an accessory building outside of Rib Mountain. He also explained that new homes are being built with commercial appliances. The commission suggested looking into an ordinance modification regarding allowing home occupations in accessory buildings.

ADJOURN:

Motion by Tom Steele and seconded by Christine Nykiel to adjourn. Motion Carried 5-0.
Meeting Adjourned at 8:23 p.m.

Respectfully Submitted,

Jeff Kussow, Assistant Zoning Administrator