TOWN OF RIB MOUNTAIN
PLANNING COMMISSION MEETING
February 26th, 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, Laura McGucken, Kevin Mataczynski, Christine Nykiel and Tom Steele. Also present was Zoning Administrator Dan Dziadosz, Assistant Zoning Administrator Jeff Kussow, Town Attorney Kevin Terry & Code Enforcement Officer Paul Hursh.

MINUTES:

Motion by Tom Steele to approve the February 12th, 2014 regular planning commission meeting minutes. Seconded by Lee Benes. Motion carried.

Chairman Muellner suggested taking the items on the agenda out of order and hear the proposal of item 6a first. No one objected.

NEW BUSINESS:

a) *Kocourek Properties LLC, requesting planning commission recommendation to approve a conditional use approval modification of the approved "Private Air Strip", specifically modifying condition #7 stating "maximum of five (5) round trip flights per week"; on the adjacent parcels to the south of 6300 Red Bud Road, 6703 South Mountain Road, 6709 South Mountain Road & 7001 South Mountain Road; Legally described as Pt of S ½ NE ¼ Sec. 19 T28N R7E - Lot 2 CSM Vol. 78 Pg. 23 (#16674) (Doc#1659074), & S ½ NW FRL ¼ Sec. 19 T28N R7E – N/D/A Lot 1 CSM Vol. 78 Pg. 23 (#16674) (Doc#1659074); Parcel #'s 34.192807.003.001.00.00 & 34.192807.008.000.00.00; PC Docket #2013-07*

Dan Dziadosz explained the staff memo outlining the proposal, the letter from the applicant's attorney (Attorney Shane VanderWaal), the original zoning approval letter, and Plan Commission minutes of the original public hearing for the private air strip.

Attorney Shane VanderWaal explained the proposal to remove item #7 of the conditional use approval. He explained that Mr. Kocourek acquired an additional 40 acres of land to the northeast, and shortened and rotated the proposed air strip to accommodate the approval conditions and neighborhood concerns.

Tom Radenz, REI Engineering, explained the layout of the runway and increased buffer between homes. He also explained the flight paths that occur entirely over Mr. Kocourek's property. He also explained the significant cost involved with the air strip. Mr. Radenz explained the difference from the original proposed air strip location to the new location to comply with Plan Commission conditions and neighbor concerns.

Jim Hampton stated that the discussions for moving the air strip and limiting the amount of flights was two separate discussions/issues. He stated that the reason for moving the air strip to the west was to create a better buffer between the homes and air strip, and limiting the amount of flights per week was to limit the activity and to avoid creating a more vibrant landing strip in the future. He stated that moving/rotating the air strip doesn't solve the flights per week issue.

Mr. Radenz stated that the intent of the air strip is to remain as a "hobby" air strip. He further explained the flight path, and mentioned comparisons of planes flying over Lake Wausau. Mr. VanderWaal stated both issues are combined for concerns to accommodate the neighbors in close proximity. He stated that moving/rotating the air strip addressed the issues presented at the public hearing.

Kevin Mataczynski stated that the two main issues brought up at the meeting were public safety and the second issue was potential nuisances, noise etc. He stated that moving and rotating the air strip accommodates the safety concern well, but does not accomplish limiting the amount of air plane use in the general area that may affect residents.

Shane VanderWaal stated that there are float planes that land on Lake Wausau without complaints to the Town. Mr. Mataczynski stated that the lake is a recreational area and Mr. Kocourek's air strip is in a residential/agricultural area. Keith Kocourek stated that there is a gravel pit owned by the Town of Wausau to the south of his property and air strip, and the biomass storage area is to the north of his property.

Mr. Hampton asked what is the issue with limiting flights to five per week. Mr. VanderWaal stated that after conversations with Town staff, the issues of not knowing exactly what five takeoffs and landings mean and enforcement make it a difficult policy to enforce. He stated that buying the additional 40 acres, moving/rotating the air strip, and removing the condition limiting the number of flights per week accommodate problems of enforcement. Mr. Kocourek stated that there is a lot of grey area with enforcement, specifically how flights are counted/enforced and how a week is defined.

Christine Nykiel questioned if the air strip has been used. Mr. VanderWaal stated that it has not been constructed yet due to the cost of construction and wants to make sure it is done right before it is built. Ms. Nykiel questioned why Mr. Kocourek needs to be allowed unlimited flights. Mr. Kocourek stated that he is not necessarily looking for unlimited flights, but hesitates to commit to five per week. Ms. Nykiel questioned if there was a number between 5 and unlimited that he would be comfortable with. Mr. Kocourek stated that he does not want to have confusion with enforcement.

Ms. Nykiel questioned why staff recommends eliminating the condition limiting the number of trips. Mr. Dziadosz stated there is no definition of a flight which complicates enforcement. He also stated that there was no timeline defined that constitutes a week. He also stated staff is not able to be standing out by the land counting flights every day.

Chairman Muellner stated that he does not believe that this air strip will be used any more than other rural air strips in the state, which are not used heavily. He stated he is pleased with the new configuration of the air strip, which covers the majority of the conditions and issues brought up. Ms. McGucken stated that she does not have an issue with removing the condition. The commission questioned and commented on the use of the proposed air strip and similar air strips. Mr. Kocourek stated that it is a private air strip and others can't land on the strip if it is not an emergency.

Attorney Kevin Terry, Town of Rib Mountain attorney, stated that he has had conversations with staff and Attorney VanderWaal. He stated that he believes the removal of the condition is a good idea due to the concerns presented during the meeting. He stated enforcement is a difficult issue to handle due to the possibility of residents trying to enforce the conditional use and reporting to the Town, which is not an efficient use of Town resources to deal with civil issues. He also stated that enforcement from the Town is difficult since staff is not able to sit by the air strip at all times. He explained that he does not believe that the nature of the use itself is changing and does not expect the number of flights will skyrocket, making him comfortable with removing the condition. He stated that an additional hearing is not necessary and the Plan Commission can make a recommendation to the Town Board for approval without a public hearing.

Mr. Hampton stated he is not comfortable with not going to a hearing because the conditions were created when all of the residents were present at the meeting, and now the conditions are being changed without noticing the residents of the change. Mr. Terry stated that the plan commission can require a public hearing, does not believe it is necessary. Mr. VanderWaal stated that the Town did follow the open meetings law and notices have been posted correctly. Mr. VanderWaal stated that the Town ordinances do not require a conditional use modification to have a public hearing. He questioned if previous conditional use modifications were required to go through a public hearing. Mr. Dziadosz stated that some minor conditional use modifications have been approved without a public hearing. Mr. Terry stated that it is not typical for conditional use modifications to go through an additional public hearing. He stated that he

believes the public hearing is not necessary for this modification since the spirit of the conditional use is not changing. He stated that although the condition limiting the flights may be eliminated, he does not believe that the overall use of the conditional use is changing.

Mr. Muellner questioned the purpose of requiring a public hearing for this modification. He stated that a public hearing will only create a forum for public opinion based on personal interests and not facts based on the proposal.

Ms. Nykiel questioned how staff felt about the proposed modification. Mr. Dziadosz stated that there is confusion as to how the modification is handled since the ordinance does not specify a public hearing for a modification, but the conditions of approval indicate a public hearing is required.

Mr. Mataczynski stated that the spirit of the conditions included limiting flights to reduce nuisance to the neighbors. The commission questioned and commented. Ms. Nykiel questioned Mr. Kocourek how he plans on using the air strip. Mr. Kocourek stated that he does not plan on changing the use than originally opposed, but he is looking to reduce conflict with the Town and neighbors. Mr. Mataczynski stated he is apprehensive about approving a modification without having a public hearing. The commission questioned and commented.

Motion by Tom Steele to recommend approval to eliminated condition #7 stating "maximum of five (5) round trip flights per week". Seconded by Christine Nykiel. Motion carried 5-2 with Jim Hampton and Kevin Mataczynski opposed

PUBLIC HEARINGS:

a) *Town of Rib Mountain, requesting a Zoning Text Amendment approval relating to on-site pylon & monument signage exceeding ten (10) feet in height along the I-39/USH-51 highway corridor; specifically modifying Rib Mountain Municipal Code (RMMC) Section 17.213 – Definitions and Regulations Specific to Certain Signs; PC Docket #2014-02*

Ms. McGucken questioned if the "findings of fact" section in the proposed ordinance was the "guidelines" that Chairman Muellner recommended at the previous meeting. Mr. Kussow stated that they are the "guidelines", but renamed since it is similar to how the Unified Development District ordinance is worded. Mr. Kussow stated that the findings of fact will required the applicant to prove they need a taller sign based on the "findings of fact". Ms. McGucken questioned the map and if any properties west of Hummingbird Road would be allowed to have taller signs. Mr. Kussow stated that the proposed ordinance specifically states that he ordinance does not apply to any property to the west of County Road R. Ms. McGucken questioned the process for someone to get an approved sign taller than 10 feet. Mr. Kussow stated that it is a conditional use process.

Chairman Muellner opened the hearing up for public comment. No one spoke in favor or against the proposed amendment.

Motion by Laura McGucken to approved the Zoning Text Amendment approval relating to on-site pylon & monument signage exceeding ten (10) feet in height along the I-39/USH-51 highway corridor; specifically modifying Rib Mountain Municipal Code (RMMC) Section 17.213 – Definitions and Regulations Specific to Certain Signs. Seconded by Kevin Mataczynski. Motion carried.

CERTIFIED SURVEY MAP APPROVALS: **NONE**

NEW BUSINESS:

b) *Town of Rib Mountain, requesting planning commission recommendation to approve an ordinance modification in regards to regulation and permitting of direct sellers within the Town; specifically modifying Rib Mountain Municipal Code Section 12.04 – Regulating Direct Sellers; PC Docket #2013-22*

Mr. Kussow explained the proposed Direct Sellers ordinance revision which was based on Plan Commission comments from a previous meeting and research of other municipalities' ordinances regulating direct sellers. Mr. Mataczynski questioned if the proposed ordinance limits the amount of permits that any one direct seller can take out per year. Paul Hursh stated that a direct seller would be allowed a maximum of 120 days per year. He explained that individuals selling products from their residence that they grew themselves are exempt. Ms. McGucken questioned signage. Mr. Kussow stated that they would be allowed a maximum of 12 square feet of signage which must be attached to the display. Mr. Kussow expressed that he is not comfortable with the setback restrictions being a 25 foot setback or within 10 feet of a building, whichever is greater. He stated that he believes this may be too restrictive. The commission questioned and commented. The commission's consensus was to only require a 25 foot setback. The commission questioned and commented on the previous direct sellers within the Town. Ms. McGucken questioned brat stands with charitable organizations. Mr. Kussow stated that charitable organizations are exempt. The commission questioned and commented on the charitable organization exemption and enforcement. Mr. Hursh stated that the responsibility will be on the property owner to determine whether or not they are a charitable organization. The commission questioned and commented, and recommended sending a notice to the property owners that usually run the charitable fundraisers to advise them of the ordinance change. Ms. McGucken questioned if staff is more comfortable with the ordinance revision than the original ordinance. Mr. Hursh stated that staff is more comfortable and it gives staff more control on regulating direct sellers.

Motion by Laura McGucken to recommend approval to approve an ordinance modification in regards to regulation and permitting of direct sellers within the Town; specifically modifying Rib Mountain Municipal Code Section 12.04 – Regulating Direct Sellers, but modifying the setback requirement to only require a 25 foot setback. Seconded by Jim Hampton. Motion carried.

OLD BUSINESS: **NONE**

CORRESPONDENCE / QUESTIONS:

a) *Commercial Accessory Building Discussion; PC Docket 2014-06*

Mr. Kussow explained that there is not a defined setback for commercial accessory buildings. He stated that the zoning code would require a primary building setback distance for minor commercial accessory structures such as dumpster enclosures and small storage sheds. He also stated that different types of accessory buildings will need to be defined so that large storage structures accessory to a primary building are not allowed to be located on the property with same setback as a minor building. Ms. McGucken suggested a size limit on the commercial accessory building. The commission questioned and commented. The commission suggested modifying the ordinance.

ADJOURN:

Motion by Tom Steele and seconded by Lee Benes to adjourn. Motion Carried.
Meeting Adjourned at 8:10 p.m.

Respectfully Submitted,
Jeff Kussow, Assistant Zoning Administrator