

Town of Leeds

Agenda Town of Leeds Town Council Wednesday, January 22, 2020

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, January 22, 2020 at 7:00pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

Regular Meeting 7:00pm.

1. Call to Order/Roll Call
2. Pledge of Allegiance
3. Declaration of Abstentions or Conflicts
4. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting minutes of January 8, 2020 and January 15, 2020
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements:
 - a. Dumpster Days, Feb 14-16, May 29-31, Sept 18-20 & Dec 11-13.
7. Public Hearing
8. Action Items:
 - a. Discussion and possible action on Site Plan Review Application, Lynn Potter, 24 E Majestic Mountain Road
9. Discussion Items:
 - a. Gross Vehicle Weight Study
10. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
11. Staff Reports
12. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
13. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at least 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting;

The undersigned Clerk/Recorder does hereby certify that the above notice was posted January 16, 2020 at these public places being at **Leeds Town Hall, Leeds Post Office**, the **Utah Public Meeting Notice website** <http://pmn.utah.gov>, and the **Town of Leeds website** www.leedstown.org.



Peggy Rosebush, Clerk/Recorder

Town of Leeds

Town Council Meeting for Wednesday, January 22, 2020

1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7 PM on Wednesday, January 22, 2020, at Leeds Town Hall, 218 N Main.

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	X	_____
COUNCILMEMBER: ALAN ROBERTS	X	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____
COUNCILMEMBER: LORRIE HUNSAKER	X	_____
COUNCILMEMBER: STEPHEN WILSON	X	_____

Craig Hall, Town Attorney, joined the meeting via telephone.

2. Pledge of Allegiance: Councilmember Stirling.

3. Declaration of Abstentions or Conflicts: None

4. Approval of Agenda:

Councilmember Roberts moved to approve tonight's agenda and Meeting Minutes of January 8, 2020 and January 15, 2020. 2nd by Councilmember Wilson. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	X	_____	_____	_____
COUNCILMEMBER: ALAN ROBERTS	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: LORRIE HUNSAKER	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	X	_____	_____	_____

5. Citizen Comments:

Kohl Furley with the Hurricane Valley Fire District said there have been 188 calls as of this evening. We are looking into hiring some full-time personnel in the near future. As we go through our list of people who have tested, I think the number was 8, but that is not set in stone. Is that right, Mayor?

Mayor Peterson said yes. They are particularly focused on paramedics at this point.

Kohl Furley said we are getting ready to do some surplus of vehicles and equipment. I will keep you posted on that. We will get estimated values from third-party companies and then those things will go out for public bid.

6. Announcements:

Mayor Peterson said our dumpster day schedule is set beginning with the first opportunity on Valentine's Day - February 14-16, May 29-31, September 18-20 and December 11-13. They will be located along Cherry Lane as we have been doing recently. It is a little safer than having them in the Town Park.

7. Public Hearing: None

8. Action Items:

a. Discussion and possible action on Site Plan Review Application, Lynn Potter, 24 E. Majestic Mountain Road

Mayor Peterson said Scott, do you want to introduce the topic first?

Scott Messel said the Potters own the property highlighted red (maps were shown on overhead projector screen). It is just over 11 acres. Access to the property comes in right here on the north and you can see there is an older existing drive, trail or graded area that has been on the property for some time. Here is the site plan with their proposed driveway to the future pad site for their home. They have not submitted plans for the home, but it was brought up in the Planning Commission meeting the height of the home. The home will be 1 story, but on 1 side will be a daylight basement where the garage will come in underneath the main floor. That was brought up and discussed in the Planning Commission meeting. Here is the grading plan. The shaded areas are the cuts and the fills. I will be happy to turn time over to the Potters when it is appropriate for them to go into more detail. Town Code says that they need to get a general site plan and concept plan for their proposed property approved by the Planning Commission and Town Council before they do any excavation or site work. They have begun the process and submitted this to the Town for review at this time. He read an excerpt from the General Plan regarding a private access, and with residential, the Town wants to stay more rural and lower density. I feel like this project or this development or construction of a home meets the intent of the General Plan because it is 1 unit per 11 acres so it is pretty low density. The Planning Commission reviewed it and they recommended approval on it, but there was concern brought up about some of the flooding. I believe you were given some photos taken by Councilmember Hunsaker. The photos show the drainage that comes down on this property. It was brought up in the Planning Commission meeting about some concerns regarding the flooding right there. And it was talked about in the Planning Commission meeting that the applicant needs to address how they will handle the flood plain or the drainage in the area, whether it will be culverts. He read an excerpt from Town Ordinance regarding construction subject to geologic flood and other hazards. I believe it is the responsibility or one of the goals of Town Council to look at what is being proposed and see if it addresses all of the concerns if there are any concerns from Town Council regarding the project and allow the applicant to come back and address those concerns.

Karl Rasmussen gave a detailed description of various maps and drawings shown on the overhead projector screen – including, but not limited to, grading, sloping, fill, driveway and flood area. This description and/or details are documented on the audio recording of the meeting. This audio recording is on file at Leeds Town Hall.

Mayor Peterson said from an apex, there would be multiple directions of slope going on. As you are describing it, it sounds like it is coming at it from one direction. Do you do it perpendicular to that as well in order to get the slope....

Karl Rasmussen said so when we cut a section, it is usually at that point. It is where the contours are. We go perpendicular to the contour, so our cross sections go like this up through there. That is why you see that green line go this way. Some of our cross sections are going like this, and then when you get here, they go like this. It is like you are seeing an apex. It keeps moving as you go along here and that is how you end up doing that. I bet we did over 2 dozen cross sections or more to do that analysis. As far as meeting and doing everything possible to meet what you guys require, I think we are there. This is as detailed analysis that anyone could do. The only people who will probably see it, one of the Commissioners said he will be able to see the house from where he lives. Some people will see it from down here, but people who drive this road will not be able to see it unless they are really searching for it through the trees. The road, the access, and the turn around will be in this little saddle area. When we did this road, we made sure to keep the grades no more than 15%. It was brought up at the Planning Commission meeting that we make sure we pave anything over 10%. This was presented to the Fire District.

Lynn Potter said I have been advised to ask that everything during the communication of this meeting be put in the records and minutes.

Mayor Peterson said if I could add, we have had since the beginning of the meeting our Town Attorney on the phone as well. With that request having been made to Planning Commission as well.

Lynn Potter said and his name is?

Mayor Peterson said Craig Hall.

Lynn Potter said the fire department was very strict about a lot of things – slope and because we are so far from fire hydrants, we have to have sprinklers and water tanks. Anything over this much slope has to be paved. We spent the money with Karl here and we got it all figured out. We spent thousands of dollars in the last year. This is mine, this is what I did, and I originally established that we are within the slopes and we can achieve success with the parameters that the Town requires. Then we went to another engineer, Merrell, and he found the same thing. But we did not stick with Merrell because he used the County topo's and they were off by a foot or two. So, we went to Karl to get something really accurate because we know you guys would require it. So here we are thousands of dollars later, and at this point, I would like to apologize for dragging all of you through this. I have read all of the ordinances many times because I have been fighting with you quite a bit. When we first went to the water company and we talked about splitting it all up, it turned out it was important not to split it up if we wanted to get water. You cannot get water to a new development, but an existing site you can still get water to. And then there was the flag lot and we established that it is an existing site and not a new development. It is in the minutes. You guys can look it up. The reason I am apologizing for dragging us all through this is the Hillside Ordinance does not apply to us. I figured that out 45 minutes ago. This lot was established prior to 1999 and the last line in the Hillside Ordinance says this does not apply to anything before 1999. Now, we can go ahead and go through all of this. I can explain it and I have all kinds of handouts that I can give you. We have achieved compliance with Town Ordinances to put a home up there on that saddle on that bench. If you want to ask for some mitigating things that you would like, I will do my best to follow mitigating requests. But if you want to see Chapter 20, Hillside Ordinance, last page, Section 20.1 of record...

Councilmember Hunsaker said I have read it several times. It is not a development. It is a piece of land.

Lynn Potter said it is an existing buildable site. It is a buildable lot. That was established with the flag lot and the water company. However, if you deny that, you say it is a new development, because we are just applying for a grading permit, not a new development. You guys tell me.

Mayor Peterson said Craig, I do not know if you have been able to follow on the phone here, but what is being raised is Section 20.10, where it talks about developments of record. The question being asked is a parcel, having been assigned a parcel number, considered a development of record where it says, "it will apply to developments or subdivisions that were approved prior to January 1, 1999."

Craig Hall said not having previous awareness of Chapter 20.10, I would go back to the beginning of the chapter to see what the definition of a development is. The assignment of a parcel number does not generally constitute a lot ready to be built upon, to have a building permit issued and, again, without the Code in front of me, I do not know what a development is, but it seems to me that, as Mr. Potter has indicated, this is only a request to grade and to get a building permit issued. That to me does not appear to be a development. That is an off the cuff opinion tonight. I will need to spend some time looking at the formal definition in the Code, but I would say it is not a development.

Lynn Potter said the Town does not define development.

Mayor Peterson said Craig, would you recommend, rather than going through things hypothetically, do we get an answer to that question first or what would you suggest that we do with respect to anything this evening?

Craig Hall said I do not think you can make a decision tonight. Mayor, you and I had the discussion about Sunrise checking the compliance with the Hillside Ordinance, with the 30% grade, but if we have a 1999 effective date, we probably need to answer that question first. But we also probably in deference to Mr. Potter, we ought to answer some of the other questions or at least outline them so the Planner, the Fire Department and our engineering folks can answer some of those questions at the same time.

Mayor Peterson said so this does not become sequential, rather we just try to address as much as possible here tonight in a reasonable short time frame.

Craig Hall said you do not want Mr. Potter to come back every week for the next 6 months and that is not fair to him.

Mayor Peterson said no, understood. One thing that you mentioned, I did ask Sunrise and they have not gotten back to me. Sunrise Engineering did prepare our slope map that is on the wall. It says Leeds Town Slope Map. When they presented that to us about 4 or 5 years ago, they did indicate that it was using a particular type of data that was not necessarily precise, but it allowed a general sense of where the 30% slope was and the 20% slope. 30% being shown in red and 20% being shown in yellow. I apologize to members of the public; it is around the corner. Council can look to their right and see it. After the meeting, I would encourage others, if they are interested, to look at it. I just asked them if they could confirm with those more precise measurements, and whether they saw any issues with respect to the actual grading plan that was being submitted to Town Council. They have not gotten back to me, but I think it is an important piece of information to get. I appreciate you mentioned you have used 2 engineering firms here. I just think it would be important for the Town to utilize theirs here and I did make the request. I was hoping they would be back by this evening, but they have not been able to do so.

I do think that is another piece of information that we do want to have here before we actually take action. I believe there were some conditions that were mentioned. One was addressing the flood plain area with regard to the road. I did listen to the Planning Commission meeting recording from the 15th and I know there was talk about the culvert and the like being put in there. I know there was also talk about a gravel road and a paved road alternating between the two. In speaking with the Fire District, they mentioned the gravel portion would need to be tested and compacted for 75,000 lb. vehicles coming up and down it in order for it to be something they would be satisfied with. You mentioned the idea about sprinklers. They indicated they could not offer a final opinion on that until they saw the house plans. That would be a function on the size of the home. The other issue that did come up, in addition to the flood plain, was the idea of it being a single level home with a daylight basement and garage. I do not believe that was a condition, Scott, that was...

Scott Messel said it was not a condition. They were just curious about it. I think concerns of the view looking up at it. I think it was just curiosity about the house. Is it going to be a castle up on top or not?

Mayor Peterson said the concern, and Craig I ask this of you, and I do not want to preempt others of Council having questions with respect to that, if we approved at some point, and we will not do it this evening, but if we approved it at some point a grading plan, my understanding would be that the owner of that property, either the current owners or as they mentioned in the Planning Commission meeting they do intend to build a home there, but it could be sold, that someone then would be subject to our zoning ordinance and that any kind of limitation, we do not limit to single story homes in our zoning ordinance, if that was going to be part of the arrangement on this approval, I think it would need to be spelled out in advance and not left for some future stage in this process. Is that accurate, Craig?

Craig Hall said I believe that is correct.

Mayor Peterson said with those comments from me, are there other questions from Council this evening regarding these or any other issues?

Councilmember Stirling said I would like to thank you for doing your due diligence. I do have a few questions and I am specifically asking from the ordinances that I have read. The first one is actually for Mr. Rasmussen. When you see the red on that particular map is that specifying you are digging through the 30% grade on both roads, the turn around as well as going up to the house?

Karl Rasmussen said are you talking here?

Councilmember Stirling said down. There as well as to your right.

Karl Rasmussen said that's the one I said was like cutting butter. That is where the slope is 30%.

Councilmember Stirling said my only concern is that in 20.2 it specifically says "there shall be no development of any kind on land having a slope of 30% or more. Despite the prohibition of any development on land having a slope of 30% or more, a special exception is granted only with the regard to the development of an alternate to Silver Reef Road as an access." That to me, if I am understanding it correctly, specifically says that development is considered a road as well because the only exception is granted for Silver Reef Road as an access. My question is that actually acceptable in our ordinances.

Lynn Potter said the road was established there before the ordinances. I brought some aerial photographs and can dig them out. Because the road was established before the ordinances, it is kind of grandfathered in.

Councilmember Stirling said I do not know for sure if that is correct. Can we ask the attorney?

Scott Messel said just one thing that I would point out is one thing we need to be careful of as we are looking at this is the difference between a road, a driveway and an access road. He read the definition of a private access road. We should not look at it as though it is a road even though it is longer than a typical driveway. It is not a road and it does not need to be brought up to our typical road standards. We need to make sure it is a safe driveway.

Councilmember Stirling said again, it says a special exception is granted only with the regard to development of an alternate to Silver Reef Road as an access. My concern is that I really do not believe it is a road. The documentation looks like a very, very rough trail. One of our Councilmembers documented this, and she could not even get her Razor up there. I am not quite sure you can document that as an actual road at this point. That is my first concern. My second concern is that the required reports are a drainage plan, a facilities map, a soils report, a geology report, a vegetation report and other reports deemed appropriate. Do you have any type of drainage plan or facilities map?

Lynn Potter said is says the Planning Department or City Council may require these. If you require them, and if it turns out the Hillside Ordinance applies to this, and you require them, we will spend the money to get them for you.

Councilmember Stirling said I have one other question. I printed out the FEMA map and it is in the flood plain. My other concern is having that drainage plan, and I have been here a long time where I have seen the water come down and it fills that entire area along here completely full. It roars down there. My biggest concern with the drainage plan is how much more water will be attributed to rain coming off your property that you have cut, especially through the 30%. If it is paved, you are going to have quite a bit of excess runoff so I would feel more comfortable being able to see that so that we are also protecting everybody below who is on that flood plain documented through the FEMA report.

Lynn Potter said I can understand your concerns with that. Given the square footage of the paved road as compared to the rest of the square footage of the property, the difference in runoff would be less than 1%. We can provide those numbers for you if you want.

Councilmember Stirling said that as well as...

Karl Rasmussen said does that mean he did not get approval. We are trying to figure out if he has permission to do it. It would save him an extra \$1,500 for a drainage report.

Lynn Potter said I spoke with your Building Inspector and he said a lot of those reports that they do, particularly the soils reports, are done after the excavation so they can get down and see what they have.

Councilmember Stirling said my other concern is in this particular picture of the soil, the minute you start digging, you are going to have an adverse effect below. When Alberta Pace dug through the back part about 14 years ago, we have a spring back there as well as the access road, and because of digging that road and divining through it, there have been many, many times during the rainy season that it has

completely wiped out that road and we have had to build it back up because of the adverse effect of that extra water. We do not get a lot of rain, but when we do, it creates quite a problem for soil that looks like that because it does not stay very long. It just erodes the entire site away if you do not have the probability of knowing how much is coming and what you have to do to reinforce it. My biggest concern is the fact that if you do start grading, and it is dirt like this (she showed a photograph), what is going to happen to all of the other homes down the road from you when we have a big rain?

Lynn Potter said we can do a report for you.

Councilmember Stirling said that is just my concern. That is all I have.

Lynn Potter said you also mentioned the FEMA question. We also have some copies of the FEMA maps ourselves. That outlined area that FEMA noted as the 100-year flood and there are not any standards that FEMA has for roads. They just provide indications where 100-year flood are for insurance purposes and for mortgage companies. As you can see, the freeway and Main Street are in that 100-year flood zone, too. If it got up that high, it would get muddy which is not a significant thing. I was putting in the culvert just to be extra safe and careful. I would honestly have to say that the Town has a bigger problem. The culvert that comes under the freeway is a 4 Ft. culvert and the culvert that goes under Main Street is 18 inches. It will wipe out Main Street before it wipes out my road.

Councilmember Stirling said my other concern is because it is a flood zone, I think there are specifications that if you are adding to that flood zone in anyway, especially with the Hillside Ordinance, it needs to be documented so that we know as a Town how much more is actually going to go down that particular drainage so if there is an effect on the homes further down then we would be able to mitigate that before it wipes out someone's home.

Lynn Potter said I do not have a problem mitigating that. The solution to that is you build a catch basin. There is enough room on that property for a catch basin. There is nothing there that with reasonable mitigation we cannot overcome. And we are willing to play ball. Again, does the Hillside Ordinance apply to us? If I remember right, another reason I say this is a building site was because, was it 1999 or 1998, the Town made an agreement with the Conservation District that you cannot build on anything less than 9 acres. Is that it?

Mayor Peterson said it was after 1999, but, yes, they entered into an agreement.

Lynn Potter said by de facto that made that a single-family residence site. A buildable lot. You cannot do anything more with that. You cannot get below 9 acres. There are 2 real good legal arguments that I think you guys will appreciate.

Mayor Peterson said with respect to that, I think our attorney has already indicated that we will look to have an answer for that at our first February meeting. Are there any other questions this evening?

Councilmember Wilson said looking at where the road is at, how far out of that flood plain will water come?

Councilmember Stirling said Steve, here is my map of the flood plain.

Councilmember Wilson said looking at that, it looks like it will not impact it a lot.

Councilmember Hunsaker said the first 300 Ft. or so from Majestic over.

Councilmember Stirling said Steve, it was not necessarily for the me the impact for them, it was everyone downstream.

Councilmember Wilson said so your concern is because it is a paved road more water will runoff of it and go down the drainage than if it was a regular hillside. Is that correct?

Councilmember Stirling said right. And the erosion factor as well.

Lynn Potter said those are valid arguments. This is Majestic Road here and this is Main Street. This is 100-year flood. Our driveway is this dirt road here. Immediately adjacent to it is that creek. He showed Councilmember Wilson various maps with different views.

Mayor Peterson said are there any further questions from Council regarding these issues?

Councilmember Roberts said Scott, can you go back to that aerial view of that plot? Let's go back to the site plan. What is that lower piece, Lynn, that comes down with that little turn around? Explain that to me.

Lynn Potter said is a second buildable site that I want established at this time that I can put a shop on. If it did not work out, I could put the house there. This one is a bench within the slope parameters and that one is a saddle within the slope parameters.

Councilmember Roberts said you say it is within the slope parameters that document that we are looking at was prepared by your engineer. According to that document, it encroaches upon that 30%.

Lynn Potter said that 30% is the red line and there is a channel that you can follow where it's not. He pointed out on a map the 30% line. Here is a 30% line and here is a 30% line. In between, it is not. The green is a 20% line. We do not have to ask permission for that. There is a 20 Ft. setback from the 30%. Initially, we were not going to ask permission to do this because we were going to cut to the 20% line. You do not have to have permission for 20%. There are passages ...

Councilmember Roberts said I understand what you are saying. You have to cut through a 30% in order to get to those passages.

Lynn Potter said no. There is not one up there. That will not be cut. It is an existing driveway. It is an existing trail. One engineer found that comes up to 29%. I did it and found it to be 28%.

Councilmember Roberts said the reason I ask that is because you want to argue whether that property has to abide by the Hillside Ordinance that was adopted in 1999.

Lynn Potter said '08.

Councilmember Roberts said you told us the Hillside Ordinance does not apply before 1999.

Lynn Potter said because of the statement at the end of the ordinance which was established in 2008.

Councilmember Roberts said something that was approved before that would have been nonconformant after that date. There is not anything on this that was approved. The property existed. Let's say 25 acres, and all of it sits on an extremely steep hillside, even though the acreage might have been zoned open space or even some kind of residential, just because it exists does not mean you can place a residence on it. The point I am trying to make here is that you will abide by the Hillside Ordinance on this and I do not have a problem standing on a legal standpoint with that. I think it is a government's or municipality's obligation to help applicants to try to accomplish what they want when it falls within the ordinances. But to say that you are not impacting an area that falls within that Hillside Ordinance, I think is an unrealistic statement. That being said you are coming to us and saying okay is this something that can be done here with the situation that exists and what you are looking for right now is a site plan that allows....

Lynn Potter said no, a grading plan.

Councilmember Roberts said that is a site plan right up there and, in our documents, because your application is a site plan review. That is what the application says.

Lynn Potter said it is listed on the internet as a grading plan application.

Councilmember Roberts said but the application says site plan. But that is okay. The grading that goes on will have an effect on whether it is allowed because of the Hillside Ordinance or how we deal with that drainage. The drainage portion of it is not a problem. I do not see a problem there. I would expect you to put in culverts that would mitigate any issues across the driveway. We can sit here and speculate all day about whether it is a driveway or a road. It is more than just a driveway because of the length of it and what is being required by the Fire District is requiring something more than what most residential driveways would be required only because if they have to take a heavy piece of equipment on there for a fire situation.

Lynn Potter said I disagree because this is what they require for everything on a buildable lot which we have established has to be more than 9 acres because that is how long your driveway is going to be half of the time. When the distance is that far, and this is in their Code, from a fire hydrant. This was not new or arbitrary. These were the rules and ordinances that I have to follow in order to do what I want to do. Again, this is what I have tried to do with the Town of Leeds, and I believe we have achieved that. The Town of Leeds can spend a lot of money on a lot of things. You can spend more money on the lawyer because it will cost to have him do that development analysis. What is the definition of a development? But I have done the homework on this and if it went to court I would win because of an established precedent. 9 acres minimum size. Dates when things were created before ordinances. If you have a 9 acre parcel in this Town, and you want to put a house on it, and it has been in the family for 100 years, and it has not been divided to create a different development because that was the key with the flag lot situation and the water company, if we had been successful when we applied to you to divide it, I could not stand on this, but you turned us down. When we asked for a zone change, that would have changed it too, but you turned us down. Only because we have been unlucky have we been fortunate enough to fall within this loophole that states an established acreage, lots, sites, which have to be 9 acres, prior to 1999 are exempt from that. And this is that. Are there any other questions?

Mayor Peterson said one thing that I did hear raised was the concept of an existing road which I recall from discussion with the previous Planner that existing roads are permitted to be continued as a road, but I do not believe it means that you are allowed to cut and fill and modify it. When I look at that map, I

am trying to understand. There is a light grey and a dark grey and I am assuming one is a cut and one is a fill, but maybe I am assuming wrong. Perhaps you could explain what the light and dark grey along the road would indicate.

Lynn Potter said the grey area is a fill area in order to fill those slopes. This is required by the Fire Department.

Mayor Peterson said is there a difference between the light and dark grey?

Karl Rasmussen said the dark one is a cut.

Mayor Peterson said the dark one is a cut and the light one is a fill.

Councilmember Stirling said I do have a concern about your application. We discussed that 9 acres is 1 building lot, why do you have 2?

Lynn Potter said it is big enough and it is zoned for a barn, and depending on which zoning you go by, I could have a barn on it as Rural Residential 2 and that is where I would like to put it. Just to advise you, those are the cuts and fills for the road. If I get approval on this, I am planning on cutting up to the green line on everything and establishing a flat zone. And that is why I have to agree with everything you said about cutting and grading and water and drainage. I have been there before on other developments. I know what it is, and I know how to take care of it. But that is what is coming. I am going to flatten that thing out. We still want to do an orchard or something else, but we are having a real hard time getting water. Alberta Pace has the water rights. You cannot just drill a well to get the water out. You have to get an allocation from the State. Alberta Pace has been waiting on her application for nearly 20 years now. We may not be able to put in an orchard. But we want to do something with it. This grading plan establishes where we can cut, where we can fill, so we can make it into something worth living on.

Mayor Peterson said if I could follow-up on the cut and fill. The spur that is shown there, there is a lot of cutting going on towards the right-hand side as one looks at the map into an area that does indicate it is 30% slope. On one side of that red line or the other. I am assuming the right side of the red line is where you are saying the 30% slope is.

Lynn Potter said we will have to move that because it exceeds the line. We can swing that road over 10 more feet to the left and then it is out of that red zone. And as a matter of fact, we will not be able to cut into this right here because that is our property line. We cannot cut into that. Even though it indicates a cut, it is not happening. I am not going to step on someone else's toes and get sued. I have been sued many times before and I know what it is like – millions of dollars, win or lose. I have done the same thing to other people.

Councilmember Stirling said I have one more question for Mr. Rasmussen. In a situation like this, do you do retaining walls of any sort when you are doing the cuts. What do you do to mitigate that erosion from your cuts?

Karl Rasmussen said some rip-rap ditches. Water would come down to the bottom where you see it is more level and we could put in a retention basin to catch anything that comes off of there.

Lynn Potter said we are planning on using an abundance of rocks to create rock walls that are so pretty around here to help retain it and to avoid erosion, I do not want anything to fail.

Karl Rasmussen said as a bottom line, what if he proposes to put in retention basins for anything that comes down off of there.

Councilmember Stirling said is a retention basin similar to a little mini reservoir that would count as a dam?

Karl Rasmussen said it is just like in your backyard, a little pond. You just cut it into the ground.

Lynn Potter said another way I have done it in California is you come in with a boring company. They have a 6 Ft. bore and you bore down 50, 60, 80 or 100 Ft. and create a big hole and then they fill it with gravel. All of that open space in the gravel creates a retention basis in itself. I do not like dams. My way around it, if there are any questions about a dam, would be to cut the hole and fill it with gravel.

Councilmember Stirling said I appreciate your help and I sincerely believe that you guys have both thought about all aspects of it. My biggest concern right now is that I have not had an opportunity to think about all of the ordinances. There is one part of the facilities map that says in addition the locations of any buildings or structures on an adjacent property that may be affected by grading operations shall be shown. I think that may be very advantageous as well just so when others come and say what is going on, we have covered our bases. I do appreciate the time and effort you have put into this.

Lynn Potter said if it is established that the Hillside Ordinance applies, and you want that as a stipulation, I do not have a problem with it. I did not want to start this unless I knew I could get through it successfully. And this is not my first rodeo. I am sorry we did not establish this several thousand dollars ago whether or not this is part of the Hillside Ordinance.

Mayor Peterson said are there any further questions?

Craig Hall said I do have a question. I believe it was Mr. Potter, did you mention you were talking about the possibility of a second residential home to be built on this 9- or 11-acre parcel?

Lynn Potter said if for some reason we could not utilize the first location then the second one could be utilized for a home. If the fist location can be utilized for a home, then the second location would make a nice location for a barn or an artist studio.

Scott Messel said you are not talking about 2 homes.

Lynn Potter said no. According to ordinance, I cannot have 2 homes.

Craig Hall said I wanted to make that clear because that would start a little bit of discussion.

Mayor Peterson said I believe it is the second location for the singular home that was being referred to when a second home site was mentioned.

Councilmember Roberts said Lynn, when I interpret this, that driveway does cross a portion of a 30% according to this map. I think it would be reasonable that that small area that it comes across could be

handled in a manner that would not have an adverse effect on the property. When I look at this, the first thing that I would suggest is to lose that arm that comes down or whatever that roadway is because you are going to have a hard time convincing me of that as we look at the driveway that would approach the pad where you want to place the house. Like I mentioned before, the drainage portion of it, I think you need to look at some type of little catch basin because it is going to be a paved driveway. Between the paved driveway and the pad where the house is will collect more water than what it naturally collects at this time. From my perspective right now, I would think it would probably be doable.

Lynn Potter said you are correct. I stipulated there will be 1% more. I could be wrong on that, but compared to the rest of it, it is a big area. But you are correct. There will be more runoff because of the asphalt. There is no way around that. There is a way around it with permeable asphalt, but that costs a lot of money and I am not going to go there. New thing... Karl, when you did your study for this, slope is determined by rise and run, what was your run on this? What did you use for the computer for a run?

Karl Rasmussen said it is in the legend. 100 Ft. long run.

Lynn Potter said I cannot dispute that. I laid a ruler on it at 100 Ft. on a topographical map and it came to 28/29. And my other engineer, same thing, 28/29. If that is what his says, it is a more accurate map. I might have to go along with it. I have 2 out of 3 that says it is 29.

Karl Rasmussen said which one are you arguing about?

Lynn Potter said we are arguing about where the driveway is.

Karl Rasmussen said all my guy did was just connect where we cut sections. He connected lines.

Lynn Potter said can you blow that up? Doesn't he have the slopes labelled? I have some plans. Let me look at them. I do not know if he has them labelled or not.

Mayor Peterson said if I could just ask ... he being whom?

Lynn Potter said Karl's man.

Mayor Peterson said someone with Pro Value ... okay.

Lynn Potter rolled out his drawings. I do not know how to read this. I do not know if that means slope or change in Lynn Potter and Karl Rasmussen discussed the drawings.

Mayor Peterson said my understanding just trying to summarize with our attorney is there is a question as to whether the Hillside Ordinance applies based on 20.10. There is an outstanding request for Sunrise to provide their analysis and comparison to the slope map they prepared previously. I believe I just heard an offer to do some calculations around some of the potential violation points where the road is going up. There is a need to modify a little bit of the cut and fill because, as mentioned, it spills over the property line. And I do not know if there is any question about, but I think it would be good to verify, exactly what an existing road means in regard to what can be done to it in order to do any cut and fill around it in order to "improve it", maybe the term being used. There was mention of the possibility of a culvert which I think will just remain open. I do not think it is going to be investigated. And there is also a question about the size and height of the house if it were to go ahead, that I believe would be better

addressed now if that was going to be considered a package as opposed to leaving it for later because I do believe later it would be a totally brand new analysis and there would not be any real basis to hold it to a different standard than something else in Town. But if it is done as part, as you have offered some give and take, it could be worked into it. Am I correct about that, Craig?

Craig Hall said yes that is correct. I have down the following issues: questions about the flood plain; questions about fire; questions about the grading plan and the road – asphalt vs. gravel, if it is gravel it must meet compaction standards; question as to whether or not this is a development. I resolved the other question that I had about zoning, single residential unit. I assume the accessory units such as a barn, shop is okay. We need to resolve questions regarding the flood plain. And I want to look at public road vs. private road – some of the standards and discuss that with the Planner.

Mayor Peterson said is it a reasonable timetable to look to have this on the second Wednesday in February's agenda?

Lynn Potter said I would like to establish whether or not it is within the Hillside Ordinance before I sign anymore checks. I need to spend money on other things – structurals, septic...

Mayor Peterson said that certainly, I think, we could have the other information on February 12th and that would allow us to move forward with respect to some of the answers to those other questions. And that would certainly become one of interest if we were looking to move forward. It is fair to do that. Are there any other questions related to this review?

Councilmember Hunsaker said are you going to hold off on Karl's part of it? When you are doing that slope, also the saddle going up to the house, the driveway, the slope on that would be helpful.

Mayor Peterson said but that is in the future, okay. Is there anything further or do we have it summarized? Thank you very much and it will be the 12th of February, the next Town Council meeting, we will have this on the agenda again as discussion, possible action, but it is understood, it might just be discussion.

Craig Hall said I need to call you tomorrow morning regarding that night. I have a personal issue.

Mayor Peterson said I will speak to you tomorrow.

Lynn Potter said can I ask you one more thing. Do we have to have a Commission Meeting just to let me know whether or not it applies? I hate to burn up Commission Meetings. There is a clause in the ordinance that if you push something back 3 times then it is considered denied.

Mayor Peterson said I believe that is moving it through Planning Commission to Town Council. I do not believe the same is viewed from Town Council's standpoint.

Councilmember Roberts said we are not pushing this back to the Planning Commission.

Lynn Potter said it was just if it was tabled, not pushed back to Planning Commission. There is a section that says if the Planning Commission tables this or pushes it back 3 times it is considered denied. Then it moves to Town Council and if the Town Council pushes it back or tables this 3 times, it is considered

denied. So, I do not want to burn through a Town Council meeting just to find out the ordinance applies. If you can give me a phone call, we can start work on everything else we have to do.

Mayor Peterson said we can certainly between now and then keep you informed of anything with respect to the interpretation ... although I suspect Town Council will be interested in hearing the legal input. I do not think it is as simple as just what the attorney says. Therefore, we would go ahead.

Lynn Potter said can we do this as an announcement and not on the agenda?

9. Discussion Items:

a. Gross Vehicle Weight Study

Mayor Peterson said I did hear back from UDOT. UDOT said look around and if you see any signs on State Road 228 indicating gross vehicle weight it means we have a concern with respect to that. Otherwise, anything that is licensed to be on the roadway is fine by us. I have not found any gross vehicle weight signs up and down Main Street so the answer to that is, from the UDOT perspective, they do not have any issues with vehicles that are road permitted travelling up and down Main Street. At this point, and I will ask one of our residents who is a Planning Commissioner the current status with regard to the heavier mining, not Cemetery Hill, but outside in the County. It is not currently active. Is that accurate or not?

Commissioner Rosenthal said that activity has ceased. The vast majority of the individual's property has been removed from the location. It is my understanding that the individual has begun to pay his fines to BLM.

Mayor Peterson said with that information, I would be interested in Council's input. We are not going to take any action tonight. Should we put this on hold at this point the idea of spending over \$3,000, close to \$4,000, to do the gross vehicle weight study? Given the status of the activity, do we want to put this on hold until there are signs that it might be resurrected?

Councilmember Roberts said I am not in favor of spending the funds for the study.

Councilmember Stirling said I agree.

Councilmember Hunsaker said I agree.

Councilmember Wilson said I agree.

10. Citizen Comments: None

11. Staff Reports:

Councilmember Stirling said I would like to bring up a possibility for all of us to mull this over and think about. There has been quite a bit of extra parking on Silver Reef Road as well as everywhere. I am almost wanting to do something to the effect that the City of Kanarraville had such an influx of people going there that they created a parking lot. The last time we went, it was \$10 per car. The last time I went up to Silver Reef, I think there were 10 trucks with trailers, and they all had the side-by-sides. They got off and went up to Oak Grove which I think is great. Use your public lands, but I really believe that in order to

recoup some of the money that we are going to need to put into that road with as much wear and tear is on it, I think the Park that we have up there inevitably what we might need to do is pave it and put an amount of, I am not quite sure how much at this point, but something to recoup so the citizens of Leeds do not have to constantly subsidize the road that we get absolutely nothing back from. I would like to have some input if anyone has any other ideas. Maybe extra parking so we do not have them lining our roads up there and breaking off the different types of pavement.

Mayor Peterson said I think you mentioned the Park. I presume you are talking about that triangular piece we have where it forks to the left.

Councilmember Stirling said how many acres did SITLA give us? Do you remember?

Mayor Peterson said it is a very small portion regrettably. The planned park included a trapezoid underneath the triangle, and I believe the triangle might have been about a little over an acre, but then the trapezoid would add a few acres to that. I think it is fairly limited and also the terrain is such that we would only be able to fit maybe 2 to 4 depending on how you laid it out. I can certainly ask Antonio to look into that and I will double check and bring back the actual area with kind of a plat map of the Park. It would be, obviously, helpful to know and then that other portion was designated as future park land, but at some point, in the development process that land got swapped and is part of a homeowners association now. The original plans that I saw in the files indicate that it was going to be related to Silver Creek Estates which was another development they were talking about putting between Silver Reef Highlands and Bonanza. But now that land is part of Silver Reef Highlands Homeowners Association. They were previously approached, and they turned down the idea of sharing that land with the Town or allowing the Town to have that land. I will bring this to the next meeting so we can have accurate information to discuss with respect to that. I appreciate you highlighting I know at one point it was brought up by someone where it was suggested we use private land for that. Obviously, we need to find some land that the Town owns in order to make that happen if we were to do so.

Councilmember Stirling said is there a possibility that we could have some signs basically like they have at little toll booths where you have to pay in order to park on the side of any of the roads? Just up and down there to mitigate the amount of people lining those roads.

Councilmember Hunsaker said like at Springdale?

Councilmember Stirling said right.

Councilmember Hunsaker said are you talking about last week or so? Because that was Tri State's Ride last week. They are generally told to go down and park by Babylon Road. Down at that turnout there. They do need a place to pull over. We are already having problems with noise up there and the number of cars going up there so if we could keep them down here to keep them from causing more grief up there.

Mayor Peterson said I believe the area you are speaking of is UDOT property opposite 900 North. I will bring what information I can to the next meeting in order to have accurate information.

Mayor Peterson said I have a couple of items to bring up. One is the Leeds sign. We have an anonymous donor who is willing to provide all of the material for that and another one who is willing to do the labor on it. This is something that was brought up close to a year ago with respect to a reflective material being

applied to the sign. The "L" in Welcome has the reflective material on it. It was suggested at that point that we make sure it was going to be durable and able to continue to perform after Leeds' weather, be it winter or summer. I think it has held up to that at this point. It would not be at any cost, so I do not know if there is any action to take, but I wanted to make sure there are no objections if we were to do that. It would not pollute with light into the night sky. There would be no real light going on, it would just be whenever headlights came upon it, they would be able to see they were entering Leeds at that point.

Mayor Peterson said the second thing is a deadline approaching for a Recreation Grant. Frank Lojko has offered to help with writing grants to try to get additional funds for things like trails, and the like. There are 3 different categories - (1) Rehabilitation of Existing Recreation Facilities - our zero inches of trails means we have nothing in terms of trails that we could do that for. In terms of our Town Park playground equipment and the like, I do not see that we would really be able to categorize any meaningful project as a rehabilitation project. (2) Education - it is designed to try to get youth under the age of 18 out and about in the community learning about the outdoors. I do not see this as something that would be particularly easy to do. (3) New Recreational Facility - I think this one has some possibility. It could be trails. It could be more park equipment. It could be one proposal that I received in terms of an idea for a pickle ball court. We will need to spell out what it is, and it is a 50% match. They highly encourage you to utilize a letter from your local, which in our case would be the County, Tourism Board, indicating that they think it would be supportive in general to tourism in the area and they fairly loosely define that as any kind of trail or recreational facility as being something supportive of people being interested in coming here and interested in living here. That would be the category that we might fit into. We also are collecting the small fraction of a percent in the way of the RAP Tax that is .1% of the sales tax and a portion of that gets allocated to us based on our population and a portion gets allocated based on economic activity here within Town. We rely very heavily on our 852 people which is much bigger in terms of the contribution compared to our actual transactions going on in Town. This is something that generates about \$6,000 to \$8,000 a year and it is something that we could use for the match. You may also use up to half of that match or 25% can be in-kind donations if we were able to have volunteers to do portions of the work needed to prepare something if we were doing a trail or doing a pickle ball court. I just wanted to bring this up to Council to find out if anyone would be against investigating this kind of a grant. Please let me know. Otherwise, there is no obligation to accept a grant if it is provided to us. It is just a matter of application deadlines are such that we will need to move ahead. The deadline is in February. Are you okay with looking to pursue an application knowing that we have the ability to evaluate what it is and whether we would want to come up with our portion of the funding at a later point?

Councilmember Roberts said I support it.

Councilmember Wilson said yes.

12. Closed Meeting: None


13. Meeting was adjourned at 8:29 PM.

APPROVED ON THIS 12TH DAY OF FEBRUARY, 2020



Mayor, Wayne Peterson

ATTEST:



Peggy Rosebush, Clerk/Recorder