

Town of Leeds

Planning Commission Meeting for August 6, 2014

1. Call to order:

Norm Peters, Chairman called to order the regular meeting of the Planning Commission at 7:02pm on August 6, 2014, at Leeds Town Hall, 218 N Main.

2. Roll Call:

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: NORM PETERS	<u>x</u>	<u> </u>
COMMISSIONER: ELLIOTT SHELTMAN	<u>x</u>	<u> </u>
COMMISSIONER: DARRELL NELSON	<u>x</u>	<u> </u>
COMMISSIONER: REED BRAITHWAITE	<u>x</u>	<u> </u>
COMMISSIONER: STEVE LEWIS	<u>x</u>	<u> </u>

3. Invocation by Commissioner Nelson.

4. Pledge of Allegiance by Chairman Peters.

5. Declaration of Abstentions or Conflicts: None.

6. Approval of Agenda:

Commissioner Braithwaite moved to approve tonight's agenda and meeting minutes of July 2, 2014. 2nd by Commissioner Nelson. All voted "Aye". Motion Passed.

7. Announcements: None.

8. Public Hearings:

a. Ordinance 2014-02, Hillside Protection Overlay Zone Amendment

Bob Nicholson, the Town Planner, gave a background on the Land Use Ordinance 2008-04 Hillside Protection Overlay Zone and read the following proposed amendment;

20.1 (Added to the end of paragraph 20.1)

except that the Town Council, after considering the recommendation of the Planning Commission, may allow the development of public streets and / or utility lines on slopes of 30% or more where the Town Council finds that other reasonable locations or design alternatives do not exist.

Commissioner Braithwaite moved to open the Public Hearing on the Hillside Protection Overlay Zone Amendment. 2nd by Commissioner Nelson. All voted "Aye". Motion Passed.

Roger New I was on the Planning Commission when they originally proposed the Hillside Ordinance and It was created because of violations that we didn't want to see a continuation of. We didn't at that time consider the necessity of utilities or roads so I support the amendment. It gives Planning Commission some flexibility that we didn't write into it. He was sitting where Commissioner Nelson is sitting about 15 years ago. I think this is good because it gives the Town some flexibility in case of utilities and roads

Danielle Stirling discussed the amendment and had the following comments and concerns:

1. The amendment is not really accommodating the Town, it accommodates the Developer.
2. A Developer should follow the Ordinances already in place.
3. The scar that would be left on the hillside if the amendment went through.
4. The Town and the Developer are both looking at it as how can we maximize what the Developer wants.

Betty McKnight, 9/10 of the road is in the county and they have not been contacted yet. They would like to be contacted and that is up to the Developer. I think Laws should be fair and when you get discretion it gets a little iffy. We have good Ordinance because they were copied from a product of St Georges and I think we need to keep them.

Jo Sheltman, discussed the amendment and thinks it is a good Law already and is not in favor of the amendment and discussed further. We should not change the Laws for anyone unless it's for a gas line, water line or safety.

Bob Nicholson the Town Planner responded that you can't do that for a water line or safety because the Ordinance does not allow for it.

Jo Sheltman indicated we haven't had a problem in the last 11 years.

Bob responded and maybe you never will.

Ralph Rohr, the question he has is if this Law was in effect when the Developer came in and set up his enterprise. If he knew about the law, he should have realized that the best thing in the community is to meet the rule of law. If he didn't know about it until after he got his property then I can understand him coming forward on this now. Ralph discussed it further. He is opposed of changing the Ordinance if the Developer knew about it.

Tracy Comas, I live at the bottom of a hill. If you allow a road, what's going to happen when the ground becomes unsettled? Because of the fire, I can't even open the door to my shed because of the disturbance of the ground. I think we need to abide by the Ordinances, they are there to protect us.

John Pope, assuming when the original Planning Commission and Town Council decided that 30% was taken into consideration it was for safety and discussed it further. The land has not changed and it is not wise to change it because safety is a concern and should be number one.

Russ Funk the Town Engineer indicated for quite a while now a 2nd access has been a concern for that area. We keep talking about a Developer when really it is a general change to the Ordinance; although, there is a Development I thing that brought it about. When the Developer came to the Town, the Town asked the Developer to get a second access and discussed it further. That has been a concern for a while.

Betty McKnight asked, Don't you have to have something approved for the whole road to get down to the road? You couldn't just approve a plan of the subdivision for half of a road can you?

Chairman Peters replied, I think Betty is all we are looking at is an exception to the rule that allows public road and utility lines.

Betty indicated that you only own to the water tank, but the other 9/10 is in the County and they haven't even heard about it. You have to get a road approval don't you need their approval first and discussed it further.

Russ Funk that is a separate issue from the Hillside Ordinance but that is a good point.

Chairman Peters, I did not know that was their area, what they were looking at is the amendment but what you are saying is they would have to contact the County before anything is done.

Betty responded correct.

Bob Nicholson, the Town Planner, The amendment does not approve any roads; it just opens up the possibility of it being approved and went over the map and discussed it further.

Betty I do not see why we have to change the Ordinance until we get the road access.

Chairman Peters, if we get a handle on it now then we have something we can point to and say no you can do this. We are going to let you do the 30% but they have to follow the rules.

Occasionally in the land we live in everything is not level. There is going to be more times than this down the pike, we both know that as we grow.

Betty, we wouldn't need to change the Ordinance if the road wasn't a possibility. She suggested waiting until the road is feasible.

Mark Williamson, we have crossed this bridge a couple of times and there is a need for something in the Amendment, not so much for building but for utilities. If we need to run septic, water lines or electricity lines this is where we cross that bridge and discussed it further.

Ralph Rohr, 30% grade is really steep; they put up signs at 8 to 12% grade. He asked Commissioner Lewis about the Fire truck at 30%.

Commissioner Lewis, there are no proposed roads at 30% grade. That is the Hillside Ordinance disturbances part of it, not the roads.

Ralph asked what is proposed to be changed.

Commissioner Lewis, what it does is allows the Town Council to accept something that is needed for our public safety. There are 103 homes in that area with one access. Fire code is 100, so we are already 3 over. There are 36 Lots waiting to be built on, so that would put us at 139 and that's not counting any new Development. So in my opinion, we are already past what I consider to be a safe threshold. You live over there; you do not meet fire code for a second egress. So the concept here is, let's see if we can create a second egress. The Developer is willing to spend \$1,000,000. dollars of his own money to put in a second access. The problem is the road is going to violate the 30% slope intrusion but the road will not exceed a 15% grade, which in my opinion is still steep but my trucks can do that. This is what this is about; it gives the Town the option to do that. If you can find another second egress, I don't know where you're going to find one and that's the problem. There is one on Wonder Lane but you have to take government possession to get it and I don't support that if you don't have to. Another one is to get through Crocker's property through Red Cliffs and that's not an option.

Betty McKnight has a good point. I will not stop until the Developer can prove he can put that road in through Cemetery road. The Town might stop there but I will go through the County. I will not approve one home in Phase two if the Town was to approve it until there is a secondary access.

Ralph Rohr asked Commissioner Lewis if he is in favor of approving the amendment. Commissioner Lewis replied I am in favor of the amendment for public safety; however, I will not be happy until the verbiage states that it is for public safety. It is for us, not a Developer. There are two issues here that are getting squashed together and discussed it further with Ralph Rohr.

Danielle Stirling asked if the amendment could be read to her one more time.

Bob Nicholson read the amendment.

Danielle Stirling indicated she is concerned because it is too open ended and discussed it further.

Bob Nicholson drew a sketch on the board to demonstrate a 30% slope that had been filled in and discussed it.

Jo Sheltman asked if anyone knew what kind of growth we have had in Leeds over the last 10 years and how many homes. As Planning Commission members you should all know the answer. Commissioner Sheltman I know you know the answer.

Commissioner Sheltman, our population is about the same as it was 7 years ago.

Jo, I don't agree with changing the Ordinance and discussed it further.

Commissioner Lewis, the reality is there are people in one part of the community with only one way out.

Jo Sheltman, I know, I live there and if a fire happens, my house burns down and I am willing to take that risk.

Commissioner Lewis, you also live next to an interstate that transports millions of tons of hazardous materials a year without a way out and if you are willing to take those risks without simply getting into your car and leave, that doesn't fit logic to me.

Joe, I bought the home knowing that, we are talking about a Development.

Commissioner Lewis, I don't know if all her neighbors agree with that they are willing to sacrifice their lives because they knew when they moved there, when they could just remove themselves to safety.

Joe Sheltman, of course we knew.

Commissioner Lewis, that doesn't make sense to me. My job is to try to protect you and a second egress will provide you that protection. That's why the codes are there is to protect that, so I don't understand.

Joe Sheltman, I agree, I would love to have a road and an onramp there too.

Chairman Peters told Jo Sheltman that she is not up at the stand anymore and to please keep her comments until she is up. This is not a public shouting match.

Ralph Rohr asked Bob Nicholson to re-read the amendment.

Bob read the amendment and discussed further with Ralph Rohr on who would benefit from a second access.

Betty McKnight, it seems like the Town doesn't have information to provide to a Developer when they come in and discussed it further with Commission Members.

Roger New discussed a project that he was working on that would require a utility over 30% slope and discussed it further.

Danielle Stirling asked for someone to explain how this would work if the Amendment went through. Who would have the last call?

Chairman Peters, it says right here “the Town Council, after considering the recommendation of the Planning Commission may allow the development”.

Danielle Stirling discussed the amendment and recommended any changes be done as a Conditional Use Permit and was concerned that it was being changed for one Development. If it is already built out in that area, why are we even here discussing a second access and discussed it further.

Commissioner Lewis, I think I can answer Danielle’s question. A part of this started when the Town of Leeds annexed in the area. A while back it was in the County and when it was annexed it created the problem we are facing today. As soon that happened, the Town had more than what we had for a second access for and that’s when it started.

Danielle asked how we got this far without following the Ordinances.

Commissioner Lewis replied that’s what we are trying to do; we are trying to follow the fire code as it exists and discussed it further.

Danielle asked, Shouldn’t that be the Developers positions. He hasn’t talked to the County at all.

Commissioner Lewis, and he’s is, he’s got a \$1,000.000, and we are not done yet. It is not concluded yet. From the Fire Department, I agree with Betty, unless we get the road over Cemetery road, we don’t have anything. So I am not done yet.

Rick Sant, I would like to clarify a few things. When we purchased this property 8 years ago, before we bought it, we came in and talked with the Town and one of the main things that they brought up is that we need a second access so people can get out. If there is a fire up there or Silver Reef Road has an accident or something to keep people from traveling on it. So it has always been over the last 8 years that we have been developing it, will you put in this road in for us as part of your subdivision? It has never been discussed that it was violating the Hillside Ordinance. As all we are doing there is the road will not be more that 15% but there is a gully there that is going to be filled up so that we can put our 15% road over it. I have talked to the County about it 5 or 6 years ago and I have an easement from the owner of the property that the road will be on and the reason we haven’t processed it threw there is because the property owner is considering annexing it into the Town of Leeds. He has been working on that over the last several years. I was told by the County if the property owner is considering developing we don’t want to mess with it right now and discussed it further.

Betty McKnight is there is no need for a greater grade, than there is no need to change the Ordinance.

Bob Nicholson, yes you do, there is a difference between a grade on a road and the land that is being disturbed. In this case you have a steep gully and that side of the hill is well over 30% and discussed the road further with Betty and Russ Funk.

Ralph Rohr asked does the current Hillside Ordinance permit disturbance of slopes or altering of natural terrain.

Russ Funk replied what it says is there shall be not development of slopes equaling or greater than 30%.

Ralph Rohr no development but no roads and discussed it with further with Commission Members and Bob Nicholson.

Reed Braithwaite moved to close the Public Hearing on the Hillside Protection Overlay Zone Amendment. 2nd by Commissioner Nelson. All voted "Aye". Motion Passed.

9. Action Items:

a. **Discussion and possible action on Ordinance 2014-02, Hillside Protection Overlay Zone Amendment**

Commissioner Braithwaite, I am in favor of the amendment but it needs some modifications. The reason why is for the existing homes up there and the Town needs some flexibility. It will still need to go through Planning Commission and Town Council.

Commissioner Lewis, my action should be nothing tonight. We need more time to consider the public's input from tonight. The verbiage needs to be changed and go through the Town Attorney. Once that happens he will be ready to move it on to Town Council.

Commissioner Sheltman, I think it is not a good idea to vote on something that is not written up. I like my laws clear and it is perfect the way it is and discussed it further. The Hillside Ordinance is 10 years old and nobody has wanted to change it. I do have questions, do we have anything in place for the proposed road.

Russ Funk the Town Engineer replied there are purposed construction drawings and a proposed easement and discussed it with Commissioner Sheltman.

Commissioner Sheltman, I went over this road before when a truck repair shop was purposed. In our General Plan the cemetery road and Silver Reef Road has its own paragraph. Cemetery road is a 66 foot right-of-way because it's a major collector road. Why don't we look at the road to see if we need to change the Ordinance and discussed it further?

Russ Funk, the road is purposed as a 66 foot right-a-way. Now that is only within the Developers property and needs to be followed through.

Commissioner Sheltman asked Russ Funk and Bob Nicholson if this is the acceptable way of doing this, to look at the road then find out what we need. Maybe do a variance for that road and if we can do a variance write up something specific for that road.

Bob Nicholson, looking at the road is a good idea. I think it's clear that on Coolidge Drive past the water tank can't be built without disturbing the 30% slope. I don't know Leeds well enough to know if there is another alternative. So we know if Coolidge Drive is going to happen, it's going to have to disturb the 30%. I agree to look at it from top to bottom. We could just draft an amendment with Coolidge Drive as shown in exhibit "A" may disturb the 30%. A year from now you might need to have a utility that cuts threw a 30% slope that would violate the Town Ordinance and discussed possible amending procedures with Commissioner Sheltman.

Chairman Peters correct me if I am wrong and what you're saying Elliott makes perfect sense but the issue before us is the 30% grade and has nothing to do with the road. The road still has to comply with every other rule there is, but this just takes care of the way for utilities or water or whatever through this 30%. By protecting ourselves, we open it up to if there is a

problem they can explore that avenue and come to the Commission, it's still a multi-step process.

Russ Funk, I have done a lot of water projects and there have been a lot of things I have had to do something more than a 30% grade and discussed it further with Chairman Peters and Commissioner Sheltman.

Darrell Nelson, I like the part for utility lines. In answer to the Hillside Ordinance, it was attested in 2003-2004 it was for Ed Snow that wanted to build. As far as roads go, I like the idea of a variance if it's only a onetime thing but if it's for a public utility line, I don't see a problem in redoing the Ordinance.

Chairman Peters if we want to do it by Ordinance they still have to come to Planning Commission and follow every step of the process, so we aren't really giving them anything. We are just changing the words so there are options to come in front of us

Commissioner Sheltman, that is opening a can of worms because it is subjective reasoning. At least now it's consistent with any applicant that comes in and discussed it further.

Commissioner Braithwaite moved to table the item until it's in written form that is acceptable to everyone up here. Chairman Peters asked how Commissioner Braithwaite would propose what is acceptable. Commissioner Braithwaite I would add for the health, safety and general wellbeing of the Town and have the Town Attorney review it. 2nd by Commissioner Lewis. All voted "Aye". Motion Passed.

Tabled until amendment is reworded	Passed		Rejected		Tabled	x
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b. Discussion and possible action on Final Plat Subdivision Application, Bulldog Ridge applicant Bick Lesser

Roger New gave an update on the Subdivision. He has approval from the Water Service provider, Health Department, Electric Service and a title check has been done. Roger discussed the drainage field for septic and the owner will comply with whatever the Town suggests.

Commission members discussed the Subdivision with Roger New and Russ Funk the Town Engineer. The conditions that Planning Commission set for the subdivision at last month's meeting were met and discussed further. Planning Commission members set the following two more conditions to be met and forwarded it to Town Council;

1. Approval letter from the DDW (Division of Drinking Water) for 3 booster pumps
2. Letter from Chief Lewis for compliance on water flow at 1000 gal. per minute at the hydrant

Commissioner Braithwaite made a motion to approve the Final Plat Map for Bulldog Ridge based on the eight conditions that were reflected in the minutes having met those 8 conditions, a letter from Chief Lewis that no building permits will be issued until compliance on water flow at 1000 gal. per minute at the hydrant and an approval letter from DDW that they can have 3 booster pumps. 2nd by Commissioner Sheltman. All voted "Aye". Motion Passed.

c. **Discussion and possible action on Silver Pointe Estates Phase 2 final plat map, applicant Rick Sant**

Bob Nicholson the Town Planner indicated there was a new Plat Map that he received today.

Russ Funk the Town Engineer, I just got a copy of the new Plat Map today. We went up to the site a few weeks ago and reviewed the road that had been staked. Due to some concerns, we had them re-stake it with the additional change's that needed to be made. They have taken those changes and I am a lot happier with the road alignment than what was originally proposed. It should be noted that some of the Development is on 30% slope and there are still several conditions that will need to be met.

Bob Nicholson indicated lot 24 and 45 don't meet the 1 acre requirement and the 2nd access is still an issue that needs to be resolved. Commission Members discussed the 2 issues further. Rick Sant responded that the Development agreement allows the zoning on those 2 lots and is in compliance with that. He showed on the map the changes to the road that had been made. Commissioner Lewis, you moved the road over 20 feet and discussed the setbacks and the building sights with Rick Sant.

Russ Funk, the Ordinance requires a 20 foot setback from the edge and then a 55 foot right-of-way.

Commissioner Lewis, one of my concerns is, if the Ordinances were in place the whole time, why the road needed to be realigned 3 times. It erodes my confidence when we knew all the time what the truth was and discussed it further.

Rick Sant replied we only changed it twice and it is difficult to take a drawing like that and scale and determine where the edge is.

Commissioner Lewis, if somebody wouldn't have pushed on this, it wouldn't have been changed and because of it you have lost lots.

Commissioner Sheltman asked Commissioner Lewis to bring up some of the concerns he had at the site visit as to water and sewer.

Commissioner Lewis, I appreciate that Elliott, I was concerned about elevations because when I was standing at the site looking at the water tower, I was thinking they looked the same height and I couldn't tell. So what I did was take 2 GPS units and went on top of both hills and the elevations came out a little different on the units but the difference in elevation came out exactly the same. I learned that there is about 120 feet elevation difference. Rough math tells me that is going to fly. Until I see engineering plans on pressure and flow, I won't feel comfortable. The Highlands tank cannot be used. The Sewer I feel comfortable on the design but what does bother me is the location kind of floats. Put it on land so we can see where it is going to be. I would like to see where it is going to be planted.

Rick Sant asked Commissioner Lewis what do you mean by plant it.

Commissioner Lewis responded what I mean is show us where it will be in your subdivision so the design can be finalized. It's not definite enough for me. Another problem is hydrology as it pertains to run off and it bugs me that it says no impact. He does not buy that it will have no impact. Show us where the water is going to run. I know where it's going to go and it needs to be dealt with and discussed it further. His vote tonight would be not to vote and discussed it further.

Rick Sant asked for a list of things for next month's meeting that need to be done so he can be prepared.

Commissioner Sheltman and Rick Sant discussed LDWA water. Commissioner Sheltman indicated that Rick should be working on getting plans submitted to the water company so they can start to work on it.

Commissioner Lewis, I remember working on Phase 1 water hydrant placement but never Phase 2.

Rick Sant replied that 4 years ago the whole subdivision was approved with 45 lots with the improvement plans. Then we came back to the Town and asked if we could do it in phases so Phase one is 22 lots and Phase 2 is 23 lots. I thought you had those improvement plans and discussed it further with Commissioner Sheltman and Glen Carnahan with Alpha Engineering. Commissioner Lewis asked Bob Nicholson for clarification on if we are obligated to what was approved in the first 45 lot map.

Bob Nicholson replied that nothing has been recorded yet, they are 2 separate projects, Phase 1 and Phase 2.

Commissioner Lewis I clearly remember that these homes are not going to obstruct the skyline and discussed it further.

Rick responded that is in the CC&R's and it will not obstruct the skyline from Silver Reef and discussed it further with Commissioner Lewis.

Russ Funk the Town Engineer indicated there are other conditions, the cleanup by the State and the 2nd access is in violation.

Commissioner Lewis expressed concern about the subdivision being built on existing mining shafts. He personally thinks that should be out on the surface and publicly stated. He discussed it further.

Commissioner Lewis left the Meeting, Time: 9:37pm.

Chariman Peter entertained a motion to table the Final Plat Map for Silver Pointe Estates Phase 2 until the following conditions are met;

Sewer location, Fire Hydrants, Hydraulics, Road Report and report from LDWA.

Rick Sant discussed the conditions with Commissioners.

Commissioner Sheltman asked Kristi Barker if she knew were they are at on how many times this could be table.

Kristi Barker replied she was not sure and discussed it further.

Commissioner Nelson, I so move. 2nd by Commissioner Braithwaite. All voted "Aye". Motion Passed

Tabled until next month's meeting. Applicant was asked to work on the following items, Fire Hydrants, Water Plan, Hydraulics, Sewer location, Clean up documents, 2nd access.	Passed		Rejected		Tabled	x
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d. Discussion and possible action on a lot line adjustment for Sullivan, parcels L-44-B, L-44-C, L-43-A, L-46-A and L-46-B located at 60 E Cherry Lane
Kristi Barker the Deputy Clerk Recorder gave an update on the application process.

Reed Braithwaite made a motion to approve the lot line adjustment for Sullivan. 2nd by Elliott Sheltman. All voted "Aye" Motion Passed.

10. Discussion Items:

a. Amendment to Chapter 22, Sign Ordinance

Bob Nicholson the Town Planner gave an overview of the amendment and discussed it with Commission Members. Commissioner Sheltman will take pictures of signs around Town for next month's meeting to discuss it further.

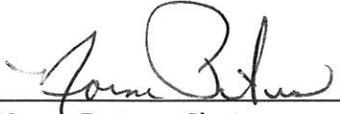
11. Staff Reports: None

12. Adjournment:

Reed Braithwaite moved to adjourn the meeting. 2nd by Darrell Nelson. All voted "Aye". Motion Passed.

Time: 9:47pm.

APPROVED ON THIS 3 DAY OF September 2014



Norm Peters, Chair

ATTEST:



Kristi Barker, Deputy Clerk/Recorder