

Town of Leeds

Planning Commission Meeting for Wednesday, February 6, 2019

1. Call to order:

Chairman Poast called to order the regular meeting of the Planning Commission at 7 PM on Wednesday, February 6, 2019, at Leeds Town Hall, 218 N Main.

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: JOHN POAST	<u>x</u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>
COMMISSIONER: STEPHEN WILSON	<u>x</u>	<u> </u>
COMMISSIONER: TOM DARTON	<u> </u>	<u>x</u>
COMMISSIONER: DANNY SWENSON	<u> </u>	<u>x</u>

2. Invocation by Commissioner Wilson.

3. Pledge of Allegiance

4. Declaration of Abstentions or Conflicts: None.

5. Approval of Agenda:

Commissioner Robbins moved to approve tonight's agenda and meeting minutes of November 7, 2018 and November 14, 2018. 2nd by Commissioner Wilson. All voted. Motion passed.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CHAIRMAN: JOHN POAST	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: STEPHEN WILSON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: TOM DARTON	<u> </u>	<u> </u>	<u> </u>	<u>x</u>
COMMISSIONER: DANNY SWENSON	<u> </u>	<u> </u>	<u> </u>	<u>x</u>

6. Announcements: None.

7. Public Hearing:

- a. Zone change on Parcels L-4-1-12-122 and L-94-D owned by DHP Properties and ZZZ Properties for approximately 0.510 acres from Open Space (OS) to Commercial (C)

Scott Messel said he can go through it first and then turn it over to the applicant. He said the parcels are located on Cemetery Road and they are .5 acres in size. It is currently zoned Open Space. The applicant is requesting to rezone the property from Open Space to Commercial. The applicant has not yet supplied or

submitted a site plan for approval. The applicant has said that he would like to build a block building for a storage facility. He said he would like to set the record straight. There are 2 parcels, not just 1. There is L-4-1-12-122 and L-94-B. These 2 parcels equal the .5 acres.

Chairman Poast asked Clerk/Recorder if both parcel numbers were indicated on what was sent out to the Planning Commissioners.

Peggy Rosebush, Clerk/Recorder, said both parcel numbers are on the Zone Change Application that was sent out.

Scott Messel said the 2 parcel numbers and correct acreage are noted on the notice and on the application. He pointed out the 2 parcels on the zoning map for all to see. Approval of the zone change request would not be approving the site plan. The applicant would need to go through site plan approval on this depending on the type of business, whether it is a permitted use or a conditional use. This would be handled at a later date. Today, what is before us is the zone change.

Commissioner Wilson asked if this is the piece of property that was in transition or wasn't zoned properly to begin with.

Chairman Poast said this is the property next to it. This is not the property where the guy was going to build a campground.

John Zoetmulder with DHP Properties said they would like to build some storage units that would be more like shops with storage. They would like to rent out 2 or 3 of the spaces to plumbers or someone similar who would need some outside storage with a shop.

Chairman Poast asked if this is for his own equipment.

John Zoetmulder said part of it is, but the other part he wants to rent out to help offset the cost.

Chairman Poast asked what type of storage would the part not rented out be for.

John Zoetmulder said it would be for my masonry equipment, scaffolding and things of that nature. The units we built in St George are rented out to companies like HVAC companies.

Commissioner Wilson asked if this will be like Leeds Mini-Storage.

John Zoetmulder said no.

Commissioner Wilson asked if it will be for contractors.

John Zoetmulder said it could be for someone who has a nice motorhome.

Scott Messel asked how many spaces will there be.

John Zoetmulder said 3 spaces – 1 for him and rent out 2.

Chairman Poast asked how big is the entire building.

Scott Messel shared a drawing that indicates the size of the building.

Commissioner Wilson said basically it will be for companies who want storage for their business. They will take things out and then bring it back in, like trailers.

John Zoetmulder said it will be behind block walls and not out in the open.

Chairman Poast asked if it will be a cinder block building.

John Zoetmulder said correct.

Commissioner Wilson asked if the adjacent property is Open Space.

Scott Messel said yes.

Commissioner Wilson asked if there was any other commercial space there.

Scott Messel said there is commercial space across from it.

Chairman Poast asked what is the distance from the proposed building to the cemetery.

John Zoetmulder said they are right on the cemetery property line and then 110 Ft. deep, depending on what part of the lot you are on.

Commissioner Wilson asked what direction will the building face.

John Zoetmulder said it will face the cemetery. It will be the building, a parking lot and then the cemetery. He said they will build a block wall down the side of the cemetery. This will help make the cemetery look prettier.

Chairman Poast said so there is a wall between the cemetery and your building.

John Zoetmulder said from the cemetery all you will see is a block wall. He pointed out 2 other parcels behind the cemetery that he owns as well. These parcels are in the County. These 2 parcels back-up to the 2 parcels to be rezoned.

Scott Messel pointed out these 2 parcels on the zoning map for the Commissioners to see.

John Zoetmulder said they hope to bring these 2 parcels into the City and get them zoned Commercial as well.

Chairman Poast asked if this is in this request.

Scott Messel said no. It will have to go through annexing process.

John Zoetmulder asked if this would be something that would be considered.

Commission Robbins asked if he was asking right now. He said they would have to have Scott Messel take a look at it to make a recommendation. He said he could not say at this point. It looks like it would make sense.

Scott Messel said there are a couple of different land uses that could happen.

Chairman Poast said there was talk at one point about expanding the cemetery.

Scott Messel said he does not know what the Town's plan is for the cemetery, but that seems logical space for an expansion. There is talk about in the future redoing the interchange – making it a full interchange rather than having it separated. It would be UDOT doing this. If this happens, commercial would be a more appropriate use for properties around the interchange.

Susan Savage said she has a question about the interchange plan.

Scott Messel said this is something UDOT has talked about for the future. It could take 20 years.

Susan Savage said she was wondering if this is the interchange they are talking about making into a full one or the interchange at the top of Town.

Scott Messel said he does not know.

Darryl Lewis asked if there was any way to add some landscaping between the cinder block and the cemetery and between the cinder block and Cemetery Rd. to make it more pleasant for the cemetery and for residents who drive that area all of time. This might be a good consideration.

Scott Messel asked if part of the site plan approval includes some landscaping. He said this would be a good idea for the applicant and the Commission to take into consideration.

Commissioner Robbins said maybe Scott can take a look at the site plan when we get it to make sure it makes sense. He said maybe something else besides cinder block would work better and might be a little less intrusive.

Chairman Poast said this is a good point.

Mark Rosenthal said he is a resident in Leeds and a resident of Hidden Valley. He said he is here to voice his concern over the proposed zone change from Open Space to Commercial. The basis of my concern is if you look at the map on the projection screen, the property to the west is owned by one of the companies who owns one of the parcels requesting to be rezoned. They had originally applied for a mining permit with the State and they were told by the mining department that in the interim they did not need the mining permit and did not get one. The intent was to develop this into house space. When they began construction there, or began their operations there, approximately 3 years ago, I stopped by and asked one of the guys what were they going to build there, and he mentioned houses. In the 3 years that have lapsed, there has been no house development, but there has been a large quantity of rock, boulder size rock, removed from this area. I believe, and correct me if I am wrong, Scott, the area pointed to on the map is actually a pit. And under the definition of mining, it is a mine. The components of the zone change have been carrying on a mining operation, including blasting without permits, with potential disregard for the folks in the area, and this is the basis of my objection to this proposed change until the

applicants can demonstrate their good faith that this is what they intend to do with the zone change request. I would encourage the Commission to hold off on allowing the zone change until that is in hand.

John Zoetmulder said he is part owner of DHP and everything that has been said is a lie. We have permits to blast and Scott is aware of this. Everything we have done we have done legally and not as a mine. When we went to get a mining permit, they gave us the mining permit.

Chairman Poast asked, the County?

John Zoetmulder said not the County, the State of Utah. The State of Utah gave us the mining permit, and as we explained to them, we did not need it because what we were doing was building a neighborhood. We are building a neighborhood, but we do not have the money to make it happen in 6 months or a year so we pull the rock out of there. We have 2 lots almost ready to go. There is no pit there. He asked Mark Rosenthal if he has been there.

Mark Rosenthal said he can't because it is posted, but he can look down on it from many vantage points. He said he can see it if you pull up Google Earth, there is an image there.

John Zoetmulder said there is no pit there, but there are piles of dirt.

Mark Rosenthal said there is a trench pit there.

John Zoetmulder said there is no trench pit there.

Mark Rosenthal said there is on Google Earth image.

John Zoetmulder said we have the home sites approved. We are not doing anything illegal and we are not doing anything wrong. Scott has been dealing with us the whole time. Every time we have blasted, we have had a permit. He said hearsay is one thing, but this is the actual truth.

Scott Messel said the way the County code reads, the blasting permit needs to go through the Fire District. Any time there is blasting done, you are supposed to notify the Fire District and often the Fire District lets the public and the County Public Works know about it. I know they have been notified several times, but I do not know how many times they have blasted. As far as the property, several years ago, they came in and received preliminary plat approval for a 7 lot subdivision and it was rezoned. It was originally zoned Agricultural and rezoned it to R-A-1 or R-E-1 which is residential estate or residential agricultural 1 acre. They have had some problems with the number of septs so they would not have been able to build all the lots in the preliminary plat. An alternate system would have had to be done, a system approved by the Health Department. One of the options they could do with their final plat is you could do phasing with the final plat. The County Commissioners have not wanted to have an excavating permit. They were worried about a ranch burying a cow to have to come in and get a permit to dig a hole. The former County Commissioners wanted to stay away from a permit. The County now, because there is some grey area between a subdivision getting approved, a gravel pit and hillside ordinance which is then enforced at time of the building permit, is working on doing an excavation permit ordinance, but right now we do not have an excavation permit so they are not in violation of anything. There have been a lot of discussions both from residents around and staff as to what constitutes a gravel pit and what constitutes a mining operation. Betty McKnight, a former resident in that neighborhood, was very vocal against this project and she was the one who contacted the State to find out if it fit their definition of mining. The County

Community Development Department, in talking with a representative from the State, the State did not consider it mining. They said it could be extraction or a gravel pit, but not a mining operation. The applicant said to come into compliance, I will get it rezoned or get a conditional use for a gravel pit. Because of the acreage, gravel pits are permitted in the County in agricultural and open space zones and the minimum lot size requirement in open space zones is 20 acres. They have only like 7 acres.

John Zoetmulder said 9 acres.

Chairman Poast said to the best of my knowledge, he is not violating anything at this particular time.

Scott Messel said correct. He said the applicant is not violating any County ordinances.

Chairman Poast said this is County land, correct?

Scott Messel said correct. He said because of the unusual Town boundaries right there, it is impactful what is happening on that property to the people in this room, who are residents of Leeds.

Mark Rosenthal said regarding the applicant calling me a liar, when one of your agents, the blasting company, detonated up there a few months back, it rattled the entire ridge line from the location of the operation down to where I live.

John Zoetmulder said I doubt it.

Mark Rosenthal said you can believe whatever you like, sir. He said my friends live right next door to that location and they thought it was an earthquake. When that occurred, I called Scott Messel to find out who is responsible for issuing blasting permits in the County. Scott said it is the Fire District in this area. He said he called the Fire District and asked them if a blasting permit had been issued for that location and they told him no. The Fire Chief went out and looked at it the next day. The Fire Chief called back and said yes blasting had occurred and from what he could tell it occurred more than once. But at that particular time, there was no permit issued.

John Zoetmulder said a permit was issued.

Mark Rosenthal said the Deputy Chief did not know anything about it. I find this all interesting.

John Zoetmulder said it was issued.

Mark Rosenthal said he is bringing all of this up because they have been storing construction equipment on this site for approximately 2 years without benefit of the zoning change in place. According to ordinance of Leeds, open space has specific allowances for what you can do with it. This is not included. He said he is not objecting to the folks developing the property, but I am concerned over what has occurred on the adjacent County side and what the applicant is saying they are going to do if they are granted this zone change.

Lynn Potter said technically he is a resident of St George, but he will be moving to Leeds in the next year or so. These 2 gentlemen have a beef here so I'm going to ask a couple of questions. He said he is familiar with blasting and he asked the applicant what was he shooting.

John Zoetmulder said he had no idea.

Lynn Potter asked if they dug 4 6-inch holes.

John Zoetmulder said he had no idea.

Lynn Potter said just to keep the neighbors happy, you might want to make smaller shots. In rock like that, it will carry 5 miles. He said on the other hand, he has rights to do things and I am completely for his right for this change. You guys are going to issue a permit with conditions on it. He will have to build a block wall and there will have to be landscaping. He said you guys are going to hold him to this, right, as part of this.

Chairman Poast said when the time comes.

Lynn Potter said no problems, no questions. You are a good man. He said he is for this change.

Darryl Lewis said just listening to the comments that have been made, it is occurring to him that what we are talking about is a very small portion of a very large project. I think that the piece that is outside the City on the left and the piece outside the City on the right, this company in all probability has every intention of joining those pieces of property. It will end up a sizable chunk of land. There have been some accusations made by a citizen of Leeds, and to my knowledge, they have not factually been refuted. Opinions have been put forth that refuted, but they are not facts. I heard the applicant say that our Planner has been with them all the way on this project. I heard the Planner say that there were issues he was not aware of. I would ask the Planning Commission simply from the prospective of not making decisions today that can come back and bite the City in their rear end in 2 years, 5 years or 10 years from now. And to take the time to investigate the purpose of the company, what they have done, their reputation and what is and isn't legal before we open Pandora's Box.

Councilman Wilson asked John Zoetmulder what is his plan with all the pieces of land.

John Zoetmulder said it is his intention to turn the .5 acres into commercial and put in shops and parking.

Commissioner Wilson said and leave the other as residential.

John Zoetmulder said yes, he will be living there.

Chairman Poast asked what happened to the development of houses at the other end.

John Zoetmulder pointed out where the housing area ends because they cannot get septic there. He said there are 4 lots that are buildable because we can do the super-duper septic system, but the last 2 lots, until they can figure out a different way to do it, are on hold. He said he wants to live there and his partner wants to live there. He said they do not have enough money to get it ready in a short period of time so we get it ready when we can. We have always been upfront and honest about this since the day they started. He said they are not a big excavation company or a big building company. The end result is that they want to live there.

Darryl Lewis said the so-called super-duper septic system has become an issue in Town primarily because of the development around Majestic Mountain and Alberta Pace. In my investigation with the

State, they do not have a super-duper septic system in the State yet that operates or is functional or functional for 18 months. I still say the same thing I said before. I would ask you to verify all this information because we are talking about a long-term annexation into the City of Leeds and we are talking about a very large chunk of land that all of us are going to see coming and going in our Town every day. Please take the time and verify this before you agree to it.

Lynn Potter said he is pro development and people have rights on their property. He is not going to be doing anything bad. If we want to find out what kind of quality this man is, we do not have to go and look him up with law enforcement. He asked the applicant is he has a contractor's license.

John Zoetmulder said yes.

Lynn Potter said check his contractor's license to see if he has any complaints against him. There you are, a good man or not. I question why you do not want to bring that other piece into the City with the way things are. If we do not grow, we die. The City of Leeds missed a lot of opportunities for annexation and now we are being surrounded and we have a very small budget. He said from my business experience, given a small budget and the way things are changing, Leeds is going to go under in the next 20 years because it does not have enough money because it has not grown. We have to develop.

Susan Savage said it is interesting to hear people's opinions. She said she has lived here all her life and heard all her life that we are dying. You work through new development scenarios with people and what you end up with are the people who are here. We have a Town that we like. We see what development has done around us and have choices to make. We have not died.

Councilmember Robbins said he has a few comments. He does not dispute what has been said. All may be right, he does not know. From my perspective, what I am looking at today is that area outlined in red on the map and what is the appropriate zoning for that piece of land regardless of what has happened in the past. Personally, as a former Planning Director, I do not see that as residential. I do not think anyone would ever live there. It is commercial or industrial. We have an application before us today for commercial. It sounds like you are really doing something more industrial, in my opinion, but the zone is the zone.

John Zoetmulder said he thought you did not have industrial.

Chairman Poast and Councilmember Wilson both said we do not.

Councilmember Robbins said that is fine, it is commercial, but you are still doing a more industrial type of business. So, from my prospective, regardless of what your history is, I do not think that is relevant regarding this discussion here today. I do not have a problem with it. I do not know what else that property would be. It is not open space and it is not residential, so it has to be commercial. This is where I am at. The one warning I would have for you is that years ago someone like you came in and they wanted to do a mini-storage adjacent to a cemetery in a city in California that was established about the same time as this one in 1850. Low and behold, they started digging around and found bodies buried around the outside of the cemetery. There was a little potter's field that no one knew about. So, whenever you get around a cemetery, and you start excavating, God knows what you are going to find. He said I hope things are marked well, but you do not know. If that happens, it will stop you in your tracks and that will be the end of your project. But from my prospective on this zone change, I do not have a problem with it.

Chairman Poast closed the Public Hearing.

8. Action Items:

- a. Zone change on Parcels L-4-1-12-122 and L-94-D owned by DHP Properties and Z2Z Properties for approximately 0.510 acres from Open Space (OS) to Commercial (C)

Commissioner Robbins made a motion to approve the zone change and recommend approval to City Council.

Councilmember Wilson said he would like to note that he appreciates the comments because these are things that needed to be discussed. I am in agreeance with the fact that we are dealing with the one piece and we cannot look at anything we do not have authority over. In my view, I do not see it anything other than commercial. From that prospective, I 2nd the motion.

Chairman Poast said we will get another bite at the apple on this one. But for this request, I do not have any other comments.

All voted. Motion passed.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: JOHN POAST	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: STEPHEN WILSON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: TOM DARTON	<u> </u>	<u> </u>	<u> </u>	<u>x</u>
COMMISSIONER: DANNY SWENSON	<u> </u>	<u> </u>	<u> </u>	<u>x</u>

Chairman Poast said the recommendation to change the zoning from open space to commercial on these 2 parcels is approved by the Planning Commission.

9. Discussion Items:

- a. Update on the Leeds General Plan

Councilmembers said they have not been able to get together.

Chairman Poast said we need to focus on this a little more. Originally, we thought we would get it done last year, but we did get the survey done and we got some other things done. I would like to know if the State has come back with anything. He said we are supposed to get some money and some other things like a traffic study and some other items.

Scott Messel said he will look into it, but wherever the old Planning group let off, we can pick it up and move forward with it.

Chairman Poast said let's for sure put this on the agenda for next month as a discussion item. We need to jump back into this full force.

Councilmember Robbins said he recommends, if possible, is to have Scott take the lead on some of this. He is a professional in this field and he can probably tell us exactly what we need to change and not change. Otherwise, we will be spinning our wheels and wasting our time. He said he thinks there was money set aside so we can do this.

10. Staff Reports: None

11. Adjournment:

Chairman Poast adjourned the meeting at 7:45 PM.

APPROVED ON THIS 13th DAY OF May, 2019


John Poast, Chair

ATTEST:


Peggy Rosebush, Clerk/Recorder