

Town of Leeds

Planning Commission Meeting for Wednesday, December 2, 2020

1. Call to order:

Chairman Swenson called to order the regular meeting of the Planning Commission at 7 PM on Wednesday, December 2, 2020. This was an electronic meeting.

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u> </u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u> </u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u> </u>

2. Invocation

3. Pledge of Allegiance

4. Declaration of Abstentions or Conflicts: None

5. Consent Agenda

Commissioner Rosenthal moved to approve tonight's agenda. 2nd by Commissioner Darton. All voted. Motion passed.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u> </u>	<u> </u>	<u> </u>

Commissioner Robbins moved to approve Meeting Minutes of October 7, 2020. 2nd by Commissioner Rosenthal. All voted. Motion passed.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u> </u>	<u> </u>	<u> </u>

6. Announcements:

Chairman Swenson said dumpster days will be December 11-13.

7. Public Hearings: None

8. Action Items: None

9. Discussion Items:

a. Chapter 30 – Short-Term Rental, Update as Prepared by Craig Hall, Town Attorney

Chairman Swenson said I would like to turn this over to Scott Messel.

Scott Messel said Town Council has been discussing short-term rentals and how to handle them. Town Council recently viewed the draft ordinance that was prepared by the Town Attorney. They made some recommendations to it and I believe those are the notes in red. It is before the Planning Commission at this time for your review. If you are comfortable with it or if you have changes you want to make, we will schedule a Public Hearing once you feel it is ready to move forward. The term being used, and I believe we got it from Virgin, is residential hosting or RH. That is a dwelling where it is owner occupied and one or more rooms will be rented in a short-term capacity. The Town is not allowing anyone to rent or lease an entire dwelling for less than 30 days. The individuals wanting to have such facilities will need to fill-out an application which will have different requirements outlined in the code including review by staff, review by Hurricane Fire District for fire code compliance, there are health safety things involved such as smoke detectors and proper egress out of the rooms. There will be a yearly renewal. If a permit is denied, the applicant or property owner can appeal the decision.

Commissioner Rosenthal said in 30.2.3.B.v states the number of people allowed. Does this violate any constitutional standards? We need to be careful we are not restricting the number of family members.

Scott Messel said the way it could be worded in the definition of a family is a maximum of so many unrelated guests. We are probably alright the way it is.

Commissioner Rosenthal said if you have 8 children plus the mother and father, you are at 10. And you have 4 guests. Maximizing the number of occupants could make this a difficult one to digest. You can limit the number of guests, but not the number of occupants.

Commissioner Darton said do you count the total number of family members as the total number allowed? I think you may run into an equal protection problem. Small families are permitted, but large families are not.

Scott Messel said I think there needs to be some clarification.

Commissioner Darton said it is okay if you want to limit the number of guests, but not limit the number of people in a family.

Scott Messel said one thing we do need to look at ... where the 10 occupants comes from is an attempt to keep it within fire code regulations for sprinklers. We need to ask legal about this.

Commissioner Darton said this might play a role in getting your application or permit approved.

Chairman Swenson said we need to find out what the sprinkler code is.

Chairman Swenson said I think the 4 guests is limiting.

Commissioner Darton said Scott, is the 4 guest limit something that Town Council wanted?

Scott Messel said I do not know, but my guess would be yes. It may be from Virgin's code and we copied it.

Commissioner Robbins said I do not have a problem with the number of people. I think 4 is more than enough. Having 4 guests will be enough of a disruption to the neighborhood.

Commissioner Darton said we live in a town that has no option for someone to come in ... we have no hotels or motels. What is a family supposed to do if legally only 4 people can stay?

Commissioner Robinson said that is 4 more than they get right now. Having people you do not know coming in and out all the time can be pretty annoying. It can become a problem. I think it is great that the owner has to be there. Four people is more than enough. It is not our responsibility provide motels. There are plenty in St. George and other areas. I do not think it is appropriate for a residential neighborhood. Four people is plenty.

Commissioner Rosenthal said within 500 to 600 feet of me, I have 2 Air BNB's. The traffic through here as a result of those units being rented has been commented on by the people who live up here. I do have to agree with Brad's prospective that we have to be considerate of the neighbors. We have a Nuisance Ordinance in place that could be used to address any concerns that occur regardless if it is a short-term rental or just the neighbors. There are some components in the draft that speak to that - i.e., owner has to provide contact information to people who live next door so if there is an issue the people can get in touch with them. I think it would be beneficial to minimize downstream problems, nuisances, if you will, by having a reasonable limit. People can follow the rules and still be able to rent out a portion of their house.

Chairman Swenson said if the consensus of this Town is not to have any, why are we even considering this? Where did this come from? Why are we all of a sudden considering this?

Commissioner Robbins said I was wondering that, too. Does this take the place of a bed and breakfast?

Commissioner Darton said there is not a bed and breakfast ordinance. This is supposed to deal with that.

Scott Messel said there is a bed and breakfast listed as a conditional use. There has been some discussion and some confusion about what is a bed and breakfast, what is short-term rental and is there a difference. Because the issue kept coming up, I think that is why the direction has been to look into creating a short-term rental ordinance.

Commissioner Rosenthal said as I recall, in some of the discussions on this issue, being it is a conditional use, the question was what are the conditions. This is the result of the effort to put the conditions on the conditional use component. This way, it will not have to be re-examined every single time someone applies to have a short-term rental or whatever it is being called.

Scott Messel said it does not allow people to rent out an entire dwelling and be an absentee landlord. It has to be owner occupied and only a portion can be rented. In 30.1, it states that the purpose of this chapter is to state the prohibition for the leasing of entire residential dwelling for periods of less than 30 consecutive days – also known as short-term rental. Some jurisdictions have decided that there are less issues with short-term rentals if it is owner occupied.

Chairman Swenson said up until this point in time, we have frowned upon this and we have not allowed it. This right here is saying that the Town of Leeds supports short-term rentals, etc., etc., anything within these statutes. This will be a big change.

Commissioner Robbins said because the code is silent on it right now, does that mean it is prohibited?

Scott Messel said no, it is not prohibited. Because there is no definition of a bed and breakfast, there is some ambiguity because it is not addressed.

Commissioner Robbins said in most codes, if it is not specifically stated in the code, it is not allowed.

Commissioner Darton said it is a conditional use. The problem is when someone comes in to request a conditional use permit, it is not uniform.

Commissioner Robbins said I do not think a short-term rental is a conditional use. A bed and breakfast is.

Commissioner Darton said if it is owner occupied, it is a bed and breakfast.

Commissioner Robbins said is this taking the place of a bed and breakfast? It seems to me that is what this is.

Scott Messel said the County has taken everything such as boarding house, short-term rental and bed and breakfast and combined it all under the definition of a tourist home. I think with the Town of Leeds the idea is to have separate definitions – one for residential hosting residents and one for bed and breakfast.

Commissioner Robbins said they seem to be the exact same thing. I am not sure why we would keep a bed and breakfast ordinance and allow this.

Scott Messel said I am sorry. The bed and breakfast would go away.

Commissioner Darton said I do not recall seeing that in this proposed ordinance.

Commissioner Darton said in 30.2.3.B.iv, it says where the guests will privately reside. What does privately mean? I would like to know so when someone comes before us, we will know what standard to apply. Who wrote privately and what did they have in mind? Are you talking about a separate entrance? That could be a problem. Are you talking about the rooms that they will occupy? I would like to get some

detail so we will know what the standard is. I see potential problems going forward if we do not have defined terms.

Chairman Swenson said looking at 30.3.2.B.vii, does the State actually have a transient room tax? And looking at 30.3.2.B.ix, do they really have to get a fire inspection just to see if the residence is safe? We cannot get them to come out and inspect a welding business. How will we get them to walk through a house to see if it is safe? Will they actually do that?

Scott Messel said they will do it because they view it more as commercial.

Chairman Swenson said anytime we state any of these things, we need to make sure they actually do it.

Commissioner Darton said it is a good requirement to have. You are questioning if it is a reality and if we can make it happen.

Commissioner Rosenthal said I cannot imagine they would be able to get insurance on something like this without a fire safety inspection.

Chairman Swenson said who is town staff?

Commissioner Darton said is it defined somewhere else?

Scott Messel said town staff would be any full-time employees or someone acting administratively. It could be the Town Planner or inspector.

Commissioner Darton said in 30.2.1, it says things defined in Ordinance 2008-04 are incorporated or imbedded in the body of the ordinance. Some of the things we are seeing here may be mentioned in other chapters.

Commissioner Darton said do we know what the proposed fee is for this? Town Council will have to vote on what the appropriate fee is.

Commissioner Darton said in 30.2.5.D it talks about the number of rooms and limiting to 10 persons including the owner and owner's family. For reasons already discussed, we cannot limit the number of people in the owner's family. Maybe it should say excluding the owner and owner's family, not including. The family should not be a part of the count at all.

Commissioner Robbins said we should have our attorney explain why it is 10 people.

Commissioner Rosenthal asked Scott and he said he will look into this and get back to us.

Commissioner Darton said in 30.2.5.J, it says that one of the responsibilities of the owner is to provide guests with a summary of all laws and regulations of the Town. I would think that the Town would want to provide that to the owner.

Chairman Swenson said I agree.

Scott Messel said one thing that could be done is a good neighbor brochure so the guest does not have to interpret Town ordinances.

Commissioner Darton said the last thing we want to do is to have each owner try to interpret and come up with their own list. Each owner needs to have the same set of rules.

Commissioner Rosenthal read 30.2.5.J. Does the Town have minimum standards of personal conduct or is this something the owner expects of the renters?

Scott Messel said if this is something that Planning Commission and Town Council want to adopt as code then we would be coming up with a brochure or whatever material that would be needed to give out.

Commissioner Darton said we would not want it to be the lowest common denominator. Leeds has a wide variety of people with a wide disparity of conduct. We should have minimum standards that we would like people to adhere to.

Commissioner Darton read 30.2.5.N. Does this mean he has to plant a hedge to hide any cars that are parked there?

Scott Messel said this is in the proposal in case it is something the Town wants to look at.

Commissioner Darton said how much do the cars have to be hidden?

Commissioner Rosenthal said in that same paragraph, what is meant by park strip?

Scott Messel said generally the park strip is the section of landscape on a fully improved street between the curb and the sidewalk. In some areas, they have a park strip with trees in it. That may not be applicable here so we could scratch that out. It does say if available.

Commissioner Darton said I have serious concerns with 30.2.6.A. Are you telling me that we can have a statute that makes one adult liable for the actions of a totally separate adult over whom they have not any control?

Scott Messel said it is within reason. If there are underage minors drinking, and if there is an adult there, they will be held accountable. But I do not know to what extent. Some accountability needs to be had.

Commissioner Darton said where that line is drawn concerns me greatly. I have several concerns with 30.2.6. In 30.2.6.B and 30.2.6.C, it talks about complaints from a nearby property owner. There are professional complainers. Will someone lose their permit because there is a habitual complainer that lives near them? What are the grounds for a complaint that would then count against the owner?

Commissioner Robbins said people have the right to complain.

Scott Messel said we will look at valid complaints. Some jurisdictions say 3 valid complaints and you are out, and you could lose your license for a period of time. Enforcement could be an issue on this.

Commissioner Darton said maybe 30.2.6.C could be slightly modified by saying a reasonable complaint.

Commissioner Robbins said who determines what is reasonable?

Commissioner Darton said it sounds like the Town does.

Scott Messel said complaints usually come in first to staff and then staff makes a determination. There is the appeals process set-up in code. If people do not feel like staff was fair, then they can appeal it to Planning Commission and then to Town Council.

Commissioner Rosenthal said complaints have to be validated. As an individual, you have the right to file a complaint. Then the complaint has to be adjudicated. Someone has to look into it and investigate it.

Commissioner Darton said where are the words valid complaint in here?

Scott Messel said it is in 30.2.6.C address a complaint being investigated by the Town.

Commissioner Darton said 30.2.6.C does not talk about whether it is valid or not. The way it is worded, once a complaint has been made and the owner has been notified and an investigation has been completed then it is a complaint on his record.

Scott Messel said we can look at this and address it.

Commissioner Darton said I think there needs to be something that addresses the validity of the complaint. It does not address the outcome of the investigation, just that it was completed. As written, it creates a big problem for the owner.

Commissioner Darton said in 30.2.6.D, it talks about not resolving citations in a timely manner. What is a timely manner?

Scott Messel said it would be whatever is written in the nuisance code. Or we could have totally separate requirements here.

Chairman Swenson said there could be a reference to a different section.

Scott Messel said we could have a reference or add it.

Commissioner Darton said maybe we could fix it by having the written citation requiring a resolution.

Commissioner Darton said in 30.2.7.B, what is sufficient notice?

Scott Messel said we can put that in there.

Commissioner Rosenthal said 30.2.4 speaks about this. It says permits are good for 365 days after being issued.

Chairman Swenson said do we have the resources to keep track of this? It would be pretty simple to do it all on January 1st.

Commissioner Darton said you could publish a schedule with the fee amount for every month of the year. Would we want to say something like if you are less than 6 months, you do not have to do the whole renewal application process? Just pay the full annual fee.

Scott Messel said it should be handled the same way as the business licenses.

Commissioners discussed if this permit process will follow the same process used for a conditional use permit.

Scott Messel said whether it is handled by administration, staff, Planning Commission or Town Council, it is an administrative action.

Commissioner Robbins said is a conditional use permit required for this application? Or is the application approved by the Town and then they are done? It should be a conditional use approval. The neighbors and the community need to have a voice when you are introducing a new use in a residential area.

Commissioner Darton said Scott, if someone submits an application for this permit would they have to come before the Planning Commission? It might be wise to move this into the approved uses subject to meeting the requirements of this new code.

Commissioner Robbins said I think it should be a conditional use permit. People should know what is coming in and they need to have a voice in it. A conditional use provides that.

Commissioner Darton said anything on the approved uses just gets approved.

Scott Messel said it is not a permitted use. It is handled more like a conditional use. We can be more definitive saying this is like a conditional use. The majority of conditional uses are handled by Town Council. It is prosed at this time that it would be handled by staff.

Commissioner Rosenthal said there have been discussions about what would be the conditions attached to a conditional use relative back then to bed and breakfasts. If this was a conditional use, wouldn't this trial draft become the conditions instead of an ordinance?

Commissioner Robbins= said I do not see a problem with this being a conditional use. The community and the people who live in the residential area should know what is going on. They need to have a voice in it. You are introducing a commercial use into a residential zone. I think we should just prohibit this stuff. It has been a problem in all communities. I do not even know why this is here. We already have a bed and breakfast ordinance.

Scott Messel said there is State code that has to be followed for conditional use.

Chairman Swenson said there is State code on the appeal process also.

Commissioner Darton said does a \$500 per day penalty seem excessive?

Chairman Swenson said maybe we need to refer to fee structures of the Utah Penal Code as opposed to making up our own.

Scott Messel said we can look at that.

Chairman Swenson said is there any consideration in other towns for recovery fees for the cost of investigations?

b. Parking

Commissioner Rosenthal said unless we come up with new parking regulations, there is not much we can do.

Commissioner Darton said we need to be somewhat prudent on how far we want to go with some of these restrictions.

Commissioner Hadley said some people have put out boulders in front of their house to keep people from parking.

Chairman Swenson said Ken, you need to drive around and note the locations where boulders are being used to keep people from parking. We may need to contact the State or Feds.

Commissioners discussed various parking problems and the possibility of talking to people about parking problems happening at their residence.

c. Construction Dust & Noise

Commissioner Rosenthal said he did some research on this. He discussed fugitive dust as described in State Code.

Chairman Swenson said this should be part of the permit process.

Commissioner Rosenthal said exactly. We could ask Town Council to review the building permit process to see if there is language in there regarding minimizing fugitive dust and construction noise. I can draft some language and email it to the Town Councilmembers.

Chairman Swenson said present it to Planning Commission for approval and then we will send it to Town Council.

Commissioner Darton said Mark, are you contemplating adding that to the building permit process?

Commissioner Rosenthal said yes. We need to point out that owners and/or contractors have to follow air quality laws.

Commissioner Darton said I agree, the nuisance process is too slow.

Commissioner Rosenthal said I will work on the language.

11. Staff Reports: None

12. Roll Call to End Electronic Meeting

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u> </u>
COMMISSIONER: BRAD ROBBINS	<u>x</u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u> </u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u> </u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u> </u>

APPROVED ON THIS 12th DAY OF Jan, 2021

Danny L Swenson
Danny Swenson, Chair

ATTEST:

Peggy Rosebush
Peggy Rosebush, Clerk/Recorder