

Town of Leeds

Agenda Town of Leeds Town Council Wednesday, February 26, 2020

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, February 26, 2020 at 7:00pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

NOTE: IF YOU WISH TO SPEAK DURING CITIZEN COMMENT, PLEASE SIGN IN WITH THE RECORDER.

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 February 12, 2020
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements
7. Public Hearings
8. Action Items:
 - a. Selection of Mayor Pro Tem
9. Discussion Items:
 - a. Follow-up discussion on Site Plan Review Application, Dianna Powell & Lynn Potter, 24 Majestic Rd.
 - b. Short-Term Rentals
 - c. Police Department Equipment Disposition/Retention
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 February 20, 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, February 26, 2020

1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7:00 PM on Wednesday, February 26, 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	_____

2. Pledge of Allegiance by Councilmember Wilson.

3. Declaration of Abstentions or Conflicts: None

4. Approval of Agenda:

Councilmember Hunsaker moved to approve tonight's agenda and Meeting Minutes of February 12, 2020. 2nd by Councilmember Roberts. 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:

Lynn Potter said I just wanted to let you know that I have to record this for my wife because she is not here.

Brian Hansen said I think short-term rentals are a great idea. We have had rentals for over 20 years, and we have had short-term rentals for about 6 years and the people are a lot more polite. They come and leave and are not there all day long. They take care of our stuff. I have had 1 towel stolen in the past 6 years. The wear and tear on our property is different. We had some people stay in our house for about 5 months and I had to replace carpet, but I have never had any problems with short-term renters. They pay in advance and there is a 13% room tax that the Town gets a piece of. You do not get that with month-to-month rentals. And for what it is worth, and, Peggy, you can put this on the record, from 2017 to 2020, I have never had a short-term rental in the Town of Leeds.

6. Announcements: None

7. Public Hearing: None

8. Action Items:

a. Selection of Mayor Pro Tem

Mayor Peterson said our process here in Leeds is that we select a Mayor Pro Tem in advance of needing one. It could be done on a per meeting basis, but our approach here in Leeds is to select a Mayor Pro Tem. The previous Mayor Pro Tem did not stand for re-election to Council so we have the position open. They would preside at a meeting if the Mayor was not there and unable to do certain things. They would step in and take care of issues that may arise. At this point, we need to select one amongst the Councilmembers. Are there any nominations for Mayor Pro Tem?

Councilmember Stirling said I recommend Councilmember Wilson.

Councilmember Roberts said I 2nd that.

Mayor Peterson said are there any other nominations?

Councilmember Stirling made a motion to elect Councilmember Wilson for Mayor Pro Tem. 2nd by Councilmember Roberts. Motion passed in Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	X			
COUNCILMEMBER: ALAN ROBERTS	X			
COUNCILMEMBER: DANIELLE STIRLING	X			
COUNCILMEMBER: LORRIE HUNSAKER	X			
COUNCILMEMBER: STEVE WILSON	x			

9. Discussion Items

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

a. Follow-Up Site Plan Review Application, Dianna Powell and Lynn Potter, 24 Majestic View Road

Mayor Peterson said the applicant is here, but we also have our attorney who we asked to prepare a legal opinion with respect to whether or not the Hillside Ordinance would apply. That was circulated to the Town Councilmembers in an email after it was received. Craig, do you want to summarize that just to begin the discussion.

Craig Hall said there was 1 main question and I addressed 2 other questions. The main question was "Did Section 20-10 apply to a specific parcel of ground with a specific parcel number?" The research that I did, I sent Mr. Potter some factual questions which he responded to in a very timely fashion regarding any

applications that occurred from 1995 to the applicable date of January 1, 1999. After looking at all of the facts, applied the law, my definition of a development, the definition of subdivision contained in our ordinances in 1995 and 1997 and subsequent ordinances, they have not changed in any significant fashion, it is my opinion the specific parcel with that number was not either developed or subdivided prior to the effective date of the ordinance. The result being, any application received after the effective date of Section 20-10 is subject to the Hillside Ordinance and the provisions contained therein. I answered only 1 question. Now there are remaining questions regarding, is the property more than 30 degrees? I think only the engineers can address that issue in subsequent days and weeks. In summary, that is the opinion.

Mayor Peterson said if I could just correct one thing. It is 30%, not 30 degrees.

Mayor Peterson said does Council have any questions for our attorney relative to that opinion that he has provided? No.

Mayor Peterson said at this point, I will ask the applicant if they would like to suggest what the next step that they would like to see here. There was some discussion from our engineering firm about wanting to see certain cross sections in certain areas.

Lynn Potter said sorry, Craig, I really like you. The only thing that I can agree with on your opinion is that only approved subdivisions prior to 1999 are exempt. Our property is an approved subdivision and there is the proof right there. You were in error on a couple of things, but that is not for me to deal with, that is for Town Council to deal with because if you want him to try and confirm this, you can spend the money or you can spend a couple of hours with me going through it.

Craig Hall said Mr. Potter, it is not my intent to argue with you. My intent is, as I expressed in a previous email, if you have counsel, the rules of professional conduct would require me to directly deal with counsel so I would appreciate you sending me his or her name and contact information and I will be happy to reach out.

Lynn Potter said I told you that I would not pay counsels twice. The only counsel I am keeping is my own. And that was my response and I am sure you saw it 5 days ago. Here it is Town Council Minutes of June 12, 1996 ... he read excerpt from minutes. Mel approved that the Town Council accept the proposed subdivision on the basis that all 3 lots are on an existing street and that all services were provided. Charlie seconded the motion and it passed. That is just the beginning.

Mayor Peterson said I do not want to interrupt you, but I read those minutes as well and I do not believe it is referring to the parcels. It does not refer to specific parcel numbers and I do not believe that the parcel we are speaking of here is on an existing street so unless one was removed in the way of a street that I have no knowledge of, I do not know how it could be saying that all 3 are on an existing street.

Lynn Potter said that is how they got around it. They gave the Town of Leeds that small parcel. That is how they got around it. All through here, there are references to where Council references the 12-acre parcel, ours, that was zoned at one time commercial. Alberta Pace went to them and said let's change this to Rural Residential 2 and it went through the Planning Commission and they approved it. That is the only lot over there that is 12 acres, Rural Residential 2. They approved it. That is not just implied acceptance. Town Council approved it because they kept dealing with them as an approved property. That does talk about ours. We have come to the Town every time with our hat in our hand asking

questions and the Town comes back and says no, you will have to do this and this and this. This has cost us \$15,000 so far. At this point, I am telling you right now, it is an approved subdivision. I got some pretty good advice from one of those lawyers, he said do not spend any more money on lawyers until the Town has done you harm. Here is the proof and I will share it with you. You can spend more money on Craig, or we can just sit down around a table and eat dinner. It is an approved subdivision. The Hillside Ordinance does not apply to us. And that is the way we are going to go. We want an excavation permit because part of your building permit says building permit and then it says excavation permit. At this time, we just want an excavation permit. Most of the time, people buy a piece of land and they scrape it off and put a road into it and make a pad and they call it buildable at this point. And then they sell it off \$50,000 more. That happens up in Silver Reef. They do not ask for any excavation permits. We come to you on the up and up asking you for an excavation permit and we were referred to the Hillside Ordinance. We are not covered by the Hillside Ordinance.

Mayor Peterson said I ask our Councilmembers and Town Attorney, I believe we are obliged as a Town Council to look into it and see this information that the applicant is presenting to determine for ourselves whether or not it is something that would indicate somehow that a development or subdivision had occurred prior to the specified date. Craig, is that appropriate for us to approach that way?

Craig Hall said you certainly can, but I think there is also a basic question that could resolve this whole thing. Let's let the engineers decide whether it exceeds the provisions of the Hillside Ordinance because if it does not, the whole thing is moot. We do not have to get into these discussions whether it is a subdivision or not.

Councilmember Roberts said Craig, the engineering will prove that it does fall within the Hillside Ordinance on any excavating in a number of areas where the applicant is looking to make some excavation. It is pretty clear that the slopes do meet that criteria.

Lynn Potter said that is true. And we have done \$10,000 in engineering that we probably did not have to find a way to stay under the 30% mark. We have done it. I have been to 2 different engineers and I have done it myself. But the point is I am really tired of jumping through hoops on this. We do not have to have approval from the engineering firm. We are an approved subdivision and I can give you one more simple example why we are an approved subdivision. It comes down to money. Title companies guaranty your property from defected title and these people know their business and they go back 100s of years on your title. If there is a cloud on that title because it specifically says you cannot sell, lease ... any kind of property that did not go through this subdivision ordinance. And if there was any kind of cloud on that, and it has been sold more than half a dozen times in the last 20 years, and every title company, and there have been different ones, has approved it. Craig, there is an exemption in the Hillside Ordinance from 1995 and this is where I have to question what you were talking about. It says there are exemptions to that. One of those exemptions is if it is under 5 splits. That was under 5 splits. And it does not even require a plat, and this is why there is nothing on file with the County. A simple thing The title company approves it. It is an approved subdivision. Do you want me to sit down and show you?

Mayor Peterson said I think at this point, I will ask our attorney is it something that you believe we should, at this time, rather than trying to proceed with a hypothetical discussion, review the information and determine whether or not the information being raised by the applicant would indeed make it exempt from the Hillside Ordinance as he has indicated, I believe, an unwillingness to proceed with your proposal which was to evaluate it from the 30% slope perspective?

Craig Hall said Mayor, if we get any additional information that is on point, we ought to review it. I would not suggest otherwise. I sent Mr. Potter 6 questions and it was interesting when I asked the question was there any action to approve a subdivision or development on that property prior to the effective date of the ordinance and he answered no.

Lynn Potter said you asked me if there was any approved division of that property before 1997. Before it was split. No, after it was split. There were not any questions about that after it was split. It was split. That was the question. The first account in here shows it started in Spring, 1996, and June, 1996. That is when it started, and it takes over that whole year where they talked about it including receiving that little tongue of land up there and changing the zoning and a half dozen other projects that she was working on. They knew what was going on. They knew about it. If they knew about it and they did not stop it, it was obviously approved.

Craig Hall said I am not willing to go that far since the 2 lots adjacent to your property, Lot 1 and Lot 2, and yours is still a parcel. If you have additional information, Mr. Potter, we will be happy to look at it.

Lynn Potter said that is where you are wrong again. Lot 1 and Lot 2 are previous. They were split off of a previous lot and was L-3-7-1-110 and the partner lot to that was our lot, L-3-1-7-1110. Those 2 subdivisions by Alberta Pace, those 2 separate ones that you just spoke of were, in your opinion, came from another subdivision in 2003. That is where you are wrong the second time.

Craig Hall said Mr. Potter, I would be happy to sit down with you if you are willing

Lynn Potter said I have been asking you for the past 4 days to sit down with me. You think I am not a little beefed about this.

Craig Hall said Mayor, I will be happy to talk to you about a potential meeting, but I need to know if he is represented by counsel. If he is represented by counsel, I will be happy to visit. Otherwise, I have to meet with him with counsel.

Lynn Potter said I do not have counsel. I do not need counsel. I will take and give you a reference for every one of these up on here. I gave Peggy a copy of all of these from the State Archives. You can look them up yourselves or you can spend money on Craig.

Mayor Peterson said Mr. Potter, if I could just ask you a question. You seem to be indicating that you are not represented by counsel. Did you not send me a text earlier in the week indicating that you would see us in court?

Lynn Potter said I can sue you myself and I am very capable of doing if you have not figured it out by now. I do not need a lawyer.

Mayor Peterson said then I think our attorney would like for you to represent that you would be representing yourself because you indicated you were prepared to take legal action before we got to this point.

Lynn Potter said I did tell him that. It is in an email. It is on record. And you can understand why I would like to take legal action against you because you have cost us \$15,000 for stuff that did not even apply and it was your personal opinion where you were wrong about it. You told us, and it is in the Town Council

minutes in the past year, that the Hillside Ordinance applied to us. You did not even know your own ordinances enough to tell us the truth about that. Or you are buffaloing me to get control over the land so we could not cut it down the way we wanted to.

Mayor Peterson said Mr. Potter, your accusations are inaccurate and baseless, but you chose to come here at the January meeting when we were prepared as Town Council to discuss the compliance with the Hillside Ordinance and you then apologized for the fact that you only figured it out 15 minutes before the meeting that you did not think it applied. I do not share your view that the way you analyze things with title companies and the like indicate some declaration of it being approved for development. Title companies issue reports basis the ownership of the land. I have never known a title company to get involved and say whether or not a building permit has been approved, would be approved, but that is only my personal experience. I expect our attorney could share even more with regard to that. You presented other information where you challenged the legal opinion that we received. You indicated that you do not want to proceed further with the Hillside Ordinance evaluation. You want to contest the opinion that it does apply. I believe as Town Council we should look into your suggestions that there are other ways that this should be interpreted and determine whether that is accurate or not. But I do not think to just accept it here this evening is a responsible thing for us as Town Council to do. If you would like to put in a presentation to Town Council and our attorney of what it is you think that indicates that that particular opinion that was offered to us by our attorney is incorrect, I think that would be valuable. To just drop a few hundred pages and say it is all in there does not present the argument for you thinking the opinion being offered is inaccurate. I think we are open to that. I think I heard our attorney say that. I think we would like for you to indicate you are not being represented by counsel so that our attorney can feel comfortable that he is not violating any kind of code of conduct with regard to dealing with an individual who might have an attorney representing them. Craig, do you agree with that particular approach?

Craig Hall said I have no problem with that.

Councilmember Stirling said I do have a question for you. The first time that I remember you coming in, will you help me remember because I cannot recall. You came in to get ... was it a front access to an actual street when you came to the Town originally? You wanted some type of easement through the Town property. Can you help me remember?

Lynn Potter said during that meeting, the truth is, I showed you the same evidence that I showed you the second time. The difference was the second time Craig was there to see the evidence and Craig sided with me, thankfully. I could not make my point across that the sentence across the bottom of that ton of land be used for an access road was talking about our properties ... mine and Alberta Pace's, not just Alberta Pace's.

Councilmember Stirling said okay, so you originally came to the Town and then you purchased an easement, is that correct? You purchased a piece of property?

Lynn Potter said the Town turned us down. We spent money on a survey and an appraisal and that was over \$3,000. And then we purchased the easement from the Town. Was it \$1,400 or something like that?

Councilmember Stirling said why did you feel like you needed to purchase that property?

Lynn Potter said because there was no other access to it.

Councilmember Stirling said to the property?

Lynn Potter said that is correct. That is why we got it so cheap. Everybody kept telling us that there was no access to that property and that it was land locked. Before we bought the property, I read the title and the title to the other property and it said access, so I knew there was a hidden easement there. We just had to fight for it. The second time I appeared before you, I had even more evidence and that swayed Craig and that swayed the Council.

Councilmember Stirling said so my question is how would it be vested as a subdivision if it did not have access?

Lynn Potter said that is a really good point – exactly. That is why it was an approved subdivision. Because that was the access. But since about 2000, they stopped making that note in the title report, so they dropped the ball on that. We had to do the research and it was there.

Councilmember Stirling said so inadvertently, did you get refunded back from the Town?

Lynn Potter said yes. For the cost of the easement, but not for the cost of the survey or the appraisal.

Mayor Peterson said are there any other questions from Council?

Councilmember Wilson said I just want to clarify, the last time you were here you showed us maps that showed the cutaways, was that applied to the Hillside Ordinance? Is that correct?

Lynn Potter said that is true. Given the choice, though, I would like to wander from that a little bit, so I do not have to be so strict about the Hillside Ordinance. The harder proposition that I cannot get around is the Hurricane Valley Fire Department and their maximum grades. They do not care what hillside I cut into as long as the road does not exceed a certain amount.

Councilmember Hunsaker said when was the parcel purchased?

Lynn Potter said my wife and I purchased it; I think it was 2017. It might have been 2018, but I think it was 2017, in August.

Councilmember Roberts said Lynn, as you go back and look at when that property was created with that parcel number on it, it creates a parcel, but with that creation, it does not come with any rights for any type of development on that parcel. It just creates the parcel. Whatever tract of land it came from ...

Lynn Potter said that depends on your definition. Was it an approved subdivision or not? As for development rights that depends on zoning. And our contention is it was an approved subdivision given that clause in the 1995 Subdivision Ordinance allowing minor subdivisions without a plat and that is why there is no record of it with the County. But there are records in the minutes and we have all kinds of other maps that are incidental and there is a multitude of side evidence. The changing of the zoning. Would you change the zoning on a property if it was not an approved subdivision that was illegal?

Councilmember Roberts said I would not change the zone on an illegal piece of property.

Lynn Potter said that is my point. The Town Council, at that time, knew what was going on. They knew it was an approved subdivision and so now it is R-R-2 on the bottom half of it instead of commercial.

Mayor Peterson said at this time, what I would suggest, if Council is in agreement, is that we request that Mr. Potter put in writing his argument for why he believes the opinion should be updated to reflect that it is actually not subject to the Hillside Ordinance. I believe that is the question at hand here. And that we will look to review that argument at a future meeting when it is available to us.

Lynn Potter said can I approach this another way and say that it is an approved subdivision given the proof that I have, but if you guys want to prove it wrong, you guys have to spend the time and money to try to prove me wrong because I am innocent until proven guilty. That property is an approved subdivision until proven otherwise.

Craig Hall said can I jump in really quick here? I got an email from Mr. Potter on February 3rd in response to my question that says, "What steps were taken prior to January 1, 1999, to develop or subdivide the subject parcel." His response on February 3rd was "As far as I know, no steps were taken prior to January 1, 1999, to develop or subdivide the particular parcel." So, what he is telling me on February 3rd is basically 180 degrees different from what he is saying tonight. If that is based on additional information that he discovered from February 3rd, I am more than happy to look at it.

Lynn Potter said I thought you were talking about since it was split from 1997 to 1999.

Craig Hall said at this point, I do not know what to believe from a factual standpoint.

Mayor Peterson said Craig, would it make sense to request that he submit what it is that he sees that would suggest that it had been approved for development or subdivision at that point in time?

Craig Hall said it would certainly help. If he has reviewed the large amount of papers that are in front of you, I assume ... Mr. Potter, do us a summary and refer to page numbers and that sort of thing so that we can expedite the review.

Lynn Potter said alright, I will prove my innocence.

Craig Hall said we are not talking about guilt and innocence.

Councilmember Roberts said Lynn, our counsel is correct there. We are not talking about guilt or innocence on an individual here. We are talking about ...

Lynn Potter said I am having to prove something where I am already right on this and you are accusing me of something that is not. That is the same thing. You can see the comparison I am trying to make here.

Councilmember Roberts said it is your suggestion that you are right. So, that is what we are asking.

Lynn Potter said let's come at this at another direction. Even if I did not pull this out, how did it become a parcel without being an approved subdivision?

Councilmember Roberts said land splits and divisions of land happen every day.

Lynn Potter said doesn't the Town ... It says right in there in 1995 that they prosecute. Wouldn't the Town do something about that since the Town knew and the Town received that tongue of land? The town would stop that. They would put their foot down. Alright, let's start.

Mayor Peterson said I believe that the request is that you prepare it in writing so we can review it. I do not think that ...

Lynn Potter said you want me to write it?

Mayor Peterson said Craig, is that what you heard?

Craig Hall said yes. Do us a summary on the 200 or 300 pages that you have ...

Lynn Potter said you said show us. Do you want me to write it or show you?

Councilmember Hunsaker said write it so we can visually see it.

Craig Hall said at this point, I have an email that says to the contrary, Mr. Potter. I do not know what to believe. If you discovered additional information, share it with us. Do not play hide the ball. That does not help any of us.

Lynn Potter said wait a minute here, Craig. You are the lawyer, are you telling me you did not do any of your own homework on this?

Craig Hall said Mr. Potter, I relied on some of the factual representations that you made.

Lynn Potter said considering the nature of your question, I answered the best I could given to what you were talking about.

Craig Hall said the question was very simple – “Are you aware of any action to develop or subdivide the property prior to January 1, 1999?” You said no. Now tonight you have additional information.

Lynn Potter said based on that question, you are saying that there was never any development on that property. Obviously, it had been split for decades into smaller and smaller pieces. I naturally assumed you were not talking about prior to 1999 forever. I thought you were talking about 1997 to 1999.

Craig Hall said that is not what the question said.

Lynn Potter said you did not define it.

Mayor Peterson said Craig, if I could just read something from the 1995 ordinance of the Town Board of the Town of Leeds regulating the platting and recording of the subdivisions of land. He read excerpt from ordinance. The document that created this parcel of land has only on it a surveyor's certificate that says, “the purpose of this survey is to break-off a portion of land.”

Craig Hall said that is correct. And you were reading from Section 4 of that ordinance.

Mayor Peterson said I am reading from Chapter 3 – the Final Plat, and it is Section 1.2.

Lynn Potter said prior to that, which is obviously how this took place, in Section 5 – Exceptions to Ordinance. He read excerpt from ordinance. So, there were exceptions including in Chapter 2, Section 1.1.g – a minor subdivision. He read excerpt from ordinance. This is why, if you read through all of that, this is why they had to give that tongue of land to the Town so that it followed every little dot in this thing. This is how they got around it.

Councilmember Stirling said did it show that the Planning Commission approved that? One the very first page

Lynn Potter said June 12, 1996, “Planning Commission reviewed it and is recommending it to the Town Council.” And this was talking about those 3 lots regarding Alberta Pace because it follows on back. I will write something up for you. I cannot type worth a ----. I hate typing.

Councilmember Roberts said you can write with a pencil.

Lynn Potter said you are just being mean.

Councilmember Roberts said no, I am being realistic.

b. Short-Term Rentals

Mayor Peterson said short-term rentals is something that was discussed extensively from the center to my right at the table in 2019. We have a couple of new Town Councilmembers since then and my purpose for putting this on the agenda was first to see if there have been any change in the thoughts of those Town Councilmembers who remain and then to ask if there is an initial opinion from those new Town Councilmembers that we have with us in regard to short-term rentals. If I could look right first and ask Councilmember Roberts and Councilmember Stirling if you have any changes relative to where we last left this a few months ago.

Councilmember Roberts said I have no change. I am still supportive of this. Here again, names are irrelevant, but we are referencing this as a residential hosting facility where we look at the owner of the property that lives within that residence, that they are allowed to host someone who stays. That is what I am in favor of.

Councilmember Stirling said I agree. I think as long as we have detailed rules and regulations, I think that we can come up with something that would benefit those who would like to do this in this Town.

Mayor Peterson said now, looking towards my left, if I could maybe summarize what was mentioned by those to my right. We did say that there would be a maximum of 2 rooms in the home and maximum of 4 people which you may very well have read yourselves, but those are the major focuses getting to this point. What are your general thoughts with respect to that basic structure?

Councilmember Hunsaker said I do not have a problem with that as long as the owner is in the residence, more like a B&B rather than not being on property to answer any problems or issues that might come up. And as long as there is parking that will not interfere with any of the neighbors.

Councilmember Wilson said the way I view it is that I agree with what has been said so far. One thing I wonder about is 4 people. That excludes a family with 3 or 4 kids. Does that exclude them from being able to stay there?

Mayor Peterson said that is the way it is currently structured, but certainly everything is open for discussion as we move forward.

Councilmember Wilson said that is something that I would want to review. Maybe we could add that or include that because in Utah, you have families with more than 4 people.

Mayor Peterson said the other issue, with Craig here still on the line, was whether or not we would go criminal versus civil. I think we started looking at both of those and there are certainly pros and cons. There was support and lack of support for some of those approaches. Is that something where you would view either as available to us in 2020 as we look to just visit this and come up with our approach that we could go either civil or criminal on that?

Craig Hall said you can have the option. I remind you what our prosecutor's view is. We need to make sure that we walk through that philosophical concern that she has. On the civil side, you need to remember, we can pass the ordinance, but we have to have a practical way to enforce the civil remedies, not just put it on the books.

Mayor Peterson said is that something that you could prepare a brief summary for us that would allow us to review the approach that would be needed for civil and we could also go over the concerns that the prosecutor had with criminal?

Craig Hall said sure, I can do that.

Mayor Peterson said I think that would be the best next step to try to make sure we can move this forward in the weeks and months ahead. Is there anything further from Council on this discussion item?

Councilmember Roberts said I just want to reiterate that we have to look at residential properties as residential. That is what they are created for. This gives an opportunity for individuals that may want to expand their residence a little bit, but the important thing is that we maintain the residential portion of the properties. If individuals want to have a motel then they should go operate a motel in a commercial zone.

Mayor Peterson said is there anything further?

c. Police Department Equipment Disposition/Retention

Mayor Peterson said in front of Council, you have a 1-page inventory that was put together. You will notice, this was done 5-1/2 years ago. Council had a different composition at that time and, at that point, it was determined that the majority of Council was not interested in disposing of any of the equipment that we have which includes a 2001 Ford Crown Victoria which at that point was about 13 years old and it continues to grow old. It is now 19 years old. It no longer starts. I believe at that point in time, it did, but that is no longer the case. Work would be need to be done to get it started. The mileage has not changed. It still has 56,370 miles. The question is, and I do not want to get into the details of the other

equipment. I just wanted to bring this up tonight as a discussion item. Again, we do pay insurance on the vehicle. I believe it is about \$800 a year. I just wanted to find out if Council of 2020 has any interest in continuing to retain the police equipment or would be open to disposing of it.

Councilmember Stirling said disposing of it.

Councilmember Hunsaker said make it go away.

Councilmember Roberts said Mayor, I will say the same thing I said back then. I was here back then when it started, and Council elected to maintain and keep a hold of these things. I do not understand why we would keep a liability like this that serves no function. It should have been gone then. Some of the other components that are on the list, I am surprised because I can tell you in conversation that I had with David Crouse at that time, who represented the Town of Leeds as a Police Chief, the County was supposed to take possession of a number of those components. I am surprised that we still have them.

Mayor Peterson said that gets to one other suggestion. Maybe we can try to pull this together. It sounds as if there is pretty strong support for disposing of them. What I would suggest is that, we may get a little bit less money for it, I would prefer to take the approach that we dispose of it all and we do not end up with certain items sold and other items still in our possession. I think it is at a point where if we are going to make the clean break with being in the ownership business of these kinds of things that we do it across the board and I would propose that we consider selling it as a lot, all inclusive, that would allow us to pass it on to another law enforcement group that would be able to put them to use or dispose of them. Is that something that is preferable to try to perhaps squeeze a little bit more money out of it but run the risk of still owning something including a 2001 Ford Crown Victoria.

Councilmember Roberts said I can tell you that Dixie State College was very interested in that, but that bus has passed on by. That is where it should have gone at that time. Yes, I am in favor of it going as a lot.

Councilmember Wilson said I agree with that.

Mayor Peterson said I will look to bring forward something that we could evaluate in a way of an offer to sell these items and make sure I confirm the process that we would need to follow in order to do that

10. Citizen Comments

Kohl Furley of Hurricane Valley Fire Department said in 2018 we were awarded an AFG Grant. The District was awarded \$334,218.18. This grant was submitted because we needed new SCBAs that we wear which are packs that have breathing air. We are in the process of getting new ones from the manufacturer. These typically last between 10 and 15 years. In January in Leeds, we had a total of 9 calls – 5 transports for EMS, 2 refusals and 2 fires. We are currently in the process of hiring part-time candidates from our list.

Councilmember Hunsaker said are we in burn season right now?

Kohl Furley said that usually opens up around the first of March. I will check on that for you. You can obtain your burn permit online or call the District office.

Doris McNally said thank you all for your service. Second thing, I want to let you know there have been a number of sightings of coyotes up in the Silver Reef / Highlands area. We actually had our first loss. The blue peacock that was always up there was actually killed this week. We are noticing that the coyotes are actually jumping fences and getting into backyards. I wanted to bring to your attention that they are very active right now.

Mayor Peterson said I appreciate that. You may have noticed that we had a mountain lion sighting a while back. Thank you for the notification of that.

Mayor Peterson said the Spring burn season is March 1st through May 30th.

11. Staff Reports:

Mayor Peterson said there was a transportation expo held at Dixie Center. It is an opportunity for all of Washington County road projects to be presented. In the future years, I would encourage people to go because there is a lot of information available in one room and you can really learn about what is being thought about in the way of future projects. None were from the Leeds area, but there were several from other communities not far from here including Toquerville, who is considering a by-pass road to their Main Street, and a new exit off of I-15 in Washington City. They are going to try to add an exit between 10 and 13.

Mayor Peterson said I have received some follow-up questions regarding our CIB application and at this point it is expected we will be meeting with them in June for the \$120,000 grant that we have applied for. I met also with our engineer and UDOT and they seem very supportive of the idea of needing to address it and we are going to get some materials from our engineer that will help them to evaluate whether or not they are in agreement with the obligation that they would have of \$500,000 in the form of a grant. The timing of their money is subject to how other projects work out. Frequently, it results if there is an under spend on another project that they have money that is available that can be used for this type of situation. It certainly is not secured at this time, but we are moving in the right direction. I will keep people informed over the next few months.

12. Closed Meeting

Mayor Peterson said we will be having a closed meeting this evening relative to potential litigation that could be pending. As a result, I would need a motion from Town Council to go into a closed meeting to discuss pending litigation.

Councilmember Roberts made a motion to go into a Closed Meeting for potential litigation. 2nd by Councilmember Wilson. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	X	_____	_____	_____
COUNCILMEMBER: ALAN ROBERTS	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: LORRIE HUNSAKER	X	_____	_____	_____
COUNCILMEMBER: STEVE WILSON	x	_____	_____	_____

Mayor Peterson said we are going to move into a closed session. It is 7:58 PM. After the closed session. We will be coming back into an open session as required by law, but no action will be taken, and we will be looking to adjourn after we come back into the open session

Mayor said it is 8:35 PM and the closed session of the Leeds Town Council has concluded. We are back in open session

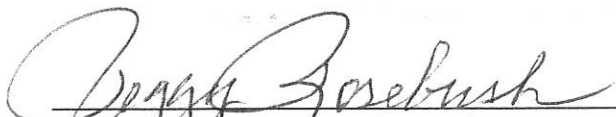
Meeting was adjourned at 8:35 PM.

APPROVED ON THIS 11th DAY OF March, 2020



Mayor, Wayne Peterson

ATTEST:



Peggy Rosebush, Clerk/Recorder

TOWN OF LEEDS, UTAH
POLICE DEPARTMENT EQUIPMENT AVAILABLE FOR SALE
AUGUST 27, 2014

	<u>PRICE RANGE</u>
1. 2001 Ford Crown Victoria Interceptor 4 door sedan Police car with new tires, light bar, computer, camera, and rebuilt transmission. 56,370 miles.	\$2500-\$4000
2. Stalker Dual Radar for above car.	\$2000-\$3000
3. 1 AR-15A3 Tactical Carbine .223 Cal. Restricted for military/government, and law enforcement. Comes with 2 clips.	\$ 450-\$ 800
4. 2 Mossberg Model A 12 gauge shotguns. 1 with foldable stock and 1 with pistol grip stock.	\$ 200-\$ 450 ea.
5. 2 Glock Model 22 40 Cal. handguns.	\$ 400- \$ 550 ea.
6. ED3 Evidence Lockers by Spacesaver. According to David Crouse, former Police Chief, we paid about \$15,000 for the lockers which included transportation and installation. We are waiting for a call from the vendor for more accurate pricing information.	\$ Negotiable

**CHAPTER 30:
SHORT TERM RENTALS (STR) AND RESIDENTIAL HOSTING
FACILITIES (RHF)**

30.1 SHORT TERM RENTAL (STR) PURPOSE/PROHIBITION:

The purpose of Section 30.1 of this Chapter is to describe the process and set forth standards for the leasing of entire residential dwelling units for periods of less than thirty (30) consecutive days - also known as "short-term rentals."

30.1.1 DEFINITIONS:

For the purposes of this Chapter all of the definitions contained in V.L.L.L. Chapter 1 including the definitions of Short-Term Rentals (STR) and throughout the various chapters of V.L.L.L. are incorporated herein. Commonly used words or terms that are capital letters are defined in V.L.L.L. Chapter 1, but they can also be embedded into the body of various V.L.L.L. chapters.

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30.1.2 NATURE OF USE - SHORT-TERM RENTAL OR STR:

The Short-Term Rental of all of a residential Dwelling Units located within an STR Development Overlay Zones of the Town, subject to the Chapter program and maintaining a STR Permit.

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30.1.3 STR DEVELOPMENT OVERLAY ZONE:

The purpose and intent of this subsection is to establish procedures for designating an entire subdivision or a phase of a master planned development within the Town, where all of the Dwelling Units within the subdivision or phase are capable of being used as entire term rental.

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30.1.3.A Subject to the requirements set forth in this subsection, an Owner of real property may apply for and obtain simultaneously a final Plat approval for a subdivision or subdivision phase and an overlay zoning designation which, in addition to the permitted and conditional uses allowed in the underlying zoning, allows that the property, including to the Development (whether it be an entire subdivision and phase of a subdivision) may be developed, constructed, marketed and sold as a Development where Short-Term Rentals are allowed. Such approval shall be referred to as a "STR Development Overlay Zone" designation.

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30.1.3.B The right to seek an STR Development Overlay Zone designation ONLY applies to NEW Developments for which a final Plat is recorded, after the effective date of this Section, that contains more than 3 lots upon which residential Dwelling Units can be constructed and which comprises at least five (5) acres including dedicated streets, trails and public rights of way.

30.1.3.C Application Approval Process:

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30.1.3.C.i At the subdivision Concept Plan review stage of the approval process

described in V.L.L.L. Chapter 4 - Division of Land, an applicant shall submit with their Concept Plan a narrative indicating that a STR Development Overlay Zone designation is being requested and the Concept Plan shall include in addition to any other requirements of V.L.L.L. Chapter 4 the following information:

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requirements and conditions specified in this chapter including individual owners of STR Units obtaining and renewing a STR Permit; and

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30.1.3.H.iv That the proposed zoning designation and the development of Dwelling Units as STR Units on a Development wide basis is expressly authorized by the governing documents of the Development (i.e. C.C&R's and By-Laws of a Homeowners Association); and

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30.1.3.H.v That the governing documents of the Development require Owners of an STR Unit to utilize one singular property management company (determined by the Homeowners Association) to handle all STR renting of the STR Units within the Development. The designated property management company must be licensed and bonded in the State of Utah and need not have its principal place of business within the Town, but shall have a physical office and employees located within Washington County. The designated property management company shall maintain current contact information for persons within the company who are capable of being contacted 24 hours a day, 7 days a week, in the event the Town or local law enforcement are notified of an issue or a complaint that needs resolution; and

30.1.3.H.vi That the proposed zoning designation and development of Dwelling Units as STR Units on a Development wide basis conforms to, and does not contradict with, the intent of the General Plan.

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30.1.4 STR PERMIT APPLICATION AND FEE

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In order to obtain and maintain an STR Permit, an Owner of a proposed STR Unit must do the following:

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30.1.4.A Obtain, complete and provide a STR Permit application and any other required documents to the Town.

30.1.4.B The owner must submit the following information to a Town-approved STR Permit application form:

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30.1.4.B.i All applicable and relevant contact information of the Owner of the proposed

STR Unit;

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30.1.4.B.ii The name and current contact information for the management company

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designated to handle STR rentals within the Development where the applicable STR Unit is located. The management company must have an unqualified written authority by the Owner to address and correct all maintenance, safety, operations and nuisance concerns relating to the proposed STR Unit;

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30.1.4.B.iii The street address of the proposed STR Unit;

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30.1.4.B.iv The number of bedrooms and the applicable occupancy limits of the proposed STR Unit as established by local health and fire safety codes and verified by the Washington County Health Department and the local fire authority. Maximum occupancy is commonly determined by square footage and bedrooms of a Dwelling Unit;

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30.1.4.B.vi The owner's Social Security Number or an individual's or company's

or Federal employer identification Number (EIN) of a business entity.

30.1.4.B.vii The Transient Room Tax and Sales Tax Account Number obtained from the Utah State Tax Commission.

30.1.4.B.viii Any other information deemed necessary to inform the Town and the public about the intended use of the property as a Short-Term Rental.

30.1.4.C. All applications for STR Permits must include a set of self-addressed, postage-paid envelopes correctly addressed to all property owners within 200 feet from the exterior boundaries of the parcel upon which STR Lint is proposed. Said envelopes will be used by Town Staff to send written notice to neighbors of the proposed STR Lint and to provide them with contact information for the Owner or the management company for the STR Lint in the event of a problem. The mailing will also include a list of standards and requirements contained in this Section that all STR Lints must comply with and information about how problems should first be addressed with the Owner or applicable management company and, if not resolved, then reported to the Town.

30.1.4.D. STR Permit Applications are reviewed and approved by the Town Staff. In the event the Town Staff determines that an application does not comply with the requirements and standards set forth in this Section, it shall deny the same.

30.1.4.E. A person applying for or holding an STR Permit who receives notice from the Town of denial of their STR Permit application or the non-renewal of their existing STR Permit may appeal said decision to the Town's Appeal Authority, in compliance with Title 11 Chapter 2, Utah Code Ann. § 11-2-2.1, et seq. Said appeal must be made in writing within 10 business days of the adverse decision being issued.

30.1.4.F. An applicant must pay a STR Permit fee at the time of application submission. The STR Permit fee shall be designated in the Town's Uniform Fee Schedule and established and modified from time to time by resolution. All STR Permit applications will be deemed automatically incomplete until the STR Permit Fee has been paid.

30.1.4.G. A completed application is required to be provided to the Town if any of the contact information for the Owner or management company handling STR renting for the Development is changed throughout the permit year.

30.1.5 STR PERMIT RENEWAL AND TRANSFER.

STR Permits are good for 12 months after the date of issuance. A STR Permit may be renewed upon the occurrence of the following:

30.1.5.A. Payment to the Town of the annual STR Permit fee. 30.1.5.B. Submission to the Town of an updated application re:

30.1.5.B.i The Owner or management company handling STR renting for the appropriate Development or their contact information has changed.

30.1.5.B.ii The Owner has made modifications to the STR Lint such that a higher

number of maximum occupants is requested. In this instance, the Owner shall provide the Town with written current certification from the local health department and the local fire authority indicating the increased

maximum number of occupants desired in the STR Lint complies with health and fire safety codes.

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30.1.5.B.iii) The owner of the proposed Dwelling Permit, Tax and Sales Tax Account Number and the Utah Sales Tax Commission.

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30.1.5.C The Town complies with the Utah State Tax Commission during change of the management company handling STR rental of the applicable STR Unit in terms of the owner's requirements of equipment, tax and sales etc.

30.1.5.D The Town has not received more than two unresolved complaints stemming directly from the Owner's Short Term Rental during the previous STR Permit period. If more than 2 unresolved complaints stemming from an STR Unit exists the Town Staff may deny the renewal request or may add additional requirements upon the issuance of a renewed STR Permit that are reasonably estimated to resolve the existing issues and prevent future problems and that are congruent proportionate to the magnitude of the problem(s).

30.1.5.E If an Owner has had their STR Permit renewed with additional conditions and/or requirements pursuant to the preceding section, they may appeal the Town Staff's decision to the Town's Appeal Authority in compliance with Chapter 3 of U.C.L.L. and Utah Code Ann. § 17-2-1.71 et seq. Said appeal must be made in writing within 14 business days of the adverse decision being issued.

30.1.5.F In the event of a sale or other transfer (except involuntary transfers such as foreclosure or sheriff's sale) of any property containing a Dwelling Unit with a STR Permit, the purchaser or transferee of the property shall be required to apply for a new STR Permit within forty-five (45) days of the date of purchase or transfer. In the event the purchaser or transferee fails to apply for a new STR Permit within said forty-five (45) days, the STR Permit will be forfeited and the Owner must re-apply.

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30.1.6 STANDARDS AND REQUIREMENTS FOR SHORT TERM RENTALS.

In addition to any other requirement of this Section, a Short Term Rental and a STR Permit may be approved by Town Staff only if:

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30.1.6.A The proposed STR Unit is located in a STR Development Overlay Zone.

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30.1.6.B The proposed STR Unit is an entire Dwelling Unit that has been issued a certificate of occupancy by the Town. Portions of a Dwelling Unit may not be used as a Short Term Rental with the remainder being occupied by the Owner or a tenant under a long term lease of more than thirty (30) days - this type of use is considered Residential Housing and the Owner must obtain an RHP Permit pursuant to Section 2 of this Chapter.

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30.1.6.C Standards for number of guests, number of vehicles, parking, noise restrictions, and all other applicable standards already set by the Town, the State of Utah, the local health department and the local fire authority must be complied with by the Owner and/or their management company.

30.1.6.D There are no "on premise" or "off premises" exterior signage or display advertising the proposed STR Unit or its use as a Short Term Rental regardless of the Town's regulations found in Chapter 2n of U.C.L.L. (Sign Regulations).

30.1.6.E The proposed STR Unit has fully functioning smoke alarms and carbon monoxide detectors which meet the Underwriters Laboratory (UL) 217 standards, installed in the number and location required by the current uniform building, safety and fire codes adopted by the Town.

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30.1.6.F The proposed STR Unit has sufficient Off Street Parking in compliance with Chapter 7 of U.L.C. Off Street Parking Requirements. Off Street Parking may not be provided within the front yard setback other than the existing driveway.

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30.1.6.G The principal entrance of a STR Unit shall be at least 44 inches (3 1/2 feet) wide.

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30.1.6.H The maximum number of paying adult and children guests permitted in a STR Unit shall not exceed local health department and fire authority regulations.

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30.1.6.I The Owner or its management company handling STR renting shall have set up a Transient Room Tax and Sales Tax Account with the Utah State Tax Commission and agree to be fully responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by Utah law, U.L.C. or other Town Ordinances.

30.1.6.J The Owner and/or its management company handling STR renting shall agree to provide guests with a summary of all laws and regulations of the Town that apply to a Short Term Rental use.

30.1.6.K The Owner and/or its management company handling STR renting shall provide a brochure or other alternative publication to guests at the STR site containing basic minimum standards of personal conduct during their visit to the Town.

30.1.6.L The STR Unit may not be a part of or be commensurate of a Boarding House, Lodging House, Motel, Motel Tent, Campground, Cabin, Travel Trailer, Recreational Vehicle ("RV"), Mobile Home or a non-tourist based Long-term Living Building.

30.1.6.M The STR Unit is required to be a dedicated guest that meets all requirements of the current version of the International Fire Code adopted by the Town.

30.1.6.N Any STR Unit possesses landscaping that is maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for on-site parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.

30.1.7 STR COMPLIANCE AND LIABILITIES

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It is recognized that the Owner of an STR Unit shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of their Dwelling Unit as a STR Unit, regardless of whether such noncompliance was committed by the Owner, their management company, or the occupants of the STR Unit or their guests. In furtherance of the above applicants for an STR Permit expressly acknowledge and consent to the following:

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30.1.7.A Owners may be held liable for violation of Town ordinances that happen on their property.

30.1.7.B Complaints from adjacent or nearby property owners about the STR Unit must be in writing to the Town office and will be responded to by the Town within a reasonable time period.

30.1.7.C Any complaint received will not be considered a violation of provisions of ordinance to be considered grounds for revocation or non-renewal of the STR Permit until proper notification to the Owner and investigation by the Town or its enforcement agencies have been completed.

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30.1.7.D Failure to file citations issued in violation of Town ordinance, State, County or Federal laws, if they are not resolved in a timely manner by the Owner or their management company may be cause for revocation or non-renewal of the STR Permit in compliance with Subsections 30.1.3.D & E and 30.1.8.

30.1.7.E Short-Term Rental of a Dwelling Unit is subject to Virginia's Transient Room Tax Ordinance; therefore Owners, or their management company must collect said tax and all applicable sales tax and remit the same to the State Tax Commission as required by State Law.

30.1.7.F This subsection 1 of Chapter 30 - Special Lodging of V.L.L.U. does not supersede the C&Rs of any other privately-negotiated restrictive covenants established by private subdivisions. The Town does not have authority, and will not enforce C&Rs of any other privately-negotiated restrictive covenants.

30.1.8 STR ENFORCEMENT

30.1.8.A STR Permit may be renewed or not renewed by the Owner.

30.1.8.A The STR Licensee was not properly inspected by a Residental Hosting Unit and been re-inspected for a the other manner of this Section 30.1.8.

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30.1.8.B There is a change of ownership of the STR Unit and a purchaser or transferee fails to apply for a new STR Permit within 30 days of the transfer or release described by subsection 30.1.3.F.

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30.1.8.C The Owner or the management company fails to pay any renewal STR Permit fee after sufficient notice.

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30.1.8.D The STR Unit and its primary structure on the property fails to comply with applicable health, safety, or building codes and the Owner fails to comply in a timely manner to bring the property into compliance with said codes or

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30.1.8.E Other illegal acts in nature, occurred, or related to the STR Unit, when the Town reasonably determines is clearly contrary to the purpose and intent of this Section.

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30.2 RESIDENTIAL HOSTING FACILITY (RHF) PURPOSE.

The purpose of Section 30.2 of this Chapter is to describe the process and set forth standards for the leasing of portions of a residential dwelling for periods of less than thirty (30) consecutive days - also known as "Residential Hosting."

30.2.1 DEFINITIONS.

For the purposes of this Chapter all of the definitions contained in V.L.L.U. - Leeds Land Use Ordinance 2018-04, Chapter 1 (retaining the definition Residential Hosting Facilities - RHF is intended) and throughout the various chapters of

are incorporated herein. Commonly words or terms that are capitalized are defined in Chapter 1, but they can also be imbedded into the body of various Ordinance 2018-14 chapters.

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30.2.2 NATURE OF USE - RESIDENTIAL HOSTING OR RH#.

The short term renting of portions of a residential Dwelling Unit (aka Residential Hosting) is a Conditional Use in all Residential (R) and Agricultural (A) zones requires an Annual Residential Hosting ("RH#") permit issued by the Town. subject to the Owner obtaining and maintaining a RH# Permit.

30.2.3 RH# PERMIT APPLICATION AND FEES.

In order to obtain and maintain an RH# Permit an Owner of a proposed residential Dwelling Unit where Residential Hosting will occur must do the following:

30.2.3.A Obtain, complete and provide a RH# Permit application and any other required documents to the Town.

30.2.3.B The Owner must submit the following information on a Town approved RH# Permit application form:

30.2.3.B.i All applicable and current contact information of the Owner of the proposed RH# residence.

30.2.3.B.ii The street address of the proposed RH# residence.

30.2.3.B.iii The number of bedrooms and the applicable occupancy limits of the proposed RH# residence as established by local health and fire safety codes and verified by the Washington County Health Department and the local fire authority (Maximum occupancy is commonly determined by square footage and bedrooms of a Dwelling Unit). Notwithstanding the foregoing no more than two rooms may be rented to no more than four people at any time.

30.2.3.B.iv A diagram of the proposed RH# residence which clearly depict each bedroom or sleeping area and bathroom ("RH# Guest Quarter(s)") of the Dwelling Unit where guests will privately reside.

30.2.3.B.v The maximum number of guests that can stay in each RH# Guest Quarter while taking into consideration the overall maximum occupancy of the RH# residence (4 Guests and 10 occupants - including the Owner and his/her family unit).

30.2.3.B.vi The Owner's Social Security Number (if an individual/sole proprietorship) or Federal Employer Identification Number (EIN) (if a business entity).

30.2.3.B.vii The Transient Room Tax and Sales Tax Account Number obtained from the Utah State Tax Commission.

30.2.3.B.viii Any other information deemed necessary to inform the Town and the public about the intended use of the property as an RH# Unit.

30.2.3.C All applications for RH Residence Permits must include a set of self-addressed, postage-paid envelopes correctly addressed to all property owners within 300 feet from the exterior boundaries of the parcel upon which the RH Residence is proposed. Said envelopes will be used by Town Staff to send written notice to neighbors of the proposed RH Residence.

and to provide them with contact information for the Owner in the event of a problem. The mailing will also include a list of standards and requirements contained in this Section that all RH ~~residence~~ must comply with ~~any problems should first be addressed with the Owner or such time and if not resolved then the Town solutions should be reported to the Town.~~

30.2.3.D RH ~~residence~~ Permit Applications are reviewed and approved by the Town Staff. In the event the Town Staff determines that an application does not comply with the requirements and standards set forth in this Section, it shall deny the same.

30.2.3.E An applicant or Owner holding an RH ~~residence~~ Permit who receives notice from the Town of denial of their RH ~~residence~~ Permit application or the non-renewal of their existing RH ~~residence~~ Permit may appeal said decision to the Town's Appeal Authority in compliance with ~~4-11-1 Land Use Ordinance 2018-4~~ Chapter 3 and Utah Code Ann. § 10-9A-701 et seq. Said appeal must be made in writing within 10 business days of the adverse decision being issued.

30.2.3.F An applicant must pay an RH ~~residence~~ Permit fee at time of application submittal. The RH ~~residence~~ Permit fee shall be designated in the Town's Uniform Fee Schedule and established and modified from time to time by resolution. All RH ~~residence~~ Permit applications will be deemed automatically incomplete until the RH ~~residence~~ Permit Fee has been paid.

30.2.3.G An updated application is required to be provided to the Town if any of the contact information of the Owner is changed throughout the permit year

30.2.4. RHF PERMIT RENEWAL.

RH ~~residence~~ Permits are good for 365 days after ~~issuance~~ is issued. An RH ~~residence~~ Permit may be renewed upon the occurrence of the following:

30.2.4.A Payment to the Town of a new annual RH ~~residence~~ Permit fee.

30.2.4.B Submittal to the Town of an updated application if:

30.2.4.B.i The Owner (or their contact information) has changed,

30.2.4.B.ii The Owner has made modifications to the RH ~~residence~~ or re-designation of the RH ~~residence~~ Guest Quarters of such that a higher number of maximum occupants is requested. In this instance, the Owner shall provide the Town with written current certification from the local health department and the local fire authority indicating the increased maximum number of occupants desired in the RH ~~residence~~ complies with local health and fire safety codes, or

30.2.4.B.iii The Owner has changed its Transient Room Tax and Sales Tax Account Number with the Utah State Tax Commission

30.2.4.C The Town confirms with the Utah State Tax Commission that the Owner is current on the Owner's remittance of transient room tax and sales tax.

30.2.4.D The Town has not received more than two unresolved complaints stemming directly from the Owner's Residential Hosting during the previous RH residence Permit period. If more than 2 unresolved complaints stemming from an RH residence exists the Town Staff may deny the renewal request or may place additional requirements upon the

issuance of a renewed RH ~~residence~~ Permit that reasonably ~~addresses~~ resolve the existing issues and prevent future problems and that are roughly proportional to the magnitude of the problem.

30.2.4.E If an Owner has had their RH ~~residence~~ Permit renewed with additional conditions and/or requirements pursuant to the preceding section, they may appeal the Town Staff's decision to the Town's Appeal Authority in compliance with Chapter 3 of ~~VLL-Ordinance 2008-04~~ and Utah Code Ann § 10-9A-701 et seq. Said appeal must be made in writing within 10 business days of the adverse decision being issued.

30.2.5 STANDARDS AND REQUIREMENTS FOR RESIDENTIAL HOSTING FACILITIES ~~RESIDENCES~~.

In addition to any other requirement of this Section, Residential Hosting and an RH ~~residence~~ Permit may be approved by Town Staff only if:

30.2.5.A The proposed RH ~~residence~~ is located in a Residential or ~~Residential~~ ~~Zone~~ ~~of~~ ~~the~~ ~~Town~~.

30.2.5.B The proposed RH ~~residence~~ is a Dwelling Unit that has been issued a certificate of occupancy by the Town.

30.2.5.C Standards for number of guests, number of vehicles, parking, noise restrictions, and all other applicable standards already set by the Town, the State of Utah, the local health department and the local fire authority are complied with by the Owner.

30.2.5.D The RH ~~residence~~ has no more than ~~three~~ separate RH ~~residence~~ Guest Quarters within it and the total number of occupants within the RH ~~residence~~ does not exceed ~~four~~ ~~and~~ 10 persons including the Owner and the Owner's family unit dwelling within and upon the RH ~~residence~~. Maximum occupancy must be posted in each individual RH ~~residence~~ Guest Quarter.

30.2.5.E There are no "on premise" or "off premises" exterior signage or display advertising the proposed RH ~~residence~~ or its use as Residential Hosting Facility regardless of the Town's regulations found in Chapter 2 ~~2~~ of ~~VLL-Ordinance 2008-04~~ (Sign Regulations).

30.2.5.F The proposed RH ~~residence~~ (including all RH ~~residence~~ Guest Quarters) has fully functioning smoke alarms and carbon monoxide detectors ~~when~~ meeting the Underwriters Laboratory (UL) 217 standards, installed in the number and location required by the current uniform building, safety and fire codes adopted by the Town.

30.2.5.G The proposed RHF has sufficient Off Street Parking on site in compliance with Chapter ~~2~~ of ~~VLL-Ordinance 2008-04~~ (Off Street Parking Requirements). Off Street Parking may not be provided within the front yard setback other than the existing driveway.

30.2.5.H The principal renter of a RH ~~residence~~ Guest Quarter shall be of legal adult age (18 Years Old).

30.2.5.I The Owner shall have set up a Transient Room Tax and Sales Tax Account with the Utah State Tax Commission and agree to be fully responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by Utah law, ~~Ordinance 2008-044444~~ or other Town Ordinances.

30.2.5.J The Owner agrees to provide guests with a summary of all laws and regulations of the Town that is applicable to ~~Short Term Rentals~~ Residential Hosting uses.

30.2.5.K The Owner shall provide a brochure or other alternative publication to guests of their RH ~~residence~~ containing basic, minimum, standards of personal conduct during their visit to the Town.

30.2.5.L The RH ~~residence~~ or RH ~~residence~~ Guest Quarter(s) are not comprised of, a part of, or a conglomerate of a Boarding House, Lodging House, Hotel, Motel, Tent, Campground Cabin, Travel Trailer, Recreational Vehicle (“RV”), Mobile Home or a Congregate Living Facility.

30.2.5.M The RH ~~residence~~ is located on a dedicated street that meets all requirements of the current version of the International Fire Code adopted by the Town.

30.2.5.N The RH ~~residence~~ possesses landscaping that is maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for on-site parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.

30.2.6 RH ~~RESIDENCE~~ COMPLIANCE AND LIABILITIES.

30.2.6.A Owners may be held liable for violation of Town ordinances that happen on their property.

30.2.6.B Complaints from an adjacent or nearby property owners about an RH ~~residence~~ must be in writing to the Town office and will be responded to by the Town within a reasonable time period.

30.2.6.C A complaint received will not be considered a violation or unresolved complaint to be considered grounds for revocation or non-renewal of the RHF Permit until proper notification to the Owner and investigation by the Town or law enforcement authorities have been completed.

30.2.6.D Two or more citations issued in violation of Town ordinance, State, County or Federal laws, if they are not resolved in a timely manner by the Owner may be cause for revocation or non-renewal of the RH ~~residence~~ Permit in compliance with Subsections 30.2.2.D & E and 30.2.5.

30.2.6.E Residential Hosting and RH ~~residence~~s are subject to ~~Lordsburg's~~ Transient Room Tax Ordinance, therefore Owners must collect said tax and all applicable sales tax and remit the same to the Utah State Tax Commission as required by State Law.

30.2.6.F This Section 2 of ~~Chapter 30 Social Lodging of VLLC's Ordinance~~ does not supersede the CC&Rs or any other privately negotiated restrictive covenants established by private subdivisions. The Town does not have authority, and will not enforce CC&Rs or any other privately negotiated restrictive covenant.

30.2.7 ENFORCEMENT.

An RH ~~residence~~ Permit may be revoked or not-renewed by the Town if:

- 30.2.7.A The RH residence that was originally constructed as residential Dwelling Unit has been repurposed for a use other than that of a residential Dwelling Unit,
- 30.2.7.B The Owner fails to pay any annual RH residence Permit fee after sufficient notice,
- 30.2.7.C The RH residence and/or ancillary structures on the property fails to comply with applicable health, safety, or building codes and the Owner will not comply in a timely manner to bring the property into compliance with said code; or
- 30.2.7.D Other illegal activities have occurred at, or related to the RH residence, which the Town reasonably determines is clearly contrary to the purpose and intent of this Ordinance.

Trial Version
www.nuance.com

February 18, 2020

PROTECTED—ATTORNEY CLIENT PRIVILEGED

Mayor Wayne Petersen
Town of Leeds
218 North Main Street
Leeds, Utah 84746

In Re: Applicability of Hillside Ordinance (Section 20.10)
Regarding Property Know as L-3-1-7-1110, Washington County, Utah

Leeds Hillside Ordinance Legal Opinion

Question Presented: Is Parcel # L-3-1-7-1110 (located at 24 East Mountain Majestic Road, Town of Leeds) subject to the provisions of Section 20.10, Code of Ordinances, Town of Leeds?ⁱ

Related questions:

1. What “land use applications” were submitted by January 1, 1999?
2. What actions, if any, did the property owner take to “grandfather” or “vest” exclusion from the provisions of Section 20.10 Hillside Ordinance?

Factual Background

1. The subject property contains approximately 11.94 acres (the “Parcel”). It was created in its approximate configuration in 1997, See deed dated 06/02/1997, attached as Exhibit “A”. Washington County has designated the parcel as Parcel L-3-1-7-1110.
2. The Parcel was created as a result of the division of adjacent parcels of property in 1997, Parcels L-PEMR-1 and L-PEMR-2.
3. The Parcel was never included in any subsequent subdivision that has been proposed or approved by the Town of Leeds or Washington County.
4. The other parcels created as the result of the property division were approved pursuant to a subdivision process in 2004.

3165 East Millrock Drive
Suite 500
Salt Lake City, Utah
84121-4704

† (801) 438-2000
f (801) 438-2050
www.btjd.com

5. No land use applications for the Parcel were submitted to the Town of Leeds between the period of time when the Parcel was divided from the other parcels and the present day.
6. A review of the records of the Town of Leeds fails to find any applications for any type of approval to install any improvements on the Parcel such as water, sewer, storm water, etc. between the period of time from 1997 to November 2019.
7. The present property owner has indicated that the Parcel was never “developed or subdivided” since its creation in 1997. (E-mail from Lynn Potter dated February 3, 2020).
8. An unimproved private road has existed on the property for at least fifty years.
9. Applicant obtained title to the property by recorded deed in 2017.
10. On November 11, 2019, an application for approval of a grading plan was submitted to the city by Dianna Powell and Lynn Potter.
11. The application was reviewed by Town of Leeds Planning Commission on January 15, 2020 and forwarded on the Town Council.
12. Town Council of Leeds reviewed the “grading permit” application on January 22, 2020. The matter was tabled on that date in order to receive further information.
13. Other than the grading plan submittal, no other approvals have been sought since 1997, for improvements such as water, power, sewer (septic or otherwise) storm drainage or a request for the granting of a building permit, have been requested, approved or installed.

Applicable Legal Provisions

1. The definition of a “subdivision” in 1995 as set forth in the town’s ordinances was as follows:

“Subdivision includes the division of land whether by deed, metes, and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and for divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes”ⁱⁱ
2. Section 4 of that ordinance then sets forth the process by which a subdivision is approved. The first paragraph states the following: “Before dividing any parcel or acreage in to two or more building lots, a sub divider shall . . .” The ordinance then sets forth six (6) steps that must be satisfied before “subdivision” is approved and is ready for recording in Washington County.

3. The definition of subdivision remained the same in the 2008 Land Use Ordinance and was not modified in the 2009 amended version pertaining to land use ordinances.
4. The term “development” is not defined by the Code of Ordinances of the Town of Leeds. However, for purposes of this opinion the term will be considered as both a noun and a verb.

Used as a “verb” it is the act or process of seeking approvals from the appropriate land use authority for permission to construct, erect or build a structure on a parcel of ground.

Used as a “noun”, it is a project which has received final approval to begin the construction of the intended facilities to completion.

Applicable statutes and ordinances:

Section 10-9a-509 (1)(a)(i) Utah Code provides as follow:

“An applicant who has submitted a complete land use application as describe in Subsection (1)(C), including the payment of all applications fees, is entitled to substantive review of the application under the land use regulations:

- (A) In effect on the date that the application is complete; and
- (B) applicable to the application or to the information shown on the application.

Section 20.10 Town of Leeds Code of Ordinances provides as follows:

The requirements of this Chapter shall not apply to developments or subdivisions that were approved prior to January 1, 1999.

Discussion

It is clear to the author of this opinion that the subject Parcel has been subject to only one act during the part twenty-five years. That act was the creation of the property by a legal description in a private survey that was neither requested or approved by the Town of Leeds or Washington County. It is true that the county eventually recognized that the described property existed as a separate tract when it assigned a tax identification number. However, the tract has never been subject to an approval process as required by the ordinances of the town.

The author cannot find any evidence of an application submitted to the town which satisfies the relevant requirements for the approval of a subdivision or a development for a single lot. Surrounding properties have received such review, process and approval. Those approvals are reflected on the appropriate documents from Washington County.

That being said, Section 20.10 is clear. It is applicable to all developments or subdivisions that were APPROVED (emphasis added) prior to January 1, 1999. Based on the factual information that has been reviewed, the subject Parcel is neither a “development” nor a “subdivision” that received approval by the Town Council of the Town of Leeds prior to January 1, 1999.

Opinion and Decision

Question Presented: Is Parcel L-3-1-7-1110 (located at 24 East Mountain Majestic Road, Town of Leeds) subject to the provisions of Section 20.10, Code of Ordinances, Town of Leeds?ⁱⁱⁱ

Answer: Yes

Related questions:

1. What “land use applications” were submitted by to January 1, 1999?


Answer: None

2. What approvals were received prior to January 1999 were received to “grandfather” or “vest” exclusion the Parcel from the provisions of Section 20.10 Hillside Ordinance?

Answer: None.

After review of all of the discernable facts, the review of the applicable ordinances and Utah State Statutes, it is my opinion that Parcel L-3-1-7-1110 is subject to the provisions of Section 20.10 or the Code of Ordinances of the Town of Leeds as adopted by Ordinance 2008-4 and as amended by Ordinance 2015-02.

Dated this 20th day of February 2020.

By 
H. Craig Hall
Attorney for the Town of Leeds
Bennett Tueller Johnson & Deere
3165 E. Millrock Drive, Suite 500
Salt Lake City, Utah 84121

ⁱ Section adopted by Ordinance 2008-4 and revised by Ordinance 2009-18A

ⁱⁱ See Sections 3 and 4, Ordinance 3-95 Town of Leeds

ⁱⁱⁱ Section adopted by Ordinance 2008-04 adopted August 13, 2008 and amended by Ordinance 2015-02 adopted May 13, 2015.

EXHIBIT A

WHEN RECORDED MAIL DEED AND TAX NOTICE TO:

JAMES SPEAR
1784 West 1400 North
Clinton, Utah 84015

Order No. 75018

Space Above This Line for Recorder's Use

WARRANTY DEED

ALBERTA LORENA LEE, grantor(s), of Leeds, County of Washington, State of Utah, hereby

CONVEY and WARRANT to

JAMES SPEAR and MARLA SPEAR, Husband and Wife, as Joint Tenants with Full Rights of Survivorship, grantees(s) of Clinton, State of Utah, for the sum of

TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION
the following described tract of land in WASHINGTON County, State of UTAH:

SEE EXHIBIT "A" ATTACHED HERETO FOR THE LEGAL DESCRIPTION.

TOGETHER WITH all improvements and appurtenances thereunto belonging.

SUBJECT TO easements, rights of way, restrictions, and reservations of record and those enforceable in law and equity.

TOGETHER with One (1) Share in the Leeds Domestic Water User's Association.

00567640 Bk 105 Pg 0399

RUSSELL SHIRTS * WASHINGTON CO RECORDER
1997 JUN 02 16:21 PM FEE \$13.00 BY RS
FOR: SOUTHERN UTAH TITLE CO

WITNESS the hand(s) of said grantor(s), this 27th day of May, A. D. 1997.

Alberta Lorena Lee
ALBERTA LORENA LEE

NOTARY

STATE OF UTAH

)
) ss
)

County of Washington

On the *27th* day of May, A. D. 1997 personally appeared before me, ALBERTA LORENA LEE, the signers of the within instrument, who duly acknowledge to me that she executed the same.

[Signature]

EXHIBIT "A" - LEGAL DESCRIPTION

Beginning at a point South 1°16'00" East 603.18 feet along the Section line from the Northeast Corner of Section 7, Township 41 South, Range 13 West, Salt Lake Base and Meridian, and running thence South 1°16'00" East 740.35 feet to the Northeast 1/16 Corner; thence South 1°16'00" East 22.38 feet along the Section line; thence South 88°52'35" West 422.72 feet; thence North 23°58'23" West 436.58 feet; thence South 88°29'51" West 54.11 feet; thence North 23°58'23" West 247.46 feet; thence North 0°00'00" East 132.84 feet; thence North 88°03'52" East 140.00 feet; thence North 20°00'22" West 477.90 feet; thence South 53°51'25" East 383.21 feet; thence South 16°29'38" East 179.89 feet; thence South 47°23'11" East 198.58 feet; thence North 69°49'59" East 271.34 feet to the point of beginning.

PROOFREAD

TOGETHER WITH a Right of Way Easement for Ingress and Egress and Roadway, as created by Quit Claim Deed, recorded May 12, 1997, as Entry No. 565565, in Book 1099, at Pages 346-347, Official Washington County Records, over the following described property:

Beginning at a point South 1°16'00" East 603.18 feet along the Section line and North 64°43'25" West 499.77 feet and North 53°51'25" West 275.50 feet from the Northeast Corner of Section 7, Township 41 South, Range 13 West, Salt Lake Base and Meridian, and running thence North 53°51'25" West 53.86 feet; thence North 0°12'05" East 72.83 feet; thence South 43°15'53" East 12.27 feet; thence South 20°00'22" East 101.80 feet to the point of beginning.

* * *

Alberta Lorena Lee

Alberta Lorena Lee

ORDINANCE # 2-95

**AN ORDINANCE OF THE TOWN BOARD OF THE TOWN
OF LEEDS REGULATING THE PLATTING AND
RECORDING OF THE SUBDIVISIONS OF LAND**

AN ORDINANCE OF THE TOWN BOARD OF THE TOWN OF LEEDS
REGULATING THE PLATTING AND RECORDING
OF SUBDIVISIONS OF LAND

The Town Board of Leeds, Utah, does hereby ordain:

CHAPTER 1. SUBDIVISIONS

Section 1. Purpose. The purpose of this subdivision ordinance is to amplify the Leeds Master and Zoning Plans and to set forth detailed regulations which will ensure that Leeds develops into the attractive, well planned residential area that the residents desire.

a. **Background.** It is the desire of Leeds residents to have as few regulations as possible but still have a beautiful town in which to live. Areas that detract from, rather than add to, Leeds' attractiveness can for the most part be dealt with as "eyesores" or "a nuisance" by the Town Board; however, it is necessary to have some regulations so that housing will be safe and achieve the long range plan the residents of Leeds have formulated.

This Ordinance, therefore, has been written mainly to insure that anyone desiring to develop a subdivision will be required to meet certain standards of planning and construction. In addition, developers will be held responsible for providing the necessary potable water, sewage disposal, drainage, streets, public areas, etc., so that the development will not later become a problem for the town of Leeds.

Section 2. Application. The Planning Commission of the town of Leeds, Utah, is hereby designated as the Advisory Agency with respect to subdivisions and shall have all the powers and duties with respect to the preliminary maps thereof, and the procedure relating thereto which are specified in this Ordinance. The regulations, action, data, exceptions, suggestions and conditions set forth in the ordinance are designated to assist the subdivider in the preparation of his plans.

The provisions of this Ordinance shall be applicable to all divisions of land in which two or more parcels are created. These divisions shall be termed "subdivisions", and which are wholly within the town limits. It shall be unlawful for any person to offer to sell or lease, to contract to sell or lease, or to sell or lease any such subdivision, or any part thereof, which is located in the town until a final map thereof, in full compliance with the

provisions of this ordinance, has been duly recorded and filed in the office of the Town Clerk.

Section 3. Definitions.

a. **Town Engineer.** "Town Engineer" shall mean the Town Engineer or a Registered Civil Engineer in the State of Utah hired by the Town of Leeds, Utah, to represent the Town in carrying out the engineering functions associated with this ordinance.

b. **Commission.** "Commission" shall mean the Planning Commission of the Town of Leeds, Utah.

c. **Commission's Authorized Representative.** "Commission's Authorized Representative" shall mean the Planning Director or any other Town employee or official who has been designated by the Commission to represent the Town in enforcing or carrying out the functions of the Commission as set forth in this Ordinance.

d. **Engineer.** "Engineer" shall mean the engineer or surveyor by the subdivider to prepare a final map or to compile such data as may be required in connection therewith in accordance with the provisions of this Ordinance.

e. **Final Map.** "Final Map" shall mean a final map prepared in accordance with the provisions of this Ordinance which map is designed to be placed on record in the office of the Town Clerk.

f. **Subdivider.** "Subdivider" shall mean any individual, firm, association, syndicate, copartnership, corporation, trust, or other legal entity, commencing to effect a subdivision for himself or for another.

g. **Subdivider's Authorized Representative.** "Subdivider's Authorized Representative" shall mean any person who has been designated by the subdivider, in writing, which designation has been filed with the Planning Commission as the authorized person to represent the subdivider.

h. **Subdivision.** includes the division of land whether by deed, metes, and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

i. **Preliminary Map.** "Preliminary Map" shall mean a map Made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it. Such map need not be based upon an accurate or final survey of the property. The preliminary map is essentially a study plan which, when

approved, will serve as a basis for the preparation of the final map.

j. Acreage. Any parcel of land, of one (1) or more and those areas were a legal subdivision has not been made previously, or where a legal subdivision has declared the parcel as acreage.

k. Boundary Adjustment. A minor shift or rotation of an existing lot line where no additional parcels are created, nor deleted, as approved by the Town Engineer.

l. Conversion. The creation of separate ownership of existing real property together with a separate interest in space of residential or commercial buildings.

m. Improvement Standard. A specified requirement imposed by this ordinance relating to the installation, modification or removal by the subdivider of a street, sidewalk, utility, well, tree, storm drain or other facility as necessary for the general use by the low owners of the subdivision and local neighborhood.

n. Merger. The joining of two (2) or more contiguous parcels of land under one (1) ownership into one (1) parcel.

o. Remainder. That portion of an existing parcel which is not included as part of the proposed subdivision. The remainder is not considered as part of the subdivision but must be shown on the required maps as part of the area surrounding subdivision development.

p. Shall and May. "Shall" is mandatory and "May" is permissive.

Section 4. Procedure. Before dividing any parcel or acreage into two or more building lots, a subdivider shall:

1. Meet with the Town Engineer or Planner and review the proposed subdivision.

2. File five (5) copies of the preliminary plat with the Town Clerk, and pay the filing fee. The preliminary plat shall be prepared in conformance with the provisions of title.

3. Meet with the Planning Commission at a regularly scheduled meeting to discuss the proposed subdivision.

4. Not more than one (1) year after receiving approval of the preliminary plat, submit the original and one reproducible copy of the final plat to the Planning Commission for action. The Planning Commission may extend the one-year time limit for just

cause.

5. Upon receiving approval of the final plat, submit the approved plat to the Leeds Town Board.

6. Following Town Board approval of the final plat, the subdivider shall pay all recording fees, and the Town Clerk shall present the final plat, bearing all required signatures, to the County Recorder.

Section 5. Exceptions to Ordinance. Where unusual topographic or other exceptional conditions exist, the Leeds Town Board may vary the requirements of this Ordinance after receiving the recommendations of the Planning Commission, provided that such variations will not substantially impair the intent of this Ordinance.

Section 6. Other Public Agencies. The Planning Commission may withhold approval of a preliminary plat for one (1) year if all or part of the area to be subdivided may be needed for a park, school, street, or other public purpose. The Planning Commission should notify the appropriate agency in writing of the proposed subdivision. If proper means have not been initiated to acquire the desired property within one year, the owner may then subdivide in compliance with the provisions of this Title.

CHAPTER 2. PRELIMINARY PLAT

Section 1. Requirements of Preliminary Plat. The preliminary plat shall comply with the following requirements:

1. **Description.** In a title block located in the lower right hand corner of the sheet shall appear the following:

- a. The proposed name of the subdivision.
- b. The location of the subdivision including the address and the section, township and range.
- c. The names and addresses of the owner or subdivider if other than the owner.
- d. Date of preparation and north point, scale, contour interval, and source and date of existing contours.

- e. Scale shall be of sufficient size to adequately describe in legible form all required conditions of this Ordinance.
- f. Sufficient legal description to define the boundary of the proposed subdivision.
- g. A "minor subdivision" (less than five lots) may be exempted from the plat map process, and sold by metes and bounds, without the need for recording the plat if:
 - aa. a recommendation has been received by the Planning Commission;
 - bb. the subdivision has been approved by the legislative body;
 - cc. the subdivision is not transversed by the mapped lines of a proposed street as shown in the General Plan and does not require the dedication of any land for street or other public purposes;
 - dd. if the subdivision is located in a zoned area, each lot in the subdivision meets the frontage, width, and area requirements of the zoning ordinance or has been granted a variance from those requirements by the board of adjustment; and,
 - ee. if the lots front a fully improved public street serviced by utilities.

2. Existing Conditions. The plat shall show:

- a. The location of the nearest monument.
- b. The boundary of the proposed subdivision and the acreage included. A statement of present land use designation (s) as defined in the Master Plan and the existing and proposed zoning of the property.
- c. All property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in the light of existing master street plans or other Planning Commission studies.
- d. The location, pavement, and right-of-way width, grade and name of all existing streets within two

hundred (200) feet of the subdivision and of all prior platted streets or other public ways, utility rights-of-way, parks, and other public open spaces, permanent buildings, structures, houses, or permanent easements and section and corporation lines, within and adjacent to the tract.

- e. The location and size of all wells, septic tanks, sanitary sewers, fire hydrants, water mains, and storm drains proposed, active or abandoned, and of all reservoirs within the tract and to a distance of at least one hundred (100) feet beyond the tract boundaries.
- f. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred (100) feet beyond the tract boundaries, indicating the pipe sizes, including slope, grades, manholes, and exact location.
- g. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
- h. The names and boundary lines of adjacent subdivisions and the names of owners of adjacent unplatted land.
- i. Existing topography of the proposed subdivision site at least one hundred (100) feet beyond its boundary, including but not limited to existing contours at one (1) foot intervals if the existing ground slope is less than fifteen percent (15%) and no less than five (5) foot intervals for existing ground slopes equal or greater than 15%. Contour intervals shall not be spread more than one hundred fifty (150) feet apart. Existing contours shall be represented by dashed lines or by screened lines.
- j. Wash or swampy areas including the approximate location of all areas subject to inundation or storm water overflow; the location, width, and direction of flow of each water course; and the flood zone designation as indicated on the Flood Insurance Rate Map(s) (Flood Hazard Boundary Maps), prepared by the U.S. Department of Housing and Urban Development.
- k. A vicinity map showing roads, adjoining subdivisions, cities, creeks, railroads and other

data sufficient to locate the proposed subdivision and show its relation to the community.

- l. List the applicable agencies that provide service to the proposed subdivision (i.e., school districts[s], gas, electric, water and sewer, telephone, cable TV, etc.).
- m. The location and outline of existing structures identified by type. Structures to be removed shall be so marked.
- n. The widths, location and identify of all existing easements.

3. Proposed Plan. The subdivision plan shall show:

- a. The layout of streets, showing location, grade, centerline radius and arc length of curves, pavement, right-of-way widths and other dimensions of (designated by actual or proposed names and numbers) proposed streets, crosswalks, alleys and easements. The location and radius of all curb returns and cul-de-sacs shall also be plotted.
- b. The layout, numbers and typical dimensions of lots. Multifamily projects shall demonstrate building footprint in addition to lot dimensions. Engineering data shall show the proposed finished grading of each lot, the preliminary design of all grading, numeric estimate of grading activity relating to excavation and fill, the elevation of proposed building pads, the top and the toe of cut and fill slopes to scale, the number of each lot, and the elevation of adjacent parcels.
- c. Parcels of land or common areas intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision.
- d. Builder setback lines required by the Planning Commission.
- e. Easements for water, sewers, drainage, utility lines and other purposes.
- f. Typical street cross-sections and street grade where required by the Planning Commission.
- g. A tentative plan or method by which the subdivider

proposed to handle storm water drainage for the subdivision including the proposed locations and sizes of storm water runoff retention basins.

- h. Approximate radius of all centerline curves on highways or streets and the angle of intersecting streets if the angle deviates from a right angel by more than two (2) degrees.
- i. Subdivision improvements outside of the boundary including right-of-way, topography, and proposed work.
- j. Proposed recreation sites, bike paths, trails and parks for private or public use, which shall be indicated as lettered lots.
- k. The location and size of proposed and existing wells, septic tanks, sanitary sewers, fire hydrants, water mains, and storm drains. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated. All water and wastewater disposal systems are required to have project feasibility approval from the Utah Department of Environmental Quality Division of Drinking Water prior to submittal. Final approvals are subject to the Town Council, Planning Commission, and the Town Engineer.
- l. Proposed contours at one (1) foot intervals shall be shown if the existing ground slope is less than fifteen percent (15%) and no less than five (5) foot intervals for existing ground slopes equal or greater than 15%. A separate grading plan may be required to be submitted.
- m. If the subdivider plans to develop the site in units or phases, the proposed units or phases and their proposed sequence of construction shall be shown.
- n. Upon the written request of the subdivider, the Planning Commission may waive any of the above preliminary or tentative map content requirements if the Commission determines that the type of subdivision does not justify compliance with these requirements, or if the Commission determines that other circumstances justify a waiver. The Commission may require other drawings, data, or information as deemed necessary to review the request.

4. ACCOMPANYING DATA AND REPORTS

The subdivider or applicant may be required to submit the following accompanying data and reports:

1. **Soils Report.**

- a. In most cases preliminary soils report will be required by the Town Engineer. If a preliminary soils report is required, it shall be prepared by a civil engineer registered in this State and based upon adequate test borings. Percolation tests are required as part of the soils analysis. When complete the report shall be presented to the Planning Commission with the preliminary plat.
- b. If the Town has knowledge of, or the preliminary soils report indicates, the presence of critically expansive soils, liquefaction, or other soil problems which, if not corrected, would lead to structural defects, a soils investigation of each lot in the subdivision may be required by the Planning Commission. This soils investigation shall be done by a civil engineer registered in this State, who shall recommend the corrective action which will prevent structural damage to each structure proposed to be constructed in the area where the soil problems exist.
- c. The Commission may approve, upon recommendation of the Town Engineer, the subdivision, or portion thereof, where a soils problem exists if it determines that the recommended action will prevent structural damage to each structure to be constructed, and a condition to the issuance of any building permit shall require that the approved recommended action will be incorporated into the construction of each structure.

2. **Title Report.** A preliminary title report, acceptable to the Planning Commission, showing the legal owners at the time of filing the tentative map.

3. **Other Reports.** Any other data or reports deemed necessary by the Department, or Town Engineer.

Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the Planning Commission.

Section 2. Approval of Preliminary Plat. The Planning Commission

and other interested departments shall review the preliminary plat and visit the site of the proposed subdivision. Following this investigation, the Planning Commission shall approve the preliminary plat as submitted or modified or disapprove the plat.

If the preliminary plat is approved, the Planning Commission shall return one (1) copy of the plat signed by the Planning Commission Chairman to the subdivider with any conditions attached. The Planning Commission shall retain one signed copy of the plat for its files. If the preliminary plat is disapproved, the Planning Commission shall indicate its disapproval by returning one (1) copy of the plat to the subdivider along with the reason for disapproval.

The receipt of a signed copy of the approved preliminary plat shall authorize the subdivider to proceed with the preparation of the final plat.

CHAPTER 3. FINAL PLAT

Section 1. Requirements of Final Plat. The final plat must be prepared by a licensed land surveyor on a standard tracing linen sheet, 24" x 36" in size, drawn with waterproof black india ink. The top of the plat shall be either north or east, whichever accommodates the drawing best. The plat shall contain all information required as set forth below:

1. **Description and Delineation.** The final plat shall show:
 - a. The name of the subdivision, which name must be approved by the Planning Commission.
 - b. An identification system for all lots and blocks and names of streets. Lot lines shall show dimensions in feet and hundredths.
 - c. True angles and distances to the nearest established street lines or official monuments, which shall be accurately described in the plat and shown by appropriate symbol.
 - d. All street centerline data must be shown together with its relationship to the property lines, corners, etc.
 - e. The accurate location of all monuments shall be shown on the plat, and shall be identified, including all United States, State, County, or other official monuments.
 - f. The dedication to the public of all streets and highways included in the proposed subdivision.
 - (1) Street monuments shall be installed by the subdivider in accordance with the requirements of the Leeds Engineer and locations indicated.
 - g. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners.
 - h. Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on

the final plat in a form approved by the Leeds Attorney.

2. The Standard Forms for the Following. The final plat shall require:

- a. A registered professional land surveyor's "Certificate of Survey".
- b. The owner's "Certificate of Dedication" or a "Corporate Certificate" for corporations.
- c. A notary public's acknowledgement.
- d. The Leeds Planning Commission's "Certificate of Approval".
- e. The Leeds Engineer's "Certificate of Approval".
- f. The Leeds Attorney's "Certificate of Approval".
- g. The Leeds Town Board "Certificate of Approval".
- h. A one-and-one-half by five-inch (1 1/2" x 5") space in the lower right-hand corner of the drawing for the use of the County Recorder.

3. The Following Information shall be Submitted:

- a. A statement that all taxes or special assessments payable on all property within the limits of the subdivision are paid in full, or a letter stating that a satisfactory bond has been filed to secure such payment.
- b. An original copy of the proposed deed restriction in final form and signed by all of the owners of any interest in the subdivision who sign the final subdivision map. This copy shall be acknowledged by a Notary Public and shall be recorded in the office of the County Recorder along with the final plat.
- e. Evidence of ownership of the property being subdivided.

4. All signatures required by this Chapter, except those of the Leeds Town Board and the County Recorder, shall appear on the final plat prior to submitting said plat to the Leeds Town Board for final approval.

5. Along with the final plat, the applicant shall submit one (1) reproducible reproduction of the final plat to be used by the Leeds Building Inspector for field work, etc. Said reproducible reproduction shall be an exact copy of the final plat as approved by the Leeds Town Board.

6. No final plat of a subdivision of land shall be recorded without having been signed by the Town Board of Leeds, Utah, certifying that all conditions of Chapters 2 and 3 of this Ordinance have been met and that the bonds as required by Chapter 4, Section 2, have been posted with the Leeds Town Clerk.

CHAPTER 4. IMPROVEMENTS AND IMPROVEMENT STANDARDS

Completion of improvements outlined within this Chapter shall be in compliance with any agreement entered into by the subdivider and the Town as well as plans and standard specifications applicable at the time of issuance of grading or building permits.

BLOCK STANDARDS

The lengths, widths and shapes of blocks shall comply with the following standards:

1. Convenient access, circulation, control and safety of street traffic, as outlined in the General Plan and Zoning Ordinance;
2. Lot specifications, as outlined in the Leeds Zoning Ordinance; and
3. Limitations and opportunities of existing topography.

GRADING

Proper grading and erosion control, including the prevention of sedimentation or damage to off-site property shall be in compliance with standards outlined by the Town Engineer, Leeds General Plan, Zoning Ordinance and this Subdivision Ordinance.

STREET IMPROVEMENTS

1. The subdivider shall provide and install all required streets and related improvements, either within or outside the subdivision, in compliance with the policies and procedures of the Town Engineer, and the serving utility companies. These improvement requirements shall be imposed as a condition of approval at the tentative map stage, and shall be completed or bonded for prior to recordation of the final map.
2. After final approval of the street lighting systems, it shall become the property of the Town. The systems shall be installed by a public utility or attached to metal poles or to a system owned by a public utility.

Section 1. Required Improvements.

1. Sewer Proposals and Construction Plans.

- a. The subdivider as a condition of approval of the preliminary plat (tentative map), shall provide and install adequate sanitary sewer facilities, either within and/or outside the subdivision, in

compliance with the policies and procedures of the Town Engineer, General Plan, Zoning and Subdivision Ordinances. The plans for a sanitary sewer system shall be approved in writing by the Leeds Engineer, and shall be constructed throughout the entire subdivision, and shall be connected to an adequate sewer outfall line. The developer shall provide a service line to each lot within the subdivision, except where conditions will permit the use of septic tanks.

2. Storm Drainage.

- a. The subdivider, as a condition of approval of the preliminary plan (tentative map) shall provide and install storm drainage and/or retention improvements, either within and/or outside the subdivision, in compliance with the policies and procedures established by the Town Engineer, the General Plan, Zoning and Subdivision Ordinance. A storm water drainage system approved by the Leeds Engineer shall be provided, and shall be separate and independent from the sanitary sewer system. The final plans for the drainage system shall be prepared by a licensed civil engineer and approved, in writing, by the Leeds Engineer prior to construction.
- b. No ditch or canal shall be approved as suitable for the use of storm drainage water without the written permission of the appropriate ditch or canal company or of the water users for such use, and the approval of the Leeds Engineer. No ditch or canal shall be used for storm water unless adequately improved to handle such water as might be reasonably expected to flow from canal and ditch water, subdivision runoff water, and other water expected to reach such canal or ditch.

3. Electrical Improvements.

The subdivider, as a condition of approval of a tentative tract map, shall provide for the undergrounding of all existing and proposed utility distribution or transmission facilities (e.g. cable television, electric, gas, telephone and water), within the subdivision and along peripheral streets, in compliance with the following standards:

- a. Except as otherwise directed by the Town of Leeds Engineer, utility lines, including, but not limited to, electric, communications, street lighting and cable television shall be required to be placed

underground in compliance with the specifications of the public utility providing such services. The subdivider is responsible for complying with the requirements of this Section, and shall make the necessary arrangements with the utility companies for the granting of easements and installation of such facilities. All plans and specifications shall be approved in writing by the Leeds Engineer prior to construction. Exceptions to the underground requirements are as follows:

- b. Transformers, pedestal-mounted terminal boxes, meter cabinets and concealed ducts may be placed above ground if within the subdivision and are used solely in connection with the underground transmission or distribution lines;
- c. Poles supporting street lights, and the electrical lines within the poles, may be situated above the surface of the ground;
- d. The Council may waive any requirement of this Section if topographical, soil or other similar physical conditions make such underground installation unreasonable or impractical;
- e. The requirement to underground shall apply to all utility lines traversing a subdivision, or installed along either side of the streets and alleys adjoining the subdivision, except for electrical lines of 33 KVA or more. Where 1 line is exempt, all parallel lines on that same pole shall be exempt.

Subdividers shall make the necessary arrangements with cable television operators to comply with the following requirements with respect to cable television installation in residential subdivisions:

- a. Pre-wire all residential structures;
- b. Connect laterals to each residential structure with a minimum of 2 outlets wired in each structure; and
- c. Install "flush mounts" or "pedestals" as required by the cable television operator which will service the subdivision.

Payment for costs of undergrounding shall be as follows:

- a. Arrangements, including payment of costs, shall be made by the subdivider directly with the serving

utility company(s). Undergrounding of utility structures may be done by the subdivider, with permission from the serving utility;

- b. For subdivisions with frontages of less than 300 feet, the Town Engineer may accept a cash payment from the subdivider, in lieu of immediate undergrounding of the lines. Payments will be based upon a written estimate of the short unit cost from the serving utility company(s), and will reflect the subdivision's proportionate share of the estimated cost for undergrounding the lines over the entire area adopted by the Town Engineer. Determination may be made by the Town Engineer at the time any application is made to pay fees pursuant to this Section;
- c. A Subdivider with property frontage of any length may elect to enter into an agreement with the Town to defer the undergrounding until the utility lines along the frontage of 1 or more of the adjoining parcels are undergrounded. The agreement shall require the cost of the undergrounding, as determined to be made in semi-annual payments over a period of 5 years. The agreement shall be secured by a bond, or security interest in the subject real property;
- d. A subdivider with property frontage of any length may petition the Town to establish an assessment district to fulfill the requirement for undergrounding utilities. Prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any structure in the subject subdivision, subdivider shall have an assessment district in place or shall have made provision for undergrounding.
- e. In the event that property on the opposite side of any street or highway from the property line along which undergrounding is required is vacant, and a single set of poles carry the overhead utility lines for both sides of the street or highway, the subdivider shall pay 50% of the estimated cost of undergrounding. When the vacant property is developed, the subdivider of the property shall, as a condition of the issuance of building permits, be required to pay the remaining 50% of the cost of such undergrounding. Where the property is not vacant, or more than 1 set of poles carry utility lines along the street or highway, the subdivider shall pay the full cost of required undergrounding;

and

- f. Unless otherwise specified any other provision herein notwithstanding, the entire cost to underground street crossing utility lines shall be the responsibility of the subdivider of the property served by the utility lines.

Deposit of payments for costs of undergrounding shall be as follows:

- a. All payments collected pursuant to this Section shall be deposited into a Town administered line item account for undergrounding utilities. Separate accounts shall be maintained for undergrounding in defined geographic areas throughout the Town, as established by the Town Engineer; and
- b. In no event shall the payments from subdividers on both sides of the street exceed the total estimated cost for undergrounding utilities along that section of street plus reasonable costs of administering this Section as approved by the Council.

4. Street Improvements.

- a. At least ten (10) days prior to the commencement of construction, the Leeds Engineer shall require the subdivider to furnish to the Leeds Engineer a complete set of construction plans and profiles of all streets, existing and proposed, within the subdivision. Plans are to be prepared by a licensed professional engineer and shall be accompanied by a copy of the final plat. The Leeds Engineer shall, within a reasonable time (not to exceed twenty (20) days from the receipt of the plans), notify the subdivider of approval or disapproval and, in case of disapproval, of the reasons therefor. Such plans and profiles shall include:
 - (1) The designation of limits of work to be done.
 - (2) The location of the bench mark and its true elevation according to survey data, all profiles to be referred to that data.
 - (3) Construction plans which include the details of curb and gutter and street cross-sections,

location and elevation of manholes, catch basins and storm sewers, elevations and location of fire hydrants and any other detail necessary to simplify construction.

- (4) Complete data for field layout and office checking.
 - (5) On curb returns, at least two additional control points for elevation besides those at points of curvature. Control points shall be staked in the field to insure drainage of intersections.
 - (6) The street address of the project.
- b. Grades of streets shall not be in excess of eight percent (8%) on major collector streets, nor in excess of fifteen percent (15%) on other streets.
 - c. Cul-de-sac streets shall not exceed eight hundred (800) feet in length.
 - d. All streets within the town shall be improved with pavements bounded by integral concrete curbs and gutters to an overall width in accordance with the standards, rules and regulations adopted by the Leeds Town Board.
 - e. Pavements shall be constructed in accordance with the requirements of the standard specifications adopted by the Leeds Engineer.
 - f. Curbs and gutters on all urban streets shall be concrete of the standard Leeds specifications.
 - g. Sidewalks on all urban streets shall be concrete of the standard Leeds specifications.
 - h. Storm water inlets and catch basins shall be provided within the roadway improvements at points specified by the Leeds Engineer.
 - i. All curb corners shall have a radius of not less than fifteen (15) feet. At intersections involving collector or major streets of not less than twenty-five (25) feet. In industrial areas, not less than twenty (20) feet.
 - j. The arrangement of streets in new subdivisions shall make provision for the continuation of the

streets in adjoining areas and shall provide access to non-subdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the Planning Commission. All access roads leading to said subdivisions shall be improved as may be determined by the Leeds Engineer.

- k. Minor streets shall approach major or collector streets at an angle as near ninety degrees as possible.
- l. The subdivider shall install curbs, gutters and sidewalks on existing and proposed urban streets in all subdivisions, except on the rear of such lots as back on major streets and not permitted access to such streets.
- m. Street name signs, conforming to the design and specifications and in the number provided by the standards, rules and regulations of the Town shall be provided by the developer at all street intersections. Inspection shall be made by the Leeds Engineer to insure uniformity.
- n. Traffic control signs, including stop or yield right-of-way signs, shall be installed to insure a smooth flow of traffic through the subdivision as required by the Leeds Engineer.
- o. A minimum centerline radius of fifty (50) feet shall be maintained on all winding mountainous streets, and a minimum of three hundred (300) feet shall be required on all through traffic streets.
- p. Private streets, alleys, or ways shall not be approved except when the Planning Commission, after investigation, recommends and the Town Board, after hearing, finds that public dedication is impractical. All alleys and private streets shall be improved as required by the Planning Commission.
- q. Fire hydrants shall be installed in all subdivisions in accordance with the regulations of the Town of Leeds.
- r. Open ditches or canals shall not be allowed within or adjoining a subdivision except along rear or side lot lines. The subdivider shall work with irrigation, drainage or ditch companies as to:
 - (1) Methods of covering, realigning or eliminating ditches or canals within or adjoining the

subdivision.

- (2) The size of pipe and culverts required.
 - (3) The responsibility for the periodic inspection, cleaning and maintaining of such ditches, pipes and public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the Leeds Engineer.
- s. All open ditches, canals or waterways, non-access streets, open reservoirs or bodies of water, and other such features judged by the Planning Commission to be of potentially hazardous nature, on, crossing or contiguous to property being subdivided shall be fenced or closed from access in a manner satisfactory to and approved by the Planning Commission.
 - t. Direct driveway access shall be avoided when possible from arterial and collector streets. Circular driveways or turnarounds shall be provided when direct access is unavoidable.
 - u. Offset intersections shall be a minimum of 150 feet centerline to centerline for local streets. A greater distance shall be established for larger streets as determined by the Town Engineer.
 - v. Except as provided for by ordinance, sidewalks shall be provided for all lots included in the subdivision. The sidewalks shall be no less than 6 feet in width when adjacent to the curb in a residential area, or less than 5 feet in a commercial or industrial area. Considerations in design are to be given for handicapped persons and senior citizens.
 - w. Required sidewalk widths may include street signs, lights, fire hydrants, etc. These sidewalks should be located adjacent to the curb. However, in no instance may the clear path of travel be reduced to less than 4 feet.
 - x. Meandering sidewalks, where used, shall be 5 feet in width and shall not include street signs, lights, etc.;
 - y. Sidewalks constructed of alternative paving materials as approved by the Town Engineer, shall have smooth surfaces to ensure pedestrian safety.

Asphalt shall not be used as an alternative paving material; and

- z. Undulating sidewalks are not permitted.
- aa. All alleys shall have a minimum width of 20 feet. Intersecting alleys shall have a corner cutoff or radius of not less than 20 feet.
- bb. At all block corners there shall be a rounding at the curb to a minimum radius of 25 feet. There shall also be a rounding of the property lines or a corner cutoff as established by the Town Engineer.
- cc. All subdivisions shall abut upon or have an approved access to a public street.
- dd. Each lot or unit within the subdivision shall have approved direct access to a public or private street;
- ee. Street layout shall be designed to provide for future access to, and not impose undue hardship upon, property adjoining the subdivision;
- ff. No new direct driveway access from individual residential lots onto divided major arterial, major arterial or minor arterial shall be permitted unless approved by the Planning Commission.
- gg. In the case of private streets, the subdivider shall provide an appropriate method for permanent maintenance subject to approval of the Town Engineer and the Town Attorney; and reserve strips, or non-access at the end of any street or at the exterior boundary of the subdivision, shall be dedicated unconditionally to the Town, when required.
- hh. A tentative tract or preliminary plat map shall provide for at least two (2) different standard routes for ingress and egress. A standard route is a road which is dedicated to the Town and has a minimum paved width of 24 feet.

5. Water.

- a. The subdivider, as a condition of approval of a preliminary plat map, shall provide and install adequate water supply facilities, either within and/or outside the subdivision. All water

requirements and improvements shall be developed to the satisfaction of the Utah Department of Environmental Quality Division of Drinking Water and the Town Engineer. The developer shall provide culinary water and water lines to each lot in the subdivision, and provide water rights, wells, pumps, storage tanks, water and fire systems per the Utah Department of Environmental Quality Division of Drinking Water and the Town Engineer.

- b. All water system plans shall be approved, in writing by the Utah Department of Environmental Quality Division of Drinking Water and the Leeds Engineer prior to construction.

6. Fences and Guards.

- a. In locations where a land subdivision abuts or is adjacent to public or private grazing land, a fence of material and quality satisfactory to the Planning Commission shall be effected around the outer limits of the subdivision as it is shown on the subdivision map. The Commission may also require the installation of cattle guards on any street entering the proposed subdivision from other existing streets.

- b. A subdivider, as a condition of approval of a tentative map, for a subdivision located within an area subject to high wind erosion shall comply with the following standards:

- (1) A solid masonry wall with a height of 6 feet and subject to design and materials approval by the Planning Commission and Town Council shall be constructed on the peripheral boundary of the subdivision to protect it from the prevailing wind. Where the required wall extends over a future street opening, a fence, 6 feet in height, and subject to design and materials approval by the Planning Commission and Town Council, may be substituted for the masonry wall;

- (2) Lots within and/or outside of the subdivision that have had soil disturbed during construction shall be covered with protective landscaping materials, subject to the approval of the Town Engineer; and,

- (3) Prior to and during construction, streets and

disturbed open areas within and/or outside of the subdivision shall be treated by watering or other approved method to prevent fugitive dust.

Section 2. Performance Bonds.

1. As outlined in Chapter 4, Section 1, the subdivider shall file with the Leeds Town Clerk a surety or cash bond, or letter of credit in an amount approved by the Engineer to cover up to 100% of the total estimated cost of all required improvements. Additionally, a labor and material security to cover up to 50% of the total estimated cost of all required improvements shall also be required as a condition of approval of a subdivision plat. If the subdivider fails to complete the subdivision improvements within the specified time limits, the Council may, cause any or all uncompleted improvements to be completed and the parties executing the security or securities shall be firmly bound for the payment of all necessary and appropriate costs. In addition the performance bond, the subdivider shall also release the Town from all liability incurred by the subdivision and payment for all reasonable attorney's fees that the Town may incur because of any legal action resulting from the subdivision. All such improvements shall be installed within a period of two (2) years and shall be installed in a manner satisfactory to the Leeds Town Board. Upon completion of the improvements for which a surety, cash bond, or letter of credit has been filed, the subdivider shall call for final inspection by the Leeds Engineer. If inspection shows that standards have been met in the completion of such improvements, the bonds shall be released pursuant to the conditions outlined within this section.

2. Surety bonds, cash bonds, or letters of credit are subject to the Town Attorney as to final form, but should include the following basic language:

BOND FORM

Whereas, the Town Council of the Town of Leeds in Washington County in the State of Utah, and _____ (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 19____, and identified as project _____, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the Town of Leeds hereinafter called ("_____"), in the penal sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Town of Leeds, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the Town in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any-wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on _____, 19____.

- a. Bonds. All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in Utah, together with an "A" policy holder's rating and a financial rating of at least "V" in compliance with the current "Best's" ratings. The bond(s) shall contain the nearest street address of the institution providing the bond(s).
- b. Cash Deposits. In lieu of the faithful performance

and labor and material bonds, the subdivider may submit cash deposits or negotiable bonds of a kind approved for securing deposits of public monies with the Town or a responsible escrow agent or trust company under the conditions hereinafter described.

Disbursements from cash deposits shall be made in compliance with a separate agreement between the subdivider and the Town. A bookkeeping fee of 1% of the total amount deposited with the Town for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the Mayor and town Council.

- c. Letter of Credit. In lieu of faithful performance and labor and material bonds or cash deposits, the subdivider may submit an irrevocable instrument of credit subject to the Utah Commercial Code and under the conditions hereinafter described. The letter of credit shall be issued by a financial institution organized and doing business in, and subject to regulation by, the State of Utah or Federal Government, in a form, content, and duration as approved by the Town Attorney, and shall pledge that the funds necessary to meet the performance are on deposit and guaranteed for payment and can only be released upon written instructions from the City, and shall become secured trust funds for the purposes set forth in the instrument. The letter of credit shall contain the nearest street address of the institution providing the instrument of Credit.

INSTRUMENT OF CREDIT FORM

Re: Letter of Credit No. _____
Effective Date _____
Expiration Date _____

Gentlemen:

Please consider this letter an instrument of credit pledging that \$_____ is deposited by _____ and guaranteed for payment of improvements conditioned in the approval of (name of Subdivision-legal description should be attached as well as conditions of approval). In compliance with the Leeds Subdivision Ordinance, we are regulated by the Federal or State Government, and agree that the funds designated by this instrument shall become a trust fund for the purpose set forth in this instrument.

It is a condition of this letter of credit that sixty (60) days prior to any such expiration date we shall notify you by registered letter that we elect not to consider this letter of credit renewed. Notice hereunder shall be deemed to have been given when received by you. Upon receipt of such notice you may draw on said letter of credit."

RESPECTFULLY SUBMITTED
(Bank or Financial Institution)

By _____
(Title)

By _____
(Title)

Note: Show bank identification and individual number for the letter of credit. All signatures must be notarized.

3. The Leeds Planning Commission, Town Engineer, Town Attorney, and Town Board shall not endorse or sign the "Certificate of Approval" contained on the final map unless and until improvement security as hereinabove specified has been posted.

4. No final map shall be presented to the Town Board for acceptance until the requirements of this Section have been met and until all charges established by the Council and pertaining to the property being subdivided have been paid.

5. **RELEASE OF SECURITY**

Security provided may not be released. In the case of a letter of credit, the issuing bank or association will receive a copy of the Notice of Completion.

a. **PROGRESS PAYMENTS**

Progress payments may be made to the subdivider from any deposit money or letter of credit which the subdivider may have made in lieu of providing a security bond; provided, however, that no progress payment shall be made for more than 90% of the value of any installment of work. No progress payments from cash deposits shall be made except upon certification by the Town Engineer, and the subdivider that work covered thereby has been completed.

b. **RELEASE OF SECURITY**

Improvement bonds given for faithful performance of the

agreement shall be released upon final inspection and acceptance by the Town Engineer. The labor and material bond shall be retained to secure payment to the contractor, the subcontractors, and to persons renting equipment or furnishing labor or materials for 6 months after completion and acceptance of the work. Following the 6 month period, the labor and material security may be reduced to an amount not less than the total of all claims on which an action has been filed and notice given in writing to the Town.

c. MAINTENANCE GUARANTY

The subdivider shall guarantee all public improvements for a period of 1 year from the date of final acceptance and shall correct any and all defects or deficiencies arising during that period of limitation. As a result of the acts or omissions of the subdivider, its agents, or employees. The subdivision guaranty shall be backed by a bond or cash deposit in the amount of 25% of the surety posted for improvements. The Town shall provide written notice of the defect or deficiency. In any instance where the subdivider fails to take action within the specified time, or when immediate action is required to protect the public health, safety and/or welfare, the Town may cause the work to be performed and call on the surety for reimbursement. The maintenance security shall be submitted prior to final acceptance of the public improvements by the Town.

d. FORFEITURE OF SURETY

In the event that subdivider fails to complete all improvement work in compliance with the provisions of this Section, and the Town shall have to complete the same, the Town shall call on the security for funds necessary to complete the improvement as reimbursement or shall appropriate from any cash deposit funds for reimbursement. If the amount of any security shall be less than the cost and expense incurred by the Town, the subdivider shall be liable to the Town for such difference. Any cash remaining in the possession of the Town after completion of the improvement, shall be returned to the originator minus normal administrative costs.

e. SUPPLEMENTAL IMPROVEMENTS

The subdivider may be required to install improvements for the benefit of the subdivision which may contain supplemental size, capacity or number for the benefit of property not within the subdivision as a condition precedent to the approval of a subdivision map, and thereafter to dedicate such improvements to the public. However, the subdivider shall be reimbursed for that portion of the cost of such improvements equal to the

difference between the amount it would have cost the subdivider to install such improvements to serve the subdivision only, and the actual cost of such improvements. The reimbursement shall be in conformance with an agreement approved by the Council. No improvements shall be constructed prior to approval of the agreement.

- (1) The owner of property serviced by a sewer main extended by the owner 300 feet or more beyond the existing sewer facilities as measured from the point of connection with such existing facilities to the point where the extension enters the lot, parcel or tract to be served by such line, may file with the city Engineer, 2 copies of an audited report of the costs incurred for the sewer line extension and manhole construction (except laterals) as an application for the reimbursement of the costs. The reports shall be filed within 90 days after written acceptance of such extension by the Town. The city Engineer shall review such documentation and shall within 45 days after acceptance of same, make a recommendation to the Town Administrator that:
 - a. All or a portion of the costs be accepted or denied;
 - b. The Town enter into a payback agreement with the owner or subdivider. The agreement shall provide that persons making connection to the line be assessed a fee on a pro rata basis as determined by the frontage of the lot, parcel, or tract serviced by the sewer line extension and, that all fees collected shall be paid to the original builder of the line. Any such agreement shall have a maximum term of 10 years and shall not pay interest; or
 - c. The owner receive immediate payment from the sewer construction fund of the allowed costs of the construction.
- (2) The recommendation of the Town Engineer shall be based upon the following criteria:
 - a. That the extension represents a logical and reasonable extension of the sewer line;
 - b. Properties along the extension have a reasonable probability of development within the ensuing 10 years;
 - c. There are sufficient unencumbered funds in the sewer line construction fund to finance the line;

- d. The extension does not conflict with or delay the Towns Capital Improvement Plan;
- e. The extension is consistent with the General Plan; and
- f. The owner is not receiving any other form of government financing including but not limited to inducement, reimbursement, or fee waiver for such development.

Based on the above, the Town Engineer shall submit a recommendation to the Council.

- (3) No reimbursement shall be made hereunder unless and until the Town Engineer and Town Council determines that the audited report and verified claim have been filed within the allotted time periods and are otherwise acceptable to the Town.

CHAPTER 5. STANDARDS

Section 1. Departmental Standards. The construction methods and materials for all subdivision improvements shall conform to Town requirements.

Construction shall not commence until all required improvement plans have been approved by the Town Engineer and all applicable Town permits have been issued. All subdivision improvements are subject to inspection by the Town Engineer and shall comply with Town requirements approved by the Town Board. All subdivisions shall comply with all established standards.

CHAPTER 6. FEES, ENFORCEMENT, PERMITS AND PENALTIES

Section 1. Fees. Any and all persons filing plats with the Leeds Town Clerk shall pay an office checking fee according to the schedule adopted by the Leeds Town Board by resolution.

Section 2. Enforcement. The Planning Commission, the Leeds Engineer and other such departments and agencies of the Town as are designated by the Leeds Town Board are hereby authorized as the agencies charged with the enforcement of the provisions of this Ordinance. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions.

Section 3. Inspection. Appropriate agencies and departments of the Town shall inspect or cause to be inspected all buildings, fire hydrants and water supply and sewage disposal and electrical systems during the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered or back-filled until such installation shall have been approved by the Leeds Engineer or Building Inspector. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector.

The subdivider shall pay to the Leeds Town Clerk an inspection fee as adopted by resolution by the Leeds Town Board to cover the cost of inspections in the subdivision. If the fund is exhausted before completion of all improvements, the subdivider shall pay the Leeds Town Clerk an amount estimated by the Leeds Engineer or Leeds Inspector to be sufficient to cover completion.

Section 4. Permits. From the time of the effective date of this Ordinance, the Building Inspector shall not grant a permit, nor shall any officer grant any license or permit for the use of any land or the construction or alteration of any buildings or structure on a lot which would be in violation of any provisions of this Ordinance until a subdivision plat thereof has been recorded or approved as herein required. Any license or permit issued in conflict with such provisions shall be void. No building permits will be issued until all improvements have been installed to the lot for which the permit has been requested.

Section 5. Violation. No person shall subdivide any tract or parcel of land located wholly or in part in the Town except in compliance with the provisions of this Title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the County Recorder, any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this Ordinance.

SECTION 6. PENALTY. Whoever shall violate any of the provisions of this ordinance shall be guilty of the class C misdemeanor upon conviction.

PASSED, APPROVED, AND ADOPTED by the Planning Commission and the Town Board of the Town of Leeds, Utah, on the 23 day of August 1995.

Brent DeMille
Brent DeMille, Mayor

ATTEST:

Pauline Fowlks
Pauline Fowlks, Town Clerk

Ordinance # 4-95

Town of Leeds Minor Subdivision of Land

Description:

When the following conditions exist the subdivision of a Parcel of Land within the Town of Leeds may be designated a Minor Subdivision.


1. The division of a Parcel of Land will not exceed more than 5 lots.
2. All proposed lots will front upon an existing, dedicated street and will not require any new street or streets.
3. All lots will meet the area and frontage requirements of the current zoning Ordinance of the Town of Leeds.

Requirements:

1. A Plat Map of all lots proposed in the minor subdivision will be submitted to the Planning Commission indicating a Metes and Bounds description of the original parcel and each proposed lot.
2. Plat Map will indicate all existing and proposed easements if any.
3. All utilities proposed to service the lots are to be put underground unless already existing overhead. It will be the responsibility of the subdivider to repair all streets disturbed by trenching and restored to the pre-existing condition.
4. Subdivider shall, upon sale of each lot obtain a signed and notarized FORM #001 from each lot purchaser. This form will become a part of any future building permit application pertaining to that lot sold.

It is understood that this method of subdivision by Metes and Bounds must be approved by the Council of the Town of Leeds, however the Town of Leeds is not obligated to do so and may require additional improvements to an already existing street to upgrade said street to a subdivision standard if it is not already in that condition.

PASSED THIS 23 DAY OF AUGUST 1995


Brent DeMille, Mayor

ATTEST:


Pauline Fowlks, Town Clerk