Minutes for the Western Weber Planning Commission meeting of July 14, 2020, held via Zoom Video Conferencing

Members Present: **Bren Edwards-Chair**
Greg Bell-Vice Chair
Andrew Favero
Wayne Andreotti
Sarah Wichern
Bruce Nilson
Jed McCormick

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Principle Planner; Felix Lleverino, Planner II; Tammy Aydelotte, Planner; Scott Perkes, Planner; Matt Wilson, Legal Counsel; Marta Borchert, Secretary

Chair Edwards asks if there are any ex parte communication or conflicts of interest to declare.
Chair Edwards notes that item 2.2 CUP2020-10: Consideration and action on a conditional use permit application for an Agri-Tourism operation identified as the Happy Pumpkin Maze the applicant is his family member. He will need to recuse himself.

- **Pledge of Allegiance**
- **Roll Call:**

1. Minutes for December 10, 2019. Minutes were approved as presented.

2.1 DR 2020-04: Consideration and action on a design review application to allow a residential accessory garage that exceeds double the dwelling's footprint by 130 sq. ft. at 4157 W 2200 S in Taylor, UT.

Scott Perkes states that the applicant submitted a land-use permit for an accessory garage to be placed behind his home. There is a requirement in the large accessory structure for the A-1 zone and large accessory structures that are over 1000 sq. ft. there is a requirement in the large requirement structure code that if the proposed structure exceeds the footprint of the primary dwelling by more than double that the application is reviewed by the Planning Commission as a design review. The storage building as proposed is 2816 sq. ft. the structure is 45X64 ft. in size. The single-family home is a single-story home, the footprint is 1343. The square footage of the home is 2686. It exceeds the footprint of the dwelling by 130 sq. ft. The applicant was given some options it can be run through the design review process as proposed or they can reduce the structure by 130 sq. ft. It could be permitted following the traditional land use permit guidelines. The applicant would like to go with what was added in the staff report. The language in the large structure code section 108-7-16 indicates that if this were to happen that the application is reviewed as a design review. There is no reference to any section of code that would apply to the design review. It is probably the design review code section 108-1. Reading through the design review code it is ambiguous. It indicates that the design review should be for more intensive uses commercial and industrial and it doesn't specifically indicate that it is specifically for residential uses. Looking at this the question becomes what is applicable. What are the review criteria for this type of structure in a residential lot? He notes that they review this with the attorney's office and wanted to run some concepts by the Planning Commission. When a large accessory structure is proposed to be in front of the primary dwelling they look at the elevation, building materials, and color and what is the architectural style and does it match the primary dwelling. The current design review section of the code does not specifically layout requirements for large accessory structures for residential use. He notes that primarily they wanted to make sure that the applicant submitted for review the elevations, the proposed materials, and the proposed colors, Staff felt that this was enough information to go off of, whereas the design review chapter speaks to traffic mitigation and several items that are not meant for residential design review and are not applicable. Staff recommends that the application be a review based on the purpose that is outlined in the design review chapter. The purpose and intent of the design review by the Planning Commission to secure the general purpose of the chapter which is land use chapter 108-1 and the Master plan to ensure that the design layout of buildings and structures and the

development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in the occupation of the neighborhood. Planning staff recommends that the application be reviewed by that criteria and that they make sure that what has been submitted is enough to go by that type of review. Two other sections in the land use code apply to this type of structure. The first one is in 108-7-4. This section talks about the area of the building and the coverage of the lot. No accessory building or group of accessory buildings in any residential estates zone or cluster subdivision or PRUD shall cover more than 25 percent of the rear yard. This particular property is none of the above. It is in the A-1 zone and is not part of the cluster subdivision code or PRUD, there are no coverage limitations. They are not limited to 25 percent of the rear yard. The other applicable statute is 108-7-16 which specifically lists the setbacks required for large accessory structures, this section of code requires that this type of structure in the A-1 zone be located in at least 10 ft behind the primary dwelling, which as proposed does meet that requirement. The side yard setback should be at least 10 ft. on an interior lot. This is an interior lot and the proposed setback is 12ft. It comply with that requirement. It also requires that it have a maximum height of 25 ft, it complies with that requirement. This complies with all the requirements, it simply needs to meet the design review for a land-use permit to be issued. Staff believes that the Planning Commission should consider whether the structure meets all the setbacks and site development standards which staff believes that it does. The Planning Commission should also consider if the project would impair the orderly and harmonious development of the neighborhood or the investment in the occupation of the neighborhood and whether or not any design elements should be implemented and make any conditions of approval to make it harmonious with the neighborhood. Staff's recommendation is to determine whether enough information has been submitted and to review it by those three criteria if more information is needed and if they believe enough information has been provided and it does meet those three criteria it could be approved under the findings listed in the staff report. Staff's recommendation is to determine whether enough information has been submitted and to review it by the criteria discussed. Mr. Perkes goes over the site plan submitted by the applicant. It gave some high-level parameters to how big the workshops would be and how far away from the property it would be, and how far setback from the front property it would be. Based on this he was able to draw a to-scale site plan, based on the lot dimensions. On lot one of the subdivision which is the subject property, the smaller blue box is the existing dwelling, the larger footprint is the proposed structure. Mr., Perkes goes over the proposed plan and materials, they are looking at neutral palettes of red, white, green, and beige. The applicant has chosen these colors to blend in with the surroundings. The neighbor two houses to the West has an outhouse which is a red color. The applicant would like to make the east side red to match that outbuilding. The rest of the facades will be either green or beige. The roof will be beige. The applicant has submitted a narrative with regards to landscaping, they plan to grad away from the structure for water flow. All of the areas of low travel will be grassed over. Areas of higher travel will have concrete and stone.

Commissioner Wichern states that she has a concern with the exterior of the building. It looks like the applicant is trying to blend into the surroundings, but she is concerned with the colors being different from each side will detract from the surroundings rather than blend. She asks if the applicant would be open to the red or the green. David McGinnis 4157 W 2200 S, states that he is happy to entertain any suggestions.

Commissioner Bell states that he has a question. Looking at the plans there is an electrical plan but there is nothing that indicates any kind of planning, water, or sewer connections. He asks if there are any plans to convert this into an ADU. Mr. McGinnis states that he has no plans of converting this into a living space. The sewer line does not lend itself to putting sewer in that area. The building will not be heated and he does not want to take the chance of bursting a water pipe. He adds that he does plan on putting in pneumatics.

Commissioner Nilson asks if the use of the building has been addressed. Is it going to be a work shed and nothing else does the zoning prohibit certain things. Mr. Perkes states that when they submit for a land-use permit, staff look at the proposed uses of the structure. As proposed it is a storage structure for personal equipment storage, this could also be used for agriculture. It is in the agricultural zone. If they were proposing animal storage different setbacks would come into play.

MOTION: Commissioner Bell moves to approve DR 2020-04: Consideration and action on a design review application to allow a residential accessory garage that exceeds double the dwelling's footprint by 130 sq. ft. at 4157 W 2200 S in Taylor, UT. With the following findings 1. The proposed use is allowed in the A-1 Zone 2. All development standards have been met 3. With any imposed conditions, the proposed building does not impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood. Alternatively, if the commission determines that additional review information is needed for adequate consideration, the commission could vote to table the application until such material is furnished for further review. With the added condition that the four sides of the building be painted in one color. Commissioner Nilson second. Motion carries (7-0).

2.2. CUP2020-10: Consideration and action on a conditional use permit application for an Agri-Tourism operation identified as the Happy Pumpkin Maze.

Chair Edwards recuses himself from this item because he is related to the applicant. Commissioner Bell steps in as acting Chair.

Chair Bell turns the time over to Felix Lleverino. Felix Lleverino states that he would like to welcome the new Planning Commissioners. He states that this is an application for a conditional use permit to operate an Agri-tourism operation in Western Weber. The zoning for the area is A-2. The address is 3462 W 2900 S. The applicant is Blair McFarland. He pointed out that he operating a 50-acre farm. Under the agri-tourism code, this qualifies as a large farm. With a large farm, a corn maze is something that can be pursued and applied for. The current use of the entire piece is for alfalfa. There is some corn production as well. The use also qualifies because it produces product it is under the green belt and it qualifies under the farmland assessment act. It is being assessed under farmland under the greenbelt. The application has been review under the zoning requirements and the agri-tourism code. There are some things that the agri-tourism code requires specifically that it is agricultural land and that it produces a product. The products that are being produced in the area are corn, alfalfa, and pumpkins. The proposed activities are available to the agri-tourism operation the corn maze and the pumpkin patch, slides, music, dancing, and concessions. There will also be a playground and petting zoo. This is a seasonal operation that will operate during the harvest season September through October. He adds that he would like to point out a correction on page 2. The hours of operation for the haunted maze are Friday and Saturday from 8-10 PM. Staff recommends approval of this application with the conditions stated in the staff report.

Commissioner Andreotti asks to be refreshed on the parking concerning agri-tourism. He asks if the parking has to be lit. Mr. Lleverino states that as far as he knows it is not required but the applicant has stated that they are willing to do it. Chair Bell asks if any night sky requirements need to be followed. Mr. Lleverino states that it would not be required in this case, it would be wise to be respectful of the neighbors. He notes that the operation doesn't run past 10 PM the nuisance factor might be diminished close after 10.

Chair Bell asks what structures are planned for the site. Mr. Lleverino states that they are all temporary structures. There is a ticket and concession stand, a playground, slides, a petting zoo, an eating tent, and an event area.

MOTION: Commissioner Favero moves to approve CUP2020-10: Consideration and action on a conditional use permit application for an Agri-Tourism operation identified as the Happy Pumpkin Maze. This recommendation for approval is subject to all review agency requirements and with the following conditions: 1. a farm stay and a commercial development agreement will be executed and recorded prior to any construction of any structure intended for the purpose of accommodating non-agricultural uses. This recommendation is based on the following findings: 1. the proposed use conforms to the West Central Weber County General Plan. 2. The proposed use will protect and preserve agricultural property in Weber County. 3. The proposed use, if conditions are imposed, will not be detrimental to the public health, safety, or welfare. 4. The proposed use, if conditions are imposed, will comply with applicable County ordinances. 5. The proposed use will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses. Commissioner Andreotti seconds. Motion carries (7-0)

Commissioner Andreotti states that they worked on the agri-tourism ordinance quite a while ago. He states that it makes him feel good that some ag-operations take advantage of that ordinance. Besides being entertainment for kids and adults it provides educational opportunities for people to see what agriculture is about. He appreciates the McFarland's for doing this and hopes that getting to this point was not too cumbersome. Chair Bell agrees and thanks the McFarlands.

3.1 ZTA 2020-06: Consider and take action on a proposal to amend the Weber County Code, Chapter 104-3, 108-7, among other parts of the code, if applicable, to allow the cultivation of medical cannabis in the A-2 Zone.

Chair Edwards rejoins the meeting. He turns the time over to Director Grover.

Director Grover states that there was a public hearing in the last meeting, it does not need to be held during this meeting.

Charlie Ewert states last year the state legislature changed the law to allow for medical cannabis production in Utah. It is a highly regulated industry. Looking through the state code it is regulated through the health act and the agriculture act. One of the components of the state code was that each jurisdiction that has a manufacturing zone and an agricultural zone has to provide for the allowance of a medical cannabis establishment in one of those two zones. He notes that the easy choice for Weber County is the A-3 zone which is heavy agriculture and the M-3 zone which is intended for the heavy industry this is manufacturing rocket parts. Looking at the term cannabis production establishment as defined under state code, this term was looked at as a single thing when looking at allowing it in the A-3 and the M-3. Under state code, it is defined as three separate things. A cannabis production establishment is a cultivation facility cannabis processing facility or an independent cannabis testing laboratory. Because there is an "or" it means that each of these can stand alone and be definable as a cannabis production establishment. He notes that they were looking at these together looking at the A-3 zone and the M-3 zone. There is an applicant located in the A-2 zone who would like to have the components be parsed and allow for just cultivation to occur in the A-2 Zone. A cannabis cultivation facility is defined as a person who possesses cannabis grows or intends to grow cannabis and sells or intends to sell to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee. He notes that a person could also be a corporation. A company coming in to do cannabis cultivation in the A-2 zone and only cannabis cultivation. It is important to note that this is not free reign and each of these companies have to get licenses through the state to be a cultivation facility, production facility, or a testing laboratory, a pharmacy. Various permits are required through the state and they are not cheap. The way that the state designed the law is that that the tried and true tested cannabis facilities that already have established some stake in the market would be the ones to get the market going in the state of Utah. The permits are about 100,000 dollars. This is having a test company come in and provide for the product in a new economy. He states that because of this they had to look at the A-2 zone differently. The applicant has pitched some language and it has been incorporated into the parameters. He reads through the changes as listed in the staff report.

In the A-3 and A-2 zones, the following standards shall apply to the medical cannabis establishment, in the A-3 zone the minimum lot area is 20 acres, in the A-2 zone the minimum lot size is 75 acres, this significantly limits the number of companies that might attempt to try and open an operation. They are already significantly limited by the number of licenses that the state allows and the financial obligation involved in getting a license. The minimum set from the lot line is 100 ft., this setback may be reduced to 50 ft. for an indoor medical cultivation facility. This is up for discussion on whether or not they wanted to yield from the 100 ft. setback that a standard production facility would have. Is the fact that it is only a growing operation enough to say 50 ft. is ok? The applicant would like to see the 50 ft. because they know where they want to build the building and it is about a 50 ft. setback. The architectural landscaping and screening design standards apply to the use. This particular applicant has had they had their property go through several different design review requirements as recently as last year, they will be able to comply with that. The facility shall be located on land that can provide the facility access from a street that meets currently adopted street standards. If a

residential use exists or if it located within 500 ft. of the facility that site shall have a 6 ft. land berm or an 8 ft. masonry wall constructed to shield the view of the wall of the facility from residential properties except where interruption is necessary to provide vehicle access to the facility. Outdoor cultivation of plants as defined by state code is not permitted. Commissioner Favero asks if Section 108-7-34(2) is this is eliminating the M-1 and M-2 zones from cultivation. He asks what is the purpose of doing that Mr. Ewert states that it does. He notes that the change in number is not new to the discussion it is just moving language from one section to another. This language emerged at the County Commission in February as the ordinance was going through the final steps of the adoption process. There were a few people who were attempting to locate a testing laboratory and a production facility in the M-1 zone. This is the compromise that was reached. He notes that he did not fully understand the concern about cultivation, it might be related to the amount of acreage that might otherwise be required to grow. They were only looking to process the product and possibly test. He notes that they pigeonholed it. Commissioner Favero asks if item number 3 is saying that the A-3 Zone can be grown and make it so that it can be added to the A-2 zone, but it can only be processed in the M-1 and M-2 zone. Mr. Ewert clarifies that item number 3 says that there can be a cannabis production establishment in the A-3 zone and there can be a cultivation facility in the A-2 Zone. The production establishment in the A-3 is cultivation and processing and testing. Commissioner Bell states that this issue is confusing. He notes that they need to be very specific in their language so that they don't allow something unintentionally. This is addressing section 108 which has to do with medical cannabis production establishment, does this include the cultivation, the processing, and the testing? Based on those changes all of those uses are allowed in the A-2 Zone. He asks if a new section should be established. Mr. Ewert states that under the permitted uses in the A-2 zone it states *Medical cannabis production establishments as defined by state code, but restricted to a medical cultivation facility only. Compliance with Section 108-7-34 is required.* Mr. Wilson states that he agrees with Commissioner Bell, if this is what they want it to say why can't it just say that. Mr. Ewert states that they can, and the applicant's proposed language splits it up. He notes that he was trying to provide consistency and predictability in how the terminology came across. All of the other zones where it is allowed as medical cannabis production establishment. Where it is a medical cannabis production establishment even though it is only cultivation he wanted to stick with that terminology. The applicant suggested line M just be medical cannabis cultivation as defined by state code and number 4 which would be in the A-2 zone medical cannabis cultivation is allowed with some standards. Commissioner Bell states that based on the description it sounds more straightforward, and He doesn't want an application that states that according to the code they can also do production in A-2. He wants to make it very clear if it is going to be allowed in A-2. Commissioner Wichern states that it is also confusing because number 2 specifies that it should not include cultivation. Someone reading the document can assume that it is allowed. The reader would exception to be in that part of the Code. Commissioner Favero states his assumption is that it is not allowed in the M-2 zone, the cultivation but it can be processed there, but this is not what the state code says. He notes that concerning Commissioner Wichern's comment if you looked at from 20,000 ft. higher they would want a place in the A-3 zone because they would have the ability to do everything. Mr. Ewert states that this is how the A-3 zone is designed, they could do everything. Commissioner Favero asks if they had a production facility in M-1 or M-2 they would have to grow in A-3 or A-2 if A-2 is adopted. The rest of the production process would happen in M-1 and M-2 unless they are in an A-3 zone where they would do all three. Mr. Ewert states that this is correct and notes that they could also do all three in the M-3 zone. He gives an overview of the terminology. He notes that by adding this into the A-2 zone the recommendation is being consistent with the language. If there need to be more restrictions that can be done. He notes that when he is writing code, he tries not to put something in two locations because if one changes the other one may not receive the change. In this case, it would be better to make the change in both locations for clarity purposes.

Commissioner McCormick states that he has a question on 3A the A-3 zone is 20 acres and the A-2 zone is 75 acres. He asks why they would want to limit it, why couldn't they keep them the same. Mr. Ewert states that they could, it is just drawing a line in the sand. The bigger acreage reduces the number of areas these could be located. Commissioner McCormick asks if they don't want them. If they are good for A-3 it would probably be good for A-3 also. Mr. Ewert states that he could change it to 20 acres if the Planning Commission is comfortable with it. He notes that the state code has enough limitations. Commissioner Bell states that initially when this was addressed they wanted to prevent the ability for residential to be close to a production facility. If it is just cultivation it doesn't need to be that restrictive. If it is the processing and the testing it needs to be further away from the residential zone. He notes that a local farmer in Taylor was growing industrial hemp and he kept getting robbed because people thought it was

marijuana. They kept ruining his crops and breaking in. He states that he does want it to become a security issue for the applicant or the neighbors. Commissioner Wichern states that this a concern for her also. Mr. Ewert states that as far as security the state code is clear on what has to happen. The County will ask that there not be any outdoor cultivation even though the state code allows for minimal outdoor cultivation. The state code requires cameras, security gates, and fencing to dissuade people from trying to get into the facility. The business owner has a huge motivation to ensure that the buildings are locked down adequately. Commissioner Bell states that he just feels that it would be easier if they were farther from any of the residents. This is why they wanted to restrict the A-2 zone and keep to an A-3 zone or just in the M-zones. Commissioner Nilson asks if this might be a reason to keep it 75 acres instead of the 20 acres. Commissioner Wichern states that the 75 acres would protect the residential properties. Concerning B she asks if they need to have the 100 ft. listed because the requirement is that it only be indoor. Mr. Ewert states that the 100 ft. is to help people get a sense of comfort over the use that has taboo connotations. If it is further away it may not seem like a big deal than if it is setback 30 ft. Chair Edwards asks concerning the issue with the solar panels, what was approved. Mr. Ewert states that for them it was about the angle and the rotating nature of the panels, and the motorized components and the generator, there was sound and site. Commissioner Wichern states that she believes it might be unsightly. They either have to build an 8 ft cement wall or a 6 ft berm within the 50 ft. He states that he likes the idea of keeping it at 100 ft for site and sound. She feels that it is more about aesthetics but it depends on the zones. Mr. Ewert states with his discussions with the applicant he was made aware that it might end up being the 100 ft requirement. They could repitch the idea of 50 ft. the 50 to 100 was a sticking point at the last meeting. Commissioner Favero states that the setback is everything. No matter what zone this is in, the distance is everything. It is the distance between the facility and the subdivision next to it. The population or the means don't matter it is all in the setback this is the only thing that separates the facility from the residential zone. He adds that they cannot stop someone from doing something if they are in the zone for it. They could cut the acreage down because it is not going to matter if there is a house on every acre, every two acres if it is a cluster subdivision or PRUD. There is going to be a certain number of homes on a certain number of sq. ft. on any property that is on any of the 4 sides of any given facility.

Chair Edwards states that Commissioner Favero made a good point they need to protect the residents through the setbacks. Commissioner Favero states that it is the only place that it is protecting is in the setback. Mr. Ewert asks if there is anyone who opposes the 100 ft. or reducing it to 50. Commissioner Bell and Commissioner Wichern state that they would prefer to keep it at 100 ft. Commissioner Bell states that the distance makes a big difference in protecting the landowners. Mr. Ewert states that they can always say that it is the developer's responsibility to erect a wall. Commissioner Bell asks if they can out the burden on the adjacent property owner. He notes that he does not feel it right to put the burden on the developer for a piece of land that he doesn't own. Chair Edwards states they can't restrict them if they want to do the medical cultivation. Commissioner Favero states that is part of the price of doing business. It is there and it is stated that if a proposed development comes in, the person that wants to permit knows what they may be up against at some point in time. Commissioner Favero states that as long as it is spelled out he is okay with it because they will be aware of a potential expense down the road.

Mr. Ewert asks if they are okay to keep the 75 acres. Commissioner Wichern states that she likes it at 75. The setback can help protect. She notes that she is not sure if it is ideal to have them in the A-2 zone because there is going to be more residential in those areas if the 75-acre requirement is not there. Commissioner Favero states that from a common-sense perspective it can be anywhere from 25 to 75. It doesn't matter, the state is only going to put out so many licenses. There is not going to be one adjacent to the next one. It is not going to happen. The states will also probably be looking at location.

Commissioner McCormick states that 20 acres are 20 acres whether it is in A-2 or A-3. He notes that he does not see the point in making it 75. Mr. Ewert states that the applicant has pitched 50. If helps with the middle ground they could scale it to 50. Cahir Edwards asks if they were in the A-2 zone they would have to come to the Planning Commission and get a rezone. Mr. Ewert states that they would either have to get more land or asks for a rezone. The only way that staff would recommend approval of that as if they were contiguous to an existing one. Chair Edwards states that there are not that many parcels between 50 to 75 acres. He notes that he is okay either way. Commissioner Favero states that to acquire land in that area they look at the price of the property for the best and final use as residential potential. It gets expensive to buy property to achieve that goal.

Commissioner Bell states that his biggest concern is that any additional medical cannabis production facility is just cultivation. He notes that he does not care if it 25 acres or 75 acres. He notes that they will want to keep any other production facility away from any production facilities away from any potential residential development. The 75 acres does provide a little more restriction, there are already enough restrictions as it is. The 100 ft. setbacks will provide some protection from the setbacks. He notes that they would probably be okay taking that out unless the other Planning Commissioners object to it. As Commissioner Favero stated it does not matter. He notes that his biggest concern is protecting the adjacent landowners and any residential development that will go in there.

Commissioner Favero states that he would like to hear from the applicant to get a different perspective.

Seth Gomn states that Bryan Gold is also on and he is the owner of the property. Mr. Gomn states that he is an attorney for Spalding Law in Pleasant Grove. He notes that they have represented a lot of cannabis companies in a lot of different states. He notes that he is a shareholder in Zion Cultivars which is one of the license holders for medical cultivation. This is an 83-acre site it has a million sq. ft. of greenhouses. The licenses are maxed out at 100,000 sq. ft. looking at the area size it is 5 acres of the 83 acres. At full scale, it is a small piece of the parcel altogether. They would be using preexisting houses. A lot of those houses are being used to produce industrial hemp. He notes that it looks the same and smells the same and uses the same resources and uses the same plant. The impact on the neighbors would be the same. In the future, he wants to locate a new house that is on the West boundary farther from the residential boundary and future away from residential areas. He notes that they were thinking about creating a conservation easement and there is a question of how much of that would ever be developed. Everything would be enclosed and secure. The state is incredibly strict. They do regular inspections with top of the line security improvements. He states that burglaries do happen, and people try to break in on occasion. Not every facility is that way. He states that it falls on them to make sure that it is protected. This is a serious business because they are creating medicines. The standards are extremely high and they have to maintain. He notes that they added a bunch of information there. He is happy to answer any question.

Bryan Gold states that staff has detailed it pretty clearly. It will be as secure as possible but this is just a small part of the overall business. He notes that their biggest business is growing flowers, trees, and shrubs. It is a unique opportunity to use some of the expertise they have in growing ornamental crops but also medicinal crops. Mr. Gomn states that they are one of the few true Utah based cannabis cultivators. He states that they are all from Utah and they are very serious about what happens in the state and how the program rolls out. He adds that they are very grateful that to be able to work with Bryan and to use local farmers that are already familiar with a plant which is hemp and be able to use their expertise, their knowledge, and their deep roots in the community to grow a responsible product. Commissioner Favero states that his question goes back to the 50 acres. He asks if they are regulated by the state by the percentage of the growing area they can use. Mr. Gomn states that the law says that they are limited every step in increasing square footage, it has to be approved by the state. It maxes out at 100 sq. ft. for any license. Commissioner Favero asks if it is just because of the size of the facility and the 83 acres or is that for anybody even if they only have a 20-acre facility. Mr. Gomn states that it is for anyone even if they only have a 20-acre facility. He states that he is looking at policy and making sure that they have enough distance. If they were to buy a 75-acre parcel and they are only allowed to use was medical cannabis there would be 70 acres of raw land that would not be used for anything. He feels that this is a waste but there is a balancing act. Bryan gold states that there are over a million square feet of greenhouses there. From a security point of view, even if the allowable square footage the states allowed for this particular pharmaceutical crop it would still constitute less than 10 percent of the greenhouse area, and the fact that it not just one greenhouse in the middle of a big field adds to the discrete nature of this as well as the inherent security.

Commissioner Bells states that he strongly agrees that the applicant is best situated for this use. His only concern is doing they want to open it up to A-2 with these restrictions with the state laws put on it, he does not see why they wouldn't allow just the cultivation. Commissioner Favero states that he agrees and he feels that they can adjust the minimum lot requirements. The 75 acres is vast overkill. Commissioner Wichern states that she agrees after hearing the discussion the 20 acres is sufficient as long as the setback requirement is in place.

All of the Planning Commissioners state that they are okay with the way that it was written.

MOTION: Commissioner Favero moves to forward a positive recommendation to the County Commission concerning item ZTA 2020-06: Consider and take action on a proposal to amend the Weber County Code, Chapter 104-3, 108-7, among other parts of the code, if applicable, to allow the cultivation of medical cannabis in the A-2 Zone this recommendation is based on the following conditions and findings: 1. The amendment will expand the right to cultivate cannabis, as strictly governed by state law, to farmers owning land in the A-2 Zone. 2. Limiting the onsite cannabis activities to cultivation and other activities reasonably related to cannabis cultivation assist in reducing the little risk that may be associated with the plant. 3. The amendment is not contrary to the effect of the general plan 4. The changes are not detrimental to the general health and welfare of county residents. Commissioner Wichern seconds. Motion carries (6-0)

Chair Edwards Zoom call dropped.

3.2 ZTA 2020-04: Public hearing to consider and take action on a proposal to amend the Weber County Code, Chapter 106-2 and 106-4 to require PUE's to be as specified by the County Engineer and/or Land Use Authority and to enable development along substandard streets under specific conditions.

Mr. Ewert states that this item has been seen before. He notes that it has been noticed as a public hearing and they will need to take public comment. The Ogden Valley has already forwarded a positive recommendation there was one caveat to their recommendation. He notes that since there are three new Planning Commissioners he would review the information.

The Ordinance amendment is meant to address two things. One is public utility easements and substandard terminal road systems the issue with public utility easements the ordinance requires a 10 ft utility easement when the Planning Commission deems it necessary along the side lot lines of lots. It requires 10 ft on the front and rear as well. The utility easements are not necessary until the entity needs the easement. Typically they are located near the street because it is easier to follow the public infrastructure as opposed to being located to the rear of property lines or cutting through. It is not uncommon to have a storm drain easement or a sewer line easement cut through or between properties but the vast majority of easements are set by the front property line. Some of the plat designers typically like to place the utility easements along all lot boundaries. There is a section of the code that says that they can't encroach on a public utility easement. If there is a 10 ft utility easement on a side lot boundary that only has an 8 ft setback the utility easement is more restrictive, there is also other permissive language when it comes to setbacks so people can project into setbacks a certain number of feet. He notes that they can go as much as 5 feet into a setback if it is a projection from the house such as a window or an eav. With an easement, they don't want to have any kind of encroachments into those because that affects the utility companies to get in with equipment and dig things up. He notes that when a developer places a utility easement Staff will want to question whether or not it should go there on a side lot line or a rear lot line. In all cases, they need an easement across the front lot line unless they are going to compel a landowner to move the utility into the public right of way If it is in the commercial area where they want a zero setback for the commercial buildings.

Mr. Ewert goes through the changes as listed in the staff report.

Commissioner Favero asks if there is any language going the other way concerning this issue. Mr. Ewert state that they did not discuss this but they could add it in for the County Commission. He asks if he is suggesting that the developer install the land drain if the farmland is higher than the adjacent incoming residential development. Commissioner Favero states that he is suggesting this at least on the part of the developer. He notes that Commissioner Andreotti had some concerns regarding this and he has had some experience with this. He would like to hear from him and get his feedback. He notes that he has some concerns regarding a neighboring subdivision

Commissioner Andreotti thanks Mr. Ewert for the new language concerning this issue. He notes that it does work towards his concerns. One of the problems in his area which is a low-lying area is flood plane and they need to build up. He states that if they want to continue to have agriculture this is one of the things that gets overlooked. It is the issue of drainage water from flood

irrigation because that is what most people do in the area and it is what most people do in the area. He notes that there is a sprinkler line going in down by the industrial area. It would be smart to make sure that the drains are in, where it goes against the lower level agriculture. He adds that he is not aware of any agriculture drainage that is lower than the homes in the area. He notes regardless of what way it is it should be installed to protect both people in this. As people move out in the area it can be a beautiful place to live but the water can be a nightmare. They need to do what they need to protect the agriculture while it is going on and the residence. The other problem that he has is that people build sheds or they run their rain gutters underground close to the property line of the level ground. This also needs to be addressed. There is nothing more frustrating than to cut the back swath and sink two feet into the property. This creates a problem and there is a lot of hard feelings. He notes that he likes what has been done, and he is pretty happy with what has been done.

Mr. Ewert adds some language to address Commissioner Favero's concerns about stormwater runoff. Commissioner Favero states that it helps with the stormwater because the irrigation water is going to do the damage. There is more potential for irrigation tailwater and over watering to occur than there is for the stormwater to occur and this can create a lot of problems. He adds that they can talk to some of the people on the canal companies. There is come pretty consistent litigation concerning this.

Commissioner McCormick asks if when they are talking about a storm drain if they are talking about an underground pipe. He notes that if they build-out in the County and there is a farmer that is still adjacent to them there has to be a sufficient storm drain. He asks where they would run it because the area is flat. Mr. Ewert states that this is the primary concern that the Engineering division has had. This is one of the reasons that they have asked the agricultural operators to figure out what to do with their water after has run through the rows. He notes that the developers also need to figure out what to do with their water so that it does not drain and flow and drain onto other people's property. The State code says low impact development for a storm drain. This means that it has to be detained on-site for evaporation and percolation. This would be putting the responsibility on the developer and they would need to use their acreage to store it. Commissioner McCormick asks if there is a mandate to install the land drain. Mr. Ewert states that when it is not fully disclosed at the time, there is no ordinance to require a land drain to be installed. These changes would change that. Commissioner Nilson states that creating a land drain when the water table is so high, he asks how do you drain that. Commissioner Favero states that this is the intent. The intent is for it to be a surface drain because that is where there is the most potential for damage is with the surface water. There is a huge surface water issue that needs to be dealt with. In the transition period of agriculture and development, there has to be some protection both ways. Essentially it is surface water that they have to deal with. It is not the ground, because they are hoping that the drain is not in the ground deep enough to be taking the sub water from 4 ft down. Commissioner Nilson states that they have installed a lot of land drains in the yard so that instead of them having to berm up they drained into the land drain or bermed it to the point where it drained into the land drain. This seemed to solve a lot of issues. Commissioner Favero states that all the water flows to the river and all the surface water flows to the river. All the drainage water and all the land that is being farmed all have drainage systems in place to get the tailwater off of the fields and take the water away. If it is not on the parcel that is being developed it is not very far away from it. All of the property that is in agriculture property has to have a place for the tailwater and surface water to go, otherwise, it will ruin the crops. In a lot case, they don't want to listen the people involved in agriculture that know where the water goes and where it should go. Mr. Ewert asks they will create a surface drain where the water collects in a ditch will connect to another system or a series of ditches that will make its way to the river. Commissioner Favero states that is correct and that all of the drainage ditches are along the road and you can lose a car in them. He notes that all of those drainage ditches were created to get rid of the surface water and head it toward the river. Mr. Ewert states that one of the challenges that engineering has is that they want the street adjacent ditches to be available for the 100 stormwater events and the tailwaters. Commissioner Favero states that the reason that those drains were put in initially was for agriculture because the roads didn't exist. Now the roads are in place and the roads are taking precedence over agriculture. He notes that is what he means concerning the transition. The drains came first and they were brought in for agriculture, not for the roads. As large as those drains are and the size of the pipes that the County that they are filled in with should be more than sufficient to handle both. Commissioner Andreotti states that he has no problem with development, there is a transition period where there is a lot of hard feelings. Part of this is that some people don't understand the purpose of the ditches.

Chair Edwards states that it could go both ways with the agriculture and the residential. Looking at the state code, they are required to retain on-site 80 percent of the 100-year storm. If it is an agricultural field or a proposed development, there are still going to be a lot of hard surfaces that are going to hit into the drains. Looking at the topic of the size of pipes the tailwater that might hit the ditch coming in from irrigation is going to be less than what the design criteria would be from a 100-year storm in a subdivision. Mr. Ewert states that from a County's perspective they need to be looking at the drainage facilities from both the 100-year storm event and a heavy tailwater season or event so that it can contain both when the rain starts flowing. Chair Edwards states that if it is designed to fit the 100-year storm with 80 percent on-site retention it should have the same effect. Mr. Ewert states that if there is 80 percent on-site retention but there is agricultural land that isn't retaining, it is all flowing into the ditch. He asks how this will function. Chair Edwards states that the onsite retention is agricultural and it is all going to percolate in the ground. It is not hardscape, roofing, driveways. Mr. Ewert states that he can add some language that state that "Where a subdivision is adjacent to a parcel with agricultural use, and the agriculture use is at an elevation where stormwater runoff from the new development may infiltrate the agricultural use, or where irrigation water from agriculture may drain onto the residential property, a perimeter surface drain easement shall be provided by the applicant that is configured to contain a surface drain and channel drainage from the agricultural land to existing drainage infrastructure. A surface drain shall be installed in the easement as part of the subdivision improvement in a manner that protects the agriculture use. " He notes that there is no guarantee that the Engineering Division will love this. If they don't like they might lobby the County Commission for something different.

Commissioner McCormick asks why the developer should be responsible for the water farmer's water. He asks if they should have the right to run the water there if it is not his property. Commissioner Wichern states that this has been her concern. She asks if the rule for agricultural land is for the farmer to drain the water from their land just like any other landowner and making sure that the water from their land goes out through the proper channels. Mr. Ewert states that he is not aware of anything that allows the agricultural user any deviation from standard drainage requirements. He notes that the requirements are that they can not alter the natural drainage coming from your site onto someone else's site by more than .01 cubic feet. Chair Edwards states that they are talling about two different things, irrigation, and stormwater. He asks if there is a ditch on a neighboring property and it has been there for forty or fifty years and it has always drained that water off. Does it get a prescriptive easement, since it is the way they've always done it? He asks what the legal description of the natural path that the water has taken. Mr. Wilson states that concerning the water it depends on how it is described and what changes are taking place. If there is an issue on the County line in the Southern part of the County. Part of that is that the legal description is tied to the middle of the river. Certain events can happen and cement the property line as it appears on that date. He notes that it depends on what action they are talking about. Mr. Ewert states that it is similar, there could be prescriptive rights if there is a drainage system that is on someone else's property and the water has historically flowed there. He asks if they want to be the adjudicator of those potential rights. Does it uphold the historic rights that Mr. Wilson states that the County doesn't have the authority to be the adjudicator on people's rights? The County would be acting outside the scope of its authority. Commissioner Nilson states that he would like to get input from the engineers before forwarding any recommendation to the County Commission. He adds that he is not sure that this is doable.

Mr. Ewert states that if they had to vote on whether or not to require developers coming to install drainage improvements to mitigate tailwater. Chair Edwards states that they need to be more specific. He asks if they are going to fill an existing ditch. Are they going to pipe the ditch? He feels that if they have to pipe the ditch they have to provide access to them. Mr. Ewert asks what about in cases where the water has been allowed to flow off and percolate in someone else's field as opposed to being captured by infrastructure. Chair Edwards states that once they change owners that go away if this was an agreement that they had with the previous landowner and the new landowner says no. It is something that runs with the land. Mr. Ewert states that it depends on if a judge could be convinced that there is a prescriptive right. Mr. Wilson states that once a prescriptive right has been established it is established, but it has to be done through a court determination.

Mr. Ewert states that he would work on this more. Director Grover states that he would like staff to work more with Engineering on this. Mr. Ewert notes that he will be looking at the language "Developer is responsible if tail water historically drained there. If it did no historically drain there, the farmer is responsible for providing for drainage alternative. If a drainage facility (ditch) exists, the developer shall provide a surface drain commensurate to the existing drainage facility.

Mr. Ewert states that there are substandard roads all over the place. There are a lot of roads that the County has inherited through time and the evolution of uses and transportation changes. The County has to figure out what to do with it. Right now there is an ordinance that states that they can not develop a terminal at a substandard road unless it is brought to full County standards. The County Commissioners have asked to give some reason why a developer might be able to develop at the end of a terminal dead-end street. Looking at dead-end streets they need to look at egress, ingress, and safety. It is also looking at if it will continue to dead-end or if it would be able to connect. They will look at how many homes could be affected by it and how many people are aware of it. Mr. Ewert goes over the changes he made to address this as listed in the staff report.

Commissioner McCormick asks if at the end of the two-mile road an individual that lived on that road for most of his life. The developer decides he wants to develop. They would go to the people who have lived there their whole life and ask them to help pay for it. Mr. Ewert states this is correct. Commissioner McCormick states that this does fit right in with private ownership. Mr. Ewert states that it doesn't necessarily mean that the County Commission will go to the landowner, and try and give them an additional tax to pay for that road. If this is the purpose of the road improvements all of the development that came after, they can assign a special assessment area to all that development that came after. For that to be reinvested into the roadway. Mr. Ewert states that it is a political question that's going to come up, but politics run pretty heavy in a decision like this, especially when it comes to the truth and taxation hearing. If the landowner says, the polygon for a special assessment area includes my land and asks if they are going to be taxed for more road improvements that they didn't cause, their protest would be counted and they could easily work with the County Commissioners as well. Commissioner McCormick states if it stays the way it is written there's not much leeway for protests to happen. Mr. Ewert states that the withholding of a protest would not apply to any landowner along that roadway, that doesn't have a contract recorded to their property. If the land is not being developed and does not have increased demand on that roadway. This withholding of a right to protest wouldn't apply to them at all. This would only apply to people in the new development because they live down the two miles that only applies to all the lots of that development. That way the developer instead of paving an additional two miles of the road what they are doing, essentially, is making sure that all of the impacts on the roadway system of the development get paid for at some point in time.

Commissioner McCormick asks, what does this accomplish? Mr. Ewert states If the County approves development at the end of the two-mile-long dead-end road without requiring the developer to install the improvement at the time, the County doesn't have a lot of options in the future to require the developer to do more. Commissioner McCormick states that this is a way to make sure that the lots in that subdivision can recapture the funds.

Commissioner Wichern asks aren't developers allowed to develop at the end of substandard streets, they are required to improve the street before they make their development. Mr. Ewert states that the answer depends, the County has approved some subdivisions in the recent past at the dead-end of the substandard street. Commissioner Wichern states that her concern is that these developers paid substandard prices for land, at the end of a substandard Street. She doesn't want to propose anti-sprawl laws, but she is concerned that if it is made easier for developers to acquire inexpensive land that it would put the extra expense on to future landowners it would be passing this burden. She believes that the developer disproportionately profits. It would also be an expense to the County because the residents are required to pay for the upgrades of the streets, the County then takes over these streets and is required to do snow removal and upgrades on the streets. She notes that she would be more inclined to rewrite this entirely the other way and not allow developers to develop land at the end of substandard streets without bringing those things up to code. This could create slums in the inner city where there is already development and road systems.

Mr. Ewert states that he agrees and notes that that would follow best planning practices but unfortunately it is not the direction that they have received from the County Commission. He notes that the opposite direction as she mentioned is keeping it as it's currently written. The reason it is being brought up is because of the way it's currently written, and a handful of developments that have come through.
Commissioner Favero asks if it is going to be written retroactively. Mr. Ewert states that it would affect future development.

Mr. Ewert gives some examples. He notes that he would not call it an anti-sprawl ordinance either. He understands the consternation of allowing for additional development to occur. He asks how can they embrace the idea, while also providing for secondary access and egress and also for providing a way that these roads and improvements can be paid for in the next 10-15 year, without being a burden on the taxpayer so that's the policy perspective that he is trying to hit on this ordinance. At what point should they put all the taxpayer money into accommodating for all the development that has already occurred, versus, trying to find reasonable outcomes, which may have to happen in the future because there is no money now?

Commissioner Bell states that this is a complicated issue and but he cannot get on board with turning over the costs of substandard roads to the existing owners in that area. He understands the developers have land rights issues but they cannot give them all these rights to develop and breed money off their land while taking away land rights from those adjacent landowners. It is giving the benefit to the developer at the cost of others. Most of those people that live along those roads prefer their roads to be substandard anyway.

Mr. Ewert notes that the County is not talking about charging the people who live along these roads. It's always possible that they create a special assessment area that includes them but this is not the intention. Commissioner Bell states that the County has done this before, he gives the example of the development of 3600 W. He states that he can't get behind them having to pay for a street or them having to lose their property. Commissioner Bell states that he does not see another solution other than having a developer agree with every single one of those landowners to buy out a section of their property, pay them fair price market value for their land and widen the road on their own. Mr. Ewert states agree that this is the conservative way. Commissioner Bell states and the Commissioners differ on what land rights mean. He notes that they can't just grant land rights to people who want to develop their land simply because they want to put 200 homes, with one egress. They should be granted based on what is safe what is zoned and what is fair for the use of that plan. Mr. Ewert states this is one of the reasons for putting a special assessment burden on those who come after. It is what's considered an improved lot and the market comparables, regardless of how that road is built. He notes that he has been told by others who have more involvement in the real estate world that a lot of these do take a hit and the developer can't sell them for quite as much because they're essentially recorded with a deferral agreement, or in this case, they might be recorded with an agreement that says that they can't protest a special assessment area. He agrees that this is a little more heavily weighted in favor of the developer. There's always a reasonable recommendation, that can be given to the County Commission that suggests that if the road isn't improved, they need to wait until it is. If they were to demand that they improve that road space, the County can run into some legal problems because it wouldn't be roughly proportionate or essentially related to the project. Commissioner Bell states that he does not want to demand it either but at a certain point the cost has to land back on the developer, not on the landowners that are already existing there. He doesn't agree with an escrow either because the deferral agreements don't necessarily work out when trying to go back to the developer and asking for that funds, it's, they're not going to be there.

Commissioner Nilson asks if they were to assess that using the two-mile road that they could quickly determine what it would cost to meet it in the real world on a cost per square foot right. Its theory but maybe there's a way that to compute and anticipate that once 300 homes are built along the road and the developer was to contribute into an escrow to the County so that after every lot sold and build that up and so that at some point in time when the traffic would be enough there are enough funds. The homeowner would not get stuck, there are issues there one thing having a lien against each property, the other things getting the money from them. Mr. Ewert states that anytime a developer is told that X Y or Z has to happen for them to get their development approved. It's an exaction. And it doesn't matter whether you're exacting through a fee in place of a certain percentage of real estate transaction runs back into the County coffers. All of them from all the jurisprudence have been determined to be essentially impact fees if they're not actual exaction. It would state go and build that roadway right now. Otherwise, it is not going to get approved or go and build it with an escrow within the next year or two otherwise it is not gonna get approved. If we were to provide a revenue-generating mechanism that lasted longer than that, like, a real estate fee that comes with it when everything is sold. it would be determined to be a development agreement under state law an impact fee. impact fees are complicated. There would need to impact fee analysis and an impact fee facilities plans. Those funds would have to be spent within 6 years of receiving them. He notes

that the County is talking about getting rid of the trade transportation impact fee, because they can't raise enough, within six years to spend it on meaningful improvements. The County's hands are tied by the impact fee act, under state code on a lot of this.

Chair Edwards asks concerning grants, why can't the County go look for funding and other sources? Mr. Ewert states that they can it, takes personnel to be looking for those things. He adds that he has gone to look for those things for trail systems, but they'd have to have a direction internally administratively to have somebody looking for those kinds of funding sources outside. One of the challenges with unincorporated Weber County, is that a good number of funds that come from federal transportation dollars run through the state and the Wasatch Front Regional Council, and their jurisdiction ends at the urban growth boundaries essentially a lot of unincorporated Weber County and in the Valley and out West are not included in the metropolitan area.

Chair Edwards states that they still have WACOG funds, when it comes to funds for transportation projects there are solutions. He states that he feels that the County Commissioners are trying to push the buck. Mr. Ewert states that they're not suggesting that they wouldn't continue to solicit those funds, they are continuing to use those funds. 3500 West was rebuilt with a WACOG money predominantly. Chair Edwards asks where does substandard start coming up with 3600 last SR 39 is still, by definition a substandard road SR 134 is also a substandard road. Does he ask where it stops? The issue is that they only got a 24-foot cross-section of asphalt. Mr. Ewert states that substandard would be defined as substandard if it doesn't meet the County's currently adopted standards. Looking at the County's adopted standards he notes he doesn't know whether or not they're substandard according to UDOT's standards and the County doesn't own them and, they don't operate them so the County would not even be looking at them. With this section of code, the County is only looking at dead-end roads that the County owns and operates.

Commissioner Wichern asks if the impact fees have to be used for a specific purpose or could it be more generalized and they must pay the impact fee but it's used for substandard roads like general not specifically. Mr. Ewert states that the County is required to have an impact fee facilities plan and IFFP that says how the money is going to be spent. There is a plan right now that identifies several substandard street states where the money will be reinvested into. He notes that he doesn't know that they are going to see a lot of these terminal substandard roads on that list, mostly because they go out to a limited number of users. I think most of what they are going to see on that list are parts of the existing street network that are substandard.

Commissioner Wichern states that this is all the more reason to tax these developers and to enlist that fee from the developer to ensure that it can support safely the approved subdivisions of 200 homes. And make sure that there are enough funds to provide a street that will adequately support that system. She notes that there was a concern with the analysis required on the impact fee, but it seems that in the verbiage there quite a bit of analysis already, there might not be a need for more analysis and the County would be charging the correct person, the developer, rather than the residents. Concerning the residents, it would be a gamble on whether they would get that money or not. She states that she doesn't think it's a fair place to put the charge on the landowner and land rights. The landowners have a right to develop their land, but they don't have a right to sell it at a rate that is determined by other people making improvements. It has an inherent value they have every right to develop it at that current usage and current value level.

Commissioner Bell agrees and states that they don't need to get more value at the cost of the other existing ones, and that's where he is struggling, especially when bringing up that example of 3600. He states that he doesn't live there but he is passionate about it. He feels that the County is overstepping using eminent domain to help out a developer. He cannot see a situation where it's justified for the burden of this cost to bring that road up to a standard that is not their cause. It is caused by the development of the developer so if he has to sell at a substandard rate well that's the cost of doing business on that land. It shouldn't be the burden of the surrounding residents to give them more value out of their property. Mr. Ewert states this is a valid perspective that a lot of people hold. A lot of people think that you know, not all property is created equal. The market tells that all property is created equally based on values.

Mr. Ewert states that if a traffic engineer says that if 30 lots exist in isolation along this road and a Traffic Engineer can state that he does not need 32 ft of asphalt 66 ft wide right of way. The fire code to get a fire truck to a property, unless it's in the wildland-urban interface area road has to be at least 12 feet wide, with turnouts every 400 feet. The firetruck can go down the road with, sirens blaring either the person evacuating or the fire truck can pull out from the site or two fire trucks can pass. That's a minimum safety standard so looking at a 30 lot subdivision in isolation a 32-foot wide asphalt pathway in 66 feet of asphalt is too much. Does he ask why in that case going through just deduction would the County have a standard that says 66 feet of right away and 32 feet of asphalt? It is because it is more than just that subdivision in isolation, there are farmland and agricultural uses there are people who go visit those folks who live there. There are a lot of different uses that happen and a generalized standard has been created that states, that all of these roads need to be 66, feet, with a travel surface of 32 feet of asphalt. Asking a developer at the end of that road who may want to develop the property to potentially have to come up with that entire road so the width, would be disproportionate. It wouldn't fit with the takings claims. There are two Supreme Court cases one is California Coastal Commission vs. Nollan, and the other is Dolan vs Town of Tigard, this can be reviewed on Wikipedia. He notes that reviewing this can give them a good sense of where the court was going on with this. The assertion that these folks that own land, have variants of these roads the County is not going to ask them to improve them they're just going to say that they can't develop until they are improved by the natural evolution of land uses further up the road. If this is the perspective that the Western Weber Planning Commission wants to forward to the County Commission, this can be formulated into a recommendation moving forward. In the code further down from this subject, there is some talk on what is roughly proportionate, and essentially related. He notes that he would love for this to not be there. If the rest of the code is adopted all the rest of the code and this doesn't have to be in there. And the reason for that is because the test for defining letters roughly proportionate is individual it's unique and the less we have written down right now, the more flexibility there is to generate an argument in the future.

For that same reason some landowners want to have some more objective information on how this is going to occur and that's why it was written in their people in the valley, who want more predictability.

Commissioner Favero states that concerning predictability the only thing to predict the what the complete build-out would be. Why can't the number be based on complete build-out and percentage of that build-out to each subdivision as it goes in and that money would be a continual generating entity, where the money is spread out and used as was discussed with Commissioner Wichern. That's the only predictable thing. Ultimately the build-out is going to be based on the zoning and you can only base that factor on what the zoning is now because it's known now, it could change in the future but the value of the input would change with that zone. And that's mathematically as fair as could be done and taking 30 lots and saying proportionately these 30 lots should have value to work the road placed on. He adds that he is not a big fan of taxing the people afterward either. Concerning what is here, because the only way that this is fair is if it's not just to title, but it's advertised as part of the sale so that people that are buying know what they're buying. Otherwise, when people go too close they might not be paying attention to what's going on other than they're in love with this new place that they just bought. The only way that this could even consider would be if it was advertised somehow. He notes that he is no sure there is a fair way is to do that. Mr. Ewert states that the notice would show up when it's time to close. A note could be placed on the plat as well as another place for it to be seen so they know to go look for that notice. He states that he hears their concerns that it really pushes the burden on the end-user and doesn't necessarily hold the developer accountable. There is another possibility, there would be a rough proportionality test and send it to the County to review, which says they should be responsible for X, Y, and Z improvements along that street. Looking back at the text this requirement shall be waved at a traffic study conducted by a qualified professional demonstrates that the existing substandard public street from which the new subdivision will gain access is adequate and safe, or can be made adequate and safe with improvements from the applicant. Regardless of what additional improvements we need along this public roadway. They would have to install this guardrail and smooth out this curve because there are no factors of safety if there is any more traffic to this, the road it's not in great shape. Okay. In that scenario, they would be required to do that because of safety. And there would be a roughly proportionate share so the percentage is X amount of dollars they would need to spend your X amount of dollars on the roadway. To approve it they would need to put in shoulders here, a stoplight, this or that, as you go down the roadway until all of the roughly proportionate amounts of money was spent this would be the County telling them what kind of improvements should be done along our roadway so the County would hold control over that. But the County would be setting a dollar amount, allowing them to do the initial pitch of what

is fair for them, and then having the County tell them if it needs to be adjusted. They would then do the need to do the improvements necessary. At that rate as we get developers continuing to develop along that roadway. At some point in time, it's just gonna be an overlay from the County before it's a standard road.

Commissioner Wichern states that she to clarify, so this is the first development off of the substandard street they pay a proportionate amount to improve the street but it still wouldn't necessarily be standard. And then if another development comes in, they too would be required to push that road, more towards a standard street with some sort of assessment value, is that correct. Mr. Ewert states that not even assessed value, they would just do the off-site improvements, which the County can exact for off-site improvements, under certain conditions, and that will continue until we had a standard street already. Mr. Ewert notes that it's still is very supportive of sprawl. But it would help support what the County Commissioners are interested in doing.

Looking at Part A, which is that deferral agreement gets recorded to the property that deferral agreement essentially says, if the County has to go in and build this road we're just going to come to you landowners and we're going to tell you what you owe us because we ran the math and so it's the resulting landowner's issue right. Part B is a different tool. It's that you won't protest a special assessment area that would be applied to your property of the County could do. It could do A and B both. It could do A or B under these scenarios, but whatever they do if they want to keep our nose clean about getting sued as they cannot go above and beyond was roughly proportionate.
He asks if they would be okay with this being an option, sees where any of the above all of the above any one of them could be just at the discretion of the County Commission it doesn't eliminate the possibility that someone who buys a piece of property might find out 15 years after moving and they've got the restrictive deed.

Director Grover asks Mr. Ewert to let the new Planning Commissioners know how to deferral agreements work, and how they have been used in the past, especially on small subdivisions, like the one lot subdivisions.

Mr. Ewert gives an example and goes through different options. He states that he will go through the different options and bring them back for the joint work session with the Western Weber Planning Commission and Ogden Valley Planning Commission.

MOTION: Commissioner Bell moves to open the public hearing. Commissioner Favero seconds. Motion carries (7-0)

Chair Edwards opens the public hearing. There is no public comment.

MOTION: Commissioner Favero moves to close the public hearing. Chair Edwards seconds. Motion carries (7-0)

Chair Edwards closes the public hearing.

MOTION: Commissioner Favero moves to table item 3.2 ZTA 2020-04: Public hearing to consider and take action on a proposal to amend the Weber County Code, Chapter 106-2 and 106-4 to require PUE's to be as specified by the County Engineer and/or Land Use Authority and to enable development along substandard streets under specific conditions for the next meeting. Commissioner Bell seconds. Motion carries (7-0)

3.2 ZTA 2018-05: Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: §102-1-5 and §102-5, regarding rezoning procedures and legislative amendments. This item was postponed and will be noticed for a meeting at a later date.

4. Public Comment for Items not on the Agenda: none

5. Remarks from Planning Commissioners: none

6. Planning Director Report: Director Grover states that there will be a joint work session for both Planning Commissions on August 4th concerning short term rentals.

7. Remarks from Legal Counsel: none

8. Adjourn to Work Session- 8:39 PM

WS1: Discussion about short-term rentals in Weber County and regulatory options. This item was postponed and will be rescheduled for a meeting at a later date.

WS2: ZTA2020-03 Discussion regarding a proposed accessory dwelling unit ordinance. This item was postponed and will be rescheduled for a meeting at a later date.

WS3: Follow-up discussion for a proposal to amend the Weber County Code, Chapter 106-2 and 106-4 to require PUE's to be as specified by the County Engineer and/or Land Use Authority and to enable development along substandard streets under specific conditions. This item was postponed and will be rescheduled for a meeting at a later date.
Ewert

WS4: Training for Ex parte Communications and Conflicts of Interest. This item was postponed and will be rescheduled for a meeting at a later date.

Adjournment: 8:39 PM